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PUBLIC HEARING
before
SOLID WASTE SUBCOMMITTEE
of the
ASSEMBLY AGRICULTURE AND ENVIRONMENT COMMITTEE
on
Illegal and Unethical Practices in the Solid Waste Industry

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NOV 24 1981

Held:
September 15, 1981
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF SUBCOMMITTEE PRESENT:

Assemblyman Raymond Lesniak, Chairman
Assemblyman John O. Bennett

ALSO:

Norman Miller, Research Associate
Office of Legislative Services
Aide, Assembly Agriculture and Environment Committee

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New Jersey State Library

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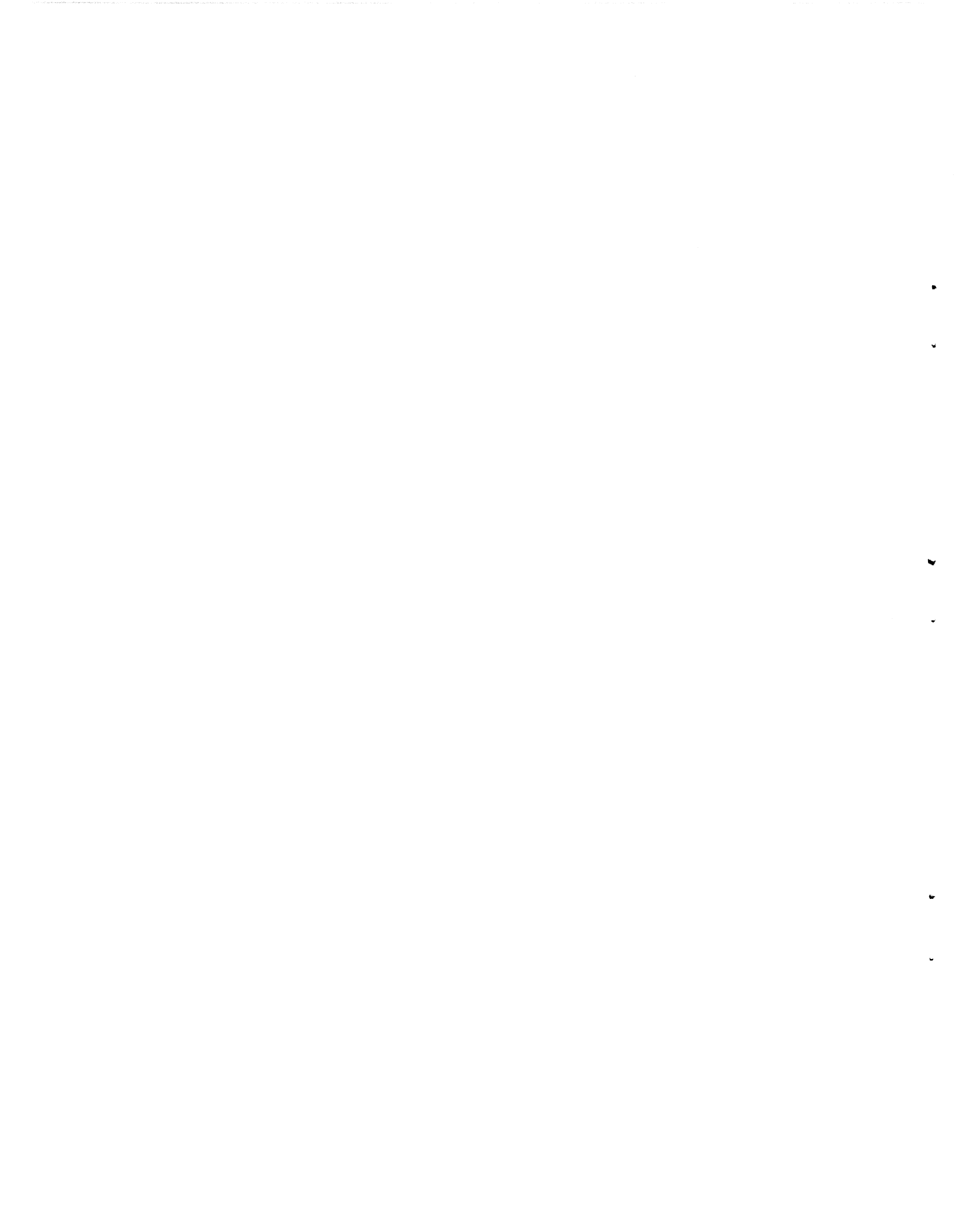
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ASSEMBLYMAN RAYMOND LESNIAK (Chairman): I would like to call this meeting of the Subcommittee to order.

This Subcommittee of the Assembly Agriculture and Environment Committee was formed at my request by Assembly Speaker Christopher Jackman through Committee Chairman, Assemblyman Donald Stewart. The purpose of the Subcommittee is to investigate the lack of competitive practices and organized crime's influence in the solid waste disposal industry and to prepare legislative responses in these areas. Sitting on the Committee is Assemblyman Mike Matthews from Atlantic County. Also, sitting to my left, is Assemblyman John Bennett from Monmouth County.

These hearings will be hampered by a "gag order", issued by Judge Arthur S. Meredith on June 25, 1981 in the criminal action against the New Jersey Trade Waste Association and others, which restricts the New Jersey State Police from making any statements, "likely to be disseminated to the public about this criminal antitrust prosecution or any of the defendants named therein." By the way, it restricts the Attorney General's Office and the Division of State Police. I submit a copy of the Order and the Indictment for the record of this hearing.

I believe that Judge Meredith's Order goes far beyond what is necessary to protect the defendants' right to a fair trial. We have seen convictions in recent times in the most widely publicized cases, for example Watergate, Abscam, Sirhan Sirhan, and Charles Manson -- we could go on and on. Additionally, this order unduly restricts the function of the legislative process. I am certain that if challenged, it would be overturned.

However, the challenge itself would further inhibit the legislative remedies in this matter. A subpoena would have to be issued to the Attorney General after a vote by the full committee. The subsequent litigation of the issues involved would be time consuming.

Since a record of pervasive influence and control by organized crime in the solid waste disposal industry has already been established in previous legislative and judicial hearings, I believe a review of these proceedings can sufficiently establish a need for legislative action. Additionally, the Attorney General's Office will present legislative recommendations designed to free the industry from the influence of organized crime and to increase competitive practices.

The Subcommittee will conduct one more hearing to take testimony from industry representatives. I repeat my previous request that anyone with additional information concerning organized crime in the garbage industry may contact me with the assurances of complete confidentiality and anonymity.

Legislative action to regulate this industry is most important at this time. We have developed a statewide solid waste disposal plan, with resource recovery a major factor in our efforts to economically, in an environmentally acceptable manner, dispose of our ever-increasing solid waste.

Large capital investments, supported by public monies, will be made to decrease our dependence on environmentally unsound landfill practices. Increased regulation, inspections, closure, and liability requirements will further increase disposal costs.

To allow anti-competitive practices to further drive up these costs would be irresponsible. To allow organized crime to funnel off these excess profits for other illegal activities would be criminal, and to allow people

and companies with a history of illegal and unethical practices to be involved in the business of solid waste disposal would be a breach of public trust.

On October 17, 1980, the State Grand Jury indicted two solid waste trade associations, twenty eight persons in the garbage collection industry, twenty four corporations, and three other persons not part of the industry. The indictment charges the defendants with one count of conspiring, from July, 1976, to violate the State's Antitrust Act by engaging in a combination and conspiracy in unreasonable restraint of the business of providing garbage collection services in Somerset, Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, and Union Counties.

The indictment alleges that the New Jersey Trade Waste Association in South Hackensack was formed about July, 1976, to effect and enforce the agreement among garbage collectors in all of the counties named, except Hudson.

The TWA allegedly held weekly meetings, either at the Crows Nest Restaurant in South Hackensack or at Snuffy's II Restaurant in Somerville, in order to resolve disputes involving conflicting claims as to particular customer accounts.

These grievances, according to the indictment, would arise from the industry concept of property rights under which a garbage collector who first services a given location obtains the exclusive and perpetual right to service that location without competition, regardless of a change in the use at the location or the identity of the customer at the site. Grievance hearings would be conducted by the officers and trustees of the Trade Waste Association.

During the course of the investigation, the State used a witness who attended many of the meetings of the Trade Waste Association, including some of the grievance sessions. On some occasions, the witness tape recorded the proceedings on the authority of the government.

The indictment lists several examples of grievances over property rights that were settled by officers of the Association.

In one grievance, Hollywood Memorial Park, a cemetery in Union, terminated the garbage collection service of defendant Browning-Ferris Industries of Elizabeth because of a price increase and hired Statewide Environmental Contractors instead. Browning-Ferris Industries claimed Statewide violated its property rights. At a grievance meeting at Snuffy's II Restaurant, attended by several of the defendants, Trade Waste Association officials sided with Browning-Ferris Industries and ordered Statewide to give back the Hollywood Memorial Park contract. To accomplish this, Statewide raised its price to Hollywood by fifty percent, by \$40 a container, and told BFI what it had done. Immediately thereafter, BFI approached Hollywood and offered its service for \$10 per container less than the Statewide price and won the contract back, according to the indictment.

On another occasion, Children's Specialized Hospital of Mountainside terminated the services of Statewide because that firm would not provide service within the times prescribed by a local ordinance. At the time, the hospital was paying \$400 per month for garbage collection. The hospital thereafter unsuccessfully solicited bids from other collectors and ultimately hired defendant T. Farese and Sons, a member of the Hudson County Association - and a defendant, incidentally, in the indictment - at \$600 per month. Statewide then filed a grievance against Farese. At a joint grievance meeting of the two associations at the Crows Nest Restaurant, Farese was ordered to give the contract back. Farese then notified the hospital that he had labor difficulties, was terminating its collection contract, and Statewide would be taking over. Prior to the

completion of the contract, the hospital again solicited bids from other collectors. The only bid came from Statewide, who offered to collect the garbage at a price of \$800 per month, double the price the hospital had paid the previous year.

According to the indictment, persons who were not members of the Trade Waste Association and, "were not primarily engaged in the business of garbage collection, would aid, direct, instruct, and advise Carmine Franco to employ the structure and influence of the Trade Waste Association to restrain trade in the relevant area."

The indictment also alleges that in order to carry out the conspiracy, the defendants used, "threats, intimidation, physical force, and other means to pressure and induce garbage collectors to join the conspiracy...."

Individuals convicted of conspiracy to violate the State's Antitrust statute face a maximum of eighteen months in prison and a fine of up to \$50,000. Corporations face fines of up to \$100,000. I think that this highlights the need for legislative action because the penalties are certainly not severe enough to have a complete impact on this industry.

On Tuesday, December 16, 1980, House of Representatives Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce held a hearing on the involvement of organized crime in the hazardous waste disposal industry.

The first witness to testify was Harold Kaufman, who is under the Witness Protection Program of the Federal government. Mr. Kaufman was a confidential FBI informant for two years and is knowledgeable about the solid and chemical waste disposal industries.

Ed Stier, Director of the New Jersey Division of Criminal Justice, introduced Mr. Kaufman to the committee. I am quoting from the transcript now. "Members of the committee: Mr. Harold Kaufman, seated next to me, is one of the most important witnesses that the State of New Jersey has in criminal prosecutions. He has been working with the FBI and the Division of Criminal Justice for approximately a year and a half, the result of which thus far has been the indictment of State v. Trade Waste Association and fifty-six other defendants, charging a very broad conspiracy to control by anticompetitive practices the solid waste industry in New Jersey, in State v. Marine."

Mr. Kaufman explained the property rights concept of the industry. I am quoting from the transcript:

Question: "Tell me how and when you first became involved in the solid waste business."

Mr. Kaufman: "I was released from Atlanta and found a job with the Sanitation Union in New York, in Nassau, Suffolk, Westchester, and five boroughs."

Question: "Is the garbage collection industry controlled by organized crime?"

Mr. Kaufman: "Yes, it is, to my knowledge."

Mr. Gore -- who is a member of the committee: "Now that industry operates with a system which you refer to as property rights?"

Mr. Kaufman: "Yes."

Mr. Gore: "Can you briefly explain how the concept of property rights works, first of all in the garbage business?"

Mr. Kaufman: "In order to do that I have to regress. A stop is where a truck stops and picks up garbage. That is what they call a customer. It goes for thirty-five gross monthly payments for one stop. For a packer, for a roll-

off, forty to forty-five to fifty for one. For fifty months, you do not make a nickel. Everybody picks up garbage the same way. There is no great technology in picking up garbage, especially in New York. So, how are you going to protect it? You are protected by property rights."

Mr. Gore: "So, if a company has a right to pick up the garbage at a particular stop, that right stays with that company? What happens if another company comes and tries to sign a contract with the person trying to dispose of that garbage and offers to charge less money?"

Mr. Kaufman: "In New York you have four associations right now. First of all, they are brought before the Association. This is the first step in what I call the semi-official grievance procedure. He is told to get out of there because it is his stop. Secondly, it happens seldom in New York. Stops have been there for at least ten or fifteen years. So, it does not happen that often. When it does, they try to correct it by economic punishment. Secondly, by fear and intimidation. He knows there is a punishment coming because organized crime controls it. There have been beatings and killings in New York, just as in New Jersey."

Mr. Gore: "Do you personally know of any murders which happened because of the encroachment of one company on the property rights of another company?"

Mr. Kaufman: "Yes, I do."

Mr. Gore: "Can you tell us of that?"

Mr. Kaufman: "Tony Bernardi, in New Jersey. John Sanowick was killed in New Jersey."

Mr. Gore: "In both those instances, the person killed was trying to encroach upon the property rights of the Association?"

Mr. Kaufman: "At that time in Jersey, Bernardi was taking towns. He took about ten towns from SCA. After he was killed, that is when the Association came to New Jersey. After that, all these towns reverted back to SCA."

Mr. Gore: "After both these murders, the properties in dispute reverted to SCA?"

Mr. Kaufman: "Custom Cartage had 'stole' these. That is the term used in the sanitation industry. If you take a stop from somebody, you are considered an outlaw; you are not a member of the crew. Bernardi had taken these stops and commercial stops from other people too, but primarily SCA."

Mr. Gore: "This is one of the largest waste disposal companies in the United States, and it is traded on the Stock Exchange?"

Mr. Kaufman: "Yes."

Mr. Gore: "Did this occur at the time you went to New Jersey or before that?"

Mr. Kaufman: "I left the Union and was hired by a company called Browning-Ferris -- B & F. They had a problem with a firm called Cantano Brothers. I went out there to take Bitano's stops. That was to get even because Bitano would not listen and sell."

Mr. Gore: "You said the enforcement power comes from organized crime. What family within organized crime?"

Mr. Kaufman: "Gambino family."

Mr. Kaufman also testified about the licensing procedure in New Jersey and SCA, a solid waste disposal firm, and Duane Marine, a solid waste and hazardous waste disposal firm.

I am quoting from the transcript again:

Mr. Kaufman: "The way they operate, they buy companies and they give the president

of the company and a job for five years. You have the same people individually into organized crime."

Mr. Gore: "Do you personally know of any waste disposal companies that were purchased by SCA that to your knowledge were definitely controlled by organized crime?"

Mr. Kaufman: "Yes, I do."

Mr. Gore: "Thank you very much. Again, I want to commend you for your tremendous courage in coming forward and living the life you now have to lead for the public service."

"Thank you very much, Mr. Chairman" -- I guess that was Mr. Kaufman.

Mr. Maguire -- who is also a member of the committee: "Before I call on Mr. Lent, I want for a moment to pursue this question for the licensing process as I understand it. If you hauled waste in the State of New Jersey, you were able in the past to get a license simply for \$50?"

Mr. Kaufman: "Yes."

Mr. Maguire: "Which doesn't protect the public interest. Is that still the situation?"

Mr. Kaufman: "To my knowledge, yes. As you know, being from New Jersey, it is one of the few states where the Public Utilities Commission controls the sanitation. The sanitation in this industry is treated no differently from every other utility in New Jersey on paper. You can't raise a price to a customer without going through PUC. We all know it is a fraud. It is a complete fraud because the company I was with, Statewide, pays three hundred percent without blinking an eye."

Mr. Maguire: "Raised the prices they charged?"

Mr. Kaufman: "Yes, because of property rights."

Mr. Maguire: "I want to satisfy myself on the question of what was required, if anything, of Duane Marine, which you have described as a fraud when it got its license. What was required by the State of New Jersey? What did they have to provide by way of information?"

Mr. Kaufman: "I honestly don't know. I know they didn't ask for a financial statement."

Mr. Maguire: "No financial statement?"

Mr. Kaufman: "I know that for a fact. I think the State could answer that better than I could."

Mr. Maguire: "We will ask the State about it when they testify. Presumably there was no investigation as far as you know."

Mr. Kaufman: "No."

Mr. Maguire: "That would have assured that the materials that were brought to Duane Marine were properly disposed of, is that correct?"

Mr. Kaufman: "Yes. We were charged at Duane Marine. We were brought into court on the drums stored at Perth Amboy after the problem with Chemical Control. We filed a manifest. They asked me how many drums. We never knew. They would come there and sit and have a cup of coffee. All you had to do was look and see all the drums piled out there."

Mr. Maguire: "So there was an outfit that had a license. Nobody checked to make sure that what should have been done with those materials was in fact done. I assume the question of organized crime was addressed or there wouldn't have been a license issued."

Mr. Kaufman: "No question asked about anybody's background. That I know for

a fact. Never did they check our background or anything else."

Mr. Rinaldo -- who is also a member of the committee: "Do you have any additional suggestions as to how the licensing system can be applied by the State Legislature?"

Mr. Kaufman: "I think you answered your own question. Check the background of the people you are giving the license to. That is the simplest thing. Check the people. Differentiate between toxic and solid. Do not let the same solid waste man become a toxic waste because it is so easy to mix that waste. Differentiate between the two industries. The toxic waste is a separate industry from solid waste. If a man has a solid waste license, don't let him have two licenses."

Mr. Rinaldo: "What you are saying in essence, organized crime has a tight-fisted control over the solid waste industry and when a member of that industry enters the toxic waste field, that control is extended from the toxic waste to the solid waste."

Mr. Kaufman: "That is exactly what I am saying."

Mr. Rinaldo: "Based upon that testimony then, you are stating to this committee that in your judgment, as a result of your six years' experience in the business and what you know about organized crime, one way for the State of New Jersey and other states to prevent that type of infiltration from being extended or growing very easily would be to prohibit companies in the solid waste industry from entering the toxic industry."

Mr. Kaufman: "From hauling toxic wastes."

Mr. Rinaldo: "From hauling toxic wastes."

"Organized crime has already taken over and controls the solid waste industry. Do they control at the present time the toxic waste industry to the same extent, or are you merely saying this is something that is going to happen in the future and your testimony is an endeavor to see that appropriate action is taken so that is prevented?"

Mr. Kaufman: "Congressman, I make a statement. As it touches solid waste, property rights, which is how organized crime controls, they are the final operator of property rights. Understand this. If they have to shoot you to arbitrate, they will shoot you; but they are the ones who decide who gets the property when there is an argument between two people. As long as the same respect is given to toxic waste as to solid waste, they are in control."

Mr. Maguire: "I think it is very important that this be clarified so that it is absolutely understood by everyone. Citizens of the State of New Jersey or any other state, or companies in the State of New Jersey or any other state, end up paying many times over what they would have otherwise be paying if there were a truly competitive situation in effect. Is that not the case?"

Mr. Kaufman: "Yes, sir. If we believe in the free enterprise system, we believe open competition is the way to go. If there is no open competition, it is a controlled industry."

Mr. Maguire: "Not only are the prices multiplied perhaps one hundred or two hundred or five hundred or one thousand percent more than they would otherwise be, but you also have the additional money going into the pockets of organized crime figures."

"And, secondly, you have the materials stored or disposed or in the most improper and potentially dangerous ways to those same citizens who have already paid many times over through the nose to organized crime to presumably deal with that material."

Mr. Kaufman: "I think unless this committee and the State of New Jersey controls

the toxic waste industry in a much more strong way, it will get worse before it gets better."

Detective Sergeant Ottens of the New Jersey State Police then testified about his knowledge of the solid waste and hazardous waste disposal industry. Mr. Lent -- a member of the Committee: "This morning we heard testimony from Mr. Kaufman describing the way that organized crime takes over the toxic and solid waste dumping industries in New Jersey and New York. To your knowledge, was his description accurate, or did you take issue, as one of the previous witnesses did, with his description?"

Mr. Ottens: "No, sir. I would agree with Mr. Kaufman's statement."

John Degnan, Attorney General, testified regarding licensing requirements.

Mr. Degnan: "We have addressed just that question, both with respect to solid waste, the licensing of which takes place in the Public Utility Commission, and the statutory standard on which that licensing is based does not contain a basis on which a license could be denied for deficiencies in character or even for criminal records which do not touch upon business experience. I think perhaps that out of this hearing will come an attempt on our part to seek some amendment to that legislation to recognize the concern."

Ed Stier, Criminal Justice Director for the State of New Jersey, concluded.

Mr. Stier: "Let me respond to this. First of all, it has been no secret to us for a number of years now, probably back before 1977, that solid waste disposal companies that were getting into the toxic waste area had organized crime ties. As a matter of fact, in September of '79, I made a speech in Arizona where I made that point. We have always recognized there was an association between the two hauling industries which indicated there would be organized crime involvement in the toxic waste industry if they continued to expand in that area. The information supplied here by Mr. Kaufman is very important, and it represents the foundation of that investigation, which has resulted thus far in an indictment, thirty percent of the solid waste industry, and we hope will ultimately result in a restructuring of the entire industry, and hopefully the removal of the organized crime influence and freeing up of competition of that industry"

Mr. Pagano, State Police Director, added:

"There is organized crime activity in toxic waste disposal, toxic waste hauling. We do not deny that. It has to be made very clear; it is not something we just learned today. The differing of opinion, we have no reliable intelligence base to tell us that organized crime controls toxic waste in our State. I think we have credible intelligence data to tell us that organized crime controls solid waste."

On May 28, 1981, before the House Subcommittee, Lieutenant Colonel Justin Dintino, New Jersey State Police, testified about his knowledge of organized crime and the garbage industry.

Colonel Dintino: "My testimony today is based on information obtained through investigative and intelligence-gathering activities, including electronic surveillance and operations and a network of organized crime informants, which were conducted by the New Jersey State Police and other law enforcement agencies.

"Last December 16th, this Subcommittee received testimony that organized crime controls the garbage collection industry in New Jersey and is extending its influence into the area of toxic waste disposal in our State. That information

is accurate.

"This is not to imply that everyone engaged in the waste disposal business in New Jersey is associated with organized crime. That is not the case. But over the years, organized crime has effectively controlled the solid waste industry through a rigid system of property rights backed up by threats and acts of violence.

"The principal organized crime groups exerting this control over the garbage industry in New Jersey are the Genovese and the Gambino crime families of New York, together with the mob-controlled Local 945 of the Teamsters Union of West Paterson, New Jersey.

"During the last five years, three men, each actively involved in the waste disposal industry in New Jersey, were shot and killed in gangland-style executions.

"On June 3, 1976, Alfred DiNardi, owner of Custom Disposal Service in Middlesex County, was shot to death while picking up his automobile at a parking garage in New York City.

"On May 31, 1978, Gabriel San Felice, operator of Sano Carting Company of Keyport, was shot and killed while unloading a roll-off container at a landfill in Old Bridge, New Jersey.

"On December 22, 1980, Crescent Roselle, a management employee of SCA Services, Inc., was shot and murdered outside his place of business, Waste Disposal, Inc., an SCA subsidiary in Elizabeth, New Jersey.

"These unsolved killings are under investigation by law enforcement agencies. I will not speculate on possible motives or suspects for these murders, but several things are clear from the information developed:

"Each of these victims had been involved in disputes over property rights or turf; each was shot multiple times and killed in gangland-style executions; and none of the victims were robbed.

"In response to the Subcommittee's request for information relative to the testimony of Harold Kaufman last December 16th, our investigative and intelligence-gathering activities reveal the following associations between SCA managers or employees in New Jersey and organized crime.

"In 1973, the Roselle family, owners and operators of one of the largest solid waste businesses in New Jersey, sold a number of their companies to SCA. Following these acquisitions by SCA, the Roselle brothers and other relatives continued to manage their former companies through employment contracts with SCA. One of the brothers, Crescent Roselle, served as general manager for the Roselle group of companies acquired by SCA.

"Gabriel San Felice started in the scavenger business in New Jersey in the mid-1960's. By 1973, he had begun to expand his operations and to bid on municipal garbage contracts in the Bayshore area.

"As a result of this bidding activity, a dispute developed between Crescent Roselle and San Felice over the municipal garbage contracts in Keyport and Matawan. San Felice was successful in underbidding Roselle for these contracts.

"Crescent Roselle was able to use his influence with Ernest Palmeri, business agent of Teamster Local 945, to intervene in Roselle's dispute with San Felice. San Felice, in turn, sought and obtained the assistance at various times of organized crime figures, Frank "The Bug" Caruso - now deceased - Vinnie Mauro, and Philip "Brother" Moscato, to intercede on his behalf.

"Palmeri was a close associate of the late Peter LaPlaca, a 'capo'

in the Genovese crime family. LaPlaca exerted control over the garbage industry in New Jersey through Palmeri and Tino Riumara, a member of the Genovese family and an enforcer for LaPlaca. John DiGilio, another Genovese family member, also intervened in the Roselle/San Felice dispute.

"Various 'sit-downs,' or meetings, were held over several years among these organized crime figures in an effort to resolve the dispute between Roselle and San Felice. On one occasion in 1976, John DiGilio, Tino Fiumara, Ernest Palmeri, Crescent Roselle, Gabriel San Felice, and other individuals held a meeting at which Fiumara told San Felice to give back the contracts to Roselle.

"The subsequent result was that in the summer of 1977, San Felice relinquished the municipal garbage contracts in Keyport and Matawan by assigning them to Roselle's Waste Disposal, Inc., an SCA subsidiary.

"A similar situation existed with respect to Alfred DiNardi, a sanitation contractor from Middlesex County. In the mid-1970's, DiNardi's company, Custom Disposal, began taking stops and towns from a number of companies. One instance, which involved SCA, occurred in late 1975.

"For years, Roselle's Waste Disposal Company had held the garbage contract on Roselle Park. DiNardi was successful in underbidding Roselle and was awarded a two-year contract. Waste Disposal contested the award of this contract in litigation. DiNardi was killed in June of 1976.

"Subsequent to the murder and as a result of the litigation, the contract was rebid. A total of eight scavenger companies were solicited to bid or picked up bid forms, including Custom Disposal and Waste Disposal. However, Waste Disposal was the only bidder and was awarded a three-year contract."

* * * * *

Colonel Dintino: "San Felice was a maverick in the industry. He was stealing stops. As a result, there was a number of sit-downs involving organized crime members to mediate this dispute. The end result was that these stops reverted back to Cres Roselle. The end result also was that San Felice was murdered."

* * * * *

Colonel Dintino: "We are talking about a property rights system in New Jersey which has been in effect for six years. I am saying that someone in the garbage business since 1950 to the present time is operating in North Jersey and Central Jersey areas no way can operate unless some way, somehow, they are dealing with members of organized crime -- are given approval to deal in those territories."

* * * * *

Colonel Dintino, in response to a question we don't have: "Yes, sir. I agree with the testimony of Harold Kaufman on December 16, 1980, before this Subcommittee in regard to the property rights system in New Jersey, which has been in effect for a number of years and enforced by organized crime through threats, vandalism, assaults, and homicides, such as the three homicides mentioned in my opening statement.

"In 1959, the New Jersey Senate conducted hearings concerning organized crime control of the garbage industry within New Jersey. These hearings focused on property rights or territorial allocations.

"In 1969, the solid waste industry again was the subject of public hearings by the New Jersey State Commission of Investigation. It was brought out loud and clear that organized crime controlled the solid waste industry, and there was a system of territorial allocations and/or property rights, and as a result of the SCI hearings the solid waste industry came under the regulation

of the Public Utilities Commission, where previously there had been no state regulation.

"During October 1980, the Division of Criminal Justice of New Jersey returned a one-count antitrust conspiracy indictment against fifty-six individuals, corporations, and associations. Part of that indictment clearly spells out in detail the property rights system in New Jersey.

"Mr. Chairman, there is absolutely no question in my mind that territorial allocations exist within the northern and central sections of New Jersey in the solid waste industry that is enforced by organized crime.

"It is inconceivable to me that anyone in the solid waste business from 1950 until the present time is unaware of the property rights, especially someone in the business in North and Central Jersey."

Steven J. Madonna, Deputy Attorney General, New Jersey Division of Criminal Justice, testified as to his knowledge of the garbage industry.

Mr. Madonna: "I think that in order to understand the testimony of the Major and subsequent testimony it would be helpful to have a perspective of the garbage industry in the State of New Jersey, and so I would devote a short period of time to outline what I think would be several perspectives that might assist in understanding the testimony.

"The investigation in the early stages disclosed that, as an objective fact, the solid waste industry in the State of New Jersey actually had two rather clear-cut facets or sectors.

"One sector is that which involves the commercial industrial area of collection. The other sector is that which, for the most part, deals with municipal contracting. There are a couple of distinctions that flow from the two types.

"In the case of commercial industrial collection, you have prices regulated, set, and posted, with an agency of the State of New Jersey called the Public Utilities Commission. With respect to the sector of the industry which deals with municipal contracting, you have, as a safeguard or as a watchdog, so to speak, the State bidding laws with which, if they function correctly and, in fact, the bidding is genuine and without collusion, the consuming public would be assured that municipal contracts, when let to such contracting companies, would be actually at a competitive price.

"An investigation that I have referred to started approximately three years ago, and when it started, the investigation recognized these two facets of the industry and focused its investigative talents and manpower to develop, somewhat simultaneously or parallel, each side of the industry that I have referred to.

"In approximately November of 1979, we became privy to the existence of Harold Kaufman as a person who had operated within the industry and had been assisting the Federal Bureau of Investigation.

"Prior to that time, we had spent a year or a year and a half developing a case against the Trade Waste Association and the property rights concept that I have referred to and the grievance committee concept.

"When Mr. Kaufman appeared on the scene and through the assistance of the FBI and things we were able to do with him, we found that Mr. Kaufman corroborated in virtually every respect the type of information we had developed through numerous sources during the course of our previous year or year and a half of investigation.

"Not only could he corroborate it, but he had done some tapes and particular tapes of grievance hearings going on within the New Jersey Trade Waste Association.

"When Mr. Kaufman came on the scene in November or December of 1979, the opportunity to harness this information and to apply it to our previous investigative efforts became apparent, and I shifted the priorities within our unit, and we devoted our attention to returning that particular indictment.

"From that point in time, for the most part, we did not abandon, but we were not able to maintain the investigation into the municipal contract side of the market.

"Since the return of the indictment in the trade waste conspiracy case, we have now returned to pick up with the investigation, or that phase of the investigation which refers specifically and which focuses on the municipal contract side of the market.

"An analysis of public information that we were able to obtain with respect to five northern counties in New Jersey -- and this would be the counties of Hudson, Essex, Union, Passaic, and Bergen -- we were able to determine that the Municipal Contract Association members control ninety-two percent of the dollar value of all the contracts that are let within that five county area. That meant that a balance of eight percent of the monies -- gross revenues received -- are non-Municipal Contract Association carters.

"In addition to that, and of equal significance, is the fact that these particular contracts are held on the average of seventeen years by one carter.

"There are instances where somebody may hold their contract twenty years and somebody else may hold it a lesser number of years. But, on the average, the period of time in which these contracts had been held -- and I believe this report was concluded in the early phases of the investigation, probably around 1979 -- they were being held for a period of approximately seventeen years.

"There are tariffs that have and do apply in the State of New Jersey, but unfortunately our investigation leads us to believe that they are ineffectual in really controlling prices. So, the net effect, or the bottom line, of that conspiracy is that the public is basically at the mercy of the collector in terms of prices.

"Of equal moment is the fact that numerous customers of garbage or solid waste collectors who have attempted to secure alternate collectors, for whatever reason, have found that it is virtually impossible to obtain a different garbage man to pick up their garbage.

"On the municipal contract side of the market -- again, the side that is actively under investigation -- I would only say that property rights does apply, has applied for many years, and usually finds itself exemplified by situations where if, in fact, an outlaw comes into that sphere or facet of the market -- and that is usually fairly unlikely -- ultimately the contract will return to the person who originally had it.

"Reverted back, there is no magic to it. What I am, in effect, saying to you is that after the word has gotten to the offending collector, more often than not they do not rebid.

"In the case of Custom Disposal and Alfred DiNardi, when he took these eight contracts from Waste Disposal or Interstate, both of whom are subsidiaries

of SCA, he did it through the bidding process. He held it for one year and it came up for bid again following his death, and in seven or the eight instances nobody else bid against the SCA subsidiary. "

ASSEMBLYMAN LESNIAK: I can understand why.

(continuing with quote from transcript): "I would refer these to you as Roselle Park; the New Jersey State Office Building contract; the New Jersey School for the Deaf; Marie Katzenback School for the Deaf; the Trenton State College contract; the Trenton Post Office and Courthouse Complex, which is, in fact a Federal complex; the New Jersey Education Complex; the New Jersey Cultural Center; the New Jersey State House and State House Annex.

"In each instance, the holder of those contracts was an SCA subsidiary. The contract was taken in bidding by Custom Disposal and subsequently, in the next bidding sequence, was returned to the SCA subsidiary by virtue of, you might want to call it, default. Custom surely did not rebid the things."

Mr. Gore: "Mr. Madonna, with regard to the municipal contracts, have you had the opportunity to evaluate the bidding patterns of the largest waste disposal companies in New Jersey?"

Mr. Madonna: "The two largest companies operating in the State of New Jersey are SCA and Browning-Ferris Industries, referred to as BFI. I did, through the assistance of people on my staff, have the six northern counties analyzed in a period which I will refer to as the post-merger period. We usually use the cutoff of 1974, but the mergers took place in 1972, 1973, and 1974. Nothing fell within that period that would change the statements I am going to make. We referred to Bergen, Essex, Hudson, Morris, Passaic, and Union Counties."

Mr. Madonna: "There are one hundred and eight communities in the six counties, ninety-nine of which solicited municipal contracts."

Mr. Gore: "Out of those ninety-nine contracts bid, how many did the two largest companies in this business bid against each other? "

Mr. Madonna: "There were four instances of competitive bidding between these two companies in three municipalities."

Mr. Gore: "Four cases out of ninety-nine where the two companies that dominate this particular sector of the business bid against each other?"

Mr. Madonna: "That is correct, but remember that we are dealing with a seven-year period, and contracts do not extend more than five. So, ninety-nine is the minimum. You are talking probably numbers higher than ninety-nine opportunities to bid."

Mr. Gore: "That is separate from the questions about the organized crime involvement, is that correct? "

Mr. Madonna: "That is correct. This pattern is now part of the investigation we are looking into."

* * * * *

ASSEMBLYMAN LESNIAK: Also, at this time I would like to offer for the record, in addition to the previous statements taken from transcripts of committee meetings held by the House of Representatives -- the Subcommittee thereof -- a report of the State Commission of Investigation, dated October 7, 1969, which relates to the garbage industry of New Jersey.

Before I call our first witness, the Attorney General of the State of New Jersey, I apologize for having to put everyone through that lengthy statement, but it was necessary because of the gag order to review for the record the reasons why we are here.

I do want to make a couple of points clear. First of all, New Jersey is going to be in the highlight of the matter because we are taking action and doing something about a problem. The transcripts reveal that these types of activities of the solid waste and toxic waste industries are certainly not restricted solely to the State of New Jersey. In fact, there was testimony that it began in the State of New York. There is additional testimony that it involves many other states throughout the country.

Our Attorney General's Office, through Mr. Zazzali, and previously through Mr. John Degnan, has vigorously pursued an investigation of these matters and not only is proceeding on the criminal front, but is here today to offer recommendations to this Committee for legislation to deal with not only the matter of organized crime, but the matter of competition in the industry and regulation of the industry to make it economically more responsive to the public and to insure that solid waste disposal is carried out in an environmentally sound manner.

Mr. Bennett, do you have any statement to make? (no statement)

Mr. Zazzali, thank you very much for coming here today.

A T T O R N E Y G E N E R A L J A M E S R. Z A Z Z A L I: Mr. Lesniak, gentlemen: Initially allow me to note that the statement which I am about to refer to, and the forty-six page report, which I will also refer to, are in the possession of respective press offices. I think Mr. Cannon has released them to your office in the last half hour or so.

I thank you for allowing us to appear today. With me is Edward Stier, Division of Criminal Justice; to his right is John Enright, Deputy Attorney General, who was very actively involved in the preparation of that forty-six page report; and to his right is Bill Bolan, Deputy Attorney General, who has been active with this report, specifically, and who is very close to the legislative process, as you know, generally.

Today, as I have indicated, your Subcommittee has been provided with a report from my Department, from the Department of Environmental Protection, and from the Board of Public Utilities. It contains various recommendations for reforming the entire system. I would ask your indulgence this morning for a few minutes in order to provide some of the background for that report, some background, Mr. Lesniak, which you have already detailed in your presentation.

As I think the Subcommittee knows, for the past three and one-half years my Department has been conducting a statewide investigation of illegal practices in the solid waste industry. This industry, the garbage industry, simply stated, has been the focus of early investigations, including one conducted by the SCI in the year 1969. As a result of that particular investigation, the SCI made recommendations to the Legislature which led to the regulation of the solid waste industry by the Board of Public Utilities in the year 1970.

Despite that regulation by the industry, and notwithstanding a yeoman effort by the Board of Public Utilities, there continued to be, during the early 1970's, allegations by customers - the consumers - of solid waste services and people in the industry itself, of criminal activities with respect to solid waste collection and disposal. And so, the Division of Criminal Justice, led by Mr. Stier; the Division of State Police, led by Colonel Pagano; the FBI and the United States Attorney's office under both Mr. DelTufo and Mr. Robertson, began and continued a comprehensive investigation of the solid waste industry.

The focus of that investigation was twofold. The first aspect or dimension to the investigation was the traditional one, and that is the investigation and the prosecution of unlawful practices in the solid waste industry -- unlawful criminal practices and unlawful civil practices, including antitrust violations. And, the second dimension to that investigation was a reevaluation of solid waste regulation as it presently exists, with a view towards recommending an alternative system that would better confront the problems extant in the industry.

So, with respect to the first goal, as you know and as you have identified, Mr. Lesniak, three separate indictments were issued and we continued our investigation. As you have mentioned too, there is an order in effect whereby the court has directed that we refrain from publicly discussing the major conspiracy indictment, and so I am severely restricted today in my remarks, unlike perhaps yourself; and I daresay that your questions to me may not be answered. I would only ask that you respect that. As much as I might want to speak out today on some of those issues, I am constrained by the order.

I think we have made progress also with respect to the second dimension, the second objective, and that is as a result of our investigation, we have acquired an understanding of the solid waste industry which has enabled us to join with the Board of Public Utilities and the Department of Environmental Protection in a task force to develop a regulatory approach that will better address potential problems. Commissioner English of the DEP, George Barbour of the Board, and their respective staffs, were intimately involved in the preparation of that report, because we want, of course, to proceed to identify the problems within the industry and to recommend a scheme of regulations which will resolve the problems.

Let me now outline very briefly the four recommendations which were contained in the forty-six page report, and which has been distributed this morning.

Number one, the regulation of both the economic and the environmental aspects of solid waste collection and disposal should be vested in the Department of Environmental Protection. I repeat, environmental and economic aspects of collection and disposal be vested in the DEP. That recommendation is predicated on the fact that the impetus for solid waste regulation in recent years has been with the DEP, and the DEP's increased involvement with the economic concerns of solid waste collection and disposal warrants that the DEP be vested with complete jurisdiction. I understand that at least one of the associations disagrees with that approach, and that disagreement and our response is detailed in the report.

Secondly, we recommend that the economic regulation of collections be converted from the present rate base rate of return approach to an alternative system to be developed by DEP over the course of a one-year transition period. Again, we are going to need time and we think twelve months is a sufficient amount of time for this system to be developed.

I think this recommendation recognizes that the present system of rate regulation requires many solid waste collectors, many of whom are small family businesses - the usual mom and pop operations - to incur considerable expense in obtaining approval for price increases. It is an unwieldy process, whereby these mom and pop operations have to go through a lengthy, time-consuming, and very expensive process to achieve some equitable adjustments as to the

rate and we think that is unfair and inappropriate.

The third recommendation is that a three-member board, comprised of representatives from the DEP, the BPU, and the Public Advocate be created to periodically review the new system of rate regulation. That would provide a system of checks and balances that would further insure the protection of the public interest.

Finally, and to me perhaps most important as far as the first three recommendations are critical, from a law enforcement point of view I think the fourth recommendation is, in a law enforcement context, at least the most critical, and that is we urge that legislation be enacted which would empower the Attorney General's Office to investigate the background of existing and prospective -- I repeat, existing and prospective -- licensees, to determine whether or not they satisfy the licensing criteria relating to character and moral fitness.

Again, we are asking for the power to review the background of existing and prospective licensees to determine whether they satisfy the general character and moral fitness requirements. In my judgment, again, that is critical. Why? Because, saying it simply, I think the issues of character and fitness are the Achilles' heel of the garbage industry.

It is not enough for me to say that. It is not enough for me to ask for that general right. I think we need five tools in connection with any effort by the Attorney General to review existing licensees and prospective licensees.

Number one, we would ask that the legislation contain the right of the provision which will enable the Department of Law and Public Safety - my department - to develop standards of prior conduct and association, standards of prior conduct and association for the issuance or for the continuance of a license.

Secondly, both prospective and existing licensees should be required to complete a detailed questionnaire inquiring into their criminal records, if any, and their business interests. I repeat, putting it backwards, that the business interests and the criminal records, if any, of a licensee be stated in a detailed questionnaire.

Third, that questionnaire should be answered under oath and penalties be provided for any false statements.

Fourth, that the Department of Law and Public Safety be provided with subpoena powers with respect to the interviewing of licensees under oath and a review of their books and records. And,

Fifth, that the Department of Law and Public Safety should have the burden - out of a sense of fairness we say this - of showing an impermissible association. The burden of proof for demonstrating an impermissible association should rest upon us. But we think that legislation should further provide that upon a showing by the Attorney General of that impermissible association, the burden shifts to the licensee to demonstrate that such association did not influence the conduct of his business.

That is the five-pronged attack. It is meant only as a minimum, and we would urge the legislature to provide sufficient flexibility to me and to Mr. Stier and to our operation so that we can refine and expand upon those five proposals.

I should add, and I think this should be made abundantly clear, that it is not my perception of this function, that is the investigatory function, that we should make a determination as to whether a license should be denied or be revoked. As the report suggests, the revocation of an existing license or the denial of an applicant who seeks a new license should be vested with the DEP. Our function would simply be to investigate and make recommendations, but in a word I don't think we should be both prosecutor and judge; I think we should simply perform the initial investigatory function and then make our recommendations, and the DEP, independently of us, can pass upon those recommendations.

I thank you. I think that gives you an outline upon which you can move in a meaningful way.

ASSEMBLYMAN LESNIAK: Thank you, Mr. Attorney General, for your recommendations. Again, I want to commend your office and your staff for pursuing this industry and taking strong positions for the betterment of the people, and to ensure that a sensitive area is finally treated after decades of not being effectively administered -- even though attempts have been made to do so.

I just have a few questions regarding your expectations as far as licensing is concerned. How far do you feel the background checks should go, in terms of applicants? Obviously, I don't think we want to go as far as the Casino Control Commission goes, concerning every employee, but how far should it extend?

MR. ZAZZALI: You are talking about chronologically?

ASSEMBLYMAN LESNIAK: Not chronologically, I am talking about in addition to the person holding the license should it extend to key employees, management employees, or the person who picks up the garbage. Who should be licensed, or should it just be--? How can we really get into this. As you know, there are ways to get around hiding key individuals. For instance, Crescent Roselle, with SCA, probably would not have to hold a license and yet I don't think he would have passed your background checks.

MR. ZAZZALI: We would initially urge, subject to, I think, some further study, that certainly all ownership interests should be identified. Certain key employees should be indentified. I am not so sure that licensing requirements should extend to the actual gentlemen who pick up the garbage. We know what the experience has been in the casino industry, and we know that that regulation has been modified. I think if we have to go that far we will. As Mr. Stier just indicated to me, the key is to identify hidden interests. And, I think in the preparation of legislation, the A.G.'s staff would be active with you.

Ed, did you want to elaborate on that?

MR. STIER: I would just like to add one thing. The provision in our recommendatons that deals with the State having the burden of going forward and demonstrating an initial association between someone of unacceptable character and a garbage contractor, and then the contractor having the burden of demonstrating that that association has no influence on the business activity is designed to deal with the problem of hidden ownership. In many instances we are able to establish hidden association, or personal association, but we can't go further to demonstrate precisely how that association affects business activity. We think that the burden ought to be shifted to the contractor once the threshold is met. I think that will assist in preventing hidden ownerships from becoming a problem impossible to deal with in this industry.

ASSEMBLYMAN LESNIAK: Thank you. There was also testimony given at the previous congressional hearings regarding the problems associated with solid waste and hazardous waste disposal and the facility at which they can hide illegally disposed toxic waste through their solid waste disposal operations. What would be your recommendations regarding licensing holdings for those two different industries?

MR. STIER: The Attorney General has asked me to respond to that. I don't think we can give you a definitive answer at this point. We recognize the problem. DEP recognizes the problem. To say that the industry should be totally separated, that is that no company in one industry could have any interest whatsoever in a company engaged in the other, that is a company that is engaged in the disposal of garbage could in no way be associated with a company that hauls or disposes of toxic waste, is a position that I am not yet prepared to take. I think that both industries will require vigorous investigation and vigorous administrative, regulatory control, and I think the question of the extent to which they should be legally separated is something that we cannot yet take a position on. I think the economic impact of that, given the current conditions in the solid waste disposal industry might be too harsh. I don't know.

ASSEMBLYMAN LESNIAK: I want to ask you a few questions regarding municipal contracts. Now, again, we have testimony that the PUC has not been effective in terms of its rate setting procedures in dealing with the problem of competition. The municipal contracts, on the other hand, are not really even regulated to that extent. Do you have any recommendations regarding those municipal contracts and the question of whether there should be an automatic review of the one bid or two bid or three bid situation? How can we effectively deal with that?

MR. STIER: First of all, let me indicate that the BPU has done a good job in handling its responsibilities. In my judgement, the BPU has been asked by the State to assume responsibilities that are quite foreign to its basic purposes and its experience. Basically, the BPU has been responsible for supplying rate controls in industries in which there is no competition. In this industry, they have been asked to supply and to ensure competition and I don't think that is a natural role for the BPU to assume and I think whatever problems we have found have flowed from that basic inconsistency in their purposes.

We suggest, with respect to municipal contracting that there be tighter controls, not only a review of bidding practices in the municipalities, but also some rate control over the bids that are submitted. We think that there ought to be a parity between the bid prices and the rates that have been set in the same geographic area for residential garbage collection. In other words, you may have one municipality which does not contract for garbage collection in which there is competition and rates are established at a certain level as a result of that competition and the tariffs that are filed with the BPU. In another municipality where there is municipal contracting for garbage collection, where there is no rate setting by BPU, you may find a much higher price. We think that DEP ought to be given the authority, if our proposals are adopted, to impose controls over the rates that are charged in municipalities in contract situations and that some mechanism be devised if all else fails to give DEP the authority to compel the collection of garbage at reasonable rates in a municipality. How that would be implemented is something that has yet to be determined. We've tried to provide as much flexibility as we can in our recommendations to permit a system to evolve over a period of time, but we think that is one problem that has to be addressed.

ASSEMBLYMAN LESNIAK: Mr. Bennett?

ASSEMBLYMAN BENNETT: On your last answer there, where you said that perhaps DEP should be given the authority in various municipalities, give them what, the authority to actually pick up the garbage?

MR. STIER: No. It would be giving the DEP the authority to require that garbage contractors, who, of course, would be licensed and tightly regulated and who are prepared to bid on municipal contracts, to perform services for municipalities on the basis of rates that are fair and competitive.

ASSEMBLYMAN BENNETT: I thought I misunderstood that. Thank you. Mr. Attorney General, your predecessor, when he testified at the Congressional hearing in December of 1980, discussed a program that was to be implemented in the State of New Jersey and I will quote from that. He said, "It will facilitate the coordination and exchange of information concerning the ongoing investigations and civil and administrative proceedings. It will also serve as an information clearinghouse of names of individuals and corporations operating or licensed in one state and seeking a license in another state. It will also develop a task force prototype to seek federal funds, develop and implement training programs, establish technical assistance exchange, standardize systems in each state using computers to the extent possible, and develop

a liaison with the EPA and the Department of Justice." Would you be able to tell us what steps have been taken to implement that program?

MR. ZAZZALI: In fact, not only have steps been taken, but the program has been consummated and there is an inter-state task force that has been established to effect those goals. I might say that I knew this before coming on board when I was a citizen and an attorney. It has been an exemplar and a model for the rest of the country. So, it has been extremely successful and I would only hope that in other areas of law enforcement that kind of example could be emulated.

ASSEMBLYMAN BENNETT: Do we now have in effect a clearinghouse between people licensed to operate in one state and those seeking a license in another state?

MR. ZAZZALI: At least, in those 11 states, I believe so.

MR. STIER: Well, you have to be a little more specific about what we're talking about. We're talking about the toxic waste disposal industry. The 11 state task force has been established, is operating, is headquartered here in New Jersey at the Division of Criminal Justice. We have a full time staff which is operating that program. We've had a number of training programs for the 11 states so that investigators and prosecutors are receiving the most up-to-date training in the handling of toxic waste investigations and prosecutions. In addition to that, a clearinghouse is being established. We are compiling information, receiving it from member states and already there has been an information exchange among those states which have facilitated active investigations which are underway at present. It is going to take a period of time before all of our files are built up to a point where we're satisfied that we have all available information. But, we've made very good progress and we have people coming here from other parts of the country to see whether or not this 11 state cooperative approach might be useful in other parts of the country.

ASSEMBLYMAN BENNETT: Also, at the time of the Congressional hearing, there was testimony stating that since July first of 1978, the State of New Jersey, at that time, had been able to secure one successful conviction with respect to the illegal disposal of hazardous waste in the State of New Jersey. Since that time, there have been a number of additional indictments and today I'm only asking for numbers. How many indictments have we been able to secure on the state level and how many of those indictments have ended with convictions prosecuted by the State of New Jersey.

MR. STIER: I don't have the figures in front of me, but that figure of one indictment was not completely accurate as of that time, as of December 16.

ASSEMBLYMAN BENNETT: Mr. Degnan gave the testimony.

MR. STIER: Well, I think that the question was a very narrow question calling for specifically that response. We have had, and had at that time, a number of indictments--I don't have the figures in front of me--

ASSEMBLYMAN BENNETT: Convictions, there was only one.

MR. STIER: There was more than one conviction at that time. The Chemical Control case alone there were something like three or four convictions, as of that time, and there were others. I can get you the figures. I wasn't prepared here today to testify about toxic waste investigations. We came here prepared to talk about the garbage industry, but I would be happy to supply that information to you.

ASSEMBLYMAN BENNETT: Well, the only reason that I am raising the question is that we are talking about the combination and the directive of the subcommittee is to look into the competitive practices and the organized crime influence in the solid waste disposal industry and, in fact, there have been those who have alluded to the fact that many involved in the solid waste industry have also resulted in an

involvement in the hazardous waste area and I am therefore just picking up on some of the other testimony. When the Chairman gave his opening statement today, he referred to the testimony that had taken place down in Washington and I'm attempting to pursue that with respect to what position the State has established in that area and whether or not we are talking about a substantial number of indictments or if, in fact, we're talking about a more narrow number of individuals for which indictments have been sustained by the State officials and, in fact, convictions sustained. That's what I was pursuing by going in that direction.

MR. STIER: Well, my only comment on that is that although there is an inter-relationship between the industries that has to be borne in mind, I think that in order to consider an effective regulatory system, you have to understand the differences between the industries and how those industries have to be regulated in different ways in order to protect the public from the different kinds of problems that arise out of each of those industries. In the toxic waste disposal industry, for example, the environmental considerations are, of course, paramount. We're not as much concerned about anti-competitive practices. We are concerned about very, very tight control over the flow and disposal of toxic wastes. It is a relationship between the industries and the kinds of regulatory systems that are going to be required are fairly complex. I think the representatives of DEP here can speak more credibly to the details of how you regulate a toxic waste industry than I can. But, it is an extremely complex problem. We have worked very hard with the Department of Environmental Protection to develop a combination of resources, criminal enforcement and administrative and civil enforcement, that I think has been very effective in this state and if you would like the statistical results of our efforts, I would be happy to supply them to you whenever you would like them.

ASSEMBLYMAN BENNETT: With respect to the proposals and the recommendations that we received this morning, am I to understand that it is the recommendation that the rate regulations would be taken from where they presently are and placed in the DEP?

MR. ZAZZALI: That's correct, for the extensive reasons detailed in the report.

ASSEMBLYMAN BENNETT: And, it is also true that all of the regulations would be vested in the DEP, but the enforcement of same would stay in your office, is that right?

MR. ZAZZALI: Well, we're talking about a number of issues. The regulatory function would be with DEP. The investigatory function would be with us to the extent that if an investigation reveals that a present license should be revoked or that a license which is the subject of an application should be denied, we conduct the investigation and make the recommendation, but DEP calls the shot. In connection with the law enforcement aspect, from a traditional point of view, i.e., civil and criminal investigations, that whole myriad of rights and remedies in the context of enforcement would be our job, would be the responsibility of the Department of Law and Public Safety.

ASSEMBLYMAN BENNETT: Certain newspaper stories from a major paper in the State of New Jersey covering the committee hearings in Washington alluded and, in fact, inferred from the testimony that the communication between certain divisions within the Department of Environmental Protection and the Attorney General's office and the Criminal Justice Division were, in fact, at the very best, vague and not established. If that, in fact, was the case, has there been an improvement through the coordination

and the communication between the various divisions that have been doing investigations in this area to lead toward whatever indictments may be proceeding?

MR. ZAZZALI: Well, with respect to both indictments, civil actions, investigations, whatever, I think that the level of communication and contact is significantly high. The Division of Criminal Justice, the Board of Public Utilities, the Department of Environmental Protection meet regularly, along with, I might add, other agencies such as agencies of the federal government. We need not go into detail here now. They meet on a regular basis. I know the last one that I attended was only a few days ago. It was an all day retreat where we met. I think there were 25 people in that room, starting at nine o'clock and going on until the early evening to address and respond to questions of mutual concern. It is a continuing process and I think it is a successful process too.

ASSEMBLYMAN BENNETT: And, that also involves the New Jersey State Police?

MR. ZAZZALI: The State Police are involved, the United States Attorney is involved, the Environmental Protection Agency, the federal counterpart to our DEP, is involved. Everyone in the best sense of the word is in the picture.

ASSEMBLYMAN BENNETT: Do your recommendations deal only with the on-site disposal or do your recommendations also go into the actual hauling of the solid waste?

MR. ZAZZALI: We're talking about soup to nuts, from collection to disposal.

ASSEMBLYMAN BENNETT: On the hauling, would there be separate licensing? Would it be your recommendation that the committee look toward separate licenses for hauling capacity?

MR. ZAZZALI: Yes. It is a separate function. So, there would be a separate license.

ASSEMBLYMAN BENNETT: And, with respect to those seeking to dispose of the waste outside of the State of New Jersey, as to securing adequate documentation of the destination, if it is outside of the state, would that be outside of the scope of the State or would that be within the scope of your recommendations?

MR. ZAZZALI: If you are asking whether haulers in New Jersey, licensed in New Jersey, should identify places outside of the state where they are going to dispose of waste--Assemblyman Bennett, are you talking about toxic waste, as opposed to solid waste?

ASSEMBLYMAN BENNETT: Well, one of the problems that was talked about and testified to down in Washington was the situation where you ended up having a solid waste hauler merging the toxic waste within the same container, listing an out of state destination on the manifest, and upon investigation, having the out of state site discovered to be non-existent, and, in fact, it had to be disposed of somewhere in between. They had been merging both the hazardous waste and the solid waste within the same containers for the haulers and my problem is, when they go out of state. That also follows through with the program that you testified to before that has, in fact, been set up and I would assume that that is where you are going to be able to enforce this between, for instance, New Jersey and Pennsylvania with that 11 state task force that you've set up, is that correct?

MR. STIER: Yes. The problem of toxic waste disposal is, of course, a regional problem, if not a national problem and it has to be handled on the basis of regional organization and exchanges of information among the states involved.

The problem in the solid waste industry, regulatory problems there are somewhat different. They are more intra-state in nature. But, you are absolutely correct. We have to follow the handling of toxic waste from the point of generation to the point of disposal, wherever that point of disposal is, whether it is in New Jersey or someplace else, to assure that it is being properly dealt with and I think we've made significant progress in that direction.

ASSEMBLYMAN BENNETT: I have no further questions and I thank you for taking time to come here today.

ASSEMBLYMAN LESNIAK: I have just two more questions, Mr. Attorney General. Do you also recommend that the same type of background checks and character reports be made for the licensing of toxic waste haulers and disposal facilities?

MR. ZAZZALI: Our report is exclusively a report addressed to the question of solid waste. As to whether or not we should expand it into toxic waste, because Director Stier is immensely aware of that problem, let me refer that to him.

MR. STIER: I think that ultimately the background of toxic waste disposers has to be, at least, as intense as the background investigation of solid waste haulers, but you have to go even beyond the question of character and associations in looking into the qualifications of the toxic waste hauler or disposer. You have to make an intense analysis of their technical capabilities to deal with the problem of toxic waste hauling and disposal. So, the answer is, although our report does not cover the subject of toxic waste, in my judgement, the answer is yes and we have to go even further.

ASSEMBLYMAN LESNIAK: Do you think that S-1300, which was recently enacted, gives the Attorney General's office enough authority in this regard?

MR. STIER: At this point, I'm really not prepared to comment on whether we have sufficient authority under that legislation. As you know, it is a very complex piece of legislation.

ASSEMBLYMAN LESNIAK: May I ask that the Attorney General's office report to our committee with your recommendations regarding the licensing of toxic waste disposers?

MR. STIER: We certainly will.

ASSEMBLYMAN LESNIAK: I have one other question, if I may. Is the investigation into municipal garbage contractors still in progress?

MR. ZAZZALI: The question is, can we say yes or no. The answer is, yes.

ASSEMBLYMAN LESNIAK: Do you have any further statements?

MR. ZAZZALI: No. Are we excused?

ASSEMBLYMAN LESNIAK: You are excused.

MR. ZAZZALI: I would love to stay for the rest of the hearing, but Mr. Stier has to take out the garbage.

ASSEMBLYMAN LESNIAK: If it is still out there. Thank you very much and I appreciate the hard work that went into these recommendations and I'm certain and I hope very much that we will be able to enact the legislation which you seek before the end of this legislative session. Thank you very much.

MR. ZAZZALI: Well, you have our support.

ASSEMBLYMAN LESNIAK: Before we call on Mr. Barbour, I would like to read, for those of you who haven't heard yet, from the wire services today. "An official of the Boston based garbage hauling firm says the company is taking its business out of North Jersey," and this is in reference to SCA, "because of charges that it is

linked with organized crime. Chairman John Fox," he's the chairman of SCA, "said yesterday, 'Company President Thomas Viola, who left the firm last June, while a congressional investigation was underway, was forced out of his job because of unfounded allegations about the company's mob involvement.' The company, the third largest waste disposal firm in the country, with annual revenues of \$268 million, was linked in December of 1980 to organized crime by federal informant Harold Kauffman. Fox said that the decision to pull out of the garbage disposal business in North New Jersey would not affect local collection. The company continues to operate chemical disposal and landfill business in this state." Obviously, this makes all the more important the legislative enactments along the recommendations proposed today because it appears that there will be an opening up of some of the contracts for the State of New Jersey and we hope and intend and very much want that that opening up be directed to legitimate companies in a competitive manner.

Now, I would like to call on Mr. George Barbour, the President of the Board of Public Utilities. Mr. Barbour?

G E O R G E B A R B O U R: Good morning, Mr. Chairman.

ASSEMBLYMAN LESNIAK: Good morning and thank you for coming.

MR. BARBOUR: It is a privilege to be here and to help participate in the endeavor to devise a better system of regulation of trash and garbage.

ASSEMBLYMAN LESNIAK: By the way, what we've heard today--and I'm sure you will be happy about it--will lessen the load of the BPU, if it is ultimately enacted.

MR. BARBOUR: Well, in a way it does, but it also presents us with additional problems because they are not permitted to discontinue service without our approval. So, applications would have to be filed for that purpose.

ASSEMBLYMAN LESNIAK: You're talking about SCA.

MR. BARBOUR: Yes.

ASSEMBLYMAN LESNIAK: I'm talking about the recommendations of the Attorney General.

MR. BARBOUR: All right. I have been on the Board for about four and a half years and in the first year or so I was of mixed emotions or mixed mind as to whether we should regulate the trade waste, landfills and the collections. But, for the past two or two and a half years, I have advocated that we would not be opposed to the transfer of that jurisdiction to DEP or to any other state agency. In fact, in the last two years, I have advocated that strongly.

I think the basic reason for that is that when these laws were passed, the economic regulation and the endeavor to ensure competition in the interest of the citizens of the state was one of the prime motivating factors and a lot of the thrust is on that basis. But, in the meantime, in the past ten years, there has been a lot of other legislation adopted dealing with DEP and the environment and those problems. The effect of all of that is that it has given DEP a major role in this area and through many of the things that have happened at our office--for instance, if DEP determines that a landfill should be closed because of environmental concerns, the law that we operate under requires us to hold hearings to determine whether the economics agree with that or not. It is complicated and contradictory and that one hearing could have sufficed to cover both of those points. We have had some conflicts in the past, although I think, in the last several years, whenever DEP has made a determination that it should be closed because of environmental problems, the Board has held expedited hearings in the economic area and has agreed with the result.

For instance, in other areas the DEP will have long drawn out hearings to determine what kinds of environmental facilities should be installed in order to protect the environment or to lessen the degree of pollution or to clean up previous pollution. Those facilities are very expensive. They run from \$2 million to \$10 million and the landfill operator is in a position where he can't make a commitment, he can't sign an agreement to install those facilities because he doesn't have the money, the capital to do it. That can be supplied by the BPU under the economic regulations. Then, hearings have to come over to our office and be conducted there and we have to go through the same kind of operation, plus the fact of looking at the economics of it and see if it is feasible and if it is justified and then, eventually, approving a certain increase in the level of revenues, designing tariffs for the landfill operator to collect that additional revenue. In addition, since revenues will be flowing into the landfill operator, faster, perhaps, on some occasions than he would be disbursing them to pay for these facilities, we had to devise an escrow account to guarantee that those monies would not be diverted to other purposes and would be in a fund and would be able to be paid out only for the environmental projects that were being constructed.

Another aspect of that is the collectors who would dispose of their trash at that landfill. They would have to come in to us for rate increases to be able to pay for the increased cost of the disposal at this landfill now because of the environmental facilities.

All of those things could have been taken care of in one hearing before the DEP and it would have been much more efficient, much less costly, and greatly to the benefit of the citizens, I believe.

There has been some testimony that I heard this morning that was read from the congressional hearings and I would just like to point out that from the very outset, the first application that was filed with DEP--and I have a copy of the application form here and I can leave it with the committee. It requires a great deal of information to be submitted. It requires a complete financial statement to be filed. It requires complete information with respect to the individual operator, the members of the Board of Directors, the officers, anybody having a financial interest in the corporation, if the entity is a corporation. It requires information as to any previous criminal activity and a great deal of other very pertinent information to be evaluated when a decision is to be made as to whether a license is to issued or not. The same kind of information would be supplied if there was an endeavor to revoke a license for whatever reason. I might also state that this is required to be under oath. So, none of the applications are processed before us until this application is filled out completely, with no questions unanswered.

ASSEMBLYMAN LESNIAK: Mr. Barbour, if I may ask, what types of checks regarding the completion of that license are made? Does the information go through the Attorney General's office to check on the information supplied?

MR. BARBOUR: When this first started, that was done on a regular basis. But, very shortly after it was started, we received communications back from the State Police and the effect of it was that in using the national system of criminal history data was that an individual from the national computerized file will be made available to federal agencies authorized under Executive Order or federal statutes and the criminal justice agencies for criminal justice purposes. Precluded is the dissemination of such data for use in connection with licensing or local or state employment other than with the Criminal Justice Agency or for other uses unless such dissemination is pursuant to state and federal statutes. There are no exceptions.

As a result of this, we had an Attorney General's opinion issued in connection with that area and this was issued back on October 16, 1974 by Bertram Goltz, Deputy Attorney General, who was assigned to our office. The bottom line of that opinion is that even if criminal activity is discovered, unless it has to do with monopolistic practices in the trade waste area or bribery or some activity in connection with that business, we could not use that, by itself, to deny a license or to revoke a license.

ASSEMBLYMAN LESNIAK: And, that was because you didn't have the legislative authority, is that correct?

MR. BARBOUR: That's correct. Now, this opinion also goes on to detail efforts that were undertaken from time to time to grant that legislative authority, but for one reason or another, it never resulted in legislation being brought forth for that purpose.

ASSEMBLYMAN LESNIAK: We hope to develop that out of these hearings. It's also a fact that that questionnaire can only ask questions regarding criminal convictions, is that right? In other words, you could not go into indictments or certainly not associations, is that correct?

MR. BARBOUR: That's correct.

ASSEMBLYMAN LESNIAK: And, that's also because of operational flaws.

MR. BARBOUR: Yes. I think in the time that I've been on the Board, there is only one incident where we have denied a license, a transfer of a license, because of criminal activity that occurred over in the Philadelphia area of Pennsylvania.

ASSEMBLYMAN LESNIAK: How many licenses have you ever denied, since you've been with the Board, do you know?

MR. BARBOUR: Counting the licenses denied and revoked, it would be about 20%.

ASSEMBLYMAN LESNIAK: And, usually, for what reasons?

MR. BARBOUR: Well, for violations of the statute requirements, violation of tariffs, consistent violation of tariffs, that kind of thing.

ASSEMBLYMAN LESNIAK: What kind of check on the applications are made regarding the statements made in the financial statement?

MR. BARBOUR: Well, first, according to legislation, we are required to check into their experience, including education, their equipment to make sure it is sufficient to operate the business, and the financial ability of the person to operate the business. Those are the areas that we are given authority to check into, and we have a total of 12 investigators that have the whole responsibility for 1200 and some landfill sites, plus all of the collectors.

ASSEMBLYMAN LESNIAK: How many landfills?

MR. BARBOUR: No, I'm sorry. It says 1200 and some collectors, not landfills. But, there were a lot of landfills when this was first given to us to work on. That has been knocked down over the years because of the Solid Waste Management Act and the phasing out of the old type of landfills. It is not possible to go out and make a check with respect to each application. It is only if information is shown on the form or if information comes to our attention that we can send operators out to check those claims out or to check that fact out, whatever it might be.

ASSEMBLYMAN LESNIAK: Do you think that that is sufficient to serve the purpose?

MR. BARBOUR: It is totally inadequate to serve the purpose and we have been asking in our budget for additional support in this area ever since I've been on the Board and I think prior to that also.

ASSEMBLYMAN LESNIAK: I'm sure you have. I know you are well aware of the legislative process and how very difficult it gets at budget time. How long are the licenses good for?

MR. BARBOUR: They are good until they are either revoked or come in on a transfer.

ASSEMBLYMAN LESNIAK: Is there a system for renewing the information?

MR. BARBOUR: Well, there is an annual financial report which would dispose of most of the information that is required in connection with the application.

ASSEMBLYMAN LESNIAK: What if the principals of the business change?

MR. BARBOUR: They must come in and get approval before that can happen legally. Now, we have discovered, at times, that that has not been done, where they have made a change, and we cite them under an order to show cause to come in and we set forth the facts and we then make a decision as to whether we approve that transfer or not.

ASSEMBLYMAN LESNIAK: Would you recommend, therefore, that that be a requirement for all future applications or licenses?

MR. BARBOUR: Yes.

ASSEMBLYMAN LESNIAK: Do you think that the power to set tariffs is sufficient to ensure that the prices that will be charged to consumers would be comparable to those if they had been set by the marketplace?

MR. BARBOUR: In a business that has had the problems that have been attributed to this business and the investigations that have been made, I would say, no. I think that you need to have a public awareness of the fact that prices are set and the prices are regulated. We also need to have information furnished to them so that they're aware of what prices they should be paying and if there is a deviation from those prices, they could make appropriate complaints. That way, you could have all of the citizens of the State, sort of, as an assistant enforcement party and they would do something that you couldn't possibly do by the investigators that are appointed. They just couldn't cover the state to the extent that that type of operation would cover it.

ASSEMBLYMAN LESNIAK: Mr. Bennett?

ASSEMBLYMAN BENNETT: Did you, by any chance, bring those licenses with you today?

MR. BARBOUR: The application form?

ASSEMBLYMAN BENNETT: Yes.

MR. BARBOUR: Yes, I have those.

ASSEMBLYMAN BENNETT: Did you say that they are to submit a financial statement?

MR. BARBOUR: Yes.

ASSEMBLYMAN BENNETT: Is that a statement of their personal finances or of the officers or of the business itself?

MR. BARBOUR: It is of the business itself. Now, if it is an individual, it would be a complete financial statement of the individual. If it is a corporation, it would be a complete financial statement of the corporation.

ASSEMBLYMAN BENNETT: And, how long has this been the procedure?

MR. BARBOUR: From the very beginning.

ASSEMBLYMAN BENNETT: Which is when?

MR. BARBOUR: About '70 or '71.

ASSEMBLYMAN BENNETT: Now, this application, when it is filled out, it is submitted back to you?

MR. BARBOUR: That's correct.

ASSEMBLYMAN BENNETT: Now, is there any coordination--earlier testimony today talked about the new program that has been set up so that people applying for licenses in one state, they can go through this program set up through the Attorney General's office and, with the other 11 states, find out if there has been any problems in these other states. Is there anyone that checks that through this program that the Attorney General talked about?

MR. BARBOUR: I believe that new program applies to hazardous and toxic waste. We are not involved in that area.

ASSEMBLYMAN BENNETT: That's right. I'm sorry. This is only as to solid waste.

MR. BARBOUR: That's right, but before they can even file that with us, they must apply to DEP and get an approval from DEP and that certificate or a copy of it is delivered to us either with the application or before we process it.

ASSEMBLYMAN BENNETT: So, before you process that, DEP has to approve the applicant and the facility and the site environmentally and you are essentially granting the license and dealing more with the economic part of it as to the dollars and cents.

MR. BARBOUR: Yes. Now, I don't know if DEP, when they have a person making an application to do just plain solid waste collection or disposal, if they are run through that process in connection with the task force or not. I'm sure when they appear before you, they can advise you as to how that operates in their department.

ASSEMBLYMAN BENNETT: If a facility is operating and they have not submitted this application, if you become aware of that, is it for you to move ahead and advise them that they have to get a license or does that go to the law enforcement section?

MR. BARBOUR: We immediately send a telegram to advise them that they are operating without a license and they have to cease. That's whether it is a landfill or a collector. And, we direct them to appear before us. If they fail to appear, we pursue the matter to a conclusion that is sufficiently satisfactory. DEP would be notified if it involved a landfill operation. If there was a continuing difficulty with respect to having them cease and desist, there would be an order to show cause issued at our agency, the deputy attorney general that is assigned to our office would be involved in that, and, as an alternative, we could go directly into the judicial system to secure the cease and desist.

ASSEMBLYMAN BENNETT: Duane Marine in Perth Amboy had been a hazardous waste site, is that right, and wouldn't have been submitted for this?

MR. BARBOUR: Mr. Lawrick can answer that.

MR. LAWRICK: Duane Marine only requested collection authority from the BPU and that's the only authority they held from us. They had no authority for disposal site operation.

ASSEMBLYMAN BENNETT: Why I am confused is that in this same testimony that we've been referring to, which occurred down in Washington, Mr. Kauffman, who you heard about, who had been the informant, stated that at no time was a financial statement ever required in this application for Duane Marine's license, that Duane Marine had been given a license to dispose, that they were the grave and the grave had 12,000 drums, and while they were able to secure a license--well, the question by Mr. McGuire, "No financial statement was submitted?" The answer by Mr. Kauffman was, "I know that for a fact." That's what I'm confused about.

MR. LAWRICK: Assemblyman, he may be confusing the two authorities. He may be confusing the request of the DEP for the authority to dispose of waste at the site that they had. There was no request ever made by Duane Marine for disposal site, which we couldn't and wouldn't grant them unless he received authority from the DEP first. We had no such request. He had no authority from the BPU, so there is no necessity to file a financial statement for a disposal facility. Duane Marine, as far as we were concerned, the only knowledge we had, was a collector of solid waste and the only financial statements that we had with us were in that connection.

ASSEMBLYMAN BENNETT: So, they did file one, even though he said they didn't.

MR. LAWRICK: For the collection end of it. I'm not sure what that is because I haven't looked at them. I don't have them with me today.

MR. BARBOUR: Any license he obtained from the BPU, a full financial statement was filed. We have not issued any license for collection or disposal without a full financial statement.

ASSEMBLYMAN BENNETT: What is the present practice of verifying what is submitted to you?

MR. BARBOUR: We don't have the resources to go out in the field and make an investigation. We evaluate the information that is given and if that is sufficient to justify a finding that the applicant is going to be able to perform the business that he has applied for, he would be entitled to receive the license. Now, there is an advertisement that goes with the application before a decision is made in our office. There is also a spot-checking of applications. But, I'm talking about, on a regular basis with each application, it is impossible for us to check up on each one of those applications with the personnel we have.

ASSEMBLYMAN LESNIAK: How much does a license cost?

MR. BARBOUR: It is \$50.00 for filing.

ASSEMBLYMAN LESNIAK: Do you think that it would be preferable to have the licensees pay a much higher rate in order to staff the agency with sufficient personnel to do investigations on each application?

MR. BARBOUR: Yes. They are assessed on the basis of their revenues per year. So, either through the revenues or through the licensing fee, there should be an increase to produce revenues of sufficient level to permit a satisfactory exploration of any application. That, to me, makes it all the more appropriate to have the total jurisdiction in one agency because the total check can be made at one time, the total investigation.

ASSEMBLYMAN LESNIAK: Who is authorized to complete and to sign this application for a license?

MR. BARBOUR: Well, of course, the individual owner is authorized and the officer of a corporation is authorized.

ASSEMBLYMAN LESNIAK: Would it not be preferable to have each person identified, including the board of trustees, the officers, the administrative personnel, who are mentioned, and the people holding a financial interest also swear under oath regarding this application?

MR. BARBOUR: They must be identified in the application, but I understand you're going one step further to require them to sign it.

ASSEMBLYMAN LESNIAK: Do you not think that the information given would be more credible if they also had to verify the statements herein under oath?

MR. BARBOUR: I think that that would establish a more credible situation and would also put them under an oath which, if there is a false statement, there is a criminal penalty.

ASSEMBLYMAN BENNETT: If, in fact, this legislative subcommittee recommended to the full committee and went through the process and legislation was enacted altering the licensing procedure presently, requiring certain additional information that we have talked about today, and, in fact, did not transfer the application of the solid waste collection to the DEP--in other words, only part of the recommendations--in order to have an effective check of the applications and to have effectively the ability to contact those who do not have licenses to make sure they secure licenses, could you tell us what the cost factor could be to your department or the number of personnel that might be required?

MR. BARBOUR: I couldn't do that off the top of my head, but I think we could evaluate it and tell you what the answer, to the best of our ability, would be. Presently, we have, I believe, 36 employees assigned to solid waste or working on solid waste, but nine of the positions are permanently assigned out of 13 positions that are assigned so that we have people working in this area because of the workload that really are not assigned to this division, the professionals, the accountants, rate analysts and some regulatory officers.

ASSEMBLYMAN BENNETT: There are actually nine positions in solid waste, but you have thirteen assigned there?

MR. BARBOUR: No, I'm sorry. Perhaps, if I give you this statement, it will clear it up. There are three supervisory, four clerical, fifteen investigators for tariff complaints, fourteen accountants, plus one student intern, for a total of 36.

ASSEMBLYMAN BENNETT: That's just solid waste?

MR. BARBOUR: That's solid waste. Out of 13 positions assigned to this section, 9 are permanently assigned to other units of the BPU. But, because of the workload in this area, we've assigned them to work in solid waste temporarily.

ASSEMBLYMAN BENNETT: If licensing was transferred to the DEP, would your department then decrease in personnel by 36 people?

MR. BARBOUR: No, because 9 of those people are not assigned in this area and they are needed urgently back where they belong in the regular utility regulations. But, the people who are in the solid waste area assigned permanently would be transferred and the funds, of course, would be transferred as well.

ASSEMBLYMAN BENNETT: So, of these 36, if licensing and solid waste was all transferred from your department, only 13 positions would move?

MR. BARBOUR: No. I think you would subtract 9 from that 36.

ASSEMBLYMAN BENNETT: Only 9 out of 36?

MR. BARBOUR: Yes. 27 people would move to DEP. 27 are permanent and 9 are temporary in that division to help out because of the workload.

ASSEMBLYMAN BENNETT: Okay, I understand. But, these 27 presently, even with the extra help, are working with the solid waste control and are not able to be able to have the time to be able to get into the licensing aspect? They're tied up continually with the economic problems, is that correct?

MR. BARBOUR: Yes. They can't get into the licensing any more than they do, that's correct. They couldn't go out and make investigations. We have roughly about 120 to 125 solid waste cases pending before us most of the time.

ASSEMBLYMAN BENNETT: Once this application is submitted to your department, what is the time frame that it generally takes from the date of application to the date of approval or rejection?

MR. BARBOUR: I think Mr. Lawrick can answer that.

MR. LAWRICK: There is 30 day advertising period. It has to be advertised in the local newspapers of the area to be served and it takes roughly 30 to 60 days after the advertising period before it moves up to the board level for final decision.

ASSEMBLYMAN BENNETT: 30 days advertising and then 30 to 60 days more?

MR. LAWRICK: That's the time of the investigation that takes place while we're examining the application and going through the financial reports, the tariffs and all the other information that is required.

ASSEMBLYMAN BENNETT: They already have DEP approval by the time they come to you, is that right?

MR. LAWRICK: Yes. That is the first prerequisite.

ASSEMBLYMAN BENNETT: I understand. I have no further questions.

ASSEMBLYMAN LESNIAK: Thank you, Assemblyman Bennett. Mr. Barbour, I have one further question. Do you concur with the recommendations made by the Attorney General's office today?

MR. BARBOUR: Yes.

ASSEMBLYMAN LESNIAK: Thank you very much for your time.

MR. BARBOUR: Thank you.

ASSEMBLYMAN LESNIAK: The last witness will be George Tyler, who will be taking on additional responsibilities when we get our legislation passed. Mr. Tyler is Assistant Commissioner for the Department of Environmental Protection. By the way, those of you who expressed an interest, we will be having one additional hearing within a two to three week time frame, where the industry will be asked to come forward and comment on today's hearing and any other matters concerning the solid waste disposal and collection business. Mr. Tyler?

G E O R G E T Y L E R: Thank you, Assemblyman Lesniak and Assemblyman Bennett.

My name is George Tyler and I am Assistant Commissioner for Environmental Management for the Department of Environmental Protection. I am pleased to be before you today representing Commissioner English to present the Department of Environmental Protection's views on the regulation of the solid waste industry in New Jersey.

Attorney General Zazzali has already presented an overview of the activities of his department with respect to the solid waste industry. President Barbour has done so also. I would like to take a few moments of your time to discuss the department's role in our programs in this area. Not much more than a few years ago, the solid waste problem in New Jersey received very little attention from the public and the media. Slowly, municipal, county and State officials began to recognize the need for a new initiative that would reduce our reliance on landfills for the disposal of our solid waste and ensure a movement toward recycling and resource recovery as the most environmentally and the most economically sound method of managing our garbage. At the same time, the department began a vigorous new program - virtually non-existent three years ago - to regulate the transportation and disposal of hazardous wastes. Today the department has, in my opinion, one of the most effective hazardous waste regulatory programs in the nation. Nevertheless, it is a program which will improve dramatically in the next year because of the massive infusion of resources Governor Byrne and Commissioner English have sought and the Legislature has provided for hazardous waste management. In addition, recent amendments to the State's Spill Fund have enabled the department to clean up hazardous waste dump sites. And amendments to the Solid Waste Management Act now make violations of our hazardous waste regulations a criminal activity, giving the Division of Criminal Justice the additional tools needed to vigorously pursue illegal toxic waste dumpers. Furthermore, the department, along with the Attorney General's Office, participates in the nation's first Inter-agency Hazardous Waste Strike Force which has brought numerous indictments and civil actions against hazardous waste violators, and is a model now being duplicated by states across the nation.

Despite these great accomplishments in the areas of toxic waste regulation, the public has seen very little in the way of results in our move to get away from landfill disposal of garbage and into resource recovery. We have, however, spent our time well in the recent past and, indeed, many of the tools we need to accomplish that goal are now at our disposal. Under amendments to the Solid Waste Management Act which took effect in 1977, 17 of the State's 22 Solid Waste Management Districts have received approved plans from the department. These plans control the flow of waste to specific facilities, effectively franchising them for the receipt of waste from specified geographical areas according to the legislation's direction. Furthermore, the County Solid Waste Plans are not just mere documents replete with out-of-date technical data stored on the proverbial dust-gathering shelf. Instead, the department has consistently taken the view that these plans rise to the level of administrative regulation and as such are enforceable in the courts, if necessary, to compel compliance with the waste stream controls and to force the implementation of higher technology methods of waste disposal.

More importantly, ten years ago, our solid waste was dumped into nearly 400 landfills across the State. Today, only 175 such dumps continue to operate and only 40 of those could be termed major facilities. Our enforcement efforts have closed approximately 200 polluting facilities over the last decade, and very few new facilities have been approved. We have also promoted and you have passed a new law promoting recycling and a bill which provides for the proper closure of

existing landfills. Both of these laws will be funded from a fee on waste disposed of at landfills. This fee is crucial not only as a further deterrent to landfilling beyond our laws and rules, but also because it begins to fairly apportion the costs of waste disposal, even if the waste is produced in New York City or Philadelphia. Moreover, these fees raise landfilling costs in a way which begins to reflect the true cost of garbage dumping. No longer will groundwater pollution be permitted to subsidize disposal costs in New Jersey.

A third fee bill did not pass and remains pending this Committee's review. That bill, Assembly 2282, would add a small increment to the fees already established to cover the costs of State and county government in the regulation of the garbage industry. I suggest that that bill be reconsidered, especially in the context of any legislation which may flow from today's proceedings.

Last year, in addition to these recent changes in New Jersey law, our citizens overwhelmingly approved the Natural Resources Bond Act of 1980, providing financial assistance for the construction of resource recovery facilities. Also of note, the Hackensack Meadowlands Development Commission has established under the district solid waste planning process, a rate average system for the Meadowlands District, so that municipalities are not penalized financially for being directed to use a more expensive but better facility. We expect to see rate-averaging implemented throughout many areas of the State as a result of the solid waste planning process.

All of these changes have given us a sound basis for movement to resource recovery. Despite this progress in planning and in establishing the proper framework for resource recovery, the job ahead of us is not an easy one. Ours has been a constant struggle to effect change in an industry which has resisted almost every one of those changes. The dual regulation of solid waste between the Department of Environmental Protection and the Board of Public Utilities has made progress most difficult. The implementation of resource recovery and the clean-up of polluting landfills is impeded by the need to go to another State agency for additional approvals. The treatment of this industry as a public utility has also made our job more difficult, and the industry has constantly delayed and avoided investment and environmental improvement because of this dual regulatory scheme. Enforcement of various county waste flow directives based upon three years of county and state planning has again met with resistance from collectors who do not want to alter their already established patterns. Municipalities have complained to us that their contract collectors are using the contract renegotiation provisions of the State's Solid Waste Planning Law to demand increases over contract prices which have already skyrocketed in the past few years. These same municipalities complain that they still receive only one bid on their municipal contracts and they cannot entice other firms to bid.

New Jersey's municipalities pay as much as, or more than, other states for their contract collection service. Yet, at the same time, New Jersey has the unenviable distinction of having the lowest landfill tipping charges in the nation. This intolerable situation is at least in part responsible for the vast quantities of garbage from New York, Pennsylvania and Connecticut which travel to New Jersey dumps to take advantage of the low tipping fees.

We are extremely pleased, therefore, to have participated with the Board of Public Utilities and the Attorney General's Office in the development of the Inter-agency Task Force Report recommending revisions in the economic regulation of the garbage industry. We strongly believe that the Division of Criminal Justice should

play an active role in the licensing of solid waste collectors and disposers, and that the collection industry is not suited to public utility-type regulation. The Task Force recommendations include provisions for the Division of Criminal Justice to be given the tools to vigorously pursue illegal activities in the garbage industry while providing for a new civil administrative system of economic regulation - less cumbersome and more effective than utility regulation - to ensure that our residents, industries, and municipalities are paying a fair price for their collection and disposal services. Now that most of the county plans are in place and funding is available for the construction of resource recovery facilities, we must take this last step to ensure an effective and efficient system of regulation to accomplish the goals embodied in State law.

Legislation to merge the solid waste programs of the Board of Public Utilities and the Department of Environmental Protection is before the Senate Energy and Environment Committee. This, coupled with the Assembly proposal for stringent screening in the licensing of solid waste facilities, will go a long way toward meeting these goals. In short, we see these proposals as pieces of a large waste management scheme that the Executive and Legislative Branches of New Jersey State government have been putting in place together in the past four years.

As I implied at the outset, sound and effective waste management is an environmental imperative in New Jersey. At the same time, economic development is impossible without a solid, well functioning waste disposal system. Your review of these issues today continues our progress in attaining such a system for New Jersey.

I, therefore, am most pleased to have had the opportunity to testify before you and I thank you very much for your kind attention. I have with me Lee Pereira, the Department's administrator of solid waste. And we would be most pleased to answer any questions you might have. Thank you very much.

ASSEMBLYMAN LESNIAK: Thank you, Mr. Tyler. Are you ready, willing and able to take on the responsibility for solid waste licensing and regulation?

MR. TYLER: We have been doing short answers - so, yes.

ASSEMBLYMAN LESNIAK: No further questions.

Assemblyman Bennett?

ASSEMBLYMAN BENNETT: I am not going to let him off that easy.

I have to commend you. There has never been an occasion that you appeared before this Committee since A 2282 has been introduced, that you didn't get a plug in for it.

MR. TYLER: You get what you pay for, Assemblyman; and there is no way that the department can, in fact, undertake an effective regulatory program any more than the Board could have, without sufficient resources. I think the report prepared by the three departments outlines substantial new responsibilities for State government in the regulation of this industry and new resources are going to be necessary. I leave it to the Legislature to devise the way in which that necessary fiscal resource will be provided to us. But, in fact, I think A 2282 makes a lot of sense, especially in light of the fact that 40 percent of ---

ASSEMBLYMAN BENNETT: You don't have to do it twice.

ASSEMBLYMAN LESNIAK: Assemblyman Bennett, I might add--I am sure you subscribe to this - we can sufficiently regulate this multi-million dollar industry in a way to insure not only economic competition but environmentally sound practices in the industry. The added cost of disposal by increases of fees will certainly be more than made up by decreased disposal costs by the competitive process. So there will be a decrease in economic costs and an improvement in environmental factors with the sound disposal practices that would, in effect, occur if the department has

resources to do the types of checks and investigations and controls and regulations that we intend to pursue in this Committee.

ASSEMBLYMAN BENNETT: Thank you.

Mr. Barbour earlier today talked about the licensing procedure that is presently in existence through his department and told us that before an applicant can come to apply for a license, they must secure an approval from the DEP. What does that presently involve when someone wants to go into the solid waste collection business and they have to receive some sort of certificate from you? What does that mean?

MR. TYLER: The solid waste collection certificate is an extremely simple process with very little review. The reason is that there never has really been an environmental problem associated with the licensure of a solid waste collector. I am trying to be very precise because that is not true in the toxic waste area and the system is a lot different. But with respect to solid waste, we were directed by the 1970 Solid Waste Management Act to register haulers. That is all we ever did. It was viewed more as a fee collection mechanism and a "keeping track of" mechanism more than anything else. It only became critical to us from an environmental viewpoint in two ways in recent years. One is, through the solid waste management process, we are directing waste flows to specific facilities. The one criterion we have now added to all licenses is that a collector-hauler must comply with the provisions of an approved county plan and cannot deviate from that plan under penalty of losing that license. The other reason there has been an increased emphasis in this area, of course, is the overlap with the toxic waste area. We have, in response to the Governor's direction in mid-1979 drastically reviewed and drastically revised at the same time our hazardous waste regulations. So, today, anyone who wishes to haul hazardous waste goes into a completely different system and files a complete disclosure statement with DEP, as well as a financial background statement, all corporate owners, etc.

There are also more environmental criteria applied to a hazardous waste hauler. There are criteria for safety plans, safety equipment, for driver training, etc., in the case of emergencies. So, in many areas in the regulatory area we have moved ahead and begun to respond to some of the problems that have been pointed out today.

At the same time, on the toxic waste disposal or treatment facility side, we have also adopted regulations which are going into effect or have gone into effect this very month, which provide for disclosure of financial ownership ties, background checks, etc. Again, on the toxic waste side, we have begun to respond.

I think what we are looking for in terms of legislation in this area is a clarification of the role that we should play as an environmental agency in a criminal justice area. That overlap has been very blurry, quite candidly, till now. Defining the role of the Division of Criminal Justice legislatively and giving us the legislative authority to act on their recommendations would be most helpful and I think would begin to finally close the total legislative regulatory loop for management of this industry.

ASSEMBLYMAN BENNETT: With respect to collection, if an applicant comes forward to you and wants to secure either a solid waste disposal certificate or establish a solid waste facility, as opposed to the haulers, what is required of him presently?

MR. TYLER: A registration statement with a minimal amount of corporate background and a full engineering design and review. We are talking about solid waste, so at the same time you have to keep in mind that full disclosure in that area does go on before the Board now. That would happen after our license was issued.

ASSEMBLYMAN BENNETT: When they come forth with an engineering plan, how long approximately or what is the average period of time from the date that an applicant submits his plan for a solid waste facility until such time as there is action by the department?

MR. TYLER: It depends on the kind of facility. If we are talking about a transfer station or a compacter, or the like, a small facility, it is fairly quick, a matter of months. The months are required not so much for technical review of a transfer station, which is relatively straightforward, but because of the broad inter-agency review that is required. In other words, many State agencies - the Public Advocate, the Department of Community Affairs, the Board of Public Utilities - have to review these applications. Secondly, there is a public hearing requirement. So there is a matter of months from application until approval with respect to a small facility.

With respect to a landfill, it would be not surprising to see the permit process take as much as a year and maybe longer. We have had very few permit applications for new landfills in the past two or three years. Those that we have had have always been, without exception, hotly contested by residents in the vicinity, even in the close vicinity, to where they are to be located. And there are not simple decisions. Extensive reviews of the groundwater impact, etc. go on, very complicated engineering studies. So, I would say at least a year when we are talking about a solid waste facility.

ASSEMBLYMAN BENNETT: During that year, your process is restricted more to the impact environmentally, as the engineering design proposes it, and you do not get into the background of any of these people then?

MR. TYLER: That's right. In fact, right now, if we did get into it, we would have a very tough legal case if we tried to act on one if we had a problem. For example, if a member of an organized crime group filed for a solid waste facility permit for a landfill and we denied it solely on those grounds, we have been advised by the Attorney General that we would have a tough time defending that action.

ASSEMBLYMAN BENNETT: Once the application is approved by you and then approved by the BPU, what does it take for you to revoke your approval?

MR. TYLER: The revocation process is, of course, I think analogous to any license revocation on the part of the State of New Jersey. There are safeguards - due process protection - for any businessman in the State that is licensed by the State for any purpose in the Administrative Procedures Act, in the Constitution of the State, and in the federal Constitution. So, it is an enormous undertaking, in fact, to revoke the license, to shut down a facility. We can enforce the law. We can take administrative penalty actions. We can seek injunctive relief. But to go from a newly issued license all the way to a revocation is a long and tedious legal process. So protections must be provided in the licensing process in advance of operation.

ASSEMBLYMAN BENNETT: It is kind of analogous to getting married. It is easy to get married and hard to get divorced - about the same period of time anyway.

Your testimony is that the New Jersey municipalities pay as much or more than those in other states for their contract collection service and yet New Jersey has the unenviable distinction of having the lowest landfill tipping charges in the nation. Why is that? Not why is it that we have the lowest - why is it we are paying as much if not more than the other states that have higher tipping charges?

MR. TYLER: Well, we can only speculate based on the testimony you have heard this morning. One of the things I would have to speculate is that the lack

of competition in the garbage industry has something to do with it. That is really not my area of expertise. Perhaps the Attorney General could comment on that at some later date.

ASSEMBLYMAN LESNIAK: Mr. Tyler, it is your testimony that New Jersey has the lowest landfill tipping charges of neighboring states and, at the same time, has the highest disposal costs to the consumer.

MR. TYLER: I didn't say the highest. I said the disposal costs were approximately the same, meaning that if we had the lowest tipping fees - if you follow what I am saying - the hauling and the collections costs are measurably proportionately higher in New Jersey.

ASSEMBLYMAN LESNIAK: What factors are we talking about in terms of tipping fees?

MR. TYLER: Very rough figures and they are probably a little out of date because I am sure they have changed. But if the average cost were pegged at about \$30 a ton total for collection, disposal and hauling to the disposal site, and the disposal costs were \$3 a ton, then the balance of \$27 would be dedicated to collection and hauling. If, for example, in New York or Pennsylvania, a tipping fee of \$12 is factored into an average \$30, then their hauling fee and collection fee is only \$18 a ton.

ASSEMBLYMAN LESNIAK: And it is also your testimony that this low tipping fee in the State of New Jersey actually attracts outside garbage.

MR. TYLER: There is no question about that, yes.

ASSEMBLYMAN LESNIAK: Since we cannot discriminate against outside garbage from coming in, according to the Supreme Court of the United States, the only way that we can effectively keep outside garbage out is to have comparable tipping fees so that the increased transportation costs would induce other states to keep their garbage within their borders. Is that correct?

MR. TYLER: That is one way. The second way is the way we have started already, which is the enforcement of environmental standards as vigorously as possible at all landfills in the State, regardless of where the waste was generated. The third way, of course, is to continue with the fee program that the Legislature has already established.

ASSEMBLYMAN BENNETT: Mr. Barbour told us that in his department he presently has 27 permanent people that are dealing with solid waste, which if there was a transfer of the authority and it went to DEP, he would have 27 people that would be moving over. Have you or the DEP in joining together with these recommendations that are being submitted to the Legislature determined what would be the economic impact on the budget of the department with respect to how many additional employees would be required?

MR. TYLER: No, we have not. The report is only being released today. We will begin those internal discussions as soon as possible and attempt to make a recommendation to the Commissioner and the Governor, I am sure.

ASSEMBLYMAN BENNETT: Is it also contemplated that the application process would, in fact, also follow through with not just processing but also verifying the information that would be contained on the application?

MR. TYLER: Quite frankly, most of that I hope will be done through the Division of Criminal Justice in terms of the background checks. The technical evaluation of the application will fall to our staff.

ASSEMBLYMAN BENNETT: How about the economics - the financial background - the financial statements?

MR. TYLER: Financial background of principals, operators, etc., to look at associations, I would think would be the proper province of the Division of Criminal Justice. The establishment of rates would, under the report's recommendations, fall to the Department of Environmental Protection and fall under the purview of a to be established Board of Review. That process, we suggest, will take us approximately 12 months to develop and we suggest that the Legislature provide for the 12-month transition period. I think during that time we can begin to estimate exactly what kind of resources are going to be necessary to carry out whatever program is devised.

ASSEMBLYMAN BENNETT: When did you estimate that would be?

MR. TYLER: Let me back up, Assemblyman, and say that we could do the rough-cut costs up front so you would have that information available, I am sure. That will come up in the legislative process. But it will only be when the economic system is refined in the one-year period we are recommending that the true costs and the total cost would all be pinpointed.

ASSEMBLYMAN BENNETT: We talked about the period of time which is required in order to effectuate a due process in the event that there are some questions on the operation at a solid waste facility. Are the recommendations merely going to that original process where there is the licensing, or are there also perhaps recommendations as to giving the DEP more teeth in the ability to deal with violations of the regulations?

MR. TYLER: I think amendments passed, in fact, by this Committee and the Legislature last year, strengthen our ability to take tough enforcement action in the solid waste area. And I suggest a review of last year's statistics would show that we assessed more than \$2 million in penalties and closed 5 to 10 major landfills and, at the same time, a number of hazardous waste illegal disposal sites have been cleaned up and indictments have been returned through the strike force mechanism. So I think from a statutory viewpoint, the law is in very good shape in terms of teeth. I do think some additional regulatory authority, that is authority that confers on the Department and the Division of Criminal Justice the right to regulate in certain areas, will be necessary. And we look forward to working with you in helping to shape the details of that legislation. This report does not get into the specific legislative language that would be necessary. It just makes recommendations in the broad areas.

ASSEMBLYMAN BENNETT: More specifically with the actual solid waste facilities, in reviewing the Washington testimony and the newspaper accounts that resulted from that, there were questions raised as to why, in fact, one department of the State, being the Department of Environmental Protection, would be in receipt of certain information on the Loan Pine landfill located in Freehold Township as to the alleged deposits of hazardous wastes, while at the same time the information would not be transferred to the criminal justice enforcement department of the same state.

MR. TYLER: It turns out what I believe you are describing relates to an incident that occurred in 1978 more than one year before Governor Byrne established an Inter-agency Strike Force for hazardous waste regulation. At that time, the Division of Criminal Justice had a small toxic waste investigative unit, consisting of one Deputy and one Investigator. Since that time, the Governor has acted to marshal the necessary resources. There are now six to eight Deputies Attorney General involved in the prosecution of hazardous and solid waste cases. There are 12, 15 or 20 Investigators, depending on the day of the week. And there are many more Investigators in the Department of Environmental Protection that are now linked up with the

Division of Criminal Justice. I suggest that the incident is ancient history if it, in fact, occurred. And I have some problems with those --- In fairness, I think some of the witnesses that appeared before the Dingell Committee to testify - many of those individuals were not in a position to really comment on what kind of communications occurred between the Division of Criminal Justice and the Department.

ASSEMBLYMAN BENNETT: Today I asked Mr. Stier as to whether or not he felt there had been an improvement in the communications and he stated that he was totally satisfied that there was a very high level of communication presently. I ask you if the Department also feels that there has been cooperation within the Task Force on having the communication relay from the various divisions and departments within the State government?

MR. TYLER: Most assuredly, the Strike Force meetings and the exercise of developing it and implementing it have been one of the most satisfying things I have done in government. To pull together the resources of five agencies, as it has done, and to allow an orderly exchange of pre-indictment information, which is an incredible step for a criminal-prosecutorial agency to take, as well as for the coordination it has permitted, for example, just at DEP and EPA, in just a pure environmental matter, certainly has been very pleasing. I think we can improve it and I think we will. But it has been an excellent step forward that the Governor has taken in setting this in motion.

ASSEMBLYMAN BENNETT: You say in your testimony that your job has been a constant struggle to effectuate change in this industry because the industry resists almost every one of the changes. Specifically, does that, in fact, carry through in dealing with such items as consent orders if there have been at solid waste facilities the discovery of hazardous waste material that would be in direct violation of the certificate as to what the solid waste facility would be able to handle? Have you experienced the same resistance of cooperation from the industry in an effort to work into consent orders?

MR. TYLER: Sure. Nobody likes to be regulated. You have to expect any regulated person, when legal action is taken against them, to seek legal advice and seek to defend themselves ---

ASSEMBLYMAN BENNETT: Excuse me. I used the wrong word. Instead of "consent order," I meant consent agreements?

MR. TYLER: I am not sure that I draw a distinction there unless you are attempting to draw a distinction between a court consent order and an administrative consent order.

ASSEMBLYMAN BENNETT: Right.

MR. TYLER: Frankly, they are handled almost equally by the department. There is no different judgment applied from one to the other. It is simply a matter of how you chose to start the prosecution and how you choose to settle it once it is started. But the same standards would apply because the same people would be deciding when to settle and when not to. In fact, I think that may be one of the more misunderstood areas of environmental prosecution. It is just like any other lawsuit. You file a suit or you issue an order. A person agrees to comply with that order and you enter that into a consent order or a consent agreement. The net effect is you have saved the time of a trial or a hearing and you have accomplished the same purpose at a lot lower cost and a lot less expense to the taxpayers.

ASSEMBLYMAN BENNETT: How many consent agreements have you been able to effectuate between the solid waste industry and the department in dealing with cleanups

of sites?

MR. TYLER: I can't answer that off the top of my head. I would suggest that it is not too many because the total cleanup of an area is something new for the State to be seeking through the judicial process. It is also new nationally. There are very few precedents where either courts have decided cases or consent orders have been entered that involve total cleanup. There is a court order we obtained in the Ventron case that comes to mind. If I really strain, I could probably think of two or three more. I would be glad to go back and collect that information and provide it to you.

ASSEMBLYMAN LESNIAK: Just one last question: Do you think that S 1300 contains the type of authorization for a regulatory framework for background checks that the Attorney General is talking about in terms of solid waste licensing that is necessary to similarly regulate the toxic waste disposal industry?

MR. TYLER: There is some provision in that law for such review, most of which was prepared by the department and submitted to the Senate committees and the Assembly committees that reviewed that legislation. I think since then, because of changes in federal rules as well as some of our own review, we would have some different recommendations and we would like another shot at it.

In addition, S 1300 was really a siting bill, a bill intended to ease facility siting, and not an omnibus licensing bill such as we are considering now. I think we might want to take another look at it from that perspective also.

ASSEMBLYMAN LESNIAK: Thank you very much, Mr. Tyler.

MR. TYLER: Thank you.

ASSEMBLYMAN LESNIAK: We stand adjourned to reconvene at another time when we will have other testimony taken regarding the subject matter of this Committee. Thank you all for attending.

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FILED

JUN 26 8 35 AM '81
SOMERSET COUNTY
L. R. OLSON, CLERK

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ATTORNEYS FOR Defendant
Browning-Ferris Industries
of Elizabeth, N.J., Inc.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-SOMERSET COUNTY
INDICTMENT NO. SGJ 66-80-8

STATE OF NEW JERSEY,	:	
	:	
Plaintiff,	:	Criminal Action
	:	
-vs-	:	ORDER
	:	
NEW JERSEY TRADE WASTE	:	
ASSOCIATION, <u>et al.</u> ,	:	
	:	
Defendants.	:	
	:	

This matter having been opened to the Court by Murray J. Laulicht, Esq., attorney for Defendant Browning-Ferris Industries of Elizabeth, N.J., Inc., and having been joined in by John Mitchell, Esq., attorney for Defendants Carmine Franco and Carmine Franco and Company, Inc. and Michael Riccardelli, Esq., attorney for Defendant the New Jersey Trade Waste Association and Robert Ford,

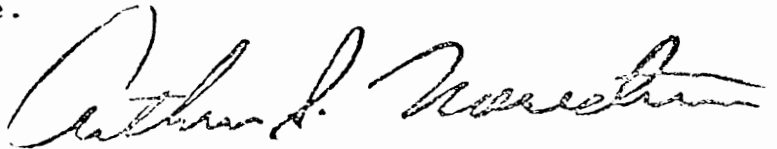
ap., attorney for Defendants Louis Spiegel and Inter-County
Excavation Removal, Inc. and by counsel for numerous other defendants
upon an Order to Show Cause why an Interlocutory Injunction should
not be issued, enjoining the Attorney General and his represen-
tatives, including members of the Division of State Police,
from making any statement likely to be disseminated to the public
about this criminal antitrust prosecution or individuals or
businesses involved therein, pending the trial of Indictment Number
SGJ 66-80-3; and Anthony J. Zarrillo, Deputy Attorney General ap-
pearing on behalf of the State; and it appearing to the Court
and the parties that the entry of this Order without a hearing
may minimize the publicity generated by this application; and
the parties having agreed to the entry of this Order without
either the Office of the Attorney General conceding that it has
improperly disseminated to the public information that has
prejudiced the Defendants' right to a fair trial, or any of the
Defendants conceding that information disseminated by the
Attorney General has not already prejudiced their rights to a
fair trial,

IT IS on this 25th day of June, 1981,

ORDERED that pending the trial of Indictment Number
SGJ 66-80-8 the Attorney General of New Jersey and his represen-
tatives including the Division of State Police are hereby en-
joined from making or participating in the making of any further
statements likely to be disseminated to the public about this

criminal antitrust prosecution or any of the Defendants named therein which relate to:

1. The character, reputation, or prior criminal record (including arrests, indictments, or other charges of crime) of said Defendants.
2. The possibility of a plea of guilty to the offense charged or to a lesser offense.
3. The existence or contents of any confession, admission, or statement given by the Defendants or their refusal or failure to make a statement.
4. The performance or results of any examinations or tests or the refusal or failure of the Defendants to submit to examinations or tests.
5. The identity, testimony, or credibility of a prospective witness.
6. Any opinion as to the guilt or innocence of the Defendants, the evidence, or the merits of the case.



ARTHUR S. MEREDITH, J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION -- CRIMINAL

STATE OF NEW JERSEY)	
)	State Grand Jury Number
v.)	SGJ66-80-8
NEW JERSEY TRADE WASTE ASSOCIATION)	
HUDSON COUNTY SANITATION ASSOCIATION)	
TINO FIUMARA)	
MICHAEL COPPOLLA)	
LAWRENCE RICCI)	
also known as LARRY POPPOLA)	
PHILLIP SABATELLI)	
JACK ARGENTO)	
trading as ARGENTO DISPOSAL)	
CARMEL CHIULLO)	
trading as CARMEL CHIULLO)	
FRANK M. NOTARANGELO)	
trading as FRANK M. NOTARANGELO)	INDICTMENT
CARTING SERVICE)	
ARACE BROTHERS)	
FRANK ARACE)	
BERGEN DISPOSAL)	
RAYMOND LARGER)	
BROWNING-FERRIS INDUSTRIES OF)	
ELIZABETH, NEW JERSEY, INC.)	
JOHN M. GENTEMPO)	
A. CAPONE SANITATION)	
CENTRAL JERSEY DISPOSAL)	
SERVICE CO., INC.)	
ANTHONY DI NARDI, JR.)	
CUSTOM DISPOSAL SERVICE CORP.)	
JOHN DI CANTO)	

DUANE MARINE SALVAGE CORP.

EDWARD LECARREUX

RONALD J. COELHO

FIVE BROTHERS CARTING CO., INC.

PAUL D'AMBROSIO

CARMINE FRANCO & CO., INC.

CARMINE FRANCO

T. FARESE AND SONS, INC.

HIGHWAY DISPOSAL CORP.

FRANK INTELISANO

HAULAWAY, INC.

JOSEPH SCUGOZA

HOME & INDUSTRIAL DISPOSAL SERVICE

ANTHONY SCIOSCIA

ISA IN NEW JERSEY, INC.

LOUIS MONGELLI

INTER COUNTY REFUSE SERVICE, INC.

LOUIS SPIEGEL

M & V DISPOSAL CORP.

MICHAEL T. IMPORTICO, JR.

MAURIELLO DISPOSAL, INC.

MARK L. MAURIELLO

METRO DISPOSAL CO., INC.

MICHAEL GRILLO

ANTHONY SCAFFIDI

MODERN INDUSTRIAL WASTE SERVICE, INC

JOSEPH ENGRAVALLE, JR.

NICHOLAS ENTERPRISES, INC.
trading as NICHOLAS SANITATION
SERVICE

RAYMOND NICHOLAS)
 PINTO SERVICE, INC.)
 A. RIZZO CARTING, INC.)
 ANTHONY RIZZO)
 LOUIS T. ROSELLE, INC.)
 LOUIS T. ROSELLE)
 STATEWIDE ENVIRONMENTAL)
 CONTRACTORS, INC.)
 CHARLES MACALUSO)
 and)
 FRANK LOTANO, JR.)

COUNT ONE

The Grand Jurors of and for the State of New Jersey, upon their oaths, present that

DEFINITIONS

1. As used herein, the term:

(a) "garbage collection" shall mean the service of collecting, hauling and disposing of trash, rubbish, and other solid wastes.

(b) "garbage collector" shall mean any person, partnership, corporation, or business entity engaged in garbage collection, excluding public employees and governmental agencies.

(c) "customers" shall mean all purchasers of garbage collection services.

(d) "relevant area" shall mean the following counties of the State of New Jersey and their immediate environs: Somerset, Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, and Union

DEFENDANTS

2. The associations named below are hereby indicted and made defendants herein. Each of the named associations is organized and exists under the laws of the State of New Jersey, and has its place of business in the city identified below:

<u>Association</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
NEW JERSEY TRADE WASTE ASSOCIATION	New Jersey	South Hackensack New Jersey
HUDSON COUNTY SANITATION ASSOCIATION	New Jersey	Hoboken, New Jersey

During the period of time covered by this indictment, the defendant associations named above each had as its members, various garbage collectors who provided garbage collection service to various customers in the relevant area.

3. The corporations and partnership named below are hereby indicted and made defendants herein. Each of the named defendants is authorized to provide garbage collection service under the laws of the State of New Jersey, and has its principal place of business in the municipality identified below:

<u>Corporation</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
ARACE BROTHERS	New Jersey (partnership)	East Orange, New Jersey
BERGEN DISPOSAL, INC.	New Jersey	Elmwood Park, New Jersey
BROWNING-FERRIS INDUSTRIES OF ELIZABETH, NEW JERSEY, INC.	New Jersey	Elizabeth, New Jersey
A. CAPONE SANITATION	New Jersey	Paterson, New Jersey
CUSTOM DISPOSAL SERVICE CORP.	New Jersey	Middlesex, New Jersey

<u>Corporation</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
DUANE MARINE SALVAGE CORP.	New Jersey	Perth Amboy, New Jersey
FIVE BROTHERS CARTING CO., INC.	New York	Jersey City, New Jersey
CARMINE FRANCO & CO., INC.	New Jersey	Hillsdale, New Jersey
T. FARESE AND SONS, INC.	New Jersey	Belleville, New Jersey
HIGHWAY DISPOSAL CORP.	New Jersey	Garwood, New Jersey
HAULAWAY, INC.	New Jersey	Hoboken, New Jersey
ISA IN NEW JERSEY, INC.	New Jersey	Mahwah, New Jersey
INTER COUNTY REFUSE SERVICE, INC.	New Jersey	South Branchburg, New Jersey
M & V DISPOSAL CORP.	New Jersey	North Plainfield, New Jersey
MAURIELLO DISPOSAL, INC.	New Jersey	East Orange, New Jersey
METRO DISPOSAL CO., INC.	New Jersey	Keasby, New Jersey
MODERN INDUSTRIAL WASTE SERVICE, INC.	New Jersey	Saddlebrook, New Jersey
PINTO SERVICE, INC.	New Jersey	Lodi, New Jersey
A. RIZZO CARTING, INC.	New Jersey	Wayne, New Jersey
LOUIS T. ROSELLE, INC.	New Jersey	Livingston, New Jersey
STATEWIDE ENVIRONMENTAL CONTRACTORS, INC.	New Jersey	South Plainfield, New Jersey
NICHOLAS ENTERPRISES, INC. T/A NICHOLAS SANITATION	New Jersey	Paterson, New Jersey
CENTRAL JERSEY DISPOSAL SERVICE CO., INC.	New Jersey	Somerset, New Jersey
HOME & INDUSTRIAL DISPOSAL SERVICE	New Jersey	Plainfield, New Jersey

During the period of time covered by this indictment, the defendant corporations and partnerships named above provided garbage collection service to customers in the relevant area.

4. The individuals named below are hereby indicted and made defendants. Each of the defendants named below is involved in the business of garbage collection in the capacity stated below:

<u>Name</u>	<u>Corporation</u>	<u>Position</u>
FRANK ARACE	Arace Brothers	Partner
RAYMOND LARGER	Bergen Disposal, Inc.	President
JOHN M. GENTEMPO	Browning-Ferris Industries of New Jersey, Inc.	Vice-President
JOHN DiCANTO	Custom Disposal Service Corp.	Vice-President and Secretary
ED LECARREAU	Duane Marine Salvage Corp.	President
RONALD J. COELHO	Duane Marine Salvage Corp.	Salesman
PAUL D'AMBROSIO	Five Brothers Carting Co., Inc.	President
CARMINE FRANCO	Carmine Franco & Co., Inc.	President
FRANK INTELISANO	Highway Disposal Corp.	President
JOSEPH SCUGOZA	Haulaway, Inc.	President
LOUIS MONGELLI	ISA In New Jersey, Inc.	President
LOUIS SPIEGEL	Inter County Refuse Service, Inc.	President
MICHAEL T. IMPORTICO, JR.	M & V Disposal Corp.	Vice-President
MARK L. MAURIELLO	Mauriello Disposal Corp.	Vice-President and Treasurer

<u>Name</u>	<u>Corporation</u>	<u>Position</u>
MICHAEL GRILLO	Metro Disposal Co., Inc.	President
ANTHONY SCAFFIDI	Metro Disposal Co., Inc.	Vice-President
JOSEPH ENGRAVALLE, JR.	Modern Industrial Waste Service, Inc.	Vice-President and Secretary
PHILLIP SABATELLI	P & F Trucking Corp.	President
ANTHONY RIZZO	A. Rizzo Carting, Inc.	President
LOUIS T. ROSELLE	Louis T. Roselle, Inc.	President
CHARLES MACALUSO	Statewide Environmental Contractors, Inc.	President
FRANK J. LOTANO	Statewide Environmental Contractors, Inc.	Secretary-Treasurer
RAYMOND J. NICHOLAS	Nicholas Enterprises, Inc. T/A Nicholas Sanitation	President
ANTHONY DI NARDI, JR.	Central Jersey Disposal Service Co., Inc.	Employee
ANTHONY SCIOSCIA	Home & Industrial Disposal Service	Partner

5. The individuals named below are hereby indicted and made defendants. During all or part of the period covered by this indictment, each was a sole proprietorship providing garbage collection service to customers in the relevant area.

<u>Individual</u>	<u>Business Tradename</u>	<u>Principal Place of Business</u>
JACK ARGENTO	Argento Disposal	Plainfield, N.J.
CARMEL CHIULLO	Carmel Chiullo	Paterson, N.J.
FRANK M. NOTARANGELO	Frank M. Notarangelo Carting Service	Montvale, N.J.

6. The individuals named below are hereby indicted and made defendants. During all or part of the period covered by

this indictment, each was associated with one of the foregoing defendants and did aid and advise in the conspiracy alleged herein.

TINO FIUMARA

MICHAEL COPPOLLA

LAWRENCE RICCI aka LARRY POPPOLA

CO-CONSPIRATORS

7. Various individuals and companies not made defendants in this indictment have participated as co-conspirators in the offense charged herein and have performed acts and made statements in pursuance thereof.

OFFENSE CHARGED

8. Beginning in or about July, 1976, the exact date being unknown to the Grand Jurors, and continuing thereafter until the date of the return of this indictment, in the relevant area, and elsewhere, and within the jurisdiction of this Court, the defendants and unindicted co-conspirators knowingly engaged in a combination and conspiracy in unreasonable restraint of the business of providing garbage collection service to customers in the relevant area in violation of Section 3 of the New Jersey Antitrust Act, N.J.S.A. 56:9-3.

9. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendants and unindicted co-conspirators that the garbage collectors named herein would not compete for garbage collection business among themselves. The NEW JERSEY TRADE WASTE ASSOCIATIO

(hereinafter T.W.A.) was formed in or about July, 1976 and continues in operation on the date of the return of this indictment. The T.W.A. acted during the period covered by this indictment to effect and enforce the agreement among the defendants and unindicted co-conspirators. The T.W.A. would effect and enforce the said agreement by holding weekly meetings at two locations. Officers, trustees and members of the T.W.A. who collect garbage in Bergen, Essex, Morris and Passaic Counties, and north Union County attend meetings held at the Crow's Nest Restaurant in South Hackensack, New Jersey. Officers, trustees and members of the T.W.A. who collect garbage in Somerset, Monmouth and Middlesex Counties, and south Union County attend the meetings held at Snuffy's II Restaurant in Somerville, New Jersey. The weekly meetings provided an opportunity for garbage collectors to resolve disputes (known as "grievances") involving conflicting claims to particular customer accounts.

"Grievances" arise from an industry concept of "property rights" adopted and enforced by the conspirators. "Property rights" is understood by the conspirators to be a claim of ownership to provide garbage collection service to a location exclusively. The garbage collector who first services said location would obtain the exclusive right to provide such service without competition from other collectors regardless of a change in the use of the location or the identity of the customer occupying such location.

"Grievance" hearings would be conducted by officers and trustees of the T.W.A. "Grievance" proceedings were not restricted

to disputes between members of T.W.A. Garbage collectors not belonging to the T.W.A. would also be involved in disputes resolved by "grievance" hearings. "Grievance" disputes would also arise between T.W.A. members and members of other trade associations such as the HUDSON COUNTY SANITATION ASSOCIATION. In such disputes, the "grievance" hearing would be conducted by officers and trustees of both Associations. Among the "grievance" hearings held during the period of this conspiracy and illustrative of the manner in which the conspirators operated to restrain trade by enforcement of "property rights" are:

(a) During the period of the conspiracy, Hollywood Memorial Park, Union, New Jersey, terminated the garbage collection service of BROWNING-FERRIS INDUSTRIES OF ELIZABETH, NEW JERSEY, INC. (hereinafter B.F.I.) due to a price increase. Hollywood Memorial Park engaged in the garbage collection service of STATEWIDE ENVIRONMENTAL CONTRACTORS, INC. (hereinafter STATEWIDE). JOHN GENTEMPO, a vice president of BROWNING-FERRIS INDUSTRIES OF NEW JERSEY, claimed that STATEWIDE had violated B.F.I.'s "property right". A "grievance" hearing was held at Snuffy's II Restaurant to resolve the dispute. CARMINE FRANCO, ANTHONY RIZZO, LOUIS SPIEGEL, JOHN DICANTO and JOHN ARGENTO comprised the "grievance" committee of the T.W.A. who heard and resolved the claim of violated "property rights" between the parties; JOHN GENTEMPO, representing B.F.I., and FRANK LOTANO, JR. and Harold Kaufman, representing STATEWIDE at the hearing. The "grievance" committee determined that STATEWIDE had violated the "property right" of B.F.I. and ordered STATEWIDE to return the Hollywood Memorial Park garbage collection

service to B.F.I. In order to implement the ruling of the T.W.A. "grievance" committee, STATEWIDE notified Hollywood Memorial Park that the cost of its garbage collection service would be increased by approximately 50 percent (\$40.00 per container). At the same time, STATEWIDE advised GENTEMPO of its proposed price increase to Hollywood Memorial Park. Immediately thereafter, B.F.I. quoted a price for garbage collection service for Hollywood Memorial Park which was \$10.00 per container less than the new price requested by STATEWIDE. This new quote by B.F.I. was more than the price previously paid to B.F.I. by Hollywood Memorial Park for garbage collection service. B.F.I. resumed garbage collection from Hollywood Memorial Park at the higher price.

(b) During the period of the conspiracy, Children's Specialized Hospital of Mountainside, New Jersey terminated the garbage collection service of STATEWIDE because STATEWIDE would not provide service within the times prescribed by a local ordinance. The hospital, thereafter, solicited bids from other garbage collectors without success. The hospital ultimately engaged the garbage collection service of T. FARESE AND SONS, INC. (hereinafter FARESE). Harold Kaufman of STATEWIDE claimed that FARESE had violated STATEWIDE's "property right". A "grievance" hearing was held at the Crow's Nest Restaurant to resolve the dispute. At that hearing, Kaufman represented STATEWIDE, a T.W.A. member, CARMINE FRANCO participated on behalf of the T.W.A. and FARESE, a HUDSON COUNTY SANITATION ASSOCIATION member, was represented by JOSEPH SCUGOZA. SCUGOZA also participated in the hearing

on behalf of the HUDSON COUNTY SANITATION ASSOCIATION. FRANCO AND SCUGOZA determined that FARESE had violated STATEWIDE's "property right" to provide garbage collection service to the Children's Specialized Hospital. Thereafter, FARESE notified the hospital that it was terminating garbage collection service due to labor difficulty and that STATEWIDE would be performing garbage collection service at the hospital for the balance of FARESE's contract term. Prior to the completion of the contract term, the hospital again solicited bids from other collectors without success. The only bid submitted to the hospital was from STATEWIDE offering to perform garbage collection service at a price (\$800 per month) 33 1/3 percent greater than the price charged under the FARESE contract (\$600 per month) and 100 percent greater than the price previously charged by STATEWIDE under its contract with the hospital (\$400 per month).

From time to time during the period of the conspiracy defendants and unindicted co-conspirators who were not members of the T.W.A. and were not primarily engaged in the business of garbage collection would aid, direct, instruct and advise CARMINE FRANCO to employ the structure and influence of the T.W.A. to restrain trade in the relevant area. Illustrative of the manner in which these conspirators effected and enforced the restraint of trade charged herein is:

(c) During the period of the conspiracy and in the relevant area Anthony Tomae, a garbage collector and member of the T.W.A., sought a buyer for his garbage collection business. TINO FIUMARA, MICHAEL COPPOLLA and LAWRENCE RICCI also known as LARRY POPPOLLA, instructed and directed Anthony Tomae through an unindicted

co-conspirator to sell his garbage collection business to a party of their choosing. FIUMARA, COPPOLLA and RICCI advised Tomae that as a member of the T.W.A. he had to clear the sale through CARMINE FRANCO, President of the T.W.A. They further advised Tomae that if he refused to abide by their instruction and deal through CARMINE FRANCO his customer accounts would be solicited and taken by CARMINE FRANCO. Moreover, it was the intention of FIUMARA, COPPOLLA and RICCI to obtain a fee of three percent on the sale.

Tomae successfully resisted the instruction and direction emanating from FIUMARA, COPPOLLA and RICCI by using the influence and pressure of other persons who were not members of the T.W.A. nor engaged in the business of garbage collection, but who exercised power and influence equal to that of FIUMARA, COPPOLLA and RICCI.

The conspirators also operated to effectuate the purpose of the conspiracy, that is, to restrain trade in the relevant area, by:

(d) Threats, intimidation, physical force and other means to pressure and induce garbage collectors to join the conspiracy.

(e) Threats, intimidation and physical force against garbage collectors who had not joined the T.W.A. in retaliation for the said garbage collectors soliciting or servicing customers already being provided garbage collection service by a T.W.A. member.

(f) Prohibiting the purchase by T.W.A. members of garbage collection customers who had been obtained from a T.W.A. member by the seller without the approval of the T.W.A.

(g) Requiring the payment of money by a T.W.A. member beyond normal T.W.A. membership dues and fees in exchange for a

guarantee by the T.W.A. that a garbage collector's customers would not be solicited or serviced by other garbage collectors.

EFFECTS

10. The aforesaid combination and conspiracy had the following effects, among others:

(a) Competition in the garbage collection service industry in the relevant area was restrained;

(b) The freedom of customers to engage the service of the garbage collector of their choice in their relevant area was restricted;

(c) Prices charged by defendant garbage collectors were raised, fixed, maintained and stabilized at artificially high and non-competitive levels; and

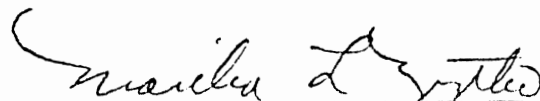
(d) Trade and commerce in the State of New Jersey have been substantially affected.

11. The aforesaid combination and conspiracy constituted an unreasonable restraint of trade and commerce in the State of New Jersey in violation of Section 3 of the New Jersey Antitrust Act, N.J.S.A. 56:9-3, Act of May 21, 1970, L. 1970, c. 73, §3, and against the peace of this State, the government and dignity of the same.



Edwin H. Stier, Assistant Attorney
General and Director of the
Division of Criminal Justice

A TRUE BILL:



Martha L. Zytka, Forelady

NEW JERSEY STATE COMMISSION OF INVESTIGATION

A REPORT
RELATING TO THE
GARBAGE INDUSTRY OF NEW JERSEY

OCTOBER 7, 1969



STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION

WILLIAM F. HYLAND
CHAIRMAN

CHARLES L. BERTINI
JAMES T. DOWD
GLEN B. MILLER, JR.

October 7, 1969

GOVERNOR RICHARD J. HUGHES
MEMBERS OF THE LEGISLATURE

Gentlemen:

The State Commission of Investigation
hereby submits its Report pursuant to Assembly Joint
Resolution No. 3 (JR-1, Laws of New Jersey, 1969).

Respectfully yours,

WILLIAM F. HYLAND, Chairman

CHARLES L. BERTINI

JAMES T. DOWD

GLEN B. MILLER, JR.

Pursuant to Assembly Joint Resolution No. 3 (JR-1, Laws of New Jersey, 1959, approved February 24, 1959); the State Commission of Investigation initiated an investigation of certain practices and procedures in the garbage industry which terminated in hearings concluded on September 24, 1959. In addition to the information ascertained through agents of the Commission, testimony adduced at its hearings and exhibits obtained through the power of subpoena, the Commission obtained access to and reviewed the Refuse and Garbage Practices Study conducted by the New Jersey Attorney General's Office in 1958 and 1959, transcripts of the Jones Senate Commission Hearings of 1958 and 1959, transcripts of the public hearings held by the Department of Public Utilities, and our staff reviewed statements by garbage contractors, a statement by the New Jersey State Municipal Contractors Association and portions of a grand jury investigation of the garbage industry.

As the foregoing indicates, this investigation is merely one of a line of hearings, investigations, grand jury inquiries and studies which have dealt with the problems of garbage and waste disposal in New Jersey. No positive action has yet resulted from these earlier efforts.

We believe, however, that a significant improvement can be accomplished by the legislation recommended in this report.

BACKGROUND AND FINDINGS

New Jersey's twenty-one counties are subdivided into 567 municipalities, which vary in size and population. Each, of course, requires an efficient method of waste collection and waste disposal. Unfortunately, there is a complete lack of uniformity in local government efforts to accommodate the need for waste collection and disposal. There is also the tendency of local government entities to act without regard to similar problems confronting neighboring communities when, as in the case of sanitary landfill, a regional program is clearly in the public interest. Each municipality has the discretion to adopt its own standards or not to adopt any standards to regulate its garbage collection. Consequently, remarkable disparities exist with respect to licensing and bonding of garbage contractors, bidding specifications, permit fees and specified collection equipment. Furthermore, local regulations are often loosely drawn, thereby negating any practical effect, or, in some instances are drafted so restrictively that they preclude more than one or two of a number of potential contractors from meeting eligibility standards.

The land areas available for waste disposal are decreasing and there is not, and will not be, much cooperation between municipalities in locating and operating dump or landfill areas. Although each town recognizes the necessity for a dumping ground, each municipality prefers that it be located beyond its own legal limits, i.e., in some other town. This is the kind of problem which must be solved on a higher level than the municipal one.

The State should consider the acquisition and operation of sites for waste disposal throughout New Jersey at locations which would benefit from landfill projects, such as reclamation of a portion of meadowlands.

The development of the technology and methodology of waste collection and disposal has not kept pace with the scientific advances in other industries or with our expanding population. Modern sanitation trucks with their ability to compact garbage and keep it covered are, of course, an improvement over horse drawn wagons of 100 years ago. However, aside from sanitary landfill, there has been no real improvement in waste collection and disposal during the past century. Nor has our work disclosed any real advances that soon will be forthcoming. Hence, we shall make our recommendations within the framework of the situation as we find it.

Trade associations exist to a large degree in the waste collection and disposal industry. This, in itself, is not detrimental to the public interest. In fact, as demonstrated in a number of other industries, such associations encourage technical advancements and also curtail undesirable industry practices. However, in this industry there are a number of trade associations which have constitutions or by-laws that seek to preserve the status quo. If one member takes a customer from another member, he is required to pay an indemnity or penalty to that other member based on a multiple of the monthly collection charge paid by the customer. For failure to do so, he may be fined by the trade association. The fines are substantial. Moreover, in some instances association members are given preferential price treatment by dump operators. Associations often bar new members unless they first receive approval from 75% of their existing members. The effect of these provisions and practices, of course, is to greatly discourage competition in the industry. By-law provisions encourage collusive bidding and preserve allocations of customers either by territories or on some other basis. The allocation of customers is perhaps the greatest vice in the industry. At present, there is no legislation in the State of

New Jersey which prohibits garbage collectors from parceling out towns, areas or customers to one another. Unless this vice is checked, more and more municipalities will be faced with the situation where they receive only one bid for their waste collection contracts. It is a take-it-or-leave-it proposition in a situation where you can't leave it.

Our investigation indicated that some organized criminal elements have been moving into the garbage collection and waste disposal industry in New Jersey. The movement here had its genesis in New York. Today, in a relatively incipient stage in New Jersey, it pertains almost exclusively to the commercial collection of garbage from factories and businesses rather than to the collection of garbage from homes. Some of the witnesses before our Commission indicated that "the boys" were "laying back" pending the completion of our investigation. Presumably, when it is over, activities will be resumed. The high capital investment required for modern garbage collection and sanitary landfill equipment makes it a natural avenue for the expansion of the activities of organized crime. With so many municipalities involved, the opportunities for bribery and corruption abound. The territorial

allocation vice referred to above compounds the whole situation. Who is to say whether the reason you only have one bidder is because of trade association by-laws or because the one bidder has terrorized the other possible bidders. For these reasons and because the paramount interest of our Commission is in organized crime, we plan to continue our investigation and surveillance of this aspect of the industry throughout the lifetime of our Commission.

RECOMMENDATIONS

The State Commission of Investigation recommends that the 1970 Legislature of the State of New Jersey:

(1) Enact legislation which will prohibit customer and territorial allocations in the garbage industry. This legislation should also prohibit price fixing arrangements and collusive bidding among waste collection contractors and make unlawful present trade association constitutions, by-laws and resolutions which prohibit or discourage one waste collector from taking a customer from another.

(2) Enact legislation providing for the licensing by the State (to the exclusion of municipal licensing) of all waste collectors throughout the state. This licensing law should provide for the availability to the public of

the names of the real persons in interest of each waste collection and waste disposal company.

(3) Enact legislation prohibiting the discrimination either as to availability or as to price in the use of privately owned waste disposal areas.



Mail 2 copies of completed form to
Department of Public Utilities
101 Commerce Street
Newark, N.J. 07102

Statutory Filing Fee of \$50
Payable to "Treasurer,
State of New Jersey,"
must be attached.

State of New Jersey
DEPARTMENT OF PUBLIC UTILITIES
BOARD OF PUBLIC UTILITY COMMISSIONERS

For PUC Use Only

Date Filed _____
File No. _____
Filing Fee _____

Application will not be acceptable unless
fully completed.
Note compliance with Question No. 34.

APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
FOR
SOLID WASTE COLLECTION AND/OR DISPOSAL

Pursuant to R.S. Title 48:13A-1 et seq., the undersigned hereby makes application for certificate(s) of public convenience and necessity as indicated below and certified, under oath, to the correctness of the following information:

(Mark with "X" Nature of Application and Type of Certificate Applied for)

Solid Waste Collection
Certificate

Solid Waste Disposal Certificate
(Dumpsite, landfills, incinerators)

Solid Waste Facility (Specify)

Questions 1-7 Must be Answered by All Applicants

1. Application of (print name address and zip code): _____ _____ _____	1A: Date Business Started _____ _____ _____
	Indicate if purchased: _____ List name of seller: _____

2. Trade name, if any, under which business is to be conducted; and furnish description of operation.

3. The address of each office in New Jersey from which the business is to be conducted: (List Each Office and Business Telephone Number)

4a. If the applicant is a proprietorship, give the name, address, date of birth and Social Security number of the proprietor: _____

4b. If the applicant is a partnership, give the names, addresses, dates of birth and Social Security numbers of all partners. Attach copy of partnership agreement(s): _____

4c. If applicant is any other type of business association, state nature of such association and names, addresses, dates of birth and Social Security numbers of all principals:

5. List the names, addresses, dates of birth, Social Security numbers and titles of those individuals having actual administrative responsibility; which in the case of a proprietorship shall be the managing proprietor; partnership, the managing partners; or if any other type of association other than a corporation, those having similar administrative responsibility.

6. If the business is to be conducted at more than one location in this State, the name and address of the individual in charge of each such location:

7. Designate the agent in New Jersey upon whom notice, process and orders of the Board of Public Utility Commissioners may be served. Furnish the address, zip code and telephone number of such agent. If application is out of state, include agent's acceptance of designation by affidavit.

Questions 8-19 Must be Answered by Corporations Only

8. Corporate Name of Applicant:

9. Address of Principal Office:

10a. Date Incorporated:

10b. Under Laws of what State?

11a. Furnish copy of Certificate of Incorporation as filed with the New Jersey Secretary of State.

11b. If not incorporated under laws of the State of New Jersey, furnish copy of authority to do business in New Jersey (attach copy of corporate charter).

12. Name and residence of Registered or Authorized Agent in New Jersey (as filed with the New Jersey Secretary of State) upon whom process in any proceeding against applicant or proceedings in any court of this State or in the United States District Court for the District of New Jersey, may be served:

13. Address of Registered Office in New Jersey:

14. Names, residences, dates of birth and Social Security numbers of all officers of applicant corporation and office held by each:

14a. Name, residence, date of birth, Social Security number and office

14b. Name, residence, date of birth, Social Security number and office

14c. Name, residence, date of birth, Social Security number and office

14d. Name, residence, date of birth, Social Security number and office

15. Names, residences, dates of birth and Social Security numbers of all members of the Board of Directors of the applicant corporation:

16. Names, residences, dates of birth, Social Security numbers and percent of stock ownership of all stockholders holding five (5) or more percent of the issued and outstanding stock of the applicant corporation. (If any stockholder is another corporation, attach rider giving answers to Questions 8 through 19 with respect to each such corporation).

17. Has any corporation, partnership, association or individual other than the stockholders, hereinbefore set forth any beneficial interest, directly or indirectly, in the stock held by said stockholders? (If answer is "yes," state details):

18. Has any stockholder of the applicant corporation any beneficial interest, directly or indirectly, in the stock of any other stockholder of the applicant corporation?

19. Does the individual signing this application on behalf of said corporation know, or have any reason whatsoever to believe or suspect, that any of the officers or directors of said corporation, or any holder, directly or indirectly, by any device or subterfuge whatsoever of more than five (5) percent in beneficial interest of the capital stock of said corporation would fail to qualify as an individual applicant for certificate hereby applied for in any respect? If so, state name of person or persons failing to qualify.

20. Has any individual, partnership, corporation or association, other than the applicant, any interest, directly or indirectly, in the certificate applied for or in the business to be conducted under said certificate? If so, state names, addresses and interest of such individuals, partnerships, corporations or associations:

21. Has the applicant agreed to permit any person to receive, or agreed to pay to any employee or other person (by way of rent, salary or otherwise), all or any portion or percentage of the gross or net profits or income derived from the business to be conducted under the certificate applied for? If so, give complete details.

22. Has the applicant, any person mentioned in question five (5) of this application, any employee, or any other person mentioned in this application having a beneficial interest in the certificate applied for or in the business to be conducted under said certificate ever been convicted of any crime? If so, state details as to each conviction, giving the name of the person convicted, date thereof, nature of the crime, court in which the conviction was entered and sentence imposed.

23. Has the applicant or has any person mentioned in this application ever had any interest, directly or indirectly, in any application for a solid waste collection and/or disposal certificate of public convenience and necessity in New Jersey which was denied? If so, give name of applicant and state to whom application was made and when, and state reasons (if any) given by this issuing authority for the denial.

24. Has the applicant or has any person mentioned in this application having a beneficial interest in the certificate applied for or in the business to be conducted under said certificate ever had interest, directly or indirectly, in any solid waste collection and/or disposal certificate of public convenience and necessity in New Jersey or in any other state which was surrendered, suspended, revoked or cancelled? If so, state details with respect to each surrender, suspension, revocation or cancellation.

The Following Questions Shall be Answered by
Solid Waste Disposal Operators
(Only Dumpsites, Landfills, Incinerators)

25. Set forth the schedule of rates charged to solid waste collectors for disposal at the disposal site. For each rate charged, the formula or basis must be stated to justify a rate different from the other rates charged. Furnish four (4) copies of tariff in accordance with N.J.A.C. 14:21-7.

26. Set forth in detail, any preference given to any solid waste collectors as to time, place or price.
- _____
- _____
- _____
27. Set forth the method of disposal used at the disposal site. Example: (Sanitary landfill, incineration, recycling or any other method).
- _____
- _____
- _____
28. If a sanitary landfill is operated, set forth the capacity; i.e., approximate acreage presently utilized and the acreage available for future use.
- _____
- _____
- _____
29. Are you also engaged in the business of solid waste collection? If the answer is yes, set forth in detail the extent of such business.
- _____
- _____
- _____

The Following are Requirements Which Must Be
Satisfied by All Applicants

30. For those persons listed in questions five and six (5 and 6), indicate specific prior experience and education or training in relation to the collection and/or disposal of solid waste.
- _____
- _____
- _____
31. On separate sheets attached to this application itemize all equipment including motor vehicles which will be owned and used by applicant for collection and/or disposal of solid waste. Applicant must have title to equipment. If some equipment is leased by applicant, furnish copy of lease agreement, setting forth terms and conditions. If any equipment owned by applicant is subject to liens or other encumbrances, so indicate, giving details of any and all liens, chattel mortgages, security interests, or other encumbrances on such equipment, to include names of all lien, mortgage, or other security interest holders. All equipment itemized must be described accurately in terms appropriate to its usual and accepted description and categorization; i.e., capacity, weight, dimensions, etc. Set forth motor vehicle registrations, expiration dates and state in which registered. (Show license plate number and state for each vehicle).
32. Furnish a copy of Certificate of Insurance coverage on all equipment.
33. *Statement of Financial Condition.* Applicant must attach a statement of financial condition to include balance sheets and income statements for the end of the most recent one-year period of operations of applicant's business or pro forma statements (12 Mo. Basis) for new operations.

- 34. Applicant must attach a copy of the Certificate of Registration as issued by the New Jersey State Department of Environmental Protection.
- 35. If the applicant is engaged in business and presently charging rates, attach four (4) copies of a tariff required by N.J.A.C. 14:11-7. If the rates charged are embodied in a contract, attach a copy of each such contract.
- 36. If applicant is new business, attach four (4) copies of a tariff required by N.J.A.C. 14:11-7 showing rates proposed to be charged. Note: In answering 35 or 36, the schedule of rates must include all factors and variables which enter into the determination of rates to be charged including density of areas served, type of service rendered, frequency of collection, etc. In this regard, the schedule is to set forth what service is rendered for the amount charged. This must be done for each rate.

VERIFICATION

The undersigned files this application as

(Indicate relationship to applicant)

He states that, in such capacity, he is qualified and authorized to file and verify such documents; that he has carefully examined all the statements and matters contained in the application; and that all such statements made and matters set forth are true and correct to the best of his knowledge, information, and belief.

Signature

Print Name

OATH

State of _____)
County of _____) ss:

_____ being duly sworn upon his oath according to law deposes

and says that he is _____
Name of affiant

_____ of the _____
Title of affiant Name of applicant

that he is authorized on the part of said applicant to verify and file with the Board of Public Utility Commissioners this application and exhibits attached thereto; that he has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof; that he has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief; affiant further says that the applicant makes this application intending in good faith to present evidence which the applicant believes will support the application as to which authority to operate is sought herein.

Subscribed and sworn to before me _____
this _____ day of _____ 19 _____
Signature of Officer Authorized to Administer Oaths

Signature of affiant