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PUBLIC HEARING

before

SENATE HACKENSACK MEADOWLANDS DEVELOPMENT TASK FORCE

The responsibility of the Hackensack Meadowlands  
Development Commission for solid waste disposal and how  
that responsibility has changed with the closing of  
landfills within the district

May 17, 1988  
Lyndhurst Township Municipal Building  
Lyndhurst, New Jersey

MEMBERS OF TASK FORCE PRESENT:

- Senator Gabriel M. Ambrosio, Chairman
- Senator Paul Contillo
- Senator Thomas F. Cowan
- Senator Henry P. McNamara

ALSO PRESENT:

- Amy E. Melick
- Office of Legislative Services
- Aide, Senate Hackensack Meadowlands  
Development Task Force

New Jersey State Library

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**New Jersey State Legislature**  
**SENATE HACKENSACK MEADOWLANDS**  
**DEVELOPMENT TASK FORCE**

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*Chairman*  
**LUIS CONTILLO**  
**THOMAS F. COWAN**  
**GERALD CARDINALE**  
**HENRY P. MCNAMARA**

May 4, 1988

## NOTICE OF A PUBLIC HEARING

Senator Gabriel Ambrosio, Chairman of the Hackensack Meadowlands Development Task Force, created by the New Jersey Senate, announced today the third in a series of public hearings to be held by the task force on the Hackensack Meadowlands District and the Hackensack Meadowlands Development Commission. The hearing will be held on Tuesday, May 17, 1988, beginning at 7:00 p.m., at the Lyndhurst Township Municipal Building, 367 Valley Brook Road, Lyndhurst.

The hearing will focus on the responsibility of the Hackensack Meadowlands Development Commission (HMDC) for solid waste disposal and how that responsibility has changed with the closing of landfills within the district. Topics of discussion will include the relationship between the HMDC and constituent municipalities, the relationship between the HMDC and the solid waste industry, the enforcement of the "Solid Waste Management Act," resource recovery facilities, transfer stations and host community fees, and implementation of the "New Jersey Statewide Mandatory Source Separation and Recycling Act."

Testimony by local public officials and members of the general public is invited. However, due to time constraints, oral testimony may be limited to a five or ten minute period. Written testimony, which will be incorporated in the transcript of the hearing, is welcome.

Persons wishing to testify or wishing further information on the public hearing or the task force should contact Amy E. Melick at (609) 984-7381.

Persons wishing to contact the Chairman or his office should call Joan Scerbo at (201) 933-0808.

**Directions:** From Route 3 West take the Ridge Road exit. Make a left at the Stop sign. At fourth traffic light turn right onto Valley Brook Road. The municipal building is on the right (past the Shop Rite) at 367 Valley Brook.



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SENATOR GABRIEL M. AMBROSIO (Chairman): Can we bring this hearing to order? We have a fairly long agenda this evening, so I am going to try to move it along. I have some preliminary announcements I want to make before we begin testimony. First, I want to introduce the members of our Committee who are here. This is a meeting of the Hackensack Meadowlands Development Task Force, which has been empowered by the New Jersey State Senate to look into the legislative mandate of the Hackensack Meadowlands Development Commission to determine what, if any, changes in direction and focus it should make.

This is the third in a series of public hearings we have held. The members of the Committee who are here this evening are, starting on my left: Senator Henry McNamara, from Bergen County; all the way to my right is Senator Thomas Cowan, from Hudson County; and immediately to my right is Senator Paul Contillo, from Bergen County.

We plan to go no later than 11 o'clock, and we will take a short break somewhere around nine. We will try to give an indication to those who have signed up to speak by nine o'clock whether we think we can reach everybody. Anyone else wishing to testify this evening, should sign up by giving their names to one of the staff aides here, either Joan Scerbo or Amy Melick. The order of testimony is going to be in accordance with the agenda that has been distributed. Anyone else who signs up will be added to the agenda.

While this hearing tonight will focus strictly on the issue of solid waste-- (Senator Ambrosio interrupted several times by whistles going off in the fire department.) I might just mention to the audience here that about 15 years ago, I was sitting here, and Tony Scardino was sitting here as the Mayor of the town, and we went through this nightly whenever those whistles went off.

SENATOR CONTILLO: Have you considered the town purchasing (indiscernible) for the fire department?

SENATOR AMBROSIO: They have them. As I started to say, the agenda for the hearing tonight deals with solid waste. While the focus of the hearing is going to deal with the HMDC's role in solid waste handling and disposal in the district, the problem is a statewide problem, and really cannot be dealt with without dealing with the statewide ramifications of the problem. So we expect, while we are going to try to focus on the HMDC's role, there is going to be a lot of testimony which will deal with the solid waste problem in general, as it applies statewide.

We would like to begin this evening by hearing from the Executive Director of the Hackensack Meadowlands Development Commission, Anthony Scardino. We would ask all those who are testifying to use the microphone that is provided at the podium.

A N T H O N Y S C A R D I N O, J R.: Thank you very much, Senator Ambrosio. Senators, ladies and gentlemen: Again I want to thank you for the opportunity to come before you to address you on issues concerning the Hackensack Meadowlands Development Commission, and particularly this evening's topic -- solid waste. I have with me representatives of the staff of the HMDC, and also in the room with us is Vice Chairman of the Commission, Eleanor Nissley. On behalf of Chairman Coleman, the Commissioners, and the staff, I offer the following comments:

Senator, members of the Committee: Thank you for the opportunity to continue our discussion of the Hackensack Meadowlands Development Commission.

I am grateful to have this opportunity, as we have been requested to do, to bring you up to date concerning the activities of the HMDC in solid waste disposal and related issues.

As you are well aware, Essex, Passaic, and Bergen Counties have stopped landfilling solid waste in the Meadowlands District during the past several months. Hudson County is still using the HMDC solid waste baler and that waste is being landfilled on a 17-acre tract of land in Kearny and North Arlington.

I will say at the outset that the site for disposal of Hudson County refuse is filling at an alarming rate. Our calculations and past experience indicate that Hudson County generates about 3000 tons of solid waste per day. Since the closing of the other landfills, more than 4400 tons of waste are being taken in at the baler each day. Much of this waste is unidentifiable, but logic suggests that it is coming from areas other than Hudson County. At the rate this area is filling, Hudson County could well be without an area to dump in the State very quickly. The area will certainly be filled long before the Hudson County resource recovery plant is finished and operating.

Without a system of rate averaging for northern New Jersey, this situation will continue and get worse. With a rate averaging system, the entire solid waste disposal situation in the northern portion of the State will stabilize.

The reason for the influx of illegal waste is economic. The HMDC baler charges Hudson County \$27.50 per ton for disposal. Other disposal facilities charge from \$65 to \$137 per ton. Haulers have an economic incentive to cheat and attempt to make use of the baler. No matter how intensive our inspections, we cannot hope to prevent this illegal waste. Much of it is demolition material, and a brick from Kearny looks much like a brick from any other place.

Rate averaging, a system wherein all haulers would pay the same amount regardless of where they dump, would eliminate the economic incentive for cheating.

Rate averaging would also ensure the constant long-term flow of solid waste to the various facilities, which would assure the purchasers of the bonds for planned solid waste disposal facilities that their investment was protected. Without such protection, county governments run the real risk of having to pay for any shortfall. Resource recovery systems must have a certain and specified amount of waste, and if the tonnage falls below that figure, the county government will have to make up the difference.

Without rate averaging, there is a very strong risk that expensive facilities will be avoided, inexpensive facilities will be overused, and the taxpayers will wind up with some very expensive underused resource recovery plants.

New Jersey, for many years, had extremely inexpensive solid waste disposal, but the days of simply finding an empty, out-of-the-way piece of land and dumping on it are over.

I urge you to support Assembly Bill 2086, sponsored by Assemblyman Harry A. McEnroe, which calls for the creation of a system of rate averaging in any way possible. We are preparing a study on the topic, which we will forward to you as soon as it is finished.

The HMDC's concerns are not limited to the one county which remains dumping in the Meadowlands District. We now face a 30-year closure and post-closure assignment.

Shortly after the HMDC was created in 1969, a district survey revealed more than 24 landfills of various sizes here. Some, such as the major sites -- 1A, 1C, and the balefill -- continued to operate for many years. The smaller landfills still pose an environmental risk which our mandate requires that we eliminate. As you are well aware, simply stopping the trucks from dumping does not close a landfill. Our Environmental Protection mandate requires that these landfills be closed using the most modern technology available. We have a large task before us, but feel confident that we will be able

to perform it well. However, we do need a source of funding to be able to do this task.

Because of past planning and early action, we have almost completed the closing of the 1A Landfill in Kearny. The cut-off wall dike is finished, as is the leachate collection system. We are awaiting the completion of a remarkable experiment before we place the final cover on that landfill.

The experiment consists of the use of a synthetic plastic cover for the landfill made from recycled plastic soda bottles -- some 60,000 of them. Do you like that, Paul?

SENATOR CONTILLO: Yes, I like that.

MR. SCARDINO: If successful, and we believe that when the final data are in the results will be favorable, the plastic cover will be used instead of clay to cap the landfill, a first in New Jersey and, from all indications, a first in the country.

This new plastic cover opens a range of possibilities. First, it will be less expensive to use than clay, and second, it offers a new market for recycled plastic soda bottles, something that we are badly in need of. Final results of this experiment will be available this summer.

The HMDC has a long and positive history in supporting recycling. Although we have not been granted any statutory responsibility or funding for recycling, we have encouraged the constituent communities and counties to set up recycling efforts, and have assisted wherever possible.

The HMDC required Passaic County, in December of 1984, to institute recycling as a condition of our accepting excess Passaic County waste. You will note that this requirement for recycling was implemented more than two years in advance of the passage of the Mandatory Source Separation and Recycling Act. We also conduct an extensive education program including recycling on a wide variety of levels.

Our solid waste crisis film includes a very positive segment on recycling, and we detail recycling in a film for grade school children, which is our most recent production. This 18-minute video tape has been sent to every school district in the State, community service groups, and libraries, as well as local and county governments. Entitled, "Out of Space," the video is the story of Compaktor, an alien from the planet Recovery 2, who visits earth looking for a place to dispose of his planet's solid waste. Compaktor meets three earth children, and together they explore disposal options.

The film is targeted to third, fourth, and fifth graders. Its purpose is to instill an awareness about garbage disposal and recycling and to prompt the children to take action. The film covers landfilling, recycling, and resource recovery. Recycling is part of the educational program at the HMDC's Environment Center, and has been for many years.

By the way, Mr. Chairman, I have copies of the video tape -- of each of the video films I am referring to -- and I will be happy to leave them with you.

I think it is safe to say that the HMDC has been the State's leader in education of students and teachers in matters concerning solid waste and recycling. More than 10,000 school children receive lessons each year at the HMDC's Environment Center. These lessons contain a constant theme of preservation of natural resources and reuse of household materials.

There are four major solid waste educational programs conducted by the HMDC geared to grades one through twelve. These programs include: planning a town for solid waste disposal, awareness of natural resources, and which resources are renewable and which are not. We also have classes on managing our waste. Students tour the baler, transfer stations, a landfill, and participate in public hearings concerning disposal options. Our solid waste and critical environmental issues educational programs are the most wide-reaching and extensive of any conducted in this State.

In addition, for the past three years, the HMDC has sponsored a New Jersey Critical Environmental Issues Seminar for area teachers. Participants as sponsors or co-sponsors in this seminar are: The Department of Environmental Protection, the State Division of Energy, Rutgers University Center for Science, Math, and Computer Education, and Public Service Electric and Gas Company. Speakers come from a wide range of colleges and universities, industry, government, and regulatory agencies. After this upcoming session, some 75 teachers will have undergone this two-week-long intensive work session.

During the seminar, we bring before the teachers the critical environmental issues of the area, which include segments on solid waste disposal and recycling. We provide this program in order to help these teachers bring to their classrooms an understanding of the environmental problems we face and their possible solutions. These seminars enable these educators to develop curriculum and workshops for their students.

Our educational specialists have been directly involved in the re-drafting of New Jersey's recycling curriculum at the request of the Department of Environmental Protection. The DEP recognizes the expertise of this staff and actively sought our help. This revised curriculum should be finished this year.

In September, 1987, the HMDC conducted a highly successful symposium on solid waste. The symposium was entitled, "Managing the Solid Waste Crisis in New Jersey," and eight panels were held covering topics such as: "Recycling and You, Perfect Together," "Financing Resource Recovery and Landfills," "Is Statewide Rate Averaging Needed?" and finally, "Survival of the Fittest, Reelection After Siting." The symposium drew 278 registered participants and 23 exhibitors.

In short, the HMDC, and its staff of educational specialists, engineers, solid waste experts, naturalists, and

others, has become a regional, even a statewide resource for data and information concerning a wide variety of natural resource preservation, recycling, and solid waste disposal matters.

In the area of "food for thought," I would like to make a few comments and ask that you might consider certain legislative initiatives.

Rate averaging, of course, is imperative. As I said, we feel this measure is critical to the success of long-term solid waste solutions in the State. Rate averaging will provide the fiscal underpinning and the stability upon which future solutions can be based. The time to provide that base is now.

Concerning closure of old landfills, many still leach harmful materials into the environment. A source of revenue is needed to close these properly. The required funding can be provided through the rate averaging mechanism. This will allow us to close these old landfills in a method that is environmentally sound. We have the expertise to close landfills, but simply don't have the financial resources to do so.

Methane gas collection could provide the State with a valuable alternative energy source. We have signed contracts with a methane gas recovery firm, but in the course of this endeavor we have encountered a problem.

Whereas there is a Federal law which requires public utilities to purchase electricity from alternative sources, there is no such requirement concerning purchase of the source of that energy as it applies to methane gas. You might consider allowing the Board of Public Utilities to require the utilities to purchase the gas produced from old landfills.

Another quirk in the law allows counties which have created utilities authorities to set rates. Since there is no profit involved, the HMDC should be allowed the same

authority. It is a cumbersome and sometimes inequitable process for this agency to have to go before the BPU, when as a separate solid waste district we should have the same authority which the other solid waste districts have.

Current State law requires all State government agencies to use 30% recycled paper by July 1 of this year and 45% recycled paper by July 1 of next year. Perhaps you might look at the possibility of increasing this requirement sometime in the near future.

Current State law does not require that road and highway improvement projects use recycled material. Materials such as rubber, glass, and asphalt can be recycled, and there is no reason why the State should not require that all publicly financed road projects make use of these materials to the fullest.

There is currently a 50% investment tax credit for businesses which purchase recycling equipment. Perhaps the entire area of incentives to businesses can be explored with an eye to increasing the number of firms involved in recycling as a business.

The HMDC, for many years, was responsible for disposing of about 40% of the State's solid waste. During the past 19 years, we have created a considerable body of knowledge concerning solid waste and how to deal with it.

It is often said that New Jersey represents a microcosm of the nation. Problems surface first in this State, and often solutions are developed here first as well. This is why New Jersey is a national leader in so many areas.

Let me suggest that the Meadowlands District -- these 32 square miles in the heart of the most densely populated area of the most densely populated State -- are a microcosm of New Jersey. Many of the problems which the State has faced surfaced here first, solid waste disposal not the least among them. The HMDC has played a major role in developing solutions for these problems:

We were first with a solid waste management plan;  
We were first with a regional, balanced master plan;  
We were the first agency to require recycling of communities using this area for solid waste disposal;

We were first in building a baler to extend the life of the landfills;

We were the first agency to protect large portions of the wetlands; and

We are the first agency in New Jersey to sponsor the Critical Environmental Issues Seminar.

The Meadowlands District, with its fragile beauty, has evolved from what was once perceived as useless to a dynamic area, full of accomplishment and promise for the future.

We have made a number of suggestions here to strengthen the region, which we believe will provide the tools to complete the task of revitalizing this once blighted area. Where once sat pig farms and garbage dumps, there are now high-rises and parks. We respectfully request that you continue to provide us with the legislative tools and the confidence to fulfill the promise.

I realize, Mr. Chairman and Senators, that this was a lengthy statement, but I felt that this was an opportunity, after some 18 years of experience -- that is, the HMDC's experience -- with its fine staff and very supportive Commissioners over the years, to bring you up-to-date in terms of what has been done, what we are doing today, and what we plan to do in the future.

I have with me tonight the Director of Solid Waste and Engineering, Thomas R. Marturano, and Director of Administration, Bob Ceberio, who, along with me, will answer any questions you may have on any of the subjects I have covered.

Thank you.

SENATOR AMBROSIO: Thank you, Mr. Scardino. There are a number of questions I have, and I know some of the Senators also have questions. I would like to start off by asking you to direct this to whomever you wish. Some 18 or 19 years ago, when the Meadowlands Commission was created, the Legislature made a decision that it should play a significant role in the solid waste handling problem. Now here we are, almost 20 years later, and one of the questions this Committee is going to address itself to is whether or not the role the HMDC has played should be brought to an end, and whether or not the solid waste problem should be removed from the jurisdiction of the Hackensack Meadowlands Development Commission, since we now have in place some 21 other districts, and there is some overlapping jurisdiction between the HMDC and the other districts. Would you care to comment on whether you think that would be advisable in terms of the HMDC's future and the future of the district, to change the law in that way?

MR. SCARDINO: Well, I will answer the question in terms of an ideal sense and in terms of a pragmatic sense. Okay? In an ideal sense, it has always been the ambition of previous commissions, previous staff, and existing staff, that one day the Hackensack Meadowlands Development Commission would be relieved entirely of any of its solid waste responsibilities. As a matter of fact, there was a thought in 1975, with the Solid Waste Management Act. In spite of the fact that it called for 22 districts, my understanding always was that that was an attempt, in the long run, to ultimately relieve the HMDC -- ideally again -- entirely of that burden, because the 21 counties, in effect, supposedly were to pick up that responsibility. That is the ideal.

But, in terms of what's real, there is no question about the fact that we are still in the business, and that we certainly do not see ourselves getting relieved of that responsibility, nor perhaps at this point in time should we

be. I mean, there is still a lot of work that has to be done. Hudson County, as you know, is still dumping in the district. Hudson County may very well still be using the district, as will Bergen County, once they complete their resource recovery facilities. So, in effect, the HMDC will never really be out of the business, as long as there are resource recovery facilities within its jurisdiction.

The question that I think will come to the forefront in the future is, who will be running those facilities? In Bergen County's case, we know it's Bergen County. In Hudson County's case, at this point in time, we are not sure because, as you know, there is a question before the courts on that issue at this juncture.

SENATOR AMBROSIO: Is it fair to say that in the past six months in particular, with Essex County's removal from the district and Passaic County, and with the changes that have occurred, that the HMDC is playing a diminished role today in the solid waste process?

MR. SCARDINO: Well, in terms of the amount of solid waste we were administering up until the end of 1987, I would have to say that is true, yes.

SENATOR AMBROSIO: If Bergen County were to deal with its problem through the BCUA, and Hudson County were to deal with its problem through its own mechanism, what do you see as the role the HMDC should play on a continuing basis?

MR. SCARDINO: Tom, do you have something on that? (affirmative response from audience) Go ahead.

T H O M A S R. M A R T U R A N O: I think one of the problems we have is trying to carry out our zoning powers, without having some control over where the solid waste facilities in the district would go. That could create tremendous conflicts for us from a zoning standpoint. To effectuate the master plan, especially if these solid waste facilities are going to be long-term facilities in the

district, it is very important for us to be able to have some control over where they end up, as well. For example, in the Bergen County case, it is clearly from our zoning standpoint. That's why we enforced the zoning not to go into Lyndhurst and build at the Ridgefield site, because that is what was best for the Hackensack Meadowlands District as a whole -- that site. So, I think it is important for us to have it.

Just to get to your question about the diminished role, though, I think it should be pointed out that this district will still be receiving more tonnage into it than any other district in the State. Hudson, as Tony said earlier, is doing about 4000 or 4500 a day now. Bergen is somewhere up around 4000. So we will always be getting-- Even when both resource recovery plants are on-line, this district will still be receiving in excess of 8000 tons a day, which will be bigger than anyone else in the State. So I think we will still be a lead entity, as far as solid waste is concerned.

SENATOR AMBROSIO: Senator McNamara?

SENATOR McNAMARA: Mr. Marturano, you mentioned that it was best for the HMDC's overall plan that Lyndhurst was quoted to be the host community, which I find rather unique in building that incinerator. But in a way, in retrospect, that incinerator would almost be ready for operation today, had the HMDC not precluded Lyndhurst from being the host community and it being built. The overall impact on this county is rather tremendous. I would like to know what is it that the HMDC, at that time, designated that land to be used for?

SENATOR AMBROSIO: Tom, would you please just state your name for the record, because I don't think the hearing reporter got it?

MR. MARTURANO: My name is Thomas Marturano.

SENATOR AMBROSIO: And your position?

MR. MARTURANO: Director of Solid Waste and Engineering at the Hackensack Meadowlands.

Part of our thinking that went into this, was that it didn't make a lot of sense to have the solid waste facility that would handle all of Bergen County's solid waste as far south in the county as you could go. It made a lot more sense to have that facility closer to the centroid from where the waste is generated, so we could cut down on all the truck traffic that would congregate on the lower Bergen portion. It didn't make sense to have all 69 municipalities going as far south as they could with their daily garbage every single day.

Additionally, the access problem was a very large question. We were able to get access, as you are aware, for the Ridgefield site strictly off the Turnpike. There will be no trucks using local roads getting to that resource recovery plant. As anyone in Lyndhurst, North Arlington, or Kearny knows, local truck traffic is one of the biggest, most visible impacts for any solid waste facility. You would not have had that same access off the Turnpike with the Lyndhurst site. So, I think those are two of the--

SENATOR McNAMARA: You know, I'll tell you, I hear what you're saying, and I know that was a problem at the time. But I find it fascinating, because just recently there was a proposal for land in that area for another use, and access all of a sudden developed from the Turnpike. I've got to believe that maybe enough muscle wasn't applied on the Administration right up to the top, including the Governor, to intercede to create the access. It would have eliminated the problem locally and, quite frankly, the Turnpike access was the answer.

MR. MARTURANO: Another advantage to the Ridgefield site, as I am sure you are aware, is that it is located directly adjacent to the PSE&G generating station, so the grid system by which to wield the energy generated from the plant was right there.

SENATOR McNAMARA: If ultimately they win the law case so that they can build it there.

SENATOR AMBROSIO: Are you suggesting-- Oh, I'm sorry for interrupting you.

SENATOR McNAMARA: I would like, also, an answer to the second part of my question, which was: What was the land designated for by the HMDC at that time?

MR. SCARDINO: The land in Lyndhurst?

SENATOR McNAMARA: Yes.

MR. SCARDINO: Parkside/residential, as it is still zoned for parkside/residential.

SENATOR McNAMARA: It is still zoned as parkside/residential?

MR. SCARDINO: That is correct. It has not been changed.

SENATOR McNAMARA: How realistic -- considering the land itself and the built-in problems with it -- is it that that could possibly ever be used for that?

MR. SCARDINO: I think about as realistic as anything, whether parkside residential or offices or anything else. I think it stands the test of whether or not it is practical for the owner to go in there and prepare the land properly and appropriately so that he can build. We have had inquiries over the years, and it is always, as you know, in a democracy like ours, the private entrepreneur takes the step when he is ready to take it. So, we have certainly not discouraged the potential that exists there.

I would just comment, too, I don't blame you, Senator McNamara. I would probably ask the same questions the same way you did, in terms of saying, "Well, the host community," and "Had you been more cooperative, there is a chance that plant would have been built." I can only tell you -- and this is historical because I say it all the time now-- I use the same point that you make, but I use it about Ridgefield. The Ridgefield location has been on the books, so to speak, you know, in terms of its zoning, for 10 years perhaps. It wasn't an unknown quantity.

SENATOR McNAMARA: But, it's also wetlands.

MR. SCARDINO: Lyndhurst also is-- In spite of the fact that a lot of that is landfill, Lyndhurst will also come under the same scrutiny from the Federal agencies as Ridgefield. The time involved in doing that would have been, in my judgment, the same. But my point is, about 1980, the HMDC was given the responsibility by the Bergen County Freeholders to build a resource recovery plant in Ridgefield. Then, in 1981, that was removed from us and given to the BCUA to do. So, the question is, had we retained that responsibility, would that plant have been up today? It's highly speculative. We don't know. I really don't know.

SENATOR AMBROSIO: Tony, if I might, I would just like to pursue a question. If you don't really have a full handle on the answer to this, I would appreciate some future comment on it. In view of the closings of the landfills that have taken place and the jurisdiction of the BCUA and the Hudson County Utilities Authority-- I understand the HMDC's role in terms of a planning and zoning agency and its concern over what goes on in the Meadowlands, and a continuing role in that concern, but what do you see as the HMDC's future role, either from an operational standpoint or from an enforcement standpoint of DEP regulations, and all of the other enforcement policies that you implement today with regard to solid waste? What do you see as the HMDC's future role in the operational aspect of solid waste facilities?

MR. SCARDINO: Well, Gabe -- Senator, excuse me -- we have to respond to the solid waste amendments as they apply to us as long as there are facilities in the district, as Mr. Marturano indicated earlier. I am really not quite sure if I understand the nature of your question. As far as I see it now, we have an ongoing responsibility, so long as there is solid waste, in whatever form, coming into the district. We are responsible. We have some responsibility for enforcement,

if necessary. If we can't enforce it, then we direct it to the appropriate agency, whether it is DEP, BPU, or wherever. It might go to the local authorities. I mean, there is a continuing role there.

SENATOR AMBROSIO: Do you currently enforce DEP regulations as they apply at the BCUA facilities in Lyndhurst and North Arlington? Do you currently enforce those?

MR. SCARDINO: The BCUA facilities?

SENATOR AMBROSIO: Yes.

MR. SCARDINO: I don't think so. Tommy, directly or indirectly?

MR. MARTURANO: Yes, we have inspectors at the transfer station.

MR. SCARDINO: Okay.

SENATOR AMBROSIO: And you see, as your role, the obligation to enforce DEP regulations at those solid waste facilities?

MR. MARTURANO: Yes. Because of the impacts, as I said earlier, from the truck traffic on local streets within the district, if there are excess trucks coming into the facility that do not belong there, we feel that we have a certain responsibility to the district as a whole as far as the impact from the truck traffic is concerned. It is the kind of symbiotic relationship we have had with the BCUA. Since the beginning, we have always cooperated with them in the operation of the facility. They operate the facility. Initially, we handled the checkers and the inspectors. They also had a scale house that they operated. So we both have a very cooperative mode between us, and I think it has worked very well.

To answer your question about the future, certainly if the rate averaging system comes to fruition, that would be additional to our role. We see us as the logical implementing agency for that, obviously. All of the computer programs are done. All of the information is in our system already, or most

of it is in our system already, based on the fact that we used to run it. We think that if the Legislature, on the particular bill that Tony referenced earlier-- If that gets passed, we could certainly have it up and running in a very short period of time.

So, I think that is additional. We have a certain expertise in this system since we have been in it for so long, and we feel that we should really have a continuing role. We have a legal obligation, under the statute, for the closure and post-closure -- 30 years' worth of responsibility -- for the facilities we run. We are jointly and separately liable. Through various decisions, we have ultimately garnered all the responsibility for the closure and post-closure of 1A, what used to be called 1C, and the bale fill. That is a continuing obligation that we are going to have for the next 30 years. I see that also, obviously, as part of our role with the solid waste.

MR. SCARDINO: In addition to that is what I referenced in the comments I made; that is, addressing those landfills -- the old landfills, if you will -- that were abandoned many years ago, but which still require attention from an environmental standpoint.

SENATOR AMBROSIO: It seems to me that the State has at least-- As I read the policy of this State today, we have made a commitment to handling the solid waste problem by developing and building what are called "resource recovery facilities," but are really just mass-burning incinerators. They are scheduled to be built throughout this State. I think there are some 21 or 22 that are supposedly being built. Is the HMDC involved in that planning and decision-making process? If you are not, do you agree -- with your expertise in how to handle the solid waste problem -- that that is the way we should go?

MR. MARTURANO: I think we are involved from a planning-- Certainly, in terms of the planning aspect, we have been involved intimately with Bergen County, both in the siting of the facility and the ash landfill; likewise with the Hudson County facility being located in the district, and its ash landfill being here. Those are the only two ash landfills, to my knowledge, that have been sited in this State. I think it is one of the glaring errors in some of the other resource recovery planning that has gone on, that the ash landfill component -- this mass burn -- has been neglected. I think that is something which-- You are not going to be able to turn the switch on that plan, unless some facility is in place for the disposal of that ash. It is as integral to the operation of that facility as the burners themselves.

As far as whether there should be 22 facilities, in my personal opinion, I don't think you need 22 resource recovery plants. I think we could do with far less than that. Certainly in South Jersey and western Jersey I think there could be some regional facilities. Perhaps there could be some inter-district agreements, which the law provides for right now, where one county would host the plant, and the other would host the ash landfill, so there would be a sharing of responsibilities. I see that relationship. It has been very easily developed in some of the southern and western counties.

In our area, the thing that scares me about combining some of the facilities we have now, is that you are going to end up with extremely large facilities. Bergen County is already the largest facility being planned. I am concerned that if you start getting much above that 3000-ton-per-day limit, you will be starting to get into a realm where none of us are really sure-- There really isn't a track record for it.

SENATOR AMBROSIO: You have now hit an area -- before I turn it over to Senator Contillo, because he is the recycling expert-- I have a concern that the policies in this State,

depending upon which department you talk to, are running on a collision course. In the Legislature, we voted and we believed that recycling is the future, and that we are going to see major efforts in this State in reducing the waste flow by significant commitment to recycling. And yet, the mass-burning incinerator philosophy seems to run directly counter to that philosophy, because we need the guaranteed garbage. The more we get out of that, the more we recycle, the less garbage we are going to have to burn.

So, we have those who are pushing the resource recovery facilities, looking for guaranteed garbage, and those pushing recycling, looking to eliminate the garbage. Aren't those two philosophies in the State that are conflicting?

MR. MARTURANO: I think if the facilities were being sized for existing waste flows, then I would say you're right. But what we have seen is that the facilities seem to be downsized in all the counties, the classic example being Essex County, which is the largest county in the State, and is putting in a facility, I think, of 2250 tons per day. I think in the planning of these facilities they are deliberately being downsized to promote the recycling, as well as take into account this potential for the lessening of the flow.

These are 25-year facilities, and there is really no thought being given to future population growth, or future economic expansion. We are basing them on existing waste flows of 1987 or '86, depending on the day the facility was originally sized, yet they are made to go for 25 years. I know they are modular and they can be expanded, but we may find out that that is not as easy as you might think.

MR. SCARDINO: If I may add-- You have opened up a door that I can't help but enter. Okay? First of all, I have always wondered why we in government -- and I think it has to start with the Legislature for the funding -- didn't, some time ago -- and I don't mean to be critical, I am just trying to

make a point-- Some time ago, why didn't we put some money behind some pilot projects, so we could test to see if they would work, and take some kind of initiative? No matter where we have researched, no matter where we have gone -- at least in my limited knowledge on the subject, because I don't profess to be an expert, by any means-- But what I have seen to date indicates that it is all trial and error; that no one has really sat down to find out if the system works.

One of the areas I think we are deficient on, in terms of research -- and I would love to see some initiative taken here -- in terms of finding out whether or not composting works, or doesn't work. You've got all kinds of different ventures that are coming out from all over the place, suggesting that this system will or that system will work. In spite of the fact that there are so many, and that they even may be offering some incentives to give it a try somewhere, I don't understand why we don't have a project somewhere to look at -- over a period of a year or two, or whatever time it takes to say, "You know, this does work," or, "I don't think it could work--" Again, from my limited experience, I am not sure it could work on a large scale. But on a smaller scale, in smaller counties perhaps, it might prove useful. But, it takes some initiative and it may take some backing to do it.

SENATOR AMBROSIO: Senator McNamara asked this question: "How does Bergen County arrive at a figure of 3000 tons a day as its needs in terms of the resource recovery facility it plans to build?" What studies, what data, and how has recycling been factored in? Maybe you are not the right one to answer this, because the Bergen County Utilities Authority are here tonight.

MR. SCARDINO: Well, I would direct the question-- All I can tell you, again from our experience, is that the number for Bergen County has always been that number -- 3000 tons a day generated by the residents of Bergen County. It was on that basis that they planned the facility.

SENATOR CONTILLO: In October -- directly to that question -- I went to a meeting of the Bergen County Utilities Authority, and I asked them where they found that number 3000 tons. Did they pick it off a tree, or was it developed by some engineering firm? Malcolm Perney (phonetic spelling) wrote me a three- or four-page letter explaining how they arrived at that figure -- various factors for growth and a 25% reduction in the middle '80s of the volume for recycling. Of course, if you are successful with Harry the Hauler, and Mother Goose, and the compactor strikes again, the children in the '90s, by themselves and in spite of their grown-up superiors, are going to recycle, and we are going to be looking at a different ball game.

If I may ask a couple of questions here-- They may range a little afield of your expertise. I don't know whether to call you Senator, Mayor, Mr. Scardino, or what.

MR. SCARDINO: Tony.

SENATOR CONTILLO: Tony, okay. You mentioned on page 2 of your statement that much of the material you receive is illegal waste; much of it is demolition material; and that a brick from one place looks much like a brick from another place. Can you tell me why you should accept a brick from anyone? Can't a brick, and most construction material, be recycled?

MR. MARTURANO: That answer to your question is, we are a public utility, and if someone shows up at our door wanting to dispose of solid waste generated from Hudson County, we are obligated to accept it.

SENATOR CONTILLO: If we could suggest to you a change in the law, then you could implement that?

MR. MARTURANO: We will accept anything you want to change, for sure.

SENATOR CONTILLO: But again, much of it-- Are you saying half of it is demolition material?

MR. MARTURANO: I think at one time it was half. I think it is down to probably about a third now.

SENATOR CONTILLO: One-third, but you accept it at a valuable, dwindling resource as construction material.

MR. MARTURANO: Keep in mind that a lot of it is interior demolition as well. The analogy of the brick certainly is valid but, to give you a good example, we are taking a lot of material right now from the interior demolition of Ellis Island. That is not material that is particularly--

SENATOR CONTILLO: How much of the material that you take in is from the City of New York?

MR. MARTURANO: To our knowledge, none.

SENATOR CONTILLO: None? Oh, come on. (many comments from audience here) I wrote to you on May 9. I asked you to send me a copy of the consent agreements between yourselves and the City of New York, and you told me I would receive them.

MR. MARTURANO: I misunderstood you. I thought you meant demolition from New York.

SENATOR CONTILLO: Well, I don't know what it is.

MR. MARTURANO: There are consent agreements which involve our acceptance of material. Some of the waste material originates in New York, no question about it. That is correct.

SENATOR CONTILLO: Can you tell me when I will receive copies of those agreements?

MR. MARTURANO: You will have them by the middle of next week.

SENATOR CONTILLO: Thank you. I have a couple more questions.

I have to just pick up on what Senator Ambrosio was talking about. I have a recurring nightmare. The nightmare is this: We are going to build a half a billion dollar burner, and some of us are going to worry about paying off those bonds by maintaining the solid waste flow to do this. I brought this to the attention of the Bergen County Utilities Authority in

October, the same question I am posing again almost a year later. There will be some others, hopefully maybe with a little greater foresight into the future, who are going to be working to reduce that waste stream. I just heard another chilling thought here. I don't know how many other agencies are involved in this. But I just heard -- correct me if I am wrong -- that the HMDC is enforcing the DEP regulations at the Bergen County Utilities Authority site. Now, couldn't we get a few more agencies involved, you know, and round it out to--

MR. MARTURANO: We are really the only agency that is doing any enforcement.

SENATOR CONTILLO: What I am trying to say to you, I suppose, is, I see someone who sees a set of rules, and becomes consumed by them. What we are trying to find out -- hopefully here today-- Within this month, we intend to go back and restructure the recycling law. It's in the works now. If we have to change the law so that you should refuse anything that can be recycled, we can cut the volume -- the 3000 tons that Malcolm Perney says is the most that Bergen will need until the next century -- if we cut that in half, and we only have a 1500-tons-a-day need for this county, and the other 1500 tons will come from New York-- As you rightly said, what do we do with the ash? New Jersey, according to the contract I saw, will still be responsible for what may potentially be hazardous ash.

So, it is not enough to say that we can always fill the burner with solid waste from somewhere else. We have to be concerned about the effects on the air of unnecessary burning and, of course, about the potentially toxic ash.

I just wanted to lay out some of those-- I would love for you to comment on them, if you wish. If not, I just want the others who testify to know that that is the direction I am trying to work on tonight.

MR. MARTURANO: One of the particular problems we have that is perhaps only germane to the Meadowlands District, or perhaps some of the southern counties may be affected by it as well, is, there are two very large car-shredding operations in Hudson County. They are auto recyclers, in effect. They don't really fall under anyone's jurisdiction right now. DEP doesn't regulate them. No one really regulates them. Seventy-five percent of the cars they take into their facilities are from out-of-state; only 25% of the cars they process through their facilities are from the State of New Jersey.

Those two facilities-- Actually, I'm sorry, one of them is located in Newark and one is located in Jersey City. We are only receiving the waste right now from the one located in Jersey City. That facility alone averages close to 1000 tons a day of the shredded material from the cars. It is a phenomenal waste stream. You just can't imagine how bad this particular waste stream is, until you see the 50 and 60 trucks a day rolling in.

SENATOR CONTILLO: Hasn't a lot of this been developed, as Tony talked about before, because of the contrived \$27 a ton that goes into the Hudson Landfill? Because of that, people are actually going out of their way to figure out ways to bring solid waste to that facility. If we had the rate averaging, I don't think you would have the magnetic effect your facility has. Every businessman in the area has to want to dump there at \$27 a ton.

MR. MARTURANO: No question about it, although in the particular case of the car shredders, they have been there for a long, long time.

SENATOR CONTILLO: I recall those car shredders. What they were doing was stacking them up straight. They were bringing them nowhere. They had a wall that must have been, how high, 30 feet high?

MR. MARTURANO: Obviously, what we would like to see is-- If 75% of the incoming waste into that facility -- we call it waste; other people don't -- originates from out-of-state, then we feel a like percentage of the residue -- the shredded material -- should likewise be disposed of out-of-state. That is where we're coming from.

SENATOR CONTILLO: I don't have a problem with that. If we have to develop that, we should develop it. But the other side of that coin is, it is my understanding-- I agree with you. If the vast majority of the material is brought in from Hudson County so they can bring it to the HMDC facility, they should not be permitted to do it. If you need legislation to enforce that, it can come forward very, very quickly.

But the other side of that is, it seems to be that there is a bureaucratic fixation here that if someone brings you a few tons from a 100-ton load that is residue from recycling, you should not reject that either. If someone wants to bring you 100 tons of solid waste, that you will take. But if it is brought into the facility and they pull out three-quarters of it, and only bring you a quarter of it, you don't want to take that. How do you deal with that?

MR. MARTURANO: It depends on where the waste that was recycled originates from.

SENATOR CONTILLO: But suppose it is Jersey waste, regardless of where in Jersey?

MR. MARTURANO: Certain counties have franchises which require that recycled waste go back to the county in which it was generated.

SENATOR CONTILLO: In other words, a mixed load from four counties. How would you deal with that?

MR. MARTURANO: When we had all four counties dumping in the Meadowlands District, what we would do was--

SENATOR CONTILLO: No, no, suppose we're saying recycle it? If he is a good recycler, he may be getting material from all over.

MR. MARTURANO: We use -- well, it is called "the percent in equals the percent out rule," which says that we take a look at where the waste comes from percentage-wise -- from what jurisdictions -- and then we require him to likewise distribute the remnants of his recycling operation back to those counties by the same percentage in which it was brought into the facility.

SENATOR CONTILLO: Even if it is a infinitesimal amount? I mean, it seems to me that you are going through an awful lot of bureaucratic red tape and calling people, you know, illegal dumpers. The implication is that there is something criminal happening here. We seem to be spinning our wheels to enforce something, which may not be the main thrust of what we are trying to do.

We are trying to recycle the vast majority of what we want to recycle. I am not interested in a bureaucracy enforcing itself, and punishing legitimate businessmen so we can enforce our bureaucratic rules. It doesn't make sense to me. At the same time, if you will accept 100 tons, as long as it wasn't recycled, but you won't accept half of that because it was recycled, we have something wrong with the system.

MR. MARTURANO: If we had the rate averaging system in place, I think the problem you are alluding to--

SENATOR CONTILLO: That may diminish that; that may diminish it. But, you know, it doesn't diminish your actions at that facility, where you say you are doing the inspection and you are responsible personally -- if you are doing those inspections -- in rejecting the residue from recycling operations.

MR. MARTURANO: For example, if we have a load from an Essex County recycling facility that shows up at our landfill, we would, in fact, reject that, because it belongs in the Essex County Transfer Station. It doesn't belong in the Hudson County Landfill.

SENATOR CONTILLO: What about a Bergen, what about a Hudson?

MR. MARTURANO: We would accept those.

UNIDENTIFIED SPEAKER FROM AUDIENCE: That's wrong.

SENATOR AMBROSIO: That's all right.

SENATOR CONTILLO: Everyone will get a chance to speak.

SENATOR AMBROSIO: May I just ask two financial questions? Under Title 13:17-10.1, it provides that any surplus moneys from the operation of solid waste disposal facilities shall be apportioned 75% to the Commission and 25% to the constituent municipalities. Where is all our money? (laughter)

MR. MARTURANO: Introduce yourself, Bob.

R O B E R T R. C E B E R I O: Yes. My name is Bob Ceberio. I am Director of Administration for the HMDC. To respond to your question, Senator, all the money that is being generated from the solid waste has been earmarked according to the BPU tariff that we have established, which has been approved. I would say the entire amount is being earmarked right now for closure and post-closure requirements, because of that 30-year obligation we have. So, there is no surplus being generated at our facilities right now.

SENATOR AMBROSIO: Is that what the \$2.18 surcharge per cubic yard, that is still being tacked on to the BCUA rate for the HMDC-- Would that--

MR. CEBERIO: A portion of that is the closure requirements, but in addition to that, there is an administrative cost to continue the operation of rate averaging, and specifically to keep our inspectors at the BCUA facility to look for out-of-district waste.

SENATOR AMBROSIO: So, you're putting a surcharge on waste that is going to BCUA, and that surcharge is partly for closure fees and partly for your inspection service?

MR. CEBERIO: Yes. You have to understand that that was part of a situation where both counties -- or the four counties -- were averaged out. A determination has not been made yet about the rate averaging for all the counties.

SENATOR AMBROSIO: Senator McNamara?

SENATOR McNAMARA: You mentioned about the inspectors looking for waste that is not supposed to be going to the BCUA. It seem the other thing is, the inspector should be looking at where is the waste going that is not going to the BCUA, from what I am reading in the newspaper.

MR. CEBERIO: But you have some situations where a Union County hauler may try to come into a BCUA facility where there is a \$40 disparity in rate, or a Morris County hauler coming in.

SENATOR McNAMARA: You mentioned that one of the strong points of the siting of the incinerator is the ash landfill that is sited also. But at the first hearing of this Committee, it was testified that the ash landfill has a life of approximately seven to ten years. If that is a fact-- Is that a fact?

MR. CEBERIO: Yes.

SENATOR McNAMARA: Are there other ash landfills then that you have sited, or held in reserve beyond that period?

MR. MARTURANO: The memorandum of understanding which we have signed with the Bergen County Utilities Authority calls for that site at North Arlington to be the first site for the ash residual. The second site-- The next window of time is to be sited and designated by the Bergen County Utilities Authority. That second facility will be their responsibility. That is part of our agreement with them in the recently signed memorandum of understanding.

SENATOR McNAMARA: That kind of bothers me. When you close the ash fill-- Are there plans for the proper closure of that? Is that included in your program?

MR. MARTURANO: The operation of that facility and its closure will be handled by the Bergen County Utilities Authority -- of the ash landfill.

SENATOR McNAMARA: Of the first one, and of the second one, which they are going to site.

MR. MARTURANO: That is correct.

SENATOR McNAMARA: Where would they site it?

MR. MARTURANO: You're asking the wrong person. That is a question better directed to the Utilities Authority. I suspect that at this point in time, the answer is that there probably hasn't been any determination made.

MR. CEBERIO: But they would have to answer that question.

SENATOR McNAMARA: Thank you.

SENATOR AMBROSIO: I just have one final thing I would like to pose as a solution -- a temporary solution -- to the solid waste problem in the State, and ask whether you think there is any merit to this approach. We have on track the siting and building of resource recovery facilities throughout the State. We don't know what those requirements are going to be, because we haven't really put into effect the recycling program to find out how much we can reduce the waste flow. So, we are going to be building incinerators without knowing exactly what our needs are.

That is wrong with a philosophy that says: Let's make a commitment, in the short run -- in the three- to five-year term, to trucking our garbage to whatever state wants to take it, and there are many, many states that we can truck or rail our garbage to. While we are doing that, let's really get behind recycling, and not leave it to the Boy Scout/Girl Scout approach to recycling. Let's make a State commitment to recycling, and then over that three- to five-year period see what the waste flow really is, and then build those regional resource recovery facilities. Do you see any flaw in that?

MR. MARTURANO: I think the biggest problem with that is, if we don't make the decision on how big to build a plant until three to five years from this date, and the building of the plant itself is a two- or three-year minimum proposition, that means you would really be talking about trucking for closer to eight years. I think that is a serious concern. That is a concern that should bother all of us in North Jersey, because we are really in a very precarious situation regarding out-of-state disposal.

I think to stop the momentum that has occurred now-- I see Mike DeBonis here. Hopefully he will also have something to say on this. But, to stop the momentum that has occurred to date-- It took so long for us to get the train starting to move. God, I would hate to see us put the brakes on it. These things are modular units. If we determine that we don't need the fourth boiler at Bergen County, we will not put the fourth boiler in at Bergen County. I think that because they are modular, we can address that issue. That should really be a public education issue. The more recycling that is done over the next two years while these plants are being built, the smaller the plant can be.

SENATOR CONTILLO: Are you suggesting that we build a half a billion dollar plant and see what happens?

MR. MARTURANO: No, no, not at all. I don't think anyone disputes the need for the plant. I certainly don't dispute the need for the plant.

SENATOR CONTILLO: That is what the currently sized plant is going to cost us -- a half a billion dollars.

MR. MARTURANO: Right.

SENATOR CONTILLO: The dollar amount is frightening enough, but once you build a plant that size, we are going to get the ash from that plant for the rest of our lifetime. If it is not New Jersey solid waste, we don't want it here. If it is not New Jersey solid waste, we don't want it going out a

stack. We want to burn the least amount of material possible, and we want the least amount of residue. I cannot accept the concept of building a half a billion dollar plant, and if we don't need it, well, we will get the garbage from another city or another state, or maybe pull one unit back down, after we have really spent the bulk of the money anyhow.

MR. SCARDINO: Senator, I think I would be remiss if I didn't take the opportunity of this podium to remind all of us that where we have arrived today, right or wrong, because I don't care what the process is, especially one that is of the magnitude of the one we are discussing, there are bound to be some problems, and maybe even a few unintentional mistakes. But I think overall what you have to look at is the objective you set for yourself, the plans you make, and the time it takes to put those plans into effect.

We seem to have gotten the impression -- and I hope a lot of people don't get this impression -- that all of a sudden the idea of building a resource recovery plant here and putting an ash fill there, was conceived of only in the last couple of months, or the last couple of years. This is 10 years, or 12 years of planning. We tried, in that planning, to go in the best direction we could conceive of, or come up with, based on the research we had done.

For example, when we asked the question of Bergen County, at a time we were responsible for doing something for Bergen County -- and in that case we were talking about a resource recovery plant -- I remember that when we were dealing with alternatives, we knew that composting was an unknown quantity, and we also knew, based on experience, if you were going to deal in the particular realm -- because they really weren't talking too much recycling, Senator, as you know, eight or ten years ago-- But they were talking about composting. That was too small; it was too small. We were fast running out of landfills, so we had to respond to that. What do we do as

an alternative? Even at that time, there wasn't too much discussion about sending it out-of-state. The objective was to try to do something in-state.

Then we proceeded to research various resource recovery -- incinerators, if you will, throughout the country, and even in Canada, for that matter. People even traveled to other countries to look at them. The bottom line was, when they looked at plants that were recycling up-front -- source separation kinds of plants up-front -- at that time they weren't working. They were breaking down; they were not operational. In a number of plants, the systems weren't working because their precipitators -- their cleaning systems -- weren't working properly, so DEP, or their DEP, whatever state it might have been, would not allow them to function. The bottom line was, what we ended up with, and the process we are moving with, is a system that seemed to be working. That was your basic front-end, you know, the boiler-type system. The net result was an ash that had to be disposed of.

Now, we're dealing with a couple of things. This is important, though.

SENATOR CONTILLO: You are going to be dealing with things that you aren't even aware of yet. We are going to change the waste stream. We are going to require plastic manufacturers to deal with their products differently. We are going to prevent the plastic so-called "can" from coming into this State. The ground rules are going to change. They must change.

I understand that a decade ago there were different problems and different parameters, but they're new now. We are facing the 1990s and the year 2000. We are going to have a totally different ball game, with different approaches. There are hundreds of thousands of dollars in the old recycling bill to develop markets, as you pointed out, to encourage and finance recyclers. We are going to do whatever we have to do to encourage and accelerate those things.

If composting wasn't a good idea in those days, in South Jersey it may be a great idea, if you have the livestock to eat it. What I want to do is open up recycling to the businessman. I really want to get the bureaucrat and government out of recycling. That is what I want to see happen. (applause) Maybe that is because I am a small business guy myself. There is a place for us in government, but it is not in something that private enterprise can do.

MR. SCARDINO: Right, but in the meantime, we've got the plans in the works. There is a resource recovery plan for Ridgefield. The Army Corps has been sitting on the permit now for almost three or four years. They haven't moved on it, for whatever reason. We are trying to find out, but we still can't get an answer. If we need some emphasis, or some thrust, it is in that direction, encouraging them to get off the dime, because in the meantime, as you said, a \$160 million plant in 1981 is now a half a billion dollars. You're absolutely correct, and the longer it takes for them to make a decision on the permit, the more it is going to cost.

SENATOR AMBROSIO: Tony, we want to thank you and your staff for being here.

SENATOR COWAN: Mr. Chairman?

SENATOR AMBROSIO: Yes, Tom.

SENATOR COWAN: A few questions, please.

SENATOR AMBROSIO: Senator Cowan?

SENATOR COWAN: Anthony, if you would, please, I would like to get back to some of the basics.

MR. SCARDINO: Okay, Senator.

SENATOR COWAN: Actually, who is dumping in the Hackensack Meadowlands today?

MR. SCARDINO: Today you have Bergen County bringing its garbage to transfer stations, and Hudson County bringing its garbage to the baler facility in North Arlington.

SENATOR COWAN: Is there any of that Bergen County garbage being actually dumped in the Meadowlands, or is it all--

MR. SCARDINO: Well, when you say "dumped--" It is being placed on the floor of the transfer station, picked up, put in large containers, and sent out-of-state.

SENATOR COWAN: There is actually no remainder being dumped there?

MR. SCARDINO: No, none remains in the--

SENATOR COWAN: You have a consent agreement with New York -- the City?

MR. SCARDINO: No.

SENATOR COWAN: What type of an agreement do you have with New York City that they are allowed to dump there?

SENATOR CONTILLO: They're not.

SENATOR COWAN: There is nothing coming in?

SENATOR CONTILLO: I would say that's private.

SENATOR COWAN: Private -- not with the City? What is that consent agreement? What does that actually consist of?

MR. SCARDINO: I think you are referring to what Senator Contillo was referring to earlier. I like it when Tom Marturano stands next to me. He makes me look small.

SENATOR AMBROSIO: It also protects you. (laughter)

MR. MARTURANO: There was a consent agreement-- One of several consent agreements was entered into in 1980, I believe it was, commonly referred to as the "Gaulkin" order -- Judge Gaulkin. It involved maybe 10 haulers who were doing business in both New Jersey and New York at the time. It gave those haulers certain rights to continue to do business in both New York and New Jersey, and to dispose--

SENATOR COWAN: It was mutually consented to by the HMDC and whoever the people were who were bringing--

MR. MARTURANO: It was a consent order ordered by a judge. It came as a result of an action to stop them completely.

SENATOR COWAN: It was some type of compromise anyway.

MR. MARTURANO: Yes.

SENATOR COWAN: What do they actually bring in now, in tonnage?

MR. MARTURANO: I don't have the exact figure. I would roughly guess somewhere in the neighborhood of 200 tons a day. That is not all from New York though, see, because these facilities do a substantial amount of business in New Jersey as well, and the residue that comes in is mixed.

SENATOR COWAN: It is involved with interstate, right?

MR. MARTURANO: Part of it is interstate commerce; part of it is--

SENATOR COWAN: Well, it's about 200 tons a day you're getting in there now.

MR. MARTURANO: Yeah, from these recycling facilities.

SENATOR COWAN: Right. That hasn't increased over the course of time?

MR. MARTURANO: They are all recycling facilities. I should point that out -- "recycling facilities."

SENATOR COWAN: Of course, you state Bergen County doesn't have anything at all coming in now to the Meadowlands -- the site.

MR. MARTURANO: All burned kind of waste is being handled through their transfer station.

SENATOR COWAN: There isn't anything staying. So the only ones now are Hudson and the interstate corridor, so to speak.

MR. MARTURANO: There is one town in Bergen County which still disposes of its waste in the Meadowlands District, and that's North Arlington, the host community of the baler.

SENATOR COWAN: North Arlington? What do they generate?

MR. MARTURANO: I am not sure of the figure, but it is a very small amount.

SENATOR COWAN: When you were at your maximum, accepting it from four counties, what the total tonnage you were receiving?

MR. MARTURANO: Around 12,000 tons a day.

SENATOR COWAN: Twelve thousand tons? What was the breakdown for Bergen County?

MR. MARTURANO: I believe Bergen County was somewhere around -- close to 4000 tons.

SENATOR COWAN: Essex?

MR. MARTURANO: Essex -- about 4500.

SENATOR COWAN: Passaic?

MR. MARTURANO: Passaic and Hudson were mixed at the baler -- at the baling facility to about 3500, if that adds up right.

SENATOR COWAN: And Hudson was?

MR. MARTURANO: No, no. That 3500 was--

SENATOR COWAN: That 3500 was the total?

MR. MARTURANO: Yes.

SENATOR COWAN: All right. Of Passaic and Hudson. You have nothing definitive so you could identify the corridors as to what each county was bringing in -- what each county was generating?

MR. MARTURANO: I can approximate it for you. About 1500 tons was probably from Passaic, and 2000 from Hudson.

SENATOR COWAN: Now you claim that Hudson is up around 4400?

MR. MARTURANO: That is correct.

SENATOR COWAN: At your transfer stations, you do have inspectors who identify to make sure that it strictly comes from Bergen, etc.?

MR. MARTURANO: Yes.

SENATOR COWAN: What do you have at the baler?

MR. MARTURANO: The same thing. We have a full complement of--

SENATOR COWAN: The same thing? And there is no way of you identifying if what is being carted in there is coming from Hudson?

MR. MARTURANO: We do verify the loads coming in.

SENATOR COWAN: You do? And all of this increase, say, from 3000-- Originally it was 2000, right? And the total now, you have three-- It's in your statement, and I guess maybe you might want to correct that. But now you are actually stating that you are getting 4400, so you are almost double what you were getting originally. In fact, you are over double. Are you saying it is all being generated in Hudson County?

MR. MARTURANO: For example, the car-shredder facility in Jersey City--

SENATOR COWAN: Yeah, but Gevoni Bonomo (phonetic spelling) has been in business for years there.

MR. MARTURANO: Not all the material-- In fact, he didn't come to the baler at all. He used to go to the 1C Landfill prior to July 31, 1987. So that wasn't included in--

SENATOR COWAN: Which you closed?

MR. MARTURANO: I'm sorry?

SENATOR COWAN: Which was closed -- the 1C.

MR. MARTURANO: Yes, so that was not included in Hudson's waste flow, and neither was the City of Jersey City. Jersey City also used the 1C Landfill.

SENATOR COWAN: But you are required to accept that as Hudson County disposal, because you were accepting it all through the years?

MR. MARTURANO: Yes.

SENATOR COWAN: What attempts now-- Now you are up around-- You've gone from 2000 to 3000 and now up to 4400, so actually what would be generated even with those figures-- You're talking about somewhere in the neighborhood of 3000.

MR. MARTURANO: Yes.

SENATOR COWAN: But yet you're up to 4400, so you have 1400-- Have you extended yourself in any way to these municipalities or to the utilities authorities within Hudson County, to see if there isn't some way you can address this issue if there are illegal dumpers, so to speak?

MR. MARTURANO: Of course, we would accept help from anyone at anytime. Our problem is not with the residential or commercial waste coming in. It's a combination. Some of the problem is from the "recycling facilities," and a big portion of the problem is from the unaddressable waste, which would be the demolition. For example, all of these counties have transfer stations, but none of the counties' transfer stations address the asbestos problem.

SENATOR COWAN: You say that the big influx has been other than the Gevoni Bonomo. The big influx there has been demolition.

MR. MARTURANO: Yeah, demolition. Asbestos waste is a big problem in this State. We have not addressed the asbestos waste problem. There is no other way to get rid of it. All the haulers are supposed to be on their own, and that is the wrong way to be doing business.

SENATOR COWAN: I would think the people handling demolition are much different than the people handling normal waste. There would be some way of identifying those people, I would think. That is the point I am trying to make.

MR. MARTURANO: There is no problem identifying a demolition truck versus a truck containing more traditional residential/commercial waste.

SENATOR COWAN: You're saying there is that much construction work going on in Hudson County?

MR. MARTURANO: When a truck shows up, it is hard to determine where it originated from. They are required to hand in what is called an "Origin and Destination Form," where, in essence, the driver is signing an affidavit saying where this

waste was generated from. They sign this affidavit and hand it in to us, and the Origin and Destination Form will say Jersey City and other--

SENATOR COWAN: See, that's what I'm saying, in so many words; that actually the demolition contractor, so to speak, or even the haulers-- There are only so many. They are limited in number, and I would think that perhaps if you did reach out, if this is being generated somewhere other than Hudson County -- and I gather there has been a little innuendo here that it is being generated somewhere else -- you would be able to track it down and stop it, with the cooperation-- Certainly, Hudson County doesn't want to be accredited with waste that does not originate in Hudson County. Do you follow my point? I'm sure if you reached out, with your inspectors, with the staff you have, they would certainly love to be cooperative with you, because, just as has been mentioned earlier, we might introduce legislation just to get the HMDC out of-- If it would get this rate averaging thing away from us all, I would support it.

I say that in jest, but, nonetheless, you know, I am just making a suggestion. I don't mean to step in here as sort of an investigative Senator, but I come from Hudson County. I am sure that just as much as I am concerned with that -- and I am damned concerned when we talk about rate averaging -- everyone is concerned when it is going to mean the increase it will to Hudson County. If that is going on, we want to sustain ourselves for a period of time with that landfill because, as you indicate in your testimony, it is building up so rapidly now. You're saying that these people are bringing in stuff that shouldn't be brought in, unless I am misreading this, or misinterpreting it.

MR. MARTURANO: You're right on. Our problem is the fact that the demolition waste -- if, in fact, we are correct -- is being generated in jurisdictions other than Hudson

County. Having cooperation from the Hudson County people isn't going to necessarily help us with that problem. We need cooperation from the jurisdiction in which that is being generated. If they see a box in Essex County being loaded up with demolition, let's make sure that that box ends up at the Essex County Transfer Station, and not coming into our facility.

See, we don't need cooperation so much from the Hudson County officials. It's certainly great to have it, because they can check on the legitimate waste loads that are coming in. But you'll never be able to have control over every single box.

SENATOR COWAN: Again I repeat, the people involved in demolition, whether they be demolition contractors or demolition haulers, are limited in scope as to the category that exists within there. There ought to be some way-- With everything you have, isn't there some way you can identify where it is coming from, whether the man signs an affidavit or not? And when he does sign an affidavit, I'm sure-- If you were to take one of them and go the full course with it, I'm sure it would reduce the numbers that would want to be signing that affidavit when they were bringing illegal dumping into the Hackensack Meadowlands area.

Now, I have another question: In these transfer stations, how much do you receive as your service -- or your tipping fee, if anything? How much of that income? Does anything go into the Hackensack Meadowlands?

MR. MARTURANO: None of the--

SENATOR COWAN: You have lost all of that revenue?

MR. MARTURANO: Our statute is very clear on the separations of fundings. None of the moneys generated from any of the solid waste activities can be used to pay off any of the general HMDC expenses. They can only be used for solid waste-related expenses. Likewise, none of the appropriation we get from the State can be used to pay for any solid waste

expenses. Any solid waste expenses must be raised from the tipping fees.

SENATOR COWAN: All right, let me rephrase that: How much revenue do you receive -- the HMDC? How much revenue comes into the HMDC from transfer stations as they exist today -- anything?

MR. MARTURANO: We collect funds-- All of the money collected at the baler comes into the HMDC to be paid out for operations or is put into escrow accounts for closure and post-closure. So, all of the money collected at the baler facility ultimately comes to us for dissemination to either operating or closure and post-closure.

SENATOR COWAN: As far as the transfer stations are concerned, there isn't anything that comes in? You do not receive anything from Essex County?

MR. MARTURANO: No.

SENATOR COWAN: Bergen or Passaic?

MR. MARTURANO: With Bergen, there is a--

SENATOR COWAN: All of Bergen.

MR. MARTURANO: With Bergen-- There is a \$7.29 rate averaging charge which is paid by Bergen County, which we do collect as well, and it goes towards our administrative and closure and post-closure.

SENATOR COWAN: Okay. How many landfills have you actually closed out there now?

MR. MARTURANO: Closed -- and I am not trying to play semantics with you -- in terms of stopped operating, or closed in terms of the state-of-the-art term meaning--

SENATOR COWAN: Full closure, full closure.

MR. MARTURANO: The 1A Landfill has the clay cutoff all around it and the leachate collection system, and we are in the process of capping it. That will be the first one which will be completely closed.

SENATOR COWAN: When do you anticipate doing the next one?

MR. MARTURANO: We will probably go out to bid for the first phase of the closure of the big landfill -- the 1C baling facility -- probably late summer of this year. That is the first phase, but that is a long-term project. It is probably going to span close to three or four years.

SENATOR COWAN: What was the cost for the 1A closure?

MR. MARTURANO: The costs to date are somewhere in the neighborhood of seven million.

SENATOR COWAN: For 1A?

MR. MARTURANO: For 1A, right -- for the 1A Landfill.

SENATOR COWAN: Did all of that funding come from the Hackensack Meadowlands Development Commission?

MR. MARTURANO: All that money was raised through the tipping fees at the various facilities.

SENATOR COWAN: How much do you have now? As far as the revenues that exist now, how much do you have?

MR. MARTURANO: I don't have the audit reports with me, but somewhere in the neighborhood of \$80 million.

SENATOR COWAN: Eighty million dollars? Okay. Thank you.

SENATOR CONTILLO: I promised the Chairman that I wouldn't delay the hearing, but I have one question, and maybe you can help me to help you. You said the problems you have with the recyclers-- Tell me what those problems are, and maybe we can rectify them, because I think that is essential.

MR. MARTURANO: The basic problem we have is with the percent in, percent out concept. It is very difficult for us. These facilities-- Many of them are unregulated facilities. They don't have permits. Some have permits, but there are quite a few that don't. They take waste in, and there is no standard. There should be a standard. You must meet a certain percent recycling to qualify as a recycling facility, in my opinion. That does not exist today. That standard is needed. You can call yourself a recycling facility if you take out 5%

of the waste that comes in. Okay? There is just no standard for it. It should be a much stiffer standard.

If you want to get credit as a recycling facility and all that that provides you under the new law, then you should be removing a very high percentage of the waste coming in.

SENATOR CONTILLO: Such as? Give me a number, if you want to.

MR. MARTURANO: Ninety-five percent.

SENATOR CONTILLO: So, you could win easily with 5% residue?

MR. MARTURANO: Yeah.

SENATOR CONTILLO: Ten percent residue?

MR. MARTURANO: In fact, I think that is what the -- and Mike DeBonis can speak to that -- DEP's new--

SENATOR CONTILLO: In other words, you are suggesting that if someone could recycle half a load-- You don't want them to recycle it, you want the whole load.

MR. MARTURANO: No, no, no, not at all. In my opinion, that facility needs to be regulated. Okay? Under the new law, you don't need a DEP permit if you produce a de minimis amount of residue. You can set up a recycling facility and not need DEP permits--

SENATOR CONTILLO: Right. We are going to change that. I don't know when it is going to be, but we are going to change it. I am giving you an opportunity now to talk about it.

MR. MARTURANO: Oh, realistically, if you are going to regulate all of them, then I think somewhere in the 65% to 70% range is the number you should be looking at, in terms of recycling from incoming waste. I think that is something-- We should also put something in there about the type of waste.

SENATOR CONTILLO: But then you have to know what comes into the facility before you can enforce that.

MR. MARTURANO: Well, DEP regs technically require these facilities to weigh the trucks coming in and to keep

accurate records, including O&D forms of where that waste was picked up. That is where the incoming waste could be regulated from.

SENATOR CONTILLO: Okay, thanks.

SENATOR COWAN: Just getting back to when you first started in the garbage business, what was the price on a tipping fee per ton?

MR. MARTURANO: Four dollars and fifty cents.

SENATOR COWAN: Four dollars and fifty cents?

MR. SCARDINO: No, wait, Tom, hold up. You're talking about how far back, Senator?

SENATOR COWAN: When you started in the garbage industry.

MR. SCARDINO: It was a buck and a half to \$2 per ton.

SENATOR COWAN: When was that?

MR. SCARDINO: Back in the early '70s -- late '60s, early '70s.

SENATOR COWAN: From what I asked before, we are now paying \$27 a ton, is that correct? That is what you are getting there now?

MR. SCARDINO: In Hudson County, yes.

SENATOR COWAN: And that was when everyone was in there dumping -- Bergen, Passaic, Essex? Regardless of who, that was the price that was set?

MR. SCARDINO: Yeah, it was in that area.

SENATOR COWAN: You could live with that, and generate a-- We won't call it a surplus, because we don't have all the full closures made, but you could generate \$80 million. Correct?

MR. SCARDINO: Eighty million dollars as required by law, in order to--

SENATOR COWAN: Well, no, I'm not just saying that.

MR. SCARDINO: Yeah, correct, absolutely.

SENATOR COWAN: You know, I'm just-- If you have \$80 million, I would like to see you have \$180 million.

MR. SCARDINO: Right, okay.

SENATOR COWAN: I have no problem with that at all. Maybe all of the corridors have been pleased with it, I'm sure, too, over the period of time, although not totally. But now, when we get down to using the figure of \$27 per ton-- What is it costing Bergen County now?

MR. SCARDINO: Ninety-eight.

SENATOR COWAN: Ninety-eight?

MR. SCARDINO: Ninety-one.

SENATOR COWAN: Ninety-one. And Passaic?

MR. SCARDINO: Passaic, \$65.

SENATOR COWAN: And how much is it costing Essex?

MR. SCARDINO: Essex, \$102.

SENATOR COWAN: Do you think -- and I don't mean this to be an unfair question -- as experts in the field, and you are now, even though a public semi-autonomous, or, some people think, an autonomous agency, that you could have done better if you generated prices for Essex; say, if they came to you, and said, "As the experts in the field, will you go out and find us some dumping sites, and work up an agreement for us as to the cost for this garbage disposal, which we can no longer take?" Do you think it might have been possible for you to generate better figures for them?

MR. SCARDINO: The only way I can answer that, Senator, is to say that anything is possible.

SENATOR COWAN: And now, for my final question -- and it isn't a question, it is sort of rhetorical. It seems to me that an agency generated by us legislators would be coming around asking for rate averaging, when you no longer have an interest in the amount of money that will be coming from the other three counties. Correct?

MR. SCARDINO: Well, not entirely, because this was established before, and we are still very much involved.

SENATOR COWAN: Well, you won't be, though, because these people now are all paying these other figures, and that, of course, is regulated by the BPU, so to speak. But, I asked the question before: How much of this money did you receive? The only one you get anything from is Bergen. So why would you have an interest, you know, in getting \$7 from Bergen? Why would you have an interest in bringing up Hudson County's rate to whatever God-forsaken figure it may be -- three or four times its existing figure -- when actually there is no remuneration to you?

MR. SCARDINO: I think I will let Tom answer after I do, but I would like to just try to tackle that.

SENATOR COWAN: This is my last question.

MR. SCARDINO: Okay. I hope, for everybody's sake, that this is my last answer. In response to your question, from our standpoint, Senator -- and you are not going to particularly like the answer, but, you know, we all have to deal from our various levels of responsibility here, and we have, we feel, a very strong responsibility to say it the way we see it-- We firmly believe, based on the experience of rate averaging, regardless of how it falls, and, unfortunately, it does fall hard on Hudson, that it is the right way to go. It stabilizes the rates. You've got to build into that also a system that monitors the costs involved, monitoring the amounts you are going to be asked to pay for the garbage, but unless you stabilize those rates, what you are experiencing now in Hudson County at \$27.50 a ton in 1988, I will submit to you now -- and I don't mean to imply that I can look into a crystal ball, but I can certainly look back at experience -- that the price of garbage has not gone down, it's gone up. It has gone through the roof; it has gone through the ceiling. A year and a half from now, when Hudson County's landfill closes, I don't think you are going to be talking about \$65 or \$102 a ton. At that time, you are going to wonder why you didn't get into rate averaging today.

It is not an issue against Hudson County, or for another county. It is an issue that is necessary in order to stabilize the rates for all of the people in the State. Otherwise, you are going to have a hodgepodge situation, and you are going to have people breaking laws, because they are going to want to bring their garbage to facilities that are less expensive. It will continue.

SENATOR COWAN: You're the experts. We regard you as such. Believe me, I fully agree with almost everything you have done. You have done an excellent job. I know you get a lot of flak here and there, but you have done a tremendous job in preserving, no doubt about it, and in bringing development. But, as you just stated, we want to do something as far as the rate averaging is concerned. You mentioned the State. Maybe that is what you should be looking for.

MR. SCARDINO: We have. Senator, just to respond, for the record--

SENATOR COWAN: Instead of bringing in something where you are only relating it to six or seven counties--

SENATOR AMBROSIO: This is Senator Cowan's fourth last question, and your fourth last answer.

SENATOR COWAN: I generally don't get wound up, Gabe. As you know, I generally play it easy, but go ahead.

MR. SCARDINO: For the record, Chairman Coleman, who is the Commissioner of DCA, but also the Chairman of the Meadowlands Commission, and our Commissioners are on record as supporting rate averaging for the entire State. We went as far as to suggest that you can't necessarily charge the same rates in South Jersey as you would in North Jersey, because there is a difference in cost involved -- cost of living, if you will. So we suggested that maybe one way to look at it is to split the State in half, and have a section down there and a section up here. Or, you may want to split the State into threes or fours. But there is a way you can do it. We have been working

on those numbers. As we indicated earlier, we will be submitting to you some of those facts and figures in the future.

MR. MARTURANO: What everyone seems--

SENATOR COWAN: I think it would be a good idea to hold the present legislation and amend your statement until such time as we get that.

MR. SCARDINO: We have it already.

MR. MARTURANO: What everyone seems to forget regarding the rate averaging issue, is that the concept of rate averaging stands, regardless of what the dollar amounts are. The concept of it is, you have solid waste facilities in close proximity to each other, and economics is what drives haulers to use certain facilities, regardless of waste flow orders. That is the concept behind it. By equalizing the solid waste facilities, we are better able to control the waste flow planning. That is the concept behind it. It is really independent of what the dollar amount is. That was the key to why we had it--

SENATOR COWAN: That is not the case right now, Tom. It is the dollar amount.

SENATOR AMBROSIO: If I might, there is a--

SENATOR COWAN: I'm sorry to belabor the point, but it was brought up in this statement that you want a rate averaging, so I have to address it.

SENATOR AMBROSIO: Senator, if I might, there is a Senate hearing currently going on, on this subject. I am sure you are aware of it. I would suggest that you ought to get involved in it.

I think the questions that were raised by Senator Cowan and your answers have to be addressed. Okay? Thank you, Tony.

MR. SCARDINO: Thank you for the opportunity.

SENATOR AMBROSIO: Our next witness is from the Department of Environmental Protection -- Mr. Michael DeBonis, Director, Division of Solid Waste Management.

M I C H A E L D e B O N I S: Thank you very much, Senator and members of the Task Force. Let me just say that I have a very, very brief statement. I will certainly be happy to answer any questions you might have. I assume there are some questions left, but we'll see when we get to them.

The Task Force is well-aware that prior to the passage of the Solid Waste Management Act, New Jersey had approximately 400 landfills -- open dumps -- call them what you will. A substantial number of our municipalities had them, and there were some very, very large sites in the Meadowlands servicing out-of-state interests in the north and New York waste. There were substantial number of sites in Burlington, Camden, and Gloucester Counties in the southern part of the State servicing Philadelphia. Service to Philadelphia ran right up until 1984, when the Kinsley Landfill was shut to the City of Philadelphia.

The Legislature recognized that we couldn't go on with that many landfill sites and, of course, they passed the Solid Waste Management Act. The original Act provided for registration and permits for solid waste facilities, but still no specific limit as to the number of facilities; no measurement of the number of facilities versus the amount of waste that was generated in New Jersey.

The 1975 amendments established the planning process and established the 21 counties and the Meadowlands District as Solid Waste Management Planning Districts. All of the counties and the Meadowlands did their plans. The unique part about the Meadowlands plan, was that it had to relate back to their statutory mandate in 1968, in that basically they were providing service not for themselves, but for others, for those municipalities and counties which were dumping in the Meadowlands as of 1968. Nevertheless, those other counties also did plans which called for the establishment of facilities of their own.

As the solid waste management plans began to be implemented -- and it was much later than we had hoped, because of our many siting difficulties -- the number of user counties and municipalities using Meadowlands facilities began to decrease. Essex County left the Meadowlands, as you know, last July 31, in favor of a transfer station system which takes their waste to landfills in Pennsylvania. Passaic did so in the fall of last year, and Bergen County did so on March 1 of this year. Only Hudson County remains. In the case of the other three counties, the actual date upon which those counties would stop using the Meadowlands facilities was determined as a result of judicial action, and a judicial consent agreement signed by the county involved, the Department, and the Meadowlands. In Bergen's case, it was based on an agreement between the Utilities Authority and Bergen County and the Meadowlands Commission themselves. Again, only Hudson County remains, and there is no specific deadline date established for the removal of Hudson from the Meadowlands. In fact, there is current litigation, as I am sure you know, regarding the extent of Hudson's rights to dumping in the Meadowlands.

The Department's position in the litigation is that it is the Commissioner's responsibility under the Solid Waste Management Act, and moreover his obligation, to resolve any particular conflicts between districts regarding solid waste planning matters. In this particular case, the conflict arises as a result of the fact that the Meadowlands -- the twenty-second district, if you will, is, in fact, superimposed upon Bergen and Hudson Counties physically.

The Commissioner has already invited the principals in that particular matter -- County Executive Janiszewski, Commissioner Coleman, and Director Scardino -- to a meeting to try to resolve those particular issues. That meeting will be taking place within the next two weeks.

So, currently the Meadowlands still certainly has its zoning authority and has, in fact, served as host municipality now for the Bergen County Transfer Station. They will also serve as host district for the Hudson County resource recovery facility and the Hudson County residual waste landfill, and also the residual waste landfill and resource recovery facility for Bergen County. They also have ongoing responsibility for the ultimate closure and capping of the specific landfills which Tom Marturano mentioned earlier. So, apparently their operator-- In the future, we envision them to be certainly at a minimum a host district for those Hudson and Bergen County facilities, and they will be steward also of the specific closed landfills for which they have responsibility.

I believe with that I am going to end my statement, and ask you to provide any questions you would like, and we will try to get to the specific issues you are interested in.

SENATOR AMBROSIO: Mr. DeBonis, would you give an overview of the relationship between DEP and the HMDC, with regard to the policy development, implementation, and regulation of the solid waste industry?

MR. DeBONIS: Regulation of the industry?

SENATOR AMBROSIO: Well, let's talk about policy development. Does the policy come from the DEP or the HMDC?

MR. DeBONIS: Well, the State has established a Solid Waste Management Plan. There was some dispute over that, but it was resolved in the Mastrangelo litigation.

SENATOR AMBROSIO: I guess my question is: Do you consider yourselves coequal with the HMDC, or do you regulate the HMDC?

MR. DeBONIS: We consider the Meadowlands a district, Senator -- one of the 22 solid waste management districts. Again, they have very specific and unique responsibilities from the standpoint that they do not generate the amount of waste they are actually called upon to handle. Again, they are also

the operator of facilities for others. But clearly it was the State DEP which was charged with the overall stewardship of the Solid Waste Management Act, and the Meadowlands was one of the 22 districts.

SENATOR AMBROSIO: Yet, the Meadowlands Commission has in place a force that implements and enforces your regulations.

MR. DeBONIS: Absolutely. We work with them and, in fact, they have more inspectors than we do to cover the waste flow enforcement aspects, at the bale fill in particular. One of the reasons for that is because obviously it is in their best interest to ensure that only the legitimate waste goes into the bale fill. And secondly, they can incorporate some of the charges for that in the tipping fee itself. I'm afraid that the Department does not have the luxury of providing itself with additional inspectors that way. I certainly don't mean that in any disparaging way to the Meadowlands Commission. It is just that they can do it and we can't.

SENATOR AMBROSIO: What is your position with regard to the rate averaging question?

MR. DeBONIS: The rate averaging matter is currently before the Office of Administrative Law as a result of the Board of Public Utilities sending it there. There are a variety of issues involved in that, Senator. We don't really have a specific answer at this point. We are waiting for the OAL and the Board of Public Utilities there. You can make a case for rate averaging based on the fact that the counties were previously disposing in one area. You can make a case for it statewide, and you can also make a case against it. The case for it can address such issues as why Hudson County should be allowed to dump in the Meadowlands longer than other counties. Perhaps there are some good reasons. Perhaps because more of Hudson County's real estate is in the Meadowlands than other counties. Perhaps that is not a valid reason.

You could make a case for statewide rate averaging by saying everybody should charge the same and there will be no economic incentive. Is it fair, though, to have the counties in southern New Jersey, which have invested real estate and time in the business of siting county-wide landfills with state-of-the-art controls-- Is it fair to average those \$40 and \$50 costs with the costs being paid by the northern counties of \$125 and \$135 and even \$140 a ton for medical waste to go out-of-state?

SENATOR AMBROSIO: Do you have answers to the questions you are raising?

MR. DeBONIS: I honestly don't. I raised them rhetorically only to say that all of those issues are going to be addressed in the Office of Administrative Law proceeding. The Department does not pretend to have a pat answer or a final position on rate averaging at this point.

SENATOR AMBROSIO: Well, there is something I don't understand. The overall responsibility for solid waste planning belongs in DEP. Isn't that true?

MR. DeBONIS: Yes, absolutely, Senator.

SENATOR AMBROSIO: Now, I don't understand why an OAL hearing would impact on that, when the OAL judge has no other authority but to issue a report and recommendation back to you, so that the ultimate decision is going to be-- The DEP Commissioner will make the decision.

MR. DeBONIS: Senator, the case was sent to OAL by the Board of Public Utilities. In fairness, the Attorney General has issued an opinion that the Department should participate in any final decision on rate averaging, and that it should be a joint DEP/BPU decision, but the case was brought before the Board of Public Utilities by Essex County, not before the Department.

SENATOR AMBROSIO: But DEP has no position now on rate averaging?

MR. DeBONIS: Not at this point.

SENATOR AMBROSIO: Is there any contingency plan in effect to deal with the solid waste flow in this State, should the borders of other states be suddenly closed to our solid waste?

MR. DeBONIS: There are contingency plans. Some of them involve individual county plans regarding alternative landfill sites within the counties. The Department has also engaged a study to look at closed landfill sites which still have physical capacity throughout the State. We have not ruled out any particular sites, nor singled out any particular sites at this stage of the study and, very frankly, we are very remiss to discuss any specific sites as part of that study because of the fact that we don't want to have our attention drawn away from specific sites or getting the job of evaluating them done by virtue of the fact that people will say to us, "You're not considering this site," or, "You're not considering that site." So, very frankly, we are trying to keep that as close as possible while we proceed with that study.

SENATOR AMBROSIO: How is the solid waste management plan that has been adopted, being enforced? In particular, how are we dealing with out-of-state dumpers? Is that something that your Department gets involved with, or do you leave it to agencies like the HMDC to deal with?

MR. DeBONIS: No, we do get involved in it, Senator, but the only legal dumping by out-of-state entities in New Jersey is a small percentage of waste, as Tom Marturano indicated, from New York businesses which utilize certain transfer stations and recycling facilities in Hudson and Bergen Counties, and who are allowed to dump a limited amount of the residue, notwithstanding the fact that it comes from New York, into the HMDC facilities. But that is the only out-of-state waste we are aware of.

SENATOR AMBROSIO: What is DEP's position with regard to how we define and regulate recycling centers?

MR. DeBONIS: Recycling centers, under the mandatory recycling legislation, do not get permits from DEP. They are still required to be included in the county plans, as we interpret the legislation.

SENATOR AMBROSIO: Why is that so? If we are taking solid waste and diverting a certain portion away from the solid waste flow, why should they be included in the solid waste management plan?

MR. DeBONIS: Recycling centers alone taking source-separated recyclable materials-- We really should look at two cases, Senator. One is a case of a facility accepting solely source-separated materials, or commingled glass and cans, which are easily separable at the site, without putrescible solid waste in them. Those facilities do not require a permit but, as I understand it, they are still required to be in the solid waste management plan. They just were not exempted from the legislation.

SENATOR AMBROSIO: Does that make any sense to you?

MR. DeBONIS: We could implement it the other way without putting them in the plan but, frankly, some of the issues regarding the validity of the recycling process itself, in terms of this issue of half recyclables, half not-- Those facilities are in a different category. They must be included in the plans. I think the specific issue of the recycling centers will be addressed. As Senator Contillo indicated, we have meetings ongoing with him to discuss that issue.

SENATOR AMBROSIO: Do you want to pick up on that, Senator Contillo?

SENATOR CONTILLO: I think probably the things we have to discuss will really deal directly with the recycling. We can probably deal with it better Monday, because we are going to redo, although it may be secondary in importance, what people think we meant a few years ago and how it is being implemented. I think we are going to adjust many of those things.

I am just curious what you consider source-separated now?

MR. DeBONIS: Source-separated would be materials which are separated by type so that, in effect, they can be reentered into the secondary material stream, such as source-separated aluminum, source-separated glass, newspaper, etc.

SENATOR CONTILLO: I, personally, meant -- and I have gone over this from my notes with the staff-- When the legislation was written, we meant source-separated as to separate recyclables from non-recyclables. That is the source separation that we intended. I guess this is typical of where we start at one place and you start enforcing and then go off in a different direction. That is one of the items we are going to have to correct.

SENATOR AMBROSIO: Anyone else? Senator Cowan, anything? (no response) Mike, thank you very much.

MR. DeBONIS: Thank you very much, Senator.

SENATOR AMBROSIO: We are going to take a five-minute break, and I mean five minutes. We are going to review where we stand, what other witnesses we have, and who we are going to reach tonight.

(RECESS)

AFTER RECESS:

SENATOR AMBROSIO: We are going to reconvene. Ladies and gentlemen, I would like to get moving, so we can get as many of the witnesses on as possible. I think there is a fair possibility that everyone who has signed up will be reached. I think the HMDC's presentation was the longest. I have talked to some of the other witnesses, and I think we can move pretty rapidly.

I would like to indicate that representing Senator Cardinale is John Strachan, who has been here throughout the proceedings. Senator Cardinale indicated that he might be here later.

The next witness is from the Board of Public Utilities -- Mr. Michael Kessler, Director, Division of Solid Waste. Michael?

**M I C H A E L K E S S L E R:** Good evening, Senators. The Commissioners of the Board of Public Utilities have asked me to convey their thanks to the Task Force for the opportunity to have some of the Board's concerns placed on record tonight. However, in light of the fact that the HMDC now has pending before the Board -- is involved in several matters now pending before the Board, they felt it was not appropriate for a Commissioner to attend tonight and make any statement or testimony.

Instead, they have asked that I appear. I am the Director of the Board's Division of Solid Waste. I really don't have any prepared remarks to present to you tonight. I would simply like to note for the record very briefly that the Board's jurisdiction over the HMDC is an economic jurisdiction. It derives from the fact that the HMDC operates a solid waste disposal facility which, by definition of the statutes in New Jersey, makes it a public utility. The Board, I would note, would have similar jurisdiction over a transfer station which may or may not be operated by the HMDC in the future, should they opt to go in that direction.

The economic jurisdiction of the Board is basically concerned with rate setting for the disposal of solid waste at the HMDC facilities. We do not have direct authority to regulate. We do not have jurisdiction over the development of the HMDC Solid Waste Management Plan. We do have an opportunity to comment on amendments which are proposed to that plan, in the context of DEP's review of the same, but that is the extent of our jurisdiction in that respect.

I would just note briefly that the rates set for disposal at the HMDC right now allow for the operation of the facility. They are also set so as to allow collection of funds necessary for the proper closure and post-closure care of the landfills, and to monitor the sites in accordance with the statutory requirements.

Additionally, a portion of that fee for disposal allows the HMDC to -- as you have heard already tonight -- engage in enforcement activities, to assure that the waste flow received by the HMDC is appropriate. Obviously, if they are receiving out-of-district waste which is not directed there, that will very quickly shorten the life span of that facility, and will require the initiation of an alternative disposal method for Hudson County which, in all probability, will be a more expensive alternative.

With respect to the general working relationship, or regulatory relationship between the Board of Public Utilities and the HMDC, I would simply note at this point that the Commissioners have asked me to convey to the Task Force that that relationship is a good one, and a cooperative one.

With that, I would close my remarks, and take any questions the Task Force members may have.

SENATOR AMBROSIO: Mr. Kessler, I can't help but comment on your remark that the BPU has enforcement authority and jurisdiction over the waste flow. How do you have that?

MR. KESSLER: The Board's authority over the waste flow derives from the-- Well, it doesn't derive from, it is outlined in the Mastrangelo case, which gives the Board the jurisdiction to assure that solid waste is disposed of properly within any given solid waste management district in the State. DEP has the authority and the obligation to assure the proper waste flow when the waste is directed inter-district. That was the court's interpretation of both the Solid Waste Management Act and the Solid Waste Utility Control Act.

SENATOR AMBROSIO: So, you're saying DEP has the right to direct the waste flow, but once they direct it, you have the right and you have the power to see to it that it is properly carried out.

MR. KESSLER: Yes, sir.

SENATOR AMBROSIO: What kind of enforcement powers -- enforcement arm do you have, never mind the powers? Do you have an enforcement staff? Do you go out and inspect? How do you do it?

MR. KESSLER: We have approximately 20 investigators on the Board's staff.

SENATOR AMBROSIO: For the entire State?

MR. KESSLER: That is correct.

SENATOR AMBROSIO: What is BPU's position with regard to rate averaging?

MR. KESSLER: Officially, the Board does not have a position at this point. The question of whether or not it should be implemented, and the scope of that implementation, is now pending before it. The position the Board eventually takes will await the outcome of the hearings at the Office of Administrative Law. I am not certain of the schedule, but the matter is now pending there.

SENATOR AMBROSIO: Is it your position that the Board of Public Utilities has the power to order rate averaging without any additional legislation?

MR. KESSLER: That is the position which has been-- That is the advice that the office of the Attorney General has given to the Board, yes.

SENATOR AMBROSIO: So, you could implement the rate averaging order on a regional basis, without any change in the legislation?

MR. KESSLER: If the Attorney General is correct, yes.

SENATOR AMBROSIO: I can't help but ask this question, because for the life of me, I don't understand how we set up a

regulatory process for the solid waste industry where we have defined as a public utility the solid waste haulers. Have we done that?

MR. KESSLER: Yes, sir.

SENATOR AMBROSIO: And yet, we don't give them franchises and we demand that they compete with each other.

MR. KESSLER: That is correct.

SENATOR AMBROSIO: And then we require them to file tariffs and all their tariffs are different.

MR. KESSLER: That is correct.

SENATOR AMBROSIO: Does that make any sense to you at all?

MR. KESSLER: I will agree with you, sir, that it creates a very difficult situation for most folks.

SENATOR AMBROSIO: No, my question is: Does that make any sense?

MR. KESSLER: I think it makes some sense.

SENATOR AMBROSIO: Would you tell me what sense it makes?

MR. KESSLER: It makes sense, in my own opinion--

SENATOR AMBROSIO: Well, let me ask the question a little differently. What are we trying to accomplish by that policy?

MR. KESSLER: As I understand the intent of the Utility Control Act, it is to foster competition in the solid waste arena.

SENATOR AMBROSIO: Now, we do that by requiring that every hauler file a tariff. They can't charge more than the tariff they filed or less than the tariff they filed. Is that right?

MR. KESSLER: That is correct.

SENATOR AMBROSIO: How can they compete with each other when they all have different tariffs, and all you have to do is find the one with the lowest tariff and go to that person?

MR. KESSLER: You could. The competition theoretically can be generated by the ability of the hauler to come to the Board and say, "I want to adjust my rate," either upward or downward, "to reflect the market in the area in which I wish to compete." Haulers at the bottom line have control over a portion, at this point, of their expenses -- not all of them. Their disposal charges are not under their control, but there are some pieces of their business over which they do have control.

SENATOR AMBROSIO: Do you support that policy of requiring the haulers to be under the BPU?

MR. KESSLER: As the Director of the Division of Solid Waste, I have no choice but to support that policy. It is my job to see that it is carried out and enforced to the best of my ability.

SENATOR AMBROSIO: At the present time, the Bergen County Utilities Authority is not under the jurisdiction of the BPU. Is that right?

MR. KESSLER: Yes, sir.

SENATOR AMBROSIO: So, any rates they set are set in-house, without any control or authorization from the BPU.

MR. KESSLER: That is correct.

SENATOR AMBROSIO: That's all I have. Senator Contillo?

SENATOR CONTILLO: I'm puzzled. You have the right now to set, in effect, what is rate averaging. You could set an interim rate, and then have the Office of Administrative Law decide to try it or correct it or adjust it. Is that correct?

MR. KESSLER: Yes, sir. If, as I said before, the opinion rendered by the office of the Attorney General is correct.

SENATOR CONTILLO: You said that four or five times -- if his opinion is correct. Do you have some reason to doubt that the Attorney General of the State of New Jersey's opinion is correct?

MR. KESSLER: Not personally, but it is being challenged by other parties to that proceeding.

SENATOR CONTILLO: Fine. I assume that usually a body would take the advice of its attorney. Could you tell me why you have not gone forward to stop this madness that is going on in this county and in other counties?

MR. KESSLER: At this point, the Board has not acted on that advice, because the advice is that the Board has the authority to do so. It doesn't have the obligation to do so.

SENATOR CONTILLO: I understand that. I am asking you why the Board has not proceeded? Do you know why?

MR. KESSLER: It has been their decision that they want to have a full airing of all--

SENATOR CONTILLO: Did they take a vote on this?

MR. KESSLER: I don't recall if the referral of the matter to the Office of Administrative Law was voted on at a formal meeting, but I would point out that it is not really necessary for that action to take place.

SENATOR CONTILLO: Could you send me whatever action took place that reenforced that decision?

MR. KESSLER: Yes, sir.

SENATOR CONTILLO: Was it a verbal conversation? Was it a telephone conversation? Was it a memo? Could you tell me how the Board decided they were not going to follow the advice of their counsel?

MR. KESSLER: Respectfully, sir, my letter would not say that the Board has chosen not to follow the advice of its counsel.

SENATOR CONTILLO: They took the option not to exercise one of their rights.

MR. KESSLER: Not to exercise it, at their discretion.

SENATOR CONTILLO: Could you tell me why? I would like to know why.

MR. KESSLER: Yes, sir.

SENATOR AMBROSIO: Are you finished, Paul?

SENATOR CONTILLO: Yes.

SENATOR AMBROSIO: Anyone else?

SENATOR COWAN: Could you tell me when-- As the regulator of the waste disposal, when did the concept of rate averaging come into being?

MR. KESSLER: I believe the first rate averaging system was put into place in the early 1980s in the HMDC District.

SENATOR COWAN: Where?

MR. KESSLER: Pardon?

SENATOR COWAN: Where?

MR. KESSLER: I believe it covered the four counties which were disposing of their waste at the Hackensack Meadowlands District at that time.

SENATOR COWAN: How was that really initiated? Was it initiated by the HMDC? Was it initiated by the four counties? Who brought it forth to the BPU, or did it come from the BPU?

MR. KESSLER: I don't have the answer to that, sir. That occurred prior to my employment at the Board of Public Utilities. I will, if you like, check into that, and--

SENATOR COWAN: Would you get that information to me, please?

MR. KESSLER: I will provide it for you, certainly.

SENATOR COWAN: Okay, thank you very much.

SENATOR AMBROSIO: I would like to ask you two other questions: Did the BPU approve the rate -- the \$102 per ton rate that Essex County is charging?

MR. KESSLER: On a temporary basis, yes.

SENATOR AMBROSIO: Were you part of those hearings?

MR. KESSLER: No, I was not. That was prior to my appointment to the position of Director.

SENATOR AMBROSIO: I understand that the hearings that took place on that rate did not include any testimony from

private operators of transfer stations, in terms of what they were actually charging to take their garbage out-of-state, because at the time they considered that, private operators were transferring garbage out-of-state at significantly lower rates. But there was no testimony whatsoever taken into consideration before that \$102 per ton rate was set. Are you aware of that? Can you confirm that?

MR. KESSLER: I believe that is correct. I can't confirm it definitely.

SENATOR AMBROSIO: This gets back to Senator Cowan's comment that before we can put a rate averaging system in place, we have to make sure that the one county that is charging \$102 per ton has a realistic rate, and that it was a competitive rate and was arrived at through some source -- that they attempted to get the lowest rate. I am not at all convinced that that was done in the Essex County situation.

That's all I have. Anyone else? (no response) Thank you very much, Mr. Kessler.

Next will be Richard Sullivan, former Commissioner of DEP, here to testify on behalf of Alternatives to Resource Recovery.

R I C H A R D J. S U L L I V A N: Thank you, Senator, for the invitation to appear and speak. I speak tonight on my own behalf.

For decades, the Meadows were considered to be, and were treated as a wasteland. I remember that is how they were referred to when I was a child and lived in Hudson County. They were referred to as undrained, unimproved property. One of the clearest recollections I have about the legislation that was adopted in an attempt to change this was, first, that Richard Hughes and Paul Ylvisaker and Fairleigh Dickinson, all for a brief period of time, appeared in the same place and provided the catalyst for the adoption of legislation, which adoption, I think, surprised even them.

I attended hearings in Hudson County when that legislation was under consideration. The home rule protests of 14 mayors were overcome, but the protests of more than 100 other mayors, concerning garbage, were not overcome. That day, their request for a guarantee that the Meadowlands continue to serve as the biggest repository -- maybe anywhere, I don't know -- of garbage, was incorporated in the bill as a condition of its adoption. That included then in the charter the responsibility for the disposal of the waste of 118 municipalities, many obviously not having any territory in the district.

Of further interest to those who studied the statute: The Commission was given no instruction on how to proceed to dispose of all this waste, while at the same time carrying out the essential mandates of the statute, to plan and develop, with proper environmental protection.

My own personal congratulations go -- and I seldom get a forum to express them -- to Tony Scardino and Bill McDowell and to the members of the Commission and all the members of the staff who have, over this 20 years, made a remarkable achievement, I think, as a citizen with more than an average interest, in the quality of the Meadowlands.

In the year that this charter was adopted, there wasn't any State law in garbage regulation. All we had was the State Sanitary Code, which was mostly enforced by local health officers. What that said, for the most part was, the open burning of waste is not allowed. Dumps have to be covered everyday with clean fill. It's fun to think now, in 1988, that when both of those requirements were adopted, there was a lot of protest.

The first State laws were adopted in 1970. Several witnesses have referred to their contents, and I will not consume time by going into them here. It is interesting for me to recall, though, that the origin of the two bills enacted

into law in 1970 was not concerned with the environment. It was concerned with rising costs, when disposal fees were about \$2 a ton. The Solid Waste Management Act, which was given to the new Department of Environmental Protection, got a free ride being enacted into law because of concerns about uncontrolled rises in the costs of disposing of our waste. Those rates have gone up more than 15 times in the meantime, calculating them in real dollars.

The 1976 amendments promised management. Counties were given the responsibility to do the planning, partly because they asked to have that responsibility -- although many officials at that level may have regretted that request later on -- and partly because municipalities were thought to be too fragmentary in approach, and partly because the State was thought to be too big and too remote from the task. The statute has produced management plans for all of the districts, but none of the plans has yet been executed.

Last year, our office did a study of the legislation of 1976 or the Legislative Commission on County and Municipal Government. We made a number of technical recommendations, which I will not trouble the agenda with tonight. We made two essential recommendations which I think are appropriate to deal with in this forum: One is, it was our feeling, and so recommended to the Commission, which, in turn, incorporated it in their report published about a month ago, that if a county is unable or unwilling to carry out its management plan, the State Department of Environmental Protection be empowered and required to move in and seize the responsibility to do it to protect the public.

The second one was, when emergencies are created, with the approval of the Governor, DEP should have the power to take all necessary steps to dispose of solid waste with minimum offense to the health of the public. We found in our study that the '76 statute was structurally adequate. Whatever

problems we find now, in May of 1988, with the disposal of solid waste in New Jersey, in our opinion, cannot be blamed on the law.

SENATOR AMBROSIO: Mr. Sullivan, if I might-- I wish you would direct the thrust of your presentation to where we go from here. I think the history of how we got here is all pretty clear, especially to those of us who live in this district. What I am concerned about is, where are we going from here? What alternatives do we have to the plans that are on the books?

MR. SULLIVAN: Some people feel that the predicament in which we now find ourselves, and for which we look for alternatives, was created by the closing of the landfills -- the premature or hasty closing of the landfills. They were closed over a 15-year period. In my opinion, had they not been closed, they would still be operating and might, for years to come, make New Jersey the only State -- the only urban State -- in the United States that relied entirely on landfills for the disposal of its waste.

More than half of our waste now goes out-of-state. I don't think it is provincial for us to say that New Jersey ought to dispose of its own waste. We have said bad things about New York and Pennsylvania dumping waste here. In fact, we even adopted an unconstitutional statute to keep them out. And now 10 years later, we are disposing of more than half of our waste there, in an arrangement that makes us vulnerable, despite the apparent protection of the interstate commerce clause, to having that dumping arrangement frustrated at any time. It is not necessary that we be excluded altogether. It is only necessary that there be interruptions in the flow, in order to create havoc in the form of garbage in the streets.

The alternative that has been imposed here is the use of transfer stations to transfer these wastes. While we can object to the out-of-state shipment, at that point in our

operation there was no alternative, in my opinion. In fact, as an interested former bureaucrat, I think the placement of these transfer stations into use, given the uncertainties of the statute and the need to move it to other areas, was an administrative miracle, and that the public did not recognize how close we came to the genuine crisis of having garbage in the streets, because there was no place for it to go.

I think now that those stations are in effect, and are operating, and are keeping the garbage off the streets, we can, at our leisure, take a look to find out whether or not the charges imposed at those transfer stations are legitimate and proper and adequately supportive.

Several comments have been made about rate averaging, but I think I will skip that in the interest of getting into some of the questions raised by the Chairman.

In addition to the costs, the transfer stations have a big appetite for waste. They represent a capital investment. Promises have been made in the agreement under which they were placed in the plans that certain amounts of waste would be delivered to them. I am not sure that the public benefit we're getting is worth all of the procedural activity and the attempts now being made through administrative and judicial actions to require all of those stations to be fully fueled in accordance with the formula.

I raise two issues on that point: If we are so serious about redirecting flows in order that each of these transfer stations gets the guaranteed waste flow for a facility that may represent only a \$5 million, or \$6 million, or \$10 million capital investment, how will we react when the resource recovery facilities are on-line, and they have an appetite to feed the mortgage for \$100 million, or \$200 million, or \$400 million or more? How will that obligation frustrate otherwise possible methods of recycling the waste?

The second question I raise about this activity, is that the activity itself is cutting out opportunities that we now have available to us to recycle wastes, not just those wastes that are dealt with in the Mandatory Recycling Act, but commercial wastes, demolition wastes, cardboard, corrugated board, office paper -- lots of things. Two things have happened recently, in my opinion, which are landmarks as far as recycling is concerned. The first thing is, the disposal fees hit \$100. That has inspired all kinds of creativity, and created markets where they did not heretofore exist, of demolition materials and other products, which are now being withdrawn from the waste flow and put back into the cycle of use, because the economics favor it. We should not do anything that discourages the maximum use of that opportunity.

The second thing that happened, of course, was the Mandatory Recycling Law. I think people are ready for that. We have just begun to put it into effect. We will find the real action being taken in the fall.

If we take all of these opportunities, we will recycle more than the 25% that is set forth as a goal in the 1981 statute. To the extent that we exceed 25%, those resource recovery facilities whose capacity is designed on the assumption that we will make 25%, will have excess capacity, which, in turn, because of the need to pay the costs, will frustrate, in my opinion, further progress toward recycling.

I would have to recognize, in looking at a number of these installations, that selecting the size is a very difficult thing. If a facility is constructed for waste disposal, we can't make it so small that we are going to have waste left over after spending all that money, that we have to bury in landfills that we don't even have. Nor can we make them so large that the freeholders have to put their furniture in the fire in order to pay the mortgage.

Coming out with a happy medium on that is a difficult task. I would say in general that the selection of these facilities, as well as the sizing, is the most vexatious part of the whole system, and the part that has occupied a lot of the attention of the voters.

My rule is, if we reject an environmental proposal to resolve a problem, we are, in that process, selecting a solution. We ought to know what that solution is -- that alternative -- and be sure that we prefer it. All of the ways of disposing of solid waste are disagreeable. They are all offensive. We have to choose the least offensive. Those who argue against burning as the least offensive have a valid criticism. When we add these chimneys, we are making a compromise with air quality, and we should do it only if we are satisfied that the other alternatives either turn out not to be feasible, or are still more objectionable. The term "mass burn," as ordinarily used, does not, in my opinion, correctly describe the kind of resource recovery facilities we need. What the term means is taking all of our community leftovers and putting them on the fire. That expensive convenience is bad solid waste disposal and it is bad resource management.

On the other hand, to expect that the full waste stream will be recycled and that boards of freeholders can rely upon the changes that have to be made in order to get rid of these mountains of waste, is an illusion. In my opinion, small combustion facilities are a legitimate part of solid waste disposal plans that are protective of the public. I think they have to be accompanied by much more vigorous recycling efforts than we have had heretofore, which are being made more possible every day, than by the use of landfills for those materials for which there is no other conceivable way to dispose.

I formed this judgment after looking at literature on lots of different alternatives, many of which suggest quick cure-alls. I would love to find one that does not have a

chimney, but I am not aware that one exists. But I think as we proceed to construct these facilities of one sort or another in each county, and we grow more clever and more efficient in our recycling methods, we can come up with a system that will best protect the public.

Thank you for the opportunity to speak to you. I will be glad to respond to any questions.

SENATOR AMBROSIO: Thank you very much, Mr. Sullivan. Anyone?

SENATOR CONTILLO: I would just like to thank you for coming here tonight.

SENATOR AMBROSIO: Next we will have, from the Bergen County Utilities Authority, Tom Toscano, Chairman.

T H O M A S J. T O S C A N O: Senator Ambrosio, members of the Task Force: My name is Thomas J. Toscano. I appear before you this evening in my capacity as Chairman of the Bergen County Utilities Authority. We are pleased to have the opportunity to testify on the subject of the role of the HMDC. The HMDC is much like Charles Dickens' vision in "A Tale of Two Cities." To paraphrase: It is the best of agencies and the worst of agencies; it is the beginning of an epoch and the end of an era. In short, it is, from the perspective of the Bergen County Utilities Authority, both a great friend and an awesome opponent.

Please permit me to be self-serving in my remarks, because it is only in that context that I can address the concurrent, competing, sometimes confusing responsibilities of the HMDC and the BCUA.

The HMDC was created to deal with the multitude of public concerns. On their face, we have no quarrel with the planning and development powers of the HMDC, nor do we quibble with its environmental purposes, but we share that mission in our charter. What has caused the difficulty between us is the reconciling of the responsibilities with overlapping in solid waste. Consider these difficult situations:

1) Most of the disposal capacity is in the Meadowlands in Bergen County, yet Bergen County has been unable to use most of the capacity because the HMDC was obligated, under its charter, to several other counties.

2) Jurisdiction over resource recovery for Bergen County was not resolved until 1982, when the DEP Commissioner designated Bergen as the lead agency for this project. But even as lead agency, we have had to negotiate vital components of our role with the HMDC since the facility is in the district.

3) Inter-district waste flow agreements have been sought and gained from the HMDC, but always through prolonged hard bargaining, including substantial concessions by the BCUA, and at times, periods of absolute impasse.

4) Our efforts to site resource recovery in Lyndhurst were set aside by the HMDC, resulting in a longer and more difficult procurement procedure. It is safe to say that our duty and mission in Bergen County in pursuit of our State-mandated responsibilities has been, at times, made more difficult by HMDC's attempts to reconcile its competing missions. The missions may, in fact, be in conflict.

Out of respect for your time, I have documented in more detail what I have briefly covered this evening. I would like to submit my statement for the record. Thank you.

SENATOR AMBROSIO: Thank you very much, Mr. Toscano. If you don't mind, I just have a few questions I would like to ask you. I am going to start off with the question of rate averaging, because that is an issue that everyone is concerned about. Does the BCUA have a position on whether either a regional or statewide rate averaging system is acceptable to BCUA?

MR. TOSCANO: We have not taken a position on rate averaging at this time. We are studying the rate averaging concept to see if it is in the best interest of the authority.

SENATOR AMBROSIO: I note the hulking attorney standing to protect you, to be sure that-- (laughter) Mr. Sinisi, do you want to put your appearance on the record?

STEPHEN P. SINISI, ESQ.: Senator, good evening. Stephen Sinisi, Demetrakis, Sinisi and Carmel, counsel for the Bergen County Utilities Authority, and ever present to respond to any questions that may require my client's assistance.

SENATOR AMBROSIO: Thank you. May I ask you-- You indicated that the HMDC -- the relationship between the HMDC and the BCUA has been-- Would you call it a love/hate relationship? I don't know how you want to-- What do you anticipate, or what do you project the future relationship should be, considering the fact that the changes that are going on in the Meadowlands are such that the BCUA clearly is going to be operating some kind of resource recovery facility that is going to probably handle all of Bergen County's waste, and eventually Hudson will have its own facility, and there will be no landfills in the Meadowlands, except for an ash fill? What do you see as the role the HMDC should be playing from your perspective?

MR. TOSCANO: From the time that all the permits are required by the BCUA and we have the shovel in the ground to start construction of the resource recovery facility, I think I would have to say we would have to work hand in hand with the HMDC. From that time on, I think our responsibilities and our closeness would sort of separate.

SENATOR AMBROSIO: Do you see them as having a role from the standpoint of environmental protectors to make sure that the BCUA operates properly and complies with all the DEP regulations it is supposed to comply with?

MR. TOSCANO: I think we have enough agencies monitoring any environmental problems we might have.

SENATOR AMBROSIO: The BCUA is not subject to BPU control at this point, is it?

MR. TOSCANO: That is correct.

SENATOR AMBROSIO: Your rates are set by the BCUA in your internal deliberations?

MR. TOSCANO: I defer to my counsel.

MR. SINISI: Yes, Senator. Under New Jersey Statute 40:14B-68, the Authority, as a municipal utilities authority, is specifically exempt from rate review. It has been so held in administrative proceedings involving the rate averaging on that very issue.

SENATOR AMBROSIO: How do we get involved in rate averaging if the BCUA is exempt from BPU control? How can that work, if you are exempt and no one -- if your books and records and your rate base is not subject to public scrutiny?

MR. SINISI: It is a two-tiered process, Senator. I would like to correct the statement that was made earlier in response to another speaker at the podium. The misconception is that the Authority's rate base is not subject to scrutiny. That is a misconception. Under New Jersey Statute 40:14B-22.1, 2, and 3, there is a mechanism under which and whereby the Authority's rates are reviewed, or are susceptible to review in appropriate forums, like a judicial forum, on an application by any interested party who has standing to ask for review of the rates that are set by the Bergen County Utilities Authority. As a municipal utilities authority, and to that extent, for the district rate system, we come under Superior Court jurisdiction.

As to the rate average rate issue, when the Authority includes its rate in the rate average rate petition, or formula -- or system, as we call it -- then, and to that extent, the rate average rate becomes reviewable, but only the rate average rate component, not the base rate of the Authority to operate the funded system.

SENATOR AMBROSIO: What is the status of the BCUA's current application to construct a resource recovery facility in Ridgefield?

MR. SINISI: Well, Senator, our current status is that we received, in late November -- I should say late 1987 -- certain permits and approvals from the New Jersey Department of Environmental Protection. We are awaiting other permits, not the least of which is, of course, the United States Army Corps of Engineers' permit. So, we are continuing to process those matters which are not permit sensitive on our critical path.

SENATOR AMBROSIO: Do you have any indication as to when you are going to complete the permitting process?

MR. SINISI: Senator, that is a question I would not want to speculate on. We have a reasonable expectation that the permits which we have applied for, and those which are required for this facility, will be issued in due course. We are before a myriad of Federal and State agencies, and other agencies as well, with the applications we have submitted. They have to go through, as you know, a very, very extensive hearing process in certain situations and under certain forums. There is an opportunity for public comment. There are responses to the public comment. There are records which are kept open for appropriate comment.

So, that process is very difficult to pinpoint as to when it will conclude. We have a reasonable expectation that the process will be moving forward and coming to an optimistic conclusion for the BCUA, but I would not have a target date for you as to when that process will reach its immediate conclusion.

SENATOR AMBROSIO: That facility is the 3000-ton-per-day facility. Is that still what we are talking about?

MR. SINISI: That is how it is referred to, yes. Senator Contillo mentioned-- I had an opportunity to participate with Senator Contillo some time ago -- two or three years ago--

SENATOR CONTILLO: October, 1987.

MR. SINISI: In October, 1987, you appeared at the Authority, Senator, but you may recall that on a prior occasion we had an opportunity to be at a symposium on resource recovery together. I listened to your comments about--

SENATOR CONTILLO: And I listened to yours.

MR. SINISI: That is correct. I listened to your comments on recycling, and you were taking appropriate deference to some of the remarks of the technical people on resource recovery, including the engineers to which the Senator refers. We had an opportunity to submit to the Senator recently -- as he said, in October -- a detailing about our plant capacity. We would rely on that. If you would like, Senator Ambrosio, we would disseminate that to the balance of the members of this Task Force for review.

SENATOR AMBROSIO: Yeah, that would be very helpful. What is the current waste flow of Bergen County that is going to the transfer station, or the combination of transfer stations? Or don't you want to answer that?

SENATOR CONTILLO: He's going to answer it. If you don't ask him that, I am going to ask him.

SENATOR AMBROSIO: I know he is going to talk about the missing garbage, but that's all right.

MR. SINISI: We don't have the appropriate technical staff here to give you those immediate figures, but I believe there were numbers referenced earlier in this proceeding that talked in terms of 3000 tons per day.

SENATOR AMBROSIO: What is going to happen after Senator Contillo fine-tunes our recycling laws in this State, and we recycle up to 50% of our waste, and we are now down to 1500 tons a day? What is that going to do to the economic viability of the resource recovery facility?

MR. SINISI: Senator Ambrosio, again, the good Senator asked those very questions in October. We were pleased to field those questions in October and, as always when the Bergen

County Utilities Authority is asked a direct question, it likes to have an opportunity to present direct answers backed up by empirical data. We provided the good Senator with answers which addressed those issues about the sizing. We are prepared to do that again for the balance of the Task Force.

SENATOR CONTILLO: In the correspondence that I received, which I requested in October of '87, was a one- or two-page letter that I would hope was not the details of what the engineers did. I don't know what year they did it in, but I would be interested to know. I think it was around '85.

MR. SINISI: Yes, Senator. I think it was '84, actually.

SENATOR CONTILLO: I didn't know that, okay. So, what I got was really a summary. I would like to see the report, because I have two questions, I suppose: How old is it? Is it still valid? Was it ever valid? In other words, how serious is it to take a number-- It will be five or eight or maybe ten years before it is really applied to a situation. So, I accept that the information was sent to me, but I would not characterize it as a detailed report. The letter was sent to me relatively quickly, but it was not a detailed report. I would hope that an awful lot of thought would go into you telling me what size plant you are going to build now in 1988. If Malcolm Perney stands by those numbers, they should say so. If they want to make another report now, maybe they ought to send that also.

MR. SINISI: Okay. Senator, there were, of course, very, very detailed solid waste flow quantification studies undertaken by Authority consultants. Those are not what you have asked for, in terms of your October request. You're correct.

SENATOR CONTILLO: I wanted to see how these factors of recycling entered into it, rather than just pick a number off a tree, and say, "Now we'll take this number." I think

that is what might have happened. Although I got the detailed reports, I wouldn't know them.

MR. SINISI: I would respectfully take issue with any suggestion from anyone that would suggest consultants who have the obligation to assist public bodies to size facilities of this magnitude, with the impact they have for literally generations -- that they are plucked out of the air or in any way selected arbitrarily. Okay?

SENATOR CONTILLO: I take that back; I take that back. I shouldn't have--

MR. SINISI: I know you didn't mean it in that context, but I will certainly make that information available to you.

SENATOR CONTILLO: I didn't say from the air. I think I said off a tree. (laughter)

MR. SINISI: I think one of the reasons we are all here tonight is out of a concern for what is in the air and what is coming to us about the air. But the answer is, we will provide you with those statistical analyses.

SENATOR CONTILLO: May I ask another question about something the Chairman was discussing with you? I would like to know precisely -- and, again, you may correspond with us when you have had the opportunity to review your records -- how many tons a day are you dealing with at the transfer station?

MR. SINISI: Those figures, again, are in a state of compilation. But, as we have indicated--

SENATOR CONTILLO: How much a day-- I mean, you have to know how much money you are collecting. If you are collecting 3000 tons a day at \$100 a ton, you are collecting \$300,000 a day, and that's a million dollars a month.

MR. SINISI: Using a five-and-a-half-day week, which is what we normally refer to, we are talking about 2800 tons a day to approximately 2900 tons -- 2800 to 2900 tons a day.

SENATOR CONTILLO: When you get it, please clarify it for us.

MR. SINISI: Those statistics we can provide you.

SENATOR CONTILLO: Tom, did you say you were directed by DEP to assume the responsibility? I don't think that's correct. It was probably the Board of Freeholders that laid the responsibility off to the Authority.

MR. SINISI: In deference to the question, because it does involve an issue -- a directive issued by the New Jersey Department of Environmental Protection-- I think it was on January 13, 1982, that a directive was entered by DEP, which allocated that responsibility. In one of the components of that directive, the DEP Commissioner indicated that the BCUA would be the lead agency for resource recovery development. We can produce that for you.

SENATOR CONTILLO: It just seems to me that in most places, the freeholders are responsible for it and they can, in effect, lay it off on someone else if they choose.

MR. SINISI: Well, we're talking two different aspects, Senator, and you're right. One is the issue of resource recovery. On December 23, 1980, the Bergen County Board of Chosen Freeholders delegated solid waste management responsibilities to the BCUA, but it was not until 1982 -- January 13, 1982 -- that DEP spoke to the issue on resource recovery, and resolved the issue as to who would be taking certain initiatives involving resource recovery development in the Meadowlands.

SENATOR CONTILLO: Basically, because the Freeholders had given the responsibility to the Bergen County Utilities Authority, that is how you see the flow coming--

MR. SINISI: Yes, and we will submit those records to you.

SENATOR CONTILLO: Originally, the responsibility was with the elected officials -- the Bergen County Freeholders --

which they then turned over to the Bergen County Utilities Authority.

MR. SINISI: To implement the Solid Waste Management Plan, which has been confirmed as recently as April of this past year. In an Administrative Code revision, those duties and responsibilities were continued.

SENATOR CONTILLO: We've heard that all forms of particularly elected officials-- The Governor didn't want to do it, so he gave it to the State Legislature, which didn't want to do it, so we gave it to the freeholders, who didn't want to do it, so they created authorities who don't want to do it, and they have gone to the courts. Now we are all about to criticize the courts for not assuming their responsibilities.

SENATOR AMBROSIO: And now we're blaming the municipalities.

MR. SINISI: I see.

SENATOR AMBROSIO: May I just project you five or ten years ahead, and assume you've got your half a billion dollar resource recovery plant built, and Passiac has theirs built, and Newark has got one in Ironbound, and Jersey City has one, so we have four resource recovery facilities within five miles of this spot right here. I assume they are all going to be either under BPU control -- except you. Or, let's assume they are not under BPU control. There comes a problem in seeing to it that each of these facilities gets its fair share of garbage, because they are all going to be competing for garbage at that time. Doesn't it make sense, at that point, to have in effect a rate averaging system, first of all to make sure that there is control over the waste flow and control over the economics of it. And, if we are going to have a rate averaging system at that time, I assume the HMDC's position will be that they are the agency that should be in place to handle that rate averaging mechanism. Do you see any problem with that?

MR. SINISI: The question is a two-part one, or the statement is a two-part one. I will answer the second part first, to the best of my ability.

The second part question indicates the future of waste flow control. Other speakers at this podium tonight have addressed that. I think that obviously the cornerstone for the stability for resource recovery implementation depends upon waste flow control. But you have asked another question. The question, or the statement embraces the question, at what point in time should rate averaging apply? That is a question that is under intense -- and I want to emphasize that-- As recently as Wednesday night last, at the Bergen County Utilities Authority, for several hours we continued to explore the ramifications of a rate averaging system and its impact on, for example, a vista involving other districts and other facilities. That is not easily answered. It is not simply a purely econometric analysis that one does. It has to do -- as you indicated -- with environmental concerns about the number of resource recovery facilities that would be in close proximity to the one in Bergen County.

But, using only an econometric analysis, you have to project out many different components, not just the tipping fee. It has to do with other impacts to the solid waste system and the costs of the solid waste system, which have to be analyzed. What should be rate averaged? What amounts should be rate averaged?

So, the question is one that is under constant study by other districts I know. This has been the subject of generic proceedings at the BPU. It is no different at BCUA. We are analyzing and weighing the advantages and disadvantages at this time.

SENATOR AMBROSIO: That is another example of BCUA's direct answer to a direct question. (laughter)

MR. SINISI: It is, I would like to submit, Senator, a comprehensive answer to a very complex question. Sometimes some of these questions require a little bit more complex thought and complex answers.

SENATOR AMBROSIO: I am only kidding you, Steve.

MR. SINISI: Okay. I meant it sincerely, as you indicated.

SENATOR AMBROSIO: Anyone else? Yes?

SENATOR CONTILLO: Let me direct this request to the Chairman, because he will give me a direct answer. Would you see that I get a copy of the number of tons per day that the plant is processing -- weekly, monthly, etc. available?

MR. TOSCANO: We will have that almost immediately for you.

SENATOR CONTILLO: Would you also -- and you don't have to do it now-- Would you break down for me how you arrived at the price of a hundred and some odd dollars a ton? Could you do that?

MR. TOSCANO: Sure. That's no problem at all, Senator.

SENATOR COWAN: Just one simple last question. I am very pleased to hear that you are not under the BPU, judging from the position that some have taken. When did you apply to the Corps of Engineers for your permit? When did you first apply?

MR. SINISI: I think the original application was in 1985, Senator.

SENATOR COWAN: And they haven't given you any indication as to the hearing process -- what they anticipate as to the process and progress of that application?

MR. SINISI: Senator, we have had public hearings. We have had comments on the public hearings and responses to the comments received. It is under evaluation at this time, but we have had public hearings, too.

SENATOR COWAN: That I understand, but now in the progress of it-- Have they indicated to you what the next step will be, what you can anticipate? I mean, have you made any inquiries of them as to where you are going and when you are going to get something resolved?

MR. TOSCANO: We are hoping for an answer very soon, Senator, but we don't -- we really don't--

SENATOR COWAN: I realize they are very difficult, and some people wait two and three years. But, if you are talking about 1985 -- is that correct? -- then you are three years down the line, so I would assume that there would be some inquiries made on the part of the public utilities out there as to when you can expect some answers, or anticipate some answers, because as you go along-- Do you have your engineers on that now? You have let out that contract -- design and engineering -- I assume.

MR. TOSCANO: Yes.

SENATOR COWAN: That's a healthy want that you have let out there. You are getting into construction costs, and that is going to be that much more the longer it is in process. I am sure that with your consultants-- Do you have consultants, because all of this now is adding on to the total cost? I am not--

MR. TOSCANO: Senator, we have pursued the application and permitting every step of the way. We have given the Corps of Engineers all the information they have asked us for. Each time they ask us for something, we continue to give it to them.

SENATOR COWAN: In all due respect, Mr. Chairman, what I am asking is this: With your inquiries of them, when have you stated that you are going to get something back as to the lengthy process that exists? I realize that the Army Corps of Engineers are tough people to deal with. But, you know, we're talking about now you have all these things going, where it is costing you and the citizens, and maybe, depending on how you

come out with rate averaging, and depending on how the legislation goes, maybe costing us people in Hudson. So, I am just thinking about those things.

MR. TOSCANO: You must remember that we are at their mercy. However, indications exist that we may get a permit from the Corps of Engineers in June or July sometime.

SENATOR COWAN: Pardon me?

MR. TOSCANO: We expect to get word in June or July.

SENATOR COWAN: In June or July of this year? When would you go to construction then?

MR. SINISI: Senator, again, there are other permit-sensitive issues on our critical path that we are continuing to work on -- some access issues. Those matters are, you know--

SENATOR COWAN: Access? That hasn't been resolved yet with the Turnpike?

MR. SINISI: No. We have matters which are part of the permitting process which have to proceed during the natural course, that are tied into other major permits. There is litigation that we are involved in right now, Senator.

SENATOR COWAN: Well, as I say, I realize-- I am sure that your capabilities and your intent and everything that goes with it are right in place, and that you are doing everything you can do, but, you know, in your position, I would be looking for answers. I don't mean to come back in any sense, but I know that if I were involved as a representative of the people, especially going back and having to be elected, and you're talking about rate averaging and the possibility of bringing Hudson County into it-- I am damned sure, you know, if I were a citizen up here in Bergen County, I would be concerned about the costs. Indirectly, it may be affecting us directly. Okay? That is why I am making these inquiries. I would be looking for some answers.

SENATOR AMBROSIO: Steve, I have one other question. I just want to ask this question in a different way, because I want to try to get an answer to it. As I understand right now, the HMDC is subject to BPU regulation in terms of the rates it charges at its facilities. So is Essex County, Union County, and Passaic County. The BCUA is not. Is that right?

MR. SINISI: Its rates to operate its solid waste system -- that is correct.

SENATOR AMBROSIO: All right. Is there some--

MR. SINISI: Our rate, to be put into the rate average system, undergoes rate scrutiny by the BPU, as the rate average rate component goes.

SENATOR AMBROSIO: My question is this: Is there something unique about the BCUA that should hold it apart from the others who are regulated by the BPU, whose rates must be justified and approved before they are raised? Is there something unique about the BCUA that they should not be subject to that regulation?

MR. SINISI: Again, as a matter of State statute--

SENATOR AMBROSIO: Other than the law, because the law can be changed easily.

MR. SINISI: Well, I think it is hard to just say "other than the law," because--

SENATOR AMBROSIO: No, no, I'm saying "other than the law." I mean, is there something unique about your operation, your organization? If we changed the law and said, "The BCUA is now subject to BPU regulation," would that affect you adversely?

MR. SINISI: It would have an adverse impact on projects in progress; for example, on bonds we have issued where we have indicated we are not rate regulated. Obviously, we are talking about only those acts which the Legislature can regulate, which are matters in prospective, not matters which have already occurred. I would say to you that other than the

legislation under which we are chartered, there would be no other basis.

SENATOR AMBROSIO: Anyone else? (no response) Thank you, gentlemen.

MR. TOSCANO: Thank you.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Could I just ask a question?

SENATOR AMBROSIO: No, I'm sorry. We have an agenda, and we are going to stick to it.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I just wanted to ask--

SENATOR AMBROSIO: You're out of order. Next on the agenda is the Mayor of Jersey City, Mayor Cucci.

M A Y O R A N T H O N Y R. C U C C I: Thank you very much, Mr. Chairman and members of the Senate Task Force. Thank you for the opportunity.

I guess the thrust of my short presentation is once again to firm up the adamant position I hold, in conjunction with the other mayors who are involved in Hudson County, on rate averaging. I hear that it came out of the Assembly committee today. That is shattering. I have to ask, what is the concept? What ethically, what morally stipulates such a kind of legislation? Why should Hudson County be punished because it happens to be in a better position by virtue of its own preparation, by virtue of its right to be dumping there, and by virtue of everything that is self-contained within Hudson County, without imposing upon any other population outside of Hudson County?

I listened earlier to what appeared to be the rates of tipping at this time: \$102 a ton I believe may have been Newark; \$27 a ton, Jersey City; \$65 a ton for another county; and \$93 a ton for another county. Averaged up, it is \$72 per ton. That means that Jersey City now has to be punished. It has to go from \$27 a ton to \$72 a ton in order to get what you call some kind of an average.

If averaging could only be obtained from similarities. This is dissimilar -- dissimilar in the sense that it is the responsibility of each county to be self-contained and not to impose on any other county. This would be very comfortable for Essex County. They would go down to \$72. This would be very, very comfortable for whatever the county was with \$93. They would go down \$21. The only two counties that would suffer would be Hudson County, which would go up \$45, and another county which was \$65, which would go up \$7. This is supposed to correct all of the inequities. This is supposed to correct the deficiencies. This is supposed to put an impasse, or a deterrent on garbage which may emanate from somewhere else and come from Jersey City.

Well, there are better ways to do it. I think, personally, some people got together and said, "How can we give it to Hudson County once again?" That's what I think. Just the way it was said earlier by someone from the Hackensack Commission, it would be unfair to take the southern communities and have them share an average with the northern communities. It is just as unfair to take even a region, which shares different obligations. As for Essex County, we all paid that \$15 million to get out. They stayed in a lot longer than we did, so they have had the benefit of that.

We have here the potential that if the Assembly passes this, and the Senate passes it-- We now have, once again, by virtue of the two legislative bodies, a State mandate that they don't want to pay for. Once again, what will happen if two legislative bodies pass this, and we are not successful in court? Here comes another State mandate that we paid for in Hudson County -- particularly Jersey City pays the biggest area -- and yet I hear legislators say: "State mandated, State paid." But it may not happen in time, if that goes through, to grandfather this.

I'm leaning on you, Senators, regardless of where you are from. You represent everybody, regardless of the fact that you have a pertinent area. We all live in New Jersey. That includes us. That would make New Jersey perfect, if we were included, too. I am depending on you to look at this thing in an equitable and moral sense. I don't even know what analogy I could give you. I am not, in any way, admonishing you. I guess I am speaking in generalizations to those people who think that in order to favor their political vested interests-- I don't know what analogy I could give you. Water falls throughout New Jersey, if not at the same time, it falls throughout New Jersey. We all share in gathering up those waters, but we all pay a different ratio according to our water works. What is different now about garbage? That is how difficult it is to give an analogy that makes sense, if I were to defend this position.

Earlier, Commissioner Scardino said that in 1980 Judge Gaulkin issued a consent order that there would still be some garbage coming over from New York. I don't believe they are here, but I have a question for them, if you would relate it and give me the answer. Was there a termination point in that? Was it an endless consent order? Was it for a period of five or ten years? That should be looked into.

SENATOR CONTILLO: That was exactly the point of my questioning. I was promised a copy of the correspondence of a consent order which-- If Senator Cowan can get a copy of it, I am sure he will forward it to you.

MAYOR CUCCI: Very good. Thank you, Senator.

I know it is getting late, and I am not here to procrastinate, but you have to laugh when Mr. Marturano says that the rate averaging is something independent of the dollar. I guess we pay with coupons then. It is independent of the dollar, but we are going to pay -- Jersey City -- \$72 now, as opposed to \$27. But he said that in the long run, you

will gain. Well, between a reevaluation-- Right now, everybody tells me that in the long run we will be great. Between Mr. Scardino telling me that in the long run it will be great-- We will have no problems in Jersey City. There will be no one there to make garbage. No one can afford to live there under those conditions. The time is now to get the relief we deserve.

I want to make one other small and brief statement. If this sounds like buckshot, I am trying to pick up on some of the things that certainly impressed me or did not impress me tonight. Yes, if there are people, and there will always be people, who want to circumvent what the regulations are-- I am angry about garbage emanating from outside, from another state, and coming through our city; so angry that I have already issued, personally, three summonses myself, in Jersey City. One, on (indiscernible) Street, was to close an illegal transfer plant. All that is part of the record. But I, and our police, cannot do it alone. They are coming in with illegal dumping. Then the Port Authority must pay some kind of a price for this, because they are getting the price of going through the tunnel.

We want to have some kind of surveillance without unnecessary backup and things like that. But then with \$80 million in the treasury -- \$80 million in the treasury -- I should think that a nominal amount out of that could be spent. I think they could spend some money for surveillance other than within their own parameters. I think they should aid the cities where this is happening. There should be a routine inspection. You will find that the companies with the garbage trucks-- You think it's garbage, but nine times out of ten if you follow them, and wait and see where they are going, you will find that it is demolition debris. It becomes very, very profitable to bring demolition debris, mounted to the skies with solid waste, in a regular garbage carrier. They get over here, and then they can dump it wherever.

So you see, we want these big agencies. They want to dictate. They want to regulate, but they don't want to pick up their part of the burden to help Hudson County, or any county. At least give us minimal service in surveillance -- and they are sitting there.

Another suggestion-- I am not certain whether this has been suggested before tonight. People can apply for a recycling license, per se, and that means you are strictly dealing with 100% recyclables. Any small amounts of accidental residue in-between, I guess could be tolerated. If you have the proper zoning in Jersey City, then you have the right to apply for a permit. You do not have to give anything from the HCIA -- the Hudson County Improvement Authority -- neither do you need anything from DEP, as you would in a transfer license. I think that as an extra aid to the city, an extra amount of protection-- Let's face it, garbage is getting to be gold, and we have to watch it very closely. Otherwise, it is going to be costing each city, for its own surveillance, without any backup, a lot more money.

I would like to recommend that whether someone applies for a transfer license, which would be DEP or HCIA approved, or a respective county's utilities authority, that even the recycling, per se, be required to get approval from its local utilities authority, if they have one in the county, but by all means from DEP, but at the right of the local community to accept or not accept that permit. The reason for that is so that the local community can better command the right uses under the Land Use Act, without having the DEP then impose where you must put one. It could only go in those areas where it could be done.

I see great help in keeping regulations going and aiding and abetting but, once again, don't let this become a mandate of the State that we have to pay. If it becomes a mandate of the State, then let the State give us relief. Let

the State pay Jersey City the extra \$45 a ton. It's not our law; it's their law. We're doing fine right now, and we're doing fine because we took every step along the way.

As far as the Hudson County Utilities Authority is concerned, we are beyond what were our baby steps. We are already in debt for millions of dollars in bonding. The Copus Cove (phonetic spelling) is not a definitive site, but it is being worked toward that. We are on our way. We don't need any more fiscal impositions upon us now than we actually are required to take care of ourselves. I'll be darned if I will give in that easily, or if Hudson County is going to give in to someone else imposing on our taxpayers \$45 a ton more from what could very well be a political get-together by a few counties, with someone with connections down below, once again leaving Hudson County holding the bag. They are in for a terrible fight like they have never seen before in court, and we are banded together on it.

But you-- This is a nucleus. This Senate is a nucleus to really look at the equity of this whole concept of whether to share. Here is a county that can't even answer the questions yet. I am not demeaning them, but they don't even know where they stand on it yet -- rate averaging. I'll tell you where we stand. We stand ready to fight all the way. We'll pay for what we are responsible for. Let the neighbors pay for what they are responsible for. That's the way it should be, and that's the way it has to be.

I thank you very much for your kind consideration and attention. I have no prepared statement. If there are any questions you think you want to ask me, I will be happy to answer them.

SENATOR AMBROSIO: Thank you, Mayor. There are a few I know Senator Contillo would like to ask you. Let me just briefly make this comment: I admire you for fighting for your city and your county. I also have a district that I have to

fight for. I would just tell you that if you walk out the front door and make a left turn and walk to the end of this road, you will be on the world's largest garbage dump, which this town and this district have put up with for the past 20 years. When you talk about ethics and morality, I can't justify telling the people in this town that they have to pay \$98 a ton, or \$93 a ton, and let them know that Jersey City is still dumping in Bergen County. So, the ethics and the morality depends on where you live and where the garbage is being dumped.

Just let it go at that. This town in particular has put up with garbage for the past 25 years -- hundreds of trucks a day -- and we are now going to be forced to pay \$93 a ton, and the garbage is still coming into our town from other counties.

MAYOR CUCCI: Senator, I certainly have the deepest sympathy, and I understand it very well. But if we -- Hudson County -- were in any way circumventing, if we were trespassing, we have the right to. It was granted to us. Now, why should we be punished for what was granted to us by regulations? I have the answer. We can't get any relief out of the legislative bodies. There are 567 communities in the State, and they can't get one piece of legislation through. If it isn't Mr. Hardwick, it's the Governor. If it isn't the Governor, it's this one. Everybody is running this year. Everybody is running, and nobody cares about the people.

Let me say this: There is a solution. That solution is: Let the State pay, or let the State give us whatever relief we need. I have an idea. We have a great deal of trouble trying to convince -- and I respect those opinions -- Mr. Hardwick to repeal the Ford bill. I respect his opinion, but maybe we can find a way of negotiating that. Why can't we try to repeal the Ford bill for one year, with a self-destruct? That would give 567 communities -- every community -- the relief it needs right now in solid waste.

Will that answer the future? No, but we will be able to handle the future much better if we get relief now. You get relief with your \$93; we get proportionate relief. You get greater relief, in proportion, by virtue of what you are paying. But no community goes without relief -- none. We are here talking about solid waste. We are fighting amongst each other or differing in opinions as to rate averaging. We are on the threshold of this becoming a mandate, and yet the legislators of the State cannot agree to give us the relief we need now. I don't understand that kind of thinking.

SENATOR AMBROSIO: Mayor, that is for a different forum than tonight's. Senator Contillo, do you have a couple of questions?

SENATOR CONTILLO: I think there is a public forum -- a Senate committee that is going to discuss this subject, and I am sure they are going to hear your voice on it.

MAYOR CUCCI: Yes.

SENATOR CONTILLO: A specific committee is going to deal with that.

MAYOR CUCCI: All right. Thank you very much.

SENATOR CONTILLO: At the risk of getting into that subject, I listened to Mr. Scardino carefully. His point was this: Right now, if you look over the chart of what the different counties are paying, you will find those that have entered into the oldest programs are probably paying the least, and those that entered later agreements that maybe last up to five years, are paying more and more. If Hudson County can stay where they are for another year or so, they are then going to, at that point, have to make an agreement, maybe out-of-state, for maybe \$200 or maybe for \$300 a ton. So, the citizens of your city may, over the next five years, pay a heck of a lot more for garbage disposal because we don't rate average. That was his point. Now, whether that is true or not is the subject.

MAYOR CUCCI: It's a possibility, and if we have any kind of expedition on fulfilling what is the potential of Copus Cove, we could be enjoying something before the five years is up.

SENATOR CONTILLO: Let me get to that point. So, it is really in your own best interest -- as Senator Cowan has been talking about tonight -- trying to keep that landfill for Hudson County solid waste, and reducing Hudson County's solid waste by recycling to the greatest degree you can. In other words, it would seem to me that it would be in your own best interest. And you really can't be looking at the \$27 per ton, because in a short while it is going to be in the hundreds, because you will have to make a separate contract to go out-of-state when that landfill is finished.

MAYOR CUCCI: We have time. That time does not mean that we are procrastinating, but we do have time, Senator, to reasonably research and look into it. It seems unfair for us to be punished now for something that is really not our fault, any more than it is your fault.

I really think that the whole idea of rate averaging belongs on the back burner. The concentration, once again, should be to get us legislation that Hardwick approves, the Governor approves, the majority of the two bodies approves.

SENATOR CONTILLO: That is another--

MAYOR CUCCI: Get us solid waste relief now.

SENATOR CONTILLO: That is another subject for another committee. We have a narrow scope tonight.

MAYOR CUCCI: I am only giving you a message to take back with you.

SENATOR CONTILLO: I would really like to talk to you just briefly about recycling, if I might. When I wrote that legislation, it took four years to implement it. I was very, very clear with my intention that recyclers be outside the purview of governmental agencies. I don't want the Board of

Public Utilities Commissioners to have a say in what they do. I want it to be private operators. I don't want the local authorities in this. Someone showed me an ordinance from Jersey City here, where you are going to require them to come for a license. I don't know that you have the right to do that.

MAYOR CUCCI: Which license, Senator?

SENATOR CONTILLO: I don't know if--

MAYOR CUCCI: Is it recycling?

SENATOR CONTILLO: Yes. I have a question in my mind about what authority you are using to require a recycler to come for a license? If it is in my law, I intend to take it out next week, because it was never, never my intention, by any stretch of the imagination. I want to encourage recycling, and I would think, Mayor, that for your own best interest, to preserve that precious landfill you have that may not last a year now, if you would encourage two things, it would seem to me. I love the idea of having some kind of a filter at the Port Authority, at the Hudson Bridge, and the Hudson Tunnel also.

MAYOR CUCCI: Sir, if we can't filter New York's sewerage, let's at least filter their traffic.

SENATOR CONTILLO: Okay, but would you do two things? If we try to control -- and this is one of the things we will do -- the garbage that is coming in here improperly from out-of-state, number one, and number two, you have to cooperate, it would seem to me, in your own best interest, to encourage the volume of solid waste that is going to that facility to be recycled. If you can cut that volume in half, you will get twice as long out of your landfill.

MAYOR CUCCI: Right.

SENATOR CONTILLO: So, rather than encumbering or slowing down or stopping or preventing recycling, you should be joining with us to encourage it.

MAYOR CUCCI: All right, you misunderstood me. No, you didn't misunderstand me; my mistake was that I wasn't clearer. I am encouraging. You should see our brochure. You should see our program already out there. We are getting ready the educational programs to encourage recycling.

Let me take a brief moment to explain the experience I had, then perhaps that will be clearer. I would like to let you know that the only thing I am asking for is an added amount of precaution for the State. I had what I considered a valid application, not made to me I learned about four months later. The only reason I wired was because in my travels on Highway 440, I saw a big structure going up, which naturally piqued my curiosity. I called the building department, and the man said, "Well, don't you know, Mayor, that is going to be a recycling plant." And I said, "There is a difference between transfer and recycling."

SENATOR CONTILLO: There sure is.

MAYOR CUCCI: I know. So he said, "It is zoned right; therefore, they have the right to a permit." Everything appeared to be in place. I felt remiss that I didn't know, but that was my fault. I am also a Commissioner on the Hudson County Improvement Authority, and I missed three consecutive meetings by virtue of having to be at the Planning Board on those particular nights. Lo and behold, I am now up at the HCIA and they are ready to vote on the same application for recycling at 440, under a different name, same principals, for a transfer station at the same site. Okay? So, there are possibilities where an entity can qualify for recycling, as far as city demands are concerned, and then, unknown to the city, they can go for a transfer license, which would be contingent upon DEP. I would like to put a stop measure there. We have to go just beyond the city, too, in case we are mistaken or in case there is negligence. That is my point.

SENATOR CONTILLO: My only question is: I don't know by what authority you can require a recycler to become part of the solid waste plan of the county? It was not my intention. I think that is one of the requirements in your ordinance, and I think that is one of the requirements DEP is talking about.

MAYOR CUCCI: I don't know if that ordinance will be introduced by a councilperson.

SENATOR CONTILLO: Okay.

MAYOR CUCCI: I want to say this: I am not trying to encompass or bring that person in, as long as it takes more than a city to give a license, and DEP. If it is for recycling, they could be precluded -- excluded -- from being in on the entire plan. I would just like a backup measure, so things don't slip through, because I'm telling you, it is going to get--

SENATOR CONTILLO: We are going to work on that. I know we were talking about the fact that we don't want to punish the 90% of the good guys for a few bad apples.

MAYOR CUCCI: Absolutely.

SENATOR CONTILLO: Okay, we are going to work on that, Mayor.

MAYOR CUCCI: Okay, thank you very much. I'm sorry if I imposed on you.

SENATOR AMBROSIO: Thank you very much, Mayor. It was good to see you again.

Next is George Lohman, New Jersey Chapter Chairman, National Solid Wastes Management Association. We have David Pointon, Executive Director, also.

**D A V I D A. P O I N T O N:** My name is David Pointon, Mr. Chairman and members of the Task Force. I am the Regional Manager for the Midatlantic Region of the National Solid Wastes Management Association. With me is George Lohman, who is Chairman of the New Jersey Chapter. NSWMA represents numerous solid waste haulers in the State, as well as firms involved in

the development and operation of resource recovery facilities, sanitary landfills, and transfer stations.

Mr. Lohman, a principal in the firm of J. DiRese and Sons, a waste collection firm in Cresskill, Bergen County, has years of experience with the solid waste industry in New Jersey and with waste collection and disposal practices in the Hackensack Meadowlands District. For a number of years, he has been management's chief negotiator in contract talks with labor unions representing drivers and other waste company employees in the northern portion of the State. Mr. Lohman has contributed to the testimony I would like to deliver, and will be available for questions you might have.

Before we discuss solid waste issues specific to the HMDC region, I hope you will permit me to outline some serious concerns which are impeding the effective delivery of solid waste services, not only in this region, but all across the State.

It's generally recognized today that New Jersey is in the midst of a solid waste disposal crisis. What many members of the Legislature and the public do not know, however, is that the private solid waste collection industry is also in serious trouble. Much of its problems are due to either misguided or unimplemented policies of State government which you have the power to correct.

There are two national waste companies -- Browning-Ferris Industries, and Waste Management, Inc. -- with collection operations in New Jersey and several other national companies involved in transfer station activities. By and large, however, the industry is made up of some 600 to 800 small to mid-sized firms. As a result of the Solid Waste Utility Control Act, adopted by the Legislature in 1970, each of them is treated as an individual public utility and subject to the full regulatory weight of the Board of Public Utilities. That's the law; it provides for no deviation. A

two-truck operator interested in increasing his fees must go through the same rate petition process as PSE&G, despite the fact that he has no franchise area and must compete with other waste collection companies actively seeking to woo away his business or residential customers.

Utility regulation of an electric company with tens of thousands of customers, employees, transmission lines, nuclear and conventional power generating facilities, and fleets of trucks and warehouses filled with equipment is certainly warranted. But it's the worst form of overkill for a small, private waste company struggling to stay afloat in a highly competitive business environment, with rising labor and insurance costs and soaring disposal fees at the transfer station or landfill to which he is directed.

Eighteen years ago, when the Governor's signature on a piece of paper transformed the XYZ Hauling Company into a public utility, there were 2300 similar waste collection companies operating in New Jersey. Today, there are probably fewer than 850. That figure is perhaps the most dramatic indication of the damage that has been done to the solid waste collection industry by utility regulation. Strangled by the BPU's oppressive, slow-reacting, and bureaucratic procedures, more haulers are abandoning their businesses each year.

Please note that we are not arguing for economic deregulation of the waste disposal segment of our industry -- transfer stations and landfills. Nor are we asking for any form of relief from environmental regulation imposed by DEP. We simply ask that the Legislature free collection companies from the confines of utility regulation.

Both of your colleagues, Senator Raymond Lesniak and Assemblyman John Bennett, recognize the validity of our request and have introduced the appropriate legislation. Senator Lesniak was the sponsor of the so-called A-901 Licensing Law which won approval in 1983. It requires all owners, officers,

key employees, and sizable stockholders in New Jersey solid waste companies to submit to background investigations and licensing standards similar to those required of persons operating Atlantic City casinos. It is the strictest law of its type in the nation, and it would guarantee the taxpayers of New Jersey that the industry is free of the alleged "criminal elements" which editorial writers are fond of evoking whenever they have cause to refer to our industry.

The licensing law should reassure New Jersey residents who contract for waste removal and disposal services, and it should remove the stigma of criminality which has tainted the reputations of 99% of the honest business people who operate or are employed by waste companies in New Jersey. It should, but it hasn't, because it's never been implemented. Incredible as it sounds, the fact is that only a handful of license applications have been fully processed. And weeks ago -- almost five years after the law was enacted -- the Attorney General announced for the first time that the Legislature had never provided the necessary funds to do the job. He says he needs an immediate appropriation of \$3.2 million to get the licensing program through the rest of this year, plus \$4.8 million in succeeding years.

Solid waste haulers in New Jersey are caught in a classic Catch-22 situation. Leaders of the Legislature say they agree that we need to be relieved of the burden of BPU rate regulation, but they also say that realistically can't take place until the licensing law is functioning to weed out the few bad apples who taint the entire industry. Now, five years after the passage of this tough licensing law, we are told that there isn't enough money available to make it work.

We are here tonight to tell you that the Legislature must make it work. Otherwise, New Jersey consumers will have fewer and fewer waste collection firms to choose from, as more honest and hard-working individuals are forced to close up

shop. Although we have severe philosophical differences with the policy, an effective licensing law would also act as a strong deterrent to waste flow violations -- particularly the illegal bypassing of county transfer stations -- which the BPU and DEP claim to be a serious problem.

The solution does not lie in passing more and stricter laws or threatening larger fines. The solution lies in enforcing the strong laws which already exist. If additional funding is necessary, the Legislature should provide it.

Perhaps it's ironic that solid waste industry representatives must come before the Legislature to demand more effective State regulation, but, so be it. Our members are not afraid to operate in a demanding but honest business environment free from undue government restrictions and unprincipled competitors.

Turning our focus to regional issues, we must say that until such time as the future of rate averaging is determined, the industry sees no role for the HMDC in terms of solid waste management.

Ironically, although the averaging of disposal fees for Bergen, Hudson, Essex, and Passaic Counties ceased as each county was denied continued use of HMDC disposal facilities, a sizable rate averaging surcharge is still being collected today from haulers using Bergen County's transfer station. This fee of \$2.31 per cubic yard for compacted waste and 72 cents for uncompacted waste continues under the old HMDC rate averaging ticket system. It is our understanding that the surcharge is still flowing to the HMDC.

If true rate averaging had continued for the four affected counties, their common disposal rate today would probably be about \$65 per ton. Bergen County collectors are currently paying \$33 more -- \$98.19 per ton - and are forced, in addition, to pay the \$2.31 and 72 cents per yard surcharge.

Collectors are not permitted by the BPU to tack on these additional fees when billing their customers. This archaic and, we believe, unjustified charge has resulted in a substantial cash drain for many haulers. The net effect of this unfair HMDC levy is increasingly reflected in the number of haulers who are stopped from dumping at the Bergen County facility because their disposal bill payments are in arrears.

NSWMA calls on you to help stop this unjust tax and to require that all such fees collected since the Bergen County transfer station operations commenced on February 1 be credited to the accounts of the collectors using the BCUA.

To summarize our earlier comments, we urge that: 1) The A-901 Licensing Law be implemented; 2) State solid waste laws and regulations be enforced; and 3) economic regulation of the industry's collection segment be lifted.

These are steps the Legislature can, and must take to assure that dependable waste removal services are available to New Jersey consumers, and that dedicated and experienced companies can continue to help the State solve its serious disposal problems.

Finally, as a brief rebuttal to what Mr. Kessler was saying -- and this is no reflection on his personal ability or his competence -- he really answered in an incoherent fashion, simply because BPU regulation of this industry is an incoherent and irrational policy.

SENATOR AMBROSIO: Thank you, Dave. You might be interested in knowing that Senator Contillo and I have joined in co-sponsoring legislation to move A-901 along and, coincidentally, to try to remove BPU regulation from the industry. I think the Legislature understands that those two things have to go hand in hand. I appreciate your statement.

Anyone else?

SENATOR COWAN: In your summarization here and, of course, in your presentation, you talk about the BPU -- the regulation of the industry's collection system.

MR. POINTON: I'm sorry, say that again.

SENATOR COWAN: Your point three, "the economic regulation of the industry's collection segment be lifted."

MR. POINTON: Yes?

SENATOR COWAN: Do you see that in the sense of it being in a competitive form, that we would have reductions of costs?

MR. POINTON: Well, you know, it only goes-- I guess, being logical about the whole situation, it is simply that when companies are able to compete -- which they are not presently able to do because of this stifling regulation -- I think you may see lower prices coming on the horizon.

SENATOR COWAN: Are you basing this on some other factors that you may relate to this, something parallel, or something that you can put as an analogy that deregulation -- and that is what we are talking about here, right?

MR. POINTON: Yeah. For example, in 1981, Colorado, which had a similar regulatory scheme, deregulated their industry. What you saw in the first year or so was that the prices, in some cases, went quite high. But now you are seeing a kind of averaging out of all those rates, and you are seeing a truly competitive system in that market.

SENATOR COWAN: Where are they dumping, within the state?

MR. POINTON: Excuse me, I'm sorry?

SENATOR COWAN: Are they dumping within state or out-of-state?

MR. POINTON: Yeah, in Colorado mostly. They have a lot of areas in Colorado.

SENATOR COWAN: They are dumping within state -- a lot of space, right?

SENATOR AMBROSIO: Senator Cowan, one of the things I think is made clear here, is that we are not talking about-- The witness is not talking about deregulating the landfills.

He is talking about deregulating the collectors. Do you understand?

SENATOR COWAN: I fully comprehend that. We are talking about deregulation in that part of the industry.

SENATOR CONTILLO: Let me make it clear, too, that the bill we sponsored to fund A-901, was simply to fund the-- I am not sure whether we have gone the full spectrum in licensing. We are saying that we do not agree with the solid waste laws being enforced. Thirdly, to deregulate the collectors would seem to me to be the greatest belief in old Yankee ingenuity, and belief in the American free enterprise system. It would be the greatest stimulant to savings to the consumer, because any collector with a half a brain in his head would start recycling, and cut down the volume he had to bring to the very expensive landfills.

MR. POINTON: I might add, too, that we certainly agree that the BPU becoming involved in any form of recycling would certainly spell the death of that industry.

SENATOR CONTILLO: With the exception of the one thing they should have gotten involved with -- (indiscernible).

SENATOR COWAN: You mentioned in your documentation here -- your presentation -- two of the bigger companies, Waste Management, and the other one was BFI, right? Are they in the recycling business also? Are they involved in recycling?

MR. POINTON: They are. In fact, Waste Management, Inc. is this nation's largest recycler. I am not sure exactly to what extent they are involved in New Jersey.

SENATOR COWAN: Well, as a representative of that Association, how much of the industry now that was never involved with recycling before is involved now, if any?

MR. POINTON: I think quite a few firms which were not involved previously are involved now. It is important to realize that recycling is not something new to our industry. We have been doing it for a number of years. But simply

because many municipalities now are asking for recycling, it is either get into the business, or you may lose the contract. So, they are getting into recycling.

SENATOR AMBROSIO: Thank you very much. George, do you want to make a statement? (negative response from audience) Okay.

I announced that we were going to break at 11, and we have about at least eight or nine more people who want to speak. We are obviously not going to be able to do that. I can probably take one or two more. One would be Ed Cornell, Executive Director, Waste Management Association. Let's see how far we get with him, but we are going to break at 11, though.

So, those of you who have signed up to speak, I am going to offer you the opportunity to come back in two weeks. We are having another session on May 31, at the same place.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Why didn't you say that earlier?

SENATOR AMBROSIO: I did say that at seven o'clock. We didn't know how far we would be able to get.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I just feel sorry for the people who have been waiting.

SENATOR AMBROSIO: Well, we announced that we would be quitting at 11. We have been here for four hours. There is nothing I can do about that, unless everybody wants to stay here through the night.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Ridgefield is one of our very famous-- (remainder of comment indiscernible; no microphone)

SENATOR AMBROSIO: Well, so did 14 other people who were on the list and who were here ready to testify. Now, what would you suggest I do? (indiscernible response here)

E D W A R D M. C O R N E L L, J R.: I always start arguments.

SENATOR AMBROSIO: Go right ahead, Mr. Cornell.

MR. CORNELL: Senators, thank you for having me here today -- for your invitation to present our thoughts and our suggestions on-- I tried to stick to the issues that were presented in the invitation -- those that we could address.

The first thing I would like to address is the resource recovery waste-to-energy plants. The State should reconsider the need for a resource recovery facility in every solid waste district. We have always promoted the elimination of the political boundaries in determining what is best for New Jersey regarding solid waste disposal. Promoting 22 incinerators borders on lunacy. It leads one to think that very influential people have designs on investing capital in these projects for profit.

The HMDC must promote and support regionalization of resource recovery facilities in the counties of Bergen, Essex, and Hudson. Have them pool their resources. This combination brings together three heavily populated counties. This region should be serviced with two resource recovery facilities, not four. If the solid waste increases dramatically in the future, a third plant could be considered, or an expansion program of the existing two facilities could be explored. Our industry doubts if the region would ever need a third facility.

Transfer Stations: Private contractors having investment capital tied up in existing approved and licensed transfer stations, should be allowed to operate independently. They should be encouraged to work in cooperation with governmentally controlled transfer stations. The waste capacities which they are capable of processing must be accepted in the county's solid waste plan. They are being restrained from operating these facilities to their maximum capacities. Our transfer stations are constructed to: Economize through improved efficiency; better serve our customers; and increase our profit margin. Instead of encouraging this philosophy, the companies having them are, in

a way, punished for their efforts under the present economic regulation.

Private contractors should be encouraged to build additional scientifically engineered transfer stations using private capital. They should be rewarded and included in the scheme of things. Instead, the State put itself in this business and halted development of the private sector.

The transfer stations presently in use are "mini landfills." Solid waste is directed to these facilities by State waste flow regulations. Franchises are being awarded. Transfer stations being operated by State-authorized county utility authorities are becoming monopolies with "super-powers."

The private contractors hauling to these facilities are, in fact, "captive customers." There is a tipping fee, not controlled by the State. He can dump no place else. Transfer stations are monopolies. They should be regulated by all affected regulatory agencies. Transfer stations must be inspected, audited, controlled, and punished, whether they are an authority or not.

In some cases at these transfer stations, employees have invoked price discrimination practices from carrier to carrier, and from load to load. A scale house operator has the power to make judgments determining if a load is residential waste or charge it as medical waste. Much higher prices are charged because a transfer station employee saw a Pamper from a home caring for a senior citizen; a syringe from the home of a diabetic; or just an empty large jar of petroleum jelly. Entire packer truck loads carrying eight tons of residential waste, paid much higher disposal prices because the load contained one or two rubber tires, which the driver never saw. This cavalier attitude eliminates any profit for the private hauler.

Medical Waste: We have been invited to serve on a State committee making suggestions to the DEP and the DOH on

this subject. The DOH, by the way, is the Department of Health. This committee will help to formulate policy for the disposal of medical waste. The committee's goal is to design a comprehensive set of rules, with enforcement provisions.

New Jersey Department of Environmental Protection's Mr. Ed Loundres said he, "Never saw NJDEP so unable to perform. Unlike the other people DEP regulates, medical people are the most professional."

Department of Health's James S. Blumenstock said at the first meeting, "Medical waste disposal is totally out of control." We agree.

We must give definition to the terms surrounding this vital subject. There is a mentality in the DEP and the DOH which will try to address classifications and definitions only as they pertain to New Jersey waste types. Meanwhile, the current dilemma exists because New Jersey, Ohio, and Pennsylvania do not agree on definitions. Mutual understanding and formal agreements with these states and landfills which New Jersey now uses is essential. Interstate cooperation and accepted terminology is far more important than what New Jersey would like if our crisis ended.

The committee talked about a special haulers' license, special packaging, and even special landfills for medical waste. We feel that special licensing is not necessary.

SENATOR CONTILLO: Excuse me, Mr. Cornell. We can incorporate your written testimony into the record. There is no reason for you to read it word for word to us. We will incorporate it into the record. Would you like to highlight the balance of it?

MR. CORNELL: It is only about 10 minutes.

SENATOR CONTILLO: We don't care. We would like to get a few more people on, if they want. We will incorporate your entire statement in the record.

MR. CORNELL: All right. I will jump around, if you want. For the purpose of tonight, I thought this would answer the questions in your--

Host Community Fees: We think they have gone out of sight. We believe that Harry McEnroe didn't really want to do a job on the public by extorting money -- or extorting transfers for money. We think that has to be controlled. It is driving the price of collecting and disposing of waste further out than it was before they went up into the \$7 and \$8 margins, and we understand it may even go further.

Right now, we think the garbage crisis has become a wealthy gambler in a casino. You are throwing all your money at the crap table. You are doubling your bet each time, and sooner or later you probably will win and solve the problem, but somebody always loses. The escalation of our disposal cost is going too far for the general people in the communities we service -- our customers -- to comprehend and to accept.

Recycling: We won't allow the present contractors who have been recycling a good portion of New Jersey's waste for many decades to continue in that business for a profit. Recycling must flourish with little or no economic regulation. The usual DEP controls, mandatory recycling regulations, and enforcement provisions and licensing are all that are needed, if licensing is needed at all. To treat recycling as solid waste will only serve to increase the cost of collection and processing.

We are a member of the Recycling Forum. We have constantly argued that the legislation does not carry an enforcement provision. We really feel that our industry cannot, and will not, compromise our companies by being a resident enforcement agency, with or without portfolio, to make this law work.

It is our dedicated responsibility to pick up waste and deliver it to a disposal site, not to inspect the garbage

and determine what is, and what is not acceptable to us for our trucks. Yet, we get inspected at the transfer station or the landfill. If there are recyclables in there, we get blamed for having recyclables in our truck over what a scale operator may think we should have.

The unions look upon recycling activity as an added burden to their rank and file, not in their jobs, and this, of course, affects the inspection of those bags that I just talked about. They see it as a technical job in its nature. Union members would have to be trained and would have to have complete knowledge of all the regulations and laws and penalties, and then you would have to make the judgment about who to give the fines to.

We are unaware of any recycling policies being developed within HMDC's region of responsibility. If they do have one, we would like to have a copy of it. If they don't have one, I know we would like to be a part of the compilation of one with them. We would like to be part of that business.

Landfills -- Present and Future: We believe, as DEP believes -- and we've heard it and we've read it since they started closing them down to make the people buy resource recovery-- And that's really what it was. It was the gas crisis situation all over again, but this time it was landfills. We believe certain of those landfills can be opened. For medical waste, most certainly. We suggested that. But even if some of these landfills could be opened, it would save hundreds of millions of dollars in disposal fees, and would stop us from going to the Midwestern communities and states. I happened to have been married in Poland, Ohio. My wife was born in Poland, Ohio, and I can tell you the life span out there is very, very short in the area of the dumping at the BFI facility in Poland.

The need for landfills in the 1980s, in conjunction with resource recovery, is a subject that the public hasn't

been instructed about. We haven't even talked about it tonight here. We talked about resource recovery and recycling. We still need landfills in the State of New Jersey. We always will need landfills for the unburnable waste and the ash that is generated through these incinerators. The State must accept the siting responsibility -- siting responsibilities for everything -- for resource recovery, for landfills, for transfer stations, and for intermediate processing stations. All of them are just garbage until after they are processed.

So, to take this burden of siting and putting it on the local officials, closer to the voters, will never get it done. Really, that is the crisis we have. It is not the garbage that is the crisis. It is not the collection that is the crisis. It is where to take it. It is the place you've got to bring it to that is the crisis. Until somebody takes the bull by the horns and sites those places, we are going to have this crisis.

Rate Averaging: You may think we are against it, but we're for it. No community's garbage -- residential, commercial, industrial, or medical -- is worth more because of where it is located on a map. Rate averaging is an answer to this problem. The concept has been tried at the Bergen County Utilities Authority and the HMDC. Unfortunately, no one except those two agencies understands the current formula of how it works. There are deficiencies. You've got to ask yourself, why should Bergen pay \$98.54, Union, \$137, Morris, \$98, Somerset, \$172, Middlesex, \$58, and Hudson -- I have \$54 on here, but it's \$27?

Certainly the poor are poor, whichever county they live in. People on a fixed income are distressed regardless of where they dump their garbage. A resident should not have to move from his home to a county where he can afford to remove his garbage.

Assemblyman McEnroe, as you heard before, introduced a bill yesterday, and we are waiting to read it and look it over before we give any real comment or endorsement. The Waste Management Association supports the larger regional concept. He is talking about another bill going in very shortly, where he will have three regions, and we support that. The formula should be a simple one, one which can be understood by not only the bureaucrats, but also the public, because we have to explain it to them. We are on the front line with that.

HMDC: Relationship With the Solid Waste Industry: Well, it is one of cooperation. We have had some bad moments caused by the frustrations of the existing crisis. Our industry has been the target of all the State's frustrations caused by the inept politics and bureaucracies of the past. We have been the low man on the totem pole, the base of the pecking order, guilty through innuendo, and without due process.

Governmental authorities, devising solutions to correct the problems that they have caused, must invite our industry to participate in developing solutions, and we are there to help. Let the other agencies which are charged with the responsibility of investigating and charging criminals do their job, too. Don't let the responsibilities of one group of agencies be clouded and stifle the planning process of the other. Stop chasing ghosts! Stop letting the mystical mob cloud good government. Get on with your job, solve the solid waste problem without this constant reference to corruption in our industry. Let RICO or A-901 do their job.

Siting facilities, as I said, is the only crisis. I think that is the only situation that our industry would like to have solved, and we know the public would like it, too, at the cheapest possible rates.

Senator Ambrosio, I want to thank you -- even though I rushed a bit here -- for your time, and for allowing me to come down here to express our views. I hope we have added something to your hearing.

SENATOR AMBROSIO: Thank you very much, Ed. I assure you that we will give careful consideration to your remarks. Thank you.

MR. CORNELL: I would be happy to answer any questions you may have.

SENATOR COWAN: Are you connected with the other Waste Management Association -- the National?

MR. CORNELL: No. The Waste Management Association and BFI are not members of our Association. I represent 100 of the smaller carriers, not all residential; most of ours are commercial.

SENATOR COWAN: Within the State of New Jersey?

MR. CORNELL: In the State of New Jersey only. That's right.

SENATOR COWAN: Thank you.

SENATOR AMBROSIO: Thank you very much.

Is there anyone else who wishes to give a written statement to be incorporated into the record? We will accept written statements at any time.

The next hearing is going to be two weeks from tonight on May 31. I apologize to those who were around for the whole night. We had hoped to get more testimony in. We will make sure that those of you who were here tonight will be given a first shot at the next hearing, because we did have several other people who wished to testify.

Thank you all for coming.

(HEARING CONCLUDED)

**APPENDIX**



# BERGEN COUNTY UTILITIES AUTHORITY

Box 122, Foot of Mehrhof Road, Little Ferry, New Jersey 07643

VINCENT A. CALDARELLA  
Executive Director

THOMAS J. TOSCANO, Chairman  
MICHAEL P. RINKO, Vice Chairman  
EUGENE J. BROPHY  
VERNON R. COX  
MARTIN J. HAYES  
SHERWIN D. LESTER  
FRANK C. LONGO  
MICHAEL B. SCADUTO  
ROSE TEAGUE

May 17, 1988

The Honorable Senator Gabriel M. Amrosio  
464 Valley Brook Avenue  
Lyndhurst, New Jersey 07071

Dear Senator Ambrosio:

We are pleased to have the opportunity to testify on the subject of the role of the HMDC. The HMDC is much like Charles Dicken's vision in "A Tale of Two Cities." To paraphrase, it is the best of agencies and the worst of agencies; it is the beginning of an epoch and the end of an era. In short, it is, from the perspective of the Bergen County Utilities Authority, both a great friend and an awesome opponent.

Consistent with the "dual" relationship the BCUA has in the past experienced with the HMDC, the HMDC itself is an agency with a dual identity. In order to truly understand this dual identity and the nature of our relationship, an examination of the genesis of the HMDC is helpful.

In 1968 the Hackensack Meadowlands Development Commission was formed by virtue of an act of the New Jersey State Legislature. By virtue of the enactment of the Hackensack Meadowlands Reclamation and Development Act, certain properties located in what had been traditionally known as the "Hackensack Meadowlands" were designated by the Legislature as the Hackensack Meadowlands District. The District, which is comprised of lands located in Bergen and Hudson Counties, was designated as an area of future development to serve the needs of the residents of the surrounding counties.

Further, pursuant to the Act of the Legislature, the HMDC, in overseeing the various activities within the district, was established and charged with various "environmental" responsibilities. However, an examination of the responsibilities, on its face, demonstrates the dilemma inherent in the structure and legislative goals of the HMDC.

As stated in the enabling legislation creating the HMDC, the agency has been charged with development, environmental and solid waste management responsibilities. In viewing the agency's development responsibilities, the legislature conferred power to the agency to encourage the creation of parks and other recreational facilities and the permitting of residential and commercial development projects. It was also charged with the protection of the natural wildlife and environmental resources located within the

Hackensack Meadowlands District. In addition, the HMDC has also been charged with the responsibility of overseeing and coordinating Solid Waste Management responsibilities within the Meadowlands District. It is as a result of this confluence of competing responsibilities that the BCUA has experienced, on one hand, a "solid waste partnership" relationship with the HMDC and, on the other hand, a difficult and sometimes troubled relationship with the agency.

Pursuant to the Solid Waste Management Act, all of New Jersey's 21 counties, along with the Hackensack Meadowlands District, were designated as Solid Waste Management Districts. As such and due to the fact that nearly 80% of the Meadowlands District is located within the geographical boundaries of Bergen County, the Bergen County District and the Meadowlands District share concurrent jurisdiction over the exercise of Solid Waste Management responsibilities in those areas of Bergen County lying within the Meadowlands District. As a result of this overlapping authority, two (2) agencies, the BCUA and the HMDC, have been charged by the legislature with the goal of managing solid waste in a sound manner. However, as a result of having these two (2) agencies sharing important planning and implementing responsibilities in the Meadowlands District, the solid waste planning process for Bergen County has been prolonged and complex. It is well known that lands suitable for Solid Waste Management purposes, both from a geotechnical and residential impact perspective, located in Bergen County, are found in the Meadowlands. Thus, all solid waste initiatives affecting these lands must be coordinated with the HMDC. In that end, various Inter-District Wasteflow Agreements have been entered into between the two agencies in an effort to delineate the respective roles of the two agencies regarding Solid Waste Management activities within the Meadowlands District.

The negotiation of these Inter-District Wasteflow Agreements has added stress to the relationship since no plan is complete without a signed agreement to back it up.

The BCUA believes that it is because of the dual nature of the HMDC's responsibilities that planning initiatives have been complicated over the years. It seems that the HMDC's planning and development responsibilities are in serious conflict with the legislatively charged Solid Waste Management responsibilities as, on one hand, the legislature seeks to commit the Meadowlands to commercial and residential enjoyment of this rapidly growing area. Yet, on the other hand, the legislature, by delegating Solid Waste Management's important responsibilities to the HMDC, has recognized that a vital resource, that of a suitable Solid Waste Management situs, is present in the Meadowlands and that this valuable resource must be utilized for the benefit of all residents of the surrounding area to satisfy their Solid Waste Management needs.

The BCUA, on behalf of Bergen County's population, sincerely hopes the legislature will assist the HMDC in the prioritization of its goals in light of the compelling public issues now present relating to the solid waste disposal crisis threatening the health, safety and welfare of Bergen County residents.

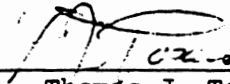
Perhaps the most serious consequence of the continuing reconciliation of competing goals that takes place on a daily basis in the HMDC is its effect upon resource recovery.

From siting, to permits, to residual landfills, all roads lead to the HMDC. We will not reiterate facts that have been on the public record for sometime. Suffice to say, the facility is not sited in Lyndhurst, a willing host community. Instead, it is sited in an unwilling community on a wetlands site that has taken years to permit and that has been beset with litigation since soon after its announcement. It took intercession by the DEP in 1982 to allocate responsibility for resource recovery and to designate the BCUA as lead agency for Bergen County resource recovery implementation. It has taken almost continued negotiations on Inter-District Wasteflow Agreements to keep resource recovery viable to the point that, in late November of last year, over a two (2) day period, all agreements on residual and bypass waste for resource recovery with the HMDC were cancelled and the BCUA was prepared to go to court. Suddenly, negotiations revived, but only after the agreement was accompanied by the withdrawal of much needed interim landfill capacity in the HMDC.

In brief conclusion, we believe that in most instances the HMDC has made a serious effort to reconcile the "irreconcilable" tasks and priorities it has been given. Our relationship has been, however, one of two (2) agencies with sometimes competing interests seeking to do a difficult job in the best interests of their respective constituencies.

Very truly yours,

BERGEN COUNTY UTILITIES AUTHORITY



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Thomas J. Toscano  
Chairman

TJT:sk



# WASTE MANAGEMENT ASSOCIATION

PARKSIDE PLAZA 1600 ST. GEORGES AVENUE  
RAHWAY, NEW JERSEY 07065  
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Bernard Dinardi  
*President*

Edward M. Cornell, Jr.  
*Executive Director*  
*Public Affairs*

## T E S T I M O N Y

### PRESENTED BY:

EDWARD M. CORNELL, JR.  
EXECUTIVE DIRECTOR  
WASTE MANAGEMENT ASSOCIATION, INC.

### TO:

SENATOR GABRIEL AMBROSIO, CHAIRMAN  
Hackensack Meadowlands Development Task Force

Tuesday, May 17, 1988 - 7:00 P.M.

Lyndhurst Township Municipal Building  
367 Valley Brook Road, Lyndhurst New Jersey

4X

"AN ALLIANCE FOR PROGRESS"

## RESOURCE RECOVERY - WASTE TO ENERGY PLANTS

The State should reconsider the need for a resource recovery facility in every solid waste district. We have always promoted the elimination of the political boundaries in determining what is best for New Jersey regarding solid waste disposal. Promoting 22 incinerators borders on lunacy. It leads one to think that very influential people have designs on investing capital in these projects for profit.

While the State is promoting one resource recovery facility in each district, the electricity which will be generated will be channeled into a "power grid system". The power will be used by any electric public utility who wishes to contract for it, regardless of its geographical location.

The HMDC must promote and support regionalization of resource recovery facility in the counties of Bergen, Essex and Hudson. Have them pool their resources. This combination brings together three heavily populated counties. This region should be serviced with two resource recovery facilities, not four. If the solid waste increases dramatically in the future, a third plant will be considered, or an expansion program of the existing two facilities will be explored. Our industry doubts if the region would ever need a third facility.

## TRANSFER STATIONS

Private contractors having investment capital tied up in existing approved and licensed transfer stations, should be allowed to operate independently. They should be encouraged to work in cooperation with governmentally controlled transfer stations. The waste capacities which they are capable of processing must be accepted in the county's Solid Waste Plan. They are being restrained from operating these facilities to their maximum capacities. Our transfer stations are constructed to; economize through improved efficiency; better serve our customers; and to increase our profit margin. Instead of encouraging this philosophy the companies having them are, in a way, punished for their efforts under the present economic regulation.

Private contractors should be encouraged to build additional scientifically engineered transfer stations using private capital. They should be rewarded and included in the scheme of things. Instead, the State put itself in this business and halted development of the private sector.

The transfer stations presently in use are "mini landfills." Solid waste is directed to these facilities by State Waste Flow Regulations. Franchises are being awarded. Transfer stations being operated by State authorized county "Utility Authorities" are becoming monopolies with "super-powers."

The private contractors hauling to these facilities are, in fact, "captive customers." There is a tipping fee, not controlled by the State. He can dump no place else! Transfer stations are monopolies. They should be regulated by all affected regulatory agencies. Transfer stations must be inspected, audited, controlled and punished, whether they are an Authority or not!

In some cases at these transfer stations, employees have invoked price discrimination practices from carrier, to carrier and from load, to load. A scale house operator has the power to make judgements determining if a load is residential waste or charge it as medical waste. Much higher prices are charged because a transfer station employee saw a Pamper from a home caring for a senior citizen; a syringe from the home of a diabetic; or just an empty large jar of petroleum jelly. Entire packer truck loads carrying eight tons of residential paid much higher disposal prices because the load contained one or two rubber tires. This cavalier attitude eliminates any profit for the private hauler.

## MEDICAL WASTE

We have been invited to serve on a State committee making suggestions to the DEP and the DOH on this subject. This committee will help to formulate policy for the disposal of Medical Waste. The committee's goal is to design a comprehensive set of rules, with enforcement provisions.

New Jersey Department of Environmental Protection's, Mr. Ed Loundres, said he "Never saw NJDEP so unable to perform. Unlike the other people DEP regulates, medical people are the most professional"

Department of Health's James S. Blumenstock said at the first meeting, "Medical waste disposal is totally out of control."

We must give definition to the terms surrounding this vital subject. There is a mentality in the DEP and the DOH which will try to address classifications and definitions only as they pertain to New Jersey waste types. Meanwhile, the current dilemma exists because New Jersey, Ohio and Pennsylvania do not agree on definitions. Mutual understanding and formal agreements with these states and landfills which New Jersey now uses is essential. Interstate cooperation and accepted terminology is far more important than what New Jersey would like if our crisis ended.

The committee talked about a Special Haulers License, Special Packaging, and even Special Landfills for medical waste. We feel that special licensing is not necessary. Waste Management Association suggested that some of the older, closed, landfills and few presently operating landfills be directed to receive Medical Waste. Medical Waste as defined using New Jersey's proposed classifications. Doing this on a regional basis will reduce the cost of disposal and transportation to distant midwestern landfills. The total cost will be a fraction of what the medical profession (their patients) are paying today.

#### HOST COMMUNITY FEES

Host Community fees have grown completely out of sight, not unlike every new idea being tried to resolve this social problem. Assemblyman Harry McEnroe never expected the Host Community sections of A-1778 to extort sites for garbage processing facilities. In fact the original law did not include transfer stations.

When additional expenses like Host Community Fee's are added to the cost of disposing garbage, some poor unsuspecting souls get increases in their every day living expenses. Added costs hurt the pocketbooks of our senior citizens, the poor, the sick, and those on low fixed incomes. In Union County, the residents pay as much as \$36.00 per month for garbage removal. Some must make a choice between food, medicine or garbage collection.

This "garbage crisis" has become a "wealthy gambler" in a casino. Money is no concern. Keep throwing money on the table, doubling your bet each time. Sooner or later you'll win. But someone always loses. Stop the escalation of our disposal cost. Stop throwing money into the garbage!

Host Community Fees contribute to the escalation of disposal costs. Citizens, living in communities that failed to address their garbage disposal problems, should not be economically punished for the sins and omissions of the leaders.

#### RECYCLING AND THE PRIVATE CONTRACTOR

Allow present contractors that have been recycling a good portion of New Jersey's waste for many decades, to continue in that business for a profit.

Solid waste management plans and economic regulations have skyrocketed costs of collecting and disposing of garbage upwards and far beyond any good reason. People are taking advantage of this "Crisis." They are from every professional group and industry. The costs are enormous.

Recycling waste must progress and flourish with little or no economic regulation. The usual DEP environmental controls, mandatory recycling regulations and enforcement provisions and

licensing is all that is needed. There is no reason to load recycling with regulation. To treat recycling as solid waste will only serve to increase the cost the collection and processing.

The Waste Management Association is a member of the Board of Directors of the New Jersey Recycling Forum. We participated in the creation of New Jersey's Comprehensive Mandatory Recycling Law. We consistently argued that the "Mandatory" law would be hard to promulgate without an enforcement section. It was never written into the law. Inspections are necessary to find those generators of waste who break the law, long before their recyclables find their way into our trucks.

Our industry cannot, and will not compromise our companies, by being the resident enforcement agency (with or without portfolio), to make this law work. It is our dedicated responsibility to pickup waste and deliver it to a disposal site. Many of our employees, although generally energetic and enthusiastic, are from the rolls of the hard core unemployed. The nature of our business does not attract the type of person that will inspect a residents garbage and make a value judgement to charge "Mrs. Jones" with breaking the law. This is a job for persons who have plans for a career of inspector, police or lawyer.

Unions look upon this activity as an added burden to their rank and file. Not in their job specs, and technical in nature. Union members would have to be trained and have complete knowledge of all the regulations, laws and amendments governing recycling materials, enforcement and penalties. You can be sure that this would mean additional costs to the public for salaries, training, safety equipment, etc. The subject of recycling has already raised the eyebrows of union leadership during our last labor negotiations. Recycling will pay!

We are unaware of any recycling policies being developed within the HMDC's region of responsibility. If they do have a policy, addressing mandatory recycling, already in place, we urge them to inform us. If HMDC has yet to develop a comprehensive plan, our Association's members servicing this region, respectfully ask to participate in its development.

## LANDFILLS-PRESENT AND FUTURE

Opened and closed landfills can be used for a limited time until resource recovery facilities are built. This would save the public hundreds of millions of dollars in disposal fees. Old landfills presently closed should be reopened to ease the cost burden. New modern properly controlled landfills must be sited now. Sited, by the State, not by the local politicians on the front lines, they're too close to the voters.

The need for landfills in the 1980's in conjunction with resource recovery is a subject that the public hasn't been instructed about! Landfilling, is not a disappearing art. Incineration is not a panacea. Resource recovery is not the total solution to our solid waste crisis, neither is mandatory recycling, at 25%, or 100%. There will always be residue. There will always be modern state of the art landfills.

The State must accept the siting responsibility. Each resource recovery facility needs a landfill for the unburnables and the ash. The public must be educated. State government should site landfills based on a geographical region, not using political boundaries. The federal government must also do its part by setting policy and helping to resolve the impending garbage problem throughout America. The State, and the federal government together, must use all the ingenuity and scientific knowledge at their disposal. Responsible government must inform the public of not only it's plans and intentions, but also an

honest, scientific estimate of the consequences if we don't act.

#### RATE AVERAGING

No community's garbage; residential, commercial, industrial or medical, is worth more because of where it is located on the map. Rate averaging is an answer to this problem. The concept has been tried at the Bergen County Utilities Authority and the HMDC.

Unfortunately, no one except those two agencies understand the current formula or how it works. There are deficiencies.

We must ask ourselves; why should it cost Bergen \$98.54 per ton; Union County \$137.00; Morris County \$98.45; Somerset \$122.00; Middlesex \$58.57 and Hudson \$54.00. Certainly the poor, are poor which ever county they live in. People on fixed income are distressed regardless of where they dump their garbage. A resident should not have to move from their homes to a county where they can afford to have garbage removed.

Assemblyman Harry McEnroe, on May 16th, 1988 introduced a bill promoting a version of rate averaging for a specific geographical area. In discussions with the Assemblyman, we understand that he will shortly introduce another bill which will create regional rate averaging. McEnroe envisions a regional concept to be three large regions encompassing the entire State. We applaud Assemblyman McEnroe for his keen political judgment

that has given direction to resolve many of the problems of this crisis.

Waste Management Association supports the larger regional concept. We wish to study the bills before making our final comment or endorsement. The formula should be a simple one. One which can be understood by the public and the bureaucrats administering the rates.

#### HMDC: RELATIONSHIP WITH THE SOLID WASTE INDUSTRY

The industry's relationship with the H.M.D.C. and the B.C.U.A., has been one of cooperation. We have had some bad moments, caused by the frustrations of the existing crisis. Our industry has been the target of all the State's frustrations caused by the inept politics and bureaucracies of the past. We have been the low man on the totem pole. The base of the pecking order, guilty through innuendo, and without due process.

Governmental authorities, devising solutions to correct the problems that they have caused, must invite our industry to participate in developing solutions. We can promise a quicker, more economical, more efficient resolution than we now see on the horizon.

Let the other agencies who are charged with the responsibility of investigating and charging criminals do their

job too. Don't let the responsibilities of one group of agencies be clouded and stifle the planning process of the other.

Stop chasing ghosts! Stop letting the mystical mob cloud good government. Get on with your job, solve the solid waste problem without this constant reference to corruption in our industry. Let RICCO or A-901 do their job.

Siting facilities is the Only Crisis! Solve the garbage crisis. This is the problem that every respectable politician and solid waste management businessmen and women want. The public has the right to expect their garbage to be picked up with the same consistency as during the past century, at the cheapest prices possible.

...and testify on  
behalf of our trade association and the industry we  
represent. Waste Management Association pledges our  
continued cooperation in helping devise the necessary  
plans and legislation needed to aid the State in  
resolving this terrible and expensive situation. Just  
give us the encouragement.

Thank you.

WASTE MANAGEMENT ASSOCIATION, INC.

EDWARD M. CORNELL, JR.

EXECUTIVE DIRECTOR

MAY 17, 1988

HMDC5b17.CLN

TESTIMONY OF STEVEN FASS

BEFORE THE

HACKENSACK MEADOWLANDS DEVELOPMENT TASK FORCE

MAY 17, 1988

LYNDHURST, NEW JERSEY

SENATOR AMBROSIO, MEMBERS OF THE COMMITTEE, LADIES AND GENTLEMEN,  
GOOD EVENING. MY NAME IS STEVEN FASS AND I REPRESENT RECYCLING  
CENTER OF NEW JERSEY. I WOULD LIKE TO OFFER COMMENT ON A SOLID  
WASTE MANAGEMENT ISSUE WHICH AFFECTS THE HMDC AS WELL AS THE REST  
OF THE STATE. THAT ISSUE IS RECYCLING PROGRAMS FOR BUSINESSES AND  
INSTITUTIONS. FOR THE SAKE OF BREVITY, I WILL REFER TO THIS SIMPLY  
AS COMMERCIAL RECYCLING.

UNDER THE MANDATORY RECYCLING ACT, BUSINESSES AND INSTITUTIONS AS  
WELL AS RESIDENTS ARE REQUIRED TO RECYCLE. IN MANY WAYS, COMMERCIAL  
RECYCLING PROGRAMS OFFER THE POTENTIAL TO ACCELERATE THE ACHIEVEMENT  
OF THE STATE'S RECYCLING GOALS, NOTABLY THE 15 AND 25% WASTE REDUCTION  
GOALS. THIS IS DUE IN LARGE PART TO THE FACT THAT COMMERCIAL WASTES  
TYPICALLY HAVE A HIGHER PERCENTAGE OF RECYCLABLE MATERIALS THAN  
RESIDENTIAL WASTE AND THAT THEY ACCOUNT FOR ABOUT ONE THIRD OF THE  
SOLID WASTE GENERATED IN THE STATE. HOWEVER, DUE TO INADEQUATE INITIAL  
PLANNING BY THE STATE AND COUNTIES AND AGGRESSIVE ENFORCEMENT OF  
GENERALLY-WRITTEN REGULATIONS AGAINST AN EVOLVING COMMERCIAL RECYCLING

COLLECTION INDUSTRY, MUCH OF THE POTENTIAL BENEFIT TO THE STATE'S WASTE MANAGEMENT PROGRAM MAY BE LOST OR DEFERRED.

RELATIVE TO RESIDENTIAL RECYCLING, COMMERCIAL RECYCLING DID NOT RECEIVE MUCH ATTENTION IN THE DRAFTING OF THE MANDATORY RECYCLING ACT. IN MANY WAYS THIS WAS VERY UNDERSTANDABLE. THE RESIDENTIAL WASTESTREAM WAS LARGER; IT WAS TYPICALLY MORE DIRECTLY UNDER CONTROL OF MUNICIPALITIES; MANY RESIDENTIAL RECYCLING PROGRAMS ALREADY EXISTED AND COULD BE EXPANDED; THE COMPOSITION OF RESIDENTIAL WASTE WAS FAIRLY CONSISTENT FROM ONE HOUSE TO ANOTHER; AND, THE POLITICAL VISIBILITY OF MANDATORY RESIDENTIAL RECYCLING PROGRAMS WOULD HELP PREPARE THE STATE FOR THE IMMINENT DISPOSAL CRISIS.

AS A RESULT OF THE LOPSIDED APPROACH, COMMERCIAL RECYCLING HAS BEEN ADDRESSED BY STATE, COUNTY AND MUNICIPAL GOVERNMENTS MOSTLY AS AN AFTERTHOUGHT TO MUNICIPAL (PRIMARYLY RESIDENTIAL) RECYCLING PROGRAMS. BUSINESSES AND INSTITUTIONS, IN THEIR ROLES AS SOLID WASTE GENERATORS, ARE NOT YET WELL UNDERSTOOD BY GOVERNMENT. THIS SHOULD NOT BE SURPRISING AS IT HAS TYPICALLY BEEN THE PRIVATE WASTE HAULER, NOT MUNICIPAL GOVERNMENTS, WHO HAS MANAGED BUSINESSES' SOLID WASTE DISPOSAL NEEDS IN THE PAST. NOT SURPRISINGLY EITHER, IT IS THE PRIVATE WASTE HAULERS WHO ARE NOW ESTABLISHING COMMERCIAL WASTE RECYCLING PROGRAMS.

MUCH OF THIS IS CONSISTENT WITH COUNTY AND MUNICIPAL RECYCLING PLANS DRAFTED BOTH BEFORE AND AFTER THE MANDATORY RECYCLING ACT. WHILE SOME COUNTIES HAVE LEFT COMMERCIAL RECYCLING UNADDRESSED OR LEFT IT THE RESPONSIBILITY OF THE MUNICIPALITIES, OTHER COUNTIES HAVE ASSUMED OR MORE CLEARLY PLANNED TO HAVE COMMERCIAL RECYCLING CONDUCTED BY EXISTING SOLID WASTE HAULERS AND TRANSFER STATIONS. ONE COUNTY WENT SO FAR IN ITS INITIAL PLANNING TO CONSIDER REQUIRING ALL EXISTING TRANSFER STATIONS TO ACCOMODATE SOME LEVEL OF RECYCLING BY A CERTAIN DATE AS A CONDITION FOR SOLID WASTE FACILITY PERMIT RENEWAL. HOWEVER, AS MUCH AS THIS APPEARS TO DESCRIBE A RIPE OPPORTUNITY FOR SOLID WASTE HAULERS TO ENTER THE FIELD OF COMMERCIAL RECYCLING, THOSE WHO DO WILL ENTER THE FIELD IN ESSENTIALLY A REGULATORY VACUUM SUBJECT TO CHANGE.

MANY PRIVATE SOLID WASTE HAULERS ARE NOW EAGER TO GET INVOLVED IN RECYCLING. THEY RECOGNIZE THAT COMPETITORS WHO ARE ABLE TO PROVIDE RECYCLING SERVICES AT SUBSTANTIAL COST SAVINGS WILL EVENTUALLY REMOVE THEIR CUSTOMER BASES. HOWEVER, GUIDANCE FROM THE STATE AS TO ALLOWABLE OPERATING PARAMETERS FOR COMMERCIAL RECYCLING PROGRAMS HAS BEEN BASIC AND SOMETIMES VAGUE.

HISTORICALLY, THE BOARD OF PUBLIC UTILITIES (BPU) HAS STATED THAT IT DOES NOT REGULATE RECYCLING ACTIVITIES AND THAT A HAULER SHOULD ESTABLISH A SEPARATE COMPANY IF HE WANTS TO BE A RECYCLER. A NUMBER

OF HAULERS HAVE DONE SO. THE DEP HAS STATED THAT RECYCLABLES MAY CONTAIN UP TO 20% NONRECYCLABLE MATERIALS AND STILL BE CONSIDERED RECYCLABLES, RATHER THAN SOLID WASTE. "RECYCLING CENTERS" HAVE BEEN DEFINED IN BASIC TERMS AND EXEMPTED FROM SOLID WASTE FACILITY PERMITS FROM NJDEP. THIS WAS DONE TO MINIMIZE THE STATE ROLE IN APPROVING RECYCLING FACILITIES IN AN EFFORT TO GET THEM ON LINE AS SOON AS POSSIBLE.

SOME HAULERS WHO HAVE ENTERED THE RECYCLING FIELD WITH THIS LIMITED GUIDANCE FROM THE STATE HAVE NOW FACED ENFORCEMENT ACTIONS FOR OPERATING ILLEGAL TRANSFER STATIONS AND SOLID WASTE COLLECTION BUSINESSES. NOW THE BPU HAS EXPRESSED A DESIRE TO "CERTIFY" RECYCLING CENTERS. THEY HAVE FURTHER STATED THAT IN THEIR VIEW, RECYCLING CENTERS GENERATE 0% RESIDUE. IF THIS VIEW HOLDS, THEN ALL EXISTING SCRAP DEALERS IN THE STATE WILL NEED TO BECOME PERMITTED SOLID WASTE TRANSFER STATIONS. DEP, AS WELL AS SEVERAL COUNTIES, ARE NOW UNCLEAR AS TO WHETHER RESIDUE FROM RECYCLING CENTERS SHOULD BE CONSIDERED WASTE GENERATED IN THE COUNTY ORIGINATING THE RECYCLABLE MATERIALS OR WASTE GENERATED IN THE COUNTY WHICH IS HOST TO THE CENTER. RECYCLING CENTERS THEMSELVES ARE TO BE DEFINED IN GREATER DETAIL IN REGULATIONS YET TO BE ISSUED UNDER THE MANDATORY RECYCLING LAW. HOWEVER, THESE REGULATIONS WILL PROBABLY NOT EXIST IN FINAL FORM UNTIL SOMETIME IN AUGUST.

ADMITTEDLY, MUCH OF THE ENFORCEMENT ACTION TAKEN RECENTLY BY THE STATE AGAINST ILLEGAL TRANSFER STATIONS HAS FOCUSED ON SO-CALLED "RECYCLING CENTERS". THESE ARE TYPICALLY UNPERMITTED FACILITIES WHICH ACCEPT UNSEPARATED SOLID WASTE FOR DISPOSAL AT OUT-OF-STATE LANDFILLS, IN VIOLATION OF WASTE DIRECTION ORDERS ISSUED BY THE STATE. AS NOTED IN RECENT NEWSPAPER ARTICLES, THESE FACILITIES TYPICALLY PERFORM THIS SERVICE AT A COST SUBSTANTIALLY LESS THAN CHARGED BY "OFFICIAL" TRANSFER STATIONS. PERHAPS SOME COMPETITION IN THIS AREA WOULD BENEFIT THE PUBLIC. IN ANY EVENT, THE PRESENCE AND OPERATION OF DECIDEDLY ILLEGAL TRANSFER STATIONS HAS RESULTED IN A STATE REGULATORY AGENCY POSTURE TOWARD COMMERCIAL RECYCLING CENTERS WHICH COULD BE CHARACTERIZED AS PARANOID.

BEFORE COMMERCIAL RECYCLING CAN SUBSTANTIALLY PROGRESS IN NEW JERSEY, A NUMBER OF THINGS WILL NEED TO OCCUR.

BUSINESSES NEED TO BE BETTER UNDERSTOOD IN THEIR CAPACITY AS WASTE GENERATORS AND RECYCLERS. MANY BUSINESSES ALREADY HAVE INADEQUATE SPACE TO STORE SOLID WASTE, MUCH LESS TWO OR MORE CATEGORIES OF RECYCLABLE MATERIALS. THIS FACT IS OFTEN DEMONSTRATED IN THAT MANY BUSINESSES CONTRACT FOR SOLID WASTE COLLECTION AND DISPOSAL SERVICES EVEN THOUGH THE MUNICIPALITY PROVIDES PERIODIC CURBSIDE COLLECTION. MORE OFTEN THAN NOT, THESE BUSINESSES WILL HAVE LITTLE OR NO SPACE AVAILABLE FOR RECYCLABLE MATERIALS AND WILL NEED FREQUENT COLLECTION.

FOR THESE AND OTHER BUSINESSES, A RECYCLING PROGRAM COLLECTING NUMEROUS SOURCE SEPARATED MATERIALS COMMINGLED IN ONE CATEGORY MAKES GREAT SENSE. IT REDUCES THEIR NEED TO STORE SEPARATE CATEGORIES OF MATERIAL AND REDUCES THEIR COST TO COMPLY WITH MANDATORY RECYCLING PROGRAM REQUIREMENTS. LEGITIMATE COLLECTION AND PROCESSING OF MIXED OR COMMINGLED RECYCLABLES IS A WELL ACCEPTED PRACTICE IN EUROPE AND HAS INCREASING POPULARITY FOR RESIDENTIAL RECYCLING IN NEW JERSEY. SOME PRIVATELY OPERATED RECYCLING FACILITIES IN NEW JERSEY ARE ALREADY PROVIDING THIS SERVICE FOR DIFFERENT MIXES OF MATERIAL.

HOWEVER, BEFORE SUBSTANTIAL EXPANSION OF PROCESSING CAPACITY OCCURS FOR COMMINGLED COMMERCIAL RECYCLABLE MATERIALS, RECYCLING FACILITIES AND ACTIVITIES WILL NEED TO BE BETTER DEFINED. THE CURRENT REGULATORY AND ENFORCEMENT ENVIRONMENT IS SUCH THAT IT CASTS DOUBT ON THE WISDOM OF PRIVATE CAPITAL INVESTMENT IN THESE BUSINESSES. OF PARTICULAR CONCERN IS THE POSSIBLE REGULATION OF RECYCLING FACILITIES BY THE BPU. IT IS LIKELY THAT SUCH REGULATION WILL PREVENT SPECULATIVE PRIVATE INVESTMENT IN RECYCLING MUCH AS IT HAS IN LANDFILLING. HOPEFULLY, THE FORTHCOMING RECYCLING ACT REGULATIONS WILL CLARIFY THE DEFINITIONS AND ROLES OF RECYCLING FACILITIES. LET US HOPE ALSO THAT THE ROLE OF THE BPU IN RECYCLING IS MINIMAL OR NONEXISTANT.

STATE AGENCIES NEED TO WORK WITH EVOLVING COMMERCIAL RECYCLING COMPANIES TO IMPROVE OPERATIONS TO BETTER COMFORM WITH THE EVERCHANGING REGULATIONS RATHER THAN TO FIGHT THEM WITH ENFORCEMENT ACTIONS BASED ON DATED OR

VAGUE REGULATIONS. IN A TIME OF COINCIDENT HIGH DISPOSAL COSTS AND AMBITIOUS WASTE REDUCTION GOALS, IS IT WISE FOR THE STATE TO BE CONSERVATIVE RATHER THAN LIBERAL IN DEFINING WHAT CONSTITUTES LEGITIMATE RECYCLING? FURTHERMORE, IS IT WISE TO BE RESTRICTIVE RATHER THAN PERMISSIVE IN ALLOWING CREATIVE APPROACHES TO COLLECTION AND PROCESSING OF RECYCLABLE MATERIALS? I WOULD SUGGEST THAT IT WOULD BE BEST TO WORK COOPERATIVELY WITH THE INDUSTRY AND ALLOW SOME AMOUNT OF EXPERIMENTATION AND INNOVATION. ULTIMATELY, TAXPAYERS AND BUSINESSES BENEFIT FROM AS MUCH RECYCLING AS CAN BE ACCOMPLISHED LEGITIMATELY. RECYCLING IS THE LOWEST COST SOLID WASTE MANAGEMENT METHOD.

NEW JERSEY IS NOW ARGUABLY THE LEADING STATE IN THE NATION IN THE AREA OF RECYCLING. THROUGH THE DEVELOPMENT OF NEW JERSEY'S STATE RECYCLING PROGRAM, THE SUBSTANTIAL HISTORICAL CONTRIBUTIONS BY THE SCRAP INDUSTRY AND HAULING INDUSTRY HAVE BEEN UNDERPLAYED. IT IS NOW TIME TO WORK COOPERATIVELY WITH THESE INDUSTRIES AND ALLOW THEM TO DEVELOP RECYCLING APPROACHES WHICH ARE AS INNOVATIVE AS THE STATE POLICIES WHICH DEMAND THEM. THE HIGH CONCENTRATION OF BUSINESSES THAT EXISTS IN THE HACKENSACK MEADOWLANDS DISTRICT AND NORTHERN NEW JERSEY AS A WHOLE PRESENTS A UNIQUE RECYCLING OPPORTUNITY. LET US SEE THAT IS IS REALIZED. THANK YOU.





