
Public Hearing

before

SENATE LEGISLATIVE OVERSIGHT COMMITTEE

SENATE CONCURRENT RESOLUTION No. 101
*(Invalidates regulations of the DEP that require the submission of
digital maps pursuant to the DPCC program)*

and

SENATE CONCURRENT RESOLUTION No. 102
*(Finds that NJPDES fee regulations of the DEP are invalid
due to inconsistency with legislative intent)*

LOCATION: Room 319
State House
Trenton, New Jersey

DATE: October 28, 1996
1:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator John P. Scott, Chairman
Senator Henry P. McNamara
Senator Ronald L. Rice
Senator Nicholas J. Sacco

ALSO PRESENT:

Mark T. Connelly
Raymond E. Cantor
Office of Legislative Services
Aides, Senate Legislative
Oversight Committee



Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey

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SENATOR JOHN P. SCOTT (Chairman): The Senate Legislative Oversight Committee is in session. We are here today to go over two pieces of legislation -- SCR-101 and SCR-102. Both of these resolutions have been passed under a different number. According to the law, that gives us the oversight authority. We now come back and we have to pass them again.

On July 18, 1996, we passed SCR-15 regarding the NJPDES fee schedule. I guess the same day, we passed the map business. SCR-101 and SCR-102 pertain to the exact same piece of legislation. As we read the rule, we passed them in both Houses. DEP has a certain number of days to comply, to talk, or to do something. If they don't get back to us, at that point we have to start the same process over with two new pieces of legislation.

Once it goes through both Houses -- that means this Committee gets a vote out of the Senate and it goes to the Assembly Committee, gets voted out of the Assembly, the concurrent resolution, then that's it. It becomes the law based on the oversight that we received the authority back-- I guess in was in 1992 when the voters, on referendum, gave us this authority.

So what happens here today is the start of something that, basically, is historic, because it has never happened before. The Legislature has some authority that perhaps it did not have at that other time. Because of that, because we have already heard testimony here -- everybody here has had a chance to testify twice, once in the Assembly hearing, and once in the Senate hearing, had a chance to lobby both the Assembly and the Senate -- there is nothing new. The wording is the same.

I don't really want to-- I will listen, but it is going to be short. You can make your statement, but we are not going to be here for hours, that's for sure. We have already said, I think, what has to be said, whether it is DEP, the BIA, or whomever it may be. So you can say once again what you said, but do it a little quicker today.

With that, we will hear SCR-102 on the NJPDES fee. I will call Catherine Cowan, Assistant Commissioner, who I thought was here to give support for the legislation, but she tells me-- I was going to include her on a press release, but somehow she disagreed with that and thought she might get in trouble going back to the office this afternoon.

Welcome, Assistant Commissioner.

ASST. COMM. CATHERINE W. COWAN: Thank you, Senator. It is always a pleasure to be here.

Members of the Committee: It is DEP's response to your statement about a certain amount of time. We did respond. We expressed to you, in oral and written statements, our position on the resolution. We believe that in many ways we have already changed the program, that we have accomplished some of the goals that you have expressed, in that for the last three years, we have capped at \$11.2 million the collection of fees in the State; maintained an operative and effective program, despite cutting back dramatically in the amount of money we collect from the various dischargers; and, in fact, we reduced the highest fees. In fact, we changed the program so that we raised the minimum fee. Many of the dischargers who were at the highest fees have had theirs reduced. Many of the dischargers who were lower have gone up to other minimums. So we have made them more equitable.

At the same time, we reduced the size of the program. We have laid people off. We have not hired people to fill vacancies. We have 70 to 100 fewer people on the program than we had previously. We have the opinion that it has been the direction of this State and, in fact, through the legislative appropriations in the budget for a number of years, that NJPDES fees were intended to cover the costs of the program. So that was the direction we went. You have appropriated funds and the Governor signed them. So it was our assumption that that was the direction we were supposed to go.

SENATOR SCOTT: The Governor signed what?

ASSISTANT COMMISSIONER COWAN: The budget bills, over the last number of years, that provided for funding--

SENATOR SCOTT: Well, she has-- We have to do that.

ASSISTANT COMMISSIONER COWAN: Yes, right.

SENATOR SCOTT: We may disagree with parts of it, but we have to get a budget signed.

ASSISTANT COMMISSIONER COWAN: Of course.

SENATOR SCOTT: We have to vote for it, get it through, and so on.

ASSISTANT COMMISSIONER COWAN: The point I am making, though, is that the public policy position in the State of New Jersey was that the NJPDES program needed to be funded and that it should be funded through fees. In other states, there was more a funding from the general fund. We were unsure. We know there needs to be a program. The Federal government will run a program if we are not able to do so in this State. I don't know whether you are in agreement with that, but we believe that we

have made a number of efforts to streamline the program, reduce the cost to the dischargers to make the fees more equitable, to be responsive to concerns that you, as members of the Legislature, have represented to us.

SENATOR SCOTT: I think we may hear from people in the audience who may disagree on equitable fees. I think that, Cathy, is what we want to hear -- what we will be hearing from them.

I see it hasn't really changed. You know, you disagree, and that is certainly what you are here for, you know, to disagree with us a little bit. I don't really have a problem with that, except that the Legislature is a branch of government and we are supposed to make the laws, and so on. That is why we are here, and that is why we have the authority in the first place. The people agree, you know, that somebody has to have authority over agencies and government. So, since they gave us that authority, it behooves us to utilize it.

Do you have any questions?

SENATOR McNAMARA: I would just like to know: How many major fee payers do we have?

ASSISTANT COMMISSIONER COWAN: We have 593 industrial facilities that pay NJPDES fees. I can give you the median fees. The median of those 593 is about \$1900, just under \$2000. The lowest--

SENATOR McNAMARA: Okay. Well, obviously, I have to believe that the interest and concern of the Senator isn't because you are charging \$1900 per facility. So I would have to assume that if that is the median-- What is the top 20?

ASSISTANT COMMISSIONER COWAN: Well, roughly, 75 percent of those facilities pay less than \$2500. The top 20-- Let's see. We have-- That means that 25 percent paid over-- I don't know that I have the figure for the top 20. Only 29 pay fees over \$50,000, some of those considerably over.

SENATOR McNAMARA: How many pay fees over \$100,000?

ASSISTANT COMMISSIONER COWAN: We have that, too. About 10 or 12, Dennis (referring to Dennis Hart, who is sitting with her) tells me.

I'm sorry. I forgot to introduce Dennis Hart, who is the Director of the Division of Water Quality.

SENATOR McNAMARA: So we're talking about actually 10 entities that are paying in excess of \$100,000. Are they public or private?

ASSISTANT COMMISSIONER COWAN: They are industrial facilities.

SENATOR SCOTT: Excuse me, Senator.

Is there anybody paying \$500,000?

ASSISTANT COMMISSIONER COWAN: Oh, I'm sorry. Excuse me, Dennis.

SENATOR SCOTT: Is there anybody paying \$500,000?

DENNIS HART: No, Senator.

SENATOR SCOTT: No?

ASSISTANT COMMISSIONER COWAN: Over \$500,000? No.

MR. HART: Historically, people paid more than that.

SENATOR SCOTT: The who?

MR. HART: Historically, some industries and municipalities paid more than \$500,000, but in the last three years we have been lowering those higher fees.

ASSISTANT COMMISSIONER COWAN: We lowered the higher fees and raised the minimum fees.

SENATOR SCOTT: What is the highest fee being paid?

ASSISTANT COMMISSIONER COWAN: Four hundred and seventy thousand.

SENATOR SCOTT: I said \$500,000. Damn it, see that, I was too high. They got me.

ASSISTANT COMMISSIONER COWAN: You were right on it.

MR. HART: That was for a facility that used to pay \$700,000.

SENATOR SCOTT: Is that Hoffmann-La Roche in Nutley?

MR. HART: No.

ASSISTANT COMMISSIONER COWAN: No, it is du Pont, Chambers Works.

SENATOR SCOTT: Where?

MR. HART: It is du Pont.

ASSISTANT COMMISSIONER COWAN: It is du Pont, Chambers Works.

SENATOR SCOTT: Okay. See, I think that is what Senator McNamara is trying to get at.

SENATOR McNAMARA: Who is the next highest to pay?

SENATOR SCOTT: Tell us. You know, give us--

ASSISTANT COMMISSIONER COWAN: The next highest payer is Bayway Refinery.

SENATOR McNAMARA: What is that figure?

SENATOR SCOTT: Is who?

MR. HART: Bayway Refinery.

SENATOR SCOTT: Bayway?

MR. HART: The former Exxon Refinery in Linden -- Bayway Refinery. In Fiscal Year 1996, they paid \$449,000, compared to \$695,000 in previous years.

SENATOR McNAMARA: When does the dramatic drop begin to happen, going from \$470,000 to \$460,000 to, you know--

ASSISTANT COMMISSIONER COWAN: Hoffmann-La Roche went from \$667,000 to \$200--

SENATOR McNAMARA: No, no. I'm saying, you mentioned that there are 10 -- are there 10 facilities that are paying in excess of-- Where does the breakoff come? Where are the \$300,000, \$200,000, \$100,000, you know? I wish you had supplied to the Committee a list of those, if you have the top 20.

MR. HART: We can supply that for you right away, Senator.

ASSISTANT COMMISSIONER COWAN: We will be glad to do that.

MR. HART: It is an environmental impact formula. There are about 10 people in the \$200,000 to \$400,000-plus range, and then the rest drops down dramatically to the \$50,000 and less range. There are a few people at \$80,000, \$90,000 -- like that.

ASSISTANT COMMISSIONER COWAN: We will get you a list of the top 20.

SENATOR SCOTT: And it actually costs that much money to issue that permit?

ASSISTANT COMMISSIONER COWAN: Let's not go back to formula. It would be--

SENATOR SCOTT: I mean, what I am getting at--

SENATOR McNAMARA: That's a good question.

SENATOR SCOTT: See, one of the problems you have is: What do they get? In other words, for \$470,000, do you have people assigned there permanently, every day, on their facility?

ASSISTANT COMMISSIONER COWAN: I think it is likely. We do not have-- We probably do have people working on permits on a regular basis. They may change, but we certainly have inspectors.

SENATOR SCOTT: They just walk around the place looking--

ASSISTANT COMMISSIONER COWAN: We have inspectors who visit regularly.

SENATOR SCOTT: But that is an awful lot of money. I don't know how many inspectors you can hire, but \$460,000 or something--

MR. HART: Senator, the \$470,000 does not represent the cost to write a permit for that facility. The fees are collected for the Department under the regulations for all costs in writing permits, doing all of our enforcement activity, all of the data management activities, and the standards and water quality business associated with all of the discharges.

SENATOR SCOTT: Does the fee, the \$449,000-- What I am trying to get at -- and this is what we have gone through before, and this is our problem-- We have a hard time seeing what you see very clearly.

The \$400-and-some-thousand, the \$200,000, \$50,000-- Are we saying that because you are a large corporation, you are going to help us to fund some others?

ASSISTANT COMMISSIONER COWAN: I think--

SENATOR SCOTT: It is a piece of paper, or it's an inspection 5, 10, 12 times a year.

MR. HART: The way the fees are calculated, there are two methods -- or two ways: There is a fixed cost that we assign to all the facilities. How much does it cost to write the permit? How much does it cost for the inspections? What are the hard costs in administering the program?

SENATOR SCOTT: Do you have that down? Do you know how much that is?

MR. HART: Sure. Then that is the fixed cost.

SENATOR SCOTT: What is it?

MR. HART: It depends on the category of permit. The average cost is maybe--

SENATOR SCOTT: Let's take du Pont, the big one. It is a big plant. I was down there.

MR. HART: The average for all the industries, the average cost, is about \$15,000. Then you take: What is the environmental impact from each facility to take into account all the other activities associated with surface

water pollution program. That activity-- See, du Pont has the largest pollutant loading in the State, so they pay the largest--

SENATOR SCOTT: They have the largest what?

MR. HART: They have the largest loadings, just poundagewise, of pollutants going in the water body. I am not saying they have the largest environmental impact, but they have the largest amount of pollutants. That is why they pay the highest fee, the same way with the Passaic Valley Sewage Authority on the municipal end. They have the largest amount of pollutants, so that--

SENATOR SCOTT: How about Hoffmann-La Roche? You know, I have taken a tour through there a couple of times. As far as I am concerned, I think they have eliminated-- They tell me that the air they send up there is cleaner than the air I get in front of my house. It is so clean I would probably get sick. It's so clean.

MR. HART: In a large facility, they have a large amount of pollutants, by volume, going out there. Maybe not by--

SENATOR SCOTT: Wait a minute, wait a minute. What are you saying, they have a lot of pollutants going out?

ASSISTANT COMMISSIONER COWAN: That is the basis for the calculation of the fee. That is what he is saying. We start with the fundamental cost. Then, based on the discharges of that particular facility, the impact on the environment, it is assumed that somewhere down the line we are going to have to clean up the results of those discharges.

SENATOR SCOTT: I don't think Hoffmann-La Roche is here. I know Hal Bozarth is here representing the industry. I have a real concern

with what you're saying, because I have been there. I have met with the people of Hoffmann-La Roche. They are telling me that the water they are discharging into the Passaic destroys the Passaic River, because, you know, it is so clean going in there that the fish don't know what to do with the clean water.

MR. HART: Okay, Senator, but do you know what? Do you know what the problem is?

SENATOR SCOTT: Wait a minute, just a minute. I'm speaking.

MR. HART: I'm sorry.

SENATOR SCOTT: And the air going out is pure, the air that they have around there. So if they have this, in fact, and they have done it-- Unless you can tell me differently-- We will take a ride up and we will go through the thing. I'll go with you one day, and we will smell every smokestack, or whatever you want to do. But I know that Hoffmann-La Roche, I think, is the kind of an industrial company we want in New Jersey, because they comply. They go beyond what they feel is required, because they are concerned about it.

Now you are telling me that they are still paying for "pollutants" and all that stuff. That is the problem I have.

I'm sorry I jumped in there, but I happen to think of Hoffmann-La Roche all the time. Do you have anything else, Senator?

SENATOR McNAMARA: No, but I would like to see a copy of that list of those that are paying the burden of the program. It seems to me-- I guess I have a problem, because when you say the environmental impact loading, it does sound, to a layman, that they are polluting. I just can't

fathom, as John has said, if they are attempting to be good corporate citizens, and they are improving the quality of the water-- I can remember serving on a sewer authority years back up in northwest Bergen. The State required us to improve the quality of the water coming out of the sewer authority, which was much higher than the water that was in the brook already. So, you know, I don't know where that burden falls. I guess there are a lot of nonpoint sources.

The language you use leaves an implication that any one of these that are paying these types of fees are discharging toxics.

ASSISTANT COMMISSIONER COWAN: Pollutants. Let's call them pollutants, because some are toxics and some aren't.

SENATOR McNAMARA: All right, let's call them pollutants. But I guess anything is a pollutant if it is foreign to the stream.

ASSISTANT COMMISSIONER COWAN: That is correct. Well, you can define them differently. In our laws, we have specific definitions for what is considered a pollutant and discharge. We have limits for those discharges based on their estimated impact on the stream and on any living creature which might take that pollutant in.

I think Senator Scott is right on target in terms of talking about air--

SENATOR McNAMARA: Let me just pursue this a little bit further. The cost to these plants are not so much the personnel costs and/or the overhead of the Department and/or benefits, but of an estimated cleanup value as to what pollutants are going in. If that is the case, you are spending the money, so there is no money there anyway.

MR. HART: This is based on relative pollutant loadings.

ASSISTANT COMMISSIONER COWAN: The State Water Pollution Control Act authorizes us to use that basis. That is correct.

SENATOR McNAMARA: All right, but where does the money go? Is it set aside then in a trust fund so that when we do have to spend this money in the future, it is there?

ASSISTANT COMMISSIONER COWAN: The money is used, as Dennis described earlier, to pay for the program. The program does not just count the permit writers. The program includes the folks who develop plans, which means that they go out and evaluate the quality of streams and make lists that we have to report to the Federal government in terms of the quality of the streams and water bodies and what needs to be cleaned up.

Secondly, there are people who monitor the streams and water bodies. They go out and do testing, and they report to us as to whether or not we have improved the quality of the waters.

Then, finally, we have enforcement people, so that when there are discharges over and above the permitted limit, yes, we can take action to stop those. You know, you are familiar with the Clean Water Enforcement Act.

SENATOR McNAMARA: You know what, I am not arguing the point of what you do. I guess my problem is, I think certain things are a function of the government, and I think what we are doing is starting to bill everybody per how many breaths of air we are going to take this week.

The problem becomes-- It is not a fault of the Department, it is a fault of the Legislature, in that they started to take-- There was always funding in the budget for you to do these at a much higher level than you were doing before -- I can remember back in Kean's administration -- and then,

rather than generate additional dollars to support new programs, they started to take away the money and bill it to the companies. Well, I don't necessarily believe that is good practice. Maybe that is the difference. It is not the--

ASSISTANT COMMISSIONER COWAN: But that was the point I was trying to make earlier, Senator, about legislative policy, public policy.

SENATOR SCOTT: We'll see. Is that it?

Senator Sacco, Senator Rice, do you have any questions?

SENATOR RICE: I would just like to know how many people they have working in this area?

ASSISTANT COMMISSIONER COWAN: We have 207 people, at last count, on the NJPDES account. Correct, Dennis?

MR. HART: Yes.

ASSISTANT COMMISSIONER COWAN: We had closer to 300. It is down to around 200 now. It is probably less, because since we did the budget, people have left -- resigned, moved to other places. So around 200 people.

SENATOR RICE: What you are saying is that these dollars are being utilized to help pay the costs of those people?

ASSISTANT COMMISSIONER COWAN: Yes.

SENATOR RICE: Great. Then let me ask you a question that you don't like to hear too much: Can you give me a list and tell me how many are women, African-American, and Latinos? You know, corporations are paying, and meanwhile they are laying off people, too. It seems to me that they are laying off people, which means that they are working people. Since

some of the folks getting laid off represent the diversity of the State, I have to mention affirmative action that is in place, while you have these few dollars that we may take from you soon.

ASSISTANT COMMISSIONER COWAN: As far as I am aware, that information is public information. We would be glad to provide it to you.

SENATOR RICE: Oh, it is definitely public.

ASSISTANT COMMISSIONER COWAN: The Department, overall, has roughly half of its staff who are women. I am not familiar with the other statistics, but we would be glad to get them for you.

SENATOR RICE: Would you get them? Through the Chair, may I have those statistics, because I am not on the Appropriations Committee anymore and I will not get a chance to raise the question. I also want to make sure that since we have the reformist movement in place that I can convince minorities that it is good to go to school and learn something about the environment. Those who are already in environment cannot seem to find their resume through the pipeline. I just want to make sure that we know we have all this money to bring on some diversity.

ASSISTANT COMMISSIONER COWAN: Well, we are not hiring people right now, and have not been for awhile. But certainly in the environmental consultant's field there are usually jobs available. So you are correct. It is a growing business.

SENATOR RICE: I want to look at the money the corporations are paying.

SENATOR SCOTT: Is there a possibility that we can get some of these statistics -- some of this information?

ASSISTANT COMMISSIONER COWAN: I believe, but am not certain, how available-- I think this is readily available, but I can assure you that we will do it as quickly as possible, within the next few days. Okay?

SENATOR RICE: One final thing: When I sat on the Appropriations Committee with Senator McNamara, it was always readily available, because they knew not to come to a budget hearing without it being raised.

ASSISTANT COMMISSIONER COWAN: All right, but this is not--

SENATOR RICE: I believe they kept up that practice, unless there is something wrong with the Governor. From what I read in the paper, she is about diversity, etc., so I have a feeling that you all have it.

ASSISTANT COMMISSIONER COWAN: All right. I am sure we have our budget figures. I am not sure about the diversity. However, I am sure we can collect what you are requesting.

I was just going to refer to your comment, Senator, about air and water discharges. I know you are familiar with the air legislation -- regulation in the State. Air and water quality are very important to the health of the citizens of New Jersey. In air, Title V of the Clean Air Act required us to move toward charging fees according to the emissions. That is the way we have to pay for the program. Some of the folks in this room that you are going to hear from -- the BIA, the CIC, and others -- assisted us in developing that legislation in an equitable way, according to their sense of how much it should cost.

SENATOR SCOTT: They liked that legislation, they liked the fees? Is that it?

ASSISTANT COMMISSIONER COWAN: Of course they don't like the fees particularly, but the Federal Act--

SENATOR SCOTT: I want to know, because sometimes they like things, but when they get it, they don't want it.

ASSISTANT COMMISSIONER COWAN: Well, I was just going to say that the Federal Act created the requirement that we pay for the program through the fees. I think they liked it better for us to maintain the program than for the Feds to take it over. That is my point here in talking about NJPDES, that it is a Federal program. The Clean Water Act requires that one occur in the State. We have to have an adequate program to meet EPA minimum standards. So it is important that we have adequate funding to maintain a quality program, to protect the citizens from discharges. Using some level of environmental impact is the direction that Congress has gone in other ways.

SENATOR SCOTT: Thank you very much.

ASSISTANT COMMISSIONER COWAN: Thank you for the opportunity.

MR. HART: Thank you.

SENATOR RICE: Mr. Chairman, may I get this information, through you? Could you give us a breakdown on what each employee makes to at least the area they work?

ASSISTANT COMMISSIONER COWAN: I'm sorry?

SENATOR RICE: I asked for a list of employees and also-- You said there were 200-and-some people employed. I asked for a list of the ethnic breakdown. Could you also indicate out of the 207, or whatever the number

is, what kind of salary they are paid for the different classifications, so we can compute that to see how close we are to these fees?

ASSISTANT COMMISSIONER COWAN: As to whether or not they are adding up? Okay.

SENATOR RICE: They don't add up just on salary. They add up on other factors. But I want to see how much of it is going to salaries.

ASSISTANT COMMISSIONER COWAN: Okay.

SENATOR RICE: I don't want a bottom line. I want to know that the person doing the inspections makes X number of dollars, and how many of those individuals we have. If a person is typing, X number of dollars, and how many of those individuals we have.

ASSISTANT COMMISSIONER COWAN: Okay.

SENATOR RICE: And on the ethnic breakdown, the gender breakdown, how many are clericals? I am just, you know-- You are not used to my line of questioning, but I went through this lots of times. You will get used to it.

ASSISTANT COMMISSIONER COWAN: I am accustomed to budget questions. I just want to be clear that we know what information you want. So we will clarify that with you afterward.

Thank you.

SENATOR SCOTT: Thank you very much.

Jim Sinclair, New Jersey Business and Industry.

JAMES SINCLAIR: I will be very quick.

We supported the original resolution, and we support this resolution. I would have hoped that this would have been resolved. There

were numbers of opportunities to resolve it. Unfortunately, as I said in my original testimony, I think that at some point the Department is going to need some sort of State appropriation to pick up the expenses that have been dumped on industry.

Senator McNamara's bill on the Clean Water Enforcement would have helped out in the process, because there are a lot of things that we require in the system that are totally unnecessary. I think that was clear from the Department's testimony before Senator McNamara's Committee. If you add up the numbers, which I just did, 500 facilities, 200 people, that's two and a half facilities per person -- is that right? -- if my math is right. We also looked at the median number. Seventy-five percent of them are little tiny facilities. We are doing a lot of unnecessary inspections required by the Clean Water Enforcement Act.

A lot of these major facilities are in compliance. If you look at the record, you will see that they are running at close to 100 percent on all of these parameters. They spend a lot of money testing. They are wasting a lot of money testing many times so that they can show compliance. We're -- I almost said a bad word there-- We are throwing a lot of money away in this system, both in the private sector and the public sector.

The Department is under budgetary problems, because there are some legislative things, but this bill is the right bill. Clearly, I do not believe that anybody intended this system to be structured the way it is. We are out of sync with our competitive states. We benchmarked this, and we are way out of sync in terms of what facilities pay. We want to keep those big facilities.

We had 20 targets out there, companies we want to keep in the State of New Jersey and help them to expand. Those are probably the 20 that we target.

Thank you.

SENATOR SCOTT: Thank you, Jim.

Eric DeGesero, Fuel Merchants.

ERIC DeGESERO: Thank you, Senator.

Members of the Committee: We support this as someone that represents individuals that just got an increase to pay the minimum fee. As companies such as Hoffmann-La Roche or Santos relocate or expand out of state, with the overall fee cap of the program you are going to see nothing but continued escalations for the smaller folks in the program.

So we support this. Thank you.

SENATOR SCOTT: Are those your charts up there, your graphics?

MR. DeGESERO: Yes. They are for the next one.

SENATOR SCOTT: Okay, those are for the next one. I can't read them from here anyway, but-- I don't even think I could do it with my glasses on.

Tim Dillingham, from the Sierra Club.

TIMOTHY DILLINGHAM: Good afternoon, Senator. Thank you very much.

We are here in opposition to this bill for the very simple reason that according to the language of the resolution, it invalidates the whole section of the regulations which established the fee program. Without that fee

program, you will not have a water pollution control program in New Jersey, without some alternative approach to take its place.

Let me first just say one thing: Factories and other industrial facilities in New Jersey dumped more than 13.5 million pounds of toxic materials into the waterways of the State between 1990 and 1994. That puts us 12th among states in the country in toxic water pollution.

In addition, over 215 million pounds were flushed into sewage treatment plants in New Jersey in the same time period. That makes us 2nd in the nation.

Unfortunately, the Department didn't give you a very clear idea as to exactly all the things they would have to do in order to deal with that very real environmental threat. I think a lot of the answers, Senator, that you were asking for from the Department are in this report. I fail to understand why they did not provide it to you. But just to read from the report itself, it says, "The NJPDES budget and fee schedule covers activities including: the review of the permit applications; the development of specific permit terms and conditions, including waste load allocations, water quality-based effluent limits, stream monitoring and computer monitoring; conducting compliance in 24 hours to sampling inspections; groundwater compliance sampling; bioacid testing; supervising the installation of groundwater monitoring wells; evaluating and approving groundwater remedial alternatives; evaluating compliance with the terms and conditions of each permit; and providing for the general administrative costs of the program, including regulatory support, data processing, and budgeting."

There has been a lot of discussion in Senator McNamara's Committee about the need to expand the comprehensiveness of the water pollution control programs in the State. I would argue, too, that each of those activities is appropriate and necessary to support the program that the NJPDES permit revolves around, or is the fundamental part of that.

In terms of the fees themselves, I think the environmental community generally is opposed to the shifting of the fees for pollution control from the polluters themselves to the general public. Even in this budget which is described, the FY 1996 budget proposal, we see that according to the Department the portion of the permit program which should be funded through permit fees in FY 1996 is \$13.6 million. The Department will only be assessing \$11.2 million of the total budget as fees. The balance will be funded through State appropriations, which means that the taxpayers are going to be picking up that difference in that cost.

I think you can see what the Department has had to do in response to the industry's pressure to limit the programs, is to lose people, is to redirect inspections and enforcement activities. In our minds, those are probably going to end up weakening the program and simply putting problems further down the road.

The other document I would recommend that perhaps you may want to read--

SENATOR SCOTT: Please don't read from anymore documents.

MR. DILLINGHAM: I'm not. I was just going to--

SENATOR SCOTT: We will request a copy of it so we can read it ourselves.

MR. DILLINGHAM: The toxic release inventory, as collected under various Federal statutes, does track, at least in part, the total amounts released by several facilities in the State. The top three facilities in New Jersey that reported the most toxic pollution were: du Pont steep water facilities--

SENATOR SCOTT: Mr. Dillingham, you're losing me someplace. What are we on now.

MR. DILLINGHAM: Well, my point is going to be that a lot of this debate seems to revolve around the fact that the environmental impact portion of the fee calculation results in enormous fees for a very small number of facilities. What I was trying to point out is that the facilities with the highest fees are the ones with the largest discharges of the largest amount of toxic materials that are being discharged to this date.

If we believe in market forces, it seems to me that we want to keep in place mechanisms which would urge and guide companies toward reducing the amount of pollution they are releasing into the environment.

Lastly, from *The Trenton Times* this morning, it says-- It reports on a report about gauging the efforts to curb pollution. The bottom line is that those companies which really do a good job of trying to do pollution prevention tasks find enormous savings and find enormous opportunities to reduce the amount of toxic materials they are discharging.

Thank you very much.

SENATOR SCOTT: Thank you.

Mike Egenton.

MICHAEL A. EGENTON: I am just going to say, Mr. Chairman, that the Chamber continues to support this effort. We still, after hearing all

these discussions from the Department, feel that the fees are unreasonable. I get phone calls from the larger companies and from the moms-and-pops. The fees are not competitive with other states.

We support the measure. We commend you, and hope that you move the measure forward.

Thank you.

SENATOR SCOTT: Thank you.

Curtis Fisher, New Jersey PIRG.

CURTIS FISHER: Thank you, Mr. Chairman and members of the Committee. My name is Curtis Fisher. I am the Program Director of New Jersey PIRG's Citizen Lobby, with over 20,000 active, dues-paying members in New Jersey.

I just wanted to come here to strongly oppose this measure. I will try to limit my comments. I appreciate, Mr. Chairman, your having this meeting and providing an opportunity for me to represent the public interest in requiring that companies which are the largest polluters pay the most, because New Jersey taxpayers have already been opposed, overwhelmingly, to the budget cuts that the Department announced here.

So we have a couple of different alternatives: Either we are going to charge more for mom-and-pop operations, or du Pont, which dumped 12 million pounds of toxics in a four-year period of time, has to pick up a little bit more. Yes, it is more. I think this is overwhelmingly supported by the public. Poll after poll shows an overwhelming majority of New Jersey citizens support polluter-pay principles in New Jersey law and in Federal law.

On that level of support, this measure is completely the exact opposite of that. I would just like to note that when legislation like this-- You know, du Pont, and we mentioned a few of the largest polluters, would like a fee reduction. But as a whole, I think New Jersey businesses, and certainly the citizens of New Jersey, would be better off with a proposal like the law right now, which requires the largest polluters to pay the most.

I appreciate the opportunity to oppose the legislation.

Thank you, Mr. Chairman.

SENATOR SCOTT: Thank you.

Hal Bozarth, Chemical Industry Council of New Jersey.

HAL C. BOZARTH: Mr. Chairman, thank you for the opportunity.

With me today, as before, is Dr. Al Pagano, from the infamous du Pont, and George Bakun, from Bayway's Tosco Refinery, in the Elizabeth area. We, too, will be very brief.

We appreciate the opportunity to be here again to support these resolutions, this one specifically.

What no one has said so far today -- and I find this really interesting -- is that they are talking about \$400-and-some-odd thousand for one year for these large companies. The permit runs for five years, so in order to get the real fee for what a New Jersey company is paying for water permit costs, you have to multiply that number by five.

These two gentlemen to my left pay a total of \$2 million or more for one permit at their facility. That is the cost of the permit. That is the real cost. This is a chart that you have all seen before showing, in effect, relatively speaking, where the costs of the permits are for water in our surrounding and

competing states. Suffice it to say that New Jersey's fees are extraordinarily high compared to Pennsylvania, Delaware, you name the state -- the highest costs in the nation. The highest costs, as Dr. Pagano will tell you.

SENATOR SCOTT: Could you pass that around. Could you pass the chart, I would like to see it.

MR. BOZARTH: Yes, we can pass that down.

The next thing: Senator McNamara is always right on the mark when he asks what the numbers were. We have strived real hard to put together a list of the top 15 or 20, and we have them as up to date as we can get them. There have been some changes. As you can see (witness using chart), there are some large names here: Bay Refinery, Hoffmann-La Roche, somewhere around \$450,000; Monsanto, \$32,000 (*sic*); Sybron down, from \$95,000 and \$100,000 to \$96,000 in the incomplete line, and about \$53,000.

So there is some movement being made by rearranging the deck chairs on the proverbial *Titanic*. That is what they are doing. They are not really cutting spending significantly enough to make us competitive. If you look at the other figures that were mentioned today, average cost of the permit, one of the Department folks said, was \$15,000. Actual cost to actually do the writing of the permit, which we feel the original statute called for, is \$5700. If you take their \$15.2 million water budget and divide it by 207 employees, you get a whopping \$73,000 per employee.

Now, if that is what it costs to run a State employee, I've got to tell you, I want work as a State Senator, because we do not pay that much in private industry. We cannot afford to pay that much in private industry. These fees are extraordinary.

I am going to stop now, because you have heard me before. George Bakun has a very short statement. The numbers are astronomical.

George.

G E O R G E B A K U N: Yes. My name is George Bakun, spelled B-A-K-U-N. I am representing Tosco, which operates the Bayway Refinery in Linden.

We believe that the current annual NJPDES fee program for industrial treatment works far exceeds the intent of the statute. We paid \$450,000 this year for our primary NJPDES permit fee. This does not include additional fees that we have for six other NJPDES permits at our site, two storm water permits, four groundwater permits. The \$450,000 fee is the highest environmental fee we pay at the Refinery. It is twice as high as the refinery's new Clean Air Act fee.

When you look over the five-year period of a NJPDES permit, Bayway Refineries paid over \$2,300,000 for that one permit alone. The cost is exorbitant, and bears no resemblance to the statutory requirement of the "cost of processing, monitoring, and administering the permit."

In general, the NJPDES industrial treatment work fees are the highest discharge permit fees paid in the U.S. and place New Jersey industry at a significant economic disadvantage without justification. Tosco believes that the current industrial fee program exceeds legislative intent and must be reformed. Many NJPDES activities that are unrelated to the cost of permit processing, monitoring, and administering are included in the amount assessed against permitting, by fees. Smaller, more equitable environmental fees are essential to maintain New Jersey's industrial base.

Thank you.

MR. BOZARTH: Dr. Pagano?

A L F R E D H. P A G A N O, Ph.D.: Senator, good afternoon, and members of the Committee. Again, thank you for allowing us to speak today.

I will say a few things that I have said before to this Committee and others, but the basic problem that both Hal and George have alluded to is that the cost of the fees for individual facilities are too high. I have heard a lot of numbers this afternoon from a lot of different people. In a lot of cases, the numbers are correct, but you have to understand what those numbers really mean.

This year, we paid a \$470,000 annual fee. As Hal has said, multiply that by five for a five-year program, and that is roughly \$2.5 million. We talk about the cost of administering a permit. If you have a big facility as we do, it takes a lot of work to get the permit the first year. You spend a lot of time with the Department and with the specific facility developing the permit and the permit limits that are there. Once it is in place, the Department has to send someone to the facility one or two times a year to inspect. They have to take a sample one or two times a year, and that costs the same for them as it does for us. If you run a complete scan of toxics and pollutants, it might cost you \$2000.

In addition to that, once a month we send a discharge monitoring report to the Department, as required by law. We send it to them and someone must take that data and enter it into a computer database. That is once a month. But after that, that is about all that happens during the year.

Now, all of these other items we have heard about, the costs of fees and what else is happening, things that go on for -- such as modeling, monitoring, developing maximum daily limits-- All of those things are not necessarily related directly to the fee or to the permit that is being charged this fee. The net result of all of this is that at one time we, at the Chambers Works, paid \$25,000 in 1985. Over the course of a number of years, because of court cases and other legislative changes, the method of calculating the fees changed and we went to a maximum of \$753,000 annually in 1992.

Since that time, the Department has incrementally tried to bring the costs down, and they have, in these incremental costs to us. The net result, however, is that these fees are just much too high to maintain the competitive nature of businesses in New Jersey. I said this once before, but one more time, and no more after this: I compare us with our friends in Delaware. They have a different system than we do up here, but they still have to pay a fee for their permits. The net result of what happens is that the Wilmington facility discharges into Zone 5 of the Delaware River, we discharge into Zone 5 of the Delaware River, and when it is all said and done, they have a discharge of about one-third of ours. Their fee, their annual fee, for their permit is \$11,000.

Now, one-third-- We are up to three times their discharge. The amount of work that is going on, it would seem to me, should not justify roughly 40 times the fee increase. I don't think the State of Delaware is interested in allowing people to throw stuff into the Delaware River. So they are obviously interested in the environment as well as New Jersey is.

We discharge a lot of material to the river, as our permit permits. In the last, oh, five or six years, we have decreased the loading to the river 85 percent. We are now down to some number like 700,000 environmental units, as described in the regulation. But our fees have not dropped anywhere near that in the course of that time .

I think the net result is that the fees are too high. The Department needs to restructure its thinking about how they can pay for the NJPDES program.

Thank you.

SENATOR SCOTT: Thank you.

Senator McNamara?

SENATOR McNAMARA: I believe one of the environmentalists, representing either the Sierra Club or one of the others, mentioned that so many pounds-- You are saying that yours was greatly reduced?

DR. PAGANO: At one time--

SENATOR McNAMARA: Take from 1994, did they use the window-- We can all use numbers, but they took the window of 1990 to 1994. What would your discharge be in relationship to what it was then?

DR. PAGANO: This year the calculation was that it was 770,000 units, whatever that means. If you go back, I would have to say we were up to around 4 million units.

SENATOR McNAMARA: So you have had a--

DR. PAGANO: We decreased from whatever that number was. I can't swear to that number. It might have been four and a half, a bit more

than five, it might have been three and a half. I don't know, because Mr. Fisher has given you a number.

SENATOR McNAMARA: Well, it is anywhere from 20 percent to 25 percent of what you used to discharge.

DR. PAGANO: Right. It is down now to 700,000 units. So we have had decreases.

SENATOR McNAMARA: There are two arguments you could use. It depends on where you want to be. You could say that the reason you reduced it was because the fees were so high, or you can get on the other side and say it hasn't been lowered enough because of the fact that you reduced it 20 percent, and, therefore, you should be paying 20 percent of the \$700,000, which would be \$140,000.

MR. BOZARTH: The bottom line is--

SENATOR McNAMARA: The bottom line is that you are still paying too much money.

MR. BOZARTH: And the fees were never set up to be a disincentive. They were never set up as a disincentive for reducing your loading to whatever the receiving body was. The formula is based purely to come up with the money that is needed to run the program, which continues to move along at its own pace.

The formula has absolutely nothing -- when it comes down to reality -- to do with environmental protection. It is a process to raise dollars to give to DEP. If you look at it in a chart like this, the number of facilities in New Jersey historically goes down, the discharges in New Jersey to water goes down. I know all of my membership, from 1987 to 1994-- I think the total

went down about 30 percent, and the fee -- the filing charges continue to go up. It is totally antithetical to what you and I would normally consider to be a rational process.

DR. PAGANO: We have no argument with what Mr. Fisher and Mr. Dillingham said about pollution prevention. We agree with it. It is right, you should do that. I think a lot of people are trying to do that and, in some cases, you will, in fact, save money, you will save some dollars, but not all the time. The point is, pollution prevention is a perfectly valid approach, and that's good. Let's do it, but we are still paying high fees.

MR. BOZARTH: Thank you, Mr. Chairman.

SENATOR SCOTT: Thank you very much, gentlemen.

Well, gentlemen, that is it on SCR-102. Do I hear a motion to get the bill out?

SENATOR SACCO: I make the motion.

SENATOR SCOTT: Second?

SENATOR RICE: Yes.

SENATOR SCOTT: Seconded by Ron Rice.

It has been suggested by Senator Sacco that we move it without recommendation in order to get the legislation out.

SENATOR McNAMARA: Senator Sacco, I am of mixed emotion about voting on this. I am not totally convinced that we are right or wrong. If you would amend the motion to read "without recommendation," just to release it, then I would support the motion.

SENATOR SACCO: Okay, I will make the motion without recommendation.

SENATOR SCOTT: Senator Rice, are you going to second that?

SENATOR RICE: I would like some information from the Chair. I will agree with the motion, but could we try to get the industry and also the Department to kind of send, through you, over the last five or six years or so, how many businesses have we identified that we have actually lost in this State because of this situation? I have been trying to talk to industry about rebuilding the industry base in the City of Newark. I think it is more important now that we have reform.

SENATOR SCOTT: I think we have the three people here. Mike, Jim, Hal, perhaps you three could get together and give us some numbers on the impact over the last five or six years. Could you get that to the Committee?

MR. BOZARTH: We would be happy to provide that.

SENATOR RICE: With that, I would concur with the amendment, but I just want it on the public record that I think it is important. The Governor should be very much interested in that, as well as the Legislature, because we are going to go into welfare reform debates and we can't talk about welfare reform because of whose legislation is not talking about job opportunities.

If this is going to stymie economic growth and job opportunity growth, and it is going to cause businesses to leave, particularly in those areas where the majority of the welfare people and unemployed live, then we are going to have to rethink everything anyway. It is just that simple. It comes down to the question of how far we go with the environment versus employing people so they can raise families. There has to be a balance there someplace.

So I would appreciate it if we could get that information. Hopefully, the State administration can give us the information now so we can compare the information to see how accurately close it is.

SENATOR SCOTT: Okay.

Do you want to take a vote?

MR. CANTOR (Committee Aide): Did he second on that?

SENATOR SCOTT: Yes, he seconded that.

MR. CANTOR: On the motion to release Senate Concurrent Resolution 102 without a recommendation:

Senator Sacco?

SENATOR SACCO: Yes.

MR. CANTOR: Senator Rice?

SENATOR RICE: Yes.

MR. CANTOR: Senator McNamara?

SENATOR McNAMARA: Yes.

MR. CANTOR: Senator Scott?

SENATOR SCOTT: Yes.

Okay. Now we will hear SCR-101 concerning the digital maps being required by the DEP. We would like to try to make it a little quicker. I think maybe we can go to lunch, or something. But for those who testify quickly, I will appreciate it.

May we hear from Jane Kelly.

A S S T. C O M M. J A N E K E L L Y - B R I C K N E R: Good afternoon, Senator Scott, members of the Committee. My name is Jane Kelly-Brickner. I am DEP's Assistant Commissioner for Legislative and

Program Coordination. With me today is Allan Edwards, who is Assistant Director of our Release Prevention Program, and Hank Garie, who is the Assistant Director of our--

SENATOR SCOTT: Hank Aron?

ASSISTANT COMMISSIONER KELLY-BRICKNER: Garie.

SENATOR SCOTT: Oh, I thought Hank Aron.

HANK GARIE: I could provide an autograph.

SENATOR SCOTT: Gee, you should be in New York City celebrating.

ASSISTANT COMMISSIONER KELLY-BRICKNER: Hank is the Assistant Director of our GIS Unit.

On behalf of Commissioner Shinn, I would like to thank you for the opportunity to testify today.

Senator, as you know, and as you have mentioned before, when SCR-15 was being considered by the Legislature, the Department responded a number of times, before this Committee, before its Assembly counterpart, and by letter before the full Assembly. Each time we responded, the Department advised the Legislature that the statutory authority under which we require digital mapping did not come from the original Spill Act, as appeared to be cited in SCR-15. Rather, the authority under which we require digital mapping came from a 1990 law, which was commonly known as the Oil Spill package of bills -- you may remember -- which had been passed in 1990 after a number of spills in the Kill Van Koll/Arthur Kill area, in order to give us a little bit more, I think, teeth in preventing spills such as that.

Neither SCR-15 nor SCR-101 cite the 1990 law, which provides the Department with the specific authority to, and I quote: “Determine the manner and form in which DPCC information is to be provided, including the form and technology to be used in complying with the mapping requirements.”

The Department recognizes that flexibility is the key, however, to successfully implementing digital mapping. As SCR-101 notes, the DEP was responsive to the concerns raised in SCR-15, and we did make modifications to our regulations to phase in implementation of the digital mapping requirements. These modifications, as you may know, became effective subsequent to the Legislature’s passage of SCR-15.

In summary, Senator -- I will be brief -- we have consistently responded to the Legislature and the issues raised in SCR-15 and SCR-101. We simply oppose this bill, however, because we feel that we do, indeed, have clear legislative authority to require digital mapping under the 1990 law.

Thank you, Senator and members of the Committee. We would be happy to take any questions.

SENATOR SCOTT: You feel it is right that you have required the mapping, that people complied with the mapping requirement. The rules changed, and now you come back and say, “Well, now we want to digitize.” You know, that is basically what the problem is. Why would you have somebody do it once, and then come back because things have changed, and want them to do it again?

That is the crux of the matter. You know, you can quibble all you want, but we are talking about real things in the business world, and we are requiring people to do something that they have already done, and it is an

expense. Because the agency, or the Department, feels they have thought of a better way-- You can't do that.

Let's face it, it won't work. That is what we are talking about, pretty much.

ASSISTANT COMMISSIONER KELLY-BRICKNER: Senator, I understand. Our understanding of the 1990 law -- and all of you would probably know better than I--

SENATOR SCOTT: No, you probably sit there and read it all day, while we are up there getting homestead rebates, talking about auto insurance, and everything else. We do not get a chance to do these wonderful studious things. We have constituents who are going to bang our heads a little bit, and tell us they didn't get a rebate, or didn't get enough.

ASSISTANT COMMISSIONER KELLY-BRICKNER: Well, when the 1990 law passed, my understanding is that that specific language was put in there because there was a recognition on the part of the Legislature that some of the information we received from those we regulate was old information, and was sometimes inaccurate. The specific authorization for us to require that information in any technology that we deemed appropriate was to try to keep up with technology and get it in the best form possible.

SENATOR SCOTT: Well, I think we disagree. We know we disagree. You disagreed the first time this went through. You disagreed with the Assembly. That is what is going to happen. I love to disagree and then find out if we prevail.

Do you have anything you want to add, Senator Rice?

SENATOR RICE: Yes. Is the speaker implying that we are going to litigate?

SENATOR SCOTT: Pardon?

SENATOR RICE: Is the speaker implying that we will be litigating?

SENATOR SCOTT: I don't know. I hope not.

SENATOR SACCO: Without a doubt.

SENATOR SCOTT: What?

SENATOR SACCO: Certainly.

SENATOR SCOTT: I would say so, but, you know--

SENATOR RICE: Well, I was here in 1990 and I was on the Environmental Committee. The speaker feels that we gave her the authority. Senator McNamara chaired that Committee then, if I recall. He is not here to speak on the bill, but that bill did come to our Committee, if I recall. Is that right? Does anyone know?

ASSISTANT COMMISSIONER KELLY-BRICKNER: Whether he was the Chairman at that time?

SENATOR RICE: No, whether it came through the Environmental Committee. Is that correct?

ASSISTANT COMMISSIONER KELLY-BRICKNER: I don't know, Senator. I would assume it would have gone through an environmental committee.

SENATOR RICE: It kind of vaguely sticks in my mind. The intent may be just what the speaker is indicating. I wish Senator McNamara was here, because I believe that came through us. The issue that the

Committee is concerned with was raised, and I think it was the intent, as the speaker said, to give them that authority.

May I ask a question, through the Chair?

SENATOR SCOTT: Yes.

SENATOR RICE: How do we manage to get this up to look at it?

ASSISTANT COMMISSIONER KELLY-BRICKNER: Senator--

SENATOR SCOTT: Go through the Chair, please.

ASSISTANT COMMISSIONER KELLY-BRICKNER: Oh, I'm sorry.

Mr. Chairman, through you, in response to your question, I believe Senator Van Wagner was--

SENATOR RICE: Yes, I got it direct. I forgot that we were not charged then. That was Russo. But I recall the bill. That one was a Van Wagner. Pallone was around, too.

But how do we get it back here?

SENATOR SCOTT: Pardon? How do we get it back here?

SENATOR RICE: Yes.

SENATOR SCOTT: Well, all right. The procedure was, we passed it here, passed it in the Senate.

SENATOR RICE: Besides the procedure, I guess the intent?

SENATOR SCOTT: When we came back here, the law said, according to the referendum that was passed in 1992, that now it comes back here to pass again, because we did not get any agreement with the Department. So now we have to pass it again. Because we don't need the Governor's signature, it has to come back twice. That is basically what it is.

So it has to go through our House and the Assembly once more. At that point, it is in effect.

SENATOR RICE: I never said that Pallone and Van Wagner were always right. I just said they were there.

SENATOR SCOTT: Okay.

SENATOR RICE: I miss them, though.

SENATOR SCOTT: Thank you very much, Assistant Commissioner.

Eric DeGesero.

MR. DeGESERO: Thank you, Mr. Chairman.

I will be brief. I have submitted some written testimony in an effort not to repeat prior testimony.

This is what the Department said in 1991. As you can see, between \$15,000 and \$125,000, they accepted not only the maps, but the format in which the maps were submitted. They came back in 1995 and said \$5000 to \$100,000 to do the same thing all over again. I have included this in my testimony.

I would just like to take -- raise a point of clarification that the Department raised. They said that subsequent to SCR-15, there was an amendment to the regulation. While it is true that the Department made a substantively minor and insignificant change to the regulation, this regulation was adopted on May 3, a full 28 days before SCR-15 was filed with the Secretary of State. I have enclosed with my testimony a copy of what was published June 3 in the *New Jersey Register*, stating that the regulation was adopted on May 3.

So the change they are talking to was adopted even before the 30-day clock started to tick. I have a disagreement with them saying that they modified the regulation with the intent of SCR-15 in mind.

With that, I thank you, Mr. Chairman.

SENATOR SCOTT: Did I push you to go a little quick?

Thank you.

David Nale.

DAVID NALE: Good afternoon, Mr. Chairman and Committee. My name is David Nale. I own the company Aerial Data Reduction Associates, which is in Pennsauken, New Jersey. It is the largest photogrammetric mapping firm in the United States. I am also the founding President of an organization called the Council of Practicing Photogrammetrists, which represents all the map-making firms in the State of New Jersey and a number of surrounding states. Most recently, I was the original Chairman of the Map Standards Committee for the State Mapping Advisory Committee.

I guess what I have to say to you today is, digital mapping, as I understand it, should not be an issue. The fact is, all the mapping that our industry provides and creates is in a digital form. Actually, to turn it into paper maps costs more money than it does to deliver it digitally. So the issue of whether it is a paper product or a digital product leaves me a little confused as to why there is an additional cost.

SENATOR SCOTT: Well, digital mapping is not the issue, not at all. What is at issue is the fact that there are companies that complied with the regulations as they were originally written and had the paper mapping, and so on. The Department then, after that, decided, or maybe you pointed out

the error of their ways and said, "Digital mapping is better, cheaper, quicker, and so on and so forth." They decided to go back and do it.

Well, we're saying, "If you want to go from this day forward, absolutely, but don't go back and penalize the companies which already did the job the way you requested, and make them pay twice to get the same job done."

So digital mapping, from here on, absolutely.

MR. NALE: Also, you should know that companies such as mine have been producing digital mapping for almost 16 years, so even mapping that was done prior in the early 1990s or late 1980s would have been all digital.

SENATOR SCOTT: I think from here on digital mapping will be the way to go. Let's face it, the 21st century. It is the only thing that is going to happen. Even I am working on a computer. If I can work a computer, anyone can, believe me. I am one of those over-the-hill guys who fought it for 100 years. Finally, somebody said, "You better learn how to play solitaire," and I did.

Thank you very much, Mr. Nale.

MR. NALE: Thank you very much.

SENATOR SCOTT: Hal Bozarth?

MR. BOZARTH: Thanks again, Mr. Chairman.

I have two gentlemen with me for this bill: Bill Petronchak, from TR-Metro, one of our smaller firms. He will talk to you about that first. Secondly, John Sandstedt, whom you have seen here before, from Sybron Chemical, in Burlington County. John is my, it seems, perennial testifier, an

expert on this issue, because the issue keeps going and going, and John keeps coming. So I would like to spend three or four minutes of your time, first with Bill, and then with John.

Bill?

WILLIAM A. PETRONCHAK: Good afternoon, Senator and Committee members. This is my first time, so maybe I will be a little nervous at first.

I work for TR-Metro Chemical. We recently moved from Ridgefield to Avenel, Ridgefield being in Bergen County, Avenel being in Middlesex. Our sales are about \$25 million a year. We employ about 35 people. We are in one of those zones with the 3 percent sales tax.

MR. BOZARTH: An Enterprise Zone.

MR. PETRONCHAK: An Enterprise Zone. We have what is a new facility to us. We are a small company, as I mentioned, with 35 employees. We are under the umbrella of the DPCC plan -- the legislation. We have seven blending tanks on our property. We are in the process of waiting for final approval of our plan. We had our paper maps drawn up last year in accordance with the legislation. I received a letter about two months ago saying, "Well, now you have to also submit them in digital form."

So here I was in the middle of this. I had already shelled out, oh, about \$3000 for the maps, because it was in conjunction with another local chemical company. I am going to have to pay, probably, another \$6000 to have them digitized. That is a lot of money. It really is.

We originally paid, in Ridgefield, about \$30,000 for mapping. I know it is a new facility, but mapping has cost us a lot of money over the past five to six years.

MR. BOZARTH: Bill's line, basically, is don't make them do the second round of what he has already done.

John Sandstedt.

JOHN SANDSTEDT: Gentlemen: I spoke before this Committee when it talked about this issue the last time. At that point in time, I indicated that the change from my maps, which are digital but do not conform with the GIS requirements, was going to cost me \$8000 to change. I was advised last Thursday that it is going to be \$16,000 to \$20,000, which is more than 60 percent of the bill that I paid to have my environmentally sensitive area plan drafted, which included most of these maps. In other words, I have gone way beyond the original cost of the maps.

The point, however, is, what is the purpose of these maps? I have to ask the question, and I would like you gentlemen to think about it. These maps will not prevent a discharge -- prevent a discharge -- and that is the purpose of the law we are dealing with here.

I am not going to say that if I know where environmentally sensitive areas are that I won't be able to take preventative action -- corrective action after the fact, but these maps will not prevent a discharge. Now I am going to have to pay twice. It is a form of taxation. It just goes on and on and on.

If you would read the documents that came out, the justification documents, they are frustrating to me because the Department has continually

said, "We don't agree. We don't agree." There is very little justification as to why we need things the way they have asked for them. Rather, they want it. I would refer you to the very first hearing where the representative from the Department said one of the reasons for going to the GIS system was, "Well, companies are going to computers, and we thought it was a good idea." Unfortunately, that is the way I view this thing.

It is a good idea, but it will not prevent a discharge.

MR. BOZARTH: They already have all of the information they would want pursuant to the statute -- the original statute. All they are saying is, "Now, even though we've got it, we want you to spend more money to do it again in a different form, to make life easier for us." We have a problem with that.

Thank you for supporting this bill.

SENATOR SCOTT: Thank you.

Mike Egenton?

MR. EGENTON: (speaking from audience) We support it, Mr. Chairman.

SENATOR SCOTT: Okay.

Jim Sinclair?

MR. SINCLAIR: Yes, sir, we support it. We think that this is probably an ideal bill to go through the process of looking at the regulations. This is clearly what the public had in mind when they passed that into the Constitution. This is a good one.

SENATOR SCOTT: Okay, thank you.

That will take care of the testimony. I can tell you what it will be in a minute.

I will entertain a motion to move the bill.

SENATOR SACCO: I will make the motion.

SENATOR SCOTT: Second?

SENATOR SACCO: You know, our predecessors are not at fault. When legislation is passed and is signed into law, it cannot be anticipated how the interpretation will be. That is usually the job of the court or, in this case, this Committee. We realize we could be in court over this. However, let's hope that that is not the case.

I can even understand why people would like to see everything computerized. However, it is clearly a duplication of what has been done. I do not see an overwhelming necessity for it right now.

So I will make the motion.

SENATOR SCOTT: Do I hear a second?

SENATOR RICE: I will second it. I will concur with the Senator, though. I was here with our predecessors.

SENATOR SCOTT: Well, I think--

SENATOR RICE: So was Senator Bennett, so was Senator McNamara, so we understand that--

SENATOR SCOTT: You know, I'll tell you what. You know, Senator--

SENATOR RICE: --this is quite a bill. We agree with everybody out there.

SENATOR SCOTT: One of the things that I think we all agree on-- We may mean well when we send it out of here, but things change when it comes back. We don't see it for awhile, and the next thing you know someone is in here saying,

"Look what you guys did." We did not think we were doing that, but we ended up doing it.

SENATOR RICE: I don't think we did anything wrong. I think it is the clarity of the interpretation of the intent. I think that is the difference. So we are coming back to clear it up. This way, DEP and others do not have to guess what it was.

SENATOR SCOTT: They'll know what we meant.

SENATOR RICE: I was here so believe me, they intended just what we can make it do. At least I did. I voted.

SENATOR SCOTT: Okay. We can take a vote.

MR. CANTOR: On the motion to release Senate Concurrent Resolution 101:

Senator Sacco?

SENATOR SACCO: Yes.

MR. CANTOR: Senator Rice?

SENATOR RICE: Yes, for a good Democratic bill of the past.

MR. CANTOR: Senator Scott?

SENATOR SCOTT: Yes.

MR. CANTOR: I believe Senator McNamara--

SENATOR SCOTT: He said yes.

Thank you very much.

That concludes the meeting.

(MEETING CONCLUDED)