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PUBLIC HEARING
before
ASSEMBLY AGRICULTURE AND ENVIRONMENT COMMITTEE
on
SEWER CONSTRUCTION GRANTS

Held:
May 1, 1981
Assembly Chamber
State House
Trenton, New Jersey

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MEMBERS OF COMMITTEE PRESENT:

Assemblyman H. Donald Stewart (Chairman)
Assemblyman James J. Barry, Jr.

ALSO:

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

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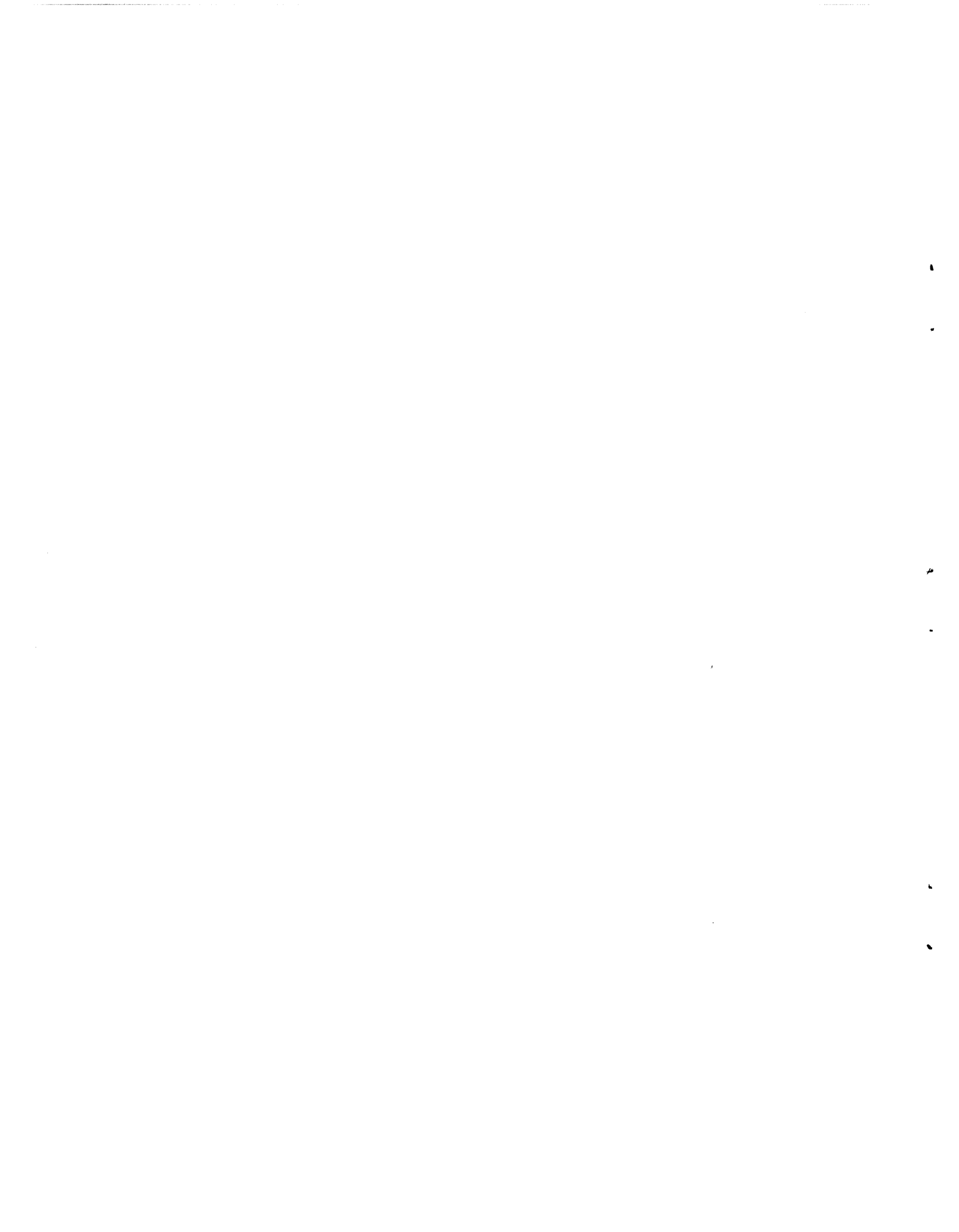
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ASSEMBLYMAN H. DONALD STEWART (Chairman): We are expecting some people here who have not as yet arrived. It is possible that one or two things have happened, either they have the time mixed up or they have been delayed somewhere on the road; however, I don't think we can sit here indefinitely trying to figure out which of the two did happen. So, in the anticipation that some of those people will arrive after we begin and with the thought in mind that some of you may have other commitments, rather than hold you up I think we ought to start the proceedings.

This is a limited public meeting of the Agriculture and Environment Committee and we are here today to try and begin to solve what many of us think is one of our long neglected environmental problems, and that is the inadequacy of our sewer systems to handle existing discharges in some areas and to accommodate any new development in several other areas of the State. According to the information we have received to date, almost one hundred municipalities suffer under State imposed sewer bans, many of which date back to the late 1960's.

The sources of these problems are many and the responsibilities no doubt are shared by all levels of government. As usual, it is not our position here today to try and place the blame on anyone in particular, but rather to look at what may be some of the errors of the past and try and use those errors to come up with a solution for the future.

We have asked Mr. Richard Dewling, Acting Region 2 EPA Administrator, to be with us to tell us what the situation looks like from his Federal perspective and advise us on what we may expect in the way of Federal funds and Federal aid in the next few years. He is here with us today. We also have Arnold Shiffman, Director of Water Resources at DEP who will discuss the situation from the State viewpoint. We are also expecting representatives of the municipalities, counties, environmental lobbies, and some of the building organizations to be here to contribute their expertise, experience, and suggestions.

So, without any further discussion, I would like to have Richard Dewling, Acting Administrator of Region 2, U. S. Environmental Protection Agency, begin the proceedings.

R I C H A R D D E W L I N G: Good morning, Mr. Chairman. Thank you for giving us the opportunity to present to you the position of the Federal Government relative to the availability of monies for the construction of waste water treatment facilities and also give you some idea of the future problems that we might have, based on the Reagan Administration's proposed cuts in the Construction Grants Program.

I have an official testimony that I will submit for the record. Since there are only two of us here, rather than spend the time reading through it, what I would like to do is to try and highlight some of the areas that I think are pertinent and that are important to you relative to the impact on New Jersey, particularly as associated with the availability of Federal dollars for the construction of these treatment plants as well as the construction of sewers.

Just a little bit of history -- The way the Federal government operates with regard to the construction of waste water treatment facilities and sewers is that the construction grants program provides funding at 75% of the cost of the project. It is broken down into three steps. You have a step one grant, a step two grant, and a step three grant. A step one grant basically covers

the facility plan, or the planning aspect of the project. Step two involves the design of the project. And, step three involves the construction of the project. So, you go through each sequence before a final determination is made, whether or not you design it or construct it.

There is also a possibility for a higher level of Federal funding if the technology that is being used is innovative and it is an alternative. So, we will fund up to 85% of the cost. Therefore, the Federal share is significant in term of providing available monies to the State for the construction of these waste water treatment facilities and their appurtenances.

The history - If you will refer to the chart on page 5, it gives you some idea of the trends that we have had in terms of state allocations for the Construction Grants Program, starting back in 1973 and looking at the State's share. As you can see, over the years the State's share has decreased based on the decrease of the Federal monies and also on several other factors relative to the prioritization and the need for projects on a nationwide basis, which is based on a formula, based on population and need.

The State of New Jersey sets the priority on which project should be funded. The priority list is then submitted to us and if there are any differences, we resolve these differences and this priority list goes public before it is accepted by both agencies. That priority list basically details which projects will be funded in what priority and the significance of that is that those projects that supposedly have the most significant pollution problems would be funded first.

Now, where we have the President's proposed budget basically indicates that in 1982 they are zeroing out the availability of any Federal funding. That is a move to force some changes in the program in the present system. If these changes go through, then \$2.4 billion will be obligated for the construction grants program in the country.

I will give you some idea of where we stand today and then I will go into what some of these changes are. For the State of New Jersey, the recisions that have now been requested to take place in the '80 and '81 money -- The proposed budget recision in '80 will result in the reduction of the New Jersey allotment by \$24.5 million. That will put New Jersey's 1980 allocation at \$95.2 million. This leaves an unobligated balance at about \$37.6 million. The proposed '81 recision will result in a reduction of \$35.2 million and put the 1981 allotment at \$81.2 million. This leaves, again, a current unobligated balance of \$77.6.

If you look at the table, again on page 5, you can see the \$95.2 as the 1980 allotment and the \$81.2 as the 1981 allotment. However, the 1981 allotment basically -- the available money right now is only \$77.6 and some of the money has already been utilized.

Now, some of the program reforms that were recommended that have a major significance to the State of New Jersey and that have some advantages for the State of New Jersey -- the most important thing is, I think, the change in the prioritization of the process in which you set which projects will receive Federal funding and which projects will not receive Federal funding. Based on this revised formula, where New Jersey before was ranked number eight and received about 3.6% of the share, under the revised formula New Jersey would rank number four with about 5.4% of the share. So, what you are really doing is getting a higher percent of something that is less. So, the gain is not as significant as the figures might suggest. You are getting a little bit bigger piece of

a smaller pie.

Some of the other aspects that I think are critical that will allow the Governor to make some judgment decisions are, we have requested an extension of the innovative and alternative technology in treatment facilities which now expires on September 30th of this year. By extending that a year, that will provide additional funding to allow the continued funding at the 85% level for those projects that are innovative technology.

Another modification in the bill amends the present authority of the Governor to reduce the existing 75% Federal share uniformly in the State to permit reductions to be done on a category by category basis. For example, remember the step one, step two, step three process I mentioned before. A Governor may choose to fund secondary treatment projects at 50% for the step one and the step two, but actually fund construction at 75%. Where before everything was 75% across the board, he will now have the latitude in order to spread the dollars to reach more projects from the Federal standpoint. He can distribute the percentage share based on a need that exists in the State. That would obviously mean that the deficit would then have to be made up by the State or the local government in order to fulfill their construction.

The other thing that I think is very significant as it stands with the State is that where before the Federal government paid for future growth, under these new changes the Federal government will not pay for the construction. We will pay for the planning. We will pay for the design. But, we will not pay for the construction costs associated with future growth. I think that is significant as it relates to your particular committee. If they are building a treatment plant, normally where you build a treatment plant and you assume it is going to be built for 20 years down the road and you have to design for some expansion, we are saying that we will pay the facility planning and the design cost but when it comes to laying out the actual dollars for constructing the capacity for the future growth, the Federal government share will not be there for that portion of the project. Now, if that portion of the project is 40% of the cost of construction, then we would not pay our 75% of that 40%.

The other important factor that is part of that program I mentioned before is, where the Governor will now have the capacity for changing the percent contribution of the Federal share, the amendments we have would also eliminate Federal funding for such projects as new collection systems, replacement and rehabilitation of sewers, combined sewer system overflow correction, separate storm water sewer system overflow correction, and studies to do I & I -- infiltration and inflow. Again, I think that is particularly critical to your committee, where we are now saying that while we previously paid for the sewers and the collections systems for communities we will no longer pay for those under the new amendments. So, if you have sewer bans, the treatment plant is the basis for the sewer ban, the capacity of a plant. In the past we paid for the sewers. We will no longer be paying for the collection system. The intercept as the main trunk sewers we will still pay for, but the individual collection systems we will not pay for.

I think if you would look at what the potential impact in New Jersey is, where we have some major facilities, such as Rockaway Valley, Hudson County, Camden, the recision is going to severely impact the potential of completely funding these projects. I think that is why the Agency is looking to the State to

give them flexibility to allow them to permit the planning stages to continue by allowing a difference in funding that will permit it on a progressive, longer-term period, while at the same time releasing up monies to then allow for construction when your big costs are associated with that segment of the project.

The testimony I have here details the actual sums of money, Rather than my going through them and boring you with the actual numbers, I am prepared now to answer any questions you might have relative to the impact of the recisions on some of the issues I just brought to your attention.

There is one other very significant issue I would like to bring to your attention that just came up as an issue relative to the funding of projects this year. OMB in our appropriation, in February, 1981, established a fourth quarter obligation limit on EPA funds. This is particularly critical in New Jersey. Historically, the last quarter of every year there is a massive three months where everybody gets all the projects out. Why they get them out the last three months of the year, God only knows. It is like studying for a test -- we always do it the night before the test. OMB has said to us that no more than 30% of EPA's total funds may be obligated during the fourth quarter. New York and New Jersey historically obligate 60% to 80% of their funds in the last quarter of the year. The Agency is suggesting that on a nationwide basis this may not be a problem. Oregon may have already spent their money; therefore, they are zero and New Jersey is 75%, so I am still pretty close to the thirty percentile. But, I think the emphasis I am trying to add to this is that there is no guarantee that that is going to happen. I think an input from your committee to EPA relative to your concern about this potential problem would be helpful inasmuch as right now there is no indication that the Agency is going to request a waiver from this requirement.

ASSEMBLYMAN STEWART: Is that 30% per State?

MR. DWELING: No, it is 30% of our national budget. So, what the Agency is saying is, "Well, on a nationwide basis it shouldn't be a problem." I cannot control Illinois. I cannot control Oregon. So, if their percent goes up and our percent is all the way on top, I need somebody to bring ours down by having them at a low number. If for some reason there is a change in their program that I have no knowledge of, as we get down to the latter part of the year we may find ourselves in a predicament. I think this is the appropriate time for your group to make the headquarters people aware of the problem that New Jersey, because of the historic requirement of getting these grants out in the last three months of the year, could potentially suffer. A waiver request would be an appropriate action to take.

ASSEMBLYMAN STEWART: You mentioned some of the financial figures and suggested that it would be best if we just asked questions about them. I think it might be easier if you would just highlight, one more time, the fiscal impact to our State of this change in policy, trying to give us some idea of how we either stood last year, or how we thought we were going to stand this year, and what we are actually going to be eligible for this year.

MR. DWELING: Originally, the President's proposed budget calls for a 1.7 billion dollar recision, and the recinded money then includes \$586 million appropriated in 1980, \$1 billion from 1981, and \$114 million from the Talmadge/Nunn funds. Now those are public works projects that started way back when and that does not impact on New Jersey. There were no losses of monies in that.

Now, the proposed recisions in '80 will result in the reduction of the New Jersey allotment by \$24.5 million and will put New Jersey's 1980 allocation at \$95.2 million. That is what the new allocation is with the recision. Before the recision it was \$119.7. Currently then, the unobligated balance in New Jersey for the 1980 money is \$37.6 million. The proposed '81 recision will result in a reduction of \$35.2 million in New Jersey and put the '81 allotment at \$8.2 million. The '81 allotment was supposed to have been \$116.4 million. This leaves a current unobligated balance of \$77.6. So, if you add the \$77.6 million and the \$37.6 million, that is roughly what we have available to obligate for construction grant projects until a new funding allotment becomes available in 1982. And, right now 1982 is zero. Those changes I mentioned before, if those changes are made the Congress has indicated that they will go for a \$2.4 billion nationwide available funding.

Now, the other significant point I mentioned is that part of the requirement for the changes is that we change the way in which the priorities are set, and some of the newer factors are that you must consider urban development and industrial development, particularly water quality impact. If you have water quality conditions that are bad, you will get a higher score factor, and in New Jersey we do have some severely degraded waters which would give that a higher share. As I indicated to you before, New Jersey would wind up with a higher share, but it is a higher share of a smaller pot. The track record in the past, from 1973 through 1981, clearly indicates a State share going from 7.7% in 1973 down to 3.5% in 1981. That is shown in page 5.

ASSEMBLYMAN STEWART: I assume - and I don't want to put words in your mouth, but let me say what I assume and then you can go from there - that all of these things are being done in the spirit of austerity.

MR. DWELING: That's correct.

ASSEMBLYMAN STEWART: (continuing) It is certainly not on merit or lack of merit of some of the projects, is it?

MR. DWELING: No, once the priority--

ASSEMBLYMAN STEWART: Would I be in error to say that it is being done simply because of the budget restraints? No one is saying that we don't need the funds or that any other state doesn't need the funds.

MR. DWELING: That is correct.

ASSEMBLYMAN STEWART: It is simply dollars.

MR. DWELING: It is part of the overall cutback in the Federal program. The revised formula that will give New Jersey an increase in rank from number eight nationwide to number four nationwide will give it a higher percent of 5.4 of the total pot, where before it was getting about 3.6%.

ASSEMBLYMAN STEWART: You talk about the proposed budget for '81, is there any indication that is going to change?

MR. DWELING: '82.

ASSEMBLYMAN STEWART: That's right.

MR. DWELING: '81 -- those are monies that are there right now.

ASSEMBLYMAN STEWART: Okay. I am talking about - on page 6 - "the proposed 1981 recisions will result in a reduction of thirty-five point two million in New Jersey," is that still just proposed or is it a--?

MR. DWELING: Right now they are just proposed until all these modifications occur.

ASSEMBLYMAN STEWART: Do you have any sense of whether that is going

to be more or less, or do you have no idea at all?

MR. DWELING: At this point in time we have gone through the formula and the percentage of the recisions and how they impact each state. Whether it could be plus or minus ten percent at this point in time, I honestly don't know.

ASSEMBLYMAN BARRY: I have one question. This is all subject to congressional approval isn't that so?

MR. DWELING: That's right, it is all subject to congressional approval. In fact, Congressman Roe is having hearings this week on the amendments that EPA is making.

ASSEMBLYMAN STEWART: What are we talking about nationwide as to the amount of dollars this kind of cutback is going to save in the Federal budget? Do you have any idea?

MR. DWELING: What is the nationwide figure for the cutback?

MS. HOLM: The nationwide figure for the recision is \$1.7 billion for '80 and '81. What the impact would be in New Jersey are these 25.5, etc. In terms of how it looks as to more or less, New Jersey certainly would not end up with any more because the '81 budget is already set. This is merely a supplemental that the Administration has proposed to reduce the Federal budget. So, you couldn't go any higher. It is either going to be the recision or no recision. So, New Jersey could not end up with any more in terms of '80 and '81 monies.

ASSEMBLYMAN STEWART: Obviously, we have had serious problems in this State even when there was a large amount of dollars coming from Wasington.

MR. DWELING: Not really. In terms of the availability of the projects - this has been a problem, historically, in New York and in New Jersey. We go through gyrations at the end of the year and where we see there is a potential of losing dollars, the problem has been the timing of municipalities getting these projects done. What happens is that your big money availability is there all the time. The problem was that a step one grant was a small dollar figure. If all the step ones came due at the same time, there was not that much money expended. You have to try and match the step ones and the step threes, which are the big consumers of the money. In the past we have not had big step three grants. All of a sudden now we are coming to pay the piper because all the facility planning and all the design is coming about and all the big projects for step three construction are coming about within the same two or three year period.

ASSEMBLYMAN STEWART: Indications that we have - and I guess we will hear more about it as the morning progresses - are that even with the availability of a great deal of federal funds, we find ourselves today in a very, very serious condition in New Jersey. Whether it is our own fault or not I don't know, but the fact seems to be that we are in a very, very precarious position and it is going to be even more precarious because now the funds that might have been there are not going to be there.

ASSEMBLYMAN STEWART: That's right. Obviously, other states have the same problem. Can you give us some input as to how other states are addressing this problem? Have there been any suggestions from anybody as to what they are going to do? How can we maybe profit from other states' ideas as to how they are going to try and address this problem in their own states?

MR. DEWLING: Some of the other states are looking at ways of trying to, on the bigger projects, match the outlay with the actual needs of a particular

municipality. For example, once we obligate \$200 million to a municipality it is obligated. We cannot utilize that for another project. Yet, over that two year period the contracts that the municipality has to give out may not come due until 18 months later, and we can't touch that \$200 million. So, what they are looking at now is somehow trying to get an agreement between the municipalities and the state where we will fund the project - we will make a commitment for the total cost - but we will only give them the money when the actual contract is let for the actual construction, or when they actually have to pay the bills. This way the money is not given up front and you don't lose its capacity for activity. The problems is that since there is no guarantee of the Federal funding there when they actually need it -- I mean, suppose the brokering doesn't work in one case and now a municipality obligates itself for that contract and for some reason or another a national program comes by to cut it, then that money is not going to be there and the municipality then, or the State, is committed to that contract that is ready to go to design. So, that is the down side of it. But, the up side of it is that if you broker it properly, you can try to spread the money so that you could try to match the availability of the dollars with the actual outlay. We are not doing that now. We are giving them front loading and then the money is spent and the money is not available then to another municipality. If you do it on the basis of outlay, then you can try and spread it.

The other aspect is to try and improve the operation and maintenance of treatment plants that we have. I think that is one area where we have to realize we have one of the biggest problems in the State, in New Jersey and in New York, the concept of breakdown maintenance where the municipalities do not provide the monies to properly operate these facilities. You will never find industry building a \$35, \$45, or \$50 million facility and then operate it into a breakdown condition. You will find many municipalities in this State as well as other states operating these facilities in such a way that the Federal contribution and the State contribution, since it is not really their dollars -- the care they take to operate these facilities is disgraceful.

ASSEMBLYMAN STEWART: Is this going to solve the problem though? In conclusion I would just like to ask you something. Maybe this is not a question for you; maybe some of the budget people could answer this. How do you respond to those who say that this type of budget cutting is cutting off your nose to spite your face type of thing and that two years down the road we are going to have such severe problems it is going to end up with the Federal government back into it at costs that are going to be much greater than it would have been if we had tried to stick to the programs we have now? Do you agree with that or disagree with that?

MR. DEWLING: I think we have to look at the role of the Federal government versus the role of the local agency versus the role of the State. The Federal government has always said that they will not pay for future growth, that the responsibility for future growth -- you know, the sewers bring people and people bring sewers. You know, if you put the sewers there are you inducing growth? The argument here is that the Agency is providing the up-front money for the construction of the treatment plant. Many municipalities have not established user charges of a high enough level to pay a fair share or to require the municipalities or the contributing populations to pay for the continued expansion of that treatment

plant. People are taking for granted the cheap cost associated with sewerage treatment. Sewerage treatment is costly and as changes in technology occur the problem has been available dollars to do this. They have looked continuously to the Federal contribution without getting sizeable sources of money coming in to expand the plant with the user charges that in the past they were supposed to implement.

Many municipalities, like Middlesex County right now, cannot get any additional grants from us until they have user charges from all the municipalities. We are refusing to give Middlesex County any additional money, and user charges are something they knew about, and every other municipality knew about, five years ago.

ASSEMBLYMAN BARRY: Putting aside the financial considerations for a minute, another problem seems to be dealing with EPA and DEP in the regulatory area. Now, the changes in regulations, possibly, that are promulgated over a ten year period when these projects are in the works, they all seem to create unbelievable problems that delay construction and increase cost. Could you just comment on that? You may have done that earlier, but I am just skimming over your earlier testimony.

MR. DEWLING: There is no question that we are not pure relative to the changes in regulations and the interpretations of these regulations as they come down. All these alterations have forced municipalities in many cases to be between a rock and a hard place. They get started on a program. They go into facility planning and now they get to a certain step and all of a sudden the regulations change. Now they have to start over again. And, this has caused some municipalities problems. This is the problem I mentioned before about the timing of these projects as they come in. You know, the facility planning, which is the step one, is not a big dollar value. Now, if all the projects come due at the same time for construction, the money is not there to build them. There has to be some way of brokering and forcing these things. But, it is impossible for us to force a municipality to get something in by a certain period of time, or the consultant to get in certain information by a certain period of time.

ASSEMBLYMAN BARRY: Well, is the Agency sensitive to these problems? Has the Agency now become flexible, where before I am sure they were not? Is there any help in dealing with these very real problems?

MR. DEWLING: On a weekly basis, I meet with problems associated with municipalities. In fact, there was one municipality in New Jersey, two years ago - it is a major municipality - in which there was a difference between the engineering fee for the cost of the project. We do not go through a very thorough review. We just do a broad review of the project. And, the engineering fee for the cost of that project -- we felt there was a difference of about two million dollars, from what we thought was a reasonable consulting fee and what the town was told their fee would be. I went to the municipality with the consulting engineer and said, "Recognizing that there is going to be escalation in construction costs over the next two years, we could argue this out, and right here and now I will agree to splitting it down the middle." All right? The consulting engineer said, no; he couldn't do it. So, I had another option: Suppose we bring in three outside consultants. One you pick; one I pick; and one the other two pick; and they will make an evaluation. Whatever figure they come in with, I will live with. If they live with your figure, if they live with more than your figure,

I will live with it. But, if they live with less than what you are presenting, then you will have to live with it. Everybody agreed. The private consultants from the outside came in at a figure less than ours. As a result, that project was delayed two years. We had to go back and renegotiate the scope of the project.

There has been in the State of New Jersey, as well as some of the other states, an escalation in construction costs. There has also been an escalation in fees. Since this is non-competitive, we have to make a judgment decision regarding this. The municipalities are at a disadvantage in that they don't know what the real cost will be. We cannot get involved in negotiations between a consulting firm and a municipality. So, this causes a delay where we will say we can't accept that. And, we cannot use a chart to say, "Well, for this size project that is what the fee should be." It is a reasonable professional cost. Where we feel it is excessive, we will then have to force the municipality to have to go back and negotiate. And, we are trying now to set up a board that would serve as a negotiation board to resolve those issues. But, that has delayed several major projects in New Jersey -- just that portion of the negotiation.

There are other aspects in terms of bid protests, where you cannot direct sole source, that delay projects. These types of things have horrendously delayed projects for one, two, and three years.

ASSEMBLYMAN STEWART: Thank you very much.

MR. DEWLING: Thank you very much for the opportunity to present this information to you. (see page lx for written statement)

ASSEMBLYMAN STEWART: Our next participant will be Arnold Shiffman, Director of the Division of Water Resources, New Jersey DEP.

A R N O L D S H I F F M A N: Mr. Chairman, members of the Committee, I will give an overview since you have my testimony before you.

The interesting thing is that we are not really discussing sewer bans here; we are really discussing water pollution and public health. Sometimes when something is painful, you pay more attention to the pain, which is the symptom, than to the cause of the pain. Sewer bans are really the symptom. The cause is pollution and public health problems.

Now, I am saying this because sewerage treatment plants in New Jersey have had difficulty treating the waste water they receive to meet acceptable standards before they discharge into the streams and rivers. There are many reasons for this. But, what we have is a situation where plants are only designed to take a certain physical amount of waste flow. When more comes in, it don't work; untreated waste water goes out into the streams. In some cases the flow coming into the plant is okay, but it is just not operated properly and it doesn't adequately treat the waste that comes in. Again, inadequately treated sewage goes into the waters of the State.

Now, in the past, in spite of this obvious problem, developers, individuals, and industries were not prevented from hooking up overloaded systems, or improperly operated systems. There is no question that this contributed to severe pollution of our rivers and streams.

In 1973 the State took a major step towards halting this practice when connections bans were issued against a number of municipalities. Now, connection bans literally put the State in the position of reviewing an individual connection to a sewerage plant from an individual household. This proved to be a severe administrative burden. It just wasn't working. So, in 1979, the connection

ban was replaced with what we call an extension ban, where we only approve the extension of a sewer line to an area, and also it is only in excess of 2,000 gallons a day that would be subject to State approval. And, that is what we are operating under now.

We have 63 systems under extension ban right now and they affect about 90 municipalities. Now, included in this number are five that were established by court order, and this is a serious matter. It just points out the seriousness of the problem from a water pollution standpoint if the courts had to order the restrictions.

Now, of the original State administered bans established in 1973, two of them were lifted, one in 1977 and one just this year. I will discuss our future plans in a few moments. I would like to emphasize that there is still one connection ban that exists in the State, that is the service area of the Rockaway Valley Regional Sewerage Authority. That was ordered in 1968, and it is administered by the court not the State. This ban was imposed because a poorly functioning treatment plant literally turned a river septic. The vapors - acid fumes that came from the river - it was reported, had peeled paint off homes. This system also has the dubious distinction of apparently being the first system placed under such a ban in the United States, and it also lays claim to being the longest running sewer ban in the country. I am not too sure that is a nice honor to have.

Now, over the years, the sewer bans have been an effective but limited tool in checking the continued pollution of State waters and a continuing threat to the public health. In essence, you prevent the problem from getting worse. However, preventing the problem from getting worse doesn't solve the problem; it just stops it from an outrageous situation becoming more outrageous. In addition, a ban, by its very nature, creates an allocation system. You have now created a scarce resource called sewerage treatment capacity. State officials and even the courts have been, and will continue to be, making difficult decisions. Who gets the capacity? Who doesn't get the capacity? Who gets an exception? How bad is an individual public health risk where you have an overflowing septic system compared to the problem of the inadequately treated discharge to the stream? They are horribly difficult decisions to make. They also have very far-reaching economic implications, to say the least.

When you have a scarce resource, you have allocation decisions, and just like we have water - for those of you who may have heard the hearings on water - we have what I call grandfather rights in sewerage capacity. It is kind of a reserve capacity concept. It has the unfortunate name in the trade of paper flows. It is the result of grants given to sewerage authorities to contract for future construction.

We have in many parts of the State - just as an example, the numbers are not important - a treatment plant that has a sewer ban - a connection ban - that has a capacity of 2 million gallons a day. If you look at the real flow, the actual flow, and you measure what is coming out of that plant, it may only be one million gallons a day. However, we add into that flow the grandfather right that is not being used yet for future construction. That could be one million gallons a day. So, you have this anomalous situation, and in many cases some of the scarce resources being held by people who either do not need it or by people who do not use it. That is a big problem.

Now, for many years the perceived solution to inadequate sewerage treatment capacity was the construction grants program. However, as people familiar with the program will tell you, it has hundreds of requirements and it is very complicated. In past years it so happens there was more money for projects than there were projects ready for construction. As you just heard, last year we increased our efforts and we solved the problem of not having enough projects ready to go for construction. What that meant is, although we had a priority system, if you had more money than projects ready for construction, anybody who was ready could get a grant, whether you were last on the list or first on the list. Since we are not in that situation any more, the priority list we have now is a "real" priority list. Only the top priority projects are now eligible for funding. Some of the projects underway will correct water pollution problems and allow lifting of the sewer bans. In other cases, the funding does not appear to be available in the foreseeable future to provide relief.

What I must stress is, the purpose of the grants program was to control the water pollution, not just to build sewage treatment plants. Now, the Federal Clean Water Act requirement is to correct pollution of State waters and perhaps, importantly, the citizens of New Jersey may reasonably demand and expect clean, fishable, drinkable water.

The cuts proposed by Washington for the Construction Grants Program will cause us a big problem in meeting the legal and public mandate for clean water. In a very real sense the budget cuts could be the cause of the continued pollution of our waters. The limited funding now available and the spectre of recisions and other reductions raises the situation where we may have sewer bans that could never end if we just continue to depend on Federal dollars.

How then do we correct the problem? I gave you a description of the problem. How do we correct it? I would like to suggest some possible solutions, some of which would be very painful.

First, change the regulatory approach from a ban on construction to enforcement of discharge permit requirements under the State's 1977 Water Pollution Control Act. In other words, instead of saying you have to stop and things stay static -- nothing changes, you just don't make it worse; you live with what you have -- we are proposing to say now that that is not good enough. Not only can't you make the situation worse, but you have to have some positive program, an enforceable schedule to correct the problem, and sometimes maybe we would be saying with or without the availability of Federal dollars.

The Federal grant right now is 75%. We have 'x' number of projects and it doesn't cover it. We may have to look - I am not saying we want to do this, but I think we should look. It has to be evaluated. Maybe that could be reduced and we could spread the money further. We may be robbing Peter to pay Peter, if I might use that phrase. But, again, the situation is serious. It requires us to look at all options.

We may logically have to increase the percentage of State grant monies from the present 8% to some greater percentage to help with the situation. This will require additional bond monies on the part of the State.

On a positive note, our records show that there are many old plants, and the person who gave previous testimony spoke to the same point. We have many plants that are old that do an excellent job of treatment -- an outstanding job. We also have plants that don't do such a good job. Now, plants that don't

do such a good job, I am convinced they can be improved. They may have to be improved, regardless of the availability of Federal dollars. We need a self-help program whereby poorly operated and maintained treatment plants can be operated. The last thing we can do is review and streamline administrative procedures required for construction projects needing sewer hookups.

Now, I have a map here that I would like to show you to maybe put some of these things in more visible terms. This will paint a little better picture. The red areas are the systems that are now under ban. The orange area is that Rockaway Valley Regional Sewerage authority -- one administered by the courts, the rest administered by the State. Now, let me discuss some of the things we are actively looking at. First, abandonment of inadequate treatment plants with connection to regional systems. Now, there are things that are ready to happen on the sewer construction program, some of them are very close. Let me point out a few. In Morristown there is new plant. There are a few little details we have to work out. It looks like we can lift the ban there. That is the new construction solving the problem.

Wayne -- it will be several years there but at least they are underway. Again, Federal dollars are solving the problem.

Princeton -- there is a new plant there. They have some problems with their sewer lines. They have an unusual problem with not being able to get the sewage to the plant because there is too much water in their lines. They are going to fix that themselves. We are negotiating with them now. It is a very positive approach, a very positive type commitment. Local government doing its job.

The Mount Holly area is another area where the Construction Grants Program is moving forward.

We have areas - Ventnor, Margate City area - where there are new systems; it is just a matter of technical requirements of hooking up. The same thing applies to the area you see on the left. Again, there are some technical requirements for hooking up and the bans can be lifted because the new construction solved the problem.

That's about it. The rest of it is still there.

Upgrading the plants, as I mentioned, that are poorly operated and maintained -- this can be done. We have some indications of this. Let me give you some very preliminary indications. In the City of Camden there is a treatment plant that was one of the most outrageous in the State. There were trees growing in some of their equipment. I mean, it was outrageous. The regional authority there is operating that plant now and they have done things. We are looking at the reports on their discharge limits -- the testing, the chemical parameters and biological parameters, the measures of how they are meeting their limits which was outrageous; they weren't. It looks like they are meeting their limits now. We are reviewing the situation. The message I am given on that is that if that can do it - and I am not sure that it has done it, but if it has anybody can do it. It doesn't require that much money. Whatever it requires, it just requires better operation and better maintenance. And, I want to tell you that in New Jersey we have the ability in this State. We have the ability. We have the knowledge and the know-how. It is just a question of using it.

We can have development of agreements with sewerage authorities to correct system efficiencies without Federal dollars. A classic case, I think, is Princeton. They entered into such an agreement with us. We have the concept

of development of mechanisms to use to private sector capital for improving inadequate sewage treatment. That is a tough one. Let me give you an example of what I mean by that. We have in one part of the State a treatment plant that is overloaded; it doesn't work. It discharges, for example, into the Passaic River into our water supply, and I think most people know the story of the Passaic River and how we are literally taking sewage and treating it for drinking water. A builder wants a project there. He also has a system elsewhere that goes into the same treatment plant but it happens to be close to being connected to a treatment plant that works. So, if you take sewage out of a treatment plant that is overloaded in one place and ship it to one that works, you can then add some in from another one. But, you take out more from the plant that doesn't work than you put in. So, you can get some net water quality improvement. Now, this is a very small item, but bigger type projects perhaps could be worked on and developed. These are the types of positive approaches that can be taken to solve the problem because we are looking at tremendous needs in the State. The dollar needs are immense. I think you will hear some further testimony on that. Even without the budget cuts we still have serious problems. So, you have to develop some mechanisms of dealing with them in the interim, and the interim period -- supposedly sewer bans were an interim measure when they were put on, and for very good reason. But, something like nine years seems to be a very long time and I don't think that we could accept another nine years. Even with Federal grant dollars coming down and the solutions being some time in the future, it is a long time.

So, some of the things I have suggested we are going to be doing. We are going to be looking at it and trying to put a more positive approach on what is a very painful subject.

That is about it for my testimony.

ASSEMBLYMAN STEWART: I have a couple of questions. Some of your suggestions regarding possible solutions -- I have this on page 4. On the first one, could you elaborate on as to how you would implement it? How would you enforce some of these requirements on the local sewage treatment plants?

MR. SHIFFMAN: Well, the Legislature, when it passed the 1970 Water Pollution Control Act, gave us very good tools. The penalties are severe. However, I think to be on the positive side, if we indicate to people that they do have a responsibility and they can't shirk it, and that there are dollar penalties involved with continuing to discharge inadequately treated waste water, I think they will come around. We wouldn't ask, by the way, to say, "Tomorrow fix up the problems of the past ten years." All we would say is -- I don't mean all, it is a big thing to say -- "You must develop a schedule on what you are going to do and how you are going to do it." Even if that takes many years, at least we could see the light at the end of the tunnel. That is how we would do it.

I don't think we have any choice but to take that type of action. There are a substantial number of systems in the State.

ASSEMBLYMAN STEWART: Do you have the tools for the municipal official who must sit there and say, "We can't afford to do anything about it"? I can envision someone sitting on a little board in their town hall somewhere saying, "We don't have the funds to do it. We are not going to do it. We know darn well they are not going to close us down, so let's just ignore it." Do

you, legislatively, have the tools to address that irresponsible reaction?

MR. SHIFFMAN: I feel that the Legislature, under that 1970 Water Pollution Control Act which has recently been put into effect, did give us the tools to be very tough. But, from a practical standpoint, that's why item number three is also recommended in terms of an increase in State assistance.

Some of our older cities -- I don't have to tell you -- have severe financial problems and difficulties. What I am saying is, if you at least put it on the basis of "here is the program," you can at least then start defining the costs and looking the problem straight in the face and coming up with the solutions. I am not saying what they are going to be, but from a regulatory standpoint I feel I do have the tools. From a practical standpoint they are very difficult to use. But, I don't think we have any choice but to do it. We just can't say, "sewer ban." We have to say, "fix it" too.

ASSEMBLYMAN STEWART: Okay. On item three, it appears we are probably going to have to do something what that formula. Is that a formula regulated by statute -- the eight percent?

MR. SHIFFMAN: No. The law allows up to 25%. All right? There is only so much money and again this is going to be a priority issue, an issue for the Legislature to address and for the voters of the State to address. I think it has to be squarely faced.

ASSEMBLYMAN STEWART: But, you can do it within your own department? You can change that? Or do we have to do it legislatively?

MR. SHIFFMAN: Right now, because the dollars are based on the projects we have on the list, if you increase one you would have to decrease another. I don't like playing Solomon, to be frank; I like to have enough for everybody. It would be very tough to make that decision -- that this town gets two percent more and this gets less, especially since people have planned on these dollars.

ASSEMBLYMAN STEWART: I understand what you are saying. What I am saying is, is the mechanism on line where if all things were equal you wouldn't have to sit there and say, "Yes, we could give 30%, but we need an act of the Legislature to do it."

MR. SHIFFMAN: As I said, the existing law is twenty five, but it was the understanding of the voters when they voted for the bond issue that the dollars were based on eight percent.

ASSEMBLYMAN STEWART: Which bond issue was that?

MR. SHIFFMAN: The last one that was voted on in 1980, that had \$60 million.

ASSEMBLYMAN STEWART: Other states -- do they stick to a figure that is pretty close to that eight percent?

MR. SHIFFMAN: It varies all over the map. Many states split it down the middle. With the Federal seventy five percent share, the local government's is twenty five percent. A lot of states split it fifty-fifty -- twelve and one-half/twelve and one-half. It varies. I think there are some states that don't provide anything.

New Jersey, by the way, did provide more in previous years. I forget the exact number, but it was more than half. But, it is a tough issue. I raise it because it has to be discussed.

ASSEMBLYMAN STEWART: Do you have any feeling whatsoever about the 1980 bond issue? First of all, do you have any idea of how much is left in it?

MR. SHIFFMAN: Most of it is still there.

ASSEMBLYMAN STEWART: And what is that amount?

MR. SHIFFMAN: Sixty million. We also have a '69 bond issue that has a lot of dollars left in it. There is a practical difficulty that will take action by the legislature and the voters. There was a six percent cap on the sale of those bonds and action will be needed for that. But, you just can't sell them with that legal cap on them. That would be a good thing, a very positive thing, that the legislature could address. The voters would then vote on it. That would make even more dollars available.

ASSEMBLYMAN STEWART: Obviously we will have it in the testimony, but could you draft us a memorandum of some of the legislative things you think we should do, keeping in mind both the two bond issues that you mentioned, if you feel it is a smart move, and what we would have to do to enable the State to become more involved financially with either those funds or, if we need additional funds, and we have to have another bond issue. Obviously, we are going to have to do something about this problem. We can't just sit there and look at it.

MR. SHIFFMAN: Sure.

ASSEMBLYMAN STEWART: If you have some positive suggestions as to how you think we should proceed, we would appreciate them. Do you think we are looking at another bond issue?

MR. SHIFFMAN: I think we will eventually need it; it depends on the rate that you spend the money. I think the six percent issue would be a substantial help. That is an easy, fast thing that can be done. Fast is a relative term, but I think it is a simple thing that can be done. I think it is needed to be done and I think the voters will, if they are made aware of the problem, approve it.

ASSEMBLYMAN STEWART: Do you have knowledge of what other states are trying to do financially?

MR. SHIFFMAN: Everybody has their problems, and from my perspective they are the same problems, they just seem to be more severe in the State of New Jersey. I think it is just a function of the physical side of the State -- its population density, its heavy concentration of industry, etc. We have the same problems as everybody else, we just seem to have them somewhat more severe and in a more concentrated form, that's all. (written statement on page 11x)

ASSEMBLYMAN STEWART: Okay. Thank you very much. Next we have Sean Reilly, Director of Planning and Environmental Policy, Home Builders League of South Jersey.

SEAN M. REILLY, S R.: Good morning. Thank you. I am Sean Reilly, Director of Planning and Environmental Policy for the Builders League of South Jersey. I am here this morning to present to you a report we have prepared entitled, "The Status and Impact of Sewer Bans and the State Sewerage Construction Program." The purpose of this analysis and its subsequent conclusions and recommendations is to move the State forward in the area of upgrading the old and constructing new publicly owned and operated sewerage treatment facilities. These facilities are essential to the normal, continued, healthy function of State and local economies to protect water quality and public health. They are required as part of the implementation of every master plan according to the requirements of the New Jersey Land Use Law, and are necessary and essential to provide the

equal housing opportunities guaranteed in the State Constitution and mandated by the courts, such as in the heralded Mount Laurel case.

To set the stage, there are seven parts of the analysis we prepared which need to be explored in order to bring order and logic to the conclusions. These are:

1. An analysis of the current New Jersey Department of Environmental Protection Sewer Ban Program.
2. Analysis of the effect of the United States Environmental Protection Agency Sewerage Facilities Planning Program on sewer ban relief.
3. The 1981 State Sewerage Construction Program available funds versus the priority list eligible costs.
4. The State Development Guide Plan versus sewer ban locations.
5. The environmental, economic impact of the ocean dumping ban on the entire Sewerage Facilities Planning Program.
6. The cost of delayed solutions.
7. The Department of Environmental Protection management of application reviews.

I will begin with number one. The first issue is the Sewer Ban Program. We have three conclusions.

1. The Sewer Ban Program, as currently administered, has been almost a total failure in that nine years after its widespread implementation, virtually none of the problems are corrected.
2. The decision to construct and operate a domestic sewerage treatment facility is for all intents and purposes an in-perpetuity decision. Therefore, an in-perpetuity maintenance and capital reconstruction planning and funding process must be established at the outset at the local level.
3. Local municipalities must be held accountable for the proper and continued operation and maintenance of their publicly owned sewerage treatment facilities regardless of the availability of outside sources of State and Federal funds.

What I would like to do now is to go to exhibit number one, which is the graphic behind the table that looks like a piano key. The graphic depicts the sewer ban list published by the Department of Environmental Protection, and it is divided into counties, alphabetically, starting from your left with Atlantic County and across to your right. The black bars represent the number of years that sewerage treatment plants have been under ban. The most predominant bar you see across there is, in terms of time, eight years. Sewer bans that are at that level have been there for eight years. That is the mid-bar; the one that Assemblyman Stewart just pointed to. The highest bar is thirteen years and that has been spoken about before, the Rockaway Valley system and others that have been under these extraordinary bans.

What we find is, municipalities either have gotten locked into the system of application - application requirement and changing of requirement, as Mr. Dewling discussed earlier - which has locked them into a never ending paperwork spiral, and some of them three, four, five, or six years later still don't, after they have entered the process, have their situation solved.

In the recent EPA publication on their 1990 strategy, they indicate it takes five to ten years to take most projects through this planning process. So, it is not inconsistent that eight years later we still have sewer bans with no immediate sign of relief.

Our recommendations to change this status quo are the following:

1. All private and publicly owned sewerage treatment works must have a continuing capital improvement planning program which does not take into account or rely upon potential outside sources of funding from other levels of government. Such a plan should be filed with the Department of Environmental Protection or the Department of Community Affairs and updated every two years. The reason for this recommendation is to get municipalities off the idea of waiting on line for funds, which I will discuss in a minute, that are not forthcoming and probably never will be forthcoming, and I would say we could probably extend most of the lines on that sewer ban graph another five years and they still would not be funded and built.

The recommendation I just gave you probably would take new law and action by the Legislature.

2. The municipal, local, or regional utility authority capital improvement program must be geared to implementing the local land use master plans of their service areas, otherwise the land use plans are meaningless.

The growth of the sewerage facilities at the local level must be geared to providing a full range of housing, that is including high-density, low-cost housing, necessary to fulfill the population projections adopted under the areawide 208 plan.

The way I prepared my testimony before you, you will see there is a right hand column which calls for action. This probably would also require some legislative action to implement this recommendation.

Just as an aside, where municipalities prepare master plans under the land use law, if they are not specifically tied to the the sewer and water capacities of the municipality or the local or regional utility authorities, the utility authority will have one plan and the municipality will have another plan, and they won't necessarily match as a result of this. This means you can zone for certain type of housing, development, etc., and it may never occur or it may be so far down the line as to be actually an artificial land use plan. That is something that has to be addressed in blending these two plans together. The utility authority must have a capital improvement program that blends with the land use plan, otherwise you cannot implement the land use plan.

Issue number two: The Effect of the U. S. Environmental Protection Agency's Sewerage Facilities Planning Program on the State's Sewer Ban Program. I will read for you the conclusion of our analysis. Ironically, certain Department of Environmental Protection policies, U. S. Environmental Protection Agency regulations, and 1975 Federal Clean Water Act amendments have had the effect of stopping many municipalities and utility authorities with sewer bans from immediately correcting existing problems.

This astonishing outcome is the result of a Federal regulation that removes a project from eligibility for seventy-five percent matching funds, if it is corrected with local dollars prior to completing all the Federal grant steps, even if the Feds later agree it was the proper approach to correct the problem.

In several cases, it is expected the Federal money will never be sufficient to actually build the treatment facilities necessary to relieve the bans. Furthermore, the cost of correcting the problem has easily doubled in nine years since the bans were instituted, greatly adding to the burden of

total local funding.

What I would like you to do is, again, turn to exhibit number one on the chart of the sewer bans behind you. It is not completed, but on the top of the chart you will see some red x's and green checks. From the information we have been able to garnish so far - and I have to get back to Mr. Schiffman who can probably get this for me very quickly - looking at the funding through 1982 that is available through EPA and the priority number of the sewer ban projects on the priority list, the green check means it will probably be funded in the next two years. The red x means it will probably not be funded in the next two years, and at least half of the list is not completed yet. But, what you see is that in the next two years where we see the funding from EPA going to almost zero, as projected in the President's budget, we still have some red x's and probably a lot more, meaning those systems will still be under ban when the funding is heading toward insignificant if not to zero. What those municipalities will do is still wait on line somehow for some Federal dream boat to come through with a new seventy-five percent grant and fund them somewhere down the line. That is where we are at right now, at a stalemate.

As you can see, this is a significant problem if after this long period of time we may have the spectre of these plans never getting the grants they got on line four and they are in the process of spending local dollars to get these grants.

Our recommendation on this issue is the following:

1. The Department of Environmental Protection must order municipalities or authorities which are under sewer bans due to water quality related permit violations to immediately begin a corrective course of action. This, I am pleased to note, is very consistent with what Director Schiffman just said a few minutes ago. The local entity, unless it is already a part of a regional - that is multi-municipal - 201 Sewerage Facilities Program, would have no more than 12 months to plan and begin construction to correct the problem. A regional sewerage facility would have to begin construction as soon as it completed its Step 1 Plan, regardless of the status of Federal or State funding at the time.

The kind of action that was required, we feel, to get this kind of process moving would be policy set by the DEP and specific hard action taken by the Attorney General's office in concert with DEP enforcement actions.

2. The U.S. Environmental Protection Agency must change its regulations with respect to reimbursement for corrective action taken by a local or regional authority, prior to the completion of the formalized grant application process. It is recommended that the local or regional sewerage service entity remain eligible on the priority list for reimbursement of expenditures made to correct existing water quality problems, prior to or after the completion of a 201, Step 1 Plan, where the repaired facility remains an integral part of the final 201 Plan.

3. Once a 201, Step 1 Plan contract is let, no further Department of Environmental Protection or U.S. EPA regulation changes can be attached to the project.

As an aside on this, Mr. Dewling responded before that Congress has brought forth new statutes with attached requirements for EPA to prepare regulations which change projects in mid-stream. This, time and time again, causes an extreme amount of delay and added cost to these projects.

4. In order to cut down on the exorbitant amount of project review time, the U. S. EPA and the DEP should only review and approve the concept plan. The local entity and engineering consultants would be liable for the proper operation of the facilities. The state portion of financing - this is a suggestion - might become available only after operation of the plant proved to be successful.

As Mr. Schiffman indicated before, when people are not using their own money, they are less than judicious on how they plan, design, and operate facilities. If it is a handout, you are not as cautious with resources.

Next, issue number three: The Sewerage Facilities Funding Priority List. Our conclusion after looking at the priority list are as follows:

There are not enough State and Federal funds available to fully fund more than a small fraction - that is, less than eight percent - of the two hundred and thirty-one projects on the State's priority list within the next five years. The demand for funds on the priority list is thirty-two times the supply of money available in the 1981 list, with every prospect for this ratio to get worse with the implementation of the President's budget.

Municipalities and authorityies will not take the initiative to spend their own money if they feel they can get seventy-five percent Federal funds and eight percent State funds by simply remaining on a waiting line.

The growth of the priority list is totally out of proportion to the funds available and, therefore, sets up a do-nothing waiting game for all the applicants. This encourages postponement of responsible action by local entities on local pollution problems, threatens local and private sector fiscal stability and continues the cycle of regional water quality degradation.

I would like to go to graphic number two. This list just graphically and dramatically represents the priority list. It is the priority list taped together. At the top you see the total eligible cost on this list is \$3.2 billion and the 1981 budget from EPA is \$112 million. So, all these people on the list itself actually expect to get their money. That's why they are waiting on line. That's why they are spending that money and are into step one applications. They expect to get the money.

I would submit to you that if the Federal budget remained at \$100 million a year for 32 years with no inflation, these people would then finally get the money - at the end of the list. That is three and one-half decades, and some of these have some of these sewer bans.

I submit to you that the priority list has set up a mentality of just being patient and waiting instead of acting on the problem because someday you might get seventy-five percent of the money. It is an absolutely unrealistic and actually an irresponsible way to proceed, if you possibly think that being down here at number 100 or 150 you will get funding and therefore you will wait to handle your municipality's problems until you get that funding. The tally of the first 20 projects on this list, which on the priority list is set to take care of the biggest and the worst problems first, is one point two billion dollars. We couldn't, even in the next decade with the funds we expect to get, complete the first twenty projects on the two hundred and thirty one list.

ASSEMBLYMAN STEWART: How much was the first twenty?

MR. REILLY: One point two billion for the first twenty.

Our recommendations with regard to this issue are as follows:

1. The Department of Environmental Protection must develop a realistic

"year of probable funding list" based on priority list position, available State and Federal funds and anticipated Federal funds for the next two years.

The Department of Environmental Protection would then notify, in writing, all priority list applicants of the fiscal year of probable funding for their projects. Any project which does not qualify for funding within the next two years would be listed in numerical sequence in the "unknown" category. In essence, it would take these people, both physically and psychologically, off this waiting list.

2. The Department of Environmental Protection, the Legislature, and the New Jersey Congressional Delegation must persuade Congress and the U.S. EPA to change the law and subsequent rules which make ineligible those entities which spend their own dollars prior to the availability of Federal funds. This rule, as it is currently in place, effectively penalizes responsible local action.

These expenditures must be eligible for reimbursement if expended to plan and construct facilities which meet the U.S. EPA standards. With regard to New Jersey's part in distributing State and Federal funds, any project in the unknown funding probability list, which I discussed a minute ago, that actually expends its own funds to construct facilities, should move to the top of this list for the first available funds on a first-come, first-served basis. This, in effect, would bring an incentive to local people to spend their own money to get to the top of their unknown funding probability list, and when funds come available they get it first.

3. Congress should consider changing some or all of the Sewerage Facilities Grants Program to a low interest loan program which acts as a revolving fund. This may spur applicants to speed up their action toward resolving problems and would provide a continuing source of funds. This would require a new United States law.

4. The Department of Environmental Protection should use its legislatively permitted discretion to provide up to a twenty-five percent share of matching grants to local municipalities which act immediately to correct existing water pollution problems created by malfunctioning plants. This could be simply done by a change in DEP policy.

5. The New Jersey Legislature should immediately undertake a study in cooperation with the Department of Environmental Protection and the affected publics, to determine if the State's Matching Grant Program would be more cost effective and bring quicker compliance if it were legislatively changed to a low interest loan program. This would take State legislative action.

Issue number four - The State Development Guide Plan Versus the Sewer Ban Locations. I would like to bring you over to exhibit number three, which is a map of the State of New Jersey. This is difficult to see sometimes, with the light reflecting off the paper. What you have is a map of the State of New Jersey with different regulatory jurisdictions, this being the Pinelands; these red stripes being the CAFRA area; and these large green stripes being the area suggested in the State Development Guide for farmland preservation. The large yellow area is being proposed in the State Development Guide as the growth area for the State. The red dots you see on this map are the locations of the sewer bans. Each dot represents a municipality that is under ban from the DEP.

As you can see, 90% to 95% of the sewer bans are located in the proposed growth area, where growth is to be encouraged. So, we run into conflicting

State policies. The regulatory scheme throughout the land use in the State is to push growth over toward this growth corridor. The dilemma is when you get pushed there through all the other regulatory land use programs, you have an extremely difficult time in building there because much of the area is under survey.

Our conclusions of this dilemma are as follows:

1. Growth cannot occur in the proposed State Development Guide Plan Growth Areas at the density and numbers required to meet the State's normal, healthy growth needs, due to the fact that over 90% of the State's sewer bans are located in these areas.

2. If the State wishes to implement a policy of steering growth to certain areas, then it will most effectively accomplish this by providing incentives to growth rather than disincentives to limit growth in other areas.

Our recommendations to solve these problems are as follows:

1. The Governor's office and the Legislature must direct the appropriate State agencies, that is those who issue permits related to development applications, to cut the red tape morass of delay in processing all permits by limiting the review period to 90 days for all permits including sewerage and water facilities -- that is for non-regional projects. This would simply take action by the Governor's office to implement.

2. Furthermore, State funding assistance can be targeted to identify growth areas in order to assist and accelerate development in areas with the greatest infrastructure. Again, this would take simple action by the Governor's office.

3. Certain projects which meet a pre-determined priority test, i.e. clean industry which provides jobs, mixed cost housing, and other things, should be fast tracked to cut the cost of inflation and financing to the project and enhance the probability of the project's success. This again could be implemented through action by the Governor's office.

Just as an aside, the worst cost today to construction and development is the cost of delay. The cost of borrowing money at prime plus two, which is the normal formula, will kill more projects than anything else, where you have to wait, wait, wait for delayed governmental approvals.

Issue number five - the Environmental-Economic Impact of the Ocean Dumping Ban. After studying this problem, we have come to the following conclusions:

1. The requirement to ban all ocean disposal of sewerage sludge by the end of 1981 will bankrupt the New Jersey Sewerage Facilities Grants Program.

2. Recent studies indicate that land disposal of these sludges may be a far more significant threat to ground and surface water quality and the human and animal ecosystems of the land than the ocean dumping alternative.

Our recommendations with regard to this issue are as follows:

1. The Department of Environmental Protection and the U. S. Environmental Protection Agency must be directed and urged to quickly present their case to ease the ocean dumping ban to the sponsors of the original ban legislation. If the scientific case that was built to support the ban was overstated in the first place and/or in a balancing test the risks of land based alternatives are worse, then now is the time to confront the issue in the Congress. The Governor's office should immediately set the stage to properly brief the New Jersey Congressional delegation.

2. The ocean dumping ban should be postponed at least until the

State's pretreatment program is implemented.

As an aside, this program is just being started by the Department and it is requiring industrial users to pre-clean their sewerage before it goes to the sewerage treatment plant to take out toxic and noxious materials.

The State is entering into a three-year, multi-million dollar study to determine the best way to segregate dangerous contaminants from sludges at the source and thereby significantly reduce the danger that all sludges will be contaminated. Furthermore, this will set the stage for a more cost-effective way to handle and dispose of a more limited volume of seriously contaminated sludges and possibly put the other "clean sludges" to some useful purpose.

In addition, the study expects to determine the most feasible locations for disposing of these toxic sludges throughout the State. The implementation of this recommendation would require a joint EPA-DEP study.

Issue number six - The Cost of Delay. Conclusion: The cost of cleaning up the State's waters has easily doubled in the past nine years and the biggest problems identified in 1972 must be cleaned up with 1982 and beyond dollars.

Recommendations:

1. We must change the grant program, or it is recommended or suggested to change the grant program to a low-cost loan, revolving fund program which is immediately available to public sewerage treatment facility operations with sewer bans on water quality violations. This would require a new law.

The finding behind this recommendation is the fact that a loan program would probably engender quicker action by municipalities than waiting on line for a free handout grant.

Number seven - the final issue: General Sewerage Facilities Program Management at the State and Local Levels.

Conclusion: The Department of Environmental Protection, Division of Water Resources, Sewerage Facilities Construction Grants, and Permit Review Program has been under crisis management since 1972. Something absolutely must be done to stabilize the program and retain trained staff.

The conclusion on the local level: Some municipalities and authorities may still be utilizing revenues for general municipal purposes or using hook-up fees to keep operation costs low.

Recommendations on these two problems of program management:

1. With regard to the State, the engineering staff of the Department of Environmental Protection must somehow be removed from Civil Service status, or upgraded to be economically competitive enough to hold qualified professionals for at least several years, if not a career. Without a change, the administration of this program will remain in continual flux and general chaos.

As an aside to our analysis on this, the Department has - not the Department, but this particular section of the Division of Water Resources - generally a 50% turnover in professional engineering staff every year, and just this year has had 100% turnover in the key management level personnel. I don't know how any governmental agency, any corporation, or any kind of endeavor could survive with a 50% turnover in key staff. And, this is not staff that is handing out tickets or doing something simple; it is staff that is in the middle of a comprehensive review of million of dollars worth of plans, and then they leave. Then a new person has to come, totally fresh, and not pick up where the other person left off, but start from the beginning and begin again. And, the supervisor

has to take six months to train the person, so the supervisor can't do his normal functions. This has been going on since 1972 with very little hope of it changing today.

Another aside, the Department has just entered into an agreement with hiring some EPA staff with vast experience, but this is at the upper echelon levels and is not helping to retain the engineering staff.

2. With regard to local management problems, municipal public works departments and local and regional utility authorities must be held accountable to keep sewer connection fees in separate accounts from operating funds to assure the growth of a source of capital funds for new construction to meet the growth demands of the system. These two items would probably require new law in order to be implemented.

There was one graphic I didn't use today, but essentially what it does is reinforce the-- I think I will show it to you right now. It shows the trend of grants from EPA and where they are today. This is a more graphic depiction. I don't know if it is much more graphic than the priority list, but what it shows you is, over the years from 1971 to 1981, in green, the amount of dollars coming from EPA, and in blue the amount of dollars spent by DEP out of those funds provided for step one, step two, and step three grants. In 1976 you had a large pulse of funds and now it has tapered off to about \$100 to \$110 million a year, and DEP is just about spending, each year, all the money it gets from EPA through management corrections they have made in their program. The dilemma is, the red line you see there is what the current demand is in 1981 for funds - \$3.2 billion versus the \$112 million. This is just a further reinforcement of the disparity of demand versus the available supply of funds to correct the problem. And, I would submit to you that all the agencies that are represented by the red are doing nothing. They are waiting on line and doing nothing, because if they do do something and spend their own money, they are knocked off the list. That is why I testified earlier that there needs to be a change in that Federal regulation or the people on line here will just stay waiting on line.

Thank you for your time and attention to my presentation. If you have any questions, I would be happy to answer them.

ASSEMBLYMAN STEWART: I would just like to compliment you on a very efficient presentation. In the years I have been here, I can't remember one any more efficient than the one you just gave us. I especially appreciated your recommendations, along with some of the problems you pointed out. I would say that a great majority of the questions I may have had, you have succeeded in answering as you went along, including the fact that you originally, I think, made a recommendation that maybe the Federal program -- I assume you were talking about the Federal program -- could be turned into some kind of a low interest loan program. I assume you are also saying later on that you are recommending we look into the possibility of a State low interest loan program. Do you know of any other State that is doing that, by any chance?

MR. REILLY: No, I don't. I think, though, that is a new shift in thinking - I was talking with some DEP officials in other programs - and that is the dilemma of a handout program. The incentive is to wait for it to get to you; whereas, if you have no reason to wait - such as a loan program - the money is going to cost the same today as it will two years from now and maybe it is

better to act today. But, I don't have knowledge of any other programs.

ASSEMBLYMAN BARRY: In absence of Federal and State funding, are you suggesting then that the local authorities should assume that burden and immediately undertake expansion or new construction?

MR. REILLY: Absolutely. It is their responsibility. If stream 'x' is polluted, the general state of New Jersey didn't pollute it; it is two or three sewerage facilities from two or three communities that are polluting that stream. What the Legislature and the Congress have said is, "Well, we have a problem. The waters flow throughout the State and the country, so we will pool our funds and help to solve these problems because it is to the benefit of everyone." What we have found is, the cost is extraordinary to do that very well meaning task. And, the dilemma is, still staying with the psychology of that first idea of "Well, we will help out everybody", everybody has done nothing in the meantime on their own to correct the problem. We do have some situations where I would venture to say, for instance, Camden could not come up with \$300 million that it needs to correct its own problems from its own tax revenues. That is where you need a new kind of prioritizing: where the money is going to go. DEP is thinking right now of possibly just funding the biggest ones -- right now getting them done and then dealing with the rest of the problems.

The private sector, the development industry, the housing industry, is willing to put up the money in cooperative arrangements with the MUA's to move things forward, but these authorities that have been waiting for DEP funds don't want to spend any funds for an arrangement with anybody because they get kicked off the priority list if they do. So, that is a key wedge - an unfortunate negative spinoff - of the Federal regulations that has stalled the projects. But, in some, yes, the municipalities, the local entities, and the private sector have to pool their funds and try and solve the problem because it not going to come from big grants.

ASSEMBLYMAN BARRY: Do you know what the average cost of these many projects is?

MR. REILLY: There is no average cost. It is from \$1 million to \$300 million. It depends on whether it is a regional system, or a small municipal system.

ASSEMBLYMAN BARRY: I am just trying to see where some of these municipalities or local authorities are going to succeed in raising that revenue.

MR. REILLY: It is going to have to come from user fees and from new development, which provides connection fees to build a facility if you have to build on to a facility to correct a problem. If you have connection fees from three businesses and a subdivision of homes and you collect connection fees from all of those, that is the fund you would use to help build. The cost, in general, of operating the system has to be spread over all the users.

The converse of that is to continue another decade of additional sewer bans which are coming down the pike because we don't want to bite the bullet - this expensive bullet - of dealing with it with our own resources.

ASSEMBLYMAN BARRY: I agree with you that that approach is reasonable, but I would like to know just what the cost would be.

MR. REILLY: For example, in Camden it would be an explosive cost and in Bergen County -- some of these monster systems. Others, it will be one-half million or a million to do some specific process changes in the plan to

correct it. Some will be able to be handled; others will clearly not be because it will bankrupt the city or the town. What we do in that instance, I don't know. But, I think if we could correct the ills of 90% of the system to get everybody moving forward and then we have these hard nut cases to deal with last, maybe we ought to move the system forward in that direction.

ASSEMBLYMAN BARRY: Thank you.

ASSEMBLYMAN STEWART: Thank you very much, Sean.

MR. REILLY: Thank you.

ASSEMBLYMAN STEWART: Next we have Robert Casey, Township Manager of Mount Holly.

R O B E R T C A S E Y: Thank you, Mr. Chairman. My name is Bob Casey. I am the Manager of Mt. Holly Township, and also the Secretary of the Mt. Holly Sewer Authority. I have been asked to be here on behalf of the League of Municipalities. I don't have a prepared, formal presentation to give you, but I am here to give you some first hand information of a community that has been under a sewer ban for eight years, is currently under a \$17 million expansion program that will be completed this Fall, and to let you know just what the realities of the situation are.

Mt. Holly is a regional authority. Mt. Holly Township itself is something like 90% developed. The surrounding areas, four or five communities, are basically suburban, growing, and under development.

First of all, in terms of the question of connection exemptions to connection ban, which was imposed in '73, the original connection ban when it came on - which was a "stop everything" - threw on to the individual homeowner a tremendous burden in terms of what happens if they have a bad septic system -- they go to DEP with plans and everything else. The change on that to the line extension ban in '79 was a big step forward for communities like Mt. Holly, which are basically developed. So, you have what is called "in-fill", where you have an individual lot where the line is already going past in the street. That allows you to fill in your existing service area. The problem is that in your outlying areas which are under development, basically there are existing homes in those development areas which use septic. The economics are not there to extend the lines out. Basically, the lines are normally extended when a large development comes. The line goes past and the individual, existing homeowners tie in.

Right now, economically we are not capable, really, of going out there and picking up those individual homeowners who might have malfunctioning septic systems, etc., who are beyond your current service line area until the new development extends out to them, and that can only be addressed when the line gets sent out there.

One of the real difficulties with the whole concept of a ban is that it is absolute. The last speaker alleged to the difficulties of the way the construction program works -- it is an all or nothing construction program. The Federal and State regulations don't allow you to go into a phased construction program, which if you have a whole rethinking of the way you are operating this there might be ways of addressing this situation on a phased basis. For instance, where you would have a situation where you are bucking your capacity or you have a plant deficiency, you prepare an overall master plan which has a phased growth, and you get a commitment for that phased growth - a financial commitment -

so you know where you are going over 'x' number of years, whatever it might be. Then, the individual component parts might be able to give you some temporary relief as you progress forward on that phased growth, but you don't lose the financing for those individual parts.

The use of a surge tank in order to handle heavy flow -- you know, you can put the surge tank in at a reasonable cost, which allows you to pick up some additional capacity, but by having it part of an overall grant program, or an approved program, you don't lose that potential of grant and aid on it. And, in a few moments I will get to your question about the cost as to what it would be for Mt. Holly for this type of thing.

So, one of the existing problems we have is the whole grant process, which is a stop-go situation. You know, you don't do anything until you get approval, and then the approval is, you get 'x' number of dollars and you bid the whole damn thing at once and you go.

Cost - we are currently undergoing a \$17 million plan expansion program. We have State and Federal money. We were fortunate. We are very happy to see that we are in line, so we aren't getting any of that cut back. Of that \$17 million, we have bonded for \$7. Hopefully, we won't need all \$7 by the time we close out, but for cash flow purposes, etc., we need \$7; so right now we are at \$7. We have a plant which will have a 5 million gallon capacity. We currently have 2. So, we are upgrading the 2 and we are increasing it by 3. Now, to pay for that increase to 3 we are looking at most of our cost being through connection fees. Basically the theory is that the new person who is coming on line should pay the cost of extra sewerage treatment. That is going to run an average of about \$4 a gallon.

Now, assuming \$7 million, and assuming a \$17 million plant, and assuming no State and Federal aid, you divide the 25,000 some odd potential users into that and you get something like \$7 thousand per household. If you turn around and say municipality, sewerage authority do it and then on top of that you have your whole question of debt structure -- how are you going to structure that type of thing? Your costs are fairly astronomical in terms of the reality of the situation.

There is another major problem with the whole concept of sewer bans, and that is the situation we will be facing in the surrounding communities in the next two or three years. When you said in '73 stop, except for a hardship situations you have minimal development. Some developers get hardship exemptions if they can prove on-going programs. A couple of others were issued and we never quite figured out how they got them. But, there was some minimal development. You take the Pinelands in South Jersey. You say you are going to hold back the development there. You are shifting a tremendous amount of development into certain areas which can handle it. Okay. We come on line with a new plant. You have an artificial stop to the economic expansion of the area. Suddenly, you have the potential that in three or four years everything comes on. You know, it is a catch-up situation. The impact on your other capital infrastructure is substantial -- schooling, water system, streets, normal governmental services -- when you suddenly have a large number of subdivisions coming on line at the same time. Because you have this, everybody stops and everybody gets up and runs. There has to be a better way of doing it. There has to be a way of allowing an area to do a phased growth in some fashion, because the impact of non-phased

growth would be fairly substantial and fairly dramatic. Your communities surrounding Mt. Holly where you have to built the additional schools and everything else -- you know, they aren't going to build them until they get a better handle on what the development is there, and right now everyone is sitting back waiting for it to materialize to the extent that there will be funding available to it. So, I think in essence, from a pragmatic standpoint, if we had our druthers and we designed a system, I think you would have to redesign a system which recognizes a phased development concept, which recognizes phased construction so it would allow you to address that development over a projected planned period, and I think you have to recognize the realities of the cost.

Now, I would be happy to discuss with you our experience from a practical standpoint. But, we are right now, as I said, coming off a ban. The impact on the surrounding communities has been five years of stop. And, the impact of the next five years is probably going to be more dramatic than the stop and I am not quite sure which is going to be worse nor what is going to happen in the next several years when this ban suddenly comes off and there are three million gallons capacity and everyone around it has a ban on. That, I think, is a real issue which we are not really addressing. Thank you, gentlemen.

ASSEMBLYMAN STEWART: Thank you, Mr. Casey.

Mr. Richard Seafort, Administrator of Rockaway will be our next witness. Is there anyone here from the New Jersey Association of Counties? (no response) Okay, then after Mr. Seafort will be Mr. Jim Gaffney of the Stony Brook-Miolstone Watersheds Association.

R I C H A R D S E A F O R T: Mr. Chairman, gentlemen, my name is Richard Seafort. I am the Administrator of Rockaway Township. Rockaway Township appeared on one of the maps here as the orange area as part of the Rockaway Valley Regional Sewer Authority, and on another map with a bunch of dots as being a sewer ban area, so I am not sure where we are. But, we are also quoted as being one of those communities "in the interim sewer ban." That interim sewer ban has only been on in Rockaway Township since August 8th of 1968. Certainly, that has adversely affected the orderly development of the community.

The ban was placed on Rockaway Township to minimize the overloading of the sewerage treatment plant that was servicing Jersey City. Rockway Township is a source of a great deal of the surface water supply of the Cities of Newark and Jersey City and we are adequately protecting their water supplies, but in doing so and in not having proper sewerage treatment facilities in the township itself we are adversely affecting our own individual water supply. Most recently we have some water contamination problems in our well systems. We were forced to purchase carbon activated treatment facilities. They were put in line within a short period of time, but they did cost the township some quarter of a million dollars.

All the while that was going on we were still adequately maintaining Jersey City's and Newark's water supplies. They were adequate from the standpoint of quantity as well as quality.

I have listened to the comments here today and the one that strikes me as the most meaningful was Mr. Reilly's suggestion about an expansion of a low-interest loan program. I think this is one way to really attack this problem. I think it will not only eliminate the sewer ban problem, it will help stimulate the economy in the towns that have been affected by these sewer

bans. We all experienced the Public Works Program of 1975, when there were 'x' numbers of millions or billions of dollars being made available. All of the communities ran to the Federal Government and we looking for the old handout -- total payment by the Federal Government for local public works projects. Again, those were designed to eliminate the unemployment rate and I think that if you took those dollars and put those into low interest loan programs, we would have stimulated the economy much more. We would have gotten many more projects started. We would have eliminated some of our problem areas, such as the sewers, and we certainly would have increased land values and ultimately improved the economy.

Some of our concerns with the sewer ban today are that we have stifled development and the related jobs that go with development, both temporary and permanent positions.

Rockaway Township is like other communities in that we are caught in a court dilemma, one that says, "provide adequate low and moderate housing", and another that says, "you are restricted from the use of sewerage treatment facilities." We are concerned about the Federal government's cutbacks. This can be overcome in part by the recommendations that I thought were most constructive by Mr. Reilly -- again, the expansion of the low-interest loan program.

Rockaway Township has submitted an application for a low interest loan program through the Farmer's Home Administration. That is for the purpose of expanding our water distribution system. That is in jeopardy too because of Federal government budget cutbacks.

Again, let's go back to that expansion of that low interest program and I think we will solve some of these problems.

Another thing that we are doing very unconsciously is, we are contributing to inflation. We are going out and telling people, "Well, you go out and you want to build a sewer system. We haven't got it available to you, so what you do is you build a septic system on your own individual lot and at the same time you put in the hookups that go out into the street." So, what we have done is we have made this fellow put an extra four or five thousand dollars in the construction of his home for the septic system. He has gone and borrowed mortgage money for that. Let's say he borrowed sixty percent of that, so there is another three thousand dollars of the actual loan and they are going to tag interest on to that. So, that is contributing to this inflation we hear so much about.

I think we will conclude by saying that we are very much surprised in local government in that while we have zoned areas for multi-family homes, we have zoned areas for commercial development, and so forth, people have not been able to use those properties to their highest and best uses. I am surprised that these communities haven't had more tax appeals levied against them. I am very much concerned that might happen in the future if these bans continue.

So, with that, I have reduced my comments here because you have heard several of them here from previous speakers. One thing that we did notice, particularly in the past several days, were the articles in the Newark Star Ledger concerning the bans and the problem that you have at hand, and we would suggest that those be incorporated in the minutes of your deliberations here. Thank you very much.

ASSEMBLYMAN STEWART: Let me ask one question. We are very close to wrapping up. We have one more participant. Does this list and its length

that Mr. Reilly presented to us, come as any surprise, do you think, to any municipalities across the State?

MR. SEAFORT: No. But, I think what happens here is that the local elected official says, "Hey, during my tenure in office I am going to do everything that I can to provide sewerage treatment facilities for my constituents." He is unable to do that because he is number 38 on the priority list, or whatever. He is covered, let's say, by saying to his constituents: "We are on the list. We are going to wait." Okay. That cost--

ASSEMBLYMAN STEWART: Well, I guess my question to you is, do you think that local official, appointed and elected across the State - and not just in the more sophisticated towns but let's say in some of the smaller, suburban towns across the State - really believes that or is he just using that to pass the buck?

MR. SEAFORT: It is probably that he believes it, but, as I say, he is covering himself by telling his constituents, "Hey, we are on line; we are just going to have to wait." He thinks he is going to get that handout. They are all looking for the handout.

Again, I made that comment about the 1975 public works program. I forget the exact number of billions of dollars that were applied for, but I remember a similar program under the accelerated Public Works Program back in 1963 when President Kennedy was in office. There was an accelerated Public Works Program at that time. Those requirements were that the municipalities had to put up 50% of the cost of the improvement and the Federal government put up the other 50%. Well, there weren't nearly as many applications put in at that time. So, again, had they taken that money at that time and put it into low interest loans, I think it would have further expanded these programs. It certainly would have stimulated the economy, which was what was being done with those Public Works Programs, and you would also satisfy this need for providing adequate sewerage treatment facilities. So, I think the emphasis ought to be placed in that direction.

ASSEMBLYMAN STEWART: Thank you. Assemblyman Barry has a question.

ASSEMBLYMAN BARRY: Would you comment on your position in regard to the proposed relationship between Rockaway and Parsippany-Troy Hills, specifically the concept of a tie in to the Parsippany facility?

MR. SEAFORT: Right. One of the things I am a great advocate of is - and have been ever since I have been in local government, which goes back more years than I probably want to remember - I think there should be more regionalization in every aspect of government and most particularly in this sort of thing here. I think, again, this was a source of litigation here - as you know. There was some litigation back and forth between the authority and Parsippany, and I think the courts have pretty much settled that now. But, I certainly believe that wherever possible there ought to be regionalization. There are existing facilities. Maybe some expansion of some of those existing facilities in some of the older facilities ties in with newer areas. Most towns are concerned about the dividing line between the two communities. I think you have to knock that barrier down so that again we have regionalization. I think we are going to get a lot more done with all of our problems in government, local and countywide, that way.

ASSEMBLYMAN STEWART: Thank you very much.

Mr. Jim Gaffney, Stony Brook-Millstone Watershed Association.

J A M E S G A F F N E Y: Mr. Chairman, my name is James Gaffney. I am Director of the Stony Brook-Millstone Watershed Association. My remarks are going to be quite brief because I intend to focus on just one element of the broad range of topics that have been discussed already this morning, and that is the subject of sewer bans.

At the outset, I agree with some of the earlier remarks on the more general issues by saying that there have been problems in the Construction Grants Program over the last decade. Some of these relate to funding, the difficulty in obtaining funding, and the problems of management. But, there is also one issue, I think, that is very important on this and that is the issue of responsibility, the responsibility of those who have to make decisions on setting the future of the environmental quality of their own area. I think this bears on a specific issue I would like to raise today on sewer bans, and that is what I will call an evolving success story in the Township and Borough of Princeton.

Mr. Schiffman indicated in his remarks that sewer bans were not a panacea he did not use that word, but it was essentially the same. They are not going to solve the water quality problems. What they are essentially are a stop-gap mechanism until improvements can be made in the system.

In Princeton this was indeed a problem in the early part of this decade. There was a situation which has been estimated by the engineers as having been extremely serious. There were problems with overflows and bypasses. One estimate was that out of a total of 35 million gallons a day, which were recorded under peak flow conditions, only 8 of those were actually getting to the treatment plant.

The situation in Princeton is rather unique. They have an advanced waste treatment plant whose effluent is in many respects an improvement over the quality of water which it dumps into, and that is the Lower Millstone River. So, the problem was not with the treatment plant itself, it was in the collection system to get sewage into that plant. The problem in the Princeton area was you had a very old system which was leaking in times of heavy rainfall and in times when there wasn't rainfall but when there was high ground water conditions. You then had inflow into the transmission lines and something that looked very much like sewage geysers coming out of the manholes. This problem still exists today under heavy rainfall conditions.

The sewer ban was put into effect in Princeton and it still exists today. It does seem as though there is going to be a solution to the problem probably within the next few months as a result of an agreement between the borough, the township, and the DEP. I mention this because I think it is a good indication of one positive aspect of sewer bans, and that is forcing on the municipal government and the local people the responsibility to chart their own destiny in areas of water quality. There is some feeling on the part of the people who have been following us over the years that without a sewer ban there would have been less willingness on the part of local people to make important decisions on the upgrading of their treatment plant capacity. Negotiations are still going on in this area, and the final "i" has not been dotted nor has the "t" been crossed. But, what may happen in this area is that there will be a relaxation of the sewer extension ban as a result of an initiative by the township and the borough to undertake some of the cost of repair for the infiltration and inflow in the near future, and there will be, in exchange for repairs along the transmission system, from DEP, a corresponding agreement that there will

be allowed an increase in capacity that would allow construction to continue.

One of the problems in Princeton that I think needs to be focused on is that the areas in which the worst pipe systems were located were also in the areas of where the future growth was going to be directed. And, had that growth continued in the past years, there would not have been just a stand-still in terms of the water quality problems in the immediate area; there would have been an increase because as a result of the system's problems in the past there has been documented evidence of increased pollution problems in the lake area as a result of the overflow.

So, for a very quick summary of this, in the case of Princeton Township and Borough, sewer bars have in fact been a useful mechanism because they have forced people to think in terms of relying on themselves for the solution to the problem. They couldn't just sit around and wait for State and Federal funds. They developed initiative on their own and came with a proposal. As I said, the final agreement on that has not been written but it should be in the next few months. I think that can be pointed towards as an example of something that might have relevance elsewhere in the State.

ASSEMBLYMAN STEWART: Thank you very much.

I would like to thank everyone for their patience. Since there is no further testimony, we will call this public hearing to a close. Thank you for attending.

(hearing concluded)



Testimony of
Dr. Richard T. Dewling
Acting Regional Administrator
U.S. Environmental Protection Agency, Region 2
before the
New Jersey State Assembly
Agriculture and Environment Committee
Concerning the President's Proposed 1982 Budget for
the Federal Wastewater Treatment Construction Grants Program

May 1, 1981

Good morning. I am Richard T. Dewling, Acting Regional Administrator, U.S. Environmental Protection Agency (EPA), Region 2. Thank you Mr. Chairman and Committee members for the opportunity to discuss the 1982 Budget for the Federal wastewater treatment construction grants program, and the proposed rescission of currently unobligated funds. I will also address the legislative reforms which EPA has submitted to the Congress, and explain how the budget and program changes will affect the State of New Jersey. First, I would like to summarize briefly the goals and the purpose of the construction grants program under the Clean Water Act.

Under the 1972 Federal Water Pollution Control Act, all municipal sewage treatment plants were to achieve secondary treatment or more stringent treatment to meet water quality standards by 1977 with some extensions up to 1983. All plants were to utilize "best practicable" treatment technology by the 1983 deadline. EPA has provided financial assistance to State and local governments for the planning, design, and construction of facilities needed by municipalities to achieve these goals.

The budget for the construction grants program represents the Agency's largest expenditure. The Federal Water Pollution Control Act Amendments of 1972 appropriated \$18 billion over the 4 year period 1973-1976. The legislation was the first major commitment on the part of Congress to clean up the nation's water pollution problems. New Jersey's share was \$1.3 billion. These funds have enabled some \$1.7 billion worth of municipal water pollution control projects to be undertaken. Under the 1977 amendments appropriations for fiscal years 1978-1981 were \$15.5 billion. The New Jersey allocation for this period was in excess of \$544 million.

PRESENT ALLOTMENT FORMULA

Every fiscal year, grant awards are made available to each state from allotments which are determined by a formula based on population and need. The balance of any unobligated monies allocated in one fiscal year may be carried over and added to the next year's allocation. Subject to restrictions of the Clean Water Act all projects are eligible for 75% Federal assistance, although those using innovative or alternative technology are eligible for 85% Federal assistance.

STATE DELEGATION

To make the best use of Federal and State resources and to eliminate duplicative reviews of documents in the processing of grant awards, EPA has agreed to turn over the management of the program to the New Jersey Department of Environmental Protection. The State has already assumed responsibility to certify the technical and administrative adequacy of facility plans, plans and specifications, operation and maintenance manuals, and other elements of the program. Much progress has been made to date, in delegating major day-to-day project management responsibilities to the State. We expect to fully delegate the construction grants program and shift our focus away from project level involvement to a position in which we can provide specialized assistance and overall program management.

CORPS OF ENGINEERS

We have also contracted with the U.S. Army Corps of Engineers to oversee projects being constructed under this program. Under interagency agreement with EPA, the Corps conducts periodic inspections of projects under construction and has a full-time staff on the sites of large complex projects. Corps staff review plans and specifications, to assure that they can be the basis for bids, and that they are followed by a contractor once construction begins.

PRIORITY LIST

The State determines which projects should be certified for EPA review according to criteria and categories of need developed under a State

priority system. Criteria include: severity of the pollution problem, existing population affected, and the need for preservation of high quality waters. These criteria serve as the basis for a list of projects which the State submits annually to EPA. The State priority consists of a listing of all known projects which are necessary to handle identified treatment needs. The first portion of the list contains those projects for which funding will be provided. This is the fundable portion of the list. The remainder is identified as the planning portion.

In order to accurately project the allotment required to cover future project costs, the State conducts a "needs inventory" every two years and uses the information obtained to maintain an accurate long term listing, including costs by category of all needed treatment works. A state's population, facilities needs, and estimated costs are all factors which determine the ratio on which each year's allotment of the national appropriation is based.

As we move into the '80's, trends in Federal appropriations indicate a substantial decrease in monies available for allocations to the states. Further, under the existing allotment formula and the ratio used the State share has decreased. (See table below which illustrates this trend.) To illustrate -- New Jersey's allocation was \$254.6 million (based on a 7.7% ratio) in 1975, but was only \$119.7 million (based on a 3.57% ratio) in 1980. The State's allocation this fiscal year is \$116.4 million. The fact is that a significant number of projects are ready to enter the construction phase at a time when Federal funds are decreasing for this program.

Trends In New Jersey State Allocations For The Construction Grants Program

	<u>Allotments</u> (in millions)		<u>State Share</u>
1973	\$154		7.7%
1974	\$231		7.7%
1975	\$254.6		6.4%
1976	\$660	(Release of impounded monies from '73, '74, '75 good through 1977)	6.4%
1977	\$ 47	Supplemental appropriation	6.4%
1978	\$160.7		3.5%
1979	\$147.9		3.5%
1980	\$119.7	Before rescission	3.5%
1981	\$116.4	Before rescission	3.5%

AFTER RECISSION

	<u>Allotments</u>
1980	95.2
1981	81.2

At the present rate of certification of construction projects as well as other step 1 and 2 projects, we anticipate that all 1980 and some 1981 monies will be spent by the end of this calendar year. Several major step 3 projects will be ready for funding in FY 1982. These include Camden County Municipal Utilities Authority (District I) estimated at \$225 million; Hudson County Utilities Authority, estimated at \$180 million; Camden County MUA (District II), estimated at \$71 million; the Rockaway Valley Regional Sewerage Authority, estimated at \$33 million, and parts of Bergen County Utilities Authority. Total construction costs on these projects alone is five times the amount allocated this fiscal year.

THE PRESIDENT'S PROPOSED BUDGET

The President's proposed budget calls for a \$1.7 billion rescission of 1980 and 1981 unobligated construction funds. Rescinded money includes \$586 million appropriated in 1980, \$1 billion appropriated in 1981, and \$114 million appropriated under the Public Works Employment Appropriations Act (Talmadge/Nunn funds).

The proposed budget rescission in 1980 will result in a reduction of the New Jersey allotment by \$24.5 million and will put New Jersey's 1980 allocation at \$95.2 million. This leaves a current unobligated balance of \$37.6 million. The proposed 1981 rescission will result in a reduction of \$35.2 million for New Jersey and put the New Jersey 1981 allotment at \$81.2 million. This leaves a current unobligated balance of \$77.6 million.

The President's proposed budget recommends that no funds be appropriated for FY 1982 unless legislative reforms to the construction grants program are enacted by the Congress. To the extent that needed reforms are enacted expeditiously the Administration will be prepared to request \$2.4 billion for 1982.

PROGRAM REFORMS

In accordance with the President's economic reform program, a proposed bill has been sent to the Congress to revise the Construction Grants Program to

reflect the need to reduce Federal expenditures and to provide a more cost-effective targeting of this grant program.

Section 1 of the bill revises and extends for one year the formula under which each State is allotted a share of the annual appropriation for construction of municipal wastewater treatment systems.

The bill revises the allotment formula to be based on need, as reflected in the 1980 Needs Survey. Needs would be limited to only those eligible for grant assistance under the revised categories including the limitation on funding for reserve capacity. Population would not be a factor in computing a State's ratio under the new formula.

Proposed changes would limit grant eligibility to categories of projects designed to significantly improve the quality of receiving waters in the near term and eliminate Federal funding for projects designed to accommodate future community growth.

Section 2 of the bill provides a one year extension for the provision designed to encourage the use of innovative/alternative technology now scheduled to expire September 30, 1981.

Section 3 makes the 3 percent set-aside for these projects discretionary, at the request of the Governor, rather than mandatory, as is presently required. This money, set aside from each year's allotment, is used to fund the 10 percent increase, from 75 to 85 percent of the Federal share of construction costs for projects applying innovative/alternative technology.

Section 4 of the bill would make discretionary the four percent set-aside for rural community treatment systems which is now mandatory for states with a rural population that exceeds 25%. Both the innovative/alternative and rural community funding changes from mandatory to discretionary set-asides reflect the reduced funding expected to be available for the program by allowing States to consider such set-asides in the context of their total needs.

Section 5 would limit federal grants to certain categories of projects: secondary treatment or more stringent treatment than secondary, or most cost-effective alternatives and new interceptors and appurtenances. Federal funding would be eliminated for new collection systems, replacement and rehabilitation of sewers, combined sewer systems overflow correction, separate stormwater sewer systems overflow correction, and correction of infiltration/inflow problems.

The section also amends the present authority of a Governor to reduce the existing 75 percent Federal share uniformly in the State to permit such reductions to be done on a category-by-category basis as well as according to project step.

For example, the Governor may choose to fund secondary treatment projects at 50 percent in the planning (Step 1) and design (Step 2) phases, but fund actual construction (Step 3) at 75 percent. At the same time, he may fund all phases of interceptor construction at 40 percent.

Section 6 of the bill amends the provision which provides a set-aside of a State's allotment for State administration of the delegated program. Under current law the amount of the set-aside is computed as a percentage of the allotment the State would receive if the full authorization were appropriated. Since the actual appropriation is less than the authorization, the proposed bill would gear this percentage to the sum of the unexpended obligation and the unobligated allotment available to a State at the beginning of the fiscal year, or \$400,000, whichever amount is greater. This reform will allow the amount for administrative purposes to be tied to the anticipated workload.

Section 7 of the bill repeals the provision of the existing Clean Water Act which provides that projects constructed prior to the 1972 amendments could be eligible for some reimbursement.

Section 8 limits Federal funding for reserve capacity to the planning and design stage. Construction costs for that portion of the system associated with future growth must be funded by the States and localities.

Section 9 will amend the criteria for establishing a priority list. Under this proposed amendment, the States retain the responsibility of establishing the priority to be given projects within the State.

To ensure that Federal funding is channeled into projects which will result in the greatest amount of pollution control for the money expended, the new criteria for establishing the State priority list are defined in the reform. First, a project must have significant public health or water quality benefits, and second, highest priority must be given to those projects which will directly benefit areas of urban industrial concentration. This amendment, in keeping with the intent of the reform proposal, links the prioritization of projects to those areas reporting highest treatment needs. It also ties inclusion on the priority list to a project's demonstrated potential for water quality benefits.

If the Congress approves these amendments, the Administration will seek an appropriation of \$2.4 billion for the 1982 program. Let us assume for planning purposes that this sum is allocated. Under the old allotment formula New Jersey has about a 3.6% share and ranks eighth in national need. Under the proposed new allotment formula needs alone would rank New Jersey fourth, with about a 5.4% share if the recissions are adopted.

While the proposed new allotment formula would put EPA in a better position to award grants for the completion of projects serving such areas as Hudson and Camden Counties, it is apparent that there will still be shortfalls. Under the new proposed formula New Jersey has a larger share of the pie, but it is a greatly reduced pie. There is no question that there will be a need to reorient project priorities to target funds to eligible projects that have a direct public health and environmental quality pay-off.

SPEECH OF DIRECTOR SCHIFFMAN BEFORE THE
ASSEMBLY COMMITTEE ON AGRICULTURE AND THE ENVIRONMENT
H. DONALD STEWART, CHAIRMAN
ON SEWER BANS ON MAY 1, 1981

THE SUBJECT I WILL BE DISCUSSING IS NOT REALLY SEWER BANS BUT WATER POLLUTION AND PUBLIC HEALTH. I SAY THIS BECAUSE SEWAGE TREATMENT PLANTS IN NEW JERSEY HAVE HAD DIFFICULTY ADEQUATELY TREATING THE WASTE WATER THEY RECEIVE TO ACCEPTABLE EFFLUENT STANDARDS, PRIOR TO DISCHARGE INTO THE STATE'S STREAMS AND RIVERS. THERE ARE TWO UNDERLINING CAUSES FOR THIS DIFFICULTY.

- 1) MANY PLANTS ARE RECEIVING SEWAGE FLOWS IN EXCESS OF THEIR TREATMENT CAPABILITY - THUS OVERLOADING THE SYSTEMS.
- 2) MANY PLANTS ARE NOT PROPERLY TREATING THE SEWAGE FLOWS THEY ARE DESIGNATED TO TREAT.

IN SPITE OF THESE DIFFICULTIES, DEVELOPERS, INDIVIDUALS AND INDUSTRY WERE NOT IN THE PAST, PREVENTED FROM HOOKING-UP TO OVERLOADED SYSTEMS. THERE CAN BE NO QUESTION THAT SUCH PRACTICES CONTRIBUTED TO THE POLLUTION OF STATE WATERS.

IN 1973, THE STATE TOOK A MAJOR STEP TOWARD HALTING THIS PRACTICE WHEN CONNECTION BANS WERE ISSUED AGAINST A NUMBER OF MUNICIPALITIES. INITIALLY THESE BANS REQUIRED THE D.E.P. TO LITERALLY REVIEW SINGLE HOUSEHOLD REQUESTS FOR SEWER SERVICE. THIS APPROACH PROVED UNWORKABLE AND IN 1979, THE CONNECTION BAN WAS REPLACED WITH AN EXTENSION BAN FORMAT, WHEREBY ONLY EXTENSION OF A SEWER LINE TO A FACILITY GENERATING, IN EXCESS OF 2,000 GPD, WAS SUBJECT TO STATE APPROVAL.

PRESENTLY, 63 SEWER SYSTEMS HAVE BEEN PLACED UNDER EXTENSION BAN BY THE STATE. THESE BANS AFFECT ABOUT 90 MUNICIPALITIES. INCLUDED IN THIS NUMBER (63) ARE 5 SYSTEMS PLACED UNDER EXTENSION BAN BY COURT ORDER. OF THE ORIGINAL STATE-ADMINISTERED BANS, ESTABLISHED IN 1973, ONLY 2 HAVE BEEN LIFTED, ONE IN 1977 AND ONE JUST THIS YEAR.

IT IS INTERESTING TO NOTE THAT THERE IS STILL ONE CONNECTION - AS OPPOSED TO EXTENSION BAN STILL IN EFFECT - THE SERVICE AREA OF THE ROCKAWAY VALLEY SEWAGE AUTHORITY (RVRSA). THIS CONNECTION BAN WAS ORDERED IN 1968 AND IS ADMINISTERED BY THE COURTS, NOT THE STATE. THIS SEWER BAN WAS IMPOSED BECAUSE A POORLY FUNCTIONING TREATMENT PLANT TURNED THE ROCKAWAY RIVER SEPTIC. THE VAPORS FROM THE RIVER WERE SO BAD THAT IT WAS REPORTED THAT PAINT PEELED OFF HOMES. RVRSA HAS THE DUBIOUS DISTINCTION OF APPARENTLY BEING THE FIRST SYSTEM PLACED UNDER SUCH A BAN IN THE UNITED STATES.

OVER THE YEARS, SEWER BANS HAVE BEEN AN EFFECTIVE BUT LIMITED TOOL IN CHECKING THE CONTINUED DEGRADATION OF STATES WATER AND THE PUBLIC HEALTH. IN ESSENCE THE BANS HAVE PREVENTED THE STATE WATER POLLUTION PROBLEM FROM WORSENING. CLEARLY, HOWEVER, A SEWER CONNECTION OR EXTENSION BAN DOES NOT CORRECT WATER POLLUTION PROBLEMS. ADDITIONALLY, A BAN BY ITS VERY NATURE, CREATES AN ALLOCATION SYSTEM FOR WHAT IS NOW A SCARCE RESOURCE - SEWAGE TREATMENT CAPACITY. STATE OFFICIALS, AND EVEN THE COURTS, HAVE BEEN AND WILL CONTINUE TO MAKE VERY DIFFICULT DECISIONS REGARDING THE ALLOCATION OF SEWAGE TREATMENT CAPACITY. THESE DECISIONS HAVE FAR REACHING ECONOMIC IMPLICATIONS. THERE IS ALSO THE QUESTION OF WHAT I CALL GRANDFATHER RIGHTS. FOR SEWER BANS, THESE GRANDFATHER RIGHTS INVOLVE "RESERVED CAPACITY".

RESERVED CAPACITY, KNOWN AS "PAPER FLOWS", IS THE RESULT OF GRANTS GIVEN BY

SEWAGE AUTHORITIES TO CONTRACTORS FOR FUTURE CONSTRUCTION. THUS, WE HAVE A SITUATION WHERE A TREATMENT PLANT UNDER A BAN WITH A CAPACITY OF TWO (2) MGD MAY ONLY RECEIVE A DAILY FLOW OF ONE (1) MGD AND HAVE A GRANDFATHER FLOW OF ONE (1) MGD. IN MANY CASES, SOME OF THIS SCARCE RESOURCE IS BEING HELD BY THOSE WHO EITHER DO NOT NEED IT OR DO NOT USE IT.

FOR MANY YEARS, THE PERCEIVED SOLUTION TO INADEQUATE SEWAGE TREATMENT CAPACITY WAS THE FEDERAL CONSTRUCTION GRANTS PROGRAM. HOWEVER, AS ANYONE FAMILIAR WITH THE GRANTS PROGRAM WILL TELL YOU, IT HAS HUNDREDS OF FEDERAL REQUIREMENTS AND IS VERY COMPLICATED. CONSEQUENTLY, IN PAST YEARS, THERE WAS MORE MONEY FOR PROJECTS THEN THERE HAVE BEEN PROJECTS READY FOR CONSTRUCTION. LAST YEAR WE FINALLY SOLVED THE PROBLEM OF NOT HAVING ENOUGH PROJECTS READY TO GO. NEW JERSEY NOW HAS A VIABLE PRIORITY SYSTEM. ONLY THE TOP PRIORITY PROJECTS ARE ELIGIBLE FOR FUNDING. SOME OF THE PROJECTS UNDER WAY WILL CORRECT WATER POLLUTION PROBLEMS AND THUS ALLOW LIFTING OF SEWER BANS. IN MANY OTHER CASES, FUNDING DOES NOT APPEAR TO BE AVAILABLE FOR PROVIDING RELIEF.

WHAT MUST BE REMEMBERED IS THAT THE PURPOSE OF THE GRANTS PROGRAMS WAS ULTIMATELY, THE CONTROL OF WATER POLLUTION. THE CLEAN WATER ACT REQUIRES STATES TO CORRECT POLLUTION OF STATE WATERS, PERHAPS MORE IMPORTANTLY, THE CITIZENS OF N. J. EXPECT AND MAY REASONABLY DEMAND CLEAN, FISHABLE, DRINKABLE WATER.

THE CUTS PROPOSED BY WASHINGTON IN THE CONSTRUCTION GRANTS PROGRAM SERIOUSLY HINDER THE STATE'S ABILITY TO MEET EITHER THE LEGAL OR PUBLIC MANDATE FOR CLEAN WATER. IN A VERY REAL SENSE THE BUDGET CUTS WILL BE THE ROOT CAUSE OF CONTINUED POLLUTION OF STATE WATERS. THE LIMITED FUNDING NOW AVAILABLE RAISES THE SPECTER OF SEWER BANS THAT NEVER END.

HOW THEN DO WE CORRECT THE PROBLEM OF INADEQUATE SEWAGE TREATMENT CAPACITY? I WOULD LIKE TO SUGGEST SEVERAL POSSIBLE SOLUTIONS - SOME OF WHICH WOULD BE PAINFUL.

1. A CHANGE IN REGULATORY APPROACH FROM A BAN ON CONSTRUCTION TO ENFORCEMENT OF DISCHARGE PERMIT REQUIREMENTS UNDER THE STATES 1977 WATER POLLUTION CONTROL ACT. OVERLOADED SEWAGE TREATMENT PLANTS SHOULD BE REQUIRED TO MEET THEIR PERMITS LIMITS IN ADDITION TO CONSTRAINTS ON ADDITIONAL FLOW TO THE PLANT.
2. A REDUCTION IN THE FEDERAL GRANT SHARE FROM 75% TO A LESSER PERCENTAGE THUS ALLOWING FOR A GREATER DISTRIBUTION OF FEDERAL MONIES TO A GREATER NUMBER OF PROJECTS.
3. AN INCREASE IN THE PERCENTAGE OF THE STATE GRANT MONIES FROM 8% TO SOME GREATER PERCENTAGE. THIS WILL REQUIRE ADDITIONAL BOND MONIES ON THE PART OF THE STATE.
4. OUR RECORDS SHOW THAT THERE ARE MANY OLD PLANTS THAT DO AN EXCELLENT JOB OF TREATMENT. PLANTS THAT DO A POOR JOB SHOULD BE IMPROVED, REGARDLESS OF AVAILABILITY OF FEDERAL DOLLARS. WE NEED A SELF-HELP PROGRAM WHEREBY POORLY OPERATED AND MAINTAINED TREATMENT PLANTS WOULD BE UPGRADED.
5. THE REVIEW AND STREAMLINING OF ADMINISTRATIVE PROCEDURES REQUIRED FOR CONSTRUCTION PROJECTS NEEDING SEWER HOOK-UPS.

AT PRESENT, WE ARE ACTIVELY LOOKING AT FOUR WAYS THAT SEWER BANS CAN BE LIFTED.

1. ABANDONMENT OF INADEQUATE TREATMENT PLANTS AND CONNECTION TO NEWER REGIONAL SYSTEMS.
2. UPGRAVING OF PLANTS THAT ARE POORLY OPERATED AND MAINTAINED.

3. DEVELOPMENT OF AGREEMENTS WITH SEWAGE TREATMENT AUTHORITIES TO CORRECT SYSTEM DEFICIENCIES WITHOUT ASSURANCES OF FEDERAL DOLLARS.
4. DEVELOPMENT OF MECHANISMS TO UTILIZE PRIVATE SECTOR CAPITAL FOR IMPROVING INADEQUATE SEWAGE TREATMENT.

