

PROCEEDINGS

N.J . Legislature Joint Legislative Conference
on Interstate Commission on the
Delaware River Basin

Jan. 7, 1955

974.90
W329
1955

974.90
W 329
1955

copy 2

974.90 copy 2
W 329
1955 N.J. Legislature. Joint
AUTHOR
Conference on Interstate Commission
on the Delaware River Basin.

DATE DUE	BORROWER'S NAME	ROOM NUMBER
	<i>East Brunswick</i>	
	<i>(Keith McCoy) (no ill)</i>	

Date Due

NOV 3 1978

**Division of State Library
N. J. Department of Education
Trenton, New Jersey 08625**

BCO
23-236 PRINTED
U.S.A.

 PRINTED IN U. S. A.



N.J. Legislature, JOINT LEGISLATIVE CONFERENCE

On

INTERSTATE COMMISSION ON THE DELAWARE RIVER BASIN

[Proceedings]

State House
Trenton, New Jersey
January 7, 1955

PROPERTY OF
RECEIVED
JAN 20 1955
Division of State Library,
Archives and History

Present: Senator Wayne Dumont, Jr.
Senator Kenneth C. Hand
Senator Mark Anton
Senator John M. Summerill, Jr.
Senator Thomas J. Hillery
Senator George B. Harper
Assemblyman G. Clifford Thomas

James H. Allen, Executive Director, Incodel
John Boardman, Engineer, Incodel

Charles Def Besore, Chief Counsel, Law Revision and
Legislative Services Commission

John W. Ockford, Counsel, Law Revision and Legislative
Services Commission

974.90
W329 copy 2
1955

Dorothea A. Tempesto
Reporter

MR. DUMONT: The purpose of this meeting, of course, is to try to help us get some facts and figures about Wallpack Bend Reservoir, as contrasted with any facts or figures we have on Round Valley, and I don't know too much about the cost of that. I thought if we had some of the representatives from Incodel here today, particularly the Executive Director and the Engineer, that they could give us some of the information we need about cost and the possibility of the Commonwealth of Pennsylvania enacting the enabling legislation to carry out their part of the law as we have it in New Jersey, that was signed, I think, December 30 of 1953 by Governor Driscoll, providing for the building of a dam at Wallpack Bend at the joint expense of the two States.

So, Mr. Allen, suppose we let you start, and you cover as much as you like. We will probably interrupt you with questions from time to time, if you don't mind.

MR. ALLEN: That is quite all right.

MR. DUMONT: And, Mr. Boardman, we want you to feel free to supplement anything Mr. Allen says.

MR. ALLEN: At the outset, I want to repeat what I said informally a little while ago, that we have come up here at your invitation, Senator, and I want to make certain that no one interprets our visit here as promoting the Incodel project, or opposing any other project. We have come here to give you the facts as we know them.

Just to bring us all up to date, I think we should refer first to the fact that several years ago, pursuant to legislative directives from New York, New Jersey, and Pennsylvania, Incodel made this study to determine whether it might be advisable for the three States to join in the construction and operation of a water supply project for the mutual benefit of the three States, New York, New Jersey, and Pennsylvania. As a result of that study, it was concluded that it would be advisable for the three States to set up an agency to build a water

supply project, and the project would have consisted of a series of four reservoirs in the upper Delaware River Basin. New Jersey was the first State to approve that project. New York approved it shortly after, but it was stalled in Pennsylvania. As a result of it being stalled in Pennsylvania, New York City and New York State, because they could not, without danger, delay any longer, asked the Supreme Court for permission to build a reservoir in the New York State section of the Delaware River Basin independent of the other interested States.

MR. DUMONT: Is that the one at Cannonsville?

MR. ALLEN: That is the one at Cannonsville. The Supreme Court granted that request. I think it should be pointed out that the Court actually confirmed, or negotiated, an agreement among the legal representatives of the State in granting that request. The effect of that was to give the City and State of New York the right to build this reservoir known as Cannonsville Reservoir. There are other provisions in the decree that granted New Jersey the right to take one hundred million gallons of water a day through the Delaware and Raritan Canal without any restrictions or conditions for releasing compensating water. That right, however, was conditioned upon the approval by the Commonwealth of Pennsylvania of the act which you have referred to, Mr. Chairman, passed by New Jersey the last day of December 1953.

The effect of that act was, first, to repeal a prohibition and a compact between the two States negotiated way back in the 1700's prohibiting the construction of any dam across the Delaware River between the two States. Then the act gave the Commonwealth of Pennsylvania the right to build a storage reservoir on the Delaware River between the two States at a point known as Wallpack Bend. And the act provided that if Pennsylvania should build such a reservoir, and if New Jersey wished to join in the construction and utilization of the waters from that reservoir, it could do so up to the extent of 30 percent of the water supply capacity of the reservoir, upon the payment of 30 percent

of the cost.

Now, that immediately raises a very important question in the minds of you gentlemen. The first question is: What are the prospects of the Commonwealth of Pennsylvania passing legislation confirming the New Jersey legislation before July 1, 1955? That stipulation in your act says that it must be done before July 1, 1955. I am firmly convinced that the Commonwealth of Pennsylvania will pass such confirming legislation.

MR. DUMONT: By July first?

MR. ALLEN: By July 1, 1955. That is my opinion. I base that opinion on several facts. First, the passage of that legislation does not commit Pennsylvania, in any way, to a program to build this dam at Wallpack Bend, but simply gives Pennsylvania the exclusive right of determining whether it shall be built. So I am convinced that Pennsylvania will pass it, and we of Incodel are going to urge that Pennsylvania pass that legislation before July 1, 1955. There would be only one qualification to that. If, before then, by some almost miracle, New York indicated that it wanted to reconsider the Incodel program rather than build the Cannonsville Reservoir --

MR. THOMAS: How far have they gone with that Cannonsville Reservoir?

MR. ALLEN: They are just preparing plans and specifications. It will be years before they start construction.

MR. HILLERY: Mr. Allen, was the Cannonsville Reservoir a part of the Incodel project, and was it to be paid for jointly by the three States?

MR. ALLEN: Yes sir, the Cannonsville Reservoir was a part of the Incodel project. The Incodel project included three reservoirs; one at Cannonsville, which is entirely in New York State; one at a place known as Godeffroy, which is entirely in New York State; and one between New York and Pennsylvania, and the Wallpack Bend Reservoir.

MR. HILLERY: Do you know what gave New York State the right to build the reservoir on their own regardless of any other interests?

MR. ALLEN: Yes, because Pennsylvania refused to go along with any other States in endorsing a multiple state program. The program could not become effective unless New York, New Jersey, and Pennsylvania approved it, and Pennsylvania refused to do it. New York could not wait any longer for water, and asked the Court for permission to go along.

MR. DUMONT: How many years is it likely to be before that dam at Cannonsville would be completed?

MR. ALLEN: I would say it would be at least five years, probably longer. I would say it would be close to ten years; between five and ten years before that dam would be built.

MR. HAND: New Jersey will get no water from Cannonsville at all?

MR. ALLEN: New Jersey will get no water as a source of water supply from Cannonsville. The only benefit that any of the lower States get as a result of New York building this Cannonsville is a requirement to release water, not only from the Cannonsville Reservoir, but from the other reservoirs that New York has built, in the Delaware River during periods of dry weather.

MR. THOMAS: To raise the level of the Delaware?

MR. ALLEN: Yes, during periods of dry weather. But the amount that will be released, well, it is substantial in terms of New York's requirements to build storage, but it is relatively insignificant in so far as raising the flow in the Delaware River is concerned.

MR. DUMONT: You said something about giving Pennsylvania the exclusive right to determine about building Wallpack Bend. What do you think about the prospects of Pennsylvania determining that it should be built?

MR. ALLEN: That was the next point.

MR. DUMONT: All right.

MR. ALLEN: I have no way at all of predicting what Pennsylvania may do in regard to building the Wallpack Bend Reservoir. I saw in the newspapers an account of that release which you have before you, Senator, in which Mr. Critchlow says that the probability of Pennsylvania building the Wallpack Bend Reservoir is quite remote; that it depends largely upon Philadelphia wanting a new upland source of water supply. I quarrel with those opinions. The reason I quarrel with those opinions is because of the fact, one, that during the debate about the Incodel project in Pennsylvania, the City of Philadelphia endorsed the Incodel project, and it endorsed the Incodel project for two reasons. First of all, it believed that the amount of water released into the river from the Incodel program would be sufficient to protect Philadelphia's existing source of water supply within its own city limits, and make it unnecessary for Philadelphia to spend a large sum of money for the development of a new source of water - at least, postpone for many years the necessity for spending large sums of money through a new source of water supply. Then the second reason was that if and when the time came when Philadelphia should determine to get a new source of water supply, it would have immediately available such a source from the Wallpack Bend Reservoir.

Now, I think that those reasons still prevail. The building up of dry weather strength flows under the Incodel project would have been very, very substantial, but the Wallpack Bend Reservoir will serve that same purpose, but not to as great an extent. And, therefore, the construction of the Wallpack Bend Reservoir, from the City of Philadelphia's point of view, in my judgment, should go quite substantially in protecting Philadelphia's existing sources of water supply. The Water Commissioner of Philadelphia has publicly gone on record as saying that the probabilities of Philadelphia building a new upland source of water supply are rather remote.

So I feel that if Pennsylvania built the Wallpack Bend Reservoir, it would do two things. It would protect Philadelphia's existing water supply for

indefinite number of years in the future, and then it would give Philadelphia, at the expiration of that indefinite number of years, a new source of water supply. So I would guess that Philadelphia would be favorable to the early construction of the Wallpack Bend Reservoir.

MR. HAND: May I ask a question?

MR. DUMONT: Go right ahead.

MR. HAND: Would you venture a guess as to when Pennsylvania would undertake the construction of Wallpack Bend?

MR. ALLEN: Let me defer the answer to that for a moment. Within the past four or five months we have made a study of the water supply situation in the four counties surrounding Philadelphia. Those four counties have a rather serious water problem. And as a result of the survey which we have made, we feel that the water supply problem of those four surrounding counties would be largely solved by the development of a water supply project which involved the taking of water from the Delaware River above Trenton and Yardley. Now, the construction of Wallpack Bend Reservoir would be a component item of that program, because the water which Pennsylvania is entitled to from the Wallpack Bend Reservoir would be released down the Delaware River and picked up at a point above Morrisville.

Now getting back to your question, Senator. I think it all depends on how much interest can be stimulated in the City of Philadelphia to urge the Pennsylvania administration to take the steps to go ahead with the construction of the Wallpack Bend reservoir. Now, as you know, Pennsylvania is going to have a new administration in a few weeks, a Democratic administration. And the administration in Philadelphia is Democratic, and I think they will be friendly and cooperative.

MR. THOMAS: Assume it was favorable, what is the time required to construct the Wallpack Bend?

MR. ALLEN: It would be like the Cannonsville Reservoir. I would say a minimum of five years - five to ten years.

MR. HARPER: Mr. Allen, what would be the maximum amount of water that New Jersey could possibly hope to get from the Wallpack Bend Reservoir?

MR. ALLEN: Under the terms of the Supreme Court decree, which in effect confirmed your New Jersey act of 1953, New Jersey is entitled to as much as 30 percent of the water supply yield of the Wallpack Bend Reservoir. It is estimated that the Wallpack Bend Reservoir has a dependable yield of at least 500 million gallons a day - approximately 500 million gallons a day - and 30 percent of that would entitle New Jersey to 150 million gallons of water a day total. Now I say "total" because the Supreme Court also said that any taking of water from the Delaware River in addition to the 100 million gallons of water a day through the Delaware and Raritan Canal, over and above that would be subject to some requirement for compensating releases during dry weather. So that 150 million gallons of water a day would have to be used for water supply and compensating water, as we see it.

Now, we do not know what that formula would be. We have studied the situation in the past. That is a determination that would have to be made by negotiation between Pennsylvania and New Jersey, or by the Supreme Court. We feel that of the 150 million gallons a day, New Jersey would probably get as much as 110 million gallons a day for water supply, the additional being available for compensating releases. Now, that can all come from this one reservoir, the Wallpack Bend Reservoir.

MR. HAND: In connection with this subject, arising from the Supreme Court decision is there a 1967 terminal date of some kind?

MR. ALLEN: Yes, 1967 is a terminal date, but it only applies to New York City. New York City intends to put this Cannonsville project into operation by 1967. They estimate that they will need this additional 350 million gallons

given to it by the Court by 1967.

MR. DUMONT: Is there any terminal date in this legislation that Senator Littell and others sponsored, and Governor Driscoll signed?

MR. ALLEN: Yes, July 1, 1955.

MR. DUMONT: I mean on the construction.

MR. ALLEN: Yes, fifty years.

MR. THOMAS: Before we struck the snag with Pennsylvania, I believe I understood that the Cannonsville was to supply New Jersey with water by way of a tunnel. Is that right?

MR. ALLEN: I might go into that just quickly. The first of the Incodel projects called for the construction of three reservoirs; one at Cannonsville; one at the Delaware River, and this is a diversion dam that has very little storage; and one on the Neversink River, which is a tributary of the Delaware just about at New Jersey. These two reservoirs would have had a total storage capacity of over 400 billion gallons of water, and that would have been sufficient to develop a dependable water supply yield of something like 1100 million gallons of water a day. It was proposed that of that 1100 million gallons of water a day that 240 be earmarked for New York City, and 225 be earmarked for northern New Jersey, of which the total, the 465 would be delivered to New York City and northern New Jersey through a common tunnel.

MR. HILLERY: Mr. Allen, is there a possibility that when Cannonsville is built, there will be water for sale for northern New Jersey?

MR. ALLEN: I very much doubt it. Under this new plan New York City has the right to build the Cannonsville Reservoir, but it proposes to build a tunnel from the Cannonsville Reservoir over to this aqueduct.

MR. THOMAS: Entirely within the bounds of New York State?

MR. ALLEN: That is right, and this goes out of the picture entirely.

MR. THOMAS: In your view, the chance of getting New York back into

this thing is rather slim?

MR. ALLEN: I think the chances are very, very remote. We understand that it is going to be explored by the Governor-elect of Pennsylvania, and that is the first determination that should be made. If it should work out that way, it will be grand, but I think it is mostly hopeless.

MR. DUMONT: That is because Pennsylvania has been so reluctant?

MR. ALLEN: Yes. Now, if New York struck some snags about this proposal, possibly they might be reconsidered.

MR. HAND: Incodel has nothing to do with the suggested Round Valley Reservoir, has it?

MR. ALLEN: No sir.

MR. THOMAS: You have some reference to it there.

MR. ANTON: Wasn't Round Valley proposed as a reservoir?

MR. ALLEN: It was given consideration early in the survey. It was never proposed.

MR. ANTON: It was never proposed?

MR. ALLEN: No, it was given consideration, and we received from our consulting engineers a preliminary report in January of 1950 in which reference was made to possible sources of water supply for the area, and at that time reference was also made to Round Valley, but when the final report came out, there was no reference.

MR. ANTON: That is for storage of Delaware River water only?

MR. ALLEN: That is right.

MR. DUMONT: Mr. Allen, suppose that Round Valley became a reality, would there have to be a determination made by the United States Supreme Court as to water that might be taken out of the Delaware for the storage of Round Valley?

MR. ALLEN: Yes sir. If Round Valley were approved by New Jersey, it could only be advanced in so far as it concerns the intrastate water, and it

would be impossible for New Jersey to plan to take water from the Delaware River basin without again negotiating with Pennsylvania or going back to the Supreme Court.

MR. ANTON: Isn't there a carry-over from the canal that they could use?

MR. ALLEN: Oh, yes. We have already gone through that, and we have said that New Jersey has the unconditional right to take 100 million gallons of water a day from the Delaware.

MR. DUMONT: Do you know whether or not, in the present stage of operation of the Delaware and Raritan Canal, they could take 100 million gallons a day?

MR. ALLEN: We understand it is physically impossible to take 100 million gallons a day.

MR. DUMONT: Do you know how much could be taken?

MR. ALLEN: I have heard up to 75 million gallons a day. And I have also heard that they are now taking about 35 million.

MR. THOMAS: That is correct.

MR. DUMONT: How much would the cost of constructing Wallpack Bend be? Have you any figures on that?

MR. ALLEN: Yes, we have reviewed that. In 1950 it was estimated that the cost of Wallpack Bend Reservoir would be slightly less than 50 million dollars. We have reviewed that in the light of the increase in unit prices since 1950, and it appears that the cost would now be about 60 million dollars.

MR. HILLERY: And New Jersey would share what of that?

MR. ALLEN: New Jersey has the right to share up to 30 percent of that.

MR. THOMAS: Of the cost?

MR. ALLEN: Yes.

MR. THOMAS: And also the water.

MR. ALLEN: And also the water, yes.

MR. HARPER: Mr. Chairman, I am confused at that point. Is it not true that the Supreme Court must also decide what water would be used out of that Wallpack Bend dam, and it is not necessarily true that we would have 30 percent of the water? It would seem to me if we put in 30 percent of the finances that we would be entitled to 30 percent of the water, but that is not necessarily true. It would depend entirely on what the Supreme Court decided. I am not a lawyer, but I am a little bit familiar with that because it is right there in Sussex County.

MR. ALLEN: Your New Jersey act says that New Jersey shall have the right to 30 percent of the yield of the Wallpack Bend Reservoir.

MR. HARPER: But that doesn't necessarily mean that we have it because we pass this act.

MR. BESORE: Does New York have any interest in that water?

MR. ALLEN: No.

MR. HARPER: It still has to be approved by the Supreme Court.

MR. ALLEN: I would say this, that New Jersey has the unconditional right to that 100 million gallons of water a day. The Supreme Court gave that condition in giving its order to the legislation which New Jersey passed, and which Pennsylvania is required to pass to make it effective by July 1, 1955. And the effect of that - shall I call it supplemental agreement - is to make it possible to build the Wallpack Bend Reservoir, which has a yield of about 500 million gallons of water a day. And while I think that you are right, that the Supreme Court might have to give its approval, I think that in effect it has given advance approval to the distribution of 500 million gallons of water from the Wallpack Bend Reservoir.

MR. HARPER: I realize that we have the right to take up to 30 percent, or we could take 15 or 20, whatever we desire to take. But I do not see anywhere that it is guaranteed that we would get the 30 percent. I agree with you it would follow along, but the way the conversation has been going here, I think the point

ought to be brought out, because actually the Supreme Court has not said we could take any water.

MR. BESORE: But the Supreme Court would very likely okay any agreement between the two States. The difference between this situation and the water from Round Valley is that you have no agreement with Pennsylvania, and you would have to then go before the Supreme Court with the agreement and have a determination between the two States.

MR. HARPER: It seems to me you have to have that no matter which way you do it.

MR. BESORE: If they pass an act which accepts the terms of this act, that is an agreement.

MR. ALLEN: I believe that is right, that the effect of the Supreme Court order is to approve that agreement between Pennsylvania and New Jersey.

MR. BESORE: The other way, there would have to be a determination.

MR. ALLEN: That is a specific proposal which I think the Supreme Court, in effect, has approved.

MR. DUMONT: Whereas, Mr. Allen, with Round Valley, New Jersey would have to go to the United States Supreme Court alone?

MR. ALLEN: If it wanted to get water from the Delaware. Of course, the first step would be to try to negotiate with Pennsylvania.

MR. HARPER: Unless we took it out of the 100 million we are already entitled to.

MR. DUMONT: Must the 100 million be taken from the Delaware and Raritan, or can it be taken anywhere at all?

MR. ALLEN: I believe it can be taken anywhere.

MR. DUMONT: Isn't it true that we have been told that Round Valley would have a storage capacity of 200 million gallons a day?

MR. ALLEN: I don't think that is what you have been told. I think

you have been told that the ultimate capacity of the so-called Round Valley project would be 200 million gallons of water a day. And that assumes getting water from the Delaware River.

MR. DUMONT: You mean it could yield that much a day?

MR. ALLEN: Yes, the ultimate capacity.

MR. THOMAS: In the final stage.

MR. ALLEN: But that very definitely involves going to the Delaware.

MR. DUMONT: It would have to, wouldn't it?

MR. ALLEN: Yes. So far as the clear-cut yield of the Round Valley project, without involving Pennsylvania, it seems to be either 50 million or 70 million gallons a day.

MR. HILLERY: Fifty or seventy without going to the Delaware?

MR. ALLEN: I am not clear. All I know about the Round Valley project is what I read in the papers. With this other reservation - back in 1945 the Department of Conservation, or its predecessor, made a study of the Round Valley project, in which it was determined that they could get 70 million gallons of water a day from a project involving the Round Valley Reservoir, all of which water would have come from the Raritan River and its tributaries.

MR. ANTON: Intra-state?

MR. ALLEN: That is right.

MR. DUMONT: But anything over 70 million gallons would have to come from the Delaware, or a tributary of the Delaware?

MR. ALLEN: It is the same thing in effect, yes.

MR. DUMONT: Have you any ideas of the cost of conduits and pipes from Wallpack Bend to New Jersey?

MR. ALLEN: We have made some reference. Now, I want you to be sure and consider these rough. What we have done, because of what we have read in the paper about a 70 million gallon project at Round Valley, we have assumed a 70

million gallon project from Wallpack Bend Reservoir, in order that you can make good comparisons. Now, the cost of the reservoir for New Jersey to get 70 million gallons of water for water supply would be approximately 12 million dollars.

MR. THOMAS: Wallpack Bend would be the reservoir?

MR. ALLEN: Yes. And New Jersey's share of that cost would be 12 million, 20 percent, because you are not going up to 30 percent. And we believe that the total cost, including the 12 million dollars, would be between 60 and 65 million dollars.

MR. DUMONT: The total cost?

MR. ALLEN: The total cost for the 70 million.

MR. THOMAS: 70 million gallons per day?

MR. ALLEN: Yes.

MR. DUMONT: Suppose we got more than 70 million gallons a day out of it, would the cost of the conduits be any greater?

MR. ALLEN: Yes.

MR. DUMONT: How much?

MR. ALLEN: We have made a second estimate which assumes that New Jersey gets for water supply 110 million gallons of water from Wallpack Bend, and they have to provide compensating water; that is why we took 110. Actually the total figure is 150 million gallons a day, or 30 percent. And in that case, New Jersey would pay 30 percent of the cost of the reservoir, which is 18 million dollars. And we believe that the total cost would be about 75 million dollars.

MR. HILLERY: For 110 million gallons?

MR. ALLEN: Yes. I want that clearly understood, particularly with the press, that those are rough estimates, approximate estimates. We think they are reasonably reliable. We made them in the office, and we had two independent outside checks. Now, that project for 70 million gallons of water a day, as we understand the Round Valley estimate - and we have no idea how this estimate was arrived at, so you

really should not compare estimates unless you know how the other estimate was arrived at. But according to newspaper reports, the 70 million gallons a day of the Round Valley project would cost about 55 million dollars.

MR. HAND: In arriving at that rough estimate, Mr. Allen, did you have in mind the location where this water would be piped, and where it is mostly needed?

MR. ALLEN: Yes. All the water would come from Wallpack Bend and it would be delivered to the Wanaque Reservoir by tunnel, a distance of approximately 31 miles into the Wanaque Reservoir, which is the key to the North Jersey district with its supply program. Then it would be distributed to the district through their present distribution lines.

MR. THOMAS: Which goes to the Canal.

MR. ALLEN: That is right.

MR. HAND: If there were certain locations which are not now served by Wanaque, and which need water, would they have additional lines for them?

MR. ALLEN: That would be a common situation to any program, because as we understand the Round Valley project, the water for that reservoir would be partly from the Raritan, out of the 70 million gallons, and that would be delivered by pipeline to the terminus of the so-called Newark-Elizabeth Water Supply Company. So any extension would be common to both projects.

MR. HAND: The reason I asked that, sir, is that the greatest need, apparently, in Union County is in the western section of the county, which takes no water from Wanaque at all. But in your opinion, that could be rectified?

MR. ALLEN: By additional transmission and distribution lines.

MR. HAND: From Wanaque?

MR. ALLEN: From that existing system of transmission and distribution.

MR. HAND: In other words, Wanaque is big enough so that if there is not enough water --

MR. ALLEN: It does not have enough storage to meet the present demands.

MR. THOMAS: But if it were fed daily by the others, it would have plenty?

MR. ALLEN: It will be linked right up with them.

MR. THOMAS: I think that is what the Senator meant, that Wanaque is big enough to take care of the daily requirements.

MR. ALLEN: Yes.

MR. HILLERY: How far do the Wanaque distribution lines go that Senator Hand is talking about?

MR. ALLEN: I really do not know.

MR. THOMAS: Down to the Canal?

MR. ALLEN: It comes down to the Canal at New Brunswick, I think.

MR. THOMAS: That is where they pull out the water, and pull it through, and they could reverse it and send it back.

MR. BOARDMAN: If you put it that way, it would flow by gravity back down.

MR. ANTON: That conduit from the Wallpack Bend down to the Wanaque Reservoir, is that gravity?

MR. ALLEN: It is all gravity. It is a tunnel deep in bedrock.

MR. DUMONT: Mr. Allen, that raises another point. What about the distribution at Round Valley, would that be gravity flow, or would it have to be pumped?

MR. ALLEN: We don't know. The newspaper item we have here says it is all pumped. It calls for two pumping stations.

MR. ANTON: Does it have to be pumped from Wallpack Bend into Flat Brook?

MR. ALLEN: No sir, Flat Brook is not a part of this at all. You just disregard Flat Brook; it is not a part of this.

MR. THOMAS: It is all gravity over to the Wanaque dam?

MR. ALLEN: Yes sir.

MR. DUMONT: Mr. Allen, what kind of an agency or authority would

operate Wallpack Bend? Have you any thoughts about that?

MR. ALLEN: No, I haven't thought about that, but it seems to me New Jersey has given that determination to the Commonwealth of Pennsylvania by this act that was passed in 1953.

MR. DUMONT: Won't that then necessarily be a bi-state agency?

MR. ALLEN: I would lean very favorably to a bi-state agency, but I do not think Pennsylvania would necessarily be committed to a bi-state agency because of the legislation.

MR. ANTON: What would we do, pay our money and take our chances?

MR. ALLEN: Yes, but you would have some sort of a guarantee, of course.

MR. THOMAS: We would have an agreement?

MR. ALLEN: Yes, there would be an agreement.

MR. DUMONT: What was the basis of the legislation in the first place? Was it to try to stop a law dispute in the U. S. Supreme Court?

MR. ALLEN: I cannot answer your question.

MR. THOMAS: Wasn't it Littell that put it in?

MR. DUMONT: Yes.

MR. THOMAS: That is my guess; I don't know.

MR. ALLEN: Apparently it was done to accelerate a resolution of this problem as it concerns New York and New Jersey.

MR. ANTON: Wasn't it in anticipation of a decision by the New York Supreme Court?

MR. THOMAS: I think it was, sir.

MR. HILLERY: It was to avoid a law suit, we were told.

MR. DUMONT: To avoid the continuation of a law suit already started.

MR. THOMAS: The law suit was already instituted when this incident occurred.

MR. BESORE: Of course, there was an injunction suit some years ago,

MR. ALLEN: 1930 or '31.

MR. BESORE: Yes. And it determined the amount which New York could divert on the basis of a standard of water right here at Trenton. Wasn't that so?

MR. ALLEN: That is right. Of course, when New York filed this petition, that reopened that case, and that new decree supersedes the old decree.

MR. BESORE: I attended a conference in the State Treasurer's office some years ago - this is before this last legislation - and there was a proposal to modify that decree by agreement, and make a determination between New York and New Jersey as to the division of the water. Are you familiar with that?

MR. ALLEN: Yes, I am familiar with that.

MR. BESORE: What happened to it?

MR. ALLEN: Well, each State passed legislation, and the purpose of that legislation was to set up the conditions under which each State could independently develop the water resources of the Delaware River Basin, and how much water each State would have to release. Now, there was a provision in that. New York wanted the Supreme Court to confirm this legislation before it could become effective. Pennsylvania and New Jersey took the position that it wasn't necessary to have Supreme Court confirmation, and as a result that act has never been operative.

MR. BESORE: I wondered what became of it.

MR. ALLEN: It is still on the statute books, but it is not operative.

MR. HAND: Outside of the cost involved, does it make any difference to the water consumers whether the water reaches them by gravity, or as a result of pumping operations?

MR. ALLEN: Well, if you have the pumping operation, the probability is the rates for the water will be higher.

MR. HAND: But the quality of the water is the same?

MR. ALLEN: Oh, yes.

MR. ANTON: That hundred million gallon Supreme Court decision, as we call it, does that include only Delaware River water, or water from the tributaries?

MR. ALLEN: It includes water that originates anywhere within the Delaware River Basin, which includes water flowing through tributaries of the Delaware.

MR. DUMONT: Do you have any thoughts as to how Wallpack Bend could be financed by the two States? Do you have any proposal along that line?

MR. ALLEN: Well, the Commonwealth of Pennsylvania has an agency called the General State Authority. It is a creature of the legislature. That Authority may finance, operate, and construct a great variety of different kinds of projects, such as public buildings, including a water supply project, and for that project to secure the revenues, I guess the legislature would have to invoke an appropriation to meet the annual costs.

MR. DUMONT: They have the authority to issue bonds?

MR. ALLEN: Yes, in general they could issue bonds.

MR. ANTON: Without public approval?

MR. ALLEN: Yes. There is a limitation on the amount that they can spend, and I believe they are approaching that ceiling. That limitation would have to be revised by the legislature if you wanted more. The legislature created the Authority.

MR. SUMMERILL: It is a revenue bond?

MR. ALLEN: Yes.

MR. BOARDMAN: They just increased their ceiling at the last legislative period without any vote of the people. It was just an act of the legislature.

MR. DUMONT: Suppose, Mr. Allen, that New Jersey would need more than a maximum of 30 percent of the supply of Wallpack Bend, what do you think about the Pennsylvania reaction to that? Do you think they would go along for a fifty-fifty

split of the water supply there?

MR. ALLEN: I think it is conceivable but, of course, that would mean that both States would have to amend their legislation. That legislation, incidentally, has to be consented to by the Congress. Yes, I think it is conceivable for this reason, that there are other places where Pennsylvania can go for sources of water supply.

MR. THOMAS: And also the cost would be shared half and half, and it would be more attractive to them.

MR. ALLEN: Yes, that is right. I think it is conceivable, but I also think it is unlikely.

MR. DUMONT: What do you think about the question of a bi-state agency? This legislation, as you say, does not provide for that at this time. Even if Pennsylvania enacts enabling legislation, do you think they would be favorable to that instead of having the authority within their own bounds?

MR. ALLEN: Well, I would kind of think it would act unfavorably to it because they are now in a position where they can call the tune. I would be highly in favor of the bi-state.

MR. DUMONT: Do you have any opinion as to the long-range value of Wallpack Bend as, perhaps, contrasted with Round Valley in solving the water supply problem in New Jersey.

MR. ALLEN: For New Jersey?

MR. DUMONT: Yes.

MR. ALLEN: I rather feel that eventually New Jersey may need both projects, and should plan for the ultimate development of both projects.

MR. ANTON: Have you any idea how long that eventuality is?

MR. ALLEN: No. The water supply demands in New Jersey are growing pretty fast.

MR. HAND: Is Round Valley more likely to be developed more quickly than the Wallpack Bend Reservoir, in your opinion?

MR. ALLEN: The sole determination of whether Round Valley goes ahead rests with New Jersey officials.

MR. HAND: Assuming New Jersey officials are agreeable, and the bill is passed, do you think that the engineering feature of it would then be more available to quicker development than Wallpack?

MR. ALLEN: No, I don't think there is much difference between the two of them.

MR. HAND: But you think the uncertainty of the approval by Pennsylvania might delay Wallpack?

MR. ALLEN: Yes. You have two sets of government officials to deal with, which is more difficult than one, and one is difficult enough.

MR. DUMONT: But in the case of Round Valley, it would still have to go to the United States Supreme Court to get --

MR. ALLEN: More than 50 or 70 million, whatever the figure is; it is apparently 70 million.

MR. DUMONT: And the Supreme Court is more likely to approve an inter-state agreement that has been made previously?

MR. ALLEN: I think the Supreme Court has in effect - I repeat what we have said before - approved this Wallpack Bend.

MR. ANTON: Let's go back to the Chairman's question - except for the overage in the Canal?

MR. ALLEN: Yes, that is right.

MR. ANTON: But it is limited to 70 without the Supreme Court? It would be 70 with the inter-state, plus the overage from the Canal.

MR. ALLEN: I said that, but actually it is not definite in my

judgment because that is conditioned upon the Pennsylvania passage of this act by July 1, 1955.

MR. HARPER: That is not my interpretation of that.

MR. ALLEN: We have the decree here.

MR. ANTON: You mean the hundred million is not applicable at the moment?

MR. ALLEN: I don't think so. It is a legal question. My understanding of this is that New Jersey's right to an hundred million gallons of water a day is conditioned upon Pennsylvania passing this legislation that New Jersey passed in 1953.

MR. DUMONT: Then New Jersey has no absolute right to the 100 million gallons for the Canal, is that your opinion? Have you made any contact, Mr. Allen, on Incodel with the Governor-elect in Pennsylvania and determined his attitude toward this?

MR. ALLEN: Yes sir.

MR. DUMONT: What was it?

MR. ALLEN: I have written several letters, and I have gotten very friendly replies that he was going to early reconsider and try to resolve this problem of using water of the Delaware River.

MR. DUMONT: And I gather from what you said earlier he also indicated he was going to make contact with the new administration in New York to have them reconsider their going along.

MR. ALLEN: It has been suggested to the Governor-elect that he explore the possibilities with governmental officials in New York and New Jersey for reactivating the Incodel plan, that the State of New Jersey may divert outside the Delaware and its tributaries in New Jersey without compensating releases the equivalent of 100 million gallons a day. But the State shall not, prior to July 1,

repeal Chapter 443 of the New Jersey Laws. And if, when the Commonwealth of Pennsylvania accepts the conditions as specified in Section 19 of that Chapter, the State of New Jersey shall join the Commonwealth in getting the consent of Congress.

MR. DUMONT: And that is even as to the water out of the Delaware-Raritan Canal?

MR. ALLEN: Yes. That is a legal question. That is my interpretation.

MR. OCKFORD: Mr. Chairman, it might be helpful to recall the original litigation. New Jersey took the position that the Delaware River water should come down in its natural state to New Jersey without any diversion which would substantially affect that flow. The argument was based upon common law principles. But the Supreme Court had dealt with this problem in many different situations - Colorado would fight Wyoming; and New Mexico and Arizona were always fighting each other because there isn't enough water to go around. The general proposition of law is that where there is an inter-state river, that the States through which it flows are entitled to share on an equitable basis. There is no such thing as an absolute right either way. And at the time of the original litigation, New Jersey did not want to divert any of the waters of the Delaware for potable or commercial purposes. All it wanted was the Delaware to come down in its natural state which, of course, was asking too much. The Court did not agree with any such proposition, and the question was that New York may divert, but how much. Then this figure was reached that was a reasonable amount to divert as of that time, provided that Port Jervis, at this time of the year, did not go down too low, or at any time during the year. Now, the result of that was that it being in the nature of a preliminary determination of how much water each State could take, New York wanted some then, New Jersey did not. So the Court retained jurisdiction over its original decree, anticipating that New York might not be allowed to take as much as it was then

allowed to take because of the change in the conditions. So the Court retained, and still retains, the decree. Now then, New Jersey wants some of this water, and Pennsylvania wants some of this water. Now the question is between Pennsylvania and New Jersey. If they can agree, there would be a further decree of the United States Supreme Court, which would not be final either, but it would be a consent decree, and the Court would go along with it always, however, retaining jurisdiction, because changed conditions might require modification one way or the other. Delaware, of course, has an interest, but so far there is no indication that there will be any lowering of the Delaware at that point. However, it always has to be taken into consideration.

Now, this right to divert must never be, it seems to me, considered as the final and last word, regardless of what may happen in the future, because the basis of the sharing of the waters is an equitable one and depends upon the need, and how much there is to go around. And if everyone has to take a little less at sometime or other, the Court would undoubtedly so order on the application of either party to it. But I think if at the time of the original decree New Jersey said we wanted so much for potable and industrial purposes, they could have gotten it, and at one time the whole thing could have been solved, but at that time New Jersey did not want it.

That is my recollection of having read the record. The lawyers in the case might have a very different idea, but that is the way I read it. And, of course, if anyone read it differently, I don't want to be thought of as having the last word on the subject at all.

MR. ALLEN: That is right.

MR. DUMONT: What would your organization do toward having Pennsylvania pass this necessary enabling legislation by July 1, Mr. Allen? Do you make contacts with them?

MR. ALLEN: Yes, through the Pennsylvania Commission in Inter-State

Cooperation.

MR. DUMONT: I see. Which is a legislative commission?

MR. ALLEN: Yes. That is why I am urging New Jersey to get its Commission fully organized so the two Commissions can work together on this thing.

MR. DUMONT: Both of those being legislative commissions?

MR. ALLEN: Yes.

MR. DUMONT: Are there any questions from anybody? Senator Summerill, you have been a New Jersey representative of Incodel, is there anything you want to ask?

MR. SUMMERILL: No. I have been exposed to this off and on for several years, and I think Jim has made a very good explanation of the situation as it stands today. And I would like to say, I think for the benefit of at least everybody here that we should have a copy of this testimony made up for everybody's file, because I think what has been said here is very fundamental.

MR. DUMONT: Do you think we ought to have one for every member of the legislature?

MR. SUMMERILL: I think that would be a good idea.

MR. HILLERY: We have been reading in the paper that Incodel is dead. Is that true, or is there hope for that body to survive?

MR. ALLEN: Oh well, Incodel is an organization that is very much alive.

MR. HILLERY: I'm glad to learn that.

MR. ALLEN: This water supply program is only one of several programs in which Incodel is quite active.

MR. HAND: It is not limited to water, is it?

MR. ALLEN: No. When you hear statements that Incodel is dead, they are talking about the water project rather than Incodel.

MR. ANTON: Is the Incodel water project dead?

MR. ALLEN: We have been discussing it all afternoon.

MR. SUMMERILL: It depends on Pennsylvania, I guess.

MR. ALLEN: The original project has to be modified, but I would very definitely say the Incodel water project is not dead. The Wallpack Bend Reservoir is a part of it.

MR. HAND: When was Incodel first organized?

MR. ALLEN: 1937.

MR. HAND: That was 17 years ago.

MR. ALLEN: Yes sir.

MR. HAND: And how much water has New Jersey received from Incodel?

MR. ALLEN: As a result of that?

MR. HAND: Yes.

MR. ALLEN: It hasn't received one drop, to my knowledge, nor has Pennsylvania. New Jersey has received many, many benefits from Incodel's operation, but it hasn't received a drop of water.

MR. ANTON: In the Supreme Court decision, is the contribution of the main stream considered the factor in the allocations?

MR. OCKFORD: My recollection is that it is treated as a basin, the Delaware and its tributaries; all the way up and all the way down is taken into consideration in sharing the benefits of the Delaware River.

MR. ALLEN: I will try to supplement the answer to your question. Pennsylvania has tried to argue that it should have the right to a greater quantity of water from the Delaware River, because Pennsylvania has a great area in the Delaware River basin. But my interpretation of the Supreme Court order is exactly as yours. The Supreme Court says that each State has a right to an equitable share based upon need, and if one State could prove a greater need for water, I think the Supreme Court would approve a greater allocation of water to the State with a greater need, even though the State might have a lesser area in the basin. That is

your understanding of it?

MR. OCKFORD: Yes. The basis is not a mathematical formula; it is a matter of equity.

MR. HAND: Mr. Allen, do you think if the Federal Government had been in charge of some plan to supply water from the Delaware River to the three States that it would have succeeded, or would have been more successful? Let me say it that way.

MR. ALLEN: If there was some way where the States could have gotten federal funds for the financing of this project, I think it would now be under way, or would have had the green light to be under way. If some setup with the Federal Government would finance and also control the project, I think that the States would be inclined to object to the federal control.

MR. HAND: I think most of us prefer the State plan, if possible. I was just wondering, in conjecture, if the federal plan would have been more effective.

MR. ALLEN: Personally, I would prefer that the States do their own job.

MR. DUMONT: Mr. Allen, are you familiar enough with the situation in New Jersey to comment upon this quotation from Mr. Critchlow's report to Commissioner MacLean? It says, "The need for more water for North Jersey is so urgent that North Jersey cannot wait for a modified Incodel project to save it from stagnation."

MR. ALLEN: I would say that quote could apply to any project in New Jersey. Why point it to the Incodel project? I would say the same statement applies to Round Valley. I think the water supply situation in New Jersey is very acute, and I think New Jersey must quickly decide on a program. It cannot put it off very much longer.

MR. THOMAS: We are hopeful of doing just that very shortly.

MR. ANTON: Is the proposed deepening of the channel for the steel mills having any effect on Pennsylvania as to the upstream control?

MR. ALLEN: Let me answer that this way: We have, at various times, discussed this water conservation program with officials of the steel company, and I would say that the officials of the steel company think quite highly of a program for conservation and storage reservoirs upstream in order to build upstream flows in the lower part of the river. But their number one objective is to get this project authorized for deepening of the channel, and the officials with whom we talked fear that if they supported the Incodel project, it might divorce some support for the deepening project. They just didn't want to mix the two. But a direct answer to you would be, in my opinion, the people of Pennsylvania and the steel company officials look upon an upstream storage favorably.

MR. ANTON: Hasn't the fear been expressed that if the deep channel comes in that Foul Rift will just be a dry bottom?

MR. ALLEN: Foul Rift? There is no reason in the world to change the regimen of the river because you deepen the channel below Trenton. I haven't heard that theory expressed.

MR. ANTON: It is not mine.

MR. ALLEN: I have heard the theory expressed that if you deepen this channel it may contaminate the water in the channel; you may contaminate the ground water resources, particularly in New Jersey. You may bring about an acceleration of the upstream movement of salinity from the ocean.

MR. ANTON: Would it affect the oyster beds?

MR. ALLEN: It could.

MR. HARPER: Senator, I have one question I would like to ask Mr. Allen. We are talking about Incodel, and referring to New York, Pennsylvania, and New Jersey as States, and New York has received the right, and is now going ahead with the Cannonsville Reservoir in New York State. Now, my question is, is New York

State building that reservoir, or New York City?

MR. ALLEN: It is New York City.

MR. HARPER: When we speak of New York, we are speaking of New York City, not New York State?

MR. ALLEN: That is right. The reason we bring New York State into all of the considerations, it would have had to endorse the Incodel program.

MR. HARPER: But today it is actually New York City that is going ahead with the building and financing of those reservoirs up there?

MR. ALLEN: Yes. But it was the State that was the official party of the suit, because the City of New York is a creature of the State.

MR. HARPER: Yes, I understand. I am just interested in who is paying for those reservoirs up there.

MR. ALLEN: New York City.

MR. DUMONT: Cannonsville is on the west branch?

MR. ALLEN: The west branch of the Delaware River.

MR. ANTON: When you speak of New York City, to carry Senator Harper's situation through, is that a New York City water supply system, or does it go up to Westchester and all around?

MR. ALLEN: It is primarily a New York City supply system.

MR. ANTON: Not a greater metropolitan supply system?

MR. ALLEN: No. There is an obligation to supply a few outside areas, but it is essentially a New York City project.

MR. DUMONT: Mr. Allen, in addition to your duties in Incodel, do you also serve on committees in Washington, D.C.?

MR. ALLEN: Yes. I am serving as a part-time consultant to the President's Cabinet Committee on Water Resources Policy. I was asked to do that back in November, and I have been serving part-time since November. That is a temporary thing; the deadline for its completion is by March 1.

MR. HAND: Is that nation-wide?

MR. ALLEN: That is nation-wide, yes.

MR. ANTON: Mr. Chairman, maybe Mr. Allen could answer the question as to whether or not the Hudson River water is available for North Jersey. The question has been raised as to why doesn't North Jersey take the Hudson River water.

MR. ALLEN: Well, I suppose North Jersey doesn't want the Hudson River water for the same reason New York City doesn't want it.

MR. DUMONT: Mr. Boardman, is there anything you want to add?

MR. BOARDMAN: No, I think Mr. Allen has done very well.

MR. DUMONT: Does anyone have a question?

(No questions)

I want to thank both of you for coming here today.

MR. ALLEN: It has been a pleasure, and we are always available for assistance of this kind.

MR. DUMONT: We appreciate your cooperation and kindness in coming here.

MR. THOMAS: It was very enlightening.

MR. DUMONT: And I want to thank everybody else for coming down and being present, all the legislators, and Mr. Besore and Mr. Ockford.

(Conference concluded)