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J O I N T P U B L I C H E A R I N G

before

ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE

AND

ASSEMBLY CONSERVATION AND NATURAL RESOURCES COMMITTEE

ASSEMBLY BILL NO. 3300

(The "New Jersey Clean Water Trust Fund Act")

AND

ASSEMBLY BILL NO. 2047

(The "New Jersey Heritage Trust Fund Act")

May 7, 1990
Room 418
State House Annex
Trenton, New Jersey

MEMBER OF ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE:

Assemblyman Robert G. Smith, Chairman

MEMBERS OF THE CONSERVATION AND NATURAL RESOURCES COMMITTEE:

Assemblyman Thomas J. Duch, Chairman
Assemblyman Daniel P. Jacobson, Vice Chairman
Assemblywoman Maureen B. Ogden

ALSO PRESENT:

Spiros J. Caramalis
Office of Legislative Services
Aide, Assembly Energy and Environment Committee

Jeffrey T. Climpson
Office of Legislative Services
Aide, Assembly and Natural Resources Committee

* * * * *

Hearing Recorded and Transcribed by
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State House Annex

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before

ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE

AND

ASSEMBLY CONSERVATION AND NATURAL RESOURCES COMMITTEE

ASSEMBLY BILL NO. 3300

(The New Jersey Clean Water Trust Fund Act)

AND

ASSEMBLY BILL NO. 3047

(The New Jersey Heritage Trust Fund Act)

May 2, 1990

Room 418

State House Annex

Trenton, New Jersey

MEMBER OF ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE

Assemblyman Robert G. Smith, Chairman

MEMBERS OF THE CONSERVATION AND NATURAL RESOURCES COMMITTEE:

Assemblyman Thomas J. Duch, Chairman

Assemblyman Daniel B. Jacobson, Vice Chairman

Assemblywoman Nancy S. O'Brien

ALSO PRESENT:

Spencer J. Capomallo

Office of Legislative Services

Aide, Assembly Energy and Environment Committee

Jeffrey T. Climpson

Office of Legislative Services

Aide, Assembly and Natural Resources Committee

Hearing Recorded and Transcribed by

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ASSEMBLY, No. 3300

STATE OF NEW JERSEY

INTRODUCED MARCH 22, 1990

By Assemblymen SMITH and DUCH

1 AN ACT concerning water resources and water quality,
2 establishing a New Jersey Clean Water Trust Fund, imposing a
3 tax on water consumption, and supplementing Title 58 of the
4 Revised Statutes.

5
6 BE IT ENACTED by the Senate and General Assembly of the
7 State of New Jersey:

8 1. This act shall be known, and may be cited, as the "New
9 Jersey Clean Water Trust Fund Act."

10 2. The Legislature finds and declares that New Jersey, already
11 the most densely populated and highly industrialized state in the
12 nation, continues to experience deterioration of its water
13 resources; that such resources, by virtue of their capacity to
14 sustain substantial reserves of potable water, afford flood
15 protection, serve as habitat for countless animal, bird, and plant
16 species, purify the air, provide recreational opportunities, and
17 otherwise promote the environment necessary for a high quality
18 of life, and constitute not only an invaluable and irreplaceable
19 asset to the present citizens of New Jersey, but also, a trust for
20 future generations; that as the steward of that trust, it is
21 incumbent upon the State to commit itself to the preservation in
22 perpetuity of those resources indispensable to the continued
23 supply of clean water and to the health and welfare of its citizens.

24 The Legislature further finds that New Jersey is eligible to
25 receive more than \$1 billion in federal funds for water resources
26 projects authorized pursuant to the "Water Resources
27 Development Act of 1986," Pub.L.99-662; that these projects
28 would provide for the restoration, maintenance, and protection of
29 harbors, inlets, channels, stream banks, lakes, and shorelines
30 through the implementation of harbor, flood control, shoreline
31 protection, and water resources conservation projects; that the
32 State will lose these federal funds if it fails to provide matching
33 funds; and that New Jersey does not have a stable source of
34 funding with which to gain access to the federal monies.

35 The Legislature therefore determines that a commitment to
36 the preservation and improvement of the State's natural
37 resources requires the adoption of a mechanism, supported by a
38 substantial and stable source of revenue, to protect and purchase
39 open space, watersheds, and wetlands areas, the loss or
40 contamination of which would jeopardize the continued supply
41 of clean water to New Jersey's citizens; provide matching

1 water resources and water quality projects that the local
2 government unit may lawfully undertake or acquire and for which
3 the local government unit is authorized by law to borrow money.
4 The loans may be made subject to those terms and conditions as
5 the department shall determine to be consistent with the
6 purposes thereof. Each loan and the terms and conditions thereof
7 shall be subject to approval by the State Treasurer, and the
8 department shall make available to the State Treasurer all
9 information, statistical data, and reports of independent
10 consultants or experts as the State Treasurer deems necessary in
11 order to evaluate the loan.

12 c. To be eligible for a grant pursuant to this act, a local
13 government unit shall demonstrate the ability to match the grant
14 requested by generating funds in ratios specified by the
15 department. Moneys raised for projects meeting the eligibility
16 requirements of section 6 of this act, up to three years prior to
17 the enactment of this act, may be eligible for State assistance
18 under the provisions of the above mentioned matching format,
19 but under no circumstances may funds generated prior to that
20 time qualify for a grant under the provisions of this act.

21 d. Commencement of the work on any project funded pursuant
22 to this act shall begin within two years of the effective date of
23 the appropriation therefor or the funds that are awarded shall
24 lapse into the fund established pursuant to this section.

25 5. On or before May 15 of each year, the department shall
26 submit to the Legislature a financial plan designed to implement
27 the financing of the projects on the project priority list approved
28 pursuant to section 6 of this act. The financial plan shall contain
29 an enumeration of the projects for which the department intends
30 to provide funds and the terms and conditions of any loans or
31 grants associated therewith, the anticipated rate of interest per
32 annum and repayment schedule for any loans. The financial plan
33 shall also set forth the a complete operating and financial
34 statement covering its proposed operations during the
35 forthcoming fiscal year, and shall summarize the status of each
36 project for which grants or loans have been made, and shall
37 describe any major impediments to the accomplishment of the
38 planned projects.

39 6. a. Moneys in the fund shall be used for the following
40 purposes and no others:

- 41 (1) protection of existing water supplies through the
42 acquisition of watershed and wetlands areas;
- 43 (2) maintenance of existing public open space, the lack of
44 which would negatively impact water supplies;
- 45 (3) restoration of lakes and reservoirs;
- 46 (4) establishment of new water impoundments, interconnection
47 of existing water supplies, and the extension of water supplies to
48 areas with contaminated ground water supplies;

- 1 (5) flood control, including dam restoration and repair;
2 (6) prevention of salt water intrusion;
3 (7) enforcement of P.L.1977, c.74 (C.58:10A-1 et seq.) and all
4 rules and regulations adopted pursuant thereto; and
5 (8) to provide the State share to match federal funds for
6 projects authorized pursuant to the federal "Water Resources
7 Development Act of 1986."
- 8 n. On or before January 15 of each fiscal year, the
9 commissioner shall prepare and submit to the Legislature for
10 approval a project priority list recommending the water resources
11 and water quality projects to be funded for the upcoming fiscal
12 year. The list shall include a description of each project, its
13 purpose, impact, cost, and construction schedule.
- 14 c. No expenditure from the fund shall be made except by an
15 appropriation made pursuant to law and in accordance with
16 project priority lists developed by the department. Each such
17 appropriation act shall clearly set forth all terms and conditions
18 governing the expenditure of the appropriation, shall identify the
19 specific project or projects for which the appropriation is made,
20 and may provide such sums as may be necessary to cover the
21 costs associated with the administration thereof.
- 22 7. a. There is imposed upon every person who holds a permit
23 to divert water pursuant to the "Water Supply Management Act,"
24 P.L.1981, c.262 (C.58:1A-1 et seq.) a tax of \$0.10 per thousand
25 gallons of water diverted, on or after the first day of the first
26 full fiscal quarter following enactment of P.L.1990,
27 c. (C) (now before the Legislature as this bill), and
28 quarterly thereafter. This subsection shall not apply to persons
29 diverting water primarily for use on land in the farmland
30 preservation program established pursuant to P.L.1983, c.32
31 (C.4:1C-12 et seq.).
- 32 b. (1) Every taxpayer shall, on or before the 20th day of the
33 month following the close of each tax period, render a return
34 under oath to the Director of the Division of Taxation, on such
35 forms as may be prescribed by the director, indicating the
36 number of gallons of water diverted, and at that time shall pay
37 the full amount due.
- 38 (2) Every taxpayer shall, within 30 days of the effective date of
39 this act, register with the director on forms prescribed by the
40 director.
- 41 c. If a return required by this act is not filed, or if a return
42 when filed is incorrect or insufficient in the opinion of the
43 director, the amount due shall be determined by the director
44 from such information as may be available. Notice of the
45 determination shall be given to the taxpayer. The determination
46 shall finally and irrevocably fix the amount due, unless the person
47 on whom it is imposed, within 30 days after receiving notice of
48 such determination, shall apply to the director for a hearing, or

1 unless the director on his own motion shall redetermine the
2 same. After the hearing the director shall give notice of his
3 determination to the person on whom the tax is imposed.

4 d. Any taxpayer who fails to file a return when due or to pay
5 any tax when it becomes due, as herein provided, shall be subject
6 to such penalties and interest as provided in the State Tax
7 Uniform Procedure Law, R.S. 54:48-1 et seq. If the Division of
8 Taxation determines that the failure to comply with any provision
9 of this section was excusable under the circumstances, it may
10 remit that part or all of the penalty as shall be appropriate under
11 the circumstances.

12 e. The director shall deposit all revenues collected pursuant to
13 this section in the New Jersey Clean Water Trust Fund created
14 pursuant to section 4 of this act.

15 f. In addition to the other powers granted to the director in
16 this section, the director is authorized:

17 (1) To delegate to any officer or employee of his division those
18 of his powers and duties as the director deems necessary to carry
19 out efficiently the provisions of this section, and the person to
20 whom the power has been delegated shall possess and may
21 exercise all of these powers and perform all of the duties
22 delegated by the director;

23 (2) To prescribe and distribute all necessary forms for the
24 implementation of this section.

25 g. The tax imposed by this section shall be governed in all
26 respects by the provisions of the State Tax Uniform Procedure
27 Law, R.S. 54:48-1 et seq., except only to the extent that a
28 specific provision of this section may be in conflict therewith.

29 8. Every commercial and industrial property taxpayer who
30 takes or impounds water from a river, stream, lake, pond,
31 aquifer, well, or underground source or other waterbody, whether
32 or not the water is returned thereto, consumed, made to flow into
33 another stream or basin, or discharged elsewhere, but who is not
34 required to apply for a water diversion permit pursuant to
35 P.L.1981, c.262, shall submit to the tax collector of the
36 municipality wherein it is located, with its quarterly tax return,
37 an estimate of the number of gallons of water it has taken or
38 impounded, and shall pay to the tax collector of that municipality
39 an amount equal to \$0.10 for each thousand gallons. The tax
40 collector shall forward all revenues so collected to the Director
41 of the Division of Taxation for deposit in the New Jersey Clean
42 Water Trust Fund. This section does not apply to waters taken or
43 impounded primarily for use on lands in the farmland preservation
44 program pursuant to P.L.1983, c.32 (C.4:1C-12 et seq.).

45 9. The department and the director shall, as appropriate,
46 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
47 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate
48 the purposes of this act.

49 10. This act shall take effect 60 days following enactment.

STATEMENT

This measure would establish a New Jersey Clean Water Trust Fund, to be administered by the Department of Environmental Protection. Monies in the fund would be derived from a tax on water consumption equal to 10c per thousand gallons. A tax of 1c is already imposed pursuant to the State's "Safe Drinking Water Act" but only applies to public water systems. The tax imposed pursuant to this bill would extend to other water users, such as industrial and commercial establishments. Farmers would be exempt under this bill. The bill would raise an estimated \$214 million per year.

The monies in the New Jersey Clean Water Trust Fund would be used by the State to provide loans and grants to municipalities, counties, and authorities for water resources and water quality projects. Projects which protect existing water supplies through the acquisition of watershed and wetlands areas; maintain existing public open space; to restore lakes and reservoirs; establish new water impoundments, interconnect existing water supplies, and extend water supplies to areas with contaminated ground water; control flooding, including the restoration and repairs of dams; prevent salt water intrusion; enforce rules and regulations adopted pursuant to the New Jersey "Water Pollution Control Act"; and provide the State match for federal projects funded pursuant to the "Water Resources Development Act" would be eligible for funding pursuant to this bill.

Some of these activities have been undertaken over the years; however, funds for them have been exhausted. This bill would provide a stable and continuous source of funding for natural resource projects designed to protect the State's water resources and thereby the quality of the State's water supplies.

ENVIRONMENT

The "New Jersey Clean Water Trust Fund Act."

ASSEMBLY, No. 2047

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblywoman OGDEN and Assemblyman SHINN

1 **AN ACT** concerning the preservation of open space, farmland,
2 and natural and historic resources, establishing a New Jersey
3 Heritage Trust Fund, imposing a levy on water consumption,
4 and supplementing Titles 13 and 54 of the Revised Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the
7 *State of New Jersey:*

8 1. This act shall be known, and may be cited, as the "New
9 Jersey Heritage Trust Fund Act."

10 2. The Legislature finds that New Jersey, already the most
11 densely populated and highly industrialized state in the nation,
12 continues to experience development pressure on its threatened
13 natural and historic resources, its rapidly disappearing open
14 space, and its agricultural lands; that such resources, by virtue
15 of their capacity to sustain substantial reserves of potable water,
16 provide an ample supply of food and fiber, afford flood
17 protection, serve as habitat for countless animal, bird, and plant
18 species, purify the air, provide recreational opportunities, and
19 otherwise promote the environment necessary for a high quality
20 of life, constitute not only an invaluable and irreplaceable asset
21 to the present citizens of New Jersey, but, as well, a trust for
22 future generations; that as stewards of that trust, it is incumbent
23 upon the State to commit itself to the preservation in perpetuity
24 of those resources indispensable to the promotion and continued
25 vitality of the State's natural and historic heritage and to the
26 health and welfare of its citizens.

27 The Legislature therefore declares that such commitment
28 requires the adoption of a mechanism, supported by a substantial
29 and stable source of revenue, to purchase, either in fee simple or
30 lesser interest therein, of remaining open space and agricultural
31 lands and natural and historic resources the loss of which would
32 jeopardize the future of agriculture in this State or the quality of
33 life of New Jersey's citizens; that the adverse impact of
34 development is greatest and most significant on potable water
35 supplies; that a levy on water consumption would not only serve
36 to reinforce in the public mind that inevitable link, but as well
37 provide an appropriate, as well as a sufficient and stable, source
38 of funding for the necessary acquisitions; and that it is therefore
39 in the best interests of the citizens of this State to establish a
40 New Jersey Heritage Trust Fund supported by revenues derived
41 from a levy on water consumption, and authorize its utilization to

1 finance State acquisition, as expeditiously as practicable and at
2 favorable prices, of the interests necessary to accomplish the
3 objectives set forth herein.

4 3. a. There is established in the Department of the Treasury a
5 revolving fund, to be known as the New Jersey Heritage Trust
6 Fund (hereinafter "fund"), to carry out the purposes of this act.
7 The fund shall be administered by the Department of
8 Environmental Protection, in consultation with the Department
9 of Agriculture. The fund shall be credited with all revenue
10 collected pursuant to sections 4 and 5 of this act, as well as
11 interest received on moneys in the fund and sums received as
12 repayment of principal and interest on outstanding loans made
13 from the fund.

14 b. Moneys in the fund shall be used for the following purposes
15 and no others:

16 (1) State purchase of fee simple or development interests in
17 open space or agricultural lands or natural resources,
18 "conservation restrictions" or "historic preservation restrictions"
19 as defined in section 2 of P.L. 1979, c. 378 (C. 13:8B-2), or
20 long-term leases on farmland;

21 (2) Grants or low- or no-interest loans to counties or
22 municipalities, or to non-profit, tax exempt organizations
23 qualifying as "charitable conservancies" as defined in section 2 of
24 P.L. 1979, c. 378, for the purchase of fee simple or development
25 interests in open space or agricultural lands or natural resources,
26 "conservation restrictions" or "historic preservation
27 restrictions," or long-term leases on farmland;

28 (3) Revenues to meet the interest and principal payment
29 requirements for revenue bonds issued by any authority created
30 pursuant to State law for the purpose of preserving open space,
31 farmland, or natural or historic resources, or to protect or
32 preserve the State's potable groundwater resources;

33 (4) Revenues to meet the interest and principal payment
34 requirements for State general obligation bonds issued pursuant
35 to law, moneys from which are dedicated to the acquisition of fee
36 simple or lesser interests in open space or farmland, or natural or
37 historic resources.

38 c. Of the revenues credited to the fund, no more than 30%
39 shall be allocated during the first 18 months following the
40 effective date of this act to the purchase of interests in, or
41 leases on, farmland. Within 18 months of the effective date of
42 this act, and annually thereafter, the Department of
43 Environmental Protection, in consultation with the Department
44 of Agriculture, shall review, and revise as appropriate, the
45 apportionment of revenues in the fund to, respectively, open
46 space and natural and historic resources and farmland.

47 d. No expenditure from the fund shall be made except by
48 appropriations made pursuant to law and in accordance with
49 project priority lists developed by the departments. Each such

1 appropriation act shall clearly set forth all terms and conditions
2 governing the expenditure of the appropriation, and may provide
3 such sums as may be necessary to cover the costs associated with
4 the administration thereof.

5 4. a. There is imposed upon every water purveyor in the State
6 a levy of \$0.0002 per gallon of water delivered to a consumer, not
7 including water purchased for resale, on or after the first day of
8 the first full fiscal quarter following enactment of P.L. 1988,
9 c. (C.) (now before the Legislature as this bill), and
10 quarterly thereafter. For the purposes of this act, "water
11 purveyor" means any public water utility, county, district water
12 supply commission, municipality, municipal or county utilities
13 authority, municipal water district, joint meeting, or other
14 political subdivision of the State authorized pursuant to law to
15 operate or maintain a water supply system or to operate or
16 maintain water supply facilities or otherwise provide water for
17 human consumption.

18 b. (1) Every water purveyor shall, on or before the 20th day of
19 the month following the close of each tax period, render a return
20 under oath to the Director of the Division of Taxation, on such
21 form as may be prescribed by the director, indicating the number
22 of gallons of water delivered to a consumer, and at said time
23 shall pay the full amount due.

24 (2) Every water purveyor in the State shall, within 20 days,
25 register with the director on forms prescribed by him.

26 c. If a return required by this act is not filed, or if a return
27 when filed is incorrect or insufficient in the opinion of the
28 director, the amount due shall be determined by the director
29 from such information as may be available. Notice of such
30 determination shall be given to the water purveyor liable for the
31 payment of the levy. Such determination shall finally and
32 irrevocably fix the amount due, unless the person on whom it is
33 imposed, within 30 days after receiving notice of such
34 determination, shall apply to the director for a hearing, or unless
35 the director on his own motion shall redetermine the same. After
36 such hearing the director shall give notice of his determination to
37 the person on whom the levy is imposed.

38 d. Any water purveyor who shall fail to file his return when
39 due or to pay any levy when it becomes due, as herein provided,
40 shall be subject to such penalties and interest as provided in the
41 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq. If the
42 Division of Taxation determines that the failure to comply with
43 any provision of this section was excusable under the
44 circumstances, it may remit such part or all of the penalty as
45 shall be appropriate under such circumstances.

46 e. The director shall deposit all revenues collected pursuant to
47 this section in the New Jersey Heritage Trust Fund created
48 pursuant to section 3 of this act.

1 f. In addition to the other powers granted to the director in
2 this section, he is authorized:

3 (1) To delegate to any officer or employee of his division such
4 of his powers and duties as he may deem necessary to carry out
5 efficiently the provisions of this section, and the person to whom
6 such power has been delegated shall possess and may exercise all
7 of these powers and perform all of the duties delegated by the
8 director;

9 (2) To prescribe and distribute all necessary forms for the
10 implementation of this section.

11 g. The levy imposed by this section shall be governed in all
12 respects by the provisions of the State Tax Uniform Procedure
13 Law, R.S. 54:48-1 et seq., except only to the extent that a
14 specific provision of this section may be in conflict therewith.

15 5. a. The tax collector of each municipality may charge and
16 collect from each residential property taxpayer within its
17 jurisdiction whose principal source of water is a well owned by
18 that taxpayer an annual levy of \$10.00, and shall, on June 30 next
19 following enactment of this act, and annually thereafter, remit to
20 the Director of the Division of Taxation, for deposit in the New
21 Jersey Heritage Trust Fund created pursuant to section 3 of this
22 act, the total amount of the revenues so collected.

23 b. On June 30, 1989, and annually thereafter, every person who
24 holds a permit to divert water pursuant to the "Water Supply
25 Management Act," P.L. 1981, c. 262 (C. 58:1A-1 et seq.), shall
26 remit to the Commissioner of Environmental Protection, who
27 shall forward it to the Director of the Division of Taxation for
28 deposit into the New Jersey Heritage Trust Fund, an amount
29 equal to \$0.0002 for each gallon of water diverted.

30 c. Every commercial and industrial property taxpayer who
31 takes or impounds water from a river, stream, lake, pond,
32 aquifer, well, or underground source or other waterbody, whether
33 or not the water is returned thereto, consumed, made to flow into
34 another stream or basin, or discharged elsewhere, but who is not
35 required to apply for a water diversion permit pursuant to P.L.
36 1981, c. 262, shall submit to the tax collector of the municipality
37 wherein it is located, with its quarterly tax return, an estimate of
38 the number of gallons of water it has diverted, and shall pay to
39 the tax collector of that municipality an amount equal to \$0.0002
40 for each such gallon. The tax collector shall forward all revenues
41 so collected to the Director of the Division of Taxation for
42 deposit in the New Jersey Heritage Trust Fund.

43 6. This act shall take effect 60 days following enactment.

44
45 STATEMENT

46
47 This measure would establish a New Jersey Heritage Trust
48 Fund, to be administered by the Department of Environmental

1 Protection, in consultation with the Department of Agriculture
2 where appropriate, from a levy on water consumption equal to
3 1/5 of a mil (\$.0002) per gallon. Moneys in the fund may be used
4 by the State to purchase open space or agricultural lands, or
5 natural resources, or certain restrictions, including development
6 rights, on lands it deems essential to protecting the State's water
7 supply and the quality of life in New Jersey; for grants or loans to
8 counties or municipalities, or to charitable conservancies for the
9 same purposes; for long-term leases on farmland; and to support
10 bonds issued either by the State or by authorities created by law
11 to protect and preserve the State's water supply or natural
12 resources.

13

14

15

NATURAL RESOURCES

16

17

The "New Jersey Heritage Trust Fund Act."

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ASSEMBLYMAN ROBERT G. SMITH (Co-Chairman): We have a joint Committee meeting of the Assembly Energy and Environment Committee and the Assembly Conservation and Natural Resources Committee. Let me introduce to you the members of those Committees that are present. First, Co-Chairing this hearing we have the Chairman of the Assembly Conservation Natural Resources Committee, Assemblyman Tom Duch. To his right is Assemblyman Dan Jacobson and to my left Assemblywoman Maureen Ogden.

The purpose of today's meeting is to hold a joint public hearing on two bills related in many ways in scope, A-3300 and A-2047. We're going to have some opening remarks by the bills sponsors who happen to be most of the members present.

Let me start that. I want to point out a couple of things by way of an introductory announcement. Number one, neither bill will be released today. The point of today's meeting is to take testimony from the public and interested parties to make certain that the legislators know what the issues are in this bill and what adjustments need to be made. And secondly, I talked to Assemblyman Duch, Chairman of the Conservation and Natural Resources Committee, and it's our intention at this point to ask the Speaker to transfer A-2047 to the Assembly Energy and Environment Committee so the two bills will be in one Committee at one time, so that we can do the appropriate Assembly Committees Substitute.

By way of opening comments, I serve as one of the prime sponsors. Assemblyman Duch is another. Assemblywoman Ogden is a prime sponsor on A-2047. Assemblyman Shinn is not here today, but we are going to have a few comments.

We as an Assembly, as a Legislature have taken the first step toward guaranteeing clean water for the people of New Jersey in the 21st century. That first step was the passage of the Clean Water Enforcement Act which we hope the Governor will be signing shortly. In order to achieve clean

What the A-3300 does is to set up a small water user fee to provide that guarantee. The average citizen of the State of New Jersey consumes 100 gallons of water a day. In A-3300 as it's presently written, there's a 10 cent per thousand gallons -- one cent per hundred gallon user fee. That means that every citizen in the State would pay one cent for clean water in the 21st century.

Now it's very hard to talk about user fee, and I don't even want to say the "T" word when our State budget is in such a terrible condition, but you have to ask yourself the question, not only what can you pay for but what can you afford not to pay for. And it's clear to me, if we don't act in New Jersey to start preserving these water resources, we're not going to have clean water in the 21st century. And if we don't have clean water, we not only not going to have people wanting to live in the State of New Jersey; we're not going to have industry doing business in the State of New Jersey; we're not going to have good jobs; we're not going to have a dynamic economy. And I think from that point of view, we have to act. So that's my opening comment on A-3300. Co-prime on A-3300 is Assemblyman Tom Duch. Assemblyman Duch if you have some opening comments?

ASSEMBLYMAN THOMAS J. DUCH (Co-Chairman): Thank you very much, Assemblyman Smith. My opening comments would simply be this: I believe that consumers and people that reside in the State of New Jersey should not have to go the supermarket to obtain clean water. I believe that the citizens of the State have the right to expect clean water when they open their water faucet.

This bill is a very, very important step in cleaning up water for the future inhabitants of this State. By establishing the New Jersey Clean Water Trust Fund, we will ultimately establish that stable source of funding which we need in order to gain excess to the Federal monies, which

Assemblyman Smith mentioned earlier. It is our intention that these funds be used to protect and purchase open space, watersheds, wetland areas; basically, to protect our environment.

We are concerned that the loss of open space and watersheds and wetland areas in particular will jeopardize the continued supply of clean water to the inhabitants of our State. These federally authorized projects would certainly enhance the economic vitality of the State and it would certainly protect our citizens and provide them with the clean water that they deserve.

I'm pleased to be a sponsor of this bill and certainly the reason for this hearing is to listen to testimony, both pro and con. But I think that the ultimate goal here is, certainly, that we provide clean water to our people. We're open to some suggestions. However, it is-- The ultimate goal cannot be sidetracked. The ultimate goal is to establish the Clean Water Trust Fund; obtain those Federal funds which we absolutely need and require and to provide for a substantially improved quality of drinking water for all of the people throughout our State. Thank you, Mr. Chairman.

ASSEMBLYMAN SMITH: Thank you, Assemblyman. Thank you, Assemblyman Duch. The prime sponsor on A-2047 is Assemblywoman Maureen Ogden who has a long history and well-deserved reputation as environmental legislator in the State of New Jersey. Assemblywoman Ogden, I think, in terms of the design of this legislation, uniquely saw the potential of the small water user fee being a source of money for the acquisition of the necessary watershed property and other open space acquisition that we need to do. But more importantly I like to point out that this is a bipartisan effort. The environment and clean water are bipartisan, and that's the way it should be in the State of New Jersey. And with that comment, Assemblywoman Ogden, if you would like to say a few words, we'd appreciate it.

ASSEMBLYWOMAN OGDEN: Thank you very much, Mr. Chairman. A-2047 is the bill that I believe most here in the audience know that I had introduced two years ago, in 1988, prior to the introduction and subsequent passage of the \$300 million Open Space Bond Issue last year. It was an attempt at that time two years ago to find a source of funding related to the preservation of open space, because we were particularly talking about, watershed lands, agriculture lands that are so often due to their good drainage, aquifer recharge lands.

We were talking about finding a source related to protecting our water supply and preventing pollution, to finance the protection forever of the lands. And to keep them open. We, unfortunately, did not find that much support at that particular time; then we were successful with the \$300 million bond issue. And now I'm glad, however, that Assemblyman Smith and Assemblyman Duch have brought this issue back to the floor, because it's very evident that in terms of funding for instance for agricultural land, the \$50 million that was in that bond issue was a mere pittance, and there's so many applicants which one has to be pleased about that they will soon run out of that.

In terms of watershed lands, aquifer recharge lands, we know that in the past couple of years, the Legislature has seen bills passed to delay the sale of those lands and to delay their development. So it's an issue that really is in the forefront of legislative action, and there's the question of how to do this? We certainly have to compensate owners for their property, and I had proposed in this legislation what was essentially a two cent fee per thousand gallons. We went back to the drawing board about three times after the reaction from people in industry and the utilities, that this was going to cost infinitely more than we ever anticipated.

So what I'm saying in speaking on this bill again today is that I'm certainly willing to hear what the problems are as far as industry is concerned. Previously I've said we

were interested in potable water. In other words, I really was not interested in charging for water that was not potable water to begin with, certainly not saline water and probably not water that was just used for cooling purposes. As Assemblyman Smith said, what you pay in the store is an incredible increase from what you pay for what comes out of the tap.

We now pay, normally I believe in our public water supply, about two-fifths of a cent per gallon. People are willingly paying anywhere between sixty cents and a dollar for a gallon of potable water. What we're talking about is increasing it in the legislation itself by a fraction of what it currently costs. But as I say, if that is going to be way out-of-line in terms of raising much more than we originally anticipated, which was roughly 115 million, I'm certainly willing to hear what these issues are.

We know that, oh it was about six years ago, I guess that there was an increase-- I think it was a cent per thousand gallons for A-280, the Assembly bill, Senator Lesniak's bill, dealing with testing for volatile organics. At that time I don't believe that there were hardly any objections raised to that. Everyone knew that that imposition was necessary because no one wanted volatile organics in their drinking water supply.

And now what we're attempting to do is to have a small fee again. But we're dealing with the future. We're not dealing with a problem that currently exists in contamination of the water supply. But what we're trying to do is to preserve the land which provides, despite all the technology, the best filter that there is in terms of protecting the quality of the underground drinking water supply; not only the quality, but also the quantity. That's the ultimate purpose of this bill, and I certainly look forward to hearing what various members of the audience say in reaction. Thank you.

ASSEMBLYMAN SMITH: Thank you, Assemblywoman. And Mr. Jacobson -- not to slight any member of the Committee -- if you'd like to say anything, we really want to listen to you.

ASSEMBLYMAN JACOBSON: I just want to hear the input.

ASSEMBLYMAN SMITH: You just want to hear the input, okay. To be fair, what were going to do is go back and forth between proponents and opponents of the legislation. Let us start with Marie Curtis of the New Jersey Environmental Lobby.

M A R I E A. C U R T I S: Thank you, Mr. Chairman.

ASSEMBLYMAN SMITH: Press it down. (referring to microphone)

MS. CURTIS: Thank you, Mr. Chairman. It's a pleasure to be here. As you said, I am Marie Curtis, a legislative representative for the New Jersey Environmental Lobby. NJEL has long supported efforts to provide a stable source of funding for the purchase and preservation of open space, watershed protection, wetlands, and all the other laudable goals stated in this bill.

We have some specific concerns with the measure, however, and would like to state them in order. To start, in section 4a, the bill states that the funds generated shall be used for State projects as well as for funding local projects. We believe that some specifics should be used to indicate what percentage of money will be available for local grants and/or loans, and what percentage will be utilized by the State.

We would like to see at least 50% of the money retained for local projects since these levels of government so often are faced with the responsibility for clean water, yet lack the resources required to accomplish that goal.

We further believe that the proportion earmarked for loans and that for grants should be delineated. We prefer also to money to be loaned, as is the case with the Sewer Trust Fund. However, if grants are awarded, we believe it should be on the basis of need.

Further down that page in section 4d, we question the two years given as the limitation for project work to begin. Communities need time to plan, design, go through the bidding

process, sign the contracts, and so forth. The process is lengthy and should not be rushed merely to comply with an arbitrary deadline. Any project should be done thoroughly and competently and not be unduly pressured by time. We believe that at least three years would be a more realistic time figure to ensure the funds and projects will accomplish what the Act intends. We would recommend the DEP approve all plans, and that they have oversight as well.

In section 6, where the kinds of projects to be allowed are discussed, we find that both conservation and engineering development projects are listed together. Again we prefer an allocation of funds with at least 50% going to the conservation efforts that are really numbers one and two on your listing.

When we get to the funding mechanism in section 8, we do have concerns again. First, some of our members even question the appropriateness of the funding source -- but not all of us, I must add -- deeming it insignificant related to the problem. The real cause of our water supply and habitat problems really stem from unplanned development. By "unplanned" we mean not taking recharge into consideration when developers plan their buildings, and that results in continued paving over of these recharge areas.

Some in our group have suggested that a tax per square foot on impervious surfaces might seem more appropriate for this purpose, but working with the taxes devised, we see no provisions for those using private wells, or for those who may be tempted to sink private wells in an attempt to avoid the tax. For those who will come within the purview of the tax, we ask them to police themselves into report. This we think may well as be unenforceable or at least difficult.

One has to consider that there will undoubtedly also be exceptions to be granted such as in the case of flooding or pools collecting from storm water runoff.

Nowhere in the Act is there a definition of divest, take, or impound -- as used. We believe that these definitions can be crucial to the implementation of the measure.

Now having said all of the above, we still wish very much to commend the Assembly sponsors for the effort and for the direction presented in this proposal. We do need a stable source of funding for all of the purposes so well described within the legislation. We would like to work with the sponsors to improve the proposal and enable us to reach those laudable goals.

ASSEMBLYMAN SMITH: Thank you, Ms. Curtis. Our next speaker will be Jane Kelly from the New Jersey Utilities Association. Ms. Kelly?

J A N E F. K E L L Y, E S Q.: Good morning Mr. Chairman, members of the Committee. I'm Jane Kelly, Executive Director of the New Jersey Utilities Association. The NJUA serves as a trade association for New Jersey investor-owned electric, gas, water, and telecommunications public utilities. On behalf of our industry, I thank you for allowing us this opportunity to publicly comment on these proposals which would establish a New Jersey Clean Water Trust Fund and New Jersey Heritage Trust Fund through a tax on water diversion and consumption.

This morning I will briefly highlight from our member companies' common perspective, the impact of these two proposals. Later, individual company representatives will expand upon the following and will be available for any technical questions you may have.

A-3300 requires industrial and commercial establishments and those who hold a permit to divert water, under the Water Supply Management Act, to pay a tax of ten cents per thousand gallons of water diverted. Revenues derived from this Act will be administered by the Department of Environmental Protection for loans and grants to protect the State's water resources, harbors, and inlets.

As you know, the diversion of water is an essential part of utility operations. Billions, and in some cases, trillions of gallons of water are diverted by the NJUA member companies to provide essential utility services to homes and business throughout our State.

Mr. Chairman, this water does not just disappear from the environment once it is utilized by our member companies. Diverted water is not only utilized for personal consumption, but it is also the main product used for cooling utility plants.

In the latter instance, the water once used is returned directly to the resource from which it was taken. More often than not, it is returned of a far better quality than it was upon intake.

Rather than focusing on issues of water quality, however, I appreciate this opportunity to focus on the fiscal impact this bill will have on our members and more to the point on our customers; the businesses and residents in New Jersey.

We have calculated, Mr. Chairman, that utility customers in New Jersey will bear a cost of approximately \$325 million annually, pursuant to this bill. This will increase the utility bill of the average household or business between 4% and 11%.

We, in the utility industry, do our best to maintain fair and stable rates for our customers. We would, therefore, urge you to consider the additional financial burden they would shoulder as a direct result of this bill.

A-2047, also before you today, would propose a 20 cent per \$1000 tax on water consumption. These monies would be used for the preservation of open space farmland, and natural and historic resources.

While we certainly applaud this bill's objective, we would ask that the Committee consider that the bill will increase by approximately \$560 million annually the rates paid by our customers. If A-2047 is amended to apply the tax to

water supply only, at a rate of two cent per 1000 gallons as was just outlined by Assemblywoman Ogden, we estimate that between \$2.5 million and \$5 million will be raised.

Mr. Chairman, the NJUA must express our concern with any measure that will so significantly increase the burden borne by our customers, particularly keeping in mind that New Jersey's utilities and their customers are already required to pay extraordinarily high State taxes.

I'm referring here to our State's 13.5% gross receipts and franchise taxes on residential, commercial, and industrial ratepayers. Last year alone, this tax paid by utility consumers raised approximately \$1 billion, which was used for general State and municipal purposes.

We're most concerned with the significance of this cumulative burden on the ratepaying public and would, therefore, respectfully urge this Committee apply a very careful cost versus benefit analysis when considering these bills.

Mr. Chairman, I thank you for your kind attention and for the opportunity to speak today.

ASSEMBLYMAN SMITH: (witness prepares to leave witness table) Ms. Kelly, could you hold on for a second--

MS. KELLY: Sure.

ASSEMBLYMAN SMITH: --to one thought and one request. First, I think you heard from the sponsors in the preliminary comments that it's not our intention to raise half a billion dollars a year for these water resources and protection projects; a figure more on the order of \$100 million a year is more a figure that's contemplated by the sponsors.

So let me assure you that there will be adjustments to the formula. That's one of the reason were holding the hearings today. And from the description of your estimated amount to be raised, the formula will be adjusted downward, fairly significantly. What would be most helpful to the

Committee would be for your Association to provide to us and our staff the specific figures upon which you based your calculation of the \$560 million.

MS. KELLY: Fine.

ASSEMBLYMAN SMITH: If you'd indicate every source, how many gallons, etc., that would help us in our adjusting the formula. Would you do that?

MS. KELLY: That will be forthcoming.

ASSEMBLYMAN SMITH: Are there any questions for Ms. Kelly?

ASSEMBLYWOMAN OGDEN: I just have one. I think it would also be helpful if you can divide it according to what's potable water.

MS. KELLY: Okay. Water supply as opposed to diversion?

ASSEMBLYWOMAN OGDEN: Water supply just used in general, as opposed to what you're taking; saline water or other nonpotable sources.

MS. KELLY: That's no problem. I'll have those figures to you shortly.

ASSEMBLYMAN SMITH: Thank you, Ms. Kelly. The next speaker will be William Froelsch, New Jersey Recreation and Park Association. Is Mr. Froelsch present?

W I L L I A M D. F R O E L S C H: Thank you, Chairman and members of the Committee. My name is William Froelsch, and I'm Executive Director of the New Jersey Recreation and Parks Association. We represent the public recreation and park directors from the local level right on through counties and the State level.

I'd like to commend the Chair for their introduction of this bill, and I also would like to commend Assemblywoman Ogden, with whom we worked with during the original tax bill, some two years ago.

We support the concept of tying fees from resource depletion activity to the reinvestment in New Jersey's needed natural resource projects.

New Jersey needs a stable source of revenue to catch up with a multibillion dollar backlog of natural resource problems. This Association that I represent, has long supported the creation of a natural resources preservation and restoration fund. Many of those same activities as proposed in that fund, are now contemplated within this bill.

We'd like to bring up three specific points in support of this bill. We believe:

- 1) That the loss of the opportunity to match the Federal water resource dollars would be a longtime economic disaster in the State of New Jersey. It would provide us with the inability to move forward on many needed projects, and I think that drastically affects industry in this State, and most notably tourism, since many of those projects are shore related. Beyond that, our recreational interest would be served by completing many of those that are on that list.

- 2) Even in light of the developing State budget crisis, the public voted in 1989 to pass the Green Acres and Farmland Preservation Bond Act, with an over 70% approval rating. We believe that the public has clearly stated that its interest is in natural resources, protection, and recreational access. A-3300 responds to many of the pressing needs that we identified in that campaign: for things like dam repairs, lake dredging and restoration, shoreline protection and rehabilitation, and not downplay just the sure protection of open space.

- 3) We'd like to hope that these bills would merge to include methods of open space and farmland protection that are outlined in A-2047. The most inexpensive method of water supply protection is the preservation of open spaces surrounding our reservoirs, water streams, and smaller

tributories. We envision the protection of open space buffers as an immediate benefit to our urban and developing region and populations and long-term benefit to rural and agricultural areas.

We do have some recommendations in reference to these bills:

1) We believe that the interest of protecting New Jersey industries from an unmanageable level, are burdened from these fees, is in the need for some adjustment in these bills. We believe that the Committee should give consideration to -- not an exemption, but certainly to fee adjustments for industrial users, but potentially tie those adjustments into some emphasis for conservation of water within the industry.

2) We believe that State acquisition costs are only a portion of the overall costs involved in fee simple acquisition and protection of open space. We do commend Assemblywoman Ogden's proposal which allows for debt payment from this fund to go to paying off the States debt. We believe that will hold down the increasing amount of State debt. We do suggest that further, the Committee recognize the impact of the acquisition planned under this proposal for local government. Right now there is a schedule of, in lieu of tax payments which must be paid on State acquisition, and we believe the fund should consider paying those areas.

3) Lastly, in terms of recommendations, we looked at these bills versus the Natural Resources Preservation and Restoration Fund proposed under legislation currently before the Legislature. There are a number of areas which are not involved. We believe that the State needs a comprehensive, natural resource outlook in the bill, for a stable source of funding. There are areas for State parks. There are areas for shoreline protection, which are not necessarily covered under this bill. We believe there should be some consideration towards expanding the scope of the bill to include those. Thank you.

ASSEMBLYMAN SMITH: Thank you, Mr. Froelsch. We appreciate your comments.

Mr. Keith -- John Keith, the Assistant Commissioner of DEP -- has asked for the opportunity to come forward at this time.

A S S T. C O M M I S S I O N E R J O H N S. K E I T H: Good morning. I'm John Keith, Assistant Commissioner of Environmental Management Control, Department of Environmental Protection. The Department and the administration would like to support the concept of providing for a stable funding source for the protection of the water resources of the State. We think this is an important initiative. We think it's necessary to have a stable funding source.

We do have some concerns with the concept. We would like to work with this Committee, and other interested parties in the bill, in developing as workable a bill as possible. Some of our concerns relate to: first, the appropriate level of funding. The universe of projects that are contemplated in these bill is quite broad. We feel that there is a need to allow for prioritization of projects, so that we can have the best benefit when the funds are collected.

We feel the appropriate place for the administration of that sort of priority scheme is within the Department, and provision should be incorporated for that.

We're concerned that equitable charges be instituted for all users of water within our State; that in particular, concepts such as the private well owners, be they houses or industries, or commercial facilities, not be excluded because people throughout the State, wherever they use water should contribute to the protection of our water resources.

We recognize that there are difficulties. And in how to handle those areas where water is returned to the environment and essentially without use, in the same state in

which it was withdrawn, such operations as farmland, irrigation, or noncontact cooling purposes, we would like to work with the Committee on how to address those concerns.

We are further concerned about the ease of the administration of the bill. In particular we would like to note that the bills as proposed, do not identify a funding mechanism to cover the Department's administration costs, which could be quite substantial.

And lastly we would like to have these bills consolidated and a universe of projects to be protected by them -- well defined and related to the protection of our water resources, drinking water supply.

ASSEMBLYMAN SMITH: Thank you, Mr. Keith. Any questions for Mr. Keith? (no response)

If not, Don Bates, Jersey Central Power and Light. Mr. Bates.

G. DONALD BATES: Thank you, Mr. Chairman and members of the Committee. Jersey Central is in full agreement with the preambles of both of these bills. We concur that New Jersey, the most densely populated and highly industrialized State in the nation, is in dire need of clean water.

What Jersey Central doesn't agree with is the formula for funding on the both of these bills. First, I'd like to point out that the preambles in both bills state that the tax for water consumption -- and I emphasize, water consumption -- would provide a source for the funding of the two Trust Funds.

Jersey Central is strongly opposed to having a tax placed upon nonconsumptive water; water that is simply diverted for a few minutes for cooling purposes. We also question why-- And we are opposed to a tax on water that is not part of the State's potable water system such as nondrinkable, low societable value, brackish, or saltwater that we utilize just for cooling purposes. We use these at two of our generating stations: along the Raritan River and at our Oyster Creek Nuclear Station.

In fact, historically, power plants are strategically located along large bodies of water, usually brackish or saline because of the large supplies and plentiful supplies of water. Although sometimes we necessarily do have to use fresh water for cooling, but as I pointed out and would like to continually point out, it is not consumed.

Both of these bills basically ignore the siting and usage concepts of our power plants and fail to give credit to these facts, although Assemblywoman Ogden did point out that she was not interested in using nonconsumptive water. And we appreciate that.

Both bills, we feel, fail to stick to the concept as I just mentioned of water consumption as noted in the preambles of both bills, instead, in the body of the bill, they change over to the words "water diverted."

Both bills do not distinguish between the value of fresh or saltwater, but they glaringly fail to distinguish between consumptive and nonconsumptive water.

The use of bay and river tidal water for cooling purposes at our generating stations has very little if any impact on the continued supply of clean water to New Jersey citizens; rather, the sole purpose of these waters is to supply safe, economical, and clean energy to the citizens of New Jersey. We simply use the water for cooling purposes and it's just that: noncontact, pass-through water that's diverted only for brief periods of time, just for cooling. Nothing is added to it but thermal energy, which only causes minimal rise in temperature, and we do remove from the water -- as has been mentioned by NJUA -- any foreign matter or debris, thus returning the water back to the river bay in a better condition than it was before it was being diverted.

We're not wasting any water. We're not harming any -- we're just-- And we're not lessening the supply of fresh potable water. And we will not benefit really very much from

the clean water that's conserved or developed by the projects proposed by the funds of these bills.

Under A-3300 the proposed water diversion tax will cost Jersey Central in excess of \$41 million a year. And as written, A-2047 would double that figure for more than \$82 million. However, Assemblywoman Ogden did mention that she was looking at two cents per thousand gallons of water, which would change that to \$8 million a year.

Now the point is that ultimately, our customers will have to pay for this excessive tax through higher electric rates. We would be collecting a tax from our ratepayers to fund clean water projects that have virtually no relationship to the supply of electricity.

The proposed tax per thousand gallons of diverted water would increase our customer rates approximately 4% under A-3300, and depending on what the final version of A-2047 looks like, maybe as high as 8%. This kind of an unwarranted increase would cause the State electric utilities to become uncompetitive and could be a factor leading to economic turndown if industry was turned away, or worse yet, chased away.

So we feel the bills lack equity and as written, both bills cause electric utilities to bear most of the tax burden, yet are the recipients of only a very small portion of the benefits. The purpose of the bills are certainly laudable. Trust funds to provide matching funds to provide grants or loans to bring about meaningful clean water projects is certainly desperately needed. However, the proposed levies are far, far too excessive to apply to the wrong types of water uses, and the revenues generated from these taxes are completely unrealistic.

So we feel this strongly; that the bill should exempt all -- and I emphasize all -- water that is simply diverted for brief periods of time for cooling purposes or for the direct generation of electricity.

Just a word about a couple other power stations that we have, one located along the Delaware River -- upper Delaware River. We presently pay the DEP and the Delaware River Basin Commission fees -- water diversion fees -- for nonconsumptive uses at these stations. The other station we have is a pump storage facility in the northwestern part of the State. This facility is unique because it basically uses the same water over and over and over again to generate power during peak periods. And while technically water is diverted at this station, very little is consumed, and none is harmed. We also pay the DEP diversion fees for water at this station.

Basically, Mr. Chairman, we would like to see all cooling water exempted from the final version of these bills. I'd be happy to answer questions. Chairmen, I think we did supply your Aides, your offices, with the figures of exactly the water consumption that we do use, where it comes from and the fees that it would-- If not, we will be happy to make that available information to you.

ASSEMBLYMAN SMITH: Don would it be fair to say, that other than these minor problems you're in support of the bill? (laughter) Any questions for Mr. Bates? (no response) All right then, Bill Dressel, Joe Rauch, and Lou Neely, League of Municipalities, if you'd come forward we'd appreciate it. Mr. Dressel?

W I L L I A M G. D R E S S E L, JR.: Thank you, Mr. Chairman. My name is Bill Dressel. I'm Assistant Executive Director of the State League of Municipalities.

Mr. Chairman you have before you our position statement on the legislation. I would like to make a few comments, however. We applaud the sponsors of this legislation in advancing this at this time. We obviously support the bill. In concept, a stable source of funding for this purpose is long overdue. We believe, however, that the legislation can be improved, and I have invited with me two individuals who

will amplify on some of the administrative and technical concerns that the local officials will have at the local level in seeing this legislation through.

Before I introduce them, Mr. Chairman, I would like to make a couple of brief comments. We agree with your opening statement that the recent passage of the Clean Water Enforcement Act marks only the beginning of what we see as a all-out war in cleaning up our water. The legislation before you is only one component in that overall strategy. The League -- the local government lobby, if you will -- wants to be involved in the process of crafting meaningful, workable, practical legislation that will be in the best interest of our State's taxpayers.

I think that we can establish a more meaningful partnership, and we, as the other speakers indicated, want to be involved in the ongoing process.

At this time Mr. Chairman, I'd like to introduce Joe Rauch. He is the Finance Director for South Brunswick Township and also Chairman of the League's Finance and Taxation Committee. Mr. Rauch.

ASSEMBLYMAN SMITH: Joe, please hit your button so we can hear you.

J O S E P H E. R A U C H: All right, I'm not going to have a lot of comments on this today. Lou Neely, as a member of our Committee was selected -- so to speak -- to do a more thorough review of the bills. Our Committee, has not -- as indicated by Bill Dressel -- totally reviewed the bills. We haven't had them before us for discussion. That will happen at our next meeting. However, my own personal review of these bills do indicate some questions and concerns:

- 1) The bill normally makes reference to tax collectors' duties to collect this. As you know, tax collectors, in collecting taxes, have a tax duplicate form and it's certified to them, which has a list in detail of the

people whose taxes they are to collect. The statute also provide for an enforcement process if people fail to pay, spells out the penalties, and so forth. None of this is touched on in this bill. The bill primary just gives the duty of the tax collectors -- administrative duties -- which also mean administrative costs to the local government.

Earlier, one of the speakers indicated the possibility of wells. I have also within my own municipality a water/sewer utility which I've operated since 1971. I know that private wells, generally speaking, are not monitored or metered. The question then comes up, if they were to come under this, who would pay for the cost of metering these; who would read the meters; who would determine the accuracy of these reports; and so forth? It would have to be filed.

I think there are a lot of questions here. My primary concern though is the fact that it appears there's going to be an additional burden on the local level and as far as the enforced collection process -- without specifics dealing with the enforcement powers, and also that we'd just like to be able to participate with any further delineation in these areas.

That's as far as the overall purpose of the bill-- We commend you for what you are attempting to do. We're all in favor of clean water and so forth. We wish there were another way that this could be funded and provided for, and that if it is going to come about -- it happened in this manner -- then we'd like to participate in working out further language in the bill.

ASSEMBLYMAN SMITH: Thank you, Joe.

MR. DRESSEL: All right, the last speaker is Lou Neely. He's Finance Director from East Brunswick, and he is a member of our Finance and Taxation Committee.

L. M A S O N N E E L Y: Mr. Chairman, Assemblywoman, and guests and staff: It's interesting to see the concept that everyone agrees with. I think you'd have to almost be

ludicrous not to agree with the concept. But the method of funding is something that gives serious concern, and that's primarily what I want to focus on.

I'm reminded of the Chinese proverb of the young fellow who stole the bell. As he ran down the street with the bell, the faster he ran, the louder the clapper would go. He stopped for a second and said, "Golly, I got to deal with this. If I keep running they'll hear me, and they'll be able to catch me. If I stop they'll catch me." Instantly, he processed the whole thing and stuffed cotton in his ears and kept running.

Now I know that you people are not going to stuff cotton in your ears so that you're going to hear funding this through this method of water taxation is bad. It's bad because the incident -- tax incident does not fall uniformly across the State.

Mr. Chairman, you indicated that this would be one cent on every citizen. Well, it's not one cent on every citizen. It's one cent on every citizen who takes water from a regulated utility or someone who has a diversion permit. But there are literally thousands -- hundreds of thousands of people who have wells, that are not subject to this that would be below the threshold level in your A-3300. And there are people who were not receiving potable water from a regulated utility, who would pay nothing. They literally would be getting all of the benefits of this wonderful concept, without any tax incident. We think that that's clearly a wrong problem.

You've also indicated and we have recognized that there is a problem. Because every supermarket you go into and every fast-food store you see -- at every convenience store you see a lot of bottled water being sold. And you have made the link between bottled water being sold and the assumption that there's a need for clean water, because people don't think that what's in the spigots is clean.

It was interesting that you talked about Senator Lesniak's bill, A-280, and the one cent tax and the concern of VOCs. That bill was much broader than just volatile organic chemicals. It was a broader bill to deal with it. And if you think that the public water purveyors are not purveying decent qualified water that meets the Federal Safe Water Drinking Act and the State Safe Drinking Water Act, then I think you better get on your Department of Environmental Protection, because from all of the testing I see and from the point of view that I have as a manager of a utility in East Brunswick, we do meet the Safe Water Drinking Act.

There's a question of why people buy bottled water and the quality of water that's coming from utilities, and I'm not sure that you've made the correct linkage here. We do know, based upon what the gentleman from Parks and Recreation said, based upon what's happened with every referendum that has put up for Green Acres is that the citizenry is willing to pay for a clean environment. The citizens are willing to pay for protection of their water quality, and we're willing to support that. And everybody's that's come to this microphone so far has said, they are willing to support that.

So let's find out the most effective way to do that. One of the ways to do that, is not to have a consumer tax on a portion of the consumers, such as this water tax. The easiest way would to be simply to have a per capita tax on everyone who files a gross income tax report, and you have everybody in the State paying their fair share. Dedicate those funds and make that as a rider to it, and you hit everybody. Everybody's paid a fair share; everyone's received the same benefit; and you don't have all of the multiplier effect.

I've got to tell you a wonderful little story, because in 1980 we had a drought in this State. All of you remember that and out of that came a legislation that created the New Jersey Water Supply Authority. The New Jersey Water Supply

Authority was given responsibility to solve a number of water problems, and they had no source of revenue. So the source of revenue that was given to the New Jersey Water Supply Authority was the Delaware and Raritan Canal and the Spruce Run Round Valley Reservoir.

But if you're going to give away those assets, then you had to take the liabilities off your books. And so immediately the debt to fund Spruce Run Round Valley Reservoir was taken off the State ledgers and put on the Water Supply Authority which instantly fell upon five water companies: New Brunswick, East Brunswick, North Brunswick, Middlesex Water Company, and Elizabethtown Water Company. We picked up that State burden.

It's interesting for me to note that this water tax would pay for some of the debt. I wonder if part of the \$300 million prior debt that was issued -- that was general obligation debt -- would be shifted to pay out of the water tax, and we're going to get hit with another debt that was not part of our plan.

Regardless of that, this little story goes on. The Water Supply Authority was created. The Water Supply Authority-- The first thing they did was say, "The Canal does not flow properly. We need \$20 million." They didn't come to the State Legislature and say, "Give us \$20 million." They came to those five companies: East Brunswick, North Brunswick, South Brunswick, Middlesex Water Company, and Elizabethtown Water Company and said, "You pay the \$20 million." And we're paying that.

And that gives you clean water, gives you the Canal to flow, gives you a wonderful recreation facility, gives you a State park, and we're paying that; not the State Legislature.

But they came along and said, "We have a lot of other problems because when the State managed those resources, they didn't handle it." They said, "We need another \$36 million to

do some temporary capital improvements." And they didn't come to the State. They came to those five water companies: East Brunswick, North Brunswick, South Brunswick, which is part of Middlesex and served by part of Elizabethtown. And all of the Middlesex Counties paid for that, through those five water companies.

You see now-- If you assume that what we've taken over through the Water Supply Authority -- we're not doing a good job-- You want to tax us again with this tax on top of that, to pay for what we are already doing. That's tax incident, that's inequitable and that's part of the problem we have with this form of legislation -- this form of taxation, because you give no recognition to the people who've already done a lot.

The other thing that happens to me, is that you have a multiplier effect. When you put a simple water tax on like this, you then -- DEP said, "We've got to have money to have administrative staff." We now pay literally hundred of millions of dollars to DEP through permits and diversion rights and approval of plans.

Are they not doing their job? So that the water supply that we're already delivering through our utilities is not safe. If that's the case, then DEP and we are under a misconception because we are paying for a lot of their staff to review our plans that delay a lot of our projects because of the time line. And you're asking us to pay again. That's duplicative, on top of what already was done with A-280 and already what was done with creating New Jersey Water Supply Authority.

But let me tell you that multiplier even gets worse because the BPU gets involved. It goes onto the DEP. It goes onto the DRBC, because they want Central Jersey talked about. They're paying fees already to that, and the DRBC is asking for us for fees; for that same permit that you're asking for fees from.

And then finally you get to the Water Supply Authority who has to pass that handling cost on. And then the municipalities, as Joe Rauch indicated-- We have all the collection burden. We have all the delinquency burden. Because when we send the money to the Division of Taxation, they don't want to say that we have all these water accounts who weren't able to pay your 10 or 20 cent tax. We simply have to mail the money and go out and collect for that.

And who have the cost from all that collection burden? It's again shifted down. So you have all these multiplier effects from something that the public says they're willing to pay for. And if they are willing to pay for it, make it part of the gross income tax. Put it on a per capita basis. Make it a simple, clean, effective, easy way, and eliminate the multiplier.

Eliminate the problem of tax incident. Eliminate the problem of tax shifting. Give recognition for those people who've already done some work, in the form of environmental protection and in the form of potable water protection.

And recognize that the general public does say on every Green Acres issue -- 70% of them voting in the affirmative -- that they're willing to support this type of concept. We want clean water. We want to protect the environment. We don't want an inequitable, unjust, tax shifting that only hits a partial portion of the community.

Now I feel almost ashamed to say that this will only cost East Brunswick \$400,000 a year, when Central Jersey steps up here and say this will cost them \$46 million a year. But I'm not, you see, because that impacts on our residents significantly.

And we in East Brunswick have done a lot to give clean water. We put watershed aside. We reviewed every plan so that there is a buffer. We have a utility that services every water customer in town. We have proper metering so we don't have

wasted water where you have some places that are 50% of the leakage in their system. You give us no credit for that.

This form of taxation is clearly poor incidence. It's clearly duplicative or worse. It clearly does not hit everybody in the State, and it's got the concept that should fly, but with a fair source of funding.

And as a member of the League's Taxation Committee and one who will be outspoken on this, I will support -- and I think that we all in that Committee could support -- the concept of a per capita tax to do this wonderful project; this wonderful goal. But certainly the method of taxing it onto water utilities, potable water or diversion permits, is clearly a poor form of taxation. And I thank you.

ASSEMBLYMAN DUCH: Thank you.

MR. NEELY: Thank you, Mr. Chairman.

ASSEMBLYMAN DUCH: Assemblywoman Ogden?

ASSEMBLYWOMAN OGDEN: I just have one question. I'm curious, what stand did you take in terms of A-280? Did you support it?

MR. NEELY: A-280? We supported the A-280 testing, and we implemented them long before the one cent tax went on. And we had been a proponent of A-280 testing for VOCs.

ASSEMBLYWOMAN OGDEN: My purpose for bringing up A-280 was not to say that I don't believe that the water that's coming out of our taps is good potable water. My purpose was to say that when we have a problem, when it's a question of people's health, when people are concerned about the quality of water, and the danger appears imminent as it did with that bill, that something like that, a slight increase in the cost of water actually flies through.

And now what we're dealing with here is prevention. What we're really talking about is investing in keeping our water supply at a high quality in the future by controlling the land use -- in terms of keeping it open. It's always a

tremendous battle to do that, and that was the point I was making. I wasn't trying to say that I believe that the water is not good. I wasn't making that point at all.

I was just saying that in response to an emergency, the money is appropriated or slight fee is included in legislation, and everyone supports it. But this is why we have the quiet crisis in the State of New Jersey in terms of preserving open space: Because when we try to do something like this, regardless of what we finally come up with -- in terms of what the money would be, people say, "It's a good idea, but--"

MR. NEELY: We, Assemblywoman, certainly agree with you that it's a good idea. And we want to see fair taxation. A-280 dealt specifically with the water quality that came out of the tap, so everybody who bought that water, paid for that water.

But you're talking about a broad based issue. A pervasive issue that affects everybody -- those people who have a private well, who don't use their tap--

ASSEMBLYWOMAN OGDEN: But we do in my--

MR. NEELY: --those people who are farmers who don't have a tap. And we're saying they are part -- they are equally a resident as someone who buys from a water utility, and they ought to equally have a opportunity to pay their share. We simply want fair taxation. And we'll support your concept -- what you want to do for future generations. I have two daughters. I'd be foolish not to want that, and there's no one here who doesn't want that. The question is fair taxation. The form of tax incidence that you are trying to levy is not fair taxation. That's the point we're trying to raise.

The League endorses your concept. The public statement endorses that. We finally signed off on the Clean Water bill. We now want to see a fair source of funding that gives adequate tax incidence.

ASSEMBLYWOMAN OGDEN: Well I may have to come up with some sort of a flat fee. I did in my bill have a fee of \$10 for the well owners and whether that's--

MR. NEELY: It sounds almost like that Chinese proverb. Regardless, we're going to get caught with this bad tax. You're not seeming to be hearing me. See, I don't want to stuff cotton in my ears and just simply run with the clapper ringing so no one will hear me. I'm saying that if it's a flat fee or whatever it is, unless it's ubiquitous across-the-board and hits the farmers, and hits the private wells, and there's no administrative way that you can govern those wells--

Those wells are unmetered. The farmers don't know how much water they use. The utilities say that they are nondepletive, yet there is some evaporation that comes from that. I mean, you've got so many problems built-in to a water tax that you're going to make fair tax seem senescence, that I think you ought to back off a minute and let's get on with the real fair taxation for this wonderful project; these wonderful goals.

ASSEMBLYWOMAN OGDEN: So then, what you really are advocating is a constitutional amendment?

MR. NEELY: Or simply an amendment to the gross income tax to have a dollar per capita tax. On that, for everyone who files on their tax return -- for two dollars -- whatever needs to be. But adjust the rates. It appears to me that we're talking about adjusting the rates for the gross income tax as is, and that's a very minor modification to put that aspect of it in it. If you're going to raise the rates for the gross income tax, then make a per capita tax for these wonderful features.

ASSEMBLYWOMAN OGDEN: Well we would need a constitutional amendment to dedicate it.

MR. NEELY: To dedicate it, I agree. The dedication of it is something that to do that, you would need that. If

that's necessary, then let's do it fair and do it right, as opposed to poor tax senescence.

MR. DRESSEL: Thank you.

ASSEMBLYMAN DUCH: Thank you very much--

MR. RAUCH: Thank you.

MR. NEELY: Thank you.

ASSEMBLYMAN DUCH: Bill, gentlemen. The next witness will be Bill Walsh, Public Service Electric and Gas.

W I L L I A M J. W A L S H, JR.: Thank you Mr. Chairman, Assemblywoman Ogden, staff. My name is Bill Walsh, Public Service Electric and Gas Company. I have a statement which I've distributed, and I'll try to paraphrase that to some extent. A lot of what you heard is included or embodied in my testimony. We've heard Mr. Bates, from Jersey Central talk about the possibility of scaring off customers, and I think Mr. Dressel and company stopped just short of saying, we're going to scare all of the municipalities out of the State. (laughter)

I don't know what that all means, but Mr. Neely did bring to bear a couple of points that make a lot of sense, as did Assistant Commissioner Keith from the DEP; that there shouldn't be any exemptions if this tax, the Heritage Trust Fund or the Clean Water Trust Fund is going to be a reality. Then there should be no exemptions from them. Everybody should be covered to a certain degree.

My concern is obviously from the electricity consumers in this State. You've heard a lot about cooling water, and I appreciate Assemblywoman Ogden's comments with reference to whether this is saline or brackish water, or the amount of cooling water that would be included. I think that's appropriate. Mr. Neely was accurate. There is a small evaporative loss component associated with cooling water because you're raising it a few degrees per your permit limits, and that portion could be calculated if it is to be a consumptive type tax.

What wasn't clear particularly with respect to A-3300 is-- As I read the purposes for the funds to be generated, the linkage between cooling water and the purposes for which those funds would be expended is not entirely clear. The one portion or the one component where it's very clear between the direct link between cooling water and the expenditures is in the area of saltwater intrusion. We believe that this has been addressed to some degree by the requirements set forth by the Delaware River Basin Commission.

In response to that, my company, Public Service Electric and Gas and several others, financed the construction of the Merrill Creek Reservoir which was about \$230 million -- close to 17 million gallons of capacity, and we have approximately a 14% interest in that facility. It's got an annual operating expenditure of about \$6 million a year. So if we add in the 250-or-so-thousand that we pay to DRBC for water diversion fees plus our share of Merrill Creek's operating expenditures, plus other fees that we pay for water diversion in the State, the electricity consumers from my company are sharing to the tune of about \$4.5 million annually. There is a lot of talk about a proposed F.E. Walter facility, which could increase user fees by another million dollars. So there is a potential liability to increase our \$4.5 to possibly \$5.5 or more.

Mr. Neely made a very true statement: that is, there are a lot of people out there, a lot of consumers who are contributing to a great degree. And perhaps there should be some recognition of what they've already contributed to this fund or to water in terms of diversion fees and taxes. And that that should be factored into anything that the Committee would ultimately pass-through.

That about sums up most of my comments. One additional request is that, if there is to be additional work on this proposal, we would certainly like to be a part of any

working group or Committee to provide further input. That concludes my testimony. I'll be happy to answer any questions.

ASSEMBLYMAN DUCH: Thank you very much, Mr. Walsh. No questions, thank you. The next witness will be J.B. Wiley, Jr., Green Brook Flood Control Commission.

J O S E P H B. W I L E Y, JR.: Thank you, Mr. Chairman, members of the Committee. My name is J.B. Wiley. I'm licensed by the State of New Jersey as a Professional Engineer and a Professional Planner. I'm with the consulting engineering firm of Kupper Associates in Piscataway. Kupper Associates has a planning division called Municiplan, and Municiplan acts as the planning consultant to the Green Brook Flood Control Commission.

I'm testifying this morning on behalf of the Green Brook Flood Control Commission. That Commission exists to further the cause of providing flood control protection for the Green Brook Basin. The Green Brook Basin is located -- is a subbasin of the Raritan River Basin in portions of Somerset County, Middlesex County, and Union County. There are, within that subbasin, some 13 municipalities.

Flooding in this subbasin has been historically a major problem. Almost annually there are minor floods, which of course cause inconvenience but nothing terribly unusual about minor flooding. However, several times each century there are major floods. Approximately once every century there is an enormous and terribly damaging flood.

In 1821 there was a flood. Of course none of us know about it firsthand, but the records clearly indicate that there was enormous damage. The next major flood, generally referred to as a 100-year flood took place in 1903 and caused enormous damage. Weather experts tell us that approximately once every century there will be another such flood, and you can imagine that the Commission becomes a little worried as they look at their watch and notice that we're about coming to the end of the present century.

In 1971 there was a major flood. Not a 100-year flood, but a very severe flood -- more than a 50-year flood. Again, in 1973 only two years later, there was another major flood. These two floods between them caused millions of dollars worth of damage in that area and resulted in the loss of six lives.

Records going back to the 1930s, described efforts of municipal officials, county officials, and State officials to bring about some sort of a plan to control flooding in that area. At the time of the 1970 floods, there was in existence something called the Green Brook Flood Control Committee, which was made up of representatives from those 13 municipalities and from the three counties.

As a result of those floods of the early 1970s, the Legislature enacted a bill which gave that Committee the power to form itself into a Commission, under the authority of an act of the State Legislature. And that was done with the support of the elected officials of those 13 municipalities and the representatives in this Legislature and the very important support of the Congressional delegation from New Jersey.

A plan to control flooding has gradually taken place over the years. Congress directed the Corps of Engineers to study the situation and to come up with a series of alternatives, possible plans for solving this problem of flooding in the Green Brook Basin.

By the mid-1980s the Corps of Engineers had completed their report -- a massive report -- and showed a number of possible plans to solve the problem of flooding. The Commission expressed a preference for one plan in particular. The State of New Jersey through the DEP agreed that the selected plan was the right one, and Congress, again because of the important support of New Jersey's Congressional delegation, included that selected plan in the landmark legislation which

is referred to in your bill. Previously known as H.R. 6 when it was passed in 1986 as the Water Resources Act of 1986 it took a number P.L. 99-662, I think.

As I'm sure you know, two out of the New Jersey delegation occupied particularly important positions in the development of that Federal bill, Congressman Roe and the late Congressman Howard. The result of that was that the Green Brook preference for the project selected was approved by Congress and as you know, about 30 other projects to benefit New Jersey are included in that legislation.

That legislation not only included the Green Brook project and a number of others for New Jersey, but it also changed the rules of Federal and State participation in water resources related projects. It changed them in a fundamental way, making the Federal participation 75% for approved projects. And somebody else -- typically a State which the law refers to as a non Federal sponsor -- somebody else has got to pay the balance of 25%.

Another important change that took place at that time, is that a project which is authorized by Congress remains an authorized project for five years. And if the non Federal sponsor hasn't picked up the ball and moved forward on the project, it dies after five years. Bear in mind, I'm sure you know this bill was passed in late 1986. We're now three-and-a-half years into that five-year period. We don't have much longer to go to solve the problem of non Federal support.

The Green Brook Flood Control project is now in the stage of design by the Corps of Engineers. This year the Corps has been provided about \$1 million, by Congress to carry on this design work. Next year, the President's budget asks for \$2 million. This process, we hope, will increase to about \$3 million in the following year, and by the time the design is

completely finished, the Federal government would have expended something on the order of \$10 million for the design of this project.

I note for you, all of that money will have been paid by the Federal government at no cost to New Jersey or any subdivision of this State.

One of the realities is that as Congress authorizes the Corps of Engineers to do various jobs including this one, when they get through with their list of authorizations and monetary amounts, they total it up and then they knock off 10% or 15% or 20%, and they say to the Corps, "Here is your money. It's a little bit less than you asked for. You figure out which one you're going to cut."

It's obviously a deliberate process to require the Corps of Engineers to exercise some prioritization. When this process takes place, as you may imagine, the Corps of Engineers looks at the state of local support for projects around the country, and there are many which were authorized at the same time in 1986 where the respective states have entered into a bonding contract with the Federal government and have identified the source of money that's going to carry that project through.

The Green Brook project is not in that state, as I'm sure you know, nor are most of the 30 or so projects that are provided by that Federal legislation. The result is that when somebody in Washington has to look at where the cutting is going to be done, we stand out as not having come up to the level of cooperation as is the case with so many other projects.

In the case with the Green Brook project, when construction is ready to begin, which will be 1996 roughly at the soonest, the construction costs estimated in 1988 dollars is about 240 million. That construction will extend over a period of approximately eight years. Under the terms of the Federal legislation, New Jersey's share is 25%. If you

multiply that out, you see that it amounts to about \$7.5 million a year for eight years. Those are approximations but at least puts you in the right ball park.

In order for that to take place, in order for the Federal government to authorize and appropriate those monies, there must be in effect a binding agreement between the State of New Jersey and the Federal government, referred to as a local cooperation agreement. That has not yet taken place in this project. That local cooperation agreement has to agree that the State is going to do certain things, and it has to identify what the source of those monies will be.

The Green Brook Flood Control Commission has been successful in overcoming, with the support of the elected leaders of the areas, of the State, of the nation-- Many challenges and problems over these years each seemed enormous at the time, as we look back. As we look back, they seem as though it was the right thing to do.

Presently, the major challenge exists for this project is the very matter that you are discussing in this bill; a stable source of money to support projects that are authorized in that important bill. The New Jersey DEP has indicated their agreement with this project. They've indicated that they're prepared to enter into the local cooperation agreement as soon as they may have a source of money, which your bill would do.

I once again remind you that we are in competition for Federal dollars with all of the other projects in the country, and we are a little bit under the shadow because of the lack of the local cooperation agreement after three-and-one-half years. To keep that Federal money coming for design, it's important that that local cooperation agreement be entered into as soon as possible.

For all of those reasons, the Green Brook Flood Control Commission is enormously pleased with your action in considering this bill. The Commission has adopted a resolution

in support of this bill which commends you for your efforts, and urges you and your colleagues to carry the matter through to a successful completion. Thank you.

ASSEMBLYMAN DUCH: Thank you very much, sir. Any questions? (no response) Thank you, sir. The next witness will be Phyllis Elston, and immediately following her will be Dennis Sullivan and Lee Pfister. So be prepared, please.

P H Y L L I S E L S T O N: Thank you, Mr. Chairman. I have general remarks to make today about the topic because I have a feeling you'll be going back to the drawing board with a lot of this. This is a very important meeting because for the first time in this legislative session it focuses attention where we hadn't at the end of last legislative session; on the need to take care of our basic necessity to care for our natural resources.

I would like to support the testimony you heard earlier from Bill Walsh with regard to the other Natural Resources Stable Funding Bill, A-3107. As you know, environmental groups have been working very hard on that particular initiative for the past three years and getting it almost home was not quite good enough, because although the bill passed we never got the money to go into it.

I'd like to really spend my time this morning on the money. There are so many options. As Coordinator for the Natural Resources Preservation Coalition over the past few years, we looked, as did environmentalists three years before that, into every possible funding source. The key word was the debt of this bill, time and time again in the past. And there was always an excuse: We were levying it on the back of the wrong industry even though those industries were use related to the problem; I'm speaking of the real estate industry, and the reality transfer tax and the hotel/motel industry and that tax on tourism -- be it native New Jerseyans or those passing through our State.

We felt in the past that those were excellent sources to get revenue to take care of natural resources because they were use related. The resistance to that was strong enough in the end to prevent the bill's happening. That bill is out there again in the hands of your Committee member Dan Jacobson and Ms. Ogden.

This time with that hotel/motel tax being at a county option, that may be more palatable. I would expect it would be more palatable. Now we see some of the same needs addressed in this legislation before you today. When I originally looked up this a year or so ago, my objection back then was the fact that not everybody pays a water bill.

As a typical example, where I live I don't pay a water bill because I have a well. My sister who lives a mile away does pay a water bill because she has town water. I'm glad to see that in this latest version that has been addressed, hopefully through a flat municipal charge that would be made on those that have wells. The concern I raised about that is, what would be the cost of administrating and collecting? If it is a cost that is close to what that would gain, then we're not getting any net gain.

The basic problem is that the chief environmental problem in this State is that we're still not taking care of our basic natural resources, and we have to do that. I'd like to see the administration come forward with some kind of strong platform as to how they feel this should be happening. If we get the administration to address this problem, then we will have the Department addressing this problem in true terms and not just saying, "We support the concept."

We're always supporting the concept for the past, I don't know how many years. This may be more palatable, your water tax, because it is broad based. Again, you have industry people standing here saying, "Not us; don't put it on our

backs." I simply say that I am representing once again for the I don't know how many hundredth time, the need for stable funding for basic natural resource protection.

We have amassed data in the Coalition over these past three years that has to do with New Jersey's needs, the park needs, how other states do it. I would be happy to make all of that available to you. I know Legislative Services have a lot of it already, so as I say, I expect you'll be going back to the drawing board with this. You probably want to think about the suggestion you heard today about a simple taking of some small portion of the already broad based State income tax.

That probably hits more people more fairly than anything else, and we have no objection to that. I guess in a nutshell, what I'm saying is, it's time to bite the bullet and find the source and, you know, that you will have us behind you. Thank you.

ASSEMBLYMAN SMITH: Thank you, Ms. Elston. Next is Dennis Sullivan, Lee Pfister, and Harry Killian from the Authorities Association of New Jersey and the National Association of Water Companies.

D E N N I S S U L L I V A N: I'm not sure that we're all together, Assemblyman Smith.

ASSEMBLYMAN SMITH: Are you opposed?

MR. SULLIVAN: I don't think so. We met this morning.

ASSEMBLYMAN SMITH: All right, well we'll take you all together.

MR. SULLIVAN: Thank you. My name is Dennis Sullivan. I am this year's President of the New Jersey Chapter of the National Association of Water Companies. We are an association of investor-owned companies, serving approximately three million New Jersey residents. I also represent Middlesex Water Company, which serves a number of communities in Central New Jersey. There are also several hundred small water companies who are affected by this legislation in the same way as members of N.A.W.C.

We're strongly opposed to Assembly Bill No 3300 and Assembly Bill No. 2047, primarily because these bill discriminate against our customers. We feel they are blatantly unfair to the three million customers who take water from the private companies. A-3300, for example, provides for low interest loans for local government units. No funds are made available, however, for private companies. That means that the State intends to take millions of dollars from our customers in order to make monies available for customers of municipal systems.

Presumably those systems need help with maintenance, supplies, and treatment, but that also means that those customers have not paid through their rates for this maintenance, supplies, and treatment.

Our customers on the other hand have made such an investment. They've paid for the development of water supplies. They've paid for reservoirs. They've paid for storage. They've paid for the well maintained and high quality systems. They've paid for treatment, and they will continue to do so.

Instead of being rewarded, however, for what they've done, they're being given a double hit. In addition to paying for their own quality system, now they will be asked to pay for someone else's system. Conversely, those customers who have benefited from lower rates for not paying for maintenance, quality, and so forth, now will benefit also from the contributions of our customers. This seems unfair. It seems to reward carelessness or lack of diligence.

Assembly Bill No. A-2047 also provides for low interest loans for local government for the purchase of land and development rights. Here again, we feel that our customers are discriminated against. We point out that our customers -- and Mr. Neely had pointed out this also because we're on the

same system -- our customers for the last 20 years or so have paid for the development of Round Valley and Spruce Run Reservoirs.

Other private water companies are paying through their rates for the Manasquan system. There is an alternate supply being prepared for the critical area in the Camden area, and now attempts are being made to impose a major portion of the cost of the F.E. Walter project on private water companies.

Here again, our customers are paying through their rates for a supply of water, and now we're being asked to contribute to someone else's supply of water. We do not feel this is equitable. The introductory language to both of these bills speaks about our commitment to the citizens of New Jersey. We want to make sure that it is a commitment to all of the citizens, not just some of the citizens.

The size of the increase you've made a couple comments about this morning, so the remarks I've prepared are somewhat out of line, I guess. However, for our company alone, just so you can get a sense of the numbers-- A 10 cents per thousand gallons tax for one company -- our company alone -- is \$900,000. That tax may be as large as \$4.5 million, depending on how you define the word "diverted."

I'm talking about A-3300. Does "diverted" mean actual consumption? Does it mean safe yield diversion rights? Does it mean total permits? Depending on how you define that will determine what the cost impact will be. I'm grateful that you indicate that the numbers would be changed on both bills, because as they stand now, my understanding is from utilities alone -- not private companies but from water companies and electric -- we're talking about a billion dollars a year under the present numbers. That's a lot of money.

We estimate that 10 cents a thousand gallons is \$8.00 a year for residential customers. That's for direct cost and

if we factor in additional costs for electric power and additional costs for goods and services, that's additional money.

ASSEMBLYMAN SMITH: When you say residential customer, are you talking about per dwelling?

MR. SULLIVAN: Yes.

ASSEMBLYMAN SMITH: Not per person?

MR. SULLIVAN: That's correct.

ASSEMBLYMAN SMITH: Okay.

MR. SULLIVAN: We also would have to, probably would have to file for a rate increase for a four-and-one-half% increase that, that would be, and that's an additional cost in some cases of a couple hundred thousand dollars. We don't like the idea of water being taxed. The tax is hiding in the water rates. We feel that the funding would be more equitable if it came from general funding, rather than as a water tax.

I mentioned in my remarks, also reference to deductibility under Federal income tax which would not be permissible if the tax were included in water rates.

Finally our companies are in the business of treating and distributing water, not collecting taxes for State projects, and many of our members, especially the smaller companies, are awfully concerned about the administrative costs that would be involved in collecting revenues and forwarding them to the State. There would be cash flow problems. There would be collectibility and liability problems -- delinquency problems. We just do not feel that this would be helpful. We feel it would be a real burden, especially for the smaller companies.

Just one other comment: Where you speak about two different types of water, drinkable water and cooling water, the systems are not separated in that way. Our company has one distribution system and through that system we supply water for household purposes, drinking, and so forth, and the same water

is used for lawn sprinkling and industrial use. It would require two different distribution systems in order to separate the water. And that's just not possible. Therefore, we request that the legislation be withheld because of the tax impact, the administrative burden it seeks to impose on us, and especially because of what we feel to be the unjust and discriminatory treatment of customers of private companies. Thank you.

ASSEMBLYMAN SMITH: It's Mr. Sullivan?

MR. SULLIVAN: Yes, that's right.

ASSEMBLYMAN SMITH: Mr. Sullivan, you would do us an immense favor if you would supply to the staff and the members of the Committees your understanding of the water figures -- the gallons and which category? That would help us to be able to replan our formula.

MR. SULLIVAN: I'll be happy to do that.

ASSEMBLYMAN SMITH: Okay.

H A R R Y F. K I L L I A N: Mr. Chairman, I apologize for any misunderstanding. Although we all signed in together, we don't represent necessarily the same viewpoint. My name is Harry Killian. I'm the Executive Director of the Willingboro Municipal Utilities Authority also a member of the Board of Directors with the Authorities Association. Our Association's Legislative Committee have not been able to review the bills in detail yet, but I can assure you that this is the type of environmental initiative that we can, and will, support, and we welcome the opportunity to be a part of that process.

I would like to address the matter of a few concerns that as an Executive Director of a local authority, we may have. We're a relatively small authority having 12,000 customers, all of which use well water. I understand that the figures in the bill are certainly subject to change, but as they are showing now, A-3300 would cost our customers \$143,000 per year. That's basically an 8% increase in the water rates

that we now charge. A-2047 would be approximately \$250,000 a year. Both the bills combined would mean about a 24% increase in the water rates for our customers as the figures are now.

We would also suggest that in the case of water purveyors, A-3300 be changed so that it more closely resembled the Safe Drinking Water Act bill and proposed A-3300. And that is in the case of water purveyors, the charge is based on the amount of water ultimately sold to the customers.

We feel that in the case of public purveyors, especially, the areas that are detrimental to our financial resources would only be more burdened. All the water that's used in fire fighting, which is currently unmetered and uncollectable would be subject to the 10 cent per thousand gallon tax. All the water that is used in hydrant flushing which is a mandatory part of maintenance of a good water distribution system would be taxed. All the water that's lost when you already have an economic burden of a water main repair -- water main break -- would be subject to that 10 cent per thousand water tax.

We would, therefore, respectfully request that it be based on the water sold to the ultimate customer such as A-280 is. My understanding of Assembly Bill No. 3300, Assemblywoman Ogden's if I'm correct, water purveyors would pay based on water sold. All other diverters would pay based on the amount of water diverted from the sewers. If that's the case, we would suggest that A-2047 be handled in the same manner.

The only other comment that I have, and you've heard it over, over, and over again, is that there should be some mechanism for those people with private wells to have to pay their fair share. Thank you.

ASSEMBLYMAN SMITH: Thank you. Ms. Pfister.

L E E O. P F I S T E R: I didn't really intend to testify today. I'm Legislative Agent for the National Association of Water Companies and I'm Chairperson of the Willingboro

Municipal Utilities Authority, so I am with both people who wanted to testify and speak today, and I appreciate you letting us have our input. Thank you.

ASSEMBLYMAN SMITH: Thank you, and a slip is marked as "Undecided." So I guess we'll do an "Undecided X." Fred Martin, City of Camden, Director of Utilities. It's actually marked in favor and opposed.

F R E D E R I C K H. M A R T I N, JR.: Good afternoon. Mr. Chairman, members of the Assembly, ladies and gentlemen, staff: Let me begin by saying I suppose that a good way to begin my testimony because as representative of the City of Camden, I'm caught between a rock and a hard place. The rock and the hard place are the fiscal impacts and the desire to promote and protect our natural resources in New Jersey.

I came here today-- Let me first introduce myself. My name is Fred Martin. I'm Director of Utilities for the City of Camden. I serve as a member of Mayor Thompson's cabinet in that capacity. Additionally, I'm a licensed operator for the City of Camden's Water Utility.

I'm here to offer my comments today on behalf of the City of Camden on bills A-3300 and A-2047. We support the concept of a stable funding source for the protection of New Jersey's natural resources like most of the speakers before me. I would, however, like to establish some background information about Camden to frame my remarks in that context.

As you are well aware, Camden is one of the most distressed cities in the State. Over 70% of our population relies on some form of public assistance or other for survival, be it SSI or AFDC or regular Social Security. Camden is a poor, urban place with many problems. Camden is also a community that operates a water system. It owns well fields of over 200 acres in size in the neighboring municipality which are under constant pressure to be developed by forces within that municipality.

Its water system also is faced with the problem of old water systems, in general: undersized lines, contaminated wells -- for example we have problem with chrome -- involuntary organic compounds, more stringent regulatory requirements which require increased resources to meet. Additionally, because of the history of Camden, our residents who as well are served by a private utility company, the New Jersey-American Water Company which serves about one-third of Camden residents.

This background gives Camden a unique context from which to comment on this bill. First the negative, the fiscal impacts. In 1989, Camden produced, withdrew, diverted 5,689,191,000 gallons of water. Our 1989 tax under A-3300 would have been about \$570,000.

Camden's entire water budget was about \$4 million in 1989. To accommodate the impact of this tax we would have had to raise our rates by over 12%. Secondly, in Camden the problem of uncollectables and water for public use, such as fire fighting and summer recreation -- that is, sprinkler caps -- would result in the impact of the increase being spread on fewer accounts. So would result in nearly 15% increase to the average customer's bill in Camden.

In Camden the third part of that fiscal bionomic is that rate increases means lower collection rates. Every time we raise the rates, fewer people pay the bill, which means the impact on who pays and how much they pay gets more and more direct with Camden customers.

It's our contention that any money raised from the ratepayer of Camden would be better spent in addressing the problems of Camden directly. Secondly, the bill does not seem to have any direct benefit to the groundwater users in South Jersey, who rely on the Potomic Raritan Magothy Aquifer.

The City of Camden is concerned that the ratepayers are being asked to bear an expense for the benefit of the citizens as a whole. To tax those who will not benefit,

becomes a most regressive and unfair tax. Thirdly, the third of the city's residents were served by the private water purveyor wouldn't benefit from the Trust Fund as it now stands, at all. Once again, this does not appear to be equitable.

Finally, we pay all local property taxes on the land which we own in the adjacent town. This costs our ratepayers nearly \$100,000 a year; money that could be better spent in improving the quality of our water or protecting our well fields from contamination and vandalism. The bill, as we see it, now offers no relief from these cost.

The City of Camden is dedicated to trying to steward its scarcer resources wisely to benefit its citizens. These citizens don't have deep pockets which will allow us to pursue all the goals simultaneously. Hard choices must be made. It does not help us when these choices are taken from us, or our resources are taken from us in the name of protection. Thank you for listening to our testimony and our particular case.

ASSEMBLYMAN SMITH: Thank you. Our next witness is Cathy Miller, with Nancy Becker Associates speaking on behalf of the Conservation Foundation. Ms. Miller?

C A T H E R I N E E. M I L L E R: Thank you, Mr. Chairman. My name is Cathy Miller. I'm here on behalf of the Conservation Foundation. David Moore, President of the Foundation extends his apologizes to the Committee for being unable to testify today.

The New Jersey Conservation Foundation is a private nonprofit statewide organization with over 5000 members concerned with open space acquisition and environmental quality throughout the State.

The New Jersey Conservation Foundation strongly supports A-2047. New Jersey's character and long-term economic well-being depend on our stewardship of our natural resources. Our open space and recreational needs far outstrip our ability to supply them. Thanks to poor soil conservation practices,

lakes need to be cleaned. Both agricultural preservation funding and monies available through the Green Acres program are oversubscribed.

A stable funding source to meet present and future natural resource needs must be obtained soon to keep the environment in New Jersey competitive with other states and nations. We urge the release of A-2047. That concludes my remarks.

ASSEMBLYMAN SMITH: Thank you very much. The next witness is Dean C. Noll, of the North Jersey District Water Supply Commission. Mr. Noll.

D E A N C. N O L L: Thank you, Mr. Chairman, Assemblywoman Ogden. My name is Dean Noll. I'm the Chief Engineer of the North Jersey District Water Supply Commission. And I would like to express my opinions on the bill. Our Commission has not had an opportunity to apprise themselves of it as yet, so we will be sending hopefully a letter of confirmation.

The items spelled out in the bills under consideration today certainly are worthwhile and laudable endeavors, but some may not be doable, and many are not water supply issues. They benefit the general public, but the general public is not being asked to pay. As we have heard many, many times today, the individual well owners are not being assessed, are not being asked to contribute to this endeavor.

Many of the items that are spelled out in this bill are already being paid for by the North Jersey District Water Supply Commission which operates the Wanaque Reservoir. We have paid for inner connections. We are continuing to pay for inner connections. We have, and are continuing, to pay for dam restoration.

We provide open space around our reservoir to the extent of about 6500 acres. We are paying taxes on those, and the municipalities that are paying for those things are not rich municipalities. They are Passaic, Paterson, Clifton,

Kearny, Glen Ridge, Montclair, Bloomfield, Newark, and Bayonne. These are not ones with very deep pockets. However, when you look at the amount that our portion of the bill would come to, under A-3300 we are looking at a number of \$4 million a year. If we look at A-2047 in its present form -- and I understand that it would probably be revised -- we are looking at \$8 million.

The \$4 million represents a 25% increase in our operating budget, and of course, the other bill would constitute a 50% increase in our budget. We are one of the few facility that has been built in the watershed that provides any degree of flood protection. In the flood of 1984 the highest flood on record, the U.S. Geological Survey has indicated that the water supply reservoir, even though they were filled at the time of the onset of the flood, provided protection and decreased the peak of the flood by a minimum of 15%.

To get that kind of flood protection would mean construction of massive water supply and storage facilities that would have to be kept dry. However, we provide that free of charge. When we look at the question of the bottle bill -- the bottled water -- and if we try to hang some of the reasons for this bill using that as a reason, I think that we will be falling short. Unfortunately the bottled water people have a much larger budget for advertising than we do. However, our water is tested on a daily basis and with the exception of a few of the very small water supply facilities, it meets all of the stringent requirements of A-280 and also all of the stringent requirements of the Federal government.

We intend to keep it that way. However, we are being asked to divert money into other areas that will be more and more difficult to continue to do this. When we look at some of the issues that are included in the Federal bill H.R. 6, we see that they certainly are not water supply issues. I'm speaking of things such as shore restoration; even the cleaning out of silted lakes.

If you look at the lakes and the reservoirs in our area, you will see that there is no silt in those reservoirs because they are in a high mountain rocky area. We have been doing for many, many years the necessary protection to assure that these systems do not get silted up, but Mother Nature does an even better job for us. If you look at Greenwood Lake, which is one of the lakes being proposed for dredging, when that lake is down you'll see many, many stumps around the area. Those stumps would not be shown and would not be capable of being seen if we had great degrees of silt coming into these lakes.

Our reservoirs have old roads which run through them. Every time the reservoirs go down, these roads become visible. Again, they would not be visible if we had any silt coming into these reservoirs. So I think that we have a list here of needs and wants. The things that we need seem to be considerably different than the things that we would want. Thank you.

ASSEMBLYMAN SMITH: Thank you. Robert Briant, Jr., Utility and Transportation Contractors.

ROBERT A. BRIANT, JR.: Good Afternoon, I'm Bob Briant, Jr.. I'm the Assistant Executive Director of the Utility and Transportation Contractors Association. Our organization numbers approximately 780 member firms, active in all phases of heavy, highway, utility, and transportation construction work.

I can't offer any technical suggestions to this particular bill. The user fee concept, we always supported that. It's a pay as you go concept. In light of the Federal budget constraints and our State budget constraints, it would behoove us not to believe or dream that we're going to be getting funds from the Federal government or funds from the State of New Jersey. And the user fee is, we feel, the appropriate concept to try and address some of the issues in this bill.

The vast majority of the people that did testify today agree that, yes there is a need for clean water in New Jersey, and yes, we have to do something now rather than New Jersey chasing its own tail after we have a tremendous problem down the line. And usually when you try to address something after it's already a large problem or a terrible problem, it's usually much more expensive.

I understand that yes-- Especially hearing testimony today, that the structure of the fee should be examined again and addressed. And it appears that, that's what's going to happen. I would just like to reiterate again that we do support the concept of this bill, and we hope that the Committee continues to move forward on this and work with the people that are in the regulated industries, and hopefully, in the near future, we can have a bill that's both fair to the users and to all of the people that are going to benefit from these bills. That concludes my testimony.

ASSEMBLYMAN SMITH: Thank you so much. And let me call the representatives of the chemical industries forward: First, Carla Israel of the Chemical Industry Council, Al Pagano of DuPont, and Dick Meineke from Hercules. If you'd all come forward, we'd appreciate it. Carla, you can be the leadoff speaker.

C A R L A I S R A E L: Thank you, Mr. Chairman. I have some general comments and then my two associates will have more specific comments that are directly related to their facilities.

I am Carla Israel, Associate Director of the Chemical Industry Council of New Jersey. CIC is a trade association representing 105 members of the chemical and allied products industries in the State. We are, I have to say, opposed to this bill as written. However, we support the concept, and we applaud the positive purposes behind the bill.

We can see the need for guaranteeing the Federal monies that you referred to earlier, and we need to put money

aside for protecting and preserving water resources in the State. It's to everyone's benefit, I think, that water supplies are protected and that lakes are dredged and dams repaired.

However, we strongly believe that this is an unfair or disproportionate burden put on the manufacturing sector, because we use a large majority of the water in the State. Rather we suggest -- I think along with the DEP-- We should spread the burden equally among all the taxpayers through the approval of a bond act. This would more favorably distribute the amount paid among all citizens to solve what we see to be a general societal problem, not one that is merely the result of industry.

A tax like this has to be thought-out. We don't feel that we should be singled out again because of a societal problem that's general in nature. I urge the Committee to hold these bills until we can figure how much money would be raised and by who. All we know right now is what the tax rate is, not who the taxpayers will be.

And I'm a little bit confused, Mr. Chairman. You mentioned in your opening statements that this would be a tax on all taxpayers. My understanding of A-3300 is that it's merely on industrial taxpayers. I could be wrong.

ASSEMBLYMAN SMITH: You're wrong. (laughter)

MS. ISRAEL: Great. Okay. Before you vote on the bill, I'd like to see a total tax exposure done. We'd like to suggest that the Department provide the Committee with information about who has water diversion permits. How much water is diverted per year, and how much money would be generated from the bill?

I have some preliminary figures from 25 member companies. It's merely a sampling: It's not the largest companies; they're not the smallest companies. And I have to

tell you that for A-3300 alone, it would cost these 25 companies over \$10 million, and for A-2047 over \$20 million, as the bills are currently written now.

ASSEMBLYMAN SMITH: And would you forward those names of the companies--

MS. ISRAEL: Yes.

ASSEMBLYMAN SMITH: --the volume of water consumed, and the estimated revenues to our staff?

MS. ISRAEL: Yes, I would be happy to provide some numbers to the Committee. I just want to close with one statement. What you all have to realize is that this is just one more tax on top of all the other fees that the industrial manufacturing community in the State of New Jersey pays. It's an accumulative burden that I really truly have to believe is a disincentive to my member companies and the rest of industry in the State, and, in fact, I fear that many facilities will no longer be able to afford to operate in this State if we continue to levy tax over fee, after tax over fee. Again, thank you very much for the opportunity to present testimony, and I turn it over to Dr. Pagano.

A L F R E D H. P A G A N O, Ph.D.: Mr. Chairman and members of the Committee: My name is Alfred Pagano, and I'm the Environmental Affairs Manager at DuPont Chambers Works Facility in Salem County. I'm testifying on behalf of both the Chambers Works and the other four DuPont facilities in the State and also for New Jersey Chemical Industry Council. We appreciate this opportunity to give some testimony and to bring out some issues related to Assembly Bill No. 3300 and Assembly Bill No. 2047.

I'm interested to hear, Mr. Chairman that A-3300 is not necessarily singling out industry and commercial establishments, because that's the way I was going to start my remarks. We believed that Assembly Bill No. 3300 did, as we read it at the time and understood it, unfairly singled out

industry and commercial establishments for an excessive tax burden that requires that they would supply monies for New Jersey Clean Water Trust Fund which as a non-lapsing fund would be used for State water resources and water quality projects.

These projects that provide for restoration, maintenance, protection of harbors, inlets, channels, stream banks, lakes, shoreline protection, and other water resource conservation projects impact all the citizens of the State, and as such, the costs for these should be borne by all the citizens in an equitable and fair manner.

The proposed Assembly Bill No. 3300 exempts agriculture interests, at least as I read it. And it didn't appear to increase the existing one cent tax already imposed pursuant to the Safe Drinking Water Act on public water systems. It would seem more equitable to include everyone who could benefit from these projects and to equalize any costs without exemptions to improve water quality, especially since industrial and commercial point source discharges contribute only a fraction of any pollution to the water of the State.

A rate of 10 cents per thousand gallons is an excessive amount to levy only on industry and commercial establishments, especially in light of all the other taxes and fees which have dramatically increased in recent months. At this rate, for example, the DuPont Chambers Works water tax would be at least \$3.4 million annually and for all five DuPont plants in the State, the tax would be something in excess of \$5.4 million over what is now paid. At Chambers Works, this nearly \$3.5 million would be in addition to various other increased fees which in 1990 are estimated to approach nearly \$1.5 million a year. This does not include other State and local taxes.

As we understood the bills, particularly A-2047 prior to today's hearing, I'm using a similar approach as we did with A-3300. The rate of 20 cents per thousand gallons appears to

be an excessive amount to levy on industrial and other taxpayers. At this rate for example, the DuPont Chambers Works water tax would be \$7 million annually and for all five DuPont plants in the State, nearly \$11 million over what is now paid. Thus, if both bills were to become law in their present form, there could be a tax on the five DuPont plants in New Jersey, something in excess of \$15 million.

One can argue that these increased taxes on industry could be passed on through product cost increases to customers. But these are not the only costs to be passed on to the customers. As we heard this morning, the water purveyors themselves will in all probability ask for rate increases to pass on to consumers. And these increases won't necessary include peripheral water uses related to support of consumer needs such as laundry, food preparation industry, and car washing. These costs would also be passed on.

In conclusion, we believe that both A-3300 and A-2047 create an excessive burden on industrial and commercial establishments who are already heavily taxed and forced to pay ever increasing user fees. It would appear that the formula need to be modified so that any tax imposed should be equitable and fair to all corporate and noncorporate citizens of the State. Thank you, sir.

ASSEMBLYMAN SMITH: Thank you, Mr. Pagano

R I C H A R D M E I N E K E: Good afternoon, My name is Richard Meineke, and I'm representing Hercules Inc. in Sayreville, New Jersey. We support the concept, but I want to voice my concern of the cost impact of the proposed bills to my firm. We are the country's only commercial manufacturer of nitrocellulose and have always had a reputation of high quality and competitive cost.

We no longer find ourselves in that position. We still have the reputation of a high quality producer, but we are finding ourselves less cost competitive due to rising

costs. The result of our problems is evidenced by our decreasing volumes in share of the domestic nitrocellulose market. This is due mainly to increase competition by foreign manufacturers.

Our volume has decreased from 80 million pounds per year in 1986 to 70 million in 1989. Over the same period, our percent of domestic sales has dropped from 77% to 64%, and in the same time period our employee count has dropped from 850 to 700 people. We cannot pass these cost onto our customers because our competition is coming from overseas, and our competition will not be seeing these same costs.

Increasing costs have been the cause of our decrease in business. If our costs continue to rise, we can expect a further erosion of our business, because having a reputation of a quality manufacturer will not be enough when you're not cost competitive. Thank you.

ASSEMBLYMAN SMITH: For both Mr. Meineke and Mr. Pagano, would you forward whatever numbers you have concerning your plants' consumptions to the staff?

MR. PAGANO: We would be happy to do that, sir.

ASSEMBLYMAN SMITH: Thank you for coming forward today with your testimony. I have no other slips up here indicating anyone who wants to speak. Is there anyone in the audience who have anything further to add? (affirmative response) Yes, sir. Would you come forward and identify yourself and give your testimony?

R I C H A R D E. M U L L E R: Mr. Chairman, I'm Rick Muller from Atlantic Electric. I did turn in a slip. I don't know what happened to it, but--

ASSEMBLYMAN SMITH: Hit button two.

MR. MULLER: --I did turn in a slip. I just don't know what happened to it. Rather than repeat as you've heard so many times today the same things over and over again, I

would just like to go on record as saying, we, too, support the concepts of the bill. I don't think anyone in the State of New Jersey can disagree with them.

Our only major problem is with the way in which it's funded. We think that another tax on utility customers is not appropriate at this time, and we would prefer to see you go with a broad based tax if we can come up with one, and see that all users in the State, users of water equally share in this commendable project.

Like I said, it's been said so many times today. I guess there just isn't too much else I can add, other than the cost to Atlantic Electric customers would range from \$27 million to \$30 million. We think that they would also pay this same tax in many other ways as consumers and as purchasers of products in the State of New Jersey. We just feel that will result in overtaxation, by heading that way.

I'll be happy to answer any questions you might have.

ASSEMBLYMAN SMITH: Any questions for Mr. Muller? (no response) Thank you Mr. Muller. Anyone else wishing to speak? (no response) All right, just for the persistence of the people present, the plan at this point in regard to this bill-- We're not releasing it today. We are planning to do a Committee Substitute in the Assembly Energy and Environment Committee. The plan right now is a release in the month of June. So if you have any additional comments that you'd like either of the Committees or staff to consider, please get them into us.

Other than that, we're going to spend the next 30 days mulling over the things that you've said to us today. Your testimony has been unbelievably helpful, and especially important would be any numbers that you can throw our way with regard to consumption or the various categories of uses. That's one of the hardest things we have to get a grasp on at the State level. Mr. Duch, any further comments from you?

ASSEMBLYMAN DUCH: No other comments, thank you.

ASSEMBLYMAN SMITH: Assemblywoman Ogden, anything else?

ASSEMBLYWOMAN OGDEN: No.

ASSEMBLYMAN DUCH: There being no other comments, the hearings is adjourned.

(HEARING CONCLUDED)

APPENDIX

New Jersey Environmental Lobby



Testimony before Assembly Joint Committees

Energy and Environment, Conservation

and Natural Resources

May 7, 1990

re: A.3300

I am Marie Curtis, legislative representative for New Jersey Environmental Lobby. NJEL has long supported efforts to provide a stable source of funding for the purchase and preservation of open space, watershed protection, wetlands and all the other laudable goals stated in this bill. We do have some specific concerns with the measure, however, and would like to state them in order.

In section 4 a. the bill states that the funds generated shall be used for state projects, as well as for funding local projects. We believe that some specifics should be used to indicate what percentage of monies will be available for local grants and/or loans and what percentage will be utilized by the state. We would like to see "at least 50%" of the money retained for local projects since these levels of government so often are faced with the responsibility for clean water, yet lack the resources required to accomplish that goal. We further believe that the proportion earmarked for loans and that for grants should be delineated. We would prefer all such monies to be loans, as is the case with the sewer trust fund. However, if grants are awarded, it should be strictly on the basis of need.

Further down the page in section 4 d. we question the "two years" given as the limitation for project work to begin. Communities need time to plan, design, go through the bidding process, sign the contracts and so forth. The process is lengthy and should not be rushed merely to comply with an arbitrary deadline. Any project should be done thoroughly and competently and not unduly pressured by time. We believe that at least three years would be a more realistic time figure. To ensure that funds and projects will accomplish what the act intends, we would recommend that DEP approve all plans and that they have oversight as well.

In section 6 where the kinds of projects to be allowed are discussed, we find that both conservation and engineering/development projects are listed together. Again we would prefer an allocation of funds, with 50% at least going for the conservation efforts - numbers 1 and 2 on your listing.

When we get to the funding mechanism, section 8, we have several concerns. First, some of our members question the appropriateness of the funding source, deeming it insufficiently related to the problem. The real cause of our water supply and habitat problems



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May 7, 1990

A-2047, N.J. Heritage Trust Fund Act
A-3300, N.J. Clean Water Trust Fund Act

Thank you Mr. Chairman, Members of this joint committee hearing. My name is Don Bates, State Government Relations Manager for Jersey Central Power and Light Company.

Jersey Central is in full agreement with the preambles of both A-2047 and A-3300. We concur that New Jersey, the most densely populated and highly industrialized state in the nation, is in dire need of a clean, potable water supply and that a source of funding may be needed to bring this about.

What Jersey Central doesn't agree with, is the formula for the funding that both bills propose. First let me point out that the preambles of both bills state that a tax on water consumption, and I emphasize "water consumption", will provide a source of funding for a New Jersey Clean Water Trust Fund and/or a New Jersey Heritage Trust Fund. Putting aside the concept of placing a tax strictly on water consumption, Jersey Central is strongly opposed to having a tax placed upon non-consumptive water, water that is simply diverted for a few minutes for cooling purposes. We also question why, and are also opposed to a tax on water that is not a part of the State's

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A-2047, N.J. Heritage Trust Fund Act

A-330, N.J. Clean Water Trust Fund Act

potable water systems, such as the non-drinkable, low societal value, brackish or salt water that we utilize for cooling purposes at our two power generating stations situated along the Raritan Bay and at our nuclear power generating plant just west of Barnegat Bay along Oyster Creek. In fact, historically, most power plants are strategically located along large bodies of water, usually brackish and saline tidal waters because of the plentiful supplies. Although fresh water is sometimes necessarily used for cooling, again I point out, it is not consumed! These bills basically ignore the siting and usage concepts and fail to give any credit for these facts. In fact, both bills fail to stick to the concept of "water consumption", as noted in the preamble, but instead switch over to the term "water diverted" in the language of the bills! My point is that A-2047 and A-3300 fail to not only distinguish between the value of fresh vs. salt water, but they glaringly fail to distinguish between consumptive vs. non-consumptive water. The use of bay and river tidal waters for cooling purposes at our generating stations has very little, if any, impact on the continued supply of clean water to New Jersey citizens. Rather the sole purpose of using these waters is to bring about a supply of safe, economical, and clean energy to New Jersey citizens. We simply use the water for cooling purposes, and it is just that - non-contact, pass through water, that is diverted only for a brief time for the purpose of cooling. Nothing is added to it but thermal energy which only causes a minimal rise in temperature. We do however, remove something from the cooling water. We remove foreign matter and debris thus returning it to the bay or river in much better shape than

A-2047, N.J. Clean Water Trust Fund Act
A-3300, N.J. Heritage Trust Fund Act

it was prior to being diverted. Simply put, to generate electricity we need to use water for cooling. We are not wasting any, we are not harming any, we are not lessening the supply of fresh potable water, and we will not benefit very much from any clean water conserved or developed by the projects proposed to be funded by these bills.

Under A-3300, the proposed water diversion tax would cost JCP&L in excess of \$41 million a year. A-2047 would double that figure, or more than \$82 million. Ultimately, our customers will have to pay for this excessive tax through higher electric rates. We would be collecting a tax from our ratepayers to fund clean water projects that has virtually no relationship to the supply of electricity. The proposed tax per 1000 gallons of diverted water would increase our customer rates approximately 4% under A-3300 and 8% under A-2047. This kind of an unwarranted increase would cause the State electric utilities to become un-competitive and could be a factor leading to an economic turn-down if industry was turned away, or worse yet, was chased away! We feel the bills lack equity. As written, both bills cause electric utilities to bear most of the tax burden, but yet are recipients of only a very small portion of the benefits.

The purpose of the bills are certainly laudable. A Trust Fund to provide matching funds and to provide grants/loans to bring about meaningful clean water projects is desperately needed. However, the proposed levies are far too excessive, apply to the wrong types of water uses, and the revenues generated from these taxes are completely unrealistic!

A-2047, N.J. Heritage Trust Fund Act
A-3300, N.J. Clean Water Trust Fund Act

Jersey Central strongly feels that the bills should exempt ALL water that is simply diverted for brief periods for cooling purposes or for the direct generation of electricity. I recall, in the last session, that Assemblyman Ogden indicated that the intent of her Heritage Trust Fund bill was not to tax power station cooling water. Hopefully, this is still her thinking.

Just a word about our other two power stations. One is located along the upper Delaware River for which we presently pay the DEP and the DRBC (Delaware River Basin Commission), water diversion fees for non-consumptive cooling water uses. The other power station is a pumped storage facility in the north-western part of the state. This facility is unique because it basically uses the same water over and over again to generate power during peak periods. While technically water is diverted, more importantly, very little water is consumed, and none is harmed. We also pay the DEP water diversion fees for this station.

Thank you and I'll be happy to answer questions.

G. DONALD BATES
State Government Affairs Manager

GDB:js

Legislative Viewpoint



JOHN E. TRAFFORD, Executive Director
WILLIAM G. DRESSEL, JR., Asst. Executive Director
JON R. MORAN, Senior Legislative Analyst
CHRISTOPHER CAREW, Legislative Analyst
HELEN YELDELL, Legislative Analyst

STATEMENT BY WILLIAM G. DRESSEL, JR.,
ASSISTANT EXECUTIVE DIRECTOR OF
THE NEW JERSEY STATE LEAGUE OF MUNICIPALITIES
BEFORE THE ASSEMBLY ENERGY AND ENVIRONMENT
AND THE ASSEMBLY CONSERVATION AND NATURAL RESOURCES COMMITTEES
CONCERNING A-3300, THE "NEW JERSEY
CLEAN WATER TRUST FUND ACT"

MONDAY, MAY 7, 1990
11:00 A.M.
ROOM 418
STATE HOUSE ANNEX
TRENTON, NEW JERSEY

THANK YOU, CHAIRMAN SMITH AND CHAIRMAN DUCH AND THANK YOU MEMBERS OF
THE COMMITTEES. MY NAME IS BILL DRESSEL AND I AM THE ASSISTANT
EXECUTIVE DIRECTOR OF THE LEAGUE OF MUNICIPALITIES.

ALTHOUGH THE LEAGUE LEGISLATIVE COMMITTEE HAS NOT YET HAD THE
OPPORTUNITY TO REVIEW THIS LEGISLATION IN DETAIL, I AM HAPPY TO BE ABLE
TO TELL YOU THAT, CONCEPTUALLY, THIS IS THE KIND OF ENVIRONMENTAL
INITIATIVE THAT THE LEAGUE HAS CONSISTENTLY EMBRACED.

AS SOME OF YOU MAY RECALL, WE HAVE CONSISTENTLY CITED THE NEED FOR
INTERGOVERNMENTAL COOPERATION, IN OUR STATE AND IN OUR NATION. OUR
CITIZENS EXPECT THAT FROM US. OUR CITIZENS DESERVE NOTHING LESS. SUCH
COOPERATION IS THE KEY TO OUR ECONOMIC AND ENVIRONMENTAL FUTURE. AS
WE HAVE SAID IN THE PAST, EACH LEVEL OF GOVERNMENT MUST BE WILLING TO

— SERVING MUNICIPAL GOVERNMENT IN NEW JERSEY FOR 75 YEARS —

COMMIT ITS OWN UNIQUE RESOURCES TO THE BATTLE FOR CLEAN AND SAFE WATER. WE MUST ACT IN CONCERT, NOT IN CONFLICT. WE MUST BE ALLIES, NOT ADVERSARIES AND PERHAPS MOST IMPORTANTLY, WE MUST UNDERSTAND AND RESPECT EACH OTHERS ABILITIES AND LIMITATIONS.

WE ARE GRATIFIED THAT THE SPONSORS OF THIS BILL HAVE RECOGNIZED THESE SAME FACTS. WE ARE PLEASED THAT THEY HAVE RESPONDED WITH THE PROPOSED "CLEAN WATER TRUST FUND." BY CREATING SUCH A FUND, THEY WILL STRENGTHEN THE PARTNERSHIP ON WHICH OUR CITIZENS DEPEND.

OUR LEGISLATIVE COMMITTEE'S REVIEW MAY IDENTIFY SOME TECHNICAL CONCERNS WITH A-3300. IF SO, I WILL SHARE THOSE CONCERNS WITH YOU. BUT I WANTED TO USE THIS OPPORTUNITY TO COMMUNICATE OUR APPRECIATION TO THE SPONSORS FOR THIS TIMELY INITIATIVE AND I WANTED TO LET YOU ALL KNOW THAT THE LEAGUE SUPPORTS THE CREATION OF THE "TRUST" AND THAT WE LOOK FORWARD TO WORKING WITH ALL OF YOU TOWARD THE PROTECTION OF OUR ENDANGERED POTABLE WATER RESOURCES.

THIS CONCLUDES MY TESTIMONY AND I WOULD BE HAPPY TO RESPOND TO ANY QUESTIONS.

ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE
AND
ASSEMBLY CONSERVATION AND NATURAL RESOURCES COMMITTEE
JOINT PUBLIC HEARING
MONDAY, MAY 7, 1990
A-3300/A-2047

Good morning Chairmen, members of the Committees and Staff. My name is Bill Walsh, Manager of State Governmental Affairs of PSE&G (Public Service Electric & Gas Company). Thank you for the opportunity of testifying at this joint public hearing.

A-3300 and A-2047 seek to fund a series of projects for which monies generated by the Clean Water Trust Fund would be utilized. I don't think anyone would argue the projects to be funded - shoreline protection, restoration, maintenance and conservation projects, most of which sounds like capital dollars. All of these are important social goals. It is unclear as to how much of the matching federal funds are being raised through "Open Space" type bond programs and why these are inappropriate now.

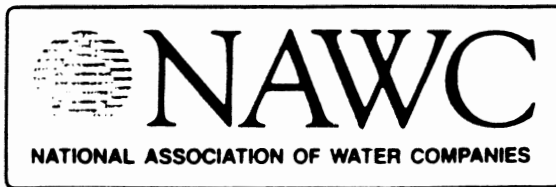
If the New Jersey Clean Water Trust Fund is to be a reality, it needs to be a very broad-based tax and one that insures no one group of taxpayers carries more than their fair share. In this case, I refer to electricity consumers who would be paying the lion's share of the proposed tax as a result of the amount of water used for cooling in electric generation. I must point out that water used for cooling is not consumed. There is a small component of evaporative loss and this can be calculated.

As I read the purposes for the funds in Section 6 of the bill, the impact of cooling water is not always clear. For example, in the cases of acquisition of watershed/wetlands property, maintenance of existing open space, establishment of new water impoundments, interconnection and extension of existing water supplies, flood control, and the restoration of reservoirs, the direct link between cooling water and these items is not apparent. For the prevention of salt water intrusion, the relationship is much clearer. However, the case of salt water intrusion has already been addressed by our Company and several others in response to requirements of the Delaware River Basin Commission (DRBC). Merrill Creek Reservoir, with a capacity of 16.6 billion gallons, had a capital cost of \$230 million and has an annual operating budget of approximately \$6 million. PSE&G has a 14% interest in this facility. We currently pay approximately \$250,000 annually to the DRBC for water diversion fees. Our NJPDES fees are approximately \$750,000 annually. Our costs for Merrill Creek are in excess of \$3.5 million a year. In total, the current water fees are in excess of \$4.5 million annually. User fees associated with the proposed F. E. Walter facility could add an additional \$1 million.

According to the bill, grants and low-interest loans issued from the Clean Water Trust Fund are available to

local government for "funding water resources and water quality projects." Would an upgrade of a local water or sewage treatment plant qualify, and if so, why should all taxpayers pay for an inadequate facility of one town? This should be paid for through the local tax base.

Any proposal advanced by this committee should recognize the contributions already made by electric consumers. In summary, we certainly support the social goals which A-3300 and A-2047 seek to fund. We stand ready to assist the committee in any way to insure that no individual group carries more than their fair share.



New Jersey Chapter

STATEMENT OF
THE NATIONAL ASSOCIATION OF WATER COMPANIES
NEW JERSEY CHAPTER
BEFORE THE NEW JERSEY ASSEMBLY
CONSERVATION AND NATURAL RESOURCES COMMITTEE
MAY 7, 1990

My name is Dennis Sullivan. I am the President of the New Jersey Chapter of the National Association of Water Companies. Ours is an association of investor-owned water companies that provide water service for approximately three million New Jersey residents. I am also General Counsel of Middlesex Water Company, which serves a number of communities in Central New Jersey. There are also several hundred small water companies who are affected by this legislation in the same way as members of N.A.W.C..

Our Association is strongly opposed to A-3300 and A-2047. These bills discriminate against our customers and are extremely expensive for all New Jersey residents.

1. These two pieces of legislation are blatantly unfair to the over three million New Jersey residents served by private water companies. A-3300 provides for low interest loans for local government units for the rehabilitation, maintenance and improvement of their systems. No funds are made available for private companies. This means that the State will take millions of dollars from our customers to provide money for the customers of municipal systems.

Presumably those other systems need help with maintenance, supplies and treatment. This presumably also means, however, that their customers have not paid for the maintenance, supplies and treatment.

Our customers, on the other hand, through their rates, have paid for the development of water supplies, reservoirs and storage,

have paid to have well-maintained and well-run systems, and have paid for water treatment. They will continue to do so.

Instead of being rewarded, however, our customers will be given a "double hit". In addition to paying for their own quality systems, now they will also pay for someone else's system. Conversely, customers of poorly maintained systems have "benefitted" (if that's the word) from lower rates and now they will benefit from the contributions of our customers. This is clearly unfair.

A-2047 also provides low interest loans for local government for the purchase of land and development rights for water supply. Here again our customers are discriminated against, and similar comments apply.

If the benefit of the low-interest loans is not made available to all water purveyors, then perhaps line 23 of A-3300 should be amended to indicate that the State's commitment is only to the health and welfare of "some of its citizens". If the benefit of the low-interest loans are made available to all water purveyors, at least that would show fair treatment to the three million customers supplied by private companies.

2. That would leave us then with only the question of the size of this tax increase. And that is the second area of my comments.

For our one company alone, the tax affect of 10¢ per 1,000 gallons is \$900,000 a year. That number may be as large as 4 1/2 million dollars, depending on interpretation. Does "diverted" mean "actual consumption", "safe yield diversion rights", or "total permits"?

Our Association estimates that over three hundred million dollars will be collected statewide each year under A-3300. Again, this number could be higher, depending on interpretation. If both bills are enacted, that amount would be tripled to almost one billion dollars annually. We are talking about a tremendous amount of money.

The \$8.00 per residential customer would result in an immediate four percent rate increase to our customers. This is only for direct costs. Additional amounts are to be factored in for indirect costs resulting from increased prices paid for electric power and other goods and services.

A tax increase of this size would also require private companies to file a full rate case before the Board of Public Utilities. Rate filings, as you know, are time consuming projects, in many cases costing hundreds of thousands of dollars.

Finally, the tax is hidden in the water rates. While those who enact the tax may see this as a benefit, it should be pointed out that this amount would not be deductible for Federal Income Tax purposes. A billion dollar tax increase. Do you really want a tax increase of this magnitude?

3. Our companies are in the business of treating and distributing water of the highest quality, not collecting taxes to fund State projects. More administrative personnel would be required, cash flow problems will arise, liability problems are possible. We do not want the business of handling large amounts of money to be passed along to the State.

We, therefore, request that you withhold this legislation because of the tax impact, the administrative burden it seeks to impose on us, and especially because of the unjust and discriminatory treatment of customers of private companies.

Thank you for the opportunity of making this statement.

DOC.2091K

May 7, 1990

PUBLIC TESTIMONY A3300

My name is Alfred Pagano and I'm the Environmental Affairs Manager at Du Pont Chambers Works Facility in Salem County, New Jersey. I'm testifying on behalf of the five (5) Du Pont facilities in the State and the New Jersey Chemical Industry Council.

This bill unfairly singles out industry and commercial establishments for an excessive tax burden and requires they supply the monies for the NJ Clean Water Trust Fund. Which, as a non-lapsing fund would be used for State water resources and water quality projects. These projects would provide grants and low interest loans to assist local government units in funding water resource and water quality projects.

These projects that provide for restoration, maintenance, and protection of harbors, inlets, channels, stream banks, lakes and shoreline protection, and water resource conservation projects impact all the citizens of the State and as such the costs for these should be borne by all citizens in ^{an} ~~the~~ equitable and fair manner.

The proposed legislation exempts farmers and doesn't increase the existing \$0.01 tax already imposed pursuant to the safe drinking water act on public water systems. It would be more equitable to include everyone who would benefit from these projects and to equalize the costs without exemptions; especially since industrial and commercial point source discharges contribute only a fraction (about 1.5%) of any pollution to the waters of the State.

A rate of \$0.10/1000 gallons is an excessive amount to levy only on industry and commercial establishments especially in light of all the other taxes and fees which have dramatically increased in recent months. At this rate e.g. the Du Pont Chambers Works water tax would be at least \$3.4MM dollars annually and for all five (5) DuPont plants in the State, the tax would be \$5.4MM dollars over what is now paid. At Chambers Works this nearly \$3.5MM dollars would be in addition to various other increased fees which in 1990 are estimated to approach \$1.5MM/year. This does not include other state and local taxes.

In conclusion, this bill and a similar one, A-2047 create an excessive burden on industrial and commercial establishments who are already heavily taxed and forced to pay ever increasing user fees.

May 7, 1990

PUBLIC TESTIMONY A20¹67

My name is Alfred Pagano and I'm the Environmental Affairs Manager at Du Pont Chambers Works Facility in Salem County, New Jersey. I'm testifying on behalf of the five (5) Du Pont facilities in the State and the New Jersey Chemical Industry Council.

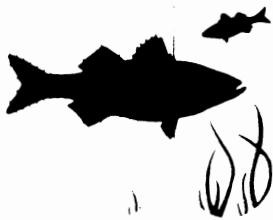
As we understand it, A2067 appears to tax everyone who takes water from any source to establish a New Jersey Heritage Trust Fund.

The rate of \$0.20/1000 gallons is an excessive amount to levy on taxpayers especially in light of all the other taxes and fees which have dramatically increased in recent months. At this rate e.g. the Du Pont Chambers Works water tax would be \$6.8MM dollars annually and for all five (5) Du Pont plants in the State, the tax would be \$10.7MM over what is now paid. At the Chambers Works, this nearly \$7.0MM dollars would be in addition to various other increased fees already approaching \$1.5MM/year - which does not include other state and local taxes.

One can argue that this increased tax could be passed on through product cost increases to customers. But these are not the only costs to be passed through to the consumer. The water purveyors themselves will in all probability ask for rate increases to pass onto consumers; and these increases won't include the normal peripheral water uses related to support of consumer needs such as laundries, food preparation industries, etc., whose costs would also have to be passed on.

In conclusion, this bill and a similar one, A3300, create an excessive burden on both corporate and private citizens who are already heavily taxed and forced to pay ever increasing user fees.

/AHP1091



PASSAIC RIVER COALITION

246 MADISONVILLE ROAD, BASKING RIDGE, NJ 07920 (201) 766-7550

May 7, 1990

Assembly Conservation and Natural Resources Committee
N.J. Assembly
State House Annex
Trenton, New Jersey 08625

Gentlemen:

Re: A. 3300 and A. 2047

Enclosed are ten copies of the statement we had anticipated presenting at the hearing on Monday. Unfortunately, the computer had problems with the printer, and by the time it got corrected, it was much too late to get to Trenton in time.

If you have any questions regarding our statement, please call.

Very truly yours,

Ella F. Filippone, Ph.D.
Executive Administrator

EFF/e
Encs.

cc: Duch
Ogden



PASSAIC RIVER COALITION

246 MADISONVILLE ROAD, BASKING RIDGE, NJ 07920 (201) 766-7550

Statement before Joint Public Hearing of the Assembly Energy and Environmental Committee and the Assembly Conservation and Natural Resources Committee, Trenton, New Jersey, May 7, 1990

Re: A. 3300, The "New Jersey Clean Water Trust Fund Act" and A. 2047, "The New Jersey Heritage Trust Fund Act."

Submitted by: Ella F. Filippone, Ph.D., Executive Administrator

Thank you very much for the invitation to comment on these two bills this morning. I have spoken to several members of the legislature regarding the use of a surcharge on water to provide a stable funding source for certain of our state's critical environmental needs. I am gratified that you picked up on the idea. However, never did I intend to have this funding source utilized as matching funds for Corps of Engineers projects. At the onset, both bills have many elements of merit.

While the Corps would certainly not be as benevolent to the Passaic River Coalition, certain projects may have merit. First, let's address the issue of the Water Resources Development Act of 1986. Getting money from the federal government should not be the prime determinant. A review of the act within the Passaic River Basin, with which I am most familiar, includes projects, which either should not be undertaken, should be evaluated as to their integrity, should be modified, and should be completed. Having worked countless hours with the Army Corps of Engineers on the East Bank Stabilization Project for the Lower Passaic River found in this act, only to have the Corps find "no federal interest" in the alternatives supported by the public, and a "federal interest" in the alternative which goes along with the notorious tunnel plan, gave us at the Passaic River Coalition considerable insight as to the workings of the New York District Corps of Engineers. Thus, we suggest that if funds are to be used from the water surcharge for any project found in any Water Resources Development Act, whether it be 1986 or some subsequent one, that (1) the N.J. Department of Environmental Protection undertake an independent review of environmental impact and economic benefit to the State; and (2) local municipalities be required to sign off on the need for such projects.

While we agree that we must do all we can to "protect our citizens from natural disasters," we respectfully request that this law exclude from further consideration any funding by the State of New Jersey for the Dual-Inlet Tunnel Project for the Passaic River Basin. The manner in which this bill is written would allow for such funding.

Frankly, when we perceived a surcharge on water, we were thinking more along the lines of placing a high priority on acquiring watershed lands, flood plains, wetlands, and aquifer recharge lands. We would now add to that list wellhead protection areas and greenways alongside our major rivers and streams. These should be the highest priorities.

Under the New Jersey Water Supply Master Plan, policies and projects are identified, eligible for funds from the Water Supply Bond Act, which deal with the establishment of new water impoundments, the interconnection of existing water supply systems, the extension of water supplies into areas with polluted groundwater supplies, and others. The Master Plan is currently undergoing a major revision, which will shed considerable light on the needs of the state for the future. Structural elements should be considered, as in the past, under a bond act and not as a "Clean Water Trust."

Restoration of ponds, lakes and reservoirs, repair and restoration of dams, prevention of salt water intrusion, shoreline protection, etc. all relate to a clean water program. However, while we perceive a need for flood control, this element of water management should not be included in this bill, as it does not relate to a water quality issue directly.

Section 4. c. indicates that a local government should match the grant requested as specified by the DEP. We would prefer to have the legislature establish the percent match.

Section 5. the plan should also identify for the legislature any public objections to a project presented by the DEP.

Section 6. (1) add wellhead protection areas and stream corridors. (4) eliminate - already funded under Water Supply Bond Act. (5) limit flood control to dam restoration and repair; (8) subject to those checks and balances mentioned previously in this statement, and a stated exclusion of funding for the Passaic River Tunnel Project.

A. 2047 - a somewhat similar intent exists in this bill as in A. 3300; however, it much more of a land conservation bill, seeking to pursue the preservation of open space, agricultural lands, or natural resources. We certainly support the intent of this legislation also, but as stated previously, the use of any surcharge on water should have a direct bearing on the state's water needs.

We are sure the water purveyors will have a great deal to say about the amount of tax, if any, that should be levied for these purposes. However, note must be taken that we, in New Jersey, have serious pollution problems, and have given little attention to watershed management issues.

Both bills contain elements, which in our opinion, do not belong

In a trust whose income is based on a water surcharge. While it is not absolutely necessary that every cent revert back to water protection, because New Jersey has never done anything directly for this purpose, all funds at least for the next five to ten years should be devoted to acquisition of watershed lands, wetlands, stream corridors (including those in the urban areas), wellhead protection areas, and aquifer recharge areas. If we are to undertake such a meaningful and worthwhile program, we are going to need vast amounts of money.

Inasmuch as DEP is currently working on a wellhead protection program, a process will be established by the end of 1990. However, the study which has been completed under the Water Supply Master Plan for watershed protection does not provide guidance for a protection program. Therefore, we suggest that funds be included in this bill not only to undertake a more comprehensive study on how best to proceed with reference to watershed lands but also that 1 percent of the funds from this bill be allocated to special studies when needed, such as the development of a Master Plan on watershed protection. In addition, we would urge the legislature to look to us in the nonprofit sector to participate with the DEP in the decision-making process and with regard to research and planning for this trust. From our point of view, the watershed associations of this state have long held a tradition of undertaking specific studies within their region; they know their system best.

In summary, both bills have their pluses and minuses. Hopefully, our comments have provided a path to follow. Again, thank you for the opportunity to comment.



New Jersey-American Water Company

ADDRESS REPLY
500 GROVE STREET
HADDON HEIGHTS, NJ 08035
(609) 547 3211

FILE NO. 20-774

May 4, 1990

Mr. Spiros J. Caramalis
Office of Legislative Services
Room 350
CN-068
Trenton, NJ 08625-0068

Dear Mr. Caramalis:

As you may be aware, New Jersey-American Water Company is the largest investor-owned water utility in the state. We provide service to approximately 305,000 customers located in 110 municipalities.

We are concerned about Assembly Bill #3300 which was introduced in the Assembly on March 22, 1990. The bill in its present form proposes a tax on utilities and water suppliers who hold permits to divert water pursuant to the 1981 Water Supply Management Act. This act proposes a tax of \$0.10 per thousand gallons of water diverted annually.

As an officer of New Jersey's largest investor-owned water purveyor and as a resident of New Jersey, I am deeply concerned that the Assembly would consider imposing a tax on utilities and water suppliers which will simply be passed onto the residents of our state. Since this legislation proposes to implement a tax on so many residents of the state, I feel it would be more honest and equitable for the Assembly to fund the required programs through general revenues, even if this requires income or property tax increases.

In its present wording, Assembly Bill #3300 is broad and by its definition includes water purveyors, water departments and municipal utility authorities among others. It further indicates that businesses, electric utilities, mining operations, federal facilities, institutions and industries will be taxed similarly to water suppliers even if they do not hold allocation permits but divert water from their own wells or reservoirs.

According to information released by the Department of Environmental Protection concerning water use, with 1987 being the latest available data, "persons holding allocation permits diverted 601,041 million gallons of water during that year." Considering a tax of \$0.10 per thousand gallons of water diverted, the total burden on the residents of

22X

this state would amount to \$60,104,000. These figures, which represent the significant impact of this tax, do not include self-supplied commercial and industrial users who I am sure would also realize a significant tax burden.

Based on 1989 information, the tax liability would equal more than \$3.5 million for New Jersey-American Water Company. This tax burden will result in an added annual cost of approximately \$12.59 to each of our customers and notably increase the taxes to which they already contribute.

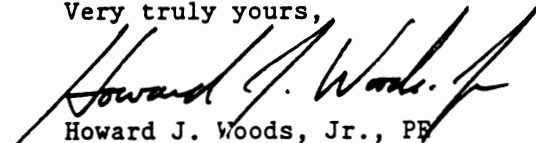
In its present wording, the tax also provides for revenues that would fund improvements to harbors, inlets, channels and shorelines. This hardly seems justified for a tax that is based on drinking water diversions. The funds generated from this tax, if enacted, should be used only to protect public water supplies or other related industrial and commercial uses.

Furthermore, I wish to express my total opposition to the concept that only units of local government have access to these funds for improvement. Since 42% of the state's population obtains its water from investor-owned water supply systems, the funds for approved projects should be available to public utilities as well as units of local government. In the areas we serve, we are in fact responsible for nearly all of the activities assigned to "local government units" by definition. If this legislation goes forward, changes in its text would be vital for the inclusion of private water purveyors having access to these funds.

I would also suggest that, if any money is made available through such a program, it be made in the form of a loan which can be repaid by operating revenues to the New Jersey Clean Water Trust Fund established by this act. Grants will only serve to obscure the true cost of providing services, thus sending the wrong price signals to those placing a strain on the water resources of the state.

New Jersey-American Water Company takes seriously its responsibility to respond to and participate in legislation which promulgates significant economic impact on the Company's constituents. Assembly Bill #3300 more than merits our active concern and interest. If I can be of assistance to you in your consideration of this bill, please call me at 609-546-2272.

Very truly yours,



Howard J. Woods, Jr., PE

HJW:vmd

