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PUBLIC HEARINGS

before
New Jersey, Legislature.

ASSEMBLY, ENERGY AND NATURAL RESOURCES *Committee.*

and

ASSEMBLY AGRICULTURE AND ENVIRONMENT COMMITTEES

on

SENATE, NO. 1179
(Energy Facility Siting)

Held:

July 18, 1978
Hartley-Dodge Memorial Building
Madison, New Jersey

July 28, 1978
Assembly Chamber
State House
Trenton, New Jersey

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VOLUME III
July 28, 1978

MEMBERS OF COMMITTEES PRESENT:

Assembly Energy & Natural Resources

Assemblyman John H. Froude,
Chairman
Assemblywoman Rosemarie Totaro
Assemblyman George J. Otlowski

Assembly Agriculture & Environment

Assemblyman Thomas F. Cowan, Sr.
Assemblyman James J. Barry, Jr.

ALSO:

Norman Miller, Research Associate
Legislative Services Agency
Aide, Assembly Energy and Natural Resources Committee

Michael F. Catania, Research Associate
Legislative Services Agency
Aide, Assembly Agriculture and Environment Committee

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ASSEMBLYMAN JOHN H. FROUDE (Chairman): I would like to call this public hearing to order. We have what I guess we can call a skeleton crew. In theory, this groups represents both the Agriculture and Conservation Committee and the Energy and Natural Resources Committee of the Assembly. We have here the following members of the Energy and Natural Resources Committee: Assemblyman Olszowy, Assemblywoman Totaro, and I am John Froude, Chairman of the Energy and Natural Resources Committee.

We are interested in testimony concerning Senate Bill 1179, called the Energy Facilities Siting Bill.

I am going to call first Doug Forrester, who, as I understand it, is going to make a statement on behalf of the Minority Leader in the Assembly, Assemblyman James Hurley. Doug works as a staff person for the minority party and will join us at the table. He has been working closely with us on the Committee. He can begin with his statement and then he can resume his role as one of us.

D O U G L A S F O R R E S T E R: Thank you, Mr. Chairman and members of the Committee.

I am here this morning on behalf of Minority Leader Jim Hurley. I would first like to say that Assemblyman Hurley feels very badly that he cannot be here this morning. Due to circumstances beyond his control, he is unable to attend. Nonetheless, he does thank you for holding the hearing.

I will make my comments brief this morning on behalf of Assemblyman Hurley because most of the points that he would make in opposition to the bill have been made at past hearings.

Assemblyman Hurley would like to go on record in opposition to S 1179. His main concern focuses on the classic issue of home rule versus State interest. He is concerned that S 1179 amasses a great deal of power in the office of the Commissioner of Energy and, in effect, in the office of the Governor. He does not feel that it is warranted.

He mentioned that he has not received so many comments from so many people as he has on this bill. There is a great fear among his constituency and among many of the other people that he has contacted throughout the State that this taking of power away from the municipalities and localities is going to be very, very damaging in the long run. He is concerned that the term "energy czar" is applicable, not at this point to Commissioner Jacobson. He is not speaking ill of the Commissioner. But there is concern that in the future with this sort of authority centralized in one place, it is going to be damaging to the interests of the State in the long run. It is at least imprudent that we would put so much power in one place.

Assemblyman Hurley will be making further comments on S 1179 at further meetings, but he did want to take this opportunity to speak out in opposition to the bill.

ASSEMBLYMAN FROUDE: Thank you, Doug. Does any member of the Committee have any questions?

ASSEMBLYWOMAN TOTARO: Doug, does this represent a party position or is it just an individual comment?

MR. FORRESTER: No, these are the sentiments of Jim Hurley as Minority Leader, but not of the party as a whole.

ASSEMBLYWOMAN TOTARO: Thank you.

ASSEMBLYMAN FROUDE: Fine, Doug. You can join us now.

May I call upon Dr. David Morell from the Center for Environmental Studies at Princeton University.

D A V I D M O R E L L: Thank you, Mr. Chairman.

As a research political scientist at Princeton University's Center for Environmental Studies, I have been conducting research for the past several years on energy facilities siting, both generally the process by which we make siting decisions and, specifically, a number of case studies in New Jersey. One such research project has resulted in a report for the U. S. Energy Research and Development Administration (ERDA, now the U.S. Department of Energy), entitled "State Legislatures and Energy Policy in the Northeast: Energy Facility Siting and Legislative Action." A revised version of this study, one copy of which I have brought along and I believe other copies have been made available to this Committee earlier -- a revised version of this study, which explores state siting statutes and legislative policies in the eleven states of the Northeast, is scheduled for publication by the University Press of America later this year. Another research project, sponsored by the New Jersey Department of Environmental Protection and the U. S. Federal Energy Administration, resulted in the report entitled "Who's in Charge? Governmental Capabilities to Make Energy Facility Siting Decisions in New Jersey." I believe that these two studies have given me some insight into this State's siting process for energy facilities in comparative perspective with those of ten other states with which we share the Northeast.

In many ways, it is my opinion that S 1179 is an excellent piece of legislation, giving much needed emphasis to site planning, accelerated permitting, and development of a state siting strategy for new facilities instead of the existing purely reactive stance. I am pleased to see in the statute some of this thinking which originally came, at least to some degree, out of my own research in the "Who's in Charge?" study. It also calls for the implementation of buffer zones to keep energy facilities at arm's length from society.

Having said that, however, let me make my position on the bill clear. I oppose it as written because I am very concerned about the implications of several features of the bill, in particular the extreme centralization of decision-making authority in this vital area of public policy. The override power as presently stipulated threatens to overturn a balanced and rather effective, if imperfect, structure of governance over siting decisions in New Jersey. As such, these provisions pose a deep potential threat to future environmental quality in the State, to public participation in a vital area of public police and, in the end, speaking as a political scientist, they pose a deep potential threat to political legitimacy in this State.

First, however, let me turn to several other issues and then conclude with some alternative suggestions for a new siting process which could combine decision-making efficiency with appropriate political equity for New Jersey's citizens. I think that is what we ought to be seeking: this combination of efficiency and equity, efficient decisions and political equity.

First, let me note the issue of the need for energy facilities. The Department of Energy's function in determining the need for energy facilities is a pivotal role of this agency. Prior to site selection, the basic decision must be made on whether an energy facility is truly essential. Such decisions must

be made based on many components of conservation and use of alternate forms of energy, including solar. Determination of rates of energy growth based not on the traditional assumptions of "more equals bigger and better," but on the new energy conservation ethic, efficiency of energy use, not abstinence, will become the fundamental decision upon which the State's energy facility siting destiny will be determined.

One of the most difficult issues in energy facility siting is the determination of the appropriate geographic aggregation for making this need determination. Local, state, national, world'- what level of geographical aggregation is appropriate? What kinds of facilities, in particular, may be essential to the national interest of the United States, but at the same time may be deleterious to New Jersey's own environment? This issue of "national interest" has been a vexing problem for implementation of the federal Coastal Zone Management Act ever since its passage in 1972. And the material published by the federal Coastal Zone Management on the issue of national interest is, in my opinion, by no means adequate. In DOE's siting plans for New Jersey, are such National-interest facilities needed in New Jersey? In my opinion, S 1179 should be modified and amended to include specific criteria of legislative guidance to DOE in making such need determinations and in dealing with the issue of national versus state perceptions of need.

We turn next to the issue of energy clusters. For a variety of reasons, I believe that there is indeed merit in the concept of clustering certain energy facilities in specified locations, as, indeed, is called for in S 1179. I would strongly urge you, however, to term such areas "energy clusters" rather than "energy parks," the phrase now used in the statute. This latter term of "energy parks," to me at least, sounds too pleasant and bucolic to really describe what we are talking about. An "energy cluster" certainly is not by most people's definitions a park and it will not manifest the characteristics of a park, as is evident to anyone who drives today on the New Jersey Turnpike through an energy cluster.

Buffer zone implementation is the next point I would like to cover. I support the idea of locating major energy facilities within a sizeable buffer zone, to keep them at arm's length from the society they are designed to serve. However, in my opinion, S 1179 needs additional specificity regarding land use controls and their implementation within the designated buffer zones subsequent to the identification of such zones. A recent California statute on the siting of liquefied natural gas facilities, for example, contains explicit authority in this regard to insure that once the buffer zone is designated it remains as a buffer zone in perpetuity. In contrast, for many years until the Department of Environmental Protection of New Jersey finally took action, nothing was done to control housing growth around the Oyster Creek Nuclear Power Plant in Lacey Township of Ocean County, rendering this facility at Oyster Creek increasingly impacted by nearby intensive residential development. I would suggest adding phraseology in 1179 to insure that the buffer zones created remain buffer zones and don't have intensive housing or other development located in them later on.

Let me turn now to the more important, and as you well know, more controversial issue, the removal of local permitting authority, as now stipulated in Sections 13 and 32b. In my opinion, it is essential that strong local input in

energy facility siting be maintained. Let me call your attention to New York State which fosters such input in its Power Planning Siting Law by mandating that local governments be compensated for obtaining expert advice and testimony in the public hearing process. The applicant for a power plant in this case must make available \$25,000 for this purpose, municipal expert advise, the unspent portion of which is returned after completion of the hearings. Such a mechanism might be used in New Jersey to increase the effectiveness of local input into State public hearings on energy facilities.

I would go further, however. I am concerned that S 1179 goes too far in shifting decision-making authority from local to State hands. County energy facility siting plans are fine, but where is the authority to implement them? - Not at the county level, in DOE. I suggest that public participation in an effective, meaningful siting process will occur only if local or county governments retain the authority to decide, not just to plan. Planning will not excite the level of public participation which decision-making authority by its very nature will attract.

This is not, however, a recommendation for a total local veto power over major energy facilities. To me, that extreme of home rule autonomy is just as unacceptable as is the complete absence of a local decision-making role as now stipulated in the bill as proposed. Instead, I believe that local governments must be given the explicit authority to act on a permit application from a major energy facility, not just to plan but to say "yea" or "nay" to such a facility, based on local perceptions of the facility's merits and defects - explicit local authority to make a decision "yes" or "no", from their own point of view in Lower Alloways Creek or Salem or Princeton Township, or wherever - "yes" or "no." However, subsequent to such a local decision, I believe that the State should be given the authority to override a local rejection of a major facility or to reject local approval of a major facility. We are talking about a sequence of events, first, local, and then, State. However, when I look at the issue of State override authority, I firmly believe that this immense power should be vested not in the New Jersey Department of Energy, whether headed by the present Commissioner or by some subsequent Commissioner, nor, indeed, in the hands of the Governor, but in the hands of a citizen advisory panel like the present Natural Resources Council, or in the hands, preferably in my view, of the Legislature itself - not delegated by the Legislature, but a decision retained in the hands of the Legislature, acting as the elected body for the citizens of this State. These are extremely important and controversial political decisions to override local rejection of an oil refinery, a pipeline landfall, a nuclear power plant, etc. They involve by their very definition an explicit affront to home rule and local autonomy to determine their own land use and environmental destiny. In my opinion, to exercise such override authority is a form of domestic imperialism. As such, such a decision requires strong participant roles far beyond testimony at public hearings by Executive Branch agencies. They require, in other words, a political decision by the pre-eminent political agency in the State, the elected Legislature.

Indeed, in two other states of the Northeast, Legislatures have acted to retain explicit siting authority over major energy facilities. Rhode Island in 1974 and Vermont in 1975 passed legislation vesting final approval or denial authority to the State Legislatures, themselves, over all proposed nuclear

power plant construction. In Rhode Island, this authority also includes oil refineries. In addition, the legislatures of three Northeastern states - Connecticut, Massachusetts and Rhode Island - have passed legislation providing for local decisions by referenda over all oil refinery siting proposals. A local referendum must approve an oil refinery if it is to be build in Connecticut, Massachusetts and Rhode Island.

Legislative approval on important or controversial energy facilities would provide the checks and balances and the participatory involvement in far-reaching energy facility siting decisions, as opposed to total reliance on Executive Branch officials.

Furthermore, let us look at the Department of Energy power to override authority over other State agencies now set forth in S 1179. Especially in New Jersey, where as we all know environmental degradation remains a serious public health problem, it is essential that the environmental aspects of energy development not be relegated to a subordinate role. Energy development is important, so is environmental protection. Most energy facilities are large contributors to air and water pollution. State environmental standards must become and remain a paramount consideration in making decisions on all energy facility siting proposals. In my opinion, the New Jersey Department of Environmental Protection should retain its primary role in energy facility siting in order to protect the citizens of the State, not only in the coastal zone, so-called CAFRA zone, but in the State as a whole. DOE override of DEP decisions may, in the future, diminish the public health and environmental considerations which today are included in our State's energy development decisions. Again, it would seem preferable to vest any necessary override in the Legislature itself or in a citizen panel rather than in a three-person body, as presently stipulated in 1179.

Let me turn next to the issue of riparian decisions and the role of the Natural Resources Council. At present, the Natural Resources Council within DEP retains strikingly important authority over siting decisions in areas covered under this State's public trust doctrine for riparian lands. It is a very important citizen body. While increasing our capacity in New Jersey to plan and manage for needed energy facility development, which I support and endorse, I feel that it is vital not to undercut the independent power of this existing citizen panel. And I ask you to think about the question of whether the proposed floating nuclear power plant off the shores of New Jersey will be improved under S 1179, if it is passed as now written, without true citizen input which would be required under the authority of the Natural Resources Council to make riparian decisions in the waters offshore, authority which exists under existing statute for the Natural Resources Council.

In conclusion, a balanced energy facility siting process, with appropriate levels of authority provided explicitly to local governments as well as to the State, to environmental as well as energy agencies, to citizen panels as well as technocrats, and to the elected Legislature as well as to the Executive Branch, is by no means a panacea to solve all the complex political problems involved in determining the locations for new energy facilities. Far from it. Yet it is a structure within which the legitimacy of siting decisions can be introduced into a political process from which it is generally absent today, and certainly absent from S 1179 as now written. And it is a balanced process in which domestic imperialism, the exploitation of one areato the benefit of another, can at least

be understood openly rather than hidden behind the doors of the regulatory agencies and the pronouncements of the experts. One way or another, people in a democratic system are going to demand a voice in the major decisions that affect their lives. As energy facility siting decisions increasingly impinge on local community autonomy and even of State land use destiny, the overall siting system will have to devise improved mechanisms to meet this demand for a voice in their own destiny. A 1179 contains many important features, but requires modification to ensure that appropriate balance is maintained. Without such modification, I oppose passage of this bill. Thank you.

ASSEMBLYMAN FROUDE: Thank you, Dr. Morell. I am sure other members of the Committee have some questions. I would like to begin by asking you: Have you taken the bill in line-by-line fashion and are you now able to provide us with specifics as to where changes are to be made and what changes you are advocating?

DR. MORELL: I have, of course, studied the bill line by line, but I am not in a position to respond at this moment verbally to such an important suggestion, as specific changes. I would be pleased to do so in writing and to provide the Committee with line-by-line recommendations at a subsequent date. I would rather not do so now, except if you had specific issues you would like to explore while I am here. Rather than take it line by line from the top at this point, I would much prefer the chance to contemplate a little more on those recommendations.

ASSEMBLYMAN FROUDE: I would like the Committee to have your thinking at that level. No one, I think, would argue with your desire to put in balance the number of factors that you indicated. I suspect there are some advocates for this bill who would lay claim to the fact they have done just that. Whether they have or not is what we are trying to determine.

DR. MORELL: My contention obviously is that they have not.

ASSEMBLYMAN FROUDE: Right. I am rather interested in the override procedures that you have recommended to us as alternates to what we have in the bill. You are indicating that it should come back either to the Legislature or to --- What council were you making reference to?

DR. MORELL: I recommended the Natural Resources Council, now set up to implement the public trust doctrine riparian decisions, really not as a council, itself, but as an example. I believe it consists of nine or eleven members, citizens appointed by the Governor. They have a variety of backgrounds. They serve on a part-time basis.

My preference, as I said, would be to do it in the Legislature, itself, with hearings in the Legislature and in the way in which decisions are made in an elected Legislature. But if that were felt to be too cumbersome, a citizen advisory panel, either the Natural Resources Council or one like it, set up specifically for this purpose, would seem to me to be preferable to the Commissioner of Environmental Protection, Commissioner of Energy and a third individual appointed by the Governor, as now suggested in 1179. But, of course, the importance of the override provision, as I suggested, in the Legislature is that it is an override of what? An override of a local decision. It could be limited by time. The locals could be given 90 or 180 days to reach a "yes" or "no" decision, after which time one could say: All right, if you haven't done something at the local level by 180 days or whatever - I would want to think about

the specifics of that - then it is assumed to be a "yes" decision. So they are under the gun not to stall forever. I am not arguing for a system that stalls, but for a balanced system that provides true local input, which in my view can be provided only by the authority to make a real decision.

ASSEMBLYMAN FROUDE: That authority to make a real decision, of course, is one of the difficulties - in fact, it might even be the crux of the matter that we are dealing with here.

DR. MORELL: Yes.

ASSEMBLYMAN FROUDE: Some of us are concerned that we not set up what in essence is a hypocritical situation where we are saying to the locals, go ahead and make your "no" decision, but in fact we will possibly override it.

In looking at this bill, there is opportunity for locals to indicate their thinking on this matter and for counties to do the same. I would be interested in pursuing that further with you.

DR. MORELL: Certainly, Mr. Chairman. There is indeed provision for an indication of local feelings and there is indeed a provision, reasonably good provision, for county energy planning of necessary siting in a county like Ocean or Cape May or Hudson. Those are good provisions, but they don't go far enough. I have not yet seen a planning exercise which attracts the level of public interest as a decision on power plant siting, such as the decision on a proposed oil storage terminal in Port Jersey with the Steubber case a year or two ago. It is, in fact, the decision which attracts the level of concerned citizen interest, the level of attention. How many plans have we all seen that are written - the consultants' full employment act that writes plan after plan with very little in the way of citizen interest. But when one is reaching a decision, citizen interest is much more intense.

ASSEMBLYMAN FROUDE: Doctor, may I just interject something at this time?

DR. MORELL: Yes, Mr. Chairman.

ASSEMBLYMAN FROUDE: You are at least forcing me in my thinking to go to the extreme pole with your advocacy. I am wondering whether we can't meet some kind of common ground prior to that. I am really concerned that we are maintaining the status quo if we go all of the way over to local control. I can see where local control on these matters might indeed work against the public interest of the citizens of the State.

DR. MORELL: I fully agree, if control were total.

ASSEMBLYMAN FROUDE: I am not sure that veto power is essential to an interest in making the proper decision.

DR. MORELL: If, indeed, it were a veto power, I agree. I am not suggesting a veto power.

ASSEMBLYMAN FROUDE: What are you suggesting?

DR. MORELL: I am suggesting a sequential series of actions in which someone proposes a facility - that is step one - local or county - and I frankly haven't thought through fully whether it ought to be one of the 567 municipalities or one of the counties - but then one of the two then has a period of time - let me suggest a half year, 180 days - in which to make a "yes" or "no" decision on that proposal. Subsequent to that, that decision stands unless the State in the interest of the citizens of the State, or indeed of acting in the national interest, overrides

that local decision, but through provisions of some difficulty - it would not be easy, I suspect, for a Legislature to act to override a local decision --- It would be possible, but not easy. Obviously, the fundamental political power of the local municipalities rests with the State under the Constitution - rests here with the State Legislature. Municipalities in the law, as I am sure you know, but for the record, are termed creatures of the State. But it is not easy, in my opinion as an observer and political scientist, for a Legislature to override the true wishes of the citizens of a local area, though it is possible.

So I am suggesting if it really is in the State's interest to have a pipeline come ashore at point x and the citizens who reside near point x say, "No, we don't want it there," then provision must exist in my view for the State to be able to override the citizens of point x. But point x individuals in my view must be allowed first to say, "No, we don't want it," and not say it by testimony of a few of them coming in, but in their own political process locally. In my view, they should be given that right. And, secondly, the State must be given override authority, which it already has, of course. One could pass a separate law as the Congress did with the Alaskan pipeline in overriding the National Environmental Policy Act, NEPA, and saying, "We are going to build the Alaskan pipeline." Legislatures under our national and state constitutions have this authority. I am simply asking that it be made explicit in an important statute like this, with procedures established - and I will be happy to put some thoughts in writing of specific procedures - for legislative or a natural resources citizen panel override action, not a total veto, not a return to the status quo, but an explicit process of sequencing at which there is first local and then State action.

Indeed, as I am sure the members of the Committee know, but for the record, all decisions in a political system can be overridden - by judicial determination that they are unconstitutional, by challenges under litigation. Some decisions of states can be overridden by the federal government in our federal system, both on constitutional grounds and through the actions of the American Congress at the national level.

What I am suggesting with the importance of major energy facility siting determinations in a densely populated, polluted state like ours is that we make explicit a process of first local and then State action, not total veto, but not total centralization.

ASSEMBLYMAN FROUDE: Zero in, if you will, on that State action, just briefly, and subject to change when you render it into writing. What kind of State action do you see? A municipality says "yea" or "nay." We will say it says "nay" and the public interest seems to be counter to that. Where would you see the next step as being? Certainly not -- well, I shouldn't say "certainly not." I would prefer it not to come to the Legislature. I am not so sure that the Legislature might not decide on that issue at three o'clock some morning as part of a purely political package, rather than environmental and energy consideration.

DR. MORELL: I am glad you put that into the record, Mr. Chairman, rather than I.

ASSEMBLYMAN FROUDE: I am more than willing to do that, Doctor.

DR. MORELL: Let me say I endorse what you said, but to state, therefore, if indeed that is the best we can do as a political system, then I will place my faith in it and as a constituent I will do my best to ensure, through my own

testimony and whatever else I might do and my friends and colleagues might do, to get that decision made at three in the afternoon when people are perhaps a little more awake or maybe before lunch even, rather than at three o'clock in the morning.

I happen to believe and I would suspect that most, if not all, of the members of this elected body also agree that for all of its imperfections, this is a body which is responsive to the real wishes of the citizens. I have no problem with saying that decisions are made in a political process. It is not always perfect. How else are we to know what the true State interest is in overriding the interests of the citizens of municipality x on a pipeline landfall or a nuclear power plant at which they vote eight to one against it, and someone sits here and says it is in the State's interest to build it. How do we know that? I feel we know that better by the members of these two chambers - this one and the Senate - making that decision the best way they can than in relying totally on appointed experts to make that decision for them. It may be a responsibility which the elected members of these two bodies would prefer not to have. But I can sit here and recommend that that is where, in my opinion, it belongs.

ASSEMBLYMAN FROUDE: Very interesting, Doctor.

Assemblyman Olszowy.

ASSEMBLYMAN OLSZOWY: Dr. Morell, I will be very brief. I have two short questions. I am very much interested in your statement of the buffer zone implementation and keeping the public at arm's length. What is your recommendation as to the distance of a buffer zone?

DR. MORELL: I would prefer to defer until I can provide details in writing. Let me say that it clearly will be different from one kind of facility to another. I would think that, at a minimum, around a nuclear power plant, the 4- to 6-mile buffer zone being implemented under the CAFRA statute at Oyster Creek and the Salem HopeCreek Complex is an acceptable minimum to me.

ASSEMBLYMAN OLSZOWY: That is most important to me because I think that excludes at least 40 percent of the State. And it means we are faced basically now with a South Jersey problem rather than a North Jersey problem.

DR. MORELL: For something like nuclear power plants, I think that is correct. If we need more nuclear power plants in this State, an issue which I don't necessarily assume the answer to which is automatically yes - but that is the subject of a different hearing basically -- if we need more nuclear power plants in the State, I don't think they do belong in densely populated North Jersey. So I have no problem with buffer zones or other regulations which would keep them out of the densely populated areas. For other energy facilities, the buffer zone might be a quarter of a mile or half a mile. For liquefied natural gas, it would be very large.

ASSEMBLYMAN OLSZOWY: My second question basically is what Assemblyman Froude was alluding to, home rule versus State authority. At this time, with Mr. Froude's permission, I would like Doug Forrester, our aide, to make recommendations of something we found which may be a partial solution to home rule versus State rule.

MR. FORRESTER: I don't know whether it is strictly appropriate at this time. But perhaps it would be helpful to have our input on this. It seems that the home rule question comes up again and again and again. It is really the

crux of the matter. How is it that we are best going to serve the interests of the State? I think the home rule question can be taken on two levels. One is purely a pragmatic level. Is it helpful to have the State override a local decision just so it can put something in a place that is politically expedient? Another level really concerns a political theory which I think is absolutely essential to this kind of a discussion.

We have been thinking about how to reconcile State interest versus home rule. I am sure you all have been doing this for a long, long time. But it seems that if we think of the problem in terms of, let's say, the problem of eminent domain, of a municipality coming into a small area and taking an individual's property for the interest of that municipality, and we apply that to a State level, the State going to a smaller area, namely, a locality, and taking the land necessary - of course, the land would be paid for -- but perhaps it would be helpful to toss around the idea of also compensating the municipalities above and beyond the gross receipts tax. If the State is going to override and violate the integrity of a municipality in so far as its decision goes, perhaps they ought to pay for it and pay a substantial sum. This payment would not necessarily have to be monetary. It could be --- Well, I don't know what it could be. I suppose there are a variety of possibilities. But if both the energy company and the State were to pay for overriding the local decision, perhaps they would think twice before they would go into an area that opposed a plant.

Since Emil brought this up now, perhaps these comments would be helpful. But I am interested in your ideas.

DR. MORELL: Mr. Chairman, I believe that Mr. Forrester has suggested really two items on which I would like to comment.

First, the practicality of the State override versus leaving the status quo situation of municipal veto authority - I think it is both practical and essential that procedures be established to move beyond the present system into one in which some kind of override exists; in fact, that already exists. You could pass a law overriding objections to a floating nuclear power plant and giving that riparian land to the applicant if you wanted to. That is your authority as I understand the State Constitution. But to make it explicit in the siting process so we as citizens understand and know how it will work from the beginning and know what the rules and procedures are, is to my mind a great advantage.

In terms of the theory of home rule over State authority and in terms, of course, of federalism, the basic nature of a federal political system, fifty states versus the national interest - that is why I raised the issue of national interest in my testimony - there are some very important and very troublesome issues with respect to federal override of states, as in nuclear energy where the federal government under the existing Atomic Energy Act and Supreme Court decisions has pre-empted authority over the states and in the field of natural gas siting, where a national gas facility was sited in the Hackensack Meadowlands over the decisions of the HMDC by the Federal Power Commission, operating under federal pre-emptive authority. It was not even local home rule, it was State rule in this case being pre-empted. They are tough issues, the toughest issues in a federal political system when you want federal good guys to do good things, but federal bad guys not to do bad things. Apply the same thing at the State level - home rule versus local authority.

It is very difficult. You want the State to make the right decision in the State's interest and to override municipal action which is being too parochial and wanting the wrong things. But you don't want the State to make the wrong decisions to override the authority of the citizens of area Y who want to pursue their own destiny and some bad guy at the State level is saying, "No, you can't do that." How do you set up a system that allows that? You don't ever have a perfect system. The system is as perfect as the people in it. But, at least, you set up a system of checks and balances and of sequential decisions and not in my view totally centralizing this authority, first, in the hands of the Commissioner of Energy and, if there is a problem with DEP, in a three-person body, which is, I suspect, in almost all of those cases biased for the applicant and the energy development rather than environmental protection. I think that is how the system would work. I would rather place that override authority in the more cumbersome decisions of an elected Legislature.

Now, as to the idea of compensation, I have problems with that and I could argue either way on that one and it is a complicated matter. In a way, one would like to see adequate compensation for the exercise of override authority. On the other hand, it comes too close to formal and explicit bribery for me to really like it. The gross receipts and franchise tax already does this. The pursuit of the tax ratable in making decisions on a shopping center or a major industry - and to heck with the traffic in the next municipality or the pollution downwind - poses already many of the difficulties of overly compensating through fiscal mechanisms for environmental degradation and for the exercise of authority in one jurisdiction that harms another one.

The kinds of fiscal imbalances we already see at Lower Alloways Creek in Salem County with millions of dollars in gross receipts taxes going to a township of 1410 people, the kinds of housing developments stimulated in Lacey Township within a buffer zone because of the low property tax in Lacey, given the millions of dollars being paid to that community under the gross receipts tax because of Oyster Creek -- those sorts of mechanisms, I think, pose serious problems.

I would be pleased to respond more in writing on this issue of what kinds of compensation.

Let me add one other thing. If the Assembly is going to pursue this suggestion, it has to be beyond the gross receipts and franchise tax because we are talking in this bill about more than electric and gas utilities. An oil refinery doesn't pay anything under gross receipts. It is taxable under real property tax. An oil pipeline is taxable that way; whereas, a natural gas pipeline is taxable under gross receipts - it is very strange - because the oil facility is not built by a regulated monopoly.

MR. FORRESTER: The reason I didn't specify any particular form of compensation was because I am particularly interested in the idea, itself. If we are going into a municipality with the understanding that perhaps the Commissioner of Energy under this bill would notify three municipalities that they are being considered as possible sites for a given kind of plant, say, a nuclear facility, these municipalities would have a chance to respond. Let's say two of them said "yes" and one of them said "no." If the State were to make the final decision and say, "Yes, we want it in this municipality despite the fact

that they said "no," that is our concern. And the idea of compensation is something, regardless of what form it takes, whether it is monetary or not. - I think that can be worked out --- But in tossing out this idea, I am interested in the concept of compensation, of having the State who is making the determination to override the local decision have to pay. Right now, the energy companies have to pay in the form of gross receipts tax and things like that. But the State does not have to pay at all. It can make that decision on the ground of overriding interest.

DR. MORELL: In that sense, it has a certain merit. Let me suggest, Mr. Chairman, two additional points on this issue of compensation.

First of all, I think if we are going to build in a system of compensation which may have some real merit, we need to take into account the issue of "next door" compensation so that not all of this money goes to a Lower Alloways Creek and none to an Upper Alloways Creek or Quinton or Elmer or the other next door municipalities which are under the same kind of potential risk as the citizens of Lower Alloways Creek, that the people downwind of a oil refinery but across a municipal boundary need a certain kind of compensation as well as those in the municipality, itself. Some kind of mechanism for spreading the compensation beyond the boundaries of that one municipality would be worth thinking about. The formulas won't be easy. The formula for tax sharing in the Hackensack Meadowlands is enormously complicated, but is a much better principle than putting the property taxes in one of those 14 municipalities in the Hackensack Meadowlands and having the other 13 share none of those property tax benefits. So if we are going to go part way for a compensatory mechanism, let's take the next step, though a tough one, and figure out sharing formulas for the "next door" problem.

Secondly, one would want to look at the procedures now in employment at the national level under the Coastal Zone Act in the Coastal Energy Impact Fund for providing federal moneys, essentially moneys off the oil leasing process, for communities impacted by needed coastal energy facilities. There may be some lessons that we could learn about the techniques of compensation from the federal statute and now the federal regulatory material in the Federal Register over the Coastal Energy Impact Fund.

ASSEMBLYWOMAN TOTARO: Dr. Morell, I think you have highlighted one of the bits of testimony that we received from the local communities; and, that was, the availability of moneys to employ their own experts. What we heard from the representatives of the towns was the fact that they are in no position to fight either the experts provided by the utility companies, the oil companies, or the State, itself. This mechanism for providing funds I think is something that we should seriously take under consideration.

One of the comments made was that under the capping procedure we have now, they are really limited in coming to any type of conclusion based on the experts. Is New York State the only one that does provide money for that purpose at this point?

DR. MORELL: I am not certain. I believe there are similar provisions in the State of California. But the New York procedure is quite clear and is described in Chapter 4 of this document which I will leave with the Committee staff today.

ASSEMBLYWOMAN TOTARO: Very good.

DR. MORELL: I think perhaps one doesn't want to copy it word for word, but there are some lessons in the New York experience that might be worth our considering here.

ASSEMBLYWOMAN TOTARO: Another thing, you made a statement on page 5 on which I would like you to elaborate. You said, "Most energy facilities are large contributors to air and water pollution, and state environmental standards must be a paramount consideration. . ." Could you elaborate on that or document it in some way?

MR. MORELL: I would be pleased to provide subsequent material in writing which gives a comparison of energy facilities to other typical large industrial facilities in terms of the pollution. Let me not give some wrong numbers at this point, but give some orders of magnitude. Something in excess, I believe, of 50 percent of the total sulfur dioxide pollution in the United States emanates from power plants, coal-fired power plants, over half.

A great deal of the hydrocarbons in this State and other states emanates from energy facilities as defined in this to include major petrochemical facilities, the kinds of complexes we are familiar with both in the North Jersey energy cluster and the Delaware River energy cluster, not only in New Jersey but on the Pennsylvania and Delaware sides. Essentially, the air pollution in this country is a result almost entirely of the combustion of fuels in one way or another as we burn a liquid or gaseous hydrocarbon in an automobile. Much of the pollution - hydrocarbons and oxidants - comes from our automobiles, combustion of energy. Also to be considered are the leakages at facilities like a petroleum storage depot or fuel oil storage depot of the kind proposed three years ago in Hudson County, 242 storage tanks - an enormous addition to hydrocarbon loading in the New York-New Jersey metropolitan area. Consider the contribution - and I don't have numbers in front of me, but I am sure that the New Jersey Department of Environmental Protection air pollution people are better to answer this than I am - of the pollution emanating from the Linden complex that one has sort of a sense of when driving the Turnpike through that area.

Energy facilities, as I say, are major contributors. The kind of loading - and I will get some figures from the Coastal Commission in California of the proposed transshipment depot in Long Beach, California, for the Alaskan crude - is equivalent to something like another million automobiles a year in the Los Angeles area in terms of the amount of additional pollution being proposed for the air. Every time you move oil from a tanker into a tank on land you displace some air and some of the hydrocarbons come out. Every time we fill our gas tanks at the pumping station, we are releasing hydrocarbons into the air. In California, they have a system whereby they trap those hydrocarbons into a filter at the gas station. We don't have that yet in New Jersey. Anything to do with energy is a very serious problem with particularly air pollution and to some degree with water pollution; the thermal discharge at a place like Salem or Oyster Creek is enormous. We have had fish kills in the winter, as some of you may recall, in the Oyster Creek area when they turned the heat source off because the fish thought it was summertime and spent the winter in that area - enormous contributors to air and, to some degree, water pollution.

ASSEMBLYWOMAN TOTARO: Then it is actually a combination of things. The

facility itself might not be a major pollutant, but it is the combination of the environmental aspects around that facility.

DR. MORELL: Yes, exactly.

ASSEMBLYWOMAN TOTARO: So that would be a major decision in siting a facility in the State of New Jersey.

DR. MORELL: Absolutely. Of course, with some of these facilities, one has dangers of explosions of certain kinds. That will vary from one to another. There are technologies of buffering and burns, these extra concrete walls around them. With issues of liquefied natural gas and nuclear energy, one has special issues of safety in addition to the normal definition of environmental pollution. Of course, the cancer issue comes up again and again in terms of these discussions, that energy facilities tend to put into the air certain kinds of benzenes and other carcinogenic material.

ASSEMBLYWOMAN TOTARO: Are there any current studies going on right now? We have had a briefing on the latest technology that is being employed as far as construction and engineering of the new nuclear plants in the LNG operations that they have. Is there any one that you know of in New Jersey that also is monitoring these latest engineering developments?

DR. MORELL: Not in detail - not of which I am aware.

ASSEMBLYWOMAN TOTARO: Thank you.

DR. MORELL: The California statute, by the way, on liquefied natural gas which I mentioned in the context of buffer zones is a very interesting statute in terms of selecting alternate sites and state planning with public participation, etc., and might be worth consideration by the Committee. I would be happy to provide a copy of that which I obtained on a recent visit to California.

ASSEMBLYMAN FROUDE: I am particularly interested - and hope you can give us this - in the sequence because all of this last conversation offers me more opportunity to express concern that we have the input of technological expertise into that political process. I would hope that we get a rather detailed sequence.

DR. MORELL: Mr. Chairman, I will be please to provide that. Let me respond, if I may briefly at the moment, that so often in these areas -- and, of course, I speak as a political scientist, not an engineer and not a nuclear physicist. I have been interested in these issues of public policy in this area of technology. I have no way of looking at the blueprints of a nuclear power plant and knowing more about it than the average, ordinary citizen.

ASSEMBLYMAN FROUDE: Maybe doing a disservice to you, but to make the point crystal clear, yet you are suggesting that Assemblywoman Totaro or Assemblyman Froude at three o'clock some morning, with a stack of maybe 20 or 30 bills, is somehow or other going to make a decision after reviewing that. I challenge that.

DR. MORELL: I am indeed, Mr. Chairman, because I find in these areas the experts disagree. Thus it comes back to us as citizens and to you, as our elected representatives, to make the best decision you can, calling on the experts to testify, asking them the tough questions: Why do you, Expert A, disagree with Expert B, two nuclear physicists? You find in this area of liquefied natural gas and nuclear energy power plant siting, the experts disagree. When that happens, it does seem to me it then resounds to us. Thus, I am not afraid to express my

views on nuclear energy to the experts because I find they disagree with one another and I have to live with this technology.

ASSEMBLYWOMAN TOTARO: I, personally, feel as a legislator we tend not to get testimony from such individuals as yourself. We are in a position many times of hearing from those who are the interested parties who provide us with testimony from those lobbying groups that are advocating a certain position. Perhaps that is the reason why we make decisions without having full knowledge.

If there is some way within the academic community, particularly with regard to something as highly technical as these areas are, that we could be given input, it would be of tremendous assistance. I know it would determine my vote, much more so than the hour or the time of day that it is being brought up before us.

DR. MORELL: Again you may want to consider mechanisms to ensure that that happens. Certainly the institution in this State of an Office of the Public Advocate is a good step forward in this regard. The ideas we were talking about in New York State by making moneys available to municipalities might be built in to make special moneys available for expert testimony to the Legislature if one went to the legislative override idea. If money were available to call on experts for a variety of locations from the academic community, consulting firms and other places, then one wouldn't be totally reliant on the wishes of the advocate, of the proponent of the facility. It very much may be worth an additional \$25,000 in money, or whatever the right figure is, to hire testimony on, say, a floating nuclear power plant that will cost several billion dollars, dollars of which all of us pay every month in our electric bills. So another \$25,000 for expert testimony about a facility like that would seem to me, even in a state with money problems - and certainly all of them, including New Jersey have money problems - would be money extremely well spent.

ASSEMBLYMAN FROUDE: Any further questions? (No questions.) Thank you very much, Doctor. I think it was a most interesting and helpful dialogue. I look forward to talking to you again.

DR. MORELL: Thank you.

ASSEMBLYMAN FROUDE: I would like to call a gentleman who evidenced extreme patience at the last public hearing. He sat here from the beginning to the end and didn't get an opportunity to speak. If we are not careful, he will be here at the end again today.

Mr. Thornton, County of Cape May. Before you begin, let the record show that Assemblyman Barry and Assemblyman Cowan are now part of the panel.

G E R A L D T H O R N T O N: We have a very brief statement today. I am sure I won't hold you up very long.

Mr. Chairman, ladies and gentlemen, my name is Gerald Thornton. I am a Cape May County Freeholder and Freeholder Director of the Cape May County Planning Board. With me today is Elwood R. Jarmer, Director of our County Planning Board staff. We appear today on behalf of the Cape May County Board of Chosen Freeholders and the County Planning Board. At the outset, allow me to express our appreciation for the opportunity to comment upon this complex and far-reaching legislative proposal.

Conceptually, we support the apparent objective of S 1179; that is, to establish a comprehensive and rational administrative program to plan for and permit energy facility siting commensurate with New Jersey's energy needs and environmental aspirations. The creation of a state energy facility plan and a certification process predicated on such a plan are well reasoned responses to the currently fragmented permit process and are much needed reforms.

However, we are concerned about the ability of a single superagency to simultaneously and faithfully discharge the conflicting responsibilities of promoting energy facility siting and protecting environmental values. If, indeed, the Department of Energy is to be delegated the comprehensive powers within the bill, even stronger checks and balances should be conferred to interested and affected parties outside of the Department.

The balancing function of the Department of Environmental Protection and spirited public involvement should be incorporated into this legislation. For example, the over-emphasis on speedy "one stop" permit shopping sacrifices other significant economic and environmental concerns. The lack of provision for meaningful public participation, affirmative local governmental planning, police powers, and a sound record for fully informed decision-making are serious omissions.

Moreover, the specific facilities of floating nuclear power plants and breeder reactors are so laden with significant implications, we firmly believe that they should be deleted from S 1179 immediately and made the subject of extensive hearings in separate legislative action. Such facilities should not be authorized unless compelling and persuasive evidence can later be found regarding positive measures to absolutely mitigate the impacts of those unknown technologies.

Other fundamental concerns include the following:

1. Exemptions from Local Control - Sections 13 and 29. The provisions of Sections 16 and 17 enable preparation and adoption of county energy facilities plans. Taken together with the requirements of the Municipal Land Use Law (Chapter 291, P.L. 1975) at Article 3, C.40:55D-28 (19 d) municipal master plan use elements must reconcile themselves with county comprehensive plans. Sections 13 and 29 of S 1179 should be amended to provide that the Department of Energy may override local prerogative only where county and local plans are arbitrary and unreasonable, and where the State interest in energy facility siting has not been meaningfully considered.

2. County Energy Facility Plans - Sections 16 and 17. We strongly endorse these provisions. However the six-month time frame is unreasonable. The logistics of obtaining, collating and analyzing data, formulating the ten-year plan, printing and disseminating the plan, notifying the public of conducting a hearing or hearings, consulting with other county and State agencies, and, finally, adopting the plan, cannot be realistically accomplished within a six-month period. By comparison, energy industries are required to prepare a three-year plan within the same time frame. We also urge that some planning funds be appropriated to finance the preparation of county plans with proper local matching funds.

3. Eminent Domain - Section 24. This section should be amended to clearly direct that lands, quote, "lands under water, meadowlands and riparian rights" (page 27, lines 8 and 9) acquired by the State should only be used for

pipelines and transmission facilities to buffer areas and not for energy generation, production or processing facilities of any kind.

4. Hearings and Records for Decision-making. The hearing procedures leading to records for decision-making should be amended to provide that substantive questions regarding energy plans and site certification should be answered completely at the hearing or within a reasonable period of time thereafter. In short, a full and meaningful record must be established to ensure public accountability.

5. Findings. Inasmuch as S 1179 empowers the Department of Energy Commissioner with sweeping authority, and nearly unbounded discretion, the bill is deficient in that it does not clearly specify the manner in which authority is to be used. The bill should be amended to require that no certificate of site and facility shall be issued unless the Commissioner makes specific findings of fact, including, for example, that:

- a. A complete factual record has been established.
- b. Issuance of a certificate of site and facility would cause minimum feasible disruption of existing coastal recreation and tourism, fishing and shellfishing industries and resources, and proposed, and future opportunities thereof.
- c. The facility complies to the maximum extent practicable with adopted county and local plans.
- d. The environmental impacts of the facility will be mitigated to the maximum extent practicable by employing the best available safety technology.
- e. The operator of any facility shall employ the best engineering practice to conduct his operations.

6. Riparian Statutes - Sections 41 and 42. Under no circumstances should the Legislature surrender control of riparian lands to any executive agency for the purpose of constructing nuclear power generating stations. As recommended above, this issue should be treated separately.

Secondly, the amendment enabling pipelines within the three-mile jurisdiction of the State should be seriously reconsidered and substantially amended. The concern here is that pipelines induce development of other energy facilities including gas processing plants, compressor and pumping stations, and possibly oil refineries and petrochemical complexes. Section 42 should be amended to specify that the following minimum conditions are met:

- a. The number of riparian pipeline corridors shall be limited to no more than three.
- b. The form of conveyance shall be leases, not grants, and shall not exceed a primary term of four years.
- c. Renewability of leases is contingent upon good operating practices and diligence in minimizing negative environmental effects.
- d. The lessee's liability for damages is unlimited.
- e. The lessee's activities are consistent with adopted local, county and State plans, regulations and policies.
- f. The lessee shall employ the best available and safety technology for all activities, including pollution control, cleaning and removal of equipment.
- g. The lessee shall have a pollution control plan approved by the

Department.

h. The lessee shall remove any equipment appurtenant to his facility within 90 days of the termination of his lease.

i. Leases may be terminated for cause.

j. Affected counties shall participate in an advisory capacity with the Council when such leases are proposed.

In conclusion, we believe that unless S 1179 is substantially amended, the Legislature will have created a monster with awesome bureaucratic power.

Here I am going to deviate from my text and say in Cape May County, the Chamber of Commerce and the League of Municipalities are opposed right now to this legislation in its present form. The reason that we are opposed is that we are concerned. We have environmental impacts in Cape May County that could be very, very detrimental. This bill could be very, very detrimental to us. We are a resort county. Our fishing and beaches constitute the bottom line in our county. We cannot take the chance of having that area spoiled. Just this year, it is estimated that we will receive \$16 million in Canadian tour dollars in Cape May County. Therefore, I think we should be well protected and I think you have an obligation to protect us.

In conclusion, we remain hopeful that this Committee and the Legislature will work their wills and that these serious concerns and recommendations will be addressed.

I offer the Committee whatever assistance you may need from the Cape May Planning Board and myself. Thank you.

ASSEMBLYMAN FROUDE: Thank you. Does any member of the Committee have a question?

ASSEMBLYMAN OLSZOWY: I just have one statement to make in reference to your problems with the riparian pipeline corridors, the leases, etc., etc. This Committee did go to Louisiana, at a cost of about \$3,000, and we brought back all the information from the Louisiana State Legislature that would be necessary to protect the State of New Jersey and the counties. Mr. Norman Miller has all that in his possession. We have the fifty years of experience of the State of Louisiana in dealing with oil companies and energy matters in our possession.

MR. THORNTON: The only thing I can say, sir, is that I find when we are dealing with the major oil companies or the major interests, sometimes the local concerns are overridden. I think all of us have a responsibility to see that this doesn't happen. It happens in Louisiana and it happens in California and it happens throughout this nation that a large major utility or oil company, many, many times, is able to override local and state issues.

ASSEMBLYMAN FROUDE: May I ask you how long it would take you people in Cape May to come up with the plan that is called for in S 1179? You felt six months was not long enough.

MR. JARMER: We spent about two and one-half years preparing a county comprehensive plan. We have a pretty good sound basis in Cape May County for planning. So I would think a year would not be unreasonable. We would like more time, but we could probably get something done in a year. Now counties that have not adopted a county comprehensive plan upon which a further energy plan could be developed undoubtedly need more time.

I think you may have some testimony from some other counties. They

may want to address how they would go about devising an energy plan in the absence of an adopted county comprehensive plan. I would say for us, at least a year.

ASSEMBLYMAN FROUDE: Any further questions? There being none, I thank you gentlemen very much for your presence.

MR. THORNTON: Thank you.

ASSEMBLYMAN FROUDE: I would like to call on Winifred D. Meyer, New Jersey Division of the American Association of University Women.

WINIFRED D. MEYER: I am Winifred D. Meyer, Legislative Chairman of the New Jersey Division of the American Association of University Women, and I represent its President, Mrs. Doreen Utman, and its approximately seven thousand members.

Once again, before I comment upon the bill - which is a tremendous effort to implement the Master Plan - I still must congratulate the Department of Energy upon that Master Plan as an example of a document which reflects much public thinking, arrived at through its dedication to the encouragement of citizen participation during each phase of its development.

The original S-1179 held quite well to that same objective of a coordinated, cooperative effort on the part of everyone in the State. But the amended bill seems to set a different role for the Department of Energy. For instance, three different sources: Section 13 of the Department of Energy Act, as quoted in the Master Plan, the Memorandum of Understanding between the DOE and the DEP on Coastal Zone Management and the original S-1179 give coextensive or coequal jurisdiction to the state departments. However, Section 28 in the amended bill states - and I quote - "In the event that the findings and determinations transmitted by any chief executive officer...etc...are overridden by the Commissioner of Energy...etc." Frankly, we do not see the DOE overriding as a department but cooperating and coordinating.

Section 28 goes on to provide that in the disagreement situation, the matter would go before an Energy Facility Review Board, to whose composition we have previously objected. In fact, we feel that in a situation where the DOE disagrees with another department, at this point where all extraneous considerations have been eliminated, it would be far more effective to have a limited and formal hearing, perhaps using court procedure, before an expanded energy facility review board of at least five members. And, after listening to Dr. Morrel, although I disagree with his referring it to the Legislature, perhaps it should be nine or eleven members. I agree with you. Furthermore, this procedure should be automatic, not dependent upon the disagreeing department's appeal for it. We recommend these proceedings which we feel would necessarily produce a more satisfactory, just, and possibly more logical decision.

One of the New Jersey Division's priorities is citizen participation in decision-making, as apparently it was in the formation of the Master Plan. Consequently, it is difficult to understand the statement in Section 29 in its disregard for local or county zoning. I understand very clearly the intent of the makers of the bill here because - I will give you an example - I find that very often the scope of consideration of local communities, particularly, and their conflicting desires in various areas, get in the way of really doing what is best for that community. Barrier Island, on which I live, the same township permits - and this is as recent as two months ago - houses to be built right on top of the dunes, in spite of the fact that the Miami Hurricane Bureau has warned against anything happening to the dunes. That same community, now that we have about 150 thousand people on the island for the summer, has a great big ad in the Beach Haven Times, which says that people who walk over the dunes and destroy the dunes will be prosecuted. So, I understand very well the intent of the drafters of the bill.

As much as we realize that in a democracy the good of the many must

sometimes supersede the desires of a few - and the energy problem is acute enough to have this apply, there is no doubt - at least some instrument should be required to be sure the DOE gets full input from the local and county levels. I have found that it is very difficult in a democracy - which depends upon the actions of the individual - to convince him that he has responsibilities that match his rights. Sometimes, you just have to force him to do it. So, instead of permitting each county to submit a 10-year county energy facilities plan, continue to permit a county to so act, but also require each county to submit, every three years, items "a" through "d" listed under Section 16 and also subject to Section 17, the public hearings, because those items would bring forth opinions on the local level.

Now, it is true that some aid, financial or expertise, may have to be provided by the State in these cases, but the DOE will then be sure that it has the grass-roots thinking from the whole state, which is of course the objective of this whole citizen participation area.

We are happy to note that there are provisions for hearings, particularly those upon the State Energy Facilities Plan, however, the time span between notification of the hearings and the hearings themselves does not appear sufficient for the average citizen to study the matter properly and arrive at careful conclusions. We have felt for some time that government needs to get the materials out earlier and/or give more time for consideration before requesting citizen reaction.

To carry the matter further - and I think this is very important - it would be useful if more opportunities were provided, not only for citizen reaction but for input by the citizen before the plans are drawn. I have had requests many times from legislators who say, get to us before the bill goes in; don't wait for the bill to go in. And, I think the same type of thing applies here. DOE did do this to a certain extent before combining its segments into a master plan.

Toward early input by all, we encourage early education of the citizen, beginning with the use of schools - not necessarily education of the children but the use of schools to educate the citizen belonging to interested organizations with communication routes to its members - such as ours. We offer you that communication route because we have a system by which we can get pro and con quite easily.

Another thing that I think is very useful is small two-way communicatory groups that are representative of various interests. These would not be an advisory committee, nor anything, but just two-way something to organizations, people, and so on. They could be attached to the several divisions, or agencies, of the DOE, to get the word out and particularly to get the word back to the department.

It is our deep conviction that early education of and input from the individual citizen is the only way to make a program successful, particularly when there are as many facets of disagreement as in the Energy Plan. I think planning has to be from the bottom up with every level having input into it, not from the top down.

We have faith that in our democracy if the individual can be made to understand all the implications of a situation and has a chance to contribute, that he will react in an intelligent and mature manner. We keep coming back, full circle, always to having the citizen know exactly what is implied in all of these decisions that he makes, or takes a sudden opinion on. So, therefore, we recommend

amending Section 4h to incorporate the formal school system, public organizations, any government body, and other citizen bodies as means to citizen education. It would probably be more effective if it also included some seed money to launch such a campaign.

You are very well aware, as most of us are, that we are going to have to have a tremendous education campaign, not only to pass a meaningful bill but to get support for what it provides for afterwards.

Regarding the environment, whose protection is paramount in our thinking, we feel the bill should be more explicit in defining the role of the Department of Environmental Protection in its full regulatory responsibility over the construction of energy facilities in the Coastal Zone under three coastal permit programs - The Coastal Area Facility Review Act, the Wetlands Act, and the Waterfront Development Permit Program - and that it maintain that regulatory responsibility throughout the State. They are the experts. Together with the State and local implementation of the National Environmental Policy Act and the Federal Water Pollution Control Act, such as Water Quality Planning under 208, the groundwork for much of the siting suitability has already been laid. Again, this is true in the Solid Waste Administration of the required county plans for resource recovery facilities. These are only examples of the whole vast body of resources available to the DOE through the DEP.

Usually, it is conceded that the same body which is doing the planning should not also be judging the environmental impact of that planning. Really, this is part of our democratic system of checks and balances, which you know very well started before the Constitution. Therefore, as the bill is written, it relies heavily on the judgment of a commissioner who must be both knowledgeable and dedicated. We are indeed fortunate in having such a commissioner in Mr. Jacobson. However, in a democracy we live under the rule of law, so that we need not depend upon the qualifications of any one individual. We recommend that S-1179 be amended with this fact in mind.

We see the role of the DOE, in addition to its duties as a top-level government agency, as a coordinator of the tremendous body of resources and elements provided by the other departments, industry, commercial interests, and the general public, cooperating with all to the utmost, and resolving all differences in an orderly and democratic way.

S-1179 is a difficult and sometimes confusing bill. Perhaps it would be more effective broken down into two or more bills, the first to consist of those elements which are non-controversial, so that it can be passed and work can be started; another perhaps on procedures; and a third on whatever else is needed. In any case, we are confident that the authors of S-1179 and the Legislature will amend it to guarantee, in the words of Thomas Jefferson, that "the laws will go hand in hand with the progress of the human mind." Thank you.

There is one other thing - or, there are a couple of things - that I would like to add very briefly. Our stand on nuclear is that we think there should be something in this bill which definitely speaks about nuclear reactors, particularly, and the building of more nuclear reactors. We feel very strongly that somewhere there should be something which carries out an idea already expressed today. We support, according to our legislative program, stringent limitations on the use of nuclear reactors and the assignment of high priority

to the solution of safety questions and waste disposal problems. Now, in that area we are well aware that the Department of Energy already acted in one particular instance - I believe it was with Public Service. We feel also that nuclear energy should be considered only as an interim source of electric power in cases where conservation and alternate energy sources cannot meet reasonable demands.

Logically, it follows - and somehow this should get into any energy bill - that we support the acceleration of technology leading to the development of adequate energy sources, other than nuclear, with emphasis on sun, wind - individually or together, particularly at the Jersey shore - tides, co-generation, geothermic, and coal. We feel that if we can put a man on the moon, that we can get our Federal Government to put a lot more time and work into speeding up the technology on solar energy. I just can't believe that we can't get it more efficiently and quicker than is coming along.

Thank you and if you have some questions, I will try and answer them.

ASSEMBLYMAN FROUDE: Assemblyman Barry?

ASSEMBLYMAN BARRY: You have suggested that we broaden the public participation in the decision-making process. There are those who would say that that might be nothing more than window dressing. The DOT could conceivably accept your comments and several others and then proceed as they so desired. And, that would be the case unless the municipalities and the counties had a stronger say and unless they had more clout in the decision-making process. Do you think that should be done, that the counties and the municipalities should have a stronger hand in this, or should we leave the decisions to the DOE?

MS. MEYER: Basically, I feel very strongly that state level does not get enough input. Now, I am not trying to dodge your question because I really don't know the answer to it. I certainly insist that the good of the State really has to come first. It is just how you arrive at it. I think the process is very important - that we must do everything possible to get input from the local and the county level. We must give the local and the county people - the people of the State of New Jersey - much more information than we do. That is why I spoke about this campaign. This would be a campaign, actually, of information to the individual citizen. I think when we do that and people really see the impact of what they are thinking upon the State and upon themselves, ultimately - because everything that affects the state affects them too - that they can make mature judgments much better than with the type of information that we give them now. The Department of Energy has tried to send out folders and things like that, but these are not making people get into it. I think you can utilize, very well, many organizations, county boards, freeholders, and that sort of thing - even local communities - by getting people to work in that type of campaign.

I think the whole thing is based on education. Now, I know what your problem is and I can't give you the answer. I can't say that the county or the local should supersede the state because I frankly feel that ultimately we have to do the best for the most of our people.

ASSEMBLYWOMAN TOTARO: Mrs. Meyer, is your organization - which is quite dispersed around the state - in a position to put some type of a public forum on and do they plan to do this?

MS. MEYER: We would like to very much. We feel that if you come up with a bill which will really be capable of our support, under our legislative program, that there is absolutely no reason why we cannot bring that to the attention of everyone of our approximately 7,000 members and get an input.

ASSEMBLYWOMAN TOTARO: Would it be an open forum, or just your membership?

MS. MEYER: We can do an open forum. Again, there is the matter of finances. We are purely a volunteer organization. But, if you set up some kind of a campaign, we will give you our fullest cooperation on a good bill and really try to sell it every way we can.

ASSEMBLYWOMAN TOTARO: At one point you seemed to allude to a needs assessment, what the state's needs are as far as future planning and development is concerned. Did I catch that right?

MS. MEYER: To a certain extent. As I say, I feel that local and county input is terribly, terribly important. I think the only way you can get down to those needs is to force the people to think about them. That is why I said that we should require certain things from the local communities - certain input into the energy department from the local government and the counties - and not only give permission to have it done.

ASSEMBLYMAN FROUDE: I would just like to make a statement, just to give you some idea as to where my thinking lies. If I take your testimony and place it along with Dr. Morell's testimony, would the people simply use the mechanisms that they already have available to them? We have it all there. The counties should be having master planning and there is the necessity for public involvement in that master planning. So, I don't know who we are dragging by the heels, kicking and screaming, but we are dragging someone. I have a private notion who it is.

MS. MEYER: What we have to do is to make the local individual citizen of this state want to contribute his or her idea. We have the mechanism, but a lot of people don't use it and they don't have the know-how to use it. That is why I say it may be possible to help them with expertise - with experts from the Department, for instance - or perhaps even with money for them to get the word out as to what the state sees as needs and execution of those needs.

ASSEMBLYMAN FROUDE: Let's just use the scenario of the bill for the approval of an energy facility and let's, for argument sake, claim that we have a disagreement. How would you like that disagreement resolved?

MS. MEYER: Well, I think we indicated that fairly well. I think there should be a hearing - but a formal hearing, not the usual public hearing - possibly following court procedures of the interested parties, before an Energy Facilities Review Board - you can call it that - but not composed of three people, not of only the two departments.

ASSEMBLYMAN FROUDE: That is what I wanted amplified. All right. Now, if my bias is in the direction of environmental protection as opposed to providing the energy in ever-increasing quantities, then I assume that I would be leaning towards bringing in the Department of Environmental Protection, or bringing in a council that is basically made up of those kinds of people.

MS. MEYER: No, absolutely not. You start with your two representatives, and cite DEP and DOE in a disagreement situation. You would bring them in, of course. In the disagreement situation, there is going to be an industry involved that is

putting all the pressure it can on DOE, right? So, you have to bring that one in. Then you have to bring in the whole area of local government people. So, you have to have representatives there. Then, you have to have environmentalists, and by them I mean ordinary citizens who are interested in the environment. And, maybe it is harder to find, but you might -- no I guess not -- bring in a developer. You are set then with commercial interest and opposition, in many cases, to environment, right? Then, you just have a couple of ordinary, lay citizens who can look at the thing without any bias. I think with a cross-section like that - and I am up to the 9 or 11 people, am I not? - I think we are going to come up with something worthwhile.

Now, actually, if it gets to be an emergency situation, the bill does give the Governor extra emergency action.

ASSEMBLYMAN FROUDE: What would be an emergency situation, something less than a unanimous vote by that council?

MS. MEYER: That is a very hard question to answer.

ASSEMBLYMAN FROUDE: You ended your statement with a reference to one of my favorite "small d" democrats and, yet, we are establishing what I suppose Dr. Morell could claim to be an anti-democratic process here: We are giving the decision to people who are not really directly responsible to the--

MS. MEYER: Now wait a minute, you have come right up from the local. If you put in the rest of what I have been saying, you come right up from the local with all the local opinions.

ASSEMBLYMAN FROUDE: Joel Jacobson would make that claim about S-1179, as is, at the present time, I think.

MS. MEYER: Well, you see where we disagree with him on citizen participation.

ASSEMBLYMAN FROUDE: I am not trying to be argumentative. I am just trying to--

MS. MEYER: No, I know what you are doing. The point is, if you start from the very bottom - you can't start from the top, it just doesn't work - and force input from the local community and from the county, necessarily DOE is considering all of these things, is it not? Because this has been, and particularly under Commissioner Jacobson, his theory all along, right? That is how he got to his master plan. Necessarily, the DOE is considering that. Then you are going to have another track coming into the DEP, there is no doubt about that. So, ultimately, that top-level thing is just to eliminate the extraneous things. When you hold a regular public hearing at the top, you are going to go, all over again, through all the stuff you got from the very beginning, aren't you? So, that is why I don't consider that anything but a procedure to eliminate all the extraneous things from the top level consideration. That's the best I can do.

ASSEMBLYMAN FROUDE: Thank you very much.

MS. MEYER: You are welcome.

ASSEMBLYMAN FROUDE: I appreciate your time and effort.

Nona Plangere, I think it is - I need some help with the pronunciation - Monmouth County Environment Council.

N O N A P L A N G E R E: Mr. Chairman, Ladies and Gentlemen: My name is Nona C. Plangere and I am representing the Monmouth County Environmental Council which is an advisory body to the Monmouth County Planning Board.

My testimony today is to replace a letter of July 19th from the Monmouth County Environmental Council which contained objections and comments based on the original draft of Senate Bill 1179, rather than on the official copy reprint which was received by the staff only this week.

I would like to digress here for a minute and say that we were rather embarrassed by the letter of July 19th and would like it to be stricken from the record. If you have included it, we would like it to be replaced by this testimony today.

ASSEBMLYMAN FROUDE: We will do that.

MS. PLANGERE: Thank you. The Environmental Council has reviewed Senate Bill 1179, a bill amending and supplementing the "Department of Energy Act" Public Law 1977, Chapter 146, and appreciates the opportunity to submit comments to the Energy and Natural Resources Committee in the State Assembly.

While the measure, as proposed, will strengthen the Department of Energy's authority to gather information for comprehensive planning and to enforce conservation measures, the Council is disturbed over provisions which eliminate the need for county and local approvals and limit the jurisdiction of the Department of Environmental Protection.

The potential impacts of major energy development are too great to endow a single State department with so much authority over energy facility siting. To give this single department and its commissioner the power to override other State departments, agencies, and county and municipal bodies as seen in Paragraphs 13, 24, 25, 28, 29, 32b and 34 is to create a department which is unanswerable to any other department, agency, county or municipality except in the courts.

Through our own dealings with the Department of Environmental Protection, we have found that it is a fragmented and inefficient organization with which to deal. In 1976, Monmouth County set up a Drainage and Waterways Agency whose initial main purpose was to obtain State and Federal permits for stream cleaning and mosquito prevention work. In our experience, we have found that there is a considerable amount of tension and rivalry between the several branches of the DEP. While this discussion probably does not seem to relate to the proposed legislation, we feel that a timely reorganization of the DEP would eliminate the need for most of the amendments proposed by Senate Bill 1179.

We, in Monmouth County - and others statewide - have, for several years, been urging that there be one permit from the DEP for any project. We would also like to see one Federal permit, or one that the Federal or State Government issue, a lead permit, with the other governmental entity deferring jurisdiction to the lead agency. This would apply to public and private projects, housing developments, marinas, or gas processing plants. Once an application was made to the DEP for a project, it would be their responsibility to circulate said application to the various divisions and offices within the DEP. This type of legislation would eliminate many of the regulatory problems facing New Jersey today regarding the environment.

Specifically, we have the following comments on Senate Bill 1179:

1. We feel that environmental preservation and economic development are entirely compatible.
2. We strongly support the idea of a State Energy Master Plan to deal

with the complex issues facing a state heavily dependent on imported oil.

3. We note that Paragraph 16 would authorize counties to prepare 10-year energy facilities plans at their option. In Paragraph 17, the legislation states that counties may develop and adopt a County Energy Facilities Plan. Further, in Paragraph 18b, the counties are empowered to identify the specific areas in the coastal area which they deem to be suitable, conditionally suitable, or unsuitable as locations for specific types of energy facilities if the DEP does not provide this identification for them.

4. Because individual counties must develop their own energy facility plans if they hope to have any input into the State Energy Facility Plan, we strongly recommend that state funding be provided for such planning.

5. We favor the requirement that the DEP prepare a Development Suitability Map for energy facilities. We note that Monmouth County has a Development Suitability Map, dated April, 1974, for all development.

6. We note that Paragraph 18a and 18c, Paragraph 19f (1), and Paragraph 22d all provide the DEP with an advisory role. Therefore, we strongly urge adoption of a provision to give the DEP veto power over energy facilities in environmentally-sensitive areas.

7. Paragraph 24a, 24b, 24c, 24d, and Paragraph 25 in its entirety would give the Department of Energy the power of eminent domain for the construction of energy facilities. We strongly oppose these sections and see no valid reason why a State Department of Energy would need these powers unless the State were actually going to build energy facilities in competition with the private sector. We see no justification for this and recommend that Paragraphs 24a, b, c, d, and Paragraph 25 be deleted.

8. Paragraph 29 would grant absolute statewide zoning to the Department of Energy for energy and energy-related facilities. This is a "Pandora's Box" which is best left closed. We feel that, at the most, a provision would be made which would grant the Department of Energy an override of local or county regulations in the case of obstructionist local tactics, preventing an energy pipeline or utility corridor from passing through a town or county. This specific case is justifiable on the grounds of state and national health, welfare and security. Any other facility must be voted on by the local constituents which pay for the local services which would be affected by major energy or energy-related facilities.

In conclusion, we don't entirely object to giving the Department of Energy some say over energy facility siting, but question the need to divest the DEP of most of its regulatory functions in the coastal zone. We feel that if the DEP were restructured in order to streamline the permit-granting process, that is, the one-stop, one-permit idea, that this would significantly simplify the regulatory process. By a simple restructuring of the DEP, we can avoid unnecessary duplication of efforts in two major state departments and eliminate costly and time-consuming delays because of a fragmented DEP regulatory system.

We thank you for the opportunity to comment on this legislation. We hope that this bill will be amended or redrafted before it is released from committee.

Both the Monmouth County Environmental Council and the Planning Board will be willing to provide additional information or clarification of their comments

at your pleasure. Thank you.

ASSEMBLYMAN FROUDE: Thank you. Are there any questions from the members of the Committee? Doug?

MR. FORRESTER: I was just wondering, in point 6 you mention that the DEP ought to have more than an advisory role in environmentally-sensitive areas. Since it does have a say within the coastal zone - CAFRA - what other environmentally-sensitive areas are you talking about?

MR. PLANGERE: I would prefer not to answer verbally for the Council and the Planning Board. I would prefer that you permit these two bodies to answer your question in written form, or before you at a later date, after having had the opportunity to study your question.

The thing which concerns me, if I am allowed to answer on my own, would be that although the DEP is given an advisory role, the commissioner and the Department of Energy is allowed to override it if they so deem that it is necessary and the three-man board is allowed to override them if they so choose.

MR. FORRESTER: If we are not talking about the coastal zone, which was provided for in the Senate amendments, I am just wondering what other environmentally-sensitive areas you are talking about?

MS. PLANGERE: I would refer to my previous statement, that I would prefer not to answer verbally if that would be all right.

ASSEMBLYMAN FROUDE: It was an interesting thought, though, that was opened by those comments. The DEP has veto power over these decisions in sensitive areas but it also appears to be a dead-end street. I want the DEP to determine, on a case-by-case basis, whether they indeed have a reason to look into the matter.

I know how nebulous I am, but what I am saying is, we are trying to draw specific lines of responsibility at this point in time, not knowing what is out there in the future. And, if we could only come up with a procedure - a mechanism - whereby we would be confident that at any point in the future, all of the necessary factors are scrutinized by all of the different points of view. That is what I am wrestling with in my mind.

You people have more faith in DEP - or a reorganized DEP - for the best interest of your county than you do in any other department you can think of at this time, right?

MS. PLANGERE: Yes.

MR. FORRESTER: I would agree. My concern is, when we use a phrase like "environmentally-sensitive area," sometimes it may appear that that is helpful, but unless there is specific criteria for environmentally-sensitive, it isn't helpful because it just then opens up the process to haggling and negotiations.

MS. PLANGERE: Yes.

ASSEMBLYMAN FROUDE: Thank you very much. I appreciate your time.

MS. PLANGERE: Thank you.

ASSEMBLYMAN FROUDE: The last name I have on the list is Mr. J. Morales or Mr. Christopher Warren from the Salem County Planning Board.

I do not anticipate having further hearings on this bill. That is not to say that we will not have open public meetings of the committee, at which time public comment will certainly be welcome and sought after. But, if you are sitting there wondering whether you want to testify at this point in time, or at some

future time at a public hearing, you had better make it now. It seems like it might be your only chance.

Yes, Mrs. Meyer?

MRS. MEYER: In other words, you are going to do exactly what the Joint Committee on the Public Schools did, open your deliberations to the public and have input, directly?

ASSEMBLYMAN FROUDE: Yes. We have been operating under the open meetings procedure right along. So, I am sure all of our considerations will be conducted publicly and you will be given an opportunity to react.

MRS. MEYER: I believe they invited various representatives of organizations, etc., etc., to come in and sit with them so that they were aware of exactly what was going on.

ASSEMBLYMAN FROUDE: Well, I am speaking for myself and not really with the advisement of Assemblyman Steward, or the rest of my Committee, but I suspect -- I would be very disappointed if they didn't open up the communications to all interested groups. I would prefer that to drawing a line, although I would also suggest here that there are some comments that have been made that we would like to pursue and I - you were in the room - think we would like to hear some more from Dr. Morell on some particulars, if possible.

MRS. MEYER: I asked the question, frankly, because our people, for one thing, have found very valuable the meetings of the Joint Committee on the Public Schools. A great deal of education went out as well as there being a great deal of knowledge absorbed.

ASSEMBLYMAN FROUDE: We will conduct the business of the Committee in a room large enough to insure - hopefully, Norman - greater participation.

C H R I S T O P H E R W A R R E N: I am Chris Warren, Acting Director of the Salem County Planning staff. I would like to thank you for the opportunity to speak before the Committee on this important piece of legislation.

Originally, when the officials and residents of Salem County first heard about this bill and its overwhelming support in the Senate, they were quite concerned about the absence of public hearings. We believe that the involvement of the public, especially those that will be most affected by the bill, is an essential element of the democratic process and we appreciate the opportunity to present our views.

My purpose in addressing you today is to specifically communicate the concerns of the Salem County Planning Board and the Board of Chosen Freeholders on the provisions of the proposed energy facility siting legislation. This legislation would delegate unprecedented and unreasonable authority to a single state department, and would, to a considerable extent, usurp existing powers of local government and other state agencies for the express purpose of permitting the development of needed energy facilities for New Jersey. This bill represents the first time that the State has devised a method of imposing a land use upon a local area without their just consideration, without careful planning, and without sufficient review by other agencies designed to protect other statewide interests, such as the Department of Environmental Protection.

As you are aware, Salem County, and in particular Artificial Island, will be the eventual location of four nuclear power plants by the mid-1980's. This site will be the largest concentration of nuclear energy generating stations anywhere in this country at that time. Although there are divergent opinions

about whether nuclear power poses a threat to the safety and welfare of the citizens of the County, our concern today is to address the method in which energy facility siting has occurred and should occur in this State. All four generating stations now located or being built in Salem County were originally proposed for another area of the State but were moved because of public opposition. The energy facility siting occurred in Salem County only after local government review and, in the case of the Hope Creek plants, after the issuance of a CAFRA permit.

However, the County is very concerned about a new siting procedure which might permit further nuclear facilities to locate within the County without reasonable controls. Therefore, this County urges the State to develop effective siting policies and procedures with sufficient local and county government involvement which would eliminate the incremental energy decision-making that has occurred in this State in the absence of a comprehensive energy policy. As stated in a recent county energy facility study done for the Office of Coastal Zone Management of DEP by the county planning staff, counties and municipalities have an obligation to meet statewide energy needs but only after the State has met its obligations to plan for the effective siting of major energy facilities.

We have listed our specific concerns on the proposed legislation:

1. The principal concern of this County and all local governments in New Jersey is the usurpation of traditional local government powers, such as zoning and development review. The complete elimination of any effective local regulation of energy facilities in this bill leaves citizens near proposed sites for environmentally undesirable or hazardous facilities entirely at the mercy of the State and with no method of affecting the siting of these facilities or mitigating the impacts, risks, and hazards associated with such facilities. Although local zoning or review powers have rarely been a serious constraint to public utilities, this bill would eliminate any local controls on all types of energy facilities, including tank farms, oil refineries, and gas processing plants.

Historically, New Jersey has retained strong "home rule" powers and allowed local governments to determine their own destinies, except when parochial concerns are unwarranted because of their effect on regional and statewide interests. Therefore, a procedure should be established to preserve local authority and involvement, except when it can be clearly determined that the county or municipality is unwilling to consider statewide interests or is particularly inequitable to the energy industry.

2. Another concern of this county is the level of authority being granted to the Department of Energy within State government. The siting of major energy facilities requires a delicate balancing of the significant environmental impacts with the economic benefits. This legislation would completely disrupt this balance. The Division of Energy Planning would be empowered to intervene and override permit decision-making. The Department of Environmental Protection would have a role in the general delineation of suitable sites but could be bypassed on important specific energy facility proposals. The only alternative would be for this department, or any department, to appeal to the Energy Facility Review Board. The legislation seems to be centered on a bureaucratic struggle for authority on siting decisions rather than a commitment to the citizens of New Jersey to develop an effective and equitable siting procedure. It does not appear, under this bill, that environmental issues will be as ambitiously pursued because of the altered position of the Department of Environmental Protection.

3. A related concern is the fact that the Department of Energy will be delegated unchecked powers over facility siting issues without any effective comprehensive energy plan upon which to rely. The proposed Department of Energy Master Plan does not confront the difficult issues required for energy facility siting. This bill grants considerable authority without viable energy policies upon which to base decisions. Although the energy master plan was supposed to provide such a framework, the draft version falls far short of resolving any important technical issues. Therefore, the energy facility siting bill is providing the authority to plan for and implement an energy facility plan without the effective involvement of local government or other State department. For example, there is a constant reference to energy parks and the bill infers that the clustering of certain energy facilities is feasible and desirable. It would be the Department of Energy's decision to determine the viability of these clusters despite the fact that this same department has been unwilling to take any stand on this issue in its recent energy master plan submission.

The bill essentially would create a department that could be an advocate for certain types of energy facilities and would have the authority to implement the siting of those facilities. We believe that the experience at the federal level of government with the Atomic Energy Commission should be noted. In that case, an agency with research and development powers also was delegated a regulatory function of the nuclear industry. It should be the intent of State and Federal levels to separate the regulatory function and the advocacy roles of energy facility development.

4. The bill refers to the development of county energy facility plans as well as the formulation of an energy element by the Department of Environmental Protection, which would be included in coastal county submissions. These county energy facility plans would, however, have essentially no weight in the decision-making process, except to be summarized in the state energy facilities plan. In the words of the bill, "The (energy facility) site plan may include, but shall not be limited to, any locations deemed suitable" by the specific county energy facility plan. Obviously, the county energy facility plan as the local policy document would be considered but would have little, if any, important impact upon siting decisions.

5. In the actual issuance of a site permit which, in our opinion, appears to be a new level of bureaucracy for the coastal area, local and county governments and citizens may file an objection but would only receive a written reply that the facility is in compliance with the State's energy needs. It is absurd to believe that this action constitutes significant local involvement as the bill's summary claims.

6. In addition, this county is unalterably opposed to the concept of energy parks for nuclear generating facilities unless a strong case can be made that a pattern is the only method of meeting the electrical generating needs of this State. We object to the references to the authorization of a state agency to acquire land for energy parks in the absence of such a technical basis.

There is no doubt that New Jersey needs a defined energy policy upon which to base decisions and an efficient and equitable energy facility siting procedure that will permit the siting of those facilities necessary for economic growth and prosperity. Improvements should be made in the existing procedures

to streamline the bureaucratic red tape and to develop an overall energy direction for the State. New Jersey needs a commitment to the understanding of energy issues and the formulation of effective siting policies, rather than a bureaucratic struggle over facility siting authority.

The Salem County Planning Staff has developed a brief outline of a more appropriate siting policy than is proposed in this legislation. First of all, the Department of Energy should be encouraged to foster research within the Department and in private research firms on energy siting issues. This research would establish the parameters of the pattern and nature of major energy facilities needed to locate in New Jersey.

Intensive research into certain energy facility questions has never been done on a state level before, but is clearly needed if this very densely populated state is to accommodate its energy facility needs safely and with minimal impact. In addition, county planning agencies should be required to develop energy facility plans within specific guidelines established by the Department of Energy. These plans would be submitted to the Department of Energy for certification and approval as energy policies for that area of the State. The certification would be based upon the county facility plan's ability to rationalize statewide energy interests with regional land use and environmental concerns. The County Energy Facility Plans for coastal counties would also be sent to the Office of Coastal Zone Management of the Department of Environmental Protection for their determination on the compatibility of the plan with the Coastal Zone Program. Problems which cannot be resolved between the county and either state agency would be appealed to the Energy Facility Review Board for a determination.

The siting of specific energy facilities would only be permitted where they are determined suitable or conditionally suitable by the approved county plans. The Department of Environmental Protection would retain all permitting authority but would be required to review all necessary permits in a one-step process for energy facilities combining wetlands, CAFRA, and other required permits. Local government would retain zoning and regulatory powers over energy facilities except in certain circumstances. For example, certain types of energy facilities would be determined by the Department of Energy to have siting priority over other land uses because of the effects that the denial of such energy facility development would have upon the State's or region's ability to meet its energy need projections. Local zoning could be overridden when the county energy facility plan had determined the site to be suitable for such a facility and where it can be argued by the Department of Energy that the site is the only, or one of the only, suitable sites in the State for such a facility because of a unique combination of environmental and resource factors. The Department could appeal to the Energy Facility Review Board for authorization to override local zoning or regulations only in such unusual circumstances when it can be clearly established that State needs completely outweigh local parochial concerns.

The acquisition power of the Department would only be reasonable for these high priority energy facilities that complete this siting process. In these circumstances, the planning of a site for an imperative energy facility should not be hindered by an unwillingness to sell the property privately.

This siting method would be a more proper balance of environmental, energy, and economic development objectives and authority as well as a more appropriate relationship between local, county, and state governmental levels.

In conclusion, Salem County wholeheartedly opposes the present provisions of this act and urges its revision to permit a better working relationship between state and local governments in our efforts to eliminate our energy problems. Thank you.

ASSEMBLYMAN FROUDE: Thank you. You have given us something to think about in terms of an alternate procedure. You know, the bill was conceived, I think, with the thought in mind of one-stop shopping, which many of us assume is a misnomer at best, and the frustrations of the time and effort that is presently put into applications -- the frustration of the applicant and, I suspect, also of the reviewers.

What kind of a time line do you see for a procedure, such as you have outlined here?

MR. WARREN: What I am saying to you is, justify this as being an improvement over what we have now in terms of time, in terms of the frustrations that presently exist for applicants.

First of all, when we talk about environmental issues, we do advocate a one-step process for environmental permits, particularly wetlands and CAFRA within a specific time frame. With the Hope Creek plant, the permit process was rather extensive. That should not be the course for the future.

We feel that energy facility siting - the planning for the citing and the actual decision on a specific facility - should be completely separate and the real analysis should be done at the planning stage and be done with local involvement so that when the plan is completed, local concerns are included. The specific energy facility questions in the permit should deal with the actual design of the facility rather than the question of whether or not it should locate in an area.

So, I think that eliminates a lot of the questions in a permit process. The main question of Salem County, and any county, is whether or not we want this facility and the hazards associated with it. Once the plan is completed, if we agree with the plan, the only questions would be, are the Salem plants designed with the best technology, and are they laid out in the site in the best manner to mitigate environmental and health impacts?

ASSEMBLYMAN FROUDE: Could we have 21 counties generating the expertise necessary to make those determinations as effectively, as cheaply, or as efficiently as we could at the state level?

MR. WARREN: There are certain questions that the counties should not be investigating and those are - as I mentioned - the guidelines that the Department of Energy should spell out. It should do a power plant siting model for the entire state, investigate the parameters that are involved, and determine the general areas of the state that are suitable, for example, for nuclear power plants. It then should be--The work should be done with county involvement, but we will not have the expertise, nor will any municipality have the expertise, to disagree with the Department of Energy experts.

Once those overall guidelines are established, it is the county's responsibility - and I think the expertise could be provided - to determine where in the county a facility should be located and to review the Department of Energy's work and to comment on it. But, we do not pretend to know more about energy facilities than the Department of Energy does, or will in the future.

ASSEMBLYMAN OLSZOWY: Your statement seems to be more on the positive side than some of the other speakers'. You are the last speaker, so I may have to ask you this question, although it may not apply to you directly. It seems that most of the speakers were against the Department of Energy having the decision-making power to decide whether a site could be located or not and they alluded to the fact that the Department of Environmental Protection should have that right. Is it not true that there is only one commissioner in the Department of Environmental Protection and he will have the same power that the Energy Czar would have? Now, I am directing this question to you because you are the last speaker. What is your opinion?

MR. WARREN: I think that the questions raised previously about what is the appropriate body to really make the final decisions, or to determine whether overriding of zoning is appropriate, is a very difficult decision. The present Energy Facility Review Board includes both DEP and DOE and although there has been mention of additional personnel to be put on such a committee, I am at a loss to suggest people who would represent both environmental, economic, and energy concerns. Those two departments should, theoretically, be able to offset each other, if they both argue their cases vociferously.

ASSEMBLYMAN FROUDE: If there are no further speakers, I think we will adjourn this session. Thank you very much, ladies and gentlemen.

(hearing concluded)

TESTIMONY of the AMERICAN LUNG ASSOCIATION OF NEW JERSEY

on

S-1179 -- THE ENERGY FACILITIES SITING BILL

Submitted in Writing to the Senate Energy and Environmental Committee

July 21, 1978

The American Lung Association of New Jersey wishes to comment on S-1179, the Energy Facilities Siting Bill, because we are afraid that it will infringe on the Department of Environmental Protection's mandate to protect air quality in the State.

The production of energy almost invariably leads to the production of air pollution. The energy facilities listed in S-1179 are major contributors to the State's air pollution problem, emitting sulfur dioxide, particulates, nitrogen oxides and hydrocarbons. All of these pollutants are respiratory irritants or precursors of respiratory irritants and are therefore of concern to lung associations which want to assure that: 1) Proper controls are applied to all energy facilities and 2) Those energy facilities which prevent the attainment or maintenance of air quality standards are not constructed unless equal or greater trade-offs are obtained from other sources.

The purpose of S-1179 is to secure a "stable and adequate supply of energy at reasonable prices" for the State. It is certainly a laudable ambition, but the extremely broad powers it gives to the Department of Energy are questionable.

To begin with, the definition of an energy facility is much too broad. It includes any building or operation "directly associated with the production, conversion, processing, transmission or storage of energy in any form, including but not limited to electric generating lines, electric transmission lines...and petroleum or gas storage tank farms, and facilities for the distribution of petroleum products..." Regulation of such a broad range of facilities is obviously not necessary to assure an adequate energy supply.

Many of the facilities defined are presently covered by the Department of Environmental Protection's air pollution control code and must meet certain emission standards. Under the provisions of S-1179, the DOE would have the final say on whether the facility would be built, even if it violates state air pollution standards, and DEP would be relegated to the role of providing environmental guidelines.

The specific language in the bill giving DOE such broad authorization is as follows.

Section 13. "no county or municipality or any agency or instrumentality thereof may require any approval, consent, permit, certificate or other condition for the construction or location of any energy facility for which a certificate of site and facility is required pursuant to the provisions of this...act."

Section 25d. If any State instrumentality with the legal power to deny approval of construction does so, "the Commissioner shall have the sole and exclusive right, within 20 days of such denial or conditional approval, to approve such application."

ALANJ opposes these provisions of the bill and asks that the language be changed to state that no energy facility can be built unless it conforms to the State Implementation Plan for achieving and maintaining air quality standards. In other words, the facility would have to receive permit approval by DEP, or DEP would have to authorize the DOE permit. Such a change is absolutely necessary or we run the risk of sacrificing environmental quality for energy gains, even though no such sacrifice is necessary.

Another provision of the bill (Section 18) gives DEP 90 days to identify areas in the coastal region "which it deems suitable...conditionally suitable...and...unsuitable, as locations for specific types of energy facilities." If it does not do so in that time, it forfeits its say in the matter. Before a time frame is specified in the bill, the DEP should be consulted and its capabilities and needs considered. Also, since there are obviously other areas of the State besides the coastal region which would be environmentally unsuitable for the location of energy facilities, the entire state should be included in the DEP study.

One more cause for concern is that the DOE will have the final say in determining what facilities the State needs to meet its energy needs. While this situation may be preferable to the present one where the energy companies make the determination, there should be some system of checks and balances in case DOE overestimates construction needs -- especially since it will have the power of eminent domain under provisions of S-1179 and can buy land for buffer zones as well as for actual siting. Actually, no money should be expended on determining suitable locations for new energy facilities until a determination of need has been made and all possible steps have been taken to secure additional supplies of energy through a major comprehensive conservation program and alternate energy sources.

NEW JERSEY SOCIETY OF ARCHITECTS
A REGION OF THE AMERICAN INSTITUTE OF ARCHITECTS

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HELEN T. SCHNEIDER, HON. AIA - Executive Director

June 21, 1978

The Honorable John H. Froude
104 David Street
South River, NJ 08882

Re: A-834

JUN 26 1978

Dear Mr. Froude:

We have reviewed the above captioned bill, designated the "Energy Management Training Program Act".

We support this bill as professionals who are energy conscious and concerned. This bill is a positive method of obtaining widespread instruction and training to the users and their operating personnel. The purpose should be expanded to require the energy audits be performed by licensed professionals with the necessary expertise beyond the normal responsibility of operating and maintenance personnel.

All criteria, definitions and terminology in the bill, should in all respects, be coordinated with the tough requirements of the State Uniform Construction Code.

We urge your support of this legislation.

Very truly yours,



Mrs. Helen T. Schneider, Hon. AIA
Executive Director

HTS:ek

cc: Assy. Totaro, Fortunato, Hollenbeck, Otlowski, DiFrancesco, Snedeker
Assy. Schwartz
Norman Miller

3X

Monmouth County Planning Board

COURT STREET AND LAFAYETTE PLACE
FREEHOLD, NEW JERSEY 07728

APR 24 1978

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NEPTUNE TOWNSHIP

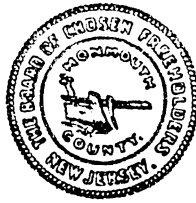
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April 10, 1978

Hon. Frank J. Dodd
Senator 26th District
10 North Center Street
Orange, New Jersey 07050

Dear Senator Dodd:

Thank you for soliciting our views on the draft of a Bill amending and supplementing the "Department of Energy Act," P.L. 1977, c. 146.

The Monmouth County Planning Board staff has reviewed and studied the proposed legislation and has the following comments to offer. Please understand that these are staff comments only, and do not reflect the attitudes and policy of the Monmouth County Planning Board.

The draft legislation will be brought before the Planning Board at its next meeting for discussion. At this meeting, the Board may or may not agree with all the staff comments. The Planning Board comments will be forwarded to you at the earliest possible time.

Through our own dealings with the Department of Environmental Protection, we have found that it is a fragmented and inefficient organization to deal with. In 1976, Monmouth County set up a Drainage and Waterways Agency whose initial main purpose was to obtain State and Federal permits for stream cleaning and mosquito-prevention work. In our experience, we have found that there is a considerable amount of tension and rivalry between the several branches of the DEP. While this discussion probably does not seem to relate to your proposed legislation, Senator, we feel that a timely reorganization of the DEP would eliminate the need for most of the amendments you propose.

We in Monmouth County (and others statewide) have, for several years, been urging that there be one permit from the DEP for any project. We would also like to see one Federal permit or that either the State or Federal government issue a lead permit with the other governmental entity deferring jurisdiction to the lead agency. This would apply to public and private projects, housing developments,

Monmouth County Planning Board

Hon. Frank J. Dodd
Page 2
April 10, 1978

marinas, or gas processing plants. Once an application was made to the DEP for a project, it would be their responsibility to circulate said application to the various divisions and offices within the DEP. This type of legislation would eliminate many of the regulatory problems facing New Jersey today regarding the environment.

Specifically, we have the following comments on your proposed legislation:

1. We feel that environmental preservation and economic development are entirely compatible.
2. We strongly support the idea of a State Energy Master Plan to deal with the complex issues facing a state heavily dependent on imported oil.
3. We note that Section 16 would authorize counties to prepare 25-year energy facilities plans at their option. However, we also note that in Section 17, if such county plans are not prepared and approved, then the State Plan would be forced on the counties. Further, in Section 18 the legislation states that counties shall develop and adopt a County Energy Facilities Plan.
4. We strongly feel that, if the counties are going to be forced to prepare energy facilities plans, then there should be 100 percent State funding for such planning.
5. We favor the requirement that the DEP prepare a Development Suitability Map for energy facilities. We note that Monmouth County has a Development Suitability Map (dated April, 1974) for all development.
6. Section 22 (Part d.) will give the DEP veto-power over energy facilities in environmentally sensitive areas. We support this provision.
7. Section 25 would give the Department of Energy the powers of eminent domain for the construction of energy facilities. We strongly oppose this section and see no valid reason why a State Department of Energy would need these powers, unless the State were actually going to build energy facilities in competition with the private sector. We see no justification for this and recommend that Section 25 be deleted.

Monmouth County Planning Board

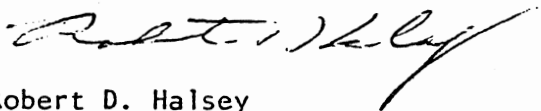
Hon. Frank J. Dodd
Page 3
April 10, 1978

8. Section 27 would grant absolute statewide zoning to the Department of Energy for energy and energy-related facilities. This is a "Pandora's Box" which is best left closed. We feel that, at the most, a provision could be made which would grant the Department of Energy an override of local or county regulations in the case of obstructionist local tactics, preventing an energy pipeline or utility corridor from passing through a town or county. This specific case is justifiable on the grounds of state and national health, welfare, and security. Any other facility must be voted on by the local constituents which pay for the local services which would be affected by major energy or energy-related facilities.

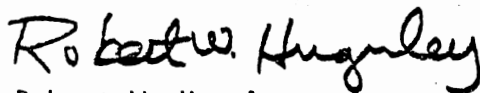
In conclusion, we don't entirely object to giving the Department of Energy some say over energy facility siting but question the need to divest the DEP of most of its regulatory functions in the coastal zone. We feel that, if the DEP were restructured in order to streamline the permit-granting process, i.e. the one-stop, one-permit idea, that this would significantly simplify the regulatory process. By a simple restructuring of the DEP, we can avoid unnecessary duplication of efforts in two (2) major state departments and eliminate costly and time-consuming delays because of a fragmented DEP regulatory system.

We thank you for the opportunity to comment on your proposed legislation and are willing to discuss it further with you.

Sincerely,



Robert D. Halsey
Director of County Planning



Robert W. Huguley
Senior Environmental Planner

RDH:RWH:cms

BOARD OF CHOSEN FREEHOLDERS

COUNTY OF CAPE MAY

CAPE MAY COURT HOUSE, N. J. 08210

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RECEIVED
MAY 11 1978

May 2, 1978

Hon. Frank J. Dodd
Senator, 26th District
10 North Center Street
Orange, NJ 07050

Dear Senator Dodd:

The following represents the Cape May County Board of Chosen Freeholders' views on the draft of a Bill amending and supplementing the Department of Energy Act, P.L. 1977, c. 146. While the Bill varies somewhat from S. 1407 of last year, its end result is still the same.

We recognize the profound and complex problems that embrace the questions of energy facility siting. We endorse the concept of rational long and short term planning for energy facility siting needs consistent with full and meaningful regard for the protection of environmental resources. However, it is our firm conviction that a single super agency cannot faithfully satisfy the diverse interests of the citizens of this State. It is unrealistic to expect that one agency can simultaneously discharge its responsibilities as a promoter of energy facility siting and as a protector of environmental values.

With regard to the particulars of the draft Bill, other problems appear to merit serious reconsideration:

Firstly, the time frames and deadlines for implementation of the several action forcing provisions of the Bill are too short and unrealistic.

Secondly, the Bill exempts all energy facilities from sub-state levels of land use police power, including County site plan reviews and local zoning ordinances. While electric generating facilities might rationally be so exempted after the completion of the State Energy Master Plan, other remotely related facilities siting hardly reach the same stature and, therefore, appears to be an unwarranted usurpation of local land use authority.

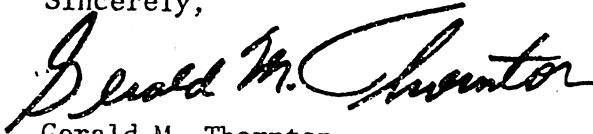
- Thirdly, the provisions enabling the preparation of county energy facility plans appear to be mere tokenism. Such county plans are advisory only and are in no way binding or enforceable.

May 2, 1978

In conclusion, we suggest that the draft Bill be revised; (1) to delete any provisions that would empower the New Jersey Department of Energy to supersede the role of the New Jersey Department of Environmental Protection in environmental protection matters; indeed, the Bill should reconfirm the Department of Environmental Protection's pre-eminent environmental mission, especially the Coastal Zone Management function; (2) to delete any references exempting any party from the provisions of CAFRA and County and local land use powers; (3) to delete any provisions which may delay the imminent adoption of the CAFRA segment of the New Jersey Coastal Zone Management Plan; (4) to increase the time frames in which to accomplish the objectives of the various action-forcing sections; (5) to empower the counties to design, plan, implement and enforce county energy facility plans and standards which recognize the State Energy Master Plan; and (6) to delay implementation of any of the action forcing sections of the Bill pending completion of the State Energy Master Plan. It is recognized, however, that governmental jurisdiction other than the Department of Energy (i.e., the Department of Environmental Protection, local and county governments) could stifle and defeat energy policies. Presently there are relief alternatives, including the judicial system, through which the Department of Energy and the Department of Environmental Protection could challenge local policies.

In short, the Bill requires significant revisions to be acceptable.

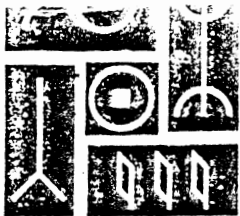
Sincerely,



Gerald M. Thornton
Cape May County Board of Chosen Freeholders

GMT:emr

cc: Senator James S. Cafiero
Assemblyman James R. Hurley
Assemblyman Joseph W. Chinnici
Representative William J. Hughes
Dr. Glenn Paulson
Commissioner Joel R. Jacobson
Coastal Counties Committee
N. J. Association of Counties
Cape May County Newspapers



MAY 10 1978

MAY 11 1978

CAPE MAY COUNTY PLANNING BOARD

May 2, 1978

Hon. Frank J. Dodd
Senator, 26th District
10 North Center Street
Orange, NJ 07050

Dear Senator Dodd:

The following are the Cape May County Planning Board's views on the draft of a Bill amending and supplementing the Department of Energy Act, P.L. 1977, c. 146.

We recognize the profound and complex problems that embrace the questions of energy facility siting. We endorse the concept of rational long and short term planning for energy facility siting needs consistent with full and meaningful regard for the protection of environmental resources. However, it is our firm conviction that a single super agency cannot faithfully satisfy the diverse interests of the citizens of this State. It is unrealistic to expect that one agency can simultaneously discharge its responsibilities as a promoter of energy facility siting and as a protector of environmental values.

With regard to the particulars of the draft Bill, other problems appear to merit serious reconsideration:

Firstly, the time frames and deadlines for implementation of the several action forcing provisions of the Bill are too short and unrealistic.

Secondly, the Bill exempts all energy facilities from sub-state levels of land use police power, including County site plan reviews and local zoning ordinances. While electric generating facilities might rationally be so exempted after the completion of the State Energy Master Plan, other remotely related facilities siting hardly reach the same stature and, therefore, appears to be an unwarranted usurpation of local land use authority.

Thirdly, the provisions enabling the preparation of county energy facility plans appear to be mere tokenism. Such county plans are advisory only and are in no way binding or enforceable.

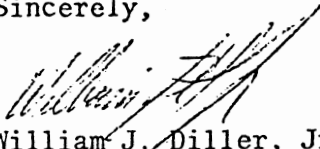
cape may court house, new jersey 08210-609-465-7111

May 2, 1978

In conclusion, we suggest that the draft Bill be revised; (1) to delete any provisions that would empower the New Jersey Department of Energy to supersede the role of the New Jersey Department of Environmental Protection in environmental protection matters; indeed, the Bill should reconfirm the Department of Environmental Protection's pre-eminent environmental mission, especially the Coastal Zone Management function; (2) to delete any references exempting any party from the provisions of CAFRA and County and local land use powers; (3) to delete any provisions which may delay the imminent adoption of the CAFRA segment of the New Jersey Coastal Zone Management Plan; (4) to increase the time frames in which to accomplish the objectives of the various action-forcing sections; (5) to empower the counties to design, plan, implement and enforce county energy facility plans and standards which recognize the State Energy Master Plan; and (6) to delay implementation of any of the action forcing sections of the Bill pending completion of the State Energy Master Plan. It is recognized, however, that governmental jurisdiction other than the Department of Energy (i.e., the Department of Environmental Protection, local and county governments) could stifle and defeat energy policies. Presently there are relief alternatives, including the judicial system, through which the Department of Energy and the Department of Environmental Protection could challenge local policies.

We hope these views are of assistance to you in developing a rational energy facility planning system which balances the State's need for energy facility development with maximum protection of environmental values.

Sincerely,

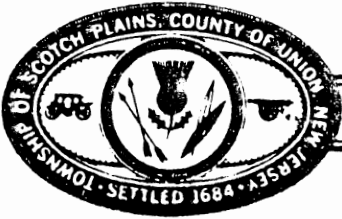


William J. Diller, Jr.
Chairman

WJD,Jr:emr

cc: Senator James S. Cafiero
Assemblyman James R. Hurley
Assemblyman Joseph W. Chinnici
Representative William J. Hughes
Dr. Glenn Paulson
Commissioner Joel R. Jacobson
Coastal Counties Committee

AUG 14 1978



TOWNSHIP OF SCOTCH PLAINS, NEW JERSEY

August 10, 1978

MUNICIPAL
MANAGER

430 Park Avenue
Scotch Plains, N.J.
07076

(201) 322-6700

Assemblyman John Froude, Chairman
Energy and Natural Resources Committee
104 David Street
South River, New Jersey 08882

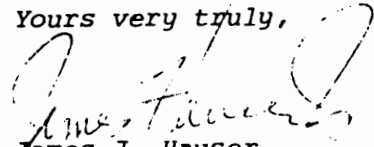
Re: Senate Bill 1179

Dear Sir:

Attached for your information and consideration by your Committee is a copy of the resolution pertaining to Senate Bill 1179 adopted by the Township Council of Scotch Plains during its regular meeting of June 20, 1978.

We wish the record to show that the Scotch Plains Council is opposed to the adoption of Senate Bill 1179.

Yours very truly,


James J. Hauser
Municipal Manager

JJH:sc

enc.

cc: Norman Miller, Committee Aide
Assembly Energy and Natural
Resources Committee
Assemblyman Donald DiFrancesco

RESOLUTION

TOWNSHIP OF SCOTCH PLAINS

WHEREAS, Senate Bill 1179, as amended, which passed the State Senate on June 5, only eighteen days after introduction, would completely remove from municipal zoning control and regulation all facilities involved in production, conversion, processing, transmission or storage of energy and places authority for the approval of such sites in the State Commissioner of Energy; and

WHEREAS, this bill constitutes a blatant assault on home rule authority by exempting such energy activities from municipal control; and

WHEREAS, the bill provides for notification to municipal governing bodies and planning boards of pending site applications and provides an opportunity for stating of objections which procedure is proforma only and which procedure does not give localities any power to disapprove any site application; and

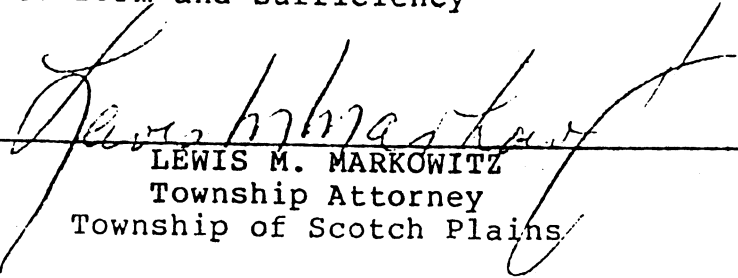
WHEREAS, Senate Bill 1179 is not in the best interest of the residents of the Township of Scotch Plains and other municipalities throughout New Jersey;

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Scotch Plains, Union County, New Jersey, hereby goes on record as being opposed to Senate Bill 1179;

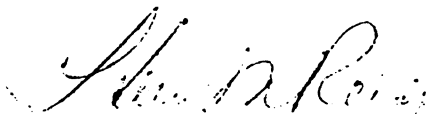
BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to Assemblymen Donald T. DiFrancesco and William J. MaGuire.

Dated: June 20, 1978

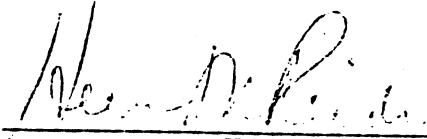
The within resolution is hereby approved
as to form and sufficiency


LEWIS M. MARKOWITZ
Township Attorney
Township of Scotch Plains

TOWNSHIP OF SCOTCH PLAINS

By: 
HELEN M. REIDY
Township Clerk

This is to certify that the within reso-
lution is a true and exact copy of a
resolution adopted on June 20, 1978
by the Township Council of the Township
of Scotch Plains


HELEN M. REIDY
Township Clerk