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PUBLIC HEARING

before

SENATE ENERGY AND ENVIRONMENT COMMITTEE

SENATE BILL 2492

(Provides for the regulation and conservation of watershed protection property)

June 9, 1988
Oradell Borough Hall
Oradell, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Paul Contillo, Vice Chairman
Senator William L. Gormley

ALSO PRESENT:

Senator Gerald Cardinale
District 39

Mark T. Connelly
Office of Legislative Services
Aide, Senate Energy and Environment Committee

* * * * *

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MAY 26, 1988

NOTICE OF PUBLIC HEARING

The Senate Energy and Environment Committee will hold a public hearing on June 9, 1988, at 1:00 P.M. in the Council Chambers, Oradell Borough Hall, 355 Kinderkamack Road, Oradell, New Jersey.

The subject of the Public Hearing will be S-2492
(Provides for the regulation and conservation of watershed protection property.)

Persons interested in testifying at the public hearing should contact Mark T. Connelly, Aide to the Committee, at (609) 292-7676.



SENATE, No. 2492

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1988

By Senator CONTILLO

1 **AN ACT** concerning the conservation and protection of watershed
 properties, supplementing Title 13 of the Revised Statutes, and
3 **making appropriations.**

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

7 1. For a period of 18 months commencing on the effective
 date of this act, no municipality, municipal utilities authority, or
9 public utility shall sell, or commence or continue any residential,
 commercial, or industrial development on any land utilized for
11 the purpose of the protection of a public water supply on the
 effective date of this act.

13 2. a. There is established in the Department of Environmental
 Protection a Watershed Property Review Board, which shall
15 consist of the Commissioner of the Department of Environmental
 Protection, the Commissioner of the Department of Community
17 Affairs, and the President of the Board of Public Utilities. The
 Watershed Property Review Board shall be authorized to exempt
19 from the provisions of section 1 of this act the sale or
 development of watershed property if the person applying for the
21 exemption demonstrates to the Watershed Property Review Board
 that there is a compelling public need for the sale or development
23 of the property, that the denial of the exemption would result in
 extraordinary hardship, or that the sale or development of the
25 watershed property is otherwise consistent with the purposes of
 this act.

27 b. A determination by the Watershed Property Review Board
 to grant or deny an exemption from the provisions of section 1 of
29 this act shall constitute the final agency action on the matter,
 and shall be subject only to judicial review as provided in the
31 Rules of Court.

 c. Prior to making a final determination on an application for
33 an exemption from the provisions of section 1 of this act, the
 Watershed Property Review Board may refer the application to
35 the Office of Administrative Law, which shall conduct a hearing



1 and issue recommendations based on findings of fact and
conclusions of law for consideration by the Watershed Property
3 Review Board in making its determination.

3. No person shall commence or continue any residential,
5 commercial, or industrial development on land formerly owned by
a municipality, municipal utilities authority, or public utility and
7 utilized for the purpose of protecting a public water supply, or
acquired by the current owner less than five years prior to the
9 effective date of this act, unless every residential dwelling unit,
or every commercial or industrial establishment will be
11 connected, on the date of initial occupancy or use, to a
wastewater treatment system operated by a municipal treatment
13 works as defined in section 3 of P.L. 1977, c. 74 (C. 58:10A-3).

4. Within 9 months of the effective date of this act, the
15 Department of Environmental Protection shall compile an
inventory and determine the estimated market value of all land
17 owned on the effective date of this act by a municipality,
municipal utilities authority, or a public utility and utilized for
19 the purpose of protecting a public water supply. Within one year
of the effective date of this act, the department shall prepare
21 and adopt a Watershed Land Preservation Master Plan, which
shall identify watershed protection areas that should be
23 maintained for watershed protection, open space, conservation,
or recreation needs, and watershed land that is suitable for
25 development pursuant to regulations adopted by the department
pursuant to section 5 of this act.

5. Within one year of the effective date of this act, the
27 Department of Environmental Protection shall adopt, pursuant to
the "Administrative Procedure Act," P.L. 1968, c. 410 (C.
29 52:14B-1 et seq.), rules and regulations establishing criteria for
determining the extent of watershed protection areas to be
31 maintained by a municipality, municipal utilities authority, or
public utility to protect a public water supply, and criteria for
33 development of land utilized on the effective date of this act for
the purpose of protecting a public water supply.
35

6. Within one year of the effective date of this act, the
37 Division of Rate Counsel in the Department of the Public
Advocate shall conduct and transmit to the Governor and the
39 Legislature a study of the rate-impact on customers of public



1 water supply systems of selling land currently utilized by a
2 municipality, municipal utilities authority, or public utility for
3 protecting a public water supply. This study shall also include an
4 analysis of the feasibility of establishing a mechanism under
5 which customers of a public water supply system would be
6 allowed to purchase land currently held for the protection of a
7 public water supply through increases in their water supply
8 service fees or charges.

9 7. a. There is appropriated from the General Fund to the
10 Department of Environmental Protection the sum of \$500,000.00
11 to implement the provisions of sections 4 and 5 of this act.

12 b. There is appropriated from the General Fund to the
13 Department of the Public Advocate the sum of \$200,000.00 to
14 implement the provisions of section 6 of this act.

15 8. This act shall take effect immediately.

17

STATEMENT

19

20 This bill would establish a procedure to review and regulate the
21 sale and development of land currently or formerly owned by
22 municipalities, municipal utilities authorities or public utilities
23 and utilized for protecting a public water supply system.

24 Specifically, this bill would require the Department of
25 Environmental Protection to conduct an inventory of all land
26 utilized for protecting a public water supply, and to adopt a
27 Watershed Land Preservation Master Plan. The department
28 would also be required to adopt regulations establishing criteria
29 for the extent of watershed protection areas which must be
30 maintained, and criteria for the development of watershed
31 protection areas.

32 This bill would also prohibit, for a period of 18 months, the sale
33 or development of any land owned on the effective date of the
34 bill and utilized for the protection of a public water supply. This
35 bill also establishes a Watershed Property Review Board,
36 consisting of the Commissioners of Environmental Protection and
37 Community Affairs, and the President of the Board of Public
38 Utilities. The Watershed Property Review Board would be
39 authorized to review and grant exemptions from the 18-month



1 ban on the sale and development of watershed protection
property.

3 This bill would also prohibit any commercial, industrial, or
residential development on land formerly used for protecting a
5 public water supply, or owned by the current owner for less than
five years, unless the development would be serviced by a
7 community wastewater treatment system. This provision would
effectively ban the use of private septic systems in the
9 development of these lands.

This bill also requires the Division of Rate Counsel in the
11 Department of the Public Advocate to conduct a study of the
rate impact on water users of selling land currently held for
13 protecting a public water supply. This study would include an
analysis of the feasibility of establishing a mechanism under
15 which customers of public water supply system would be allowed
to purchase land held for watershed protection through increases
17 in their water bills.

The bill also appropriates \$500,000.00 to the Department of
19 Environmental Protection, and \$200,000.00 to the Department of
the Public Advocate to carry out their respective responsibilities
21 under this bill.

23 ENVIRONMENT
Natural Resources

25 Provides for the regulation and preservation of watershed
27 protection property.



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SENATOR PAUL CONTILLO (Vice Chairman): Mayor, would you start this meeting off?

M A Y O R C A R O L Y N R. H A G U E: Yes. On behalf of the people of Oradell, I welcome you all. I'm so pleased to see such an interest in our watershed, with this great crowd coming out. And I particularly extend a warm welcome to you, Senator Paul Contillo, and thank you for choosing Oradell to be the site to hold the hearing on Senate Bill 2492, because in Oradell we are very watershed minded, and we certainly welcome you and thank you. I extend a welcome to Senator William Gormley, who I understand came all the way from the Atlantic City area via Trenton to be with us. Welcome.

SENATOR CONTILLO: I'll read a brief statement that I hope will set the stage for the hearing, then we'll take the public testimony as those who have signed up.

The purpose of today's hearing is to discuss legislation which proposes to protect our precious water supply by setting environmental standards for the sale of any property held as watershed. Under the terms of my bill, the DEP will be required to map the land presently held as watershed -- the land which currently protects public water supplies -- and adopt regulations on needed buffer zones. The rules would determine the extent of allowable development surrounding watershed areas. In addition, it would provide that projects slated for development be held in abeyance for 18 months while the State undertakes the mapping.

It comes as a great shock to many of us to learn that there are presently no State standards which define or set criteria for the amount of land necessary for proper and safe watershed management and protection. When it comes to land owned by the Hackensack Water Company, we have only their word and the word of their paid consultants, that the quality of our water will not suffer if the watershed is diminished. An outside, independent, trusted evaluation of the environmental effects of this proposed sale is imperative.

Incidentally, at the same time -- the very same time -- the sale of this property is being discussed, the DEP is reassessing the State's future water needs. It is totally illogical for us to allow this proposed development until we can have solid assurances that future generations will not need this property as protection for their precious drinking water.

A separate portion of this bill will ban development on watershed property which is not hooked up to a sanitary sewer system. Septic tanks should never be allowed on land directly bordering a public water supply, and the error of allowing the present such development in the Old Tappan area must not be repeated.

In addition to our major concerns -- that of protecting our water supply -- we must also consider what the development of this last remaining open space area will mean. Bergen County is home to over 800,000 people, and employs the largest work force in the State. According to our County Executive, Bill McDowell, seven percent of the county's privately held land remains undeveloped. In an almost geometric progression, each time a piece of property is developed and lost from the open space category, all the remaining land becomes that much more valuable. This makes it less likely that precious property can be acquired for parks and recreational use. Additionally, commercial development means more traffic jams on our already overburdened road system. And increased flooding all along the Hackensack River system becomes a certainty.

We are told not to worry because we will be receiving \$40 for this property. It is apparent that the cost of transportation improvements, expansion of our sewer system, flood controls, and all the other expensive by-products of this proposed development, will cost us a great deal more than the \$40 per household, and the costs will escalate for generations to come.

I believe we should be open to all methods of preserving and protecting our valuable natural resource. My proposed bill directs the Public Advocate to analyze the feasibility of establishing a way which water company customers could purchase this land. My office has been inundated with calls from ratepayers who say they would be more than willing to use this famous \$40 as the down payment for public purchase of this watershed property. And we want to investigate the possibility that there is a logical, legal means to offer the public this opportunity.

One final note. I understand that the Hackensack Water Company today has chosen not to appear before us, although I personally sent a letter of invitation to the President of the company. It is another indication to me of the water company's contempt for the people it serves.

I just want to add another comment. The more people that I've spoken to about this project -- because it is a project that we're dealing with here-- I don't drink the Hackensack Water Company's water any longer. I buy Poland Springs Water. I'm shocked to find how many of my fellow Bergen County people do the same thing. I guess what I'm saying is, the quality of this water can't deteriorate any further. We should do nothing to allow anything that's going to cause further deterioration to the water we drink now. Sometimes I think I'm in a chlorine bath when I take a shower. I mean, the smell, and the odor, and the quality of the water, from a citizen's standpoint, is intolerable. And for us to consider further deterioration by allowing commercial development on top of that watershed is just unthinkable.

There are no standards set today in this State. And I think the thrust is going to be for us to insist upon the Department of Environmental Protection to set a set of standards that once and for all we'll have in this State. I know the Board of Public Utilities Commissioners has been

asking for those standards, and I think that that must be done prior to any action taken in this area.

Senator Gormley, I want to add my personal thanks to your willingness to drive up here from Atlantic County. I know your concern for the people of this entire State certainly exceed the district that you serve now in Atlantic County, and I appreciate that long drive up the Parkway. He indicated to me he didn't know the Parkway numbers went this high. (laughter)

UNIDENTIFIED MEMBER OF AUDIENCE: He found out when he got the tolls.

SENATOR GORMLEY: As a matter of fact, I was talking to Assemblyman Schuber, and he's now hearing a bill on my district back in Trenton on an airport for my area. He said, "I'll take care of your bill if you make sure you get up there." I did mention the remark about the Parkway. He said, "Well, we're going to be reviewing that also." So we're working on that.

Seriously, open space is a common issue throughout the entire State. In my region of the State we are heavily reviewed in terms of environmental matters because we have both the Pinelands Protection Act and the Coastal Area Facilities Review Act, and there is not a particular vehicle in place in this area of this State that is similar to those two mechanisms. So buffers and environmental protection elements such as buffers are very important.

I'm going to be very curious to listen to the testimony today. As a matter of record, do we have a contract between the two agencies -- the proposed transfer? Is there a contract that's available?

SENATOR CONTILLO: No, we don't have a copy of that. There's a proposal from the water company to get permission from the Board of Public Utilities Commissioners for that sale. The Public Advocate is here, I assume, and he may be able to supply that information.

SENATOR GORMLEY: I was just curious if the actual draft of the transfer was available. (inaudible response from audience) It's just a transfer? Just a transfer, okay. Thank you very much. I'll look forward to the testimony.

SENATOR CONTILLO: Before I introduce the Senator -- who I'm sure is known to all of you -- let me introduce the rest of the people here. We have Jerry Lombardo, who is on Senator Gormley's left, who is on his staff. (Chairman is given correct name by Committee member) Joe? Okay. Joe Lombardo. I had my wrong set of glasses on for reading. Mark Connelly is the staff for the Energy Environment Committee from Trenton. He is our professional. And on my right is my own legislative assistant, Greta Kiernan. And on the far right, and no pun intended, is Senator Gerry Cardinale.

SENATOR CARDINALE: Thank you, Senator Contillo. Before I say anything else, I want to thank the Committee personally for coming up here and allowing all of these people to effectively express their opinions without having to be traveling, and finding no parking in the Trenton parking lot, and probably jammed into a very small hearing room -- most of our hearing rooms in Trenton, obviously, are smaller than this room here today -- and probably having to deal with a meeting that would last so short a period of time that they would be very severely limited in what they would have an opportunity to say.

It's not true that Senator Gormley doesn't know the exits to the Parkway, because I think the first time I met Senator Gormley -- many many years ago -- was in Allendale. And that's I think a little bit to the north of here.

SENATOR GORMLEY: I was eleven at the time. (laughter)

SENATOR CARDINALE: You see, there's something to having that elephant as a symbol.

My office, as Senator Contillo's, has been inundated with requests from people that we try to find a way to preserve this kind of open space in Bergen County. I think it is very obvious to all of us that development and overdevelopment in Bergen County has been proceeding at a pace more rapid, perhaps, than many of us would like to see. There are many reasons for that. It's a desirable place to live. But on the other hand, we want to keep it a desirable place to live.

So I came to this meeting not so much to make a statement as to listen to the statements being made by people, and suggestions that people would make with respect to what you would like us, as your representatives, to do; in order to help provide the best kind of climate for the people who live in Bergen County.

And without further ado, I think we can get to the public portion of this meeting because we all get to make speeches lots of times, but I think we learn a lot more when we listen.

SENATOR CONTILLO: Okay. Thank you. Let's start with the public hearing. I think the first one we should hear from will be Murray Bevan. He is Assistant to the President of the Board of Public Utility Commissioners.

MURRAY BEVAN: Thank you.

SENATOR CONTILLO: And if I'm correct, the application is from the water company to the Board of Public Utility Commissioners for permission for the sale, or transfer, or whatever you would characterize it as--

MR. BEVAN: Actually, Senator, it's not a sale.

SENATOR CONTILLO: You can say that again.

MR. BEVAN: It is a transfer of assets from one subsidiary of the utility holding company to another one. Hackensack Water Company is a subsidiary of United Water Resources, and the transfer is to Rivervale Realty. The issue then before the Board -- and I'll discuss that because

obviously that is what you are clearly interested in, and all the people in this room are.

SENATOR CONTILLO: And do you have any information that might enlighten Senator Gormley as to the exact contract that would take place between the two?

MR. BEVAN: Technically what they're proposing is--

SENATOR GORMLEY: A dollar?

MR. BEVAN: --an imputed sale, and imputed price for the transfer. It is, in the settlement between the Public Advocate and the company, a little over \$6 million. So I think if you worked that out per customer it comes around to the \$40 figure that the Senator was discussing. That is an imputation based on an assumption that the use is for recreational use. That is currently what it's zoned for. That's what the two consultants that were retained have made a determination that that was the value of it. Obviously it could be used for other things. If it's used for residential development, presumably the dollar amount might be more. But it is currently zoned, and based on that the appraisers have appraised it at that value.

SENATOR GORMLEY: So the \$6 million number wasn't set in the transfer?

MR. BEVAN: It hasn't been set at all yet.

SENATOR GORMLEY: It hasn't been set at all?

MR. BEVAN: No.

SENATOR GORMLEY: That is as a result of the actions of the Public Advocate?

MR. BEVAN: Right.

SENATOR GORMLEY: The \$6 million?

MR. BEVAN: Right.

SENATOR GORMLEY: In order to permit the transfer, the \$6 million will then be used for the \$40 to be distributed?

MR. BEVAN: Right.

SENATOR CONTILLO: The \$6 million is the public's half of the price?

MR. BEVAN: Yes. Let me also explain that, and I should have. This gets a little complicated.

We have had two other previous situations where we have dealt with imputed sales of either land or property that a public utility owned. In both of those cases the precedent was that there would be a sharing between the ratepayers and the utility, a 50/50 sharing.

SENATOR GORMLEY: Can I ask you a question? How was your land originally assembled?

MR. BEVAN: Excuse me?

SENATOR GORMLEY: How was the land originally assembled?

MR. BEVAN: I may not know all the details. Let me tell you what I do know.

SENATOR GORMLEY: Okay.

MR. BEVAN: It was purchased, I really don't know when, the assumption being there was a buffer zone that was needed around the Oradell Reservoir for watershed protection, basically.

SENATOR GORMLEY: Well, I guess where I'm coming from is-- This was purchased by the utility at the time. Was it purchased from another utility? Was it--

MR. BEVAN: I don't believe so. I really don't know all the details on that. I can surely get you the answer.

SENATOR GORMLEY: I'd be the curious about the assemblage, and if there was any public assistance or any help at the time in order to do the assemblage coming from the public, because it was for a public purpose at the time. I'm just curious as to how it was originally assembled.

MR. BEVAN: I don't know the answer to that.

SENATOR GORMLEY: Well, could you find that out?

MR. BEVAN: Sure.

SENATOR GORMLEY: Thank you.

MR. BEVAN: If I might, let me just briefly give you a bit of history and tell you where the Board is at.

There was a discussion of the Havens & Emerson report -- or at least it was tangentially alluded to -- that was based on a determination or a request that the Board made back, I believe, in '82 or '83 to have an independent appraiser look at the land that we characterize -- or could potentially be characterized -- as not used and useful. In other words, not supported for direct utility purposes. Based on that, Havens & Emerson basically said that there was a 700 acre parcel, which the Board has dealt with, and dealt with in '84 and '85; and this 300 acre parcel which is currently before the Board, which were not considered to be used and useful. They should not be supported by ratepayers, and presumably are not needed for watershed protection.

Now, the assumption in the report is that there is a buffer zone around the reservoir of approximately 250 feet in some areas and 500 feet in some other areas. But that is a buffer zone that sort of rings that piece of property, and is sufficient for watershed protection.

We have no standards from DEP that indicate to us that that is either right or wrong, or what ought to be the buffer zone. I know Senator Gormley and I have talked about the need for our agencies to work much closer together in the solid waste area. There's no question about that. I think this is another area where clearly we do need to--

SENATOR GORMLEY: Well, you wind up with conflicting orders. And the public hears the word "State" and they don't realize that one side of the State doesn't know what the other side of the State is doing.

MR. BEVAN: Surely. And we are not economic experts-- I'm sorry. (laughter) Well, we may not be those either, but-- What I wanted to say was, environmental.

SENATOR GORMLEY: That's what you do. Okay. That's what you do.

MR. BEVAN: Okay.

SENATOR GORMLEY: That's called an admission.

SENATOR CONTILLO: There's some people that think DEP are not environmental experts either.

MR. BEVAN: Okay. We're not the environmental experts obviously, and we need their expertise and their input on exactly what the standards ought to be.

SENATOR CONTILLO: Has the Board officially requested these standards from DEP?

MR. BEVAN: Yes. I went back and checked as far back as really four years ago we've--

SENATOR CONTILLO: How long?

MR. BEVAN: Four years ago.

SENATOR CONTILLO: Four.

MR. BEVAN: Yeah.

SENATOR CONTILLO: I see it also in the statement, I guess, that was made at last week's meeting where you also requested it?

MR. BEVAN: Yes. Commissioner Guido, again publicly in the hearing again asked DEP to produce those standards; to work with us, talk with us, give us some sort of input on what those standards ought to be.

SENATOR CONTILLO: Okay, so then actually we're in really tandem here because this is what my bill requires. It would be fair to say that your Department fully supports that segment of the bill?

MR. BEVAN: Well, we are very supportive clearly of the request to ask for that, because it's clearly needed. Your bill also addresses, Senator, not only this Hackensack Water situation, but a number of other watershed areas; watershed property that may be owned by a municipality, a municipal utilities authority, really all of those watershed properties that are out there. We clearly think that that's needed, and that it shouldn't just be those properties that are under our jurisdiction but all of those watershed properties.

SENATOR GORMLEY: Do we have any idea how many there are?

MR. BEVAN: We're attempting to get that. And let me, if I could, share with you a letter that President Whitman sent to Commissioner Dewling of DEP, Feather O'Connor, and Jim Gilbert, who is the Chairman of the State Planning Commission. This is a May 17th letter, which resulted from a meeting that she had with members of the Planning Commission, several representatives from municipalities in Bergen County, and others that were interested in open space and watershed protection.

She says, "As a result of this meeting, I would suggest that a task force be established with representation from the Board, the DEP, the Department of Treasury, and the State Planning Commission. That task force would meet in a limited duration, but would discuss the issue of open space and make further recommendations to the State Planning Commission. One of the first missions of this task force would be to determine where each respective department's jurisdiction lies in this regulatory arena. As an example, I indicated to those assembled at a May 12th meeting, that the Board of Public Utilities regulates the transfer of properties of debt investor owned utilities only."

And a point in fact, we've done a bit of internal inventory, and I can't make a definitive statement to you that this is where we're at, but watershed property that is in fact under our jurisdiction is probably pretty small. We probably don't have too many future transfers that we're talking about. However, when you get into the area of the watershed property from the Jersey City Reservoir, Newark, those that may be owned by municipal utilities authorities, by municipalities, there may be substantial properties there. We really do need to inventory that. Again, your bill suggests that we do that, and we wholeheartedly support that effort.

She said, "Additionally, I felt it useful to develop an inventory." And I think that would be the first thing that we ought to do. We've asked Jeanne Fox, who is our Director of the Division of Water and Sewer, to Chair that task force; and have asked for representatives of the other departments. We do not have someone from Treasury yet, but all the other individuals have responded, and we suspect that that group will be working in tandem or with you -- however you want to do it. We're trying to achieve the same objective.

If I could turn to the bill for a moment, Senator, and these are maybe some technical comments. You're suggesting that for an 18-month period -- that's in section one -- "that no municipality, municipal utilities authority, or public utility, shall sell--" And then it lists commercial property, industrial, etc., etc. You haven't mentioned really the situation you're talking about in Hackensack, which is the transfer of land. Maybe in lawyer legalese you might want to think about transfers, conveyances, imputed sales, all of those items that could conceivably flow.

Also, you've listed public utilities, municipal utilities, authorities, and municipalities; and when we look at watershed properties, watershed properties are also owned by--

SENATOR CONTILLO: Are you on the next page?

MR. BEVAN: Yeah. Well, not really. I turned to the next page because I have some notes there, but I'm still on that section.

Watershed properties are also owned by regional authorities, commissions that have been in fact created by the Legislature -- the Passaic Valley Authority is one that comes to mind -- and maybe we ought to inventory those also, and sort of open up the scope of what it is we're indeed considering.

In section four of the bill, the mandate is to request the DEP perform these studies within nine months. It's an inventory and a determination of the market value of the land.

Maybe some thought should be given to how you're going to determine that market value. If it's by full appraisal, that might be a very lengthy process. One of our staff people suggested that you might be able to simply take the tax value and multiple an assessment ratio and at least come up with some sort of gross screening mechanism to give you some sort of estimated value. I sense from you -- and you can also sense it from our agency -- that we'd like this thing to be done reasonable quickly. And if we're going to hire consultants and do appraisals, over all with this property you may be talking about a number of years. So maybe we better hone it a little bit better on what it is we need to do, and how lengthy we need to engage in that.

Also turn to section six, which directs the Rate Counsel in the Department of Public Advocate's office to conduct really the rate making impact study. And although I'm not, for the Board of Public Utilities, fishing for additional work, I might suggest that we do have certain experts in our agency and do have individuals that really can do some of that, and could potentially be involved in some sort of a study and dialogue. I would offer that we would, if it is your wishes, like to be included in that analysis. Also, if you're going to be doing an analysis of municipal authorities and municipalities, possibly someone from Local Government Services in DCA might be a useful party.

There's a limited scope to really what the Division of Rate Counsel in the Public Advocate's office does, and we may be talking about some areas where they don't have the total expertise. So I'm offering to you clearly the Board's assistance, if that's what you wish.

As I said, generally we're very supportive of the legislation, and we'll be glad to work with you. I'd be glad to entertain some additional questions if you have any.

SENATOR CONTILLO: I have a question, and as you said, there seems to be a time pressure. Is there a time pressure for your Board to make a decision? In other words, what are the rules and regulations as it goes to that?

MR. BEVAN: Well, clearly there's not a gun to our head to decide this thing.

SENATOR CONTILLO: Well, is there a requirement that you respond within a given amount of time, or not?

MR. BEVAN: I'm a little hesitant to say some time horizon. Maybe I ought to get back to you. I believe they filed their petition before us in December. I believe there's sort of a year time horizon there, but I'm not certain of that. Let me say this. Obviously we don't want to rush into doing anything. The Board on the second had the public hearing on this issue. On the 23rd and the 24th we've going to have two days of evidentiary hearings. And the questions that you're concerned about -- watershed protection with respect to the Hackensack land transfer -- the Commissioners are clearly going to want to have an understanding of that, and some basic answers about the protection of that before they move ahead. So, I don't sense there's a rush, no.

SENATOR CONTILLO: Can you wait until this would be played out fully, where the DEP made their determination to allow you to make your decision with some rationale to it, or are you under the gun to act within a year or two? Is there a number? That's really what I'm asking you.

MR. BEVAN: Let me get back to you.

SENATOR CONTILLO: Okay.

MR. BEVAN: I don't want to say for certain. There is in the statute certain deadlines for rate case filings. This isn't a rate case. But I'm not sure.

SENATOR CONTILLO: In addition, you may have additional information or there may be devices that you use to extend your hearing for good cause.

MR. BEVAN: Yes.

SENATOR CONTILLO: I don't know your administrative procedures. Senator Gormley?

SENATOR GORMLEY: Yeah, I think we possibly merged what should be two separate issues. And I think you're bringing out a good point. We want initially an environmental review as to environmental impact. Value is a later question. But before we even get to value or appraisals or whatever -- which obviously are important -- I think we may be even focusing the bill even more in that direction as we refine it, that we're talking about environmental impact and review.

Now, when we're looking at something like this -- because there's a lot of criticism one way or another about the State Plan and the recommendations of the State Plan-- What in fact are the recommendations of the State Plan? It seems like it's brought up when they don't want it brought up. People seem to pick and choose when they bring up the State Plan. What does the "State Plan" say for this region or this area as it pertains to the watershed? There must be a recommendation. I hate to bring it up, but it is allegedly the document that we're supposed to be guided by. What does it say? Sorry to bring it up. It's only the State Plan. I apologize.

MR. BEVAN: I've only read 400 of the 700 pages. I haven't found that yet. It's a good point.

SENATOR GORMLEY: But I think the point to be made is that here's another group of people primed to the particular assignment, that we're now saying, "Oh why don't you do it?" And I think we have to get to cross referencing better. I'd just be curious what does the State Planning Commission say, and should there recommendations be incorporated in one way or another when we're doing a review like this? Why have them out there doing it, and yet they're not being cross referenced in the process? Maybe I'm making this overly simplistic, but why are they doing what they're doing unless we're looking at their recommendations?

I think the focus of the bill-- There should even be greater emphasis on the DEP coming up with the regulations and the review process. And yes, we do the appraisals down the road and whatever, but it doesn't matter whether it's valuable or not because the real question is an environmental question before you get to the appraisal question. I don't want them mixed too much, because I don't want the appearance that the appraisal is right, wrong, or whatever, to take away from the emphasis on the environmental issues.

So I think it's two steps. Don't even get into looking at it, until you say, "Is there an environmental clearance that this can be done?" I mentioned the State Planning Commission because they are preparing a document that is supposedly to give some guidance in questions of this nature. Maybe I'll disagree with what they're saying, but I don't know what they are saying and that should be cross referenced, and maybe that could be included in that initial environmental review.

SENATOR CONTILLO: Okay. I would agree with that. Senator Cardinale?

SENATOR CARDINALE: I'd like to just address the same issue as Senator Gormley has, because I've had the opportunity to talk with Mr. Epling about the whole northern Bergen County area in general. One of my complaints, Senator, was that in our area very little green area was set aside. Now I know that Mr. Gilbert has indicated in some statements that environmentally sensitive lands ought to be protected, but in the draft that we have, these particular lands don't seem to me to have been singled out in any special way or in any effective way, as have some places in Sussex and Warren and in other counties, where great areas have been set aside.

I don't know if there's anyone here from the State Planning Commission, but if there is not, or if there is, I hope the word gets back to them that it is because of issues

like this that we ought to be trying to create a more balanced Plan; a Plan that protects areas like Bergen County just as much as it protects other areas. Unfortunately that Plan seems to me, as I have reviewed the draft -- and that's what we're working with, we have no final plan yet, we are still involved in the cross acceptance process-- But as I look at that Plan, it is going to cause more of what the people in this room are concerned about, overdevelopment of the very good areas that we have all been enjoying in upper Bergen County and several other parts of the State. We are going to have to put people somewhere, and if we have all those green designated areas in Warren and Sussex and all other places, and none here, where is that development going to go? It's obviously going to go here. And that development pressure is something that we ought to be very sensitive to.

SENATOR GORMLEY: I think another question is the value, if in fact down the road we determine-- If we make a public policy determination that this should be preserved as open space, at the same time we have to acknowledge that there is ownership in these utilities. We have to look to either a Green Acres bond issue, or the Natural Resources bill that we talked about, to make those purchases of those open spaces and preserve them if they want to transfer them, so that we don't go back and forth through this process all the time. But if in fact there is value, or some compensation has to be paid, we have to be aware down the road that possibly we want it preserved under Green Acres or some form of open space mechanism made available by the State. We just can't take it.

SENATOR CONTILLO: I agree with you, Senator. I think what you talk about is an excellent proposal. In addition, we already have the comments from our County Executive where he would like to be part of that, and the county could be contributing to it. I'm sure with the combination of State funds, of county funds, and ratepayers even, a strange

combination of those three things could be used as a purchasing mechanism.

Just as we talked about the State Planning Commission, they are aware of this specific piece of legislation. Their first impression was that they are in favor of it. And I think when we have our final Committee hearing -- hopefully when we're ready to release the bill shortly -- that we can have a clearer and more detailed report from the State Planning Commission. But I think that they generally agree with the thrust of what we're doing. Okay?

MR. BEVAN: Yes.

SENATOR CONTILLO: I hope now that your Board is going to take a sabbatical for awhile and not do anything rash.

UNIDENTIFIED MEMBER OF AUDIENCE: Remember the adage, "Haste makes waste."

SENATOR CONTILLO: Someone is here now from the Public Advocate's office, Mumtaz Bari-Brown?

MUMTAZ BARI-BROWN: Close.

SENATOR CONTILLO: Will you correct me, so I--

MS. BARI-BROWN: Good afternoon. My name is Mumtaz Bari-Brown. I'm a Deputy Public Advocate with the Division of Rate Counsel. I appreciate the opportunity to appear before you today on behalf of Commissioner Alfred Slocum, to discuss the regulation of watershed protection property.

The Division of Rate Counsel in the Department of the Public Advocate is mandated by law to represent and protect the public interest in all utility rate matters before the BPU. In these circumstances where there is BPU jurisdiction, as part of its responsibilities, the Division of Rate Counsel examines requests to remove from the rate base excess open land owned by a municipality, municipal utility authority, and public utility, which was once owned and used for the protection of the public water supply. The Division must ensure that the ratepayers receive the benefit from the removal of the property

from the rate base. If one of these land transfers is proposed, the capital gain must inure, at least in part, to the ratepayers. It is the BPU's policy to allocate the gain equitably amongst the ratepayer and the shareholder. It is within the context of this policy that Rate Counsel seeks to maximize the ratepayers' equitable share.

Now, the existing system has two significant shortcomings in our opinion. First, if there is no BPU jurisdiction -- such as may be the case for a municipally owned water system with no out of municipality sales -- then there is no direct regulatory review. The second shortcoming is that in prior land transfer requests before the BPU, attention has focused purely on the economics of the particular transaction in isolation, and the need for that single parcel of land standing alone. There has been no analysis of an overall strategy to assure pure water, nor has there been any adequate vehicle to deal with the local community impacts which is not readily quantifiable in dollars and cents.

Senate Bill 2492 establishes new provisions for the regulation and preservation of watershed protection property. A watershed property review board is created to authorize the exemption of land from the provisions of the act. The DEP is to compile an inventory and determine the estimated market value of all land owned by a municipality. The Department of Environmental Protection must prepare and adopt a Watershed Land Preservation Master Plan, and promulgate rules and regulations establishing criteria for determining the extent of watershed protection areas to be maintained by the municipality, municipal utilities authority, or a public utility, and for the development of that land.

Under your proposed bill, the Department of the Public Advocate's Division of Rate Counsel has one year from the effective date of the act to study the rate impact on customers of public water supply systems of selling land currently utilized, to protect the public water supply.

Utilities own wetlands, woodlands, and other undeveloped open space to protect the water supply. Now, the costs associated with that ownership of the land -- such as taxes -- are passed onto the ratepayer in their water supply charges.

If it has been determined pursuant to an engineer's study that the property is no longer used and useful for utility purposes, and that there is no reasonable likelihood that such property will be used in the future, the land may be transferred. The Division's role is to assure that if the Board approves the requested transfer, the ratepayers will receive the benefit of the removal of the property from the rate base. Pursuant to the Board's policy, an equitable share of any gain in the value of said property, which the ratepayers have supported through rates over the years, should go back to the ratepayer.

Currently, the Division of Rate Counsel is only involved in these cases when there is a specific land transfer issue. Under Senate Bill 2492, we would be mandated to conduct a general statewide study of the rate impact of these type of transfers on customers. Contrary to what Mr. Bevan said, we believe it is clearly within the scope of our expertise to address this issue, and we support the concept of this study. The procedures for land transfers should be treated in a coordinated and uniform manner.

The bill also provides that the Division shall report to the Governor and the Legislature to address the feasibility of establishing a mechanism under which customers of a water supply system would be allowed to purchase the land through an increase in their water supply service fees or charges. We agree that the Legislature and the Governor could benefit from this type of study. Again, Rate Counsel, because of its expertise, would be qualified to evaluate how such a proposal could be structured. In analyzing the feasibility of this

purchase concept, the Division would consider a number of factors beyond the narrow issue of rates.

Recently, the Division of Rate Counsel has been involved with the Hackensack Water Company, who have petitioned the BPU for permission to transfer some 300 acres of surplus watershed land to an unregulated subsidiary company. This case has highlighted the need for some guidelines on how these matters should be handled. The case demonstrated that these transfers do have a potential to impact the ratepayers.

In conclusion, let me reiterate that mandating a study is a good way of looking into the matter. The Division of Rate Counsel would be equipped to prepare a report. I commend you all for addressing this important issue.

SENATOR CONTILLO: Yes, Senator?

SENATOR GORMLEY: The prior speaker can assist in this also. When you're setting a rate, the debt service on the purchase of property -- as a part of the argument that's being made by the utility to justify a certain rate -- that comes right out of the ratepayer, doesn't it? Well obviously it all comes out, but that's in the base. That is not considered in the profit level or whatever.

MS. BARI-BROWN: The rates.

SENATOR GORMLEY: So that's right in the rate. So the debt service on that property is carried that way directly through the rate and that is not, shall we say, against the shareholders?

MS. BARI-BROWN: Correct.

SENATOR GORMLEY: Okay. Consequently, the carrying cost of real estate is not taken out of the dividends of the shareholders?

MS. BARI-BROWN: I think--

SENATOR GORMLEY: You know where I'm going to?

MS. BARI-BROWN: I know where you're going.

SENATOR GORMLEY: In other words, if you're carrying the mortgage for all those years, or whatever, should that be factored into this process at the end if in fact it didn't come out of the shareholder-end of it?

MS. BARI-BROWN: Okay. I understand what you mean. On our staff I'm not the technical expert on finances. I'm an attorney on staff.

SENATOR GORMLEY: Okay.

MS. BARI-BROWN: But I certainly have available that information to you and anyone else here in this audience, that I can provide to you.

SENATOR GORMLEY: I would be curious if you'd give us the breakdown of how that is-- When a rate is set, how do you factor in the debt service or carrying cost on the property? I think that's very important because if it is -- I'm not trying to overly simplify this -- but if, "Oh, that's an automatic; that's the debt service on the ground they need to operate it," and therefore it isn't something that would be considered against a dividend or the shareholders, then I have a question at the other end if it's been carried all those years as an automatic, then the profit level is at the other end. I'm just curious. For example, perspective, if there be a purchase of property by a utility, and they say that's going to go in the rate base, should there be an equitable interest for the public in that piece of property if and when it's sold?

MS. BARI-BROWN: Well, I think that's the concept that's happening here. Once it's sold or when it's transferred, any value in that land our role is to see that the ratepayers get what's coming to them. But I know if you want to--

SENATOR GORMLEY: Can I tell you something? I don't have an appraisal but I can tell you this. Given the proximity of this area, given it's location in the State, and given the value of land in this State, I'll get the financing this

afternoon and I'll buy the land. Okay? All right?
(laughter) Come on.

UNIDENTIFIED MEMBER OF AUDIENCE: Can we all join in?

SENATOR GORMLEY: Yeah, I know. The question is the carrying cost. That's why I want to go into how the land was assembled whenever it was assembled, if there was public assistance. I want to ask the question, if this is an automatic that's automatically gone into the rate base, and the debt service of the carrying charge has been picked up by the ratepayer, now what happens? Is there a greater equity in the ratepayer now that it's sold? I don't know that. Maybe the number might be perfectly correct that the Public Advocate has negotiated. I don't know that. But I do think with 280 acres-- How big of a development are they talking about? How many number of units? Nobody knows? Six hundred?

UNIDENTIFIED MEMBER OF AUDIENCE: I can tell you, based on a study of what they say, and using Oradell's proportions for cars, it amounts, in Emerson alone, to 6000 cars.

SENATOR CONTILLO: Because of the commercial development you're talking about?

UNIDENTIFIED MEMBER OF AUDIENCE: The commercial development, taking one car for every 300 square feet.

SENATOR CONTILLO: Let's keep a little more control and deal with this witness.

SENATOR GORMLEY: I'm sorry. But I would be curious to know how you handle that in putting it in the rate base, and if it is, as I said, an automatic, effectively, then I have greater questions at the time of the transfer.

MS. BARI-BROWN: Yeah well, those are technical questions dealing with finance. I would be prepared to discuss that with you with the attorney who handled it and our in-house expert, with the file in front of me at that point.

SENATOR GORMLEY: Fine. I'm sure Senator Contillo would be interested in that.

SENATOR CONTILLO: Well, that's really my question. You say you can't answer the question. How did you arrive at what has been reported in the press -- and I'm not sure it's accurate, but the press has reported that the Public Advocate's office has reached an agreement with the Hackensack Water Company on how the money is to be distributed on these almost 300 acres. Is that in effect true? Do you want to discuss that for a short period?

MS. BARI-BROWN: No. The purpose of my appearance here is to comment and address our role as proposed under the bill in conducting the studies.

SENATOR CONTILLO: Okay.

MS. BARI-BROWN: That agreement has not been finalized, however, if there are specific questions, our office is always open should anyone be interested in calling.

SENATOR CONTILLO: Well, I guess what Senator Gormley was inquiring about, and what I want to know is, how far along has that proposal been agreed upon? Has it indeed been agreed upon, and what logic followed it? What Senator Gormley is saying, if the property was purchased for, in effect, pennies many years ago, and the public has paid the freight in maintaining it over these last generations, and now it's going to be sold for the profit of the stockholders, there does seem to be an unfairness in there. We'd like to know what thought process and what accounting process went into that decision, if indeed a decision has been made. I don't know that it has. This is just a press report that you made an agreement with them. Can you answer that?

MS. BARI-BROWN: Well, an agreement is on the table. In all due respect though, getting into the merits of how Rate Counsel and the other parties reached that agreement is not a matter that has been on my agenda to discuss here.

SENATOR CONTILLO: And this is an agreement between the Public Advocate's office and the Hackensack Water Company? The Board of Public Utility Commissioners have not taken their view of this agreement yet?

MS. BARI-BROWN: At this point, I think it's still before the parties.

SENATOR CONTILLO: Again, I ask your Division, don't rush in. Don't act precipitously. Because I think that there's been a lot of misunderstanding about how this thing should be dealt with and where we're coming from. You can see there's going to be legislative action on it. It's coming out of both houses and both parties of the Legislature. I would ask you to not act precipitously.

MS. BARI-BROWN: Okay. Thank you.

SENATOR CONTILLO: Senator Cardinale?

SENATOR CARDINALE: I'd like to reiterate some of the things that both of the prior Senators have said. And just add another piece of information that perhaps-- You know, we don't all come from the same part of the State. It's a big State, and things are different from one place to another. But from what I see of the proposed settlement amount, it almost sounds like that's 10% of the value of the property. Now real estate in this area is very volatile. The market does change from time to time. But just as a general rule of thumb, undeveloped land -- some very substantial parcels of undeveloped land -- have been sold of a similar nature to this in some parts of Bergen County for as much as \$200,000 an acre. With the number of acres that are involved, we're dealing with a value of about \$60 million. So, Senator Gormley was very right to think that if he could buy it for six something that he could probably get the financing this afternoon. I might help him with that.

SENATOR GORMLEY: Do you have a savings and loan around here, Gerry, that we could go to? (laughter)

SENATOR CARDINALE: But with that kind of gross disparity in the numbers -- and I don't know how you arrived at your figures, and maybe there is a substantial portion which is not usable because it's wetlands or there may be many other factors that we don't know about -- but it just seems grossly, offhand, that this is a very dramatic departure from real value. Now, you may have some proportion. You may have not assigned this total value to the ratepayers. You may have said that only 10% of the value-- You may be right on target with your appraisal, but you may be using some factor for the ratepayers that is something that we don't really know. But I just don't understand that value, and I think I would like to understand that value, and I think the people in this room would like to understand how that was arrived at before that is an agreement that becomes finalized.

SENATOR CONTILLO: As far as this particular parcel is concerned, the agreed value apparently is \$12 million. Is that correct?

MS. BARI-BROWN: Well there are two appraisals I think they found.

SENATOR CONTILLO: Twelve and seventeen. Okay. For some reason you've decided to use the recreational. So let's assume that you and the water company have agreed on \$12 million. I think again I'm going to go back to his comment, which might have been made in jest, I think you'd probably be able through the ratepayers -- and that's where your Department comes in-- What would it cost the ratepayers of this area, possibly on their own, or possibly with some help from the county and the State, to maintain that property in the public arena for the next 100 years?

MS. BARI-BROWN: I think a portion of your bill has asked us to undertake a study to do that.

SENATOR CONTILLO: Well, I'm requiring that in my bill, but I'm saying is there's nothing that precludes your Department from doing that right now. Is there? In other words, what's there to prevent your Department from suggesting to the water company that they add another dollar a month to my water bill to maintain that, not only for the quality of the water, but for the quality of our life right here in Bergen County? (applause until Chairman calls meeting back to order) I love the applause but it makes it tough for--

SENATOR GORMLEY: Oh you were slow on the gavel. Stop it. (laughter)

SENATOR CONTILLO: I let them go twice, Senator. Do you understand my question?

MS. BARI-BROWN: I understand what you're saying. At this point, like I said, there are shortfalls in the present system, and when this type of procedure comes before us our involvement has been limited just to looking at if the Board allows for this transfer, what should be the equitable share? And your bill will open up to us some other avenues and alternatives which we can approach.

SENATOR CONTILLO: Can you do this without my bill? Can't you make this suggestion? Can't the Board of Utility Commissioner -- who is looking at me right now-- Can't you make this suggestion without being mandated?

MR. BEVAN (from audience): The former Commissioner or the staff person?

SENATOR CONTILLO: I'm going to ask the staff person first, because I'm going to give former Commissioner Hynes probably the next opportunity to speak. Would you like to respond to that?

MR. BEVAN: I would obviously, yes.

SENATOR CONTILLO: Okay. Will you?

MR. BEVAN: I'm not the Commissioner.

SENATOR CONTILLO: Well, I leave that with both of you. I'm not going to pursue it. But if you're going to be mandated to do it shortly, possibly some preliminary work might make the whole thing skid along a little quicker.

MS. BARI-BROWN: I agree.

SENATOR CONTILLO: Okay. Thanks.

MS. BARI-BROWN: Thank you. Anything else?

SENATOR CONTILLO: Thank you. Okay, now the fourth person that we'll hear from today-- Oh, you know what I'd like to do-- Is there anyone here who, in case someone has come in since the meeting started-- Does the water company have anyone who wants to speak at this meeting? Do they have any testimony they want to incorporate in the record? (no response) Well, okay then I would have to ask the next question: Is there anyone here who would like to be critical of the bill or oppose it?

G R E G O R Y G A G E (stands up to speak from audience):
Greg Gage, on behalf of Bergen SWAN I'd like to--

SENATOR CONTILLO: Oppose the bill?

MR. GAGE: No, no not oppose the bill. No.

SENATOR CONTILLO: What I'm trying to do is there are some people with official capacity here, and I'm trying to let them speak first. And I will respect the office that was formerly held by Assemblyman Hynes and Commissioner Hynes. Would you like to come forward and give us your thoughts on this matter, being that you were sort of on the scene when some of these events incubated? And my former running mate, yes.

E D W A R D H. H Y N E S: Thank you, Senator, and hello Senators. For 10 years of my life, I was both an Assemblyman who represented towns in the watershed district, as well as 6 years of my life I spent on the Board of Public Utility Commissioners. And it was 8 years ago that the genesis for this land sale began.

Most of us can probably remember very lucidly that God sent a test of our patience by giving us the worst drought in

100 years. Not only was that a test, it lasted for two years. So at that time, the Commission decided we'd better see what is not needed because the Hackensack Water Company, which had a lot of debt outstanding, and which required them to sell water to pay that debt, had no money coming in. So, in 1980, the Board said let's do a study of what is not needed in this company so we can slim down for this crisis. Eight years hence, we now stand on an issue of, is this land used and useful -- a very sacred concept in public utility regulation across the country. And let me say that Commissioners make that decision based on expert input. In this case, the Board had before them when they were making this decision, people who make a living of deciding what is essential. And my knowledge of Havens & Emerson is they rank among the best in the country.

However, once the Board has made the decision, "this is not used or useful," the Board finds itself in a very difficult position. Because the genesis of this legislation, which I'm here to support, comes down to Bergen County, which as the Senators have noted has been very heavily developed -- perhaps only 6% is left underdeveloped -- and consequently all the citizens are wondering whether their quality of life will diminish. The issue is really twofold. One is a public policy question of open space, and the second is protection of the water supply. Both those issues are beyond the competence of the Board of Public Utilities to decide. And for six years when I was there, I always got hit with all of these terrible public policy questions, but there is nothing in Title 48 which gives the Board of Public Utility Commissioners the authority or the prerogative to start deciding questions of open space or protection of, let's say the water's buffer zone, if the experts have shown in testimony subject to cross-examination, that that's not the case.

So, as a former Commissioner who used to get beat up a lot, let me say other people have a say in this matter, and then give some recommendations on this particular problem.

One is, it is very important that the local officials make a comment. And the Board heeded the comments of the County Executive, of Senator Contillo -- your aide's comments, of the Assemblymen for the district comments, of freeholders' comments, and even the mayor of Oradell comments, because it is rightfully in their bailiwick a decision, "Should this land be preserved as open space?" Not the Board. And I'd like to think that the Board will take into account that the County Executive has said he has a program called, appropriately, the "Last Chance" program. Because that's what we're down to -- to save this land.

And that would take a financial commitment by the local officials, county and local, either for a general obligation bond issue, or going to the State government if there's available Green Acres money.

Let's get down to the second area, and that is, is this sale of this land going to affect the buffer zone? Well, I used to be a legislator, and I used to be a Commissioner, and that's a pretty darn hard question to answer. I know this study has recently been updated, but as we continue the development of this area -- Bergen County -- maybe even Havens & Emerson, on an annual report, might say, "Wait, wait a minute, maybe we should revise this program." So, it is a discretionary question to the Board, but they rely most heavily on their experts, which is what the nature of what the Commission does.

So, specifically, the hope for this land is that the Board will hear from responsible public officials who will tell the Commissioners, "Yes, we are starting a financial study, or two, we are starting a policy study that this land is crucial for Bergen County." Now, the Board is not pressed to make a decision this summer, Senator. This is not a rate case. The Legislature long ago passed legislation in Title 48 that said when a utility comes in we want them to get fair treatment.

You've got to have the rate case decision made in nine months. They never made that decision for issues of this kind.

But the Board wants to be fair to all parties. I mean, it's so easy to beat up on a utility; I've seen it happen many times. The difficult problem for the Commissioner is to weigh the pros and the cons. I say that Hackensack Water would not be jeopardized if there was a delay, for the following reasons:

The first lease is up in 1991.

The Board has to be concerned that the water company is treated as fairly as are the ratepayers. If the Board says the fair market value will be the time that we sell it, whether it's 1988 or 1991, the Board can be assured that the water company will have their say, and they can say, "Hey, we put our two cents in, we think the land is worth this much."

Now we've also talked about the low value of this property. And I concur with all the comments here made by the Senators. I'd love to be on the financing too, Senator Gormley, because it is undervalued at this point. But the Board can only look at the value of the land as it stands as watershed land. When I was a Commissioner, I asked the question -- because you're always surrounded by lawyers, who can give you 20 reasons why you can't do something, never a positive reason. And I say that being a lawyer myself. But, you have to judge the value of the land as it's now used. And a Commissioner cannot say, "Well, I know that they're going to take this to the Oradell Planning Board, or the Emerson Planning Board, they're going to get site plan approvals, and they're going to put up beautiful condominiums, and so therefore, I, Edward Hynes can say that land is worth \$200,000 an acre." That is not the mandate that the Board has.

So, in the short-run here, the Board is limited by its statute. I know they're very concerned by the issue, because you had the full complement of the Board sitting in Hackensack

a week ago. They would like to think that someone is going to do something positive, but if I were there today, I'd say, "Look, we can't wait three years to hear from some responsible authorities." But your comments today Senator, and the comments of the County Executive and all the other people, should make a big impact for the future.

Senator, I think your bill is long overdue. Bergen is going to be, in a way, the microcosm of what the State's becoming. Congestion is becoming the major problem. Unfortunately, we're facing the problem first. Maybe in 10 years Atlantic County is going to be so booming that you're going to say, "Wow, how do we get from place to place without taking forty minutes, which is normally a seven minute drive?" So, this bill is very important.

The one amendment that I would make is, I would add the State Planning Commission to your group. That's a fairly new addition to the State family of agencies. Having come out of government -- it can be a nightmare if you're a private entrepreneur trying to deal with all these agencies, and it is tough, but that agency would seem to be a logical addition to this. I wouldn't want to see it weighted down. But, apart from that difference, Senator, I think you're on the right track.

SENATOR CONTILLO: You know, when you say you were required as a Commissioner to accept the advice of the experts, you recognize that when the Hackensack Water Company hires a consultant for a project, there's a suggestion of what they're looking to see done. Possibly we should direct that these consultants -- we use the word "independent consultant" -- but I mean, truly independent, as opposed to someone who was probably hired by the water company, but paid for by the ratepayer, probably.

MR. HYNES: Senator, we did just that in this issue. You know, coming from Bergen, my colleagues would always look

at me, just as I would look at my colleagues from the southern part of the State, or Central Jersey, you know, "Well, Commissioner, what do you think?" So, I paid close attention to this issue more than my two colleagues. We hired independent appraisers to give the Board -- because while I do not believe that because an expert testimony comes--

SENATOR CONTILLO: That's appraisal. I was talking more about the consultant study as to whether the property was actually-- I understand the appraisal because I read that. I am talking about those who made the decision as to whether the property is necessary for watershed protection any longer. And that consultant was hired by the water company, and probably paid for by the ratepayer.

MR. HYNES: Okay, here's a decision that goes through a Commissioner's mind. One, the company chosen has a nationwide reputation and after six years I find it hard to believe that a nationally known company is going to destroy their reputation for one client.

Two, although today no one is in favor of Hackensack Water's subsidiary making money on this property without due consideration of open policy questions, let's only talk about the water company. They've been doing this as a water company since like 1890 -- pretty successfully. So, a Commissioner would look, "Well, Hackensack Water does this for a living; obviously they don't want their neighbors to be upset; they're giving them bad water. And too, Havens & Emerson are a nationally known company.

And so, although I had paranoia in my first year at the Commission thinking there has to be a second side to this, as you go on and on you realize that people who make this their living have too much to lose by trying to put one over the Board, because they've got to come back to the Board year after year.

SENATOR CONTILLO: Well, we don't have the present Commissioners before us today. Let me refer back to the original sale -- the \$18.

MR. HYNES: Yes.

SENATOR CONTILLO: We received an \$18 check for that portion of the land. All of us would be very happy to give back the \$18 and another 18 and another 18 to get that property back. What's going to happen -- or probably has happened since that time -- as the quality of the water that comes into the reservoir deteriorates -- and deteriorates it must, as we develop more and more-- We have these modern technical means of repurifying that water, that's very costly. So that the old \$18 or the new \$40 that we're talking about is given to this group -- this generation right now -- and it's gone, in another 10 or 20 years when the quality of the water deteriorates and we go into a \$40 million filtration system to clean it up, the ratepayer pays for that again. So, again you have a situation where the investor seems only to be on the profit side, and the ratepayer always seems to be paying the tab. Isn't that a legitimate concern of the Board of Utility Commissioners if they're really supposed to be dealing only in dollars and cents? That, sure we're giving them 40 bucks now, but in another decade are we going to be taking \$400 from each one of them to build a filtration plant because the quality of the water is so bad?

MR. HYNES: Senator, I said to my colleagues, "You know Commissioners, normally you're reacting to a crisis" -- which is what we always did in the six years I was there -- "now you've got a chance to look to the future." This may be the first time since Woodrow Wilson founded the Board that a conveyance of land has been contested. Now, I'm subject to contradiction, but I would have heard it in six years, and this was the first big one.

So, you're allowing the Board to look to the future. But remember, the Board is like the family dog who always knew where the couch was, and you do things because you're bound by statute, you're bound by precedent, you're bound by armies of lawyers on each side, and they all come in with platoons. Public Advocate has their staff, the utility companies, interveners have their lawyers. It is the most due deliberation body of State government in New Jersey.

What you're proposing is radically different than anything the Board's ever done. And for the Board to make a novel approach to a problem, it's either got to be the roof falling in -- like Three Mile Island -- or the State Senate, the County of Bergen, the localities, the State Assembly, are all up in arms about this, and the Public Advocate takes a position. Now, in this particular case, we've got the legislators concerned, we have the county and local officials concerned. The Public Advocate, however, has only taken a stand on the dollar amount if we transfer the land. The Public Advocate has made no intervention on the wisdom -- public policy wisdom -- of a transfer of land either for public policy or water protection. Now that makes the Board a little nervous. Because the Board are like referees. They don't throw issues in; they watch the game being played and say, "Well this is fair, this isn't fair."

SENATOR GORMLEY: It's active versus reactive.

MR. HYNES: Correct.

SENATOR GORMLEY: In other words, you're-- What you're generally relating to us -- not generally, but in fact relating to us -- is that there's a limitation. You might sit there as a Board member and say, "We should put a public purchase of this together, but we can't order that or we can't do that. We don't have the prerogative to do that."

MR. HYNES: Correct.

SENATOR GORMLEY: That's the problem.

MR. HYNES: And our lawyers will probably tell us that. I'm sure the utility will tell us that. And the Public Advocate has not taken a position, giving us the legal groundwork to do that. Because in many decisions I made, I mean the Public Advocate was a phenomenal input to allow me to weigh all sides.

So, you're talking about a future concept. The Board, by its very nature, has always been reacting to serious problems; this is the first time they've had their nose pulled over and said, "Now, here, look at this problem." And if I were there today, I just know I'd be in a quandary. "How do I do this while giving due cognizance of the rights of the water company as well as the ratepayers?" Your concept, for instance, that the ratepayers put money in and buy the land; that's good.

SENATOR CONTILLO: Is there anything in the rules and regulations that excludes common sense? I mean, you know--

MR. HYNES: The Board, frankly when you get right down to it -- which is why we, you know, picking Commissioners who have formerly held public office, is not all bad. I mean you've got a feel for what people need.

SENATOR CONTILLO: Well, you have three of them. Yourself, George and Barbara.

MR. HYNES: Yes, but even the new Board. You know, Christine Whitman Todd (sic) is a former freeholder. So, you do know what's going on. Yeah, common sense does prevail. But remember, there are these parameters that are set down, not in stone, but it's pretty tough to make these changes. And you have to have a party make a motion. Now the Board on its own can do this. I'm hoping the Board might consider doing this, having sat through the public hearing last week at the Bergen County Freeholders' chambers.

SENATOR CONTILLO: It's somewhat unfair to prod you with questions we'd like to speak to the existing Board about.

But, if indeed we're talking about the Board being somewhat limited to making financial decisions based on the facts before them, I guess for the record I want them to understand that that is a financial consideration. What happens to this area in the year 2000, when the water company comes back for these high expenditures? That's a financial consideration that the Board should take into consideration now, before they let that land go for such a small amount of dollars.

MR. HYNES: I agree. And one word before I leave. Commissioners normally do not come here to debate about an issue before them, because in effect, they are making a decision without the benefit of all the other parties' input, which is what Commissioners really hate to do, because no matter whether you're liked or unliked, if people think you're fair, they can accept that.

I can just say this, the fact that the Board sat through this -- Board of Public Utilities -- I think you heard Mr. Bevan, who speaks for the Board, say that he applauds this bill, is a big plus. And the fact that he's heard you say, "Please wait," is a big plus. And I'm telling you, as long as the Board knows that there is action being taken by responsible authorities, not just somebody saying as we heard often, "Don't raise my electric rate, don't raise my telephone rate," and I sympathize, but the statute said this is what's required, the Board will probably defer action on this issue.

SENATOR CONTILLO: Do you recall during your tenure on the Board, the Board requesting the DEP for standards?

MR. HYNES: No.

SENATOR CONTILLO: Did you do that in previous cases?

MR. HYNES: I left, thank God, in 1984. And it's all become a nice blur of what life used to be like at the Board.

SENATOR CONTILLO: You left "thank God" did you say?

MR. HYNES: Thank God. People now wave at me with all five fingers. (laughter) I do not remember us making a stand to the DEP.

SENATOR CONTILLO: Did you hear that?

MR. HYNES: No.

SENATOR CONTILLO: Somebody said, "Not all of us."
(laughter)

MR. HYNES: No, that's-- (laughter) I do not remember, but I'm sure that in this past four years the Board undoubtedly has made a request to the DEP, because the Board always defers on environmental questions to the DEP.

SENATOR CONTILLO: But this is, as I view it, the Board has to view this down the road as a financial question.

MR. HYNES: Yes.

SENATOR CONTILLO: Okay.

SENATOR GORMLEY: But the problem between the Board and the DEP is they say they defer to one another, but they constantly take local units of government and put them in between the two State agencies. Because, what I have noticed is they don't have very good lines of communication between the two State agencies. And this is evident more so in the areas of trash. The orders-- They're never in sync. They never cross-reference one another. I mean it just-- It happens in every county. And I think that that's one thing, whether it be this area or others, they've got to get along better. Because you want to put the local governing body driving from one office to the other office, negotiating the compromise between two State agencies that are allegedly working together. And that's a common problem everywhere.

MR. HYNES: Well, I'd like to leave Senator, because you've been very kind with your time, with just one thought. My stomach tells me this is going to be the solution. Your bill, while useful, will probably not be appropriate to resolve this issue. It will be for the future. Because the water company will press for a resolution, as is their right, and the Board's going to want to know what's the options, as is their prerogative, the solution to this particular issue -- why we're

here -- is that either the county and/or the municipalities have to make a decision that this land is irreplaceable, that you can't put a cost on this, and we're going to go out and save this for two reasons, to preserve the water and to have open space. Because if you've looked at maps up here, Senator Gormley, there's only golf courses and cemeteries that are green up here now in Bergen County.

SENATOR CONTILLO: You see the problem with that is, former Commissioner, that I'd like to set the price on the property before we decide whether we're going to buy it or sell it. In other words, the price now that we're going to sell it is \$12 million. And if we go your route and decide we're going to buy it, the \$12 million is not going to be enough; it'll be \$60 million.

MR. HYNES: No, no. Senator, why don't we buy the land -- I'm speaking we as if I'm putting up this general obligation bond issue--

SENATOR CONTILLO: Do you know someone who could do that?

MR. HYNES: Yeah, I do. Why don't we, if Hackensack Water is asking for the Board to sell this land based on the assessed value, which is between \$12 and \$13 million, why shouldn't the communities have the same right to buy the land for that price?

SENATOR CONTILLO: That's-- Which is exactly why I think we should settle on the price now. Because my problem with that now is -- and I agree with you -- that if it's \$12 million and we're going to get half, the \$12 million should be the price. But then you're going to have a whole other series of hearings once you decide you want to purchase it, that the \$12 million is not going to be enough money for the value of the property. That's my fear.

SENATOR GORMLEY: I think what you're saying-- Obviously, I think we're all agreeing somebody ought to pay for

it and preserve the open space in the public interest. I think, obviously, the municipalities would react, but I still think that in terms of -- we've talked about a natural resources bill now for a number of years, and hopefully we can work that out -- the bottom line is, it's still going to get passed on the property tax. That municipality that's "paying for it," they're the local municipal taxpayers; and should be, from obviously a larger fund on the State level that offsets that burden. I mean, obviously the municipality would do it because it's in the public interest. And I also think making the offer \$12 million right now-- You see, I think what we have to do is put every element that we have together. Now, the State-- Suppose the DEP, they offer \$12 million through Green Acres? Okay, fine. See now, if DEP is talking to the Board, remember the \$12 million they said that was okay? They said it wasn't okay when we wanted to buy it. I just think once you start cross-referencing, and the two agencies of government cross-reference their prerogatives, I think you find that, you know people have to make a decision, well what is it? Is it \$12 million today, and is it \$60 million tomorrow? And I think there's--

MR. HYNES: Good point, Senator, but I--

SENATOR GORMLEY: And I think those things will happen if the agencies work better together. But I don't want to encourage a straight municipal or county purchase. This should come from -- we've talked about a natural resources bill on the State level -- it should come with about a 75% or 80% match, if you do any of these large open space purchases, as we've done them in South Jersey and all over the State. It should come with a larger portion coming from the State. Some from the municipality and county to show their commitment to it, that they're just not taking the money because it's a grant.

But I don't want to-- I want to be careful that people don't overreact, because it's going to hit the tax bill

a year or two afterward. And I think the same solution can be achieved with a broader based financing mechanism. And I didn't mention another form of bonds because I wouldn't do that to you. --

SENATOR CONTILLO: Thank you, Senator.

MR. HYNES: Thank you Senators very much for your attention.

SENATOR CONTILLO: Thank you Edward. The next person -- well, I have a list here. I have another elected official from Haworth, Peggy Scherr, the Council President. Is she still here? There she is.

P E G G Y S C H E R R: Good afternoon. I would just like to read a letter to you.

"Dear Senator Contillo: The Mayor and Council of the Borough of Haworth, at their meeting held on June 8, 1988, unanimously adopted a resolution indicating to the Board of Public Utilities that the Borough disapproves of the transfer of watershed land without an environmental impact study or statement as to the quality of the water and the need for future land. The Borough of Haworth also supports Senator Contillo's proposal to have a moratorium on the sale or development of watershed property owned by utility authorities or public authorities."

And I have a copy of that letter for you.

SENATOR CONTILLO: So, what you're suggesting the Borough of Haworth, where much of the property is located, would be delighted to see the property transferred into public ownership?

MS. SCHERR: Yes. Yes.

SENATOR CONTILLO: I also had a discussion with the Mayor, John DeRienzo, who wanted to be here, and he was called out of town. And he expressed full support, as the Council President has.

Okay, now I think I'll just go down this list in the order that they signed up here. Michael Bondy, is it? Resident.

M I C H A E L B O N D Y: I thought you might remember the name. We've had a lot of correspondence.

SENATOR CONTILLO: Would you like to see the stack of correspondence I receive every day? (laughter) She passed out; she deals with them. (referring to aide)

MR. BONDY: I always write you, so mine must be at least 5%. I have no complaints.

I represent myself. I have no handout. I will speak off the cuff, because I didn't have time to prepare myself. Relative to the bill, I didn't find any mention of the State Planning Commission, but there was quite a bit of discussion of it. And I think it's appropriate. The State-- I attended a presentation by an employee of the State Planning Commission not so long ago, and he gave out some maps which cover Bergen County, and although the plans were not complete, they were pretty well along. Now, I'd like to pass on a statement he made that the State Planning Commission does not have absolute powers as to what goes on, in terms of planning. And if somebody decides to erect buildings, or whatever, which are not within the State plan, that can be done. But the State Planning Commission will not support any infrastructure, highways, whatever, communication links, if they do not meet the original State Planning objectives. So, this is an important consideration. And when you start building up houses in Emerson or someplace where the highways right now are really inadequate. And certainly the public transportation is.

The next point I'd like to bring up, and I haven't heard about, is -- well, the bill touches on it -- it touches on the fact that Old Tappan doesn't have sewers, and we do in Haworth, and other towns. Not all of them; Alpine doesn't have any. We paid a lot of money for those sewers, and we're still

paying for them. Mrs. Scherr probably knows how much we're paying and how much of the tax this constitutes.

MS. SCHERR: We just had it refinanced.

MR. BONDY: I know. That also means more money.

MS. SCHERR: Yes, it certainly does.

MR. BONDY: So, the facts are it's costing us a lot of money, and nobody has mentioned this. And I think it's an important consideration.

As a result of having sanitary sewers put in at our expense, the water company, it's my understanding, can now sell watershed land, because they don't need the barrier now that they used to need when we didn't have the sewers. Now, this is a criterion that I feel should be introduced into the consideration of value, what the ratepayer should get back -- the ratepayers, the homeowners, are really all one in the same, since we all have to buy the water from the same source.

The next point I'd like to bring up, which was discussed by others, is the appraisal of the land. Well, there seems to be a dispute going on ever since I moved into this area, which has been over 22 years ago, and the dispute goes back further than that. The water company is not paying the full amount of assessment -- assessed taxes. This is something that should be borne in mind. So we, as taxpayers, have to overcome that shortfall of taxes which should be coming in from the water company. That should be a consideration in the transfer of land. I haven't heard anything about it.

Now, speaking of standards of quality, standards of potability of the drinking water of the Hackensack Water Company-- We've had our -- in my opinion, but I think objectively; I have to drink it just like you, Senator -- ups and downs. And yes indeed, water treatment is very expensive, and it's a very good point. Senator Hynes -- pardon me -- Ex-Commissioner Hynes sat here, and I testified before him at the Board of Public Utility Commissioners, and I brought up the

very same question. So I'd like to shake his memory if he's still here that, yes indeed, I had asked to see such standards, and there weren't any. As a matter of fact, there are no standards whatsoever as to the performance of what the Hackensack Water Company has to do in terms of water pressure in the pipes. There is no minimum. I was once -- only to get my sprinkler; it didn't work. He said, "Suck the water out." So, yes, we need standards not only in terms of potability; we need pressure standards, reliability standards. We have none of those. We may have a fire here, and no water. I mean, just because a hydrant is there doesn't mean the water is there. As per Hackensack Water Company, they'll do their best.

Now, I was rather surprised that the Hackensack Water Company, based on the testimony I heard from Mr. Hynes, in 1980 was, shall we say, virtually broke? Because it was around that time that they put up this beautiful edifice in Emerson. I don't know where they got the money from, but I'll just let you think about it.

SENATOR CONTILLO: From you.

MR. BONDY: And you.

SENATOR CONTILLO: Questions? (negative response)

Thank you.

MR. BONDY: Thank you, Senator.

SENATOR CONTILLO: Is the gentleman here from the group SWAN?

MR. GAGE: Yes, Senator. I'd like to, for the record, come out clearly that we are in full support of your bill.

SENATOR CONTILLO: Would you identify yourself, and where you're from?

MR. GAGE: Greg Gage, on behalf of Bergen SWAN, which is a State Watershed Action Network, which is building support in the county to in some way bring our officials' attention to what is going on and what is happening with our water quality.

I'm going to just off the cuff make some statements now, but I'd like to also in the next few days send in something that is written and formal to be entered onto the record.

SENATOR CONTILLO: We'll keep the testimony open for a short time. It's important for us to get this out to others, because we want to move on it quickly.

MR. GAGE: Within the next couple of days I'll send one.

SENATOR CONTILLO: Okay, at the outside, two days. Okay?

MR. GAGE: Okay. Reading the bill, I support it wholeheartedly, but for the record I'd like to also raise the concern over the fact that it's not retroactive to some of the lands that have already been sold off by the BPU. I recognize that there is a lot of legal problems with that, but I would like to see that in whatever way that problem addressed into the future. And, I would also like to call on each of you gentlemen up there to help support our efforts aimed at the BPU to hold further hearings on this. You've already expressed your support of this. And what we would like, and what we need, is the time to gather our expert testimony and documents on environmental impacts as the public, to present them. And most of us are working and asking people to volunteer this information to us because they are concerned. And when this happens, it is not something we can have drawn up in a week, two weeks, or a month. The BPU has asked and given the date of the 23rd of June as an evidentiary hearing. Our concerns are that one, this evidentiary hearing is in Newark, which is of great inconvenience to the people of Bergen County to whom this issue is of concern. We'd like to have further hearings for the public up in Bergen County in the evening where people can come. Our last BPU -- on last Thursday, the room was packed as this room is also, and there's a lot of people who would like

to speak to this issue, and would like to have the chance. And they work, and if there's hearings at night we'll fill the BPU hearing room night after night with different people. It's an issue that people are greatly concerned with.

As far as evidentiary hearings, I'd like to see time; and if the BPU doesn't have to act in any haste manner, I'd like to see in early fall a time when there's an evidentiary hearing on this, where we have time to gather our information to--

SENATOR CONTILLO: What is your thrust? What do you want to achieve?

MR. GAGE: I would like the public to be able to have its input into the Board of Public Utilities decisions.

SENATOR CONTILLO: What would you see them do?

MR. GAGE: I would like them-- Well, there's a couple of things I'd like to see them do. I'd like to have another environmental impact report that is current, instead of 1983 Havens & Emerson report, which is outdated. There's been a lot of body of knowledge that has increased in those five years as to the importance of watershed land. This Havens & Emerson report in many places within it says that it would cause further degradation of the water supply, and basically came out with a lot of points that said it was not the best thing to do; that they should increase the watershed lands in certain areas, and they can sell off in others. The water company made an executive report of that larger report, and came out with the facts that basically it was all right to sell it, which Havens & Emerson did say, but I also question who commissioned the report? And therefore, I'd like a further independent report on this issue.

That's mostly my concerns with the BPU. I'd like them to just take their time.

SENATOR CONTILLO: You raised an interesting point. Now you're suggesting that within that report there's a comment

that while it's okay to sell off parcel "A," that possibly it should be traded in another area where you'd be better off using as a watershed. That's the first I've heard of that.

MR. GAGE: It does mention that in the report. Some of the-- The water company's argument against that is, well, I guess several towns own some of the land that could be bought. Some of it's owned by homeowners and developments that already have been built in the area, and therefore it's hard to take that back. And the towns don't want to give up their lands to the water company at the time. And I completely share their concern in that. But at the same time I'd like to see the land that is still open space remain that for all the reasons we've been talking about today.

The water company's concern about taxes on this land. I've talked to a lot of different people -- mayors, and officials of this sort -- people who have just been in touch with this issue over the years, and the water company has fought paying their share of the taxes in each of these towns, which, in and of itself, does not upset me a lot if its land is being held for watershed land. But when it is no longer being held as watershed land, they should be taxed retroactively, for one, and if not, the land should be put in such a way that it is not a burden to the water company. That it is there and in the public interest, as a public resource protected forever. This is something that is important to the watershed. And therefore, I know Maureen Ogden is introducing tax legislation that will help ease the burden, and therefore wipe away the incentive of these water companies to sell off the land to ease their own burden. You know, I think that is a good way of going. It should not be a burden to the water company to have protective land to protect our water supply, because that is in the public interest to do so.

We have been working with a lot of public officials with this. There is great public concern with this. We are

presently participating in a petition drive throughout the county. Myself, and a friend of mine, Mark Becker, went out one day last weekend and on just one day we gathered 600 signatures against this development. This is not just to say for the proposed sale of the three golf courses also, the former sales. The people are concerned over this issue. We have only been petitioning loosely, just in spare time, for the last not even two weeks, and we've gotten over 1500 signatures so far.

SENATOR CONTILLO: Simply to say-- You know, I'm really trying to get to the basis of what your organization wants done. You're suggesting that the BPU not approve the transfer?

MR. GAGE: Yes.

SENATOR CONTILLO: Is that the extent of what you're suggesting? Are you encouraging public purchase of it, or what?

MR. GAGE: We are doing that also. We would like--

SENATOR CONTILLO: Is that part of your petition?

MR. GAGE: I wouldn't be upset with the Hackensack Water Company holding the land if I completely believed that they would hold it forever and not want to sell it. But it's already been demonstrated to me that it's not in their interest; that they would like to sell off the land to make money for their stockholders. As far as what I would like to see, and a lot of the people I've been talking to, is that this is land that was, as far as I can find out, was not condemned when it was originally purchased, although I have some people who are saying otherwise. And we're researching that on specific parcels. But it was certainly bought with the threat of condemnation. And therefore, I would like to see on behalf of all the residents of Bergen County, that either we condemn this land, or with the threat of condemnation, the Hackensack Water Company will see in its benefit to trade the land to a public agency, either the county, the State, or some group that

is willing to hold the land forever, and protect our drinking water supply.

SENATOR GORMLEY: Have you had occasion -- and this is something you wouldn't be expected to do, especially as a volunteer citizen who's just doing this on his own-- Has anyone reviewed the sale of this property as it pertains to the recent report that came down as to the potential shortage in New Jersey? You see, what has happened is they have done an overview -- and I believe DEP did the study -- as to the potential for water shortages in the State of New Jersey. And there are two critical areas, one of which is adjacent to my district, where there's going to be a water shortage. And they're already looking to -- one of the proposals was to purchase water from Pennsylvania. And I'm wondering if, in fact, in that review, the impact of the sale of this land was looked at? I mean if it's a crisis one day, then we're selling a buffer zone the next day -- and even though you can make arguments that it's not necessarily needed -- you never know, when there's a change of thought 20 years from now-- You know, we've gone from paper products to plastics, now we want to get away from plastics; are we want to go back to buffer zones in 20 years? I don't know.

(Confers with Committee Aide) Mark, what I brought up was the State plan as it pertains to water, where it's had a crisis area in the Camden and Burlington areas, and whatever, and I'm wondering if when they did the review they looked at the buffers and the watersheds and whatever, and their importance in an overall State water supply plan? I don't know if they have or not. And if you could -- or we could check with DEP, if this has been included in the process? A review of these buffer zones. Because I know that another consultant's been paid to do this study, and I wonder if that consultant factored in the need to preserve these buffer zones. I don't know, but if we can look at that I'd appreciate it.

SENATOR CONTILLO: Okay. You're talking about the DEP begins their long-range planning to assess our needs of the future. There's a press article that deals with the DEP's--

SENATOR GORMLEY: Exactly. Well, it's another case of here we're up here talking about selling buffer zones, and then there's another study that in another section of the State there's an emergency about water. They're talking about reviving the Tocks Island program, which is one of the most controversial matters ever brought up. Now they're looking at that 40 miles away, and they're looking at selling the land. There's got to be a balance to this, and it's all got to be reviewed at one time. I don't know if these buffer zones were looked at in that study.

SENATOR CONTILLO: Even further than buffer, you may simply need the sheer acreage for greater volumes for holding tanks in the future. You know, larger reservoirs, so there are lots of--

MR. GAGE: From what I've gathered so far, and talking to the water company and things, it seems like they're doing a good job of planning for adequate water supply, as far as quantity. They've got the new Monksville Dam there, and to listen to them, it sounds like they're on top of that. As far as the need for the watershed buffer land, there the State has recognized the need for that. There is the new wetlands law that's going into effect this July 1, that the Governor has pushed through, and I'm sure a lot of you have. And it's a fine bill that is to protect our water supply, our wetlands for wildlife, and for everything that wetlands are important for. The only unfortunate aspect of this is that it goes into effect July 1, and Rivervale Realty and Hackensack Water Company, on several parcels of their land, are being grandfathered under this legislation, because they have gotten preliminary site approval from the towns, and have pressured the Army Corps into coming and looking at the site, and they're always applying

under the nationwide permit only building on nine tenths of an acre. And basically they're going to get their grandfathered. And so you have the intent of the legislation as one thing, but these things are falling through loopholes.

SENATOR GORMLEY: Well, you have to understand, that legislation -- and Maureen Ogden was really on the forefront of that legislation -- that legislation, even to get it in its current form, you were dealing with zero before you got the bill. And the bill was entangled in a very difficult process. And yes, would we have preferred that certain people not be grandfathered and whatever, is a perfect no. But you were dealing with nothing, or getting something through on this level. And believe me, if you talk--

SENATOR CONTILLO: Twenty-one votes.

SENATOR GORMLEY: Yeah. This was not exactly whisked through. This was a-- You know, when the board's open for 15 minutes to get the final vote, you know it's not exactly a mandate that it get through. And there are very strong lobbying efforts on the other side against it. And it may not be exactly what you want -- and you're right for bringing up some of the problems, but that bill is in fact progress. And the Governor was really out front on it because he exercised his Executive prerogative to push the issue. And that's been infrequently used in executive order to effectively force an issue. So the Governor's to be complimented.

MR. GAGE: Yes. No, he is to be complimented. Because that is a, from everything I can gather, it's in the forefront in the nation as far as wetland bills as far as protecting water supplies, and it kind of is a sad reflection on, I guess the country as a whole in protecting its water supply, but, I think it's important.

SENATOR CONTILLO: Okay, let's stick to this if we can.

MR. GAGE: On talking about the land prices that I guess have come up, and you were talking about earlier

tonight. One piece of information that in Rockland County, one of the parcels of land that was transferred in the prior transfer that was approved by the BPU, the land was bought for \$304,000, and two months later, it was sold for \$1.8 million. So, the value of this land that they are selling it for is really evident. And, you know, they changed the zoning on it, and it's worth a lot more. And that's what's going to happen in each of these cases. We know that. And I'd like the BPU to open their eyes behind these little blinders that they have set upon themselves, and to protect our public interest and resource.

SENATOR CONTILLO: Thank you.

MR. GAGE: I think that's about all I have to say. But I want to really stress that the public is concerned on this issue, and is going to do everything it can. As the former Commissioner of the BPU said, if it's going to take the roof falling in for everyone to look at it, that's probably what will happen. Thank you very much.

SENATOR CONTILLO: I have, 1, 2, 3, 4 more people who have signed up, and then I'll open it up to the audience. I have a letter here from Jack DiGiovanni, a Councilman here in Oradell, and I'll enter his letter into the record. The gist of it is simply that he fully supports this watershed protection bill, and he's out of town on business today and could not be here. So, I'll enter this into the record.

The next person on the list is a Jack Levin, from the Builders Association.

J A C K L E V I N: My name is Jack Levin.

SENATOR CONTILLO: Levin. Okay.

MR. LEVIN: I am a builder, developer, Realtor from Upper Saddle River. I represent the Northern New Jersey Builders Association, the New Jersey Builders Association, and the National Association of Builders, as a director in all three. We, as building organizations, would like to commend

you and your Committee on this work. We think it is a fine piece. We think there are many things in it that we can agree with you on. I have a few things we would like to share with you and your Committee for consideration, if I may.

One thing that Senator Cardinale said before he left, was that what we are trying to establish here is a balanced plan. I think that is what it is all about. It is the same thing with the Development and Redevelopment Plan, which the Senator talked about. You asked what the zone was in this area. It's 20 units per acre, sir. I think most of the taxpayers are unaware of that. That is what the Governor wants.

SENATOR CONTILLO: Where is this 20 units per acre? Where is this?

MR. LEVIN: It is 20 units per acre in this area of Bergen County.

SENATOR GORMLEY: Gerry -- Senator Cardinale -- indicated it was the inverse.

MR. LEVIN: In the other end--

SENATOR GORMLEY: No, I'm just saying--

MR. LEVIN: He was referring, if I may, to Sussex County and Warren County, which are 20 acres per unit.

SENATOR GORMLEY: Wait a second. He was referring-- When Senator Cardinale was speaking, he was referring to the green area (referring to map).

MR. LEVIN: The green area, which is in Sussex--

SENATOR GORMLEY: Now, you indicated that the green area was in Bergen.

MR. LEVIN: No, sir.

SENATOR GORMLEY: Okay.

MR. LEVIN: I am saying this area is the tan area -- the light tan area on the second map that has been prepared.

SENATOR GORMLEY: How is that zoned?

MR. LEVIN: That is 20 units per acre.

SENATOR GORMLEY: What I'm saying is, when Gerry spoke, he indicated that this was far from 20 units an acre; that it was a high-growth region -- Bergen. That was his testimony. That is what I am saying. There is a dichotomy between what you're saying and what Senator Cardinale said.

MR. LEVIN: I think we're saying the same thing, Senator, if I may.

SENATOR CONTILLO: I think you are, too. The areas that have development, like Bergen, will be more intense. Those areas -- according to the State Planning general thrust -- of Sussex and Warren which are generally green and undeveloped, will remain that way.

SENATOR GORMLEY: Yeah. I am not talking about Sussex. I am talking about Bergen.

SENATOR CONTILLO: Right, Bergen.

SENATOR GORMLEY: Are you saying that Bergen is one unit-- How many units to 20 acres in Bergen?

SENATOR CONTILLO: Twenty per--

MR. LEVIN: One acre--

SENATOR CONTILLO: Should support 20 units.

MR. LEVIN: --will take 20 units.

SENATOR GORMLEY: Okay, fine.

SENATOR CONTILLO: On the new State Plan.

MR. LEVIN: On the new State Plan.

SENATOR GORMLEY: Is that for the majority of Bergen County?

MR. LEVIN: For the majority of this area, yes, sir.

SENATOR CONTILLO: For most developed areas in the State.

SENATOR GORMLEY: Let me ask you a question then. Let's take this watershed property, and let's take 20 units per acre. What's it worth? Give me your gut.

MR. LEVIN: It's worth an awful lot of money.
(laughter)

SENATOR GORMLEY: More than \$12 million?

MR. LEVIN: Well, it would be unfair to give you an off-the-cuff answer.

SENATOR GORMLEY: We are not going to hold you to it.

MR. LEVIN: I build in Allendale and Saddle River and Upper Saddle River.

SENATOR GORMLEY: Okay.

MR. LEVIN: My homes start around three-quarters of a million up. In Allendale, my lots are 20,000 square feet, and they are \$350,000. The Saddle River lots are between \$600,000 and \$800,000 for a two-acre lot.

SENATOR GORMLEY: Oh.

MR. LEVIN: And Upper Saddle River is in the neighborhood of \$350,000 to \$400,000 per acre, for single family homes in that area.

SENATOR GORMLEY: This isn't an Urban Aid zone, is it? (laughter) Sorry.

SENATOR CONTILLO: I just want you to know that Paramus gets that for highway space, too. (laughter)

SENATOR GORMLEY: Please, please. (indiscernible comment from audience at this point)

SENATOR CONTILLO: Okay, let's get back to earth here.

MR. LEVIN: The point I think Senator Cardinale was mentioning was for the Plan's sake. If I may, I won't address specifically the Hackensack Water. I would like to address your bill--

SENATOR CONTILLO: Okay.

MR. LEVIN: --in general, if I may -- S-2492.

SENATOR CONTILLO: Shoot.

MR. LEVIN: I think the Senator, when he referred to the Plan -- the Redevelopment Plan-- He would like to see possibly some more open space in this area, rather than the high density the Governor has planned for here. When we get down into Newark or Jersey City, it is 40 units per acre. But

I think if your Committee can coordinate with the Governor's committee under the State Plan, to get the feeling of the public here of what they would like-- At the present time, the Plan is to the county for cross acceptance, and it is the mayors and the councils and the planning boards reviews which go back to the county to go back to the commission at this point.

Just addressing a couple of the other areas-- Under the Plan, you asked for an 18-month moratorium. We think that is fine. What we would like to suggest for your consideration is, if somebody owns the property -- an individual property owner -- they be granted a tax moratorium from the real estate taxes, so they are not paying taxes on something they cannot use.

We feel that an individual who went out in good faith and bought land from a utility company or a watershed company in another area has a vested interest in his land, and if it is determined by study that he be compensated for his land, your bill should address that in some way, so there is a fair compensation, even if it has to be a combination hearing, so that he is justly paid for the land he paid for, if it is now determined not to be able to be used.

SENATOR CONTILLO: Do you mean instances where private enterprise has purchased water company land now?

MR. LEVIN: Yes, sir, in past years, where excess was put up for sale around the State and individuals purchased the land, and now we have a moratorium in place, and it is determined that that land is sensitive to the ecology. We, as builders, are very sensitive to that now. We are in favor of good water and clean air and clean beaches. When we sell our homes, we need all of these items for the public. They demand them, or they won't buy. As the Senator knows, in South Jersey we have a problem with water now, and water supply, and the potability of the water. The builders are very concerned with

that. The Penn/Ogden bill-- As you said, it did not go through one, two, three, but it was a balanced plan. It is the first, as far as we know, where you are leading the way. So, we commend this Committee and your bill as a building industry. We feel that if there is a large tract of land in some of the other areas, if it is available to be sold off after great determination, that thought be given to different classes of people.

We, as a building industry in New Jersey, are running out of land, and there is really no place for the young people to go. There is no place for the senior citizens to go. They have lived in a particular community, they have raised their families, they can't carry a home any more, but they want to stay in the community. They do not want to move away. If this bill, in some way, can address that if some of this land does come on the market, it be set aside for the senior citizens and the children coming into the industry.

SENATOR GORMLEY: But that is that higher density zoning. You realize that, also. In order to build at an affordable rate for those people, you are talking the 20 units to an acre type of zoning. I just want to--

MR. LEVIN: You are correct, Senator. But, on the other hand, it can be a balanced plan if you can take enough land to get that number in, so that you make provisions for senior citizens at a price they can afford to pay. Housing in New Jersey is just getting totally out of hand as far as cost. I think we can all agree on that.

We feel that the infrastructure -- when there is the infrastructure in place for the sewers, the water, and the roads -- should affect the value of your taking, if there is a take. In other areas of the State, there is little or no infrastructure in place near watersheds, and that should be given consideration.

Those are my general remarks. Again, we, as a building industry, would like to congratulate you. We think it needs a little refinement, a little polishing. We would like to have an opportunity to come to some of your other hearings in the south, and work with you, and with the ecology people. Thank you very much.

SENATOR CONTILLO: Thank you. (applause) We will now hear from Michael Rodak.

M I C H A E L R O D A K: Thank you, Senator.

Good afternoon. I am appearing here today on behalf of both Assemblymen William Schuber and Pat Roma, who are at a legislative session down in Trenton today, and unfortunately could not make it. They have asked me to appear here to give these remarks which you are receiving now.

I wish to request that the Senate Energy and Environment Committee support Senate Bill 2492. Senator Contillo's bill and Assemblyman Schuber's companion bill in the Assembly -- A-3123 -- are very necessary if we are to protect the future of watershed properties.

These bills would establish procedures to review and regulate the sale and development of land currently or formerly owned by municipalities, municipal utility authorities, and public utilities and, more importantly, would protect public water supply systems and find the means to preserve watershed properties. Simply, we are proud of this Senate bill, for it provides for the necessary regulations in this area.

We urge you all to support this bill, as well as Assemblyman Schuber's bill -- A-3123. However, the reason I am here is not only to speak on behalf of the legislation, but rather on the urgent need to save land, such as the watershed property of Bergen County, from being used for dangerous overdevelopment in this State.

In New Jersey, we are finding less open space, increased traffic congestion, and more pollution as building

continues in all areas of the State. We find that what was once parkland and farmland are now new housing locations. The drain of this increased population and housing growth is noticeable in the effect on our local roads and water supply.

In Bergen County, where increased steady growth continues, we face the possibility of a land transfer by a public utility in order to build homes for profit. Last week, Assemblyman Schuber had the opportunity to address the Board of Public Utilities regarding Hackensack Water Company's proposal to sell 287 acres of prime watershed property to its development subsidiary, Rivervale Realty.

If this sale is approved, Rivervale Realty will be free to develop this land, a development that the citizens flat out and convincingly oppose. If this land is developed, Bergen County will lose almost 300 acres of open space in an already highly developed region. This land is also necessary to protect the water quality of the Oradell Reservoir. In exchange for these losses, Rivervale Realty and its investors will prosper, but the residents of this region will receive increased traffic, pollution, and degradation of the water supply. All of these will lead to an overall decline in the environmental quality of the land.

As with any controversial issue concerning a regulated public utility, we must look at both sides. While doing this, we asked ourselves: Does the Hackensack Water Company need this land transfer in order to remain financially sound enough to provide high quality service and attractive investment capital at competitive rates? After review, we concluded a flat out no. Why should the Hackensack Water Company, or any other utility, in exchange for enjoying a State-granted and enforced monopoly, be allowed to do as it wishes?

Since the Hackensack Water Company is a publicly regulated utility, it should not be in the same business as the IBMs and the General Motors of America, but rather should serve

the public interest as a public utility. A public utility should consider the effect of its actions on the future prosperity of the region.

Last week, we urged the Board of Public Utilities to note that two of the major problems now confronting the State are the dwindling amount of natural resources and the contamination of drinking water. Hackensack Water Company's proposal will exacerbate both of these problems. We asked the members of the Board why the State should allow watershed property to be developed, when at the same time it is trying to find funds to purchase the limited amount of reasonably priced undeveloped land? And why, in light of the increasing water contamination problems which are being faced in many regions of this State, should the State allow action which would jeopardize the quality of our water supply? Certainly none of the water quality studies done 10 years ago predicted the water contamination problems we presently face. So, why should we risk our future water supplies so that the Hackensack Water Company, its development subsidiary, Rivervale Realty, and its parent company, United Water Resources, can pursue their diversification strategy?

Although I cited this local example, this problem of utility abuse of public land can occur anywhere in our State. That is why I came today to urge this Senate Committee and the New Jersey Senate to look very favorably upon the legislation which Senator Contillo and Assemblyman Schuber have introduced.

We have looked at proposals such as Hackensack Water Company's land transfer, and have found by listening to the people that proposals such as this are bad for all the residents of New Jersey. Therefore, we again urge this Committee to pass this legislation immediately.

Thank you.

SENATOR GORMLEY: I would reiterate an earlier comment that I was with Assemblyman Schuber, who is chairing a

committee meeting as we speak, in Trenton, and he is particularly dealing with a bill which affects my district today. He would be here personally, were he not the Chairman of a committee and hearing many other bills. I wanted to personally reiterate that, because his heart is here, believe me.

SENATOR CONTILLO: Yes, I also compliment the Assemblyman for introducing my bill.

SENATOR GORMLEY: He said it was his bill. (laughter)

SENATOR CONTILLO: When he introduced my bill in the Assembly, did he amend it or did he leave it the same as I--

MR. RODAK: Senator, it is currently the same bill as yours.

SENATOR CONTILLO: Okay. I think we are going to make some amendments today. I will inform you of the amendments that we intend to make, so we can make the bills the same.

MR. RODAK: Senator, he has asked me to definitely pass on to you that he is willing to work along with you and the Senate, to make sure that the legislation that is comprised is definitely going to be in the best interest of all citizens.

SENATOR CONTILLO: Thank you.

MR. RODAK: Thank you.

SENATOR CONTILLO: We will now have the President of the Hackensack River Coalition? Margaret?

MS. KIERNAN (Legislative Aide): She had to leave. I'm sorry.

SENATOR CONTILLO: Margaret left? Did she leave a statement?

MS. KIERNAN: No, she said she would try to get one.

SENATOR CONTILLO: Okay. Beth Staples, from Assemblyman Randall's office -- Assemblywoman, Assemblyperson, member of the Assembly.

SENATOR GORMLEY: Be careful. Why don't we make it my bill? You two wouldn't have to go through--

SENATOR CONTILLO: Because you two, being lawyers, would never have had the common sense to think of something like this:-

SENATOR GORMLEY: That was tacky; that comment was really tacky. Are you going to endorse my natural resources bill then?

SENATOR CONTILLO: I am going to endorse you when you run for Governor, you know that. (laughter)

BETH STAPLES: Thank you, Senator. I am here this morning representing Assemblywoman Elizabeth Randall, who is in Trenton today at the Assembly session.

I would like to preface my remarks, for Senator Gormley's benefit, and for some of the public. Assemblywoman Randall and Senator Cardinale represent District 39, which is currently going through feeling the effects of a previous land transfer, of lands from Hackensack Water to Rivervale Realty.

"I would very much like to thank the Committee for hearing this matter today, and for holding this meeting here in Bergen County. Unfortunately, the Assembly is in session, and I cannot appear in person.

"A few years ago, the customers of the Hackensack Water Company were given token payments for their interest in the woodlands and wetlands that the water company maintained were no longer needed to protect our water supply. This was done as a result of a 1983 directive from the Board of Public Utilities to the Hackensack Water Company to review its real estate holdings in order to remove from its rate base those lands which were not 'used and useful.' A study prepared by the water quality consultants, Havens & Emerson, for the Hackensack Water Company designated such land.

"Approximately 1000 acres of undeveloped land, zoned for conservation or low-density housing, is now planned to become almost a million square feet of office space, and more than 1000 housing units. As the applications for these

developments come before local planning boards for review, we are beginning to hear a ground swell of objections from local residents at the prospect of destroying these vital woodlands and wetlands. Admittedly, the water company and its stockholders will profit greatly from these development proposals. However, the citizens of this area will suffer immeasurably from the loss of this precious green space and from the effect of these developments on the quality of life in Bergen County.

"Currently, we are facing the prospect of the transfer of an additional 287 acres of Hackensack Water Company land to Rivervale Realty, the real estate subsidiary of United Water Resources. Local municipal, county, and State officials are working to delay this transfer, so that we might have time to acquire the land for public use and to preserve it as open, green space.

"The Hackensack Water Company has maintained a very good public image over the years. Bergen County residents who live near the reservoirs enjoy walking, hiking, jogging, cycling, and playing golf on water company land. We do receive high-quality water purified by state-of-the-art techniques. However, most water company customers, if queried, would certainly vote to return their \$18 share of the interest in the previously transferred 700 acres, if those lands could be preserved for future generations to enjoy. We are adamantly opposed to the transfer of additional acres. The county is currently working on an open space proposal to acquire these lands, and County Executive William McDowell has requested that the Board of Public Utilities delay the transfer of any additional watershed lands until the county has completed its plans.

"Unfortunately, we do not yet have a regional or statewide approach to planning, and we, therefore, must rely on the wisdom of our local municipalities' councils, zoning boards

of adjustment, and planning boards for the proper development of these lands. I have requested that the U.S. Army Corp of Engineers and the New Jersey Department of Environmental Protection visit the area and create accurate and detailed wetlands delineation maps to assist local municipalities and the county in planning for the development of the previously transferred properties. In an effort to help local municipalities recoup some of the losses incurred by maintaining these properties at the lower tax rate for watershed lands, I have introduced legislation -- A-2587 -- which would allow municipalities to roll back the taxes on these properties. However, these are measures to address the problems created by previously transferred lands.

"The State has recognized the difficulties and short-sightedness of leaving the planning for land development at the local level, and has established the New Jersey State Planning Commission to offer a statewide context for the localized planning decisions of both public and private entities. Any planned development should anticipate the demand for growth, and should coordinate policies and plans for infrastructure, with emphasis on water supply, sewerage, drainage, and transportation facilities.' The State's planning goals include:

"To conserve wetlands, important ecosystems, and other natural areas for future generations.

"To ensure the long-term quality and quantity of water supplies by controlling development in water supply watersheds and by preventing the overdevelopment of water resources.

"To acquire additional parkland and open space to preserve important landscapes and to expand recreational opportunities.

"Mr. James Gilbert, Chairman of the State Planning Commission, has publicly stated that he is opposed to further encroachment and development in prime watershed areas.

"We have, in the State of New Jersey, what is referred to as a 'quiet crisis,' a crisis that will affect the quality of life in New Jersey for the rest of time. As the most densely populated State in the United States, we are quietly losing our natural resources, parklands, and recreational areas. Already 10% of the United States population lives within a 50-mile radius of New Brunswick. It is estimated that to meet our projected need based on land area and population, the State needs to acquire 350,000 more acres. The development of watershed land could endanger our water supplies and would certainly have an irreversible effect on our county. It could cause flooding, could augment our pollution problems, and would certainly cause traffic problems. Senate Bill 2492 and the Assembly version, A-3123 -- of which I am a co-sponsor -- would provide the necessary time for the effective planning to be done to preserve these areas and to protect our watershed lands and open spaces. Some local municipalities have already received applications for developments which include septic tanks in close proximity to local reservoirs. This legislation would ensure that such developments would not proceed.

"It is very expensive to resist the steady encroachment of developers and very difficult to resist the lure of the developers' dollars. The Garden State is swiftly losing its gardens. Traffic congestion alone is indicative of the very real need for statewide planning. Many people do not yet fully realize that once these lands are developed, they cannot be restored. Natural resources are finite resources. They must be protected and used sparingly and wisely. We cannot afford to make mistakes. It is time for our citizens, our municipalities, our counties, our State, and our nation to realize this fact and plan accordingly. Therefore, I support Senate Bill 2492."

SENATOR GORMLEY: I have no questions.

SENATOR CONTILLO: Okay. That completes the list of those who signed up to speak. Now, if there is anyone else in the audience-- Yes, sir? Please introduce yourself.

T O N Y L a G O R M A R S I N O: My name is Tony LaGormarsino, Councilman of Oradell. I want to thank you and your Committee for introducing this bill.

In view of what has been said -- and I do not want to repeat anything-- I do want to bring one fact to your attention. The biggest tax benefactor in the Borough of Oradell is the Hackensack Water Company. However, revenues have been dwindling to where they are down to \$131,000 per year.

SENATOR CONTILLO: Is that what they pay?

MR. LaGORMARSINO: That is what they pay. That represents two cents on our tax rate.

That's it. Thank you very much.

SENATOR CONTILLO: Thank you. Yes, sir?

J A C K H A R N A C H (speaking from audience): Do I have to come up there?

SENATOR CONTILLO: No. If you don't want to, you don't have to.

MR. HARNACH: I just have trouble walking.

SENATOR CONTILLO: That's okay.

MS. KIERNAN: He won't be on the record then.

MR. HARNACH: My name is Jack Harnach. I have lived in Bergen County for about 40 years.

SENATOR CONTILLO: You live in Paramus, Jack.

MR. HARNACH: Not too far from you.

SENATOR CONTILLO: Right.

MR. HARNACH: The first statement you made when you opened this hearing was that you had to buy water. But there are a lot of people living in Bergen County now who have to do the same thing. You never made a survey of how many people are buying bottled water, and are still paying a Hackensack Water bill. (applause)

SENATOR CONTILLO: That's a great commercial. Is there anyone here from the Hackensack Water Company? (no response) Look at what we think of your water.

MR. HARNACH: That's not the worst part. If you call the Hackensack Water Company and ask them, they will tell you that before you can put fish in their water, you have to treat it or they will die.

UNIDENTIFIED SPEAKER FROM AUDIENCE: That's right; that's right. Also, when you take a shower, you can smell the sulfur coming out. It's terrible. It smells like rotten eggs.

SENATOR CONTILLO: Well, you have a tough choice, you know. If you don't take a shower, that's not too good either.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Any time I have called to complain, they say they are just doing some testing, and changing the--

SENATOR CONTILLO: No, they are adding chlorine to the water. It has to be added to it so it can pass the test they have to pass.

UNIDENTIFIED SPEAKER FROM AUDIENCE: That's not the reason.

SENATOR CONTILLO: Okay.

MR. HARNACH: One more thing.

SENATOR CONTILLO: You're not on the record, Jack, but go ahead.

MR. HARNACH: Senator Gormley brought out the fact about the water shortage. Since I have lived here, the water shortage has been so bad, that at one time they built a pipe line across the George Washington Bridge to bring water to Bergen County. That wasn't too far back, but the public has forgotten about it.

UNIDENTIFIED SPEAKER FROM AUDIENCE: They just built one from Montague.

MR. HARNACH: Well, before they built the one from Montague, they built one from New York City, and pumped water

from New York. We were told that we had to save our rinsing water and our shower water, and if you watered your lawn, you got a summons from the (indiscernible) police department. This is--

SENATOR CONTILLO: Didn't you put a brick in your water tank?

MR. HARNACH: Another thing--

SENATOR CONTILLO: You know, I forgot about it, and just recently took it out.

MR. HARNACH: --the water company is doing right now is, they are putting meters on your water meter, and they are going to attach it to your telephone, that you pay for. Your telephone, right?

UNIDENTIFIED SPEAKER FROM AUDIENCE: I know.

MR. HARNACH: So they can eliminate the expense of sending someone to your house to read the meter.

SENATOR CONTILLO: Well, I am not sure that is a bad idea, Jack.

MR. HARNACH: It stinks.

SENATOR CONTILLO: It does?

MR. HARNACH: Yeah, because you don't know who is at the other end reading it.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Right.

MR. HARNACH: At least when they come to your house and read it, you know that someone has come and read it. That way, you don't know who is on the other end.

SENATOR CONTILLO: Okay.

SENATOR GORMLEY: IBM.

SENATOR CONTILLO: If you want to be put on the record, you must come up to this chair and speak into the mike. This gentleman on my left here-- Would you please come forward and introduce yourself?

ROBERT Z. HAGUE: I am Robert Hague, resident of Oradell. I can say that I remember many droughts prior to what

Jack told us about. I have seen the lawns and everything dry up. I have seen the bottom of the Oradell Reservoir many times. I am not sold on the idea that the droughts are over, or that shortages are over.

Most of what I might have said has been eloquently said by the representative of Assemblywoman Randall. I would like to point out one thing. A hundred years ago, when the Hackensack Water Company got the privilege of developing water in this river, there were no regulations about it. There were no regulations about aircraft. There were no regulations about nuclear energy. Why? Well, we didn't have aircraft. We didn't have nuclear energy. And no one knew the kinds of things that could happen in the distribution of water -- the things we are seeing today.

What I am pointing out is, laws are brought about to take care of things after they happen. Just recently, the Hackensack Water Company turned against the very valley in which it developed. I submit that what you are doing is possibly late, because of the great trust these people had in that company. Unfortunately, it was misplaced.

I commend you on what you are doing. I would also urge you, do not be pushed by people saying you have to make decisions quickly. These people have been busy for 100 years developing this water, and for the last 10 working out our undoing by selling off the shed.

Thank you.

SENATOR CONTILLO: Thank you.

R A Y M O N D F. L a C O U R: I am Raymond LaCour. I am on the Zoning Board of Oradell. I wasn't going to speak, but someone brought up the quality of water. This is hearsay evidence, but it is important.

My neighbor is Alan Gilbert, who is head of the Lever Brothers laboratory facility in Edgewater. As I understand it, the Hackensack Water Company is going to switch from the

treatment of water with chlorine to an ozone treatment. Alan, in a very offhand way, said to me, "Well, there is a great advantage to ozone, because you don't get the residual smell of chlorine. However, ozone does not have the longevity of chlorine, and there is always the danger of bacteria developing in the pipes, unless it is continually treated with ozone." Hearsay evidence, but from an expert. Alan Gilbert lives at 200 Beachwood Road, if anyone wants to check.

Thank you.

UNIDENTIFIED SPEAKER FROM AUDIENCE: What is ozone going to do to the (remainder indiscernible)?

MR. LaCOUR: I am not a chemist. I think it is supposed to be better for the water, but it does not last as long. There is someone pointing to a lady back there as a chemist. I don't know. Alan is an expert.

SENATOR CONTILLO: Mayor Hague, did I see your hand up?

MAYOR HAGUE: Yes.

SENATOR CONTILLO: I can't overlook the hand of the Mayor of Oradell.

MAYOR HAGUE: Thank you, again.

SENATOR CONTILLO: Of course, I must be the only Democrat who has ever sat on this side of the table in Oradell.

MAYOR HAGUE: No, not really. We've had a few.

SENATOR CONTILLO: Really?

MAYOR HAGUE: Yes -- very, very few, but we have.
(laughter)

SENATOR CONTILLO: Before the turn of the century, I assume. (many people kidding and talking back and forth at this point)

MAYOR HAGUE: Not really. They used to tell me -- and I am a long-time Republican -- that they chose people to run who were of quality, and they didn't care too much what their party was. Oradell has been a one-party town for many years, until I arrived. I am still a one-party; however, I am here.

I just want to say that we are very, very interested in your bill, because the present property coming up before the BPU is more than 60% in Oradell. And we, at the present time, are working on our master plan. At the present time, we are sort of between a rock and a hard place, because we are trying to satisfy our affordable housing requirements.

SENATOR GORMLEY: How many units do they want you to do?

MAYOR HAGUE: One hundred and seventy-four, and we are more than 90% developed. We have 38 acres of open land owned by the town, and that is in little splinter particles. But the big piece of land is this Hackensack Water land, which we do not own. But the Hackensack Water Company has said that they would be glad to help satisfy our requirement, which we think is very kind of them -- to help satisfy our affordable housing needs.

SENATOR GORMLEY: They offered you a fire engine, too, didn't they?

MAYOR HAGUE: Yes, that's right. I would like to keep that property as recreation and conservation, which it presently is. To be fair about it, I feel that our master plan people, or our planning board should not, really, judge a property, unless they see it, really, in the flesh, as it were. So many of our planning boards and master plans look at maps. That is all well and good, but you don't feel the squashy ground under your feet by looking at a map.

The other night, the Mayor and Council of Oradell went out to walk on every bit of land that we have open in town. Among this was the property owned by the Emerson Golf Club, which is water company property. They lease it from the water company. We were surprised at how wet that land is. It is very wet. The owner told us that he spent \$125,000 last year alone, making draining ditches in order to keep his greens from floating away. It is very-- It is right on the border of

the-- It is a beautiful piece. I mean, when we were out there, we felt we were in another world. It was so pretty the other night. It is one little piece of green that is left. It is bordered by the lake -- right on the lake -- and it is also bordered by a big drainage ditch, which drains all the land -- from the hill, and that goes into our intake basin.

When the big office buildings were built, the Burns and Roe and the Macman buildings (names spelled phonetically) -- our office complex in the north part -- the Hackensack Water Company sent representatives. They were upset because they thought the drainage of the large blacktop areas for their parking were right next to this drainage ditch, which goes immediately into the intake basin. They were very concerned. Now their concern is not all that great.

Part of my concern is not only the pure water, but what it is going to do to flooding conditions down the line. Now, my property borders the Hackensack River and the water company property. I have lived there for 48 years. We have not had really bad flooding, but with the last few years -- I would say within the last few years -- when we have had some very heavy rains and runoff from the snow, the water level has come up so far that it has gone out of the river and went over the Elm Street Bridge, instead of under the Elm Street Bridge. Having walked on this property the other night and seeing how very, very wet it is, if you are going to put housing on that -- which they are proposing-- You can't squeeze water. If you push it in one place, it is going to come out the other. I am worried about what is going to happen to our drainage problems, as well as our pure water. So, I hope you will keep that in mind, too.

We certainly support your bill. (applause)

SENATOR CONTILLO: Yes?

L O U I S E L A M B: May I carry that on just one step further?

SENATOR CONTILLO: Sure you may.

MS. LAMB: Since it follows along with what she said. That was very interesting. My sister lives in your town; I live next-door. I am Louise Lamb, from River Edge. This is a personal thing of mine, although I belong to the American Association of University Women, and we are very interested in environmental issues.

I am very worried about this water company. To top it off, you recall-- You would know; Senator Gormley wouldn't. They are working very hard to build up all of Mahwah. Poor Mahwah. You are not allowed to have two acres for a house. I was thinking of this as the last green spot in northern New Jersey. They are working very hard to pave it over and build tremendous buildings and parking lots. All that water is going to come running downhill. They were even considering getting the Army Corp of Engineers to build a pipe line that would carry the runoff out to the ocean.

Representative Torricelli had a meeting in New Milford, and I said, "What in the world is going to happen to that water? We don't have to throw it into the ocean. We need that water. We have had water shortages here time and again." I don't know what they are going to do about it, but we are not getting the runoff, or the percolation from Mahwah down into the Hackensack Reservoir. If we do not get the percolation from the watershed lands, where is the water going to come from? You know, they are cutting us off at the pass, no matter where we go.

Thank you.

O L A F E. H A G E N: My name is Olaf Hagen. I am the Chair of the Environmental Commission in Closter. We are delighted with the direction your bill is moving in, and support it fully.

I would like to make two comments. One is the statement that the water company has been repeating, that when

the towns went on sewers, the water company no longer needed a wide band of woods and fields to act as a filter to safeguard the water. Now, when the-- If houses are built near the reservoir during a period when there are sewers, you have to protect the reservoir not only against the kind of things -- the bacteria that you would get because of the use of septic tanks, but the water must be protected-- The reservoir must be protected against the flow of -- the runoff from people's lawns. The many different chemicals that are used on lawns-- Some are really terrible things -- the insecticides and herbicides.

Furthermore, there is a different kind of runoff from streets -- streets and parking lots that are near reservoirs -- what comes from automobiles. That has nothing to do with the use of either chlorine or ozone for purifying water. You can't purify water from that kind of pollution.

I think we need a wide band of lands for watershed protection even when there is no danger of bacterial, or not much danger of bacterial pollution.

The other point I would like to make is, what made Bergen County so attractive and brought people here, and made people glad to continue living here, was the combination of pleasant towns and open space. As more and more-- If we build more homes to accommodate more people to come to Bergen County, after a while Bergen County will not be the kind of place that will attract more people, because there will be no more open space.

Thank you.

SENATOR CONTILLO: Thank you very much.

L A R R Y K U T T N E R: I am Larry Kuttner. I am a resident of Cresskill. Last week, I had the opportunity of reading the text of the Havens & Emerson report. I would like to tell you that it is not as clear-cut in its recommendations as the water company would like us to think it

is. I would like to read a few brief quotes that would be of interest.

-----One statement they make is: "Increased watershed land use does have an effect on water resources in the area." There are a lot of statistics in which-- Some noteworthy ones are on the increase in pollutants from the '50s to currently. Chlorides increased 142%; nitrates, 329% since the '50s.

They state: "The release of property for development near the reservoirs could increase the vulnerability to transport-related accidents." And they list briefly, not too detailed, but they do list a lot of different accidents that have occurred. They also list a lot of accidents that have occurred with sewage leaks from sewage lines. So, one thing to consider is, just because we don't have septic tanks doesn't mean we are not going to have sewage-related accidents.

One accident that involved a gasoline spill-- It was not detected until a consumer detected a gasoline taste in the water. Apparently it took only a couple of hours from the spill for the gasoline to get into the water supply.

They make various recommendations and comments, such as: "If a fuel or chemical spill occurred on Oldwick Road, Shallenberg (phonetic spelling) Road, Harrington Avenue, or Oradell Avenue, it would be a matter of serious concern to the water supply." So definitely, further development with more roads around the watershed area, is going to increase those risks.

One thing that is very interesting to note is, watershed areas around the Hackensack Water Company's reservoirs are less than average of the 41 reservoirs that were studied in their report. Apparently, most of the other reservoirs that were studied have a larger buffer area than the Hackensack Water Company had initially, which they want to reduce from an area which was already less than average.

I will submit the actual highlighted quotes to you in writing so you can have them. I would like to stress that I think it is very important that we find a way to have this legislation be able to cover the land that has already been passed -- the previous 700 acres that was previously approved for transfer by the Hackensack Water Company to their development subsidiary.

Thank you.

SENATOR CONTILLO: Thank you very much.

I would just like to acknowledge the presence here of Mayor Robert Harrison from Harrington Park. There you go, okay.

Is there anyone else? The lady in the last row there?

P E G G Y B L U M E N T H A L: Hello, Senator.

SENATOR CONTILLO: How are you?

MS. BLUMENTHAL: Thank you very much for being here. My name is Peggy Blumenthal. I am from Haworth. I am just here as a private citizen.

A friend of mine called me last week and told me about the BPU meeting, and I went down to that. After the meeting, I somehow got a hold of the Havens & Emerson report, and I read through it in one evening. I just have a few things that I jotted down.

What the man said before about the chlorides and the nitrates, and also solid waste will be added to that bill. The report also said that they cannot quantitatively say what the effect development will have on the environment. They said flat out in the report that they do not know what the effect of building in this area will be. "The forest," they said, "is not unique in itself. It is very common to the Northeast." The fact is, there are no other forest lands in Bergen County, so it is unique.

They also said that you cannot take all that is put into the water out of the water by adding more chemicals. My question is: Why should the public be a test group for the

water company's experiments with the water? The reason the water company is a public utility, to me that is, is to serve the public water that is safe and pure. After all, they are a State-mandated monopoly. The water company's business should not be to be a development company, but to be a water company. The reason they have all this land is that they needed that land for many, many years to protect the watershed area with natural filtration through the soil and treatment areas. This was in the report also why you need land.

They have a smaller amount of land, compared to other watershed areas, and all studies point to the fact that open land is better for clean water. There is an erosion problem in the Oradell Reservoir. This was stated also in the report. The reservoirs are very shallow to begin with. The Oradell Reservoir is only 10 to 15 feet deep. To keep algae down, they now add sulfur to the water, which is the smell you always smell. If you take away the trees, and you take away the foliage, you are going to have more algae in the water, so you will have more sulfur being added to the water.

Again, why should we, the public, drink water that has been even more chemically treated so that the Hackensack Water Company can go into the development business on watershed property -- property that the ratepayers have supported with their money for over 100 years? Why should we pay more to add more to the water? The ozone filtration plant is not on-line yet, and according to the report, the ozone plant is the only one in the country. Why shouldn't we see if it works first? What if it breaks down?

The report barely addresses the severe drought eight years ago, except to say that the water would come from the Wanaque Reservoir. All wildlife would be displaced, and then die. They never stated that the wildlife contained in the reservoir would die. They just said they would be displaced and they wouldn't be able to survive. So, I drew the

conclusion that they meant they died. (laughter) Running through the reservoir, they never stated in the report what type of wildlife is there. Running through the reservoir, I have observed not just racoons and squirrels, chipmunks, frogs, and toads; I also saw red fox and deer. This is something that you don't normally see in Bergen County. They leave it up to the town zoning boards to make sure that the land isn't overdeveloped. This is what they called for in the report. "We will leave it up to the town zoning boards." Yet, then they fight the town zoning boards and put up condos and office buildings.

They want to use public education to teach the people now not to pollute. Well, isn't the water company's business to protect this area in the first place? It is not the people's problem to build condos around there and then have it polluted, and then find out what we should do about it.

In the conclusion of the report, it states: "This report should not be the sole basis for the sale of lands and further studies should be done." I have not seen any further studies, and this is the sole report that has been done on it.

The Public Advocate should act for the people. I don't believe that giving us money is acting for the people. I believe the Public Advocate should come out and say what the people want, and that is to keep the land green. We don't have much green land in Bergen County. I have a feeling that the Hackensack Water Company is trying to get this transfer passed before your legislation, so they can have a grandfather clause. I would like to see something put in your bill to prevent this. (applause)

Just one other interesting note. I found that Governor Kean's brother, Robert Kean, is on the Board of Directors of the Hackensack Water Company. (laughter) Now, there aren't any more open spaces left, Senator. I would like my two boys to grow up knowing that greed doesn't always win over, but that right does sometimes.

Thank you very much. (applause)

UNIDENTIFIED SPEAKER FROM AUDIENCE: I don't want to be on the record. I just have a question following this. What can we do, as private citizens, to get further studies done? I have called the Nature Conservatory; I called the New Jersey Conservation Foundation. I mean, I'm calling them, but I am not sure what they are supposed to tell me, whether I have the right to have it done, or how we can have a report done. (remainder of comment indiscernible; no microphone)

SENATOR GORMLEY: Well, I think the first thing that will happen, because Senator Contillo had mentioned this to me, was that the Committee requested DEP, even before the bill passes, to begin the process of actually reviewing the-- You know, we have talked about a lot of things today. First of all, how does it pertain to the water supply crisis that is 40 miles away, but isn't here, but could be here in 10 seconds if we have two weeks without rain? What you have to do is-- We don't want to recreate the wheel, because what happens in crises situations is, we go out and create another agency, when another agency already has prerogative and the expertise to do it. There are people aboard in DEP to do this job, so we would ask that they do it, through the Committee -- through our Chairman. That would be step number one.

Then it is a matter of having them come up with the criteria necessary and the overall environmental review to put the picture together. What happens is, you are piecemealed. You know, you are volunteer citizens.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Right.

SENATOR GORMLEY: And you are there going, "Well, I think I'll call-- This is an environmental-- I think this is the one." What happens is, it is that old wearing down process where it is not cross-referenced properly. So the way to do it is, we will deal through the Committee. We will put the request in to DEP on behalf of the Committee and yourselves,

that DEP actually look at it. They are the ones with the people aboard to do those types of jobs, but look at all these things we have asked about prior to the bill passing. I don't see the process whisking along. I mean, they do have to come for local zoning approvals, and whatever.

UNIDENTIFIED SPEAKER FROM AUDIENCE: What about the other (indiscernible) meeting. That is what scares me -- June 23rd. If we don't get it on the record then, when we have an opportunity--

SENATOR GORMLEY: See, I think the one thing that was brought out today was, there are certain limitations with the Board of Public Utilities. But the one thing that is being established is, there isn't a waiver of environment review simply because of what action they may or may not do. They are not an environmental body. They are a rate-setting body. There are questions we want them to ask. For example: When you got the property together in 1900, or 1890, or whatever, was there public assistance involved? Was there any public condemnation involved in putting-- These are the types of questions that go to rate setting. But, in terms of the environmental issues, it should be a request to DEP, with a time frame of, "Give us an answer in two weeks, or three weeks, if you are going to do it or not going to do it." And then we keep pushing the bill through.

I don't want the public to think that by not having a thorough environment review by June 23rd that there is a waiver of environmental review. No, that's not the law. The BPU brought out today that that is not the law. That is the problem we run into in every problem with the BPU. It is not necessarily BPU's fault, but when you deal with trash, and you've seen this in the papers, DEP and the BPU-- They don't agree on anything. The municipalities are in the middle and the counties are in the middle, paying the property tax.

So, if anything-- What I would like to do, is recommend that we keep this simple, because we could come up with a very complex program, and everyone would say, "What did they say at the end of that?" We are going to ask DEP, whose job it is to do it, a request by today's Chairman of the Committee, to actually go in and review the entire environmental impacts now. If they say no, then the bill will pass. They they will have to do it. But we would ask them to start the process now. That way it is a very simple, non-complex-- In other words, we take volunteer citizens and we ramble off 93 things, and then we have very bright and wonderful -- like Mark (referring to Committee Aide). Talk real fast, Mark, and tell them 93 things. (laughter) Then they go, "Was that 91 or was that 94?"

SENATOR CONTILLO: I'll give you four things. I will give them to you right now. Number one, write to, contact, beat up on the Board of Public Utilities Commissioners, and tell them simply-- I use -- my notes hold up-- Mark wrote, wait-- You can think of some other words you want to tell them, but you don't want them to act, they don't have to act, there is no impetus for them to act quickly. So, number one is for the Board of Public Utilities Commissioners to wait, to sit back and let themselves receive the full information that is going to become available to them shortly. That is number one. Okay?

The second item I have here is, we, as a Committee, are going to write to DEP. In addition to suggesting that they start a study, we are going to make sure that no wetlands -- if we can, and let them use their initiative and imagination -- applications are approved prior to July 1, if it is possible that they can sit on those applications. What is more important, though, is, in many cases, it is your local towns. It is really the fault, in many cases, of the local planning boards and the boards of adjustments in some of these towns,

which have, in effect, been pressured, not totally unfairly, in trying to stabilize the local tax base, so now they are looking at developing commercial or residential properties in those areas to help, you know, the tax base.

So, each one of you should really grasp a hold of your own mayors and councils and your own planning boards, and say, "Have some gumption, have some guts, and tell them no." That is number three.

I'll give you a couple more here now. You could write to Mr. Kean's brother, Tom, and ask him, as Governor of the State, to continue his leadership in protecting the environment. This is certainly one way you can do it.

The fourth one, of course, is the Public Advocate, who acknowledges that they could initiate, without this legislation, as could the Board of Public Utilities Commissioners, the concept of the ratepayer purchasing this.

Now, you all know, in addition to all of this, that McDowell, who is your County Executive, is trying to arrange a system of financing. So, in a sense-- I don't think that is 93 things, but-- While it is complex, it is certainly do-able.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I just have one question about the DEP. I assume it is similar to the EPA. Any agency that can classify toxic ash from incinators as non-toxic-- That doesn't give me much faith. That is why I like to go to the foundations.

SENATOR CONTILLO: Who has classified the ash from incinators as non-toxic?

UNIDENTIFIED SPEAKER FROM AUDIENCE: EPA.

SENATOR CONTILLO: The EPA has.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Yes.

SENATOR CONTILLO: Well, I know our DEP hasn't come up with anything yet, so we are ahead of the game.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Naturally, the EPA has--

SENATOR CONTILLO: Is that correct?

SENATOR GORMLEY: Yes, yes.

UNIDENTIFIED SPEAKER FROM AUDIENCE: The serious thing about it is, the citizens are taking the EPA to court, trying to--

SENATOR CONTILLO: See, I don't know-- You are telling me that, but I don't know that has been-- The problem, you know, is, the more sophisticated our incinerators become, the more likely the ash is to become toxic. So, in other words, if you have relatively unsophisticated incinerators now, there is a good chance that the ash is not toxic.

UNIDENTIFIED SPEAKER FROM AUDIENCE: The ash is not toxic?

SENATOR CONTILLO: That is correct. The purer you make the air, the more toxic the ash becomes. Then you have another little set of problems.

UNIDENTIFIED SPEAKER FROM AUDIENCE: That is why I don't have a whole lot of faith in DEP, because I--

SENATOR CONTILLO: They are the only game in town.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Can't we get unbiased reports -- ungovernmental reports?

SENATOR CONTILLO: There is no place in this world where you are going to get an unbiased report.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Or, biased in our favor? (laughter)

SENATOR CONTILLO: Now you sound like the water company. Are you going to hire a consultant to do what you want him to do?

UNIDENTIFIED SPEAKER FROM AUDIENCE: That's right. I want to find somebody--

SENATOR CONTILLO: No, we are not going to be the way they are. We'll do it objectively.

Okay, anyone else?

MR. LaCOUR: May I add a postscript?

SENATOR CONTILLO: Yes.

MR. LaCOUR: It's germane, and it's important. I have been checking with the county planning board regularly. The application from the Hackensack Water Company for the Emerson development expires July 7th. There are a lot of questions the county planning board has given the Hackensack Water Company, and they have not been answered. In their opinion, it is going to expire, because there is not enough time now for them to answer all of the questions. So, they imagine, or they are assuming that what Hackensack Water Company is going to do-- They have thrown out the red herring. They have gotten a lot of reaction, and they are going to file a new set of plans after the current application fails.

SENATOR CONTILLO: Well, that's good, because now they will come under--

MR. LaCOUR: It gives us another year.

SENATOR CONTILLO: Well, not only that, but the new Wetlands Act will grab them. You know, I don't know how it would affect the previous application. It is a positive standpoint.

I think the public outcry really-- You're the Chairman of the Board of Adjustment?

MR. LaCOUR: No, no, I am just one of the men.

SENATOR CONTILLO: Just one of the Indians.

MR. LaCOUR: That's it.

SENATOR CONTILLO: Well, you know yourself that public outcry does have an effect. If people speak to their mayors and councils, and speak to their planning boards, and speak to their boards of adjustment, and tell them to stiffen their backs, that that is effective sometimes.

Yes, Mayor?

MAYOR HAGUE: I would like to add just a short postscript, too. My husband and I, as stockholders, spoke at the Hackensack Water Company's annual meeting this year, and it

was publicized as a result in The Record, because we, as stockholders do not feel that any amount of money they pay us, with all of their development, is going to make our lives any better. It is going to make them worse. It is already very bad, with pollution and traffic and such.

So, it was taken up by The Record, as well as The Newark Star-Ledger. Because of that, Mr. Gilbert read that and called me, and summoned us to a meeting with Mrs. Whitman and the BPU on May 12th. They questioned us to a great extent, and DEP had their people there. There were several lawyers, and Mr. Matson from the county, and such. So, we had quite a discussion. I give the BPU credit. Because of that meeting, they had the public hearing on the transfer of these lands in Hackensack. So I think they are quite aware of the public's opinion. I really commend them for going as far as they did.

SENATOR CONTILLO: Mayor, may I ask you a question? Since you have this rapport with Mr. Gilbert (laughter)--

MAYOR HAGUE: I only met him then.

SENATOR CONTILLO: --and you are a stockholder--

MAYOR HAGUE: Right.

SENATOR CONTILLO: --and you are the Mayor of the town, and you are a very persistent woman, have you considered sitting down with him, and telling him straight out -- cutting away all the nonsense -- that the public really wants to purchase those lands, and, "Why can't we make a deal? What does the Hackensack Water Company want for it? How much money is involved? How can we work it out?"

MAYOR HAGUE: I certainly shall do that.

MR. LaCOUR: Put it in writing and ask for a written reply. (laughter)

UNIDENTIFIED SPEAKER FROM AUDIENCE: Twelve million.

MAYOR HAGUE: Right.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Senator, we do have a representative of the water company. He is on the wall

there, the ex-Mayor. Maybe he has heard all of our complaints, and will go back there and tell them our--

SENATOR CONTILLO: No, he works for Public Service.

MAYOR HAGUE: He's Public Service.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I thought he worked for the water company.

MAYOR HAGUE: No, Public Service. (three or four people speaking at the same time)

SENATOR GORMLEY: I would like to get a little plug in. I have a bill in. It is a natural resources bill. I would encourage people -- if they ever get any chance to comment on it-- It is a bill which provides for a source of funding for the preservation of natural resources in New Jersey. The money would be available for the purchase of lands such as this, for watersheds. It is something we--

UNIDENTIFIED SPEAKER FROM AUDIENCE: What is the bill number?

SENATOR GORMLEY: I'll have it for you in a second. I would encourage-- It is a fee on realty transfers in New Jersey, which is somewhat controversial. What it does is, it sets about \$30 million aside -- \$30 million would be set aside per year for the purchase of open space in New Jersey. If you hear about it, or can lend support to it on occasion, I would appreciate it.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Does it have a number?

SENATOR GORMLEY: You are about to get it. It's S-1405.

UNIDENTIFIED SPEAKER FROM AUDIENCE: S-1405?

SENATOR GORMLEY: Yes, S-1405.

SENATOR CONTILLO: I think the concept of the bill is universally supported in the Legislature -- both houses, both parties. The controversy exists over whether the bill should be paid for by the additional tax on the realty transfer tax

every time you buy and sell a house, or an additional tax on hotel rooms. I think that is where the debate lies. When a compromise comes up, you'll have a bill. But until that time, the controversy really centers on-- You may end up with a bill that comprises both Senator Gormley's concept of the realty transfer addition -- maybe part of that -- and part of the hotel taxes. But that is really the-- There is no question that it is needed. There is no question that we all support it. The question comes in, how do we fund it?

I have an letter here from Senator Feldman. He sent his regrets that he could not be here with us in body, but he is here with us in spirit.

Do you want to say the final word?

MR. GAGE (speaking from audience; no microphone): I want to first stress the urgency of the issue by the fact that they are planning on breaking ground on the development in September -- (indiscernible) Realty in Emerson.

I would also like to put a plug in for Bergen's (indiscernible) meetings on Tuesday, the fourteenth, and Thursday, the thirtieth, and every second Thursday thereafter to August in the Oradell Public Library, thanks to the town of Oradell -- the Mayor. They are public meetings that are open to the public so they can voice their concerns on this issue and help to build momentum.

Thank you.

SENATOR CONTILLO: Excuse me. The gentleman from the Board of Adjustment-- Did you say that the county planning board has the application for the Emerson--

MAYOR HAGUE: Oh, yes. They tell us.

SENATOR CONTILLO: Is the county--

MR. LaCOUR: The county planning board has the application. The Emerson Planning Board went along.

SENATOR CONTILLO: They rolled over and played dead.

MR. LaCOUR: They are vacating streets. They are isolating people. But I don't know where they can move this traffic. As I said before, 6000 cars... I don't know where it is going to move to.

SENATOR CONTILLO: The point is, that pressure to voice your opinion immediately to the Bergen County Planning Board to take a good, hard look at this application and not to accept it, would be well put, if that is where the application is today.

MR. LaCOUR: I'll tell you, months ago I wrote to the Bergen County -- to the Hackensack Water Company, saying, "Look, we are not out to witch hunt, or anything. We want to have a meeting with you to find out what your plans are." They never answered. Tom Herten is the attorney for the Hackensack Water Company. He is also the attorney for the zoning board and the planning board in Oradell, but he does not hold the contract for Oradell with Hackensack, so there is no conflict of interest. (laughter)

SENATOR CONTILLO: Hey, wait a second. You chose him. You are a member of that board. You chose him.

MR. LaCOUR: No, no, she's the Mayor.

SENATOR CONTILLO: No, no, the members of the board choose the attorney for the board.




MR. LaCOUR: I know, each year.

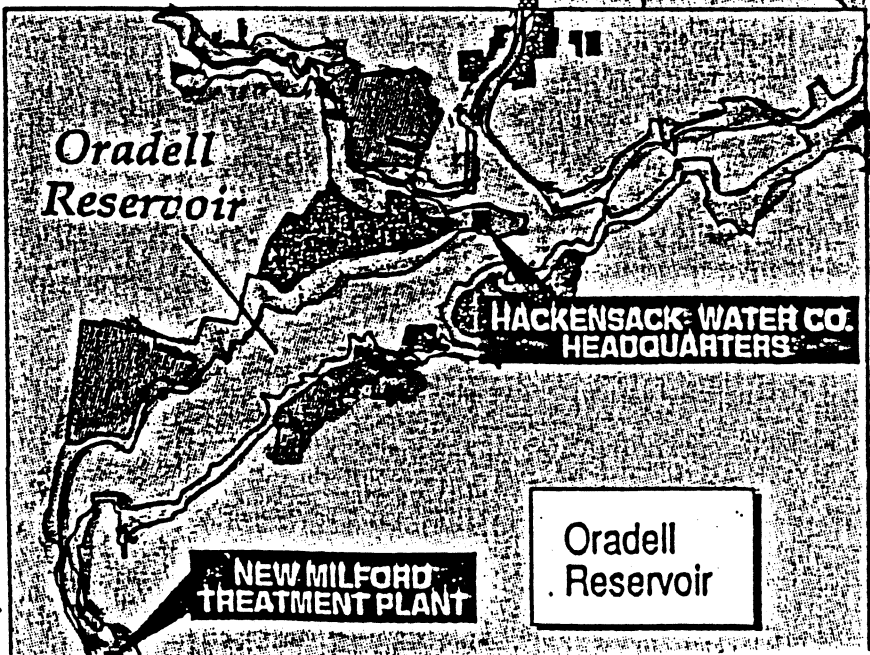
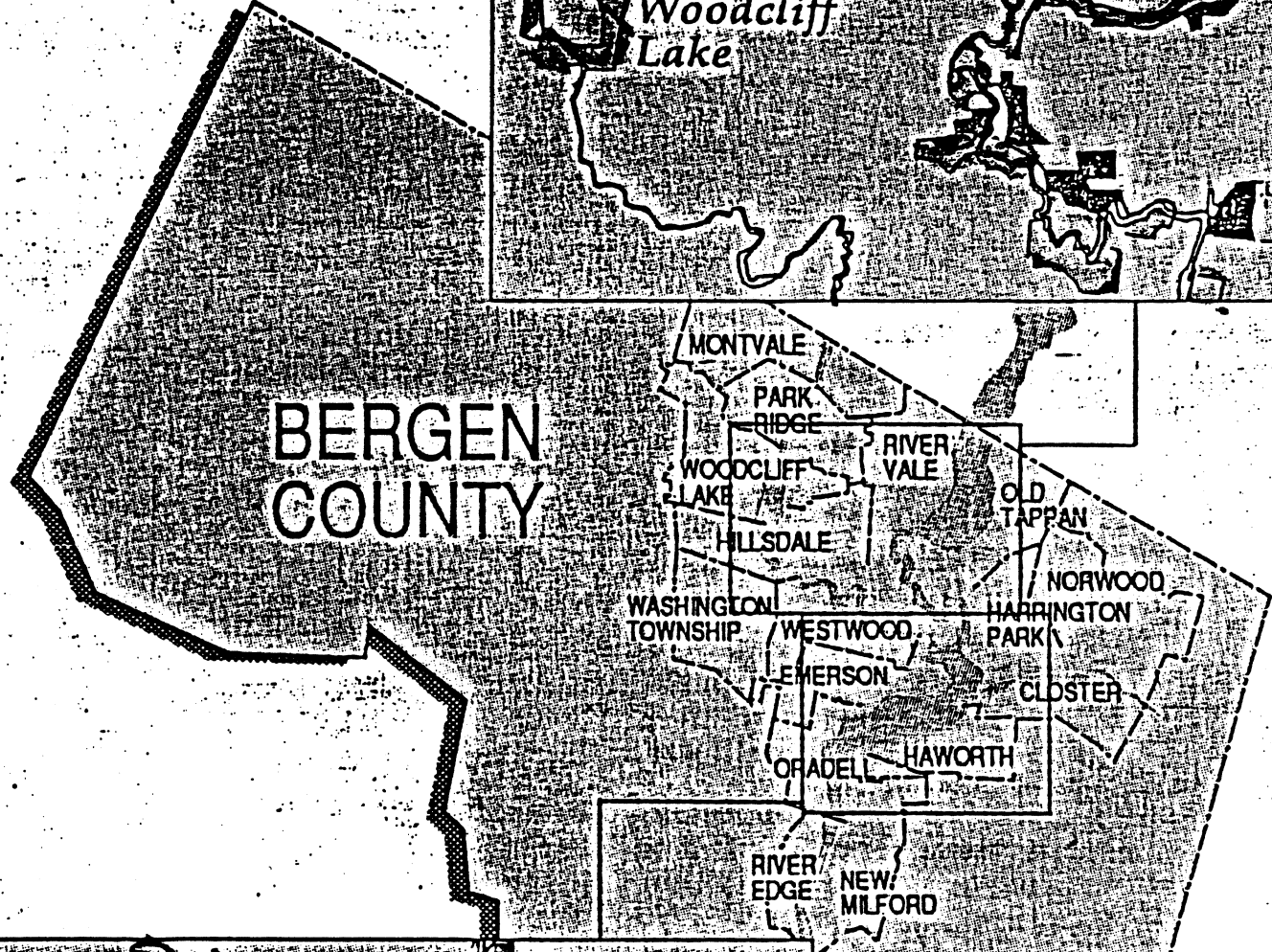
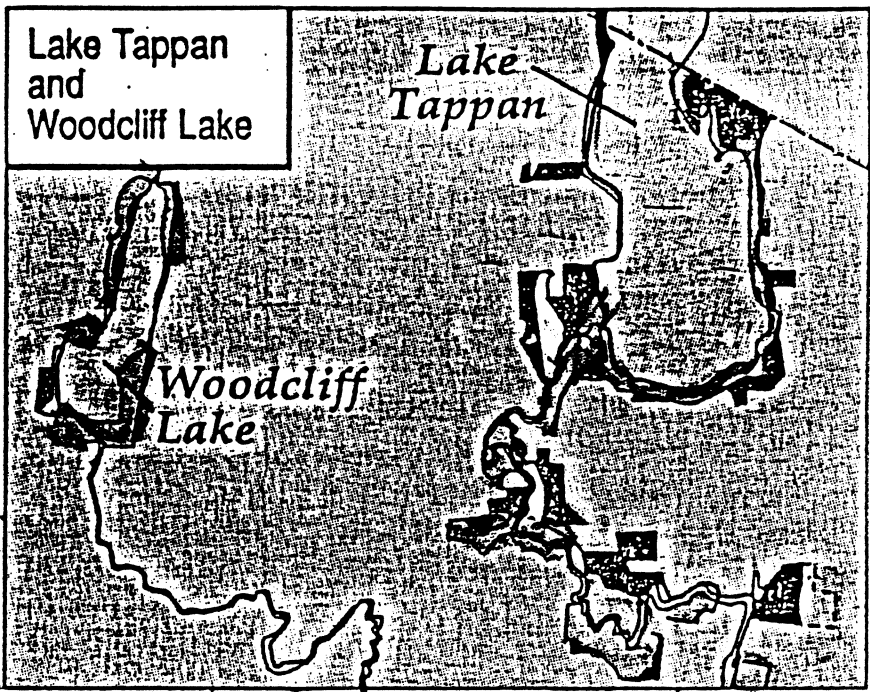
SENATOR CONTILLO: Okay. Listen, I am going to call this hearing to a close. We have had a good opportunity to hear everything, I think. Thank you.

(HEARING CONCLUDED)

APPENDIX



-  Hackensack Water Company watershed
-  Watershed transferred to Rivervale Realty
-  Golf courses to be transferred to Rivervale Realty



Oradell Reservoir

NEW JERSEY SENATE



PAUL J. CONTILLO
ASSISTANT MAJORITY LEADER
SENATOR, 36TH DISTRICT (BERGEN)
90 MAIN STREET
HACKENSACK, NEW JERSEY 07601
201-487-0044

STATEMENT BY
SENATOR PAUL CONTILLO
SENATE ENERGY AND ENVIRONMENT COMMITTEE
PUBLIC HEARING ON S. 2492

June 9, 1988
Oradell Council Chambers

NEW JERSEY SENATE



PAUL J. CONTILLO
ASSISTANT MAJORITY LEADER
SENATOR, 38TH DISTRICT (BERGEN)
90 MAIN STREET
CKENSACK, NEW JERSEY 07601
201-487-0044

We are here today to discuss S. 2492, legislation which proposes to protect our precious water supply by setting environmental standards for the sale of any property held as watershed. Under the terms of my bill, The Department of Environmental Protection will be required to map the land presently held as watershed -- the land which currently protects public water supplies -- and adopt regulations on needed buffer zones. The rules would determine the extent of allowable development surrounding watershed areas. In addition, S. 2492 would provide that projects slated for development be held in abeyance for 18 months while the state undertakes the mapping.

In comes as a great shock to many of us to learn that there are presently no state standards which define or set criteria for the amount of land necessary for proper and safe watershed management and protection. When it comes to land owned by the Hackensack Water Company, we have only their word -- and the word of their paid consultant -- that the quality of our water will not suffer if the watershed is diminished. An outside, independent, trusted evaluation of the environmental effects of this proposed sale is imperative.

Incidentally, at the same time sale of this property is being discussed, the DEP is reassessing the state's future water needs. It is totally illogical for us to allow this proposed development until we can have solid assurances that future generations will not need this property as protection for their precious drinking water.

A separate portion of this bill bans development on watershed property which is not hooked up to a sanitary sewer system. Septic tanks should not be allowed on land directly bordering a public water supply -- and the error of allowing the present such development in Old Tappan must not be repeated.

In addition to our major concern -- that of protecting our water supply -- we must also consider what the development of this last remaining open space area will mean. Bergen County is home to over 800,000 people, and employs the largest workforce in the state. According to County Executive Bill McDowell, only 6.8% of the county's privately held land remains undeveloped. In an almost geometric progression, each time a piece of property is developed and lost from the open space category, all the remaining land becomes more valuable. This makes it less likely that property can be acquired for parks and recreational use. Additionally, commercial development means more traffic jams on our already overburdened road system. And increased flooding all along the Hackensack River system becomes a certainty

We are told not to worry because we will be receiving \$40 for this property. It is apparent that the cost of transportation improvements, expansion of our sewer system, flood controls, and all the other expensive byproducts of this proposed development will cost a great deal more than \$40 per household -- and the costs will escalate for generations to come.

Because I believe we should be open to all methods of preserving and protecting our valuable natural resource, my proposed legislation directs the Public Advocate to analyze the feasibility of establishing a way which Water Company customers could purchase the land. My office has been inundated with calls from rate payers who say they would willingly use the famous \$40 as a down payment for public purchase of this watershed property. I want to investigate the possibility that there is a logical, legal mechanism to offer the public this opportunity.

One final note. I understand that the Hackensack Water Company has chosen not to appear before us today, although a letter of invitation was sent to the President of the Company. It is yet another indication of their contempt for the people who pay their bills. Perhaps it is also an indication that they have no answer to the charge that selling this watershed will endanger our water supply.

With the passage of S. 2492, for the first time there will be standards for watershed preservation. I want to thank the many citizens who have joined us in our fight to protect our water supply. It is a priceless irreplaceable legacy which we must leave to our children and grandchildren.



State of New Jersey

DEPARTMENT OF THE PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL

744 BROAD ST., 10TH FL.
NEWARK, NEW JERSEY 07102

June 9, 1988

STATEMENT

SENATE BILL 2492

SPONSORED BY SENATOR PAUL CONTILLO

FRED A. SLOCUM
PUBLIC ADVOCATE

HARMON C. WALKER
DIRECTOR

JOHN J. WATSON
DEPUTY DIRECTOR

TEL: 973-992-1100

Mr. Chairman and members of the Senate Energy Environment Committee. I appreciate the opportunity to appear before you today on behalf of Commissioner Alfred A. Slocum to discuss the regulation of watershed protection property.

The Division of Rate Counsel in the Department of the Public Advocate is mandated by law to represent and protect the public interest in all utility rate matters before the BPU. In these circumstances where there is BPU jurisdiction, as part of its responsibilities, the Division of Rate Counsel examines requests to remove from the rate base excess open land owned by a municipality, municipal utility authority or public utility which was once used for the protection of a public water supply. The Division must ensure that the ratepayers receive the benefit from the removal of the property from the rate base. If one of these land transfers is proposed, the capital gain must inure, at least

7x

in part, to the ratepayers. It is the BPU's policy to allocate the gain equitably amongst the ratepayer and the shareholder. It is within the context of this policy that Rate Counsel seeks to maximize the ratepayers' equitable share.

The existing system has two significant shortcomings. First, if there is no BPU jurisdiction, such as may be the case for a municipally owned water system with no out of municipality sales, no direct regulatory review may occur. The second shortcoming is that in prior land transfer requests before the BPU, attention has focused purely on the economics of the particular transaction in isolation, and the need for that single parcel of land standing alone. There has been no analysis of an overall strategy to assure pure water, nor has there been an adequate vehicle to deal with local community impacts which may not be readily quantifiable in dollars and cents.

Senate Bill 2492 establishes new provisions for the regulation and preservation of watershed protection property. (1) A Watershed Property Review Board is created to authorize the exemption of land from the provisions of the act. The Department

1. Watershed protection property is land utilized for the protection of a public water supply.

of Environmental Protection is "to compile an inventory and determine the estimated market value of all land owned by a municipality" (See Sections 2, 3 and 4). The Department of Environmental Protection must prepare and adopt a Watershed Land Preservation Master Plan and promulgate rules and regulations establishing "criteria for determining the extent of watershed protection areas to be maintained by a municipality, municipal utilities authority or a public utility and for the development of that land."

Under the proposed bill the Department of the Public Advocate's Division of Rate Counsel has one year from the act's effective date to study "the rate-impact on customers of public water supply systems of selling land currently utilized . . . to protect a public water supply."

Utilities own woodlands, wetlands and other undeveloped open space to protect the water supply. The costs associated with that ownership of the land -- such as taxes -- are passed onto the ratepayer in their water supply charges.

If it has been determined pursuant to an engineer's study that the property is no longer "used and useful" for utility purposes and that there is no reasonable likelihood that such property will be used in the future, the land may be transferred. The Division's role is to assure that, should the BPU approve the requested transfer, the ratepayers will receive the benefit of the removal of the property from the rate base. Pursuant to BPU policy, an equitable share of any gain in the value of said property, which the ratepayers have supported, through rates over the years should go to the ratepayer.

Currently, the Division of Rate Counsel is only involved in these cases when there is a specific land transfer issue. Under Senate Bill 2492 we would be mandated to conduct a general state-wide study of the rate impact of these types of transfers on customers. It is clearly within the scope of our expertise to address this issue and we would support the concept of this study. The procedures for land transfers should be treated in a coordinated, uniform manner.

The bill also provides that the Division shall report to the Governor and the Legislature to address the feasibility of "establishing a mechanism under which customers of a public water supply system would be allowed to purchase [this] land . . .

through increases in their water supply service fees or charges." We agree that the Legislature and the Governor could benefit from this type of a study. Rate Counsel, because of its expertise, would be qualified to evaluate how such a proposal could be structured. In analyzing the feasibility of this purchase concept, the Division would consider a number of factors beyond the narrow issue of rates.

Recently the Division of Rate Counsel has been involved with the Hackensack Water Company who have petitioned the BPU for permission to transfer 300 acres of surplus watershed land to an unregulated subsidiary company. This case has highlighted the need for some guidelines on how these matters should be handled. The case demonstrated that these transfers do have a potential impact on ratepayers.

In conclusion let me reiterate that mandating a study is a good way of looking into the matter. We would be equipped to prepare a report. I commend you for addressing this important issue.

JUN 8 1988



COUNTY OF BERGEN
ADMINISTRATION BUILDING • HACKENSACK, N.J. 07601
(201) 646-3630

William D. McDowell
County Executive

June 6, 1988

Senator Paul J. Contillo
90 Main Street
Hackensack, N. J. 07601

Dear Paul:

I am enclosing another copy of the statement I submitted to the Board of Public Utilities last week.

Since I will not be able to attend your meeting on Thursday, I would request that my statement be made a part of the record.

I look forward to working with you on this important environmental matter.

Sincerely,

A handwritten signature in black ink, appearing to read "W.D. McDowell", is written over the typed name.

William D. McDowell
County Executive

WDMcD/cg
encl.

12x



COUNTY OF BERGEN

ADMINISTRATION BUILDING • HACKENSACK, N.J. 07601
(201) 646-3630

William D. McDowell
County Executive

TESTIMONY OF COUNTY EXECUTIVE WILLIAM D. McDOWELL ON
JUNE 2, 1988 TO THE BOARD OF PUBLIC UTILITIES.

SUBJECT: Application of United Water Resources to transfer
additional lands from the Hackensack Water Company
to Rivervale Realty, Inc.

I. Introduction: Planning Priorities For Bergen County

As you may know, I have made open space one of my top 3 priorities for our planning in Bergen County for the year 2000. I have instructed my Director of Planning and Economic Development to study and make recommendations for maximizing our open space possibilities among 4 major opportunities -- the 9159 acres of Ramapo Mountains lying in Mahwah and Oakland, of which 3539 are now publicly protected; Hackensack Water Company watershed and surplus lands, already transferred or petitioned for transfer; former but still available open spaces associated with the 1975 Lake Hackensack Plan; and the 151 acre Norwood East Hill Tract.

What should we seek to protect? What will it cost? With all of these tracts under intense development pressure, and thus with time of the essence, how can a timely and major open space program be accomplished in the widest variety of ways? We call this effort "Bergen's Last Chance."

Our other two planning priorities are Transportation -- finding ways to alleviate our growing lines and lanes of traffic and ways to increase our mass transit choices; and Redevelopment -- seeking sensitive ways to grow, where we can and should, through the redevelopment process rather than through the easier route, via full scale development of our few remaining open spaces.

To illustrate the wider landscapes against which these goals are set, a County study in 1982 revealed then that only 12%, or 18,344 of the county's privately held lands remained undeveloped. This total included a variety of spaces in some form of use or usefulness -- incorporating such categories as remaining farmland, undeveloped pockets, flood prone areas, steep slopes, and such environmentally sensitive categories as fresh water wetlands. One third lay in the Ramapo Range.

As a result of the 969 subdivisions granted between 1982 and the present, this total acreage has declined by 8,400 acres to 6.8% of the county's stock of privately owned, undeveloped land. That is, nearly half of the 1982 total has disappeared.

By way of further illustration, 1986 and 1987, our most economically active years yet, each saw 8 million square feet of development of all types constructed.

So while it is common to hear that Bergen County's population is not growing at a significant rate, it is appropriate to note here, as the backdrop for this testimony, that new household formations and the construction of new employment centers, coupled with the growing in-migration of new employees from beyond our borders, are driving the county's economy at a robust rate. Since 1980, Bergen County's "share" of regional growth has remained constant, keeping us as the county with New Jersey's largest workforce and its second largest population.

For the open space effort just described above, we have not completed the analysis. It is a complex undertaking, in which we consider outright purchase, purchase by others like the State of New Jersey through its Green Acres program, scenic easement purchase or restriction, tax incentives to owners who would donate open space, land swaps where plausible, and zoning by municipalities who wish to take this effective approach to the last of their own open space opportunities. Which tool best fits each parcel, to the result that maximum benefits are achieved?

We have completed, however, the development of the 10 criteria we are applying to all of the tracts under investigation, and we have, for purposes of this testimony, completed applying them to the lands of the Hackensack Water Company which have been or may be transferred to Rivervale Realty, Inc.

II. Open Space Protection Criteria: Setting priorities.

Our ten primary and basic criteria, for guiding us in selecting among open space opportunities and needs, are as follows:

1. Do the most we can right away. We stand to lose our most desirable chances while we're gearing up first; and it will soon get too expensive for the remainder.

While we have an excellent Park system, I believe that our sense of the county's total open space needs was likely predicated on the belief that, when Bergen was completely suburbanized, it's growth would tail off.

The present pace of suburban redevelopment shows that this turns out not to be the case. Instead, we will see steady upward pressure for more residents and more jobs on a fixed, 152,784 acre land mass. Hence the need for open space will grow proportionately -- and just when the pressure to add new construction is at its greatest intensity.

2. Attach particular significance to ecological values in the selection of the priority projects.

Size is an important criterion. For example, if a given tract has particular ecological value, the MORE of it you can protect, the greater its ecological strength against stress AND the greater its ecological value in the variety and abundance of its species. The ecosystem in question probably extends beyond the specific tract under consideration. Look beyond its boundaries.

Basic principles to work from:

- * An ecosystem is a collection of organisms and their environment. Organisms are the living components -- plants and animals.
- * Their environment is comprised of the non-living components -- air, water, sunlight, and soil on the one hand; and the built environment (and its pollutants) on the other. Both generate the conditions for life.

3. Attach particular significance to desirable natural features. Some people regard this as a scenic matter. Others enjoy particular natural features for their environmental quality.

It is not difficult for us to discover the natural features that our citizens put a high "quality of life" value on. In some instances we see strong sentiments generated by remembrances of what Bergen has always been like. Preserve these in the MIDST of our expanding built environment, they say.

This "desirable natural features" criterion does not just apply to the special quality of remoteness. It applies, too, to a sense of comfort that comes with having nature nearby. "House with view" does not usually refer to a view of other houses.

4. Place high value on outdoor recreational opportunities.

As traffic builds throughout the state, it requires more and more gumption for each of us to mount a trip to the shore or to the Delaware Water Gap. Statewide traffic, then, forces the need for recreational opportunities closer to home. No other factor better explains the proliferation of back yard pools and their cousins, the local swim clubs.

Take note of how early on a Saturday morning that Van Saun and Darlington Park reach capacity and close.

We may learn that the value of residential property in Bergen County rests, in part, on the availability of such facilities.

5. Take maximum advantage of opportunities to combine forces with other public or quasi-public bodies.

Our municipalities come to mind first. Where is there publicly owned land? How much of it can be dedicated to open space? Which of those tracts have the highest value among the criteria listed here? The same point gets made again and again; the scarcer the opportunities, the harder it is and the more it costs to seize them.

The State, too, comes to mind. New Jersey should be willing to expand its Ramapo State Forest as part of this exercise.

6. Go for maximized use of the "less than fee acquisition" techniques.

This does NOT mean that we go for as LITTLE fee ownership as possible. Some tracts, to gain maximum public utility, MUST be owned. You can't hike along a scenic easement. The reason to use these tools, including zoning by municipalities to limit development in sensitive areas, is that THERE WON'T BE ENOUGH MONEY to buy all the tracts that we will want to protect in some way. But we MUST acquire when to do less would be to defeat our primary purposes.

Of particular relevance and importance, here, is that municipalities RARELY use their zoning powers to maximize on open space protection.

Another cluster of good open space tools is purveyed by the Not-For-Profits, like Trust for Public Land and the Nature Conservancy. They, too, are vital partners in this open space effort.

7. Consider the planning/economic development implications of the uses to which our last, remaining open spaces are most likely to be put if they are NOT saved.

There are many reasons to pursue open space, not the least of which are the costs of not preserving it. These are planning questions. I will discuss some of them in Part II of this memo as they relate specifically to the Hackensack Water and Rivervale Realty tracts.

8. Take great care to anticipate environmental impacts of projected developments on the tracts we seek to save.

As in Paragraph 7, above, these are planning aspects that associate with open space efforts.

9. Go for as much "overlap" among ALL these criteria as possible.

For example, include large blocks of space that combine value as ecosystems with scenic value and, where possible too, with recreational value. Our design criteria for the Overpeck Park addition were so devised. At a smaller scale, we did the same with the design criteria for the new County Park initiative behind Riverside Square.

In short, we need to MIX TOGETHER the EVALUATION criteria and the IMPLEMENTATION criteria -- something not taught in college. When time is of the essence, and when public dollars are limited, what we CAN do has a lot to do with what we OUGHT to do.

10. Play for time where we must.

Otherwise, our most important campaign will be over before we get off the ground. And our most sophisticated adversaries in this venture will be making every effort to beat us to the starting line.

III. The Properties in Question: See Appendix A; Figure 1; and Videotape.

The properties in question -- those transferred, those petitioned for transfer, and others which will likely be the subject of future transfer requests -- lie in 10 Bergen communities: Rivervale (218.5 acres); Old Tappan (146.5 acres); Harrington Park (76.5 acres); Westwood (3 acres); Emerson (222.5 acres); Oradell (118.5 acres); Haworth (84 acres); Woodcliff Lake (32.5 acres); Norwood (18 acres); Coster (79 acres). Total: 999 acres, of which 619 have already been transferred to Rivervale Realty, and 380 of which are either the subject of the transfer request before you (3 golf courses) or which can be expected to come before you at a later date.

These acreages were measured from maps provided by Havens and Emerson for the Hackensack Water Company.

Figure 1, plotted on aerial photography at 1:1000 scale, shows locations. Please note the proximity of the prime tracts to existing reservoirs.

The attached videotape, taken by Planning and Economic Development staff, shows portions of Closter's watershed lands bordering Oradell Reservoir (A-1 and A-4, Figure 1); properties already transferred within Harrington Park (C-7 and C-9); and properties already transferred in Old Tappan (G-7).

IV. Hackensack Water Company Lands: Applying the Criteria described above.

Cutting to major conclusions, the following findings emerge quickly.

1. Do the most we can right away. We stand to lose our most desirable chances while we're gearing up first; and it will get too expensive later on for the remainder.

Rivervale Realty has already filed its county application for the most expansive of the developments they propose to date -- nearly 1 million sq. ft. of office plus 200 residential units in Emerson on the west side of the Oradell Reservoir. Thus we have no grace period before this particular project comes to a head.

2. Attach particular significance to ecological values in the selection of the priority projects.

There is substantial ecological value to the lands bordering the reservoirs. They should be preserved to the maximum extent possible. There are wetlands on these tracts. We do not yet know their extent; we expect to as part of the Corps of Engineers review.

From an ecosystem standpoint, that value extends, too, to the reservoirs.

3. Attach particular significance to desirable natural features. Some people regard this as a scenic matter. Others enjoy particular natural features for the sense of environmental quality they convey.

The Oradell Reservoir tract fits all of these criteria closely, as do the three Golf Course sites. It is important to note that, for most New Jerseyans, "natural" landscapes are frequently the product of one form or another of human alteration. Open fields, ridges occupied by grazing cows, and second growth wood lots are what we perceive as "nature." Golf courses, to my judgment, fall within this sense of our "natural features."

4. Place high value on outdoor recreational opportunities.

The golf course sites are already in valuable outdoor recreational use. Unfortunately, Bergen has lost several already. Others are being planned for development. This is due in part to the fact that golf courses are, to their owners, like Drive-in movies were at major highway intersections -- a marvelous, cash-producing activity until the big markets with the big money matured. And each golf course we lose, public or private, puts greater and greater pressure on the waiting lines at the fewer that remain, public and private.

Secondly, the golf courses are used widely in winter by cross country skiers. From a public recreational and "breathing space" viewpoint, the wider public interest would be served by these golf courses staying in their present recreational use -- either as private, public or public/private facilities. We could see a scenario where they stayed as private golf courses for a prescribed period of years, after which the county considered appending them to a county park system whose needs undoubtedly will have grown over that interim.

Thirdly, with regard to the reservoir itself, we think that the question of boating and fishing on the reservoir, widely utilized on the State's public reservoirs, should be viewed as a very positive recreational asset to the county's residents. No outboard engines, of course.

5. Take maximum advantage of opportunities to combine forces with other public or quasi-public bodies.

We think the Hackensack Water Company should be viewed as a quasi-government body whose support is properly sought in open space preservation.

If we view the \$18 per household "rebate" as the dollar value of the open space lost, we get to contemplate how much more public money would have to be spent to recoup this loss. It is a loss we should seek to avert. There are long term public values for saving it that, by any reasonable set of criteria, exceed that short term, one-time "payment" to an earlier public which had purchased these lands with their water bills.

Why?

Because the open space preserved will be "received" by several generations. In contrast, the one-time dollar payment to use it for development is paid only to one generation.

There are other efforts being made in other forum, that we think should be given a chance to mature. For example:

(1) DEP and BPU will likely discuss regulatory issues, given that DEP has prepared no buffer standards for the protection of future water quality around water supplies. In their absence, should BPU develop interim standards until DEP has acted? Should there lands be transferred before such an inquiry has been completed?

For another example, BPU, the DEP and the State Planning Commission have a common need and are forming a task force to develop a strategy for ALL public water supply lands as part of the State Planning Cross Acceptance process. As a matter of policy, we believe that the transfer of these watershed lands in Bergen County should be delayed until such standards can be erected statewide for all public and quasi-public water supply entities. Can, should the Hackensack Water Company set its own standards?

6. Go for maximized use of the "less than fee acquisition" techniques.

There are several tax code and tax shelter techniques worth investigating. They might be useful in persuading United Water Resources to take a minimal, rather than a maximal development approach.

7. Consider the planning/economic development implications of the uses to which our last, remaining open spaces are most likely to be put.

Our studies to date show a county driven in its land use and traffic patterns by the tax generating, traffic-inducing office segment.

A prime consequence is the growing cohort of workers who enter the county daily from beyond our borders to fill these jobs. Complicating this condition are our "unfavorable" ratio between office and residential zoning and the growing number of commuters who cross our boundaries daily for destinations elsewhere.

Basic fact: our daily workforce is larger than our resident workforce.

It is painfully obvious that open space is the loser in these economic equations. It is just as obvious that traffic rises as open space disappears. At what point do our residentially attractive qualities tail off as the open spaces we sought are converted to our expanding built environment?

These are planning and economic questions, not "just" environmental issues. Is Rivervale Realty just another big developer along Kinderkamack Road? Or does the quasi-public stature of the Hackensack Water Company necessarily change the benchmarks we use in evaluating these proposals?

Where we cannot prevent the loss of open space, we will seek to show Rivervale Realty that some uses, like housing, impose much less peak hour stress on our road systems than do other uses, like offices. In addition, and comparatively speaking, housing constitutes an overall traffic-diminishing force by reducing the number of workers we have to "import" every day to occupy the offices already constructed.

8. Take great care to anticipate environmental impacts of projected developments on the tracts we seek to save.

Thus, for example, protecting against future water quality deterioration from added runoff into the Oradell Reservoir should be a high priority.

To what extent must the County do these types of things if others, like DEP, have not set buffer standards? Shouldn't we wait until such standards are in place?

9. Go for as much "overlap" among ALL these criteria as possible.

The main Hackensack Water Company properties -- the Oradell Reservoir tract and the 3 golf courses -- score particularly high in this category.

10. Play for time where we must.

Right now, this is our MOST IMPORTANT STRATEGY with respect to the Hackensack Water Company land.

V. SUMMARY

In retrospect, the Hackensack Water Company's transfer of its lands -- particularly its golf courses and the wooded surroundings of the Oradell Reservoir -- was, in my judgment, a mistake.

The intent was to reduce somehow the financial expense to the rate payer of having supported the impressive 80 million gallon expansion project achieved jointly with the North Jersey District Water Supply Commission.

Why keep these excess lands, to protect water quality from septic, the argument went, when we now have sewers and when we can treat the reservoir water, besides?

These, again in retrospect, were short-sighted public policy objectives which turned out to have fabulous real estate development potential.

To begin with, undeveloped watershed land plays a purifying role -- and at a time when more and more, NOT less and less pollutants are being introduced. Septics aren't the issue. Organic chemical compounds are. While we have hundreds of these to be concerned about, only a few have been identified as harmful in specific quantities to water supplies.

We need maximal protection of our water supplies, surface and underground, until those standards are set and enforced. And, as Dr. Peter Rogers of Harvard University, has documented, water treatment is much more expensive once the pollutants have reached the water supply, surface or underground. This issue is on people's minds.

Secondly, undeveloped watershed lands play scenic, environmental, and recreational roles in a county whose stock of these assets is on the wane as development intensifies. For us in the County, we now have to consider the replacement cost just to keep from falling behind in our open space resources. Which of these lands should we consider buying back? How wide a buffer around the reservoirs could we afford?

Thirdly, undeveloped lands do NOT generate more traffic on Kinderkamack Road, along with other services costs that water company rate payers will now exchange, as taxpayers, for their earlier \$18 rebates. That brief benefit will soon be seen as transitory.

DAMAGE CONTROL

Rectifying and minimizing losses is now the only course available to us. How can we do this?

1. I request, today, that the Board of Public Utilities move deliberately on the golf course request to provide us, and others, an opportunity to review and apply the types of strategies outlined in this testimony.

2. In the meantime, we will attempt to persuade Hackensack Water Company/United Water Resources/Rivervale Realty of the merits, from a public citizen perspective, of minimizing their development aspirations. We ask them to restrict themselves, wherever possible, to the development of the small parcels -- and not of the Reservoir and Golf Course sites.

3. Traffic, Water Quality and Open Space are all

important issues in a crowded county. If the open space role of these lands is beyond anyone's regulatory power to recapture and if Hackensack Water Company is reticent to make major concessions in its announced plans to date, we shall also make every effort to persuade them that offices, for the reasons listed in paragraph 7, above, are by far the most problematic of the uses they are contemplating.

Hackensack Water Company - River Vale Realty

Areas Owned by HWC and RVR Outside

of Water Supply Protection Area

TOWN	R V R			H W C		
	Map Ident.	Ac.*	Remarks	Map Ident.	Ac.*	Remarks
<u>River Vale</u>	I-1	5.5	SD5861-26 Lots	Pascack Brook C.C.	86	Lease 11/97
	I-3	15			River Vale C.C.	
	I-4	12.5				
	I-5	5.5				
	I-6	19				
	I-7	27.5				
	I-8	8				
	I-9	2.5				
		<u>95.5</u>				
<u>Cappan</u>	G-0	42	SD6038-35 Lots			
	G-1	1.5				
	G-2	7				
	G-3	16				
	G-4	7				
	G-5	3				
	G-7	24				
	G-8	46				
		<u>146.5</u>				
<u>Ngton ck</u>	C-1	2		Pascack Brook C.C.	10	Lease 11/97
	C-2	3				
	C-6	2				
	C-7	27.5				
	C-8	5				
	C-9	27				
		<u>66.5</u>				

* Measured from maps prepared by Havens & Emerson
for Hackensack Water Company 1" = 1000'

24x

A P P E N D I X A

PAGE 2

R V R

H W C

<u>TOWN</u>	<u>Map Ident.</u>	<u>Ac.</u>	<u>Remarks</u>	<u>Map Ident.</u>	<u>Ac.</u>	<u>Remarks</u>
<u>Wood</u>	J-1	$\frac{3}{3}$				
<u>Winn</u>	B-2 B-3 B-5 B-6	6 6.5 164 $\frac{2.5}{179}$	SD5945-22 Lots SP4206-1.1 mil 200 DU	Emerson C.C. B-1 B-4	15 14 14.5 $\frac{43.5}{43.5}$	Lease 12/9
<u>Will</u>				Emerson C.C. H-2	110 8.5 $\frac{118.5}{118.5}$	Lease 12/9
<u>Waltham</u>	D-1 D-2	16 $\frac{1}{17}$		Haworth CC	67 $\frac{67}{67}$	Lease 9/2
<u>Wiffene</u>	K-1 K-2 K-4	7 1.5 $\frac{24}{32.5}$	SD5899-24 Lots			
<u>Wood</u>				E-2 E-3	11.5 6.5 $\frac{18}{18}$	
<u>Warr</u> <u>l</u>	A-1 A-4	14 $\frac{65}{79}$				
<u>s</u>		619			380	

Grand Total: 999

25x



NEW JERSEY SENATE

JUN 7 1988

MATTHEW FELDMAN
CHAIRMAN-SENATE EDUCATION COMMITTEE
SENATOR, 37TH DISTRICT (BERGEN)
GLENPOINTE CENTRE WEST
4TH FLOOR
500 FRANK W. BURR BOULEVARD
HACKENSACK, NEW JERSEY 07666-6880
201-692-1313

June 6, 1988

Senator Paul Contillo
90 Main Street, 1st Floor
Hackensack, N. J. 07601

Dear Paul:

I had intended to be present at the Senate Energy & Environment Committee meeting in Oradell on June 9 concerning S-2492. However, we have been informed that the Senate Revenue, Finance & Appropriations Committee has to meet that afternoon to finalize our budget deliberations.

I regret my inability to attend the meeting of your committee.

Warmest personal regards.

Sincerely,


Matthew Feldman

MF:jbk

26X

250 Morris Street
Oradell, NJ 07649
June 6, 1988

Senator Paul J. Contillo
90 Main Street
Hackensack, New Jersey 07601

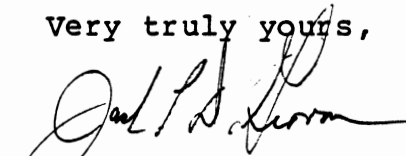
Dear Senator:

Due to a business committment, I am unable to attend the hearing you are holding on June 9, 1988 in Oradell.

I fully support a watershed protection bill. Development of watershed land in Oradell can have possible adverse affects on our drinking water and will most definitely cause additional traffic problems in a town already suffering from congestion. There is very little green left in Bergen County. If the Water Company has its way, there will be even less.

I have previously gone on record opposing the development and will continue to oppose it. When Oradell was threatened with a microwave tower our elected officials Pat Shuber, Pat Roma, Lou Kosco and yourself banded together with us and kept it out of Oradell. Together we can also stop this development

Very truly yours,



Jack L. DiGiovanni
Councilman

27x

