

DEPOSITORY COPY  
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PUBLIC HEARING  
before  
SENATE NATURAL RESOURCES AND AGRICULTURE COMMITTEE  
on  
S-3335  
(An Act to Amend the Pinelands Protection Act)

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NOV 24 1981

Held:  
July 7, 1981  
Assembly Chambers  
State House  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Raymond J. Zane, Chairman  
Senator Joseph Hirkala  
Senator Wayne Dumont, Jr.

ALSO:

Mark O. Smith, Research Associate  
Office of Legislative Services  
Aide, Senate Natural Resources and Agriculture Committee

\* \* \*

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SENATE, No. 3335

STATE OF NEW JERSEY

INTRODUCED JUNE 22, 1981

By Senators PERSKIE, YATES, ZANE, J. RUSSO and MERLINO

Referred to Committee on Natural Resources and Agriculture

AN ACT to amend and supplement the "Pinelands Protection Act," approved June 28, 1979 (P. L. 1979, c. 111; C. 13:18A-1 et seq.).

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

1 1. Section 2 of P. L. 1979, c. 111 (C. 13:18A-2) is amended to  
2 read as follows:

3 2. The Legislature hereby finds and declares that the pinelands  
4 area comprises pine-oak forests, cedar swamps, and extensive  
5 surface and ground water resources of high quality which provide  
6 a unique habitat for a wide diversity of rare, threatened and  
7 endangered plant and animal species and contains many other  
8 significant and unique natural, ecological, agricultural, scenic, cul-  
9 tural and recreational resources; that the continued viability of  
10 such area and resources is threatened by pressure for residential,  
11 commercial and industrial development; that the protection of such  
12 area and resources is in the interests of the people of this State  
13 and of the Nation; that such protection will require the coordi-  
14 nated efforts of all relevant municipal, county, State and Federal  
15 agencies; that the Congress and President of the United States have  
16 demonstrated a recognition of these facts through the enactment  
17 of section 502 of the "National Parks and Recreation Act of 1978"  
18 (PL 95-625); and, that it is now necessary to implement the afore-  
19 cited Federal Act and insure the realization of pinelands protec-  
20 tion through the establishment of a regional planning and manage-  
21 ment commission empowered to prepare and oversee the implemen-  
22 tation of a comprehensive management plan of the pinelands area.

23 *The Legislature further finds and declares that protection of the*  
24 *pinelands area can be accomplished without disrupting the eco-*  
25 *nomic, social, and essential governmental functions of the counties*  
26 *and municipalities in the pinelands area provided that all of the*

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

27 objectives of this act are realized in the commission's planning;  
28 that counties and municipalities should participate fully in develop-  
29 ment and revision of the comprehensive management plan; that  
30 flexible interpretation should be encouraged in commission review  
31 of county and municipal master plans and land use ordinances; that  
32 the comprehensive management plan should be implemented  
33 through county and municipal ordinances, rules, and regulations  
34 with commission oversight, rather than through direct commission  
35 management; and that commission planning should recognize that  
36 the most sound basis for regulation of the pinelands area will rely  
37 on local knowledge and local police power together with regional  
38 planning, guidance, data collection, research, training, assistance,  
39 and monitoring.

40 The Legislature further finds and declares that protection of the  
41 pinelands area can be accomplished without unduly imposing on  
42 individual property rights, provided that the commission develops  
43 and recommends suitable programs of compensation for legislative  
44 consideration and action.

45 The Legislature further finds and declares that a certain portion  
46 of the pinelands area is especially vulnerable to the environmental  
47 degradation of surface and ground waters which would be occa-  
48 sioned by the improper development or use thereof; that the degra-  
49 dation of such waters would result in a severe adverse impact  
50 upon the entire pinelands area; that it is necessary to designate  
51 this portion as a preservation area, wherein more stringent re-  
52-53 strictions on the development and use of land should be utilized  
54 and public acquisition of land or interests therein should be con-  
55 centrated; and, that in order to facilitate such acquisition, and  
56 otherwise to effectuate the provisions of this act and the Federal  
57 Act, it is further necessary to establish certain notice require-  
58 ments and procedures for the purchase of land or interests therein  
59 in such area.

60 The Legislature further finds and declares that a program for  
61 the allocation and transfer of development credits can, if properly  
62 structured, provide a mechanism to facilitate both the preservation  
63 of the resources of the pinelands area and the accommodation of  
64 regional growth influences in an orderly fashion; that in order to  
65 realize the full measure of the potential benefits of such a program,  
66 steps must be taken to assure the marketability of these credits;  
67 and that the best means of providing this assurance is through the  
68 establishment of a Pinelands Development Credit Bank empowered  
69 to purchase and sell pinelands development credits and to guarantee  
70 loans secured thereby.

71 The Legislature further finds and declares that the current pace  
72 of random and uncoordinated development and construction in the  
73 pinelands area poses an immediate threat to the resources thereof,  
74 especially to the survival of rare, threatened and endangered plant  
75 and animal species and the habitat thereof, and to the mainte-  
76 nance of the existing high quality of surface and ground waters;  
77 that such development and construction increase the risk and  
78 extent of destruction of life and property which could be caused  
79 by the natural cycle of forest fires in this unique area; and, that,  
80 in order to effectuate the purposes and provisions of this act and  
81 the Federal Act, it is necessary to impose certain interim limita-  
82 tions upon the local approval of applications for development in  
83 the preservation area, and upon certain State and local approvals  
84 in the pinelands area, all as hereinafter provided.

1 2. Section 3 of P. L. 1979, c. 111 (C. 13:18A-3) is amended to  
2 read as follows:

3 3. As used in this act:

4 a. "Agricultural or horticultural purposes" or "agricultural  
5 or horticultural use" means any production of plants or animals  
6 useful to man, including but not limited to: forages or sod crops;  
7 grains and feed crops; dairy animals and dairy products; poultry  
8 and poultry products; livestock, including beef cattle, sheep, swine,  
9 horses, ponies, mules or goats, and including the breeding and  
10 grazing of any or all of such animals; bees and apiary products;  
11 fur animals; trees and forest products; fruits of all kinds, including  
12 grapes, nuts and berries; vegetables; nursery, floral, ornamental  
13 and greenhouse products; or any land devoted to and meeting the  
14 requirements and qualifications for payments or other compensa-  
15 tion pursuant to a soil conservation program under an agency of  
16 the Federal Government;

17 b. "*Agricultural production area*" and "*special agricultural*  
18 *production area*" mean those areas designated pursuant to ap-  
19 proved local ordinances to be particularly suited for agricultural or  
20 horticultural purposes pursuant to section 17 of this amendatory  
21 and supplementary act;

22 [b.] c. "Application for development" means the application  
23 form and all accompanying documents required by municipal ordi-  
24 nance for approval of a subdivision plat, site plan, planned develop-  
25 ment, conditional use, zoning variance or other permit as provided  
26 in the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-1  
27 et seq.), for any use, development or construction other than the  
28 improvement, expansion or reconstruction of an single-family

29 dwelling unit or appurtenance thereto, or the improvement, ex-  
30 pansion, construction or reconstruction of any structure used  
31 exclusively for agricultural or horticultural purposes;

32 *d. "Bank" means the Pinelands Development Credit Bank*  
33 *established pursuant to section 23 of this amendatory and supple-*  
34 *mentary act;*

35 *e. "Board" means the Board of the Directors of the Pinelands*  
36 *Development Credit Bank;*

37 **[c.] f.** *"Commission" means the Pinelands Commission created*  
38 *by section 4 of this act;*

39 **[d.] g.** *"Comprehensive management plan" means the plan pre-*  
40 *pared and adopted by the commission pursuant to section 7 of this*  
41 *act;*

42 **[e.] h.** *"Council" means the Pinelands Municipal Council created*  
43 *by section 6.1 of this act;*

44 *i. "Development with county-wide impact" means any facility*  
45 *as defined in the "Coastal Area Facility Review Act," P. L. 1973.*  
46 *c. 185, (C. 13:19-1 et seq.);*

47 *j. "Development with regional impact" means any division or*  
48 *subdivision of land into 200 or more parcels, any construction of*  
49 *any housing development of 200 or more units or expansion by 200*  
50 *or more units, or any construction or expansion of any commercial*  
51 *or industrial use or structure which covers 30 or more acres;*

52 **[f.] k.** *"Federal Act" means section 502 of the "National Parks*  
53 *and recreation Act of 1978" (P. L. 95-625);*

54 *l. "Lender" means any bank or trust company, savings bank,*  
55 *national banking association, savings and loan association, or*  
56 *building and loan association maintaining an office in the State,*  
57 *or any insurance company authorized to transact business in the*  
58 *State;*

59 *m. "Loan applicant" means a person applying for, or in receipt*  
60 *of, a loan secured pursuant to the provisions of this amendatory*  
61 *and supplementary act;*

62 **[g.] n.** *"Major development" means any division or subdivision*  
63 *of land into five or more parcels; any construction or expansion of*  
64 *any housing development of five or more dwelling units; any*  
65 *construction or expansion of any commercial or industrial use or*  
66 *structure on a site of more than 3 acres; or any grading, clearing or*  
67 *disturbance of any area in excess of 5,000 square feet for other*  
68 *than agricultural or horticultural purposes;*

69 **[h.] o.** *"Pinelands area" means that area so designated by sub-*  
70 *section a. of section 10 of this act;*

71 p. "Pinelands development credit" means a transferrable devel-  
 72 opment right created pursuant to the provisions of this amendatory  
 73 and supplementary act;

74 q. "Pinelands development credit guarantee" means a guran-  
 75 tee extended pursuant to section 26 of this amendatory and supple-  
 75A mentary act;

76 [i.] r. "Pinelands National Reserve" means the approximately  
 77 1,000,000 acre area so designated by the Federal Act and generally  
 78 depicted on the map entitled "Pinelands National Reserve  
 79 Boundary Map" numbered NPS/80,011A and dated September,  
 79A 1978;

80 [j.] s. "Preservation area" means that portion of the pinelands  
 81 area so designated by subsection b. of section 10 of this act;

82 [k.] t. "Protection area" means that portion of the pinelands  
 83 area not included within the preservation area.

1 3. Section 5 of P. L. 1979, c. 111 (C. 13:18A-5) is amended to  
 2 read as follows:

3 5. a. The commission shall consist of 15 members to be appointed  
 4 and qualified as follows:

5 (1) Seven residents of the State, appointed by the Governor,  
 6 with the advice and consent of the Senate, except as otherwise  
 7 provided herein;

8 (2) Seven residents of the State, one resident each of the  
 9 counties of Atlantic, Burlington, Camden, Cape May, Cumberland,  
 10 Gloucester and Ocean, appointed by the board of chosen freeholders  
 11 of each such county; provided, however, that in any county operat-  
 12 ing under the county executive plan or county supervisor plan  
 13 pursuant to the provisions of the "Optional County Charter Law"  
 14 P. L. 1972, c. 154 (C. 40:41A-1 et seq.), such appointment shall be  
 15 made by the county executive or the county supervisor, as the  
 16 case may be;

17 (3) One member to be appointed by the Secretary of the United  
 18 States Department of the Interior.

19 Any appointments made prior to the effective date of this act by  
 20 the Governor or by any of the respective counties to the planning  
 21 entity established pursuant to the Federal Act shall be considered  
 22 appointments made to the commission, and no such gubernatorial  
 23 appointment shall be subject to the advice and consent of the  
 24 Senate.

25 b. Commission members shall serve for terms of 3 years; pro-  
 26 vided, however, that of the first members appointed by the Gov-  
 27 ernor, two shall serve 3 year terms, two shall serve 2 year terms

28 and three shall serve 1 year terms; and provided further, however,  
29 that of the first members appointed by the respective counties,  
30 such members appointed from Atlantic and Burlington counties  
31 shall serve 1 year terms, such members appointed from Camden  
32 and Cape May counties shall serve 2 year terms, and such members  
33 appointed from Cumberland, Gloucester and Ocean counties shall  
34 serve 3 year terms. Each member shall serve for the term of his  
35 appointment and until his successor shall have been appointed and  
36 qualified.

37 Any vacancy shall be filled in the same manner as the original  
38 appointment for the unexpired term only. The membership of the  
39 entire commission shall include residents of the pinelands area  
40 who represent economic activities, such as agriculture, in the area,  
41 as well as residents of the State who represent conservation in-  
42 terests

43 e. Any member of the commission may be removed by the  
44 appointing authority, for cause, after a public hearing.

45 d. Each member of the commission, before entering upon his  
46 duties, shall take and subscribe an oath to perform the duties of  
47 his office faithfully, impartially, and justly to the best of his  
48 ability. A record of such oaths shall be filed in the Office of the  
49 Secretary of State.

50 e. The members of the commission shall serve without compen-  
51 sation, but the commission may, within the limits of funds appro-  
52 priated or otherwise made available for such purposes, reimburse  
53 its members for necessary expenses incurred in the discharge of  
54 their official duties.

55 f. The powers of the commission shall be vested in the members  
56 thereof in office, and a majority of the total authorized membership  
57 of the commission shall be required to exercise its powers at any  
58 meeting thereof. No alternate or designee of any commission  
59 member shall exercise any power to vote on any matter pending  
60 before the commission.

61 *Nothing in this act shall be construed to authorize or permit the*  
62 *commission to delegate to the executive director any power of the*  
63 *commission to approve, reject, or conditionally approve county*  
64 *master plans as provided in section 11 of P. L. 1979, c. 111*  
65 *(C. 13:18A-12), to approve, reject, or conditionally approve mu-*  
66 *nicipal master plans and land use ordinances, as provided in sec-*  
67 *tion 11 of P. L. 1979, c. 111 (C. 13:18A-12), or to approve, reject,*  
68 *or conditionally approve any application for development, as pro-*  
69 *vided in section 14 of P. L. 1979, c. 111 (C. 13:18A-15).*

70 g. The governor shall designate one of the members of the com-  
 71 mission as chairman *with the advice and consent of the Senate*;  
 72 *provided that the Senate shall consent to or reject any person so*  
 73 *designated within 45 days of such designation. In the event that*  
 74 *the Senate takes no action within this 45 day period, the designer*  
 75 *shall be deemed to have received the consent of the Senate.* The  
 76 commission shall appoint an executive director, who shall be the  
 77 chief administrative officer thereof. The executive director shall  
 78 serve at the pleasure of the commission, and shall be a person  
 79 qualified by training and experience to perform the duties of this  
 80 office.

81 h. A true copy of the minutes of every meeting of the commission  
 82 shall be prepared and forthwith delivered to the Governor. No  
 83 action taken at such meeting by the commission shall have force  
 84 or effect until 10 days, exclusive of Saturdays, Sundays and public  
 85 holidays, after such copy of the minutes shall have been so deliv-  
 86 ered; provided, however, that no action taken with respect to the  
 87 adoption of the comprehensive management plan, or any portion  
 88 thereof, shall have force or effect until 30 days, exclusive of Satur-  
 89 days, Sundays and public holidays, after such copy of the minutes  
 90 shall have been so delivered. If, in said 10-day period, or 30-day  
 91 period, as the case may be, the Governor returns such copy of the  
 92 minutes with a veto of any action taken by the commission at such  
 93 meeting, such action shall be null and void and of no force and effect.

1 3.1. Section 6.1 of P. L. 1979, c. 111 (C. 13:18A-7) is amended  
 2 to read as follows:

3 6.1. a. There is hereby established a Pinelands Municipal Coun-  
 4 cil, the membership of which shall consist of the mayor, or his  
 5 designee, of each municipality located, in whole or in part, within  
 6 the pinelands area.

7 b. A majority of the membership of the council shall constitute  
 8 a quorum for the transaction of council business. Action may be  
 9 taken and motions and resolutions adopted by the council at any  
 10 meeting thereof by the affirmative vote of a majority of the **[full**  
 11 **membership of the council]** *members present, except that no action*  
 12 *may be taken and no motion or resolution may be adopted by less*  
 13 *than 10 affirmative votes.*

14 c. The council shall meet regularly as it may determine, and  
 15 shall also meet at the call of the chairman of the commission.

16 d. The council shall appoint a chairman from among its members  
 17 and such other officers as may be necessary. The council may, within  
 18 the limits of any funds appropriated or otherwise made available

19 to it for this purpose, appoint such staff or hire such experts as  
20 it may require.

21 e. Members of the council shall serve without compensation, and  
22 each member shall serve only as long as he is the mayor or the  
23 designee of the mayor of the municipality he represents. The coun-  
24 cil may, within the limits of funds appropriated or otherwise made  
25 available for such purposes, reimburse its members for necessary  
26 expenses incurred in the discharge of their official duties.

27 f. The commission shall submit to the council, for review, prior  
28 to final commission action thereon, the comprehensive management  
29 plan, and any revisions thereto, including the minimum standards  
30 for the adoption of municipal and county plans and ordinances  
31 concerning the development and use of land in the pinelands area.  
32 The commission may also submit to the council any other matter  
33 which the commission deems advisable.

34 g. The council shall review all matters submitted to it by the  
35 commission and shall state its position to the commission within  
36 60 days of the submission thereof.

37 h. The council may make recommendations to the commission on  
38 any matters it deems advisable whether or not such matter was sub-  
39 mitted to the council by the commission.

1 4. Section 7 of P. L. 1979, c. 111 (C. 13:18A-8) is amended to  
2 read as follows:

3 7. The commission shall, on or before August 8, 1980, and after  
4 public hearings held in the pinelands area and in other areas of  
5 the State at places of its choosing, prepare and adopt a compre-  
6 hensive management plan for the pinelands area. The portion or por-  
7 tions of the comprehensive management plan applicable to the  
8 preservation area shall be adopted on or before August 8, 1980.  
9 The portion or portions of the comprehensive management plan  
10 applicable to the protection area shall be adopted on or after No-  
11 vember 14, 1980, but in no case later than December 15, 1980, and  
12 shall take effect on the thirty-first day following adoption, except  
13 as otherwise expressly provided in subsection h. of section 5 of  
14 P. L. 1979, c. 111 (C. 13:18A-5). Such plan shall be periodically  
15 revised and updated, after public hearings, and shall include, but  
16 need not necessarily be limited to:

17 a. A resource assessment which:

18 (1) Determines the amount and type of human development and  
19 activity which the ecosystem of the pinelands area can sustain  
20 while still maintaining the overall ecological values thereof, with  
21 special reference to ground and surface water supply and quality;  
22 natural hazards, including fire; endangered, unique, and unusual

23 plants and animals and biotic communities; ecological factors re-  
24 lating to the protection and enhancement of blueberry, cranberry  
25 and other agricultural production or activity; air quality; and  
26 other appropriate considerations affecting the ecological integrity  
27 of the pinelands area:

28 (2) Includes an assessment of scenic, aesthetic, cultural, open  
29 space, and outdoor recreation resources of the area, together with a  
30 determination of overall policies required to maintain and enhance  
31 such resources; and

32 (3) Utilizes soil resources information from the National Co-  
33 operative Soil Survey and the soil conservation districts in the  
34 pinelands area.

35 b. A map showing the detailed boundary of the Pinelands Na-  
36 tional Reserve, such map to delineate:

37 (1) Major areas within the boundary which are of critical  
38 ecological importance;

39 (2) Major areas and resources adjacent to the boundary that  
40 have significance to the ecological integrity of the Pinelands Na-  
41 tional Reserve; and

42 (3) Areas of scenic, open space, cultural, and recreational  
43 significance.

44 c. The map prepared pursuant to subsection c. of section 10 of  
45 this act.

46 d. A land use capability map and a comprehensive statement  
47 of policies for planning and managing the development and use  
48 of land in the pinelands area, which policies shall:

49 (1) Consider and detail the application of a variety of land  
50 and water protection and management techniques, including but not  
51 limited to, zoning and regulation derived from State and local police  
52 powers, development and use standards, permit systems, acquisi-  
53 tion of conservation easements and other interest in land, public  
54 access agreements with private landowners, purchase of land for  
55 resale or lease back, fee acquisition of public recreation sites and  
56 ecologically sensitive areas, transfer of development rights, dedi-  
57 cation of private lands for recreation or conservation purposes  
58 and any other appropriate method of land and water protection  
59 and management which will help meet the goals and carry out the  
60 policies of the management plan;

61 (2) Include a policy for the use of State and local police power  
62 responsibilities to the greatest extent practicable to regulate the  
63 use of land and water resources in a manner consistent with the  
64 purposes and provisions of this act and the Federal Act; and

65 (3) Recognize existing economic activities within the area and  
 66 provide for the protection and enhancement of such activities as  
 67 farming, forestry, proprietary recreational facilities, and those  
 68 indigenous industries and commercial and residential develop-  
 69 ments which are consistent with such purposes and provisions.

70 e. A coordination and consistency component which details the  
 71 ways in which local, State, and Federal programs and policies  
 72 may best be coordinated to promote the goals and policies of the  
 73 management plan, and which details how land, water, and struc-  
 74 tures managed by governmental or nongovernmental entities in the  
 75 public interest within the pinelands area may be integrated into  
 76 the management plan.

77 f. A public use component including, but not limited to, a detailed  
 78 program to inform the public of appropriate uses of the pinelands  
 79 area.

80 g. A financial component, together with a cash flow timetable  
 81 which:

82 (1) Details the cost of implementing the management plan, in-  
 83 cluding, but not limited to, payments in lieu-of-taxes, acquisition,  
 84 within 5 years of the effective date of this act, of fee simple or  
 85 other interests in lands for preservation or recreation purposes,  
 86 compensation guarantees, general administrative costs, and any  
 87 anticipated extraordinary or continuing costs; and

88 (2) Details the sources of revenue for covering such costs, in-  
 89 cluding, but not limited to, grants, donations, and loans from local,  
 90 State, and Federal departments and agencies, and from the private  
 91 sector.

92 h. A program to provide for the maximum feasible local govern-  
 93 ment and public participation in the management of the pinelands  
 94 area.

95 i. A program for State and local governmental implementation  
 96 of the comprehensive management plan and the various elements  
 97 thereof in a manner that will insure the continued, uniform, and  
 98 consistent protection of the pinelands area in accord with the pur-  
 99 poses and provisions of this act and the Federal Act, including:

100 (1) **【Minimum standards】** *Standards* for the adoption, as re-  
 101 quired in section 11 of this act, of municipal and county plans and  
 102 ordinances concerning the development and use of land in the pine-  
 103 lands area, including, but not limited to, standards for minimum lot  
 104 sizes and stream setbacks, **【maximum】** appropriate population  
 105 densities, and regulated or prohibited uses for specific portions of  
 106 the **【pinelands】** *preservation* area. *These standards shall be util-*

107 ized by municipalities and counties in the protection area for a local  
 108 determination or regulated or prohibited uses for specific portions  
 109 of the protection area; and

110 (2) Such guidelines for any State or local agencies as may be  
 111 prepared by the commission pursuant to section 12 hereof.

112 j. In conjunction with existing State programs and planning  
 113 processes, a plan to implement the provisions of the "Clean Water  
 114 Act" (PL 95-217) and the "Safe Drinking Water Act" (PL 93-523)  
 115 which pertain to the surface and ground water of the Pinelands  
 116 National Reserve~~;~~, which plan shall adopt water quality stand-  
 117 ards adopted by the Department of Environmental Protection.

118 k. A program to provide for municipal delineation of innovative  
 119 municipal planning areas, subject to commission review and ap-  
 120 proval, rejection, or conditional approval as provided in section 11  
 121 of P. L. 1979, c. 111 (C. 13:18A-12). These areas shall be environ-  
 122 mentally suitable for more intensive development under strict per-  
 123 formance standards and advanced techniques for stormwater and  
 124 wastewater handling, visual buffering, and location in relation to  
 125 transportation elements and employment centers.

126 l. A report to the Governor and the Legislature recommending  
 127 appropriate methods of offering relief to owners of agricultural  
 128 lands subject to restrictions pursuant to the comprehensive man-  
 129 agement plan, including but not limited to, studies of an agricultural  
 130 land bank program, property tax relief, inheritance tax relief, and  
 131 the purchase by the State of nonprofit conservation groups of  
 132 agricultural conservation easements.

133 ~~l.~~ m. The report transmitted to the commission by the Depart-  
 134 ment of Environmental Protection pursuant to section 22 of this act.

1 5. Section 8 of P. L. 1979, c. 111 (C. 18:18A-9) is amended to  
 2 read as follows:

3 8. a. The goal of the comprehensive management plan with re-  
 4 spect to the entire pinelands area shall be to protect, preserve and  
 5 enhance the significant values of the resources thereof in a manner  
 6 which is consistent with the purposes and provisions of this act  
 7 and the Federal Act.

8 b. The goals of the comprehensive management plan with respect  
 9 to the protection area shall be to:

10 (1) Preserve and maintain the essential character of the existing  
 11 pinelands environment, including the plant and animal species in-  
 12 digenous thereto and the habitat therefor;

13 (2) Protect and maintain the quality of surface and ground  
 14 waters;

15 (3) Promote the continuation and expansion of agricultural and  
16 horticultural uses;

17 (4) Discourage **【**piecemeal and scattered development; and**】**  
18 *random and uncoordinated development*;

19 (5) Encourage appropriate patterns of compatible residential,  
20 commercial and industrial development**【**, in or adjacent to areas  
21 already utilized for such purposes**】** in order to accommodate  
22 regional growth influences in an orderly way while protecting the  
23 pinelands environment from the individual and cumulative adverse  
24 impacts thereof**【**;**】** and

25 *(6) Provide research, data collection, educational, planning, and*  
26 *regulatory mechanisms which strengthen municipal and county*  
27 *land use planning and encourage local implementation of sound,*  
28 *modern master plans and land use ordinances.*

29 c. The goals of the comprehensive management plan with  
30 respect to the preservation area shall be to:

31 (1) Preserve an extensive and contiguous area of land in its  
32 natural state, thereby insuring the continuation of a pinelands  
33 environment which contains the unique and significant ecological  
34 and other resources representative of the pinelands area;

35 (2) Promote compatible agricultural, horticultural and recrea-  
36 tional uses, including hunting, fishing and trapping, within the  
37 framework of maintaining a pinelands environment;

38 (3) Prohibit any construction or development which is incom-  
39 patible with the preservation of this unique area;

40 (4) Provide a sufficient amount of undeveloped land to accom-  
41 modate specific wilderness management practices, such as selective  
42 burning, which are necessary to maintain the special ecology of  
43 the preservation area; and

44 (5) Protect and preserve the quantity and quality of existing  
45 surface and ground waters.

1 6. Section 9 of P. L. 1979, c. 111 (C. 13:18A-10) is amended  
2 to read as follows:

3 9. a. During the development of the comprehensive management  
4 plan, the commission shall consult with appropriate officials of  
5 local governments, including the council, and State or Federal  
6 agencies with jurisdiction over lands, waters and natural resources  
7 within the pinelands area, with interested professional, scientific,  
8 and citizen organizations, and with any citizens advisory committee  
9 which may be established by the Governor. The commission shall  
10 review all relevant existing information and studies on the pine-  
11 lands area including, but not limited to, the report of the com-  
12 mittee created pursuant to Executive Order 56, issued May 28, 1977.

13 b. Upon the adoption thereof, the comprehensive management  
14 plan shall be submitted to the Governor and to the Legislature.  
15 The commission shall further submit such plan to the Secretary of  
16 the United States Department of Interior, as provided in the  
17 Federal Act.

18 c. Subsequent to the adoption of the comprehensive management  
19 plan, the provisions of any other law, ordinance, rule or regulation  
20 to the contrary notwithstanding, no application for development  
21 within the pinelands area shall be approved, *as provided in sec-*  
22 *tions 11 and 14 of P. L. 1979, c. 111 (C. 13:18-15)*, by any munici-  
23 pality, county or agency thereof, and no State approval, certificate,  
24 license consent, permit, or financial assistance for the construction  
25 of any structure or the disturbance of any land within such area  
26 shall be granted, unless such approval or grant conforms to the  
27 provisions of **[such]** *this act and of the* comprehensive manage-  
28 ment plan; provided, however, that the commission is hereby au-  
29 thorized to waive strict compliance with such plan or with any  
30 element or standard contained therein, upon finding that such  
31 waiver is necessary to alleviate extraordinary hardship or to sat-  
32 isfy a compelling public need, is consistent with the purposes and  
33 provisions of this act and the Federal Act, and would not result  
34 in substantial impairment of the resources of the pinelands area;  
35 and provided further, however, that the commission shall, within  
36 90 days of the effective date of this act, and after public hearing  
37 thereon, adopt rules and regulations which specify the standards  
38 for determining such extraordinary hardship, compelling public  
39 need, consistency and substantial impairment.

1 7. Section 11 of P. L. 1979, c. 111 (C. 13:18A-12) is amended to  
2 read as follows:

3 11. a. The provisions of any other law, ordinance, rule or regula-  
4 tion to the contrary notwithstanding, within 1 year of the **[date of**  
5 **the adoption of the comprehensive management plan]** *effective date*  
6 *of this amendatory and supplementary act* or any revision **[thereof]**  
7 *of the comprehensive management plan* each county located in  
8 whole or in part in the pinelands area shall submit to the commis-  
9 sion such revisions of the county master plan as may be necessary  
10 in order to implement the objectives of *this act and of the compre-*  
11 *hensive management plan* **[and conform with the minimum stan-**  
12 **dards contained therein]**. After receiving and reviewing such  
13 revisions, as applicable to the development and use of land in the  
14 pinelands area, the commission shall approve, reject, or approve  
15 with conditions said revised plans, as it deems appropriate, after

16 public hearing, within 60 days of the submission thereof. *In the*  
17 *event that the commission takes no action within 60 days of such*  
18 *submission, the plan shall be deemed approved.*

19 Upon rejecting or conditionally approving any such revised  
20 plan, the commission shall identify such changes therein that it  
21 deems necessary for commission approval thereof, and the relevant  
22 county shall **[adopt and enforce such plan, as so changed]** *further*  
23 *revise and resubmit the plan to the commission for review.*

24 b. Within 1 year of the **[date of the adoption of the comprehen-**  
25 **sive management plan]** *effective date of this amendatory and*  
26 *supplementary act, or any revision [thereof] of the comprehensive*  
27 *management plan, each municipality located in whole or in part*  
28 *in the pinelands area shall submit to the commission such revisions*  
29 *of the municipal master plan and local land use ordinances as may*  
30 *be necessary in order to implement the objectives of this act and of*  
31 *the comprehensive management plan [and conform with the mini-*  
32 *imum standards contained therein]. After receiving and reviewing*  
33 *such revisions, as applicable to the development and use of land*  
34 *in the pinelands area, the commission shall approve, reject, or*  
35 *approve with conditions said revised plans and ordinances, as it*  
36 *deems appropriate, after public hearing, within 120 days of the*  
37 *date of the submission thereof. In the event that the commission*  
38 *takes no action within 120 days of such submission, the revised*  
39 *plan and any revised local land use ordinances shall be deemed*  
40 *approved.*

41 Upon rejecting or conditionally approving any such revised plan  
42 or ordinance, the commission shall identify such changes therein  
43 that it deems necessary for commission approval thereof, and the  
44 relevant municipality shall **[adopt and enforce such plan or ordi-**  
45 **nance, as so changed]** *further revise and resubmit such plan and*  
46 *ordinances to the commission for review.*

47 The commission may, as herein provided, delegate the review  
48 of any municipal master plan or land use ordinance to the planning  
49 board of the county wherein such municipality is located. Any  
50 such delegation shall be made only: (1) upon a finding by the com-  
51 mission that such delegation is consistent with the purposes and  
52 provisions of this act and the Federal Act; (2) if the commission  
53 has approved the master plan for such county; **[and,]** (3) at the  
54 request of the governing body of such county; and, (4) at the request  
55 of the governing body of such municipality. The results of any  
56 such county planning board review shall be transmitted to the com-  
57 mission prior to the commission's review and approval of any such  
58 municipal master plan or ordinance.

59 e. In the event that any county or municipality fails to adopt or  
 60 enforce an approved revised master plan or implementing land  
 61 use ordinances, as the case may be, **[including any condition thereto**  
 62 **imposed by the commission,]** the commission shall adopt and en-  
 63 force such rules and regulations as may be necessary to implement  
 64 the **[minimum]** standards *authorized by this act and* contained in  
 65 the comprehensive management plan as applicable to any such  
 66 county or municipality.

67 d. Any approval of any application for development granted by  
 68 any municipality, county, or agency thereof in violation of the  
 69 provisions of this section shall be null and void and of no force  
 70 and effect at law or equity *provided that notice is given by the*  
 71 *commission to the applicant and to the municipality, county, or*  
 72 *agency within 30 days of receipt of notice of such approval.*

1 8. Section 12 of P. L. 1979, c. 111, (C. 13:18A-13) is amended to  
 2 read as follows:

3 12. In order to assure that the actions, decisions, determinations  
 4 and rulings of the State, county and municipal governments shall,  
 5 to the maximum extent practicable and feasible, conform with the  
 6 *purposes and provisions of this act and with the* comprehensive  
 7 management plan adopted by the commission pursuant to section  
 8 7 of this act, the commission shall prepare, periodically revise  
 9 and transmit to all State, county or municipal agencies empowered  
 10 to finance or construct any capital project within the pinelands  
 11 area, and to all State agencies empowered to grant or deny any  
 12 approval, certificate, license, consent, or permit for the construction  
 13 of any structure or the disturbance of land therein, such guidelines  
 14 for the location and construction of such capital projects or for the  
 15 granting of any such approval, certificate, license, consent, permit,  
 16 or financial assistance, as is the case may be, as the commission  
 17 deems necessary and appropriate.

1 9. Section 14 of P. L. 1979, c. 111, (C. 13:18A-15) is amended to  
 2 read as follows:

3 14. a. Subsequent to the adoption of the comprehensive manage-  
 4 ment plan, the commission is hereby authorized to commence a  
 5 review, within 15 days after any final municipal or county approval  
 6 thereof, of any application for development *with regional impact*  
 7 *in the pinelands area; except that the commission is hereby*  
 8 *authorized to commence a review, within 15 days after any final*  
 9 *municipal or county approval thereof, of any application for*  
 10 *development which is located in a municipality for which the*  
 11 *municipal master plan or land use ordinances have been disap-*

12 *proved by the commission.* Upon determining to exercise such  
 13 authority, the commission shall transmit, by certified mail, written  
 14 notice thereof to the person who submitted such application *and to*  
 15 *the affected municipality or county.* The commission shall, after  
 16 public hearing thereon, approve, reject, or approve with conditions  
 17 any such application within 45 days of transmitting such notice;  
 18 provided, however, that such application shall not be rejected or  
 19 conditionally approved unless the commission determines that such  
 20 development does not conform with *the approved county master*  
 21 *plan or approved municipal land use ordinances, or in the absence*  
 22 *of an approved plan or ordinance, with the comprehensive manage-*  
 23 *ment plan or the [minimum] standards contained therein, as*  
 24 *applicable to the county or municipality wherein such development*  
 25 *is located, or that such development could result in substantial*  
 26 *impairment of the resources of the pinelands area. In the event*  
 27 *that the commission takes no action within this 45 day period, the*  
 28 *application shall be deemed approved.* Such approval, rejection or  
 29 conditional approval shall be binding upon the person who sub-  
 30 mitted such application, shall supersede any municipal or county  
 31 approval of any such development, and shall be subject only to  
 32 judicial review as provided in section 19 of this act.

33 *b. County master plans shall provide for the discretionary*  
 34 *review, by the county, of any final municipal approval of an*  
 35 *application for development with county-wide impact in the pine-*  
 36 *lands area.*

37 *c. The commission may request that an administrative law*  
 38 *judge review any municipal or county approval of an application*  
 39 *for development when there exists a prime facie case that the*  
 40 *approval was granted in violation of this act and of the com-*  
 41 *prehensive management plan, except that, with respect to any*  
 42 *approval granted by a municipality or county pursuant to an*  
 43 *approved master plan or land use ordinance, the commission may*  
 44 *reverse or modify the recommendation of the administrative law*  
 45 *judge only by a two-thirds vote of the membership of the commis-*  
 46 *sion.*

1 10. Section 15 of P. L. 1979, c. 111 (C. 13:28A-16) is amended  
 2 to read as follows:

3 15. The commission [is hereby authorized to] shall make grants  
 4 to municipalities and counties *in the pinelands area* for any revision  
 5 of local master plans or the implementing ordinances thereto which  
 6 is designed to bring such plans and ordinances into conformance  
 7 with the comprehensive management plan prepared by the com

8 mission. *The commission may make grants to municipalities within*  
9 *the Pinelands National Reserve, but not within the pinelands area,*  
10 *for any revision of local master plans or the implementing ordi-*  
11 *nances thereto which is designed to bring such plans and ordinances*  
12 *into conformance with the provisions of the comprehensive manage-*  
13 *ment plan. The commission [may] shall make such grants from*  
14 *any state, Federal or other funds which may be appropriated or*  
15 *otherwise made available to it for such purpose.*

1 11. Section 20 of P. L. 1979, c. 111 (C. 13:18A-21) is amended  
2 to read as follows:

3 20. The commission shall, within 1 year of the effective date of  
4 this act, *and annually thereafter*, prepare and submit to the Gov-  
5 ernor and Legislature a report concerning State payments in lieu  
6 of taxes to municipalities in the pinelands area wherein the State  
7 owns any land or interests therein *of where the total ratables of a*  
8 *taxing district have been reduced by 5% or more as a result of*  
9 *tax appeals attributable to regulation by the commission. Such*  
10 *report shall include an evaluation of the manner of calculation*  
11 *and amount of such payments made or to be made pursuant to the*  
12 *provisions of the "New Jersey Green Acres and Recreation Oppor-*  
13 *tunities Bond Act of 1974," P. L. 1974, c. 102; P. L. 1977, c. 272*  
14 *(C. 54:4-2.2a et seq.); and the "New Jersey Green Acres Bond*  
15 *Act of 1978," P. L. 1978, c. 118, as well as the recommendations of*  
16 *the commission for executive and legislative action on additional*  
17 *or alternative proposals for such payments, including the fiscal*  
18 *implications of any such proposal and potential sources of funding*  
19 *therefor.*

1 12. Section 22 of P. L. 1979, c. 111 (C. 13:18A-23) is amended to  
2 read as follows:

3 22. In addition to the functions required pursuant to the "Coastal  
4 Area Facility Review Act," P. L. 1973, c. 185 (C. 13:19-1 et seq.),  
5 the Department of Environmental Protection shall, in consultation  
6 with the commission and within 18 months of the effective date of  
7 this act, review the environmental design for the coastal area as it  
8 affects the planning and management of the development and use  
9 of any land in the coastal area which is also within the boundaries  
10 of the Pinelands National Reserve, make any necessary revisions  
11 to such environmental design as may be necessary in order to  
12 effectuate the purposes of this act and the Federal Act, and pre-  
13 pare and transmit to the commission a report detailing the pro-  
14 visions of the environmental design as so revised and as applicable  
15 to such land. *Nothing herein contained shall be deemed to extend*  
16 *the review powers of the commission with respect to any applica-*

17 *tion for development, any approval of municipal and county master*  
 18 *plans and land use ordinances, or any granting of State permits,*  
 19 *licenses, approval, certificate, consents, or financial assistance*  
 20 *beyond the boundaries of the pinelands area as defined in section 10*  
 21 *of P. L. 1979, c. 111 (C. 13:18A-11), except at the request of the*  
 22 *governing body of the affected municipality or county.*

1 13. Section 26 of P. L. 1979, c. 111 (C. 13:18A-27) is amended to  
 2 read as follows:

3 26. It is the intent of the Legislature that, except as otherwise  
 4 specifically provided in this act *and except for the provisions of*  
 5 *the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-1*  
 6 *et seq.),* in the event of any conflict or inconsistency in the pro-  
 7 visions of this act and any other acts pertaining to matters herein  
 8 established or provided for or in any rules and regulations adopted  
 9 under this act or said other acts, to the extent of such conflict or  
 10 inconsistency, the provisions of this act and the rules and regula-  
 11 tions adopted hereunder shall be enforced and the provisions of  
 12 such other acts and rules and regulations adopted thereunder shall  
 13 be of no force and effect.

1 14. (New section) Any application for an exemption from the  
 2 provisions of section 13 of P. L. 1979, c. 111 (C. 13:18A-14) which  
 3 was filed with the commission prior to November 21, 1980 and not  
 4 subject to a final decision thereon by the commission by that date  
 5 shall, subsequent to the effective date of this 1981 amendatory and  
 6 supplementary act, be considered an application for a waiver from  
 7 strict compliance with the comprehensive management plan, as  
 8 provided in subsection c. of section 9 of P. L. 1979, c. 111 (C.  
 9 13:18A-10), to the extent that the construction or disturbance of  
 10 land proposed in the application is inconsistent with any provision  
 11 of the comprehensive management plan.

1 15. (New section) If a municipality, county, or agency thereof  
 2 shall approve an application for development in the protection  
 3 area contrary to the standards for approvals established by the  
 4 commission pursuant to section 7 or 12 of P. L. 1979, c. 111 (C.  
 5 13:18A-8 or C. 13:18A-13), the commission may obtain review  
 6 thereof by an administrative law judge or by the filing of a petition  
 7 in any court of competent jurisdiction within 45 days of the ap-  
 8 proval. In any such proceeding, the commission shall have the  
 9 burden of proof that the approval is not consistent with the pur-  
 10 poses and provisions of the "Pinelands Protection Act," P. L. 1979,  
 11 c. 111 (C. 13:18A-1 et seq.) and of the Federal Act, and that the  
 12 approval would result in substantial impairment of the resources  
 13 of the pinelands area.

1 16. (New section) Pinelands development credits shall be allo-  
2 cated as follows:

3 a. In the preservation area:

4 (1) One pinelands development credit per 39 acres of wetlands,  
5 as defined in the comprehensive management plan;

6 (2) Four pinelands development credits per 39 acres of uplands,  
7 as defined in the comprehensive management plan;

8 b. In the pinelands area:

9 Eight pinelands development credits per 39 acres in agricultural  
10 production areas and special agricultural production areas desig-  
11 nated pursuant to the provisions of section 17 of this amendatory  
12 and supplementary act; except that, with respect to wetlands, other  
13 than blueberry or cranberry bogs or fields, one pinelands develop-  
14 ment credit shall be allocated per 39 acres:

15 c. Owners of a fraction of 39 acres shall receive that fraction  
16 of a pinelands development credit which reflects the ratio equal  
17 to the size of property owned and the allocation established pur-  
18 suant to this section.

1 17. (New section) a. Each municipality located in whole or in  
2 part in the pinelands area shall, within 1 year of the effective date  
3 of this amendatory and supplementary act, designate agricultural  
4 production areas and special agricultural production areas. In  
5 making these designations, each municipality shall consider the  
6 following characteristics:

7 (1) Significant contiguous areas in active agricultural or horti-  
8 cultural use pursuant to the "Farmland Assessment Act of 1964,"  
9 P. L. 1964, c. 48 (C. 54:4-23.1 et seq.);

10 (2) The presence of prime agricultural soils, as classified by the  
11 Soil Conservation Service of the United States Department of  
12 Agriculture;

13 (3) Infrastructure development and urban and residential uses  
14 which may impede successful agricultural production.

15 b. Notice of all designations made pursuant to subsection a. of  
16 this section shall be forwarded to the commission within 1 year and  
17 10 days of the effective date of this amendatory and supplemen-  
18 tary act.

1 18. (New section) The commission shall, upon application of the  
2 appropriate landowner, issue Pinelands Development Credit Certi-  
3 ficates for all pinelands development credits allocated pursuant to  
4 section 16 of this amendatory and supplementary act. These certifi-  
5 cates shall be issued to the current owner of record of the land, as  
6 indicated in the index of deeds recorded in the office of the county  
7 clerk in the appropriate county, subsequent to the recording of the

9 appropriate restrictions imposed on the development of the land  
10 pursuant to this act.

1 19. (New section) a. The commission shall establish and maintain  
2 a Registry of Pinelands Development Credits, which shall include:

3 (1) The name and address of every owner to whom a pinelands  
4 development credit certificate is issued pursuant to section 18 of  
5 this amendatory and supplementary act, and the date of its  
6 issuance;

7 (2) The name and address of every person to whom a pinelands  
8 development credit is sold or otherwise conveyed, the date of the  
9 conveyance, and the consideration, if any, received therefore;

10 (3) The name and address of any person who has pledged a pine-  
11 lands development credit as security on any loan or other obliga-  
12 tion, the name and address of the lender, and the date, amount and  
13 term of the loan or obligation;

14 (4) The name and address of any person who has redeemed a  
15 pinelands development credit pursuant to section 20 of this amenda-  
16 tory and supplementary act, the location of the land to which the  
17 credit was transferred, and the date this redemption was made.

18 b. No person shall purchase or otherwise acquire, encumber, or  
19 redeem any pinelands development credit without recording that  
20 fact, within 10 business days thereof, with the commission.

21 c. The commission may charge fees for the recording of pine-  
22 lands development credits pursuant to this section. These fees  
23 shall be detailed in a fee schedule adopted by rule and regulation,  
24 and shall provide sufficient funds to cover the costs of establishing  
25 and maintaining the Registry of Pinelands Development Credits.

26 d. The commission shall provide the information included in the  
27 registry to each county and municipality located in whole or in  
28 part in the pinelands area, and, upon request, to any other person.

1 20. (New section) a. The provisions of any law or ordinance to  
2 the contrary notwithstanding, every municipality in this State  
3 shall provide for the redemption of pinelands development credits  
4 as follows:

5 Each pinelands development credit may be used to increase the  
6 number of dwelling units in a proposed development by one unit,  
7 up to a maximum increase of 30%, provided that the lot where the  
8 development would occur is zoned for a fixed density of at least  
9 one dwelling unit per acre and that sewage treatment facilities  
10 within the capacity either of an existing sewage treatment plant  
11 or of a sewage treatment plant constructed for the development are  
12 available to service the development at the time of the occupancy  
13 of the first unit.

14 b. Any person who redeems a pinelands development credit  
15 shall pay to the affected municipality an infrastructure redemption  
16 fee of \$1,000.00 per extra unit and shall surrender that credit to  
17 the municipality.

18 c. Any municipality may, by ordinance, provide for the total or  
19 partial waiver of the maximum density increase as provided by  
20 subsection 4. of this section, or of the infrastructure redemption  
21 fee as provided by subsection b. of this section.

22 d. Pinelands development credits shall be assessed and taxed,  
23 prior to the redemption thereof pursuant to this section, in the  
24 same manner as real property.

1 21. (New section) Any municipality located in whole or in part  
2 in the pinelands area may implement, by adopting an appropriate  
3 ordinance, a municipal transferrable development rights program.  
4 Any such ordinance shall provide for the redemption of pinelands  
5 development credits issued pursuant to this amendatory and supple-  
6 mentary act, and may provide for preferential density increases  
7 upon the redemption of credits issued pursuant to that ordinance.

1 22. (New section) The commission shall, within 6 months of the  
2 effective date of this amendatory and supplementary act, prepare  
3 and transmit to the Governor and the Legislature recommendations  
4 for methods of compensating municipalities which lose property tax  
5 revenues as a result of the transfer of pinelands development  
6 credits pursuant to this amendatory and supplementary act.

1 23. (New section) a. There is established in the Executive Branch  
2 of the State Government a public body corporate and politic, with  
3 corporate succession, to be known as the Pinelands Development  
4 Credit Bank. For the purpose of complying with the provisions of  
5 Article V, Section IV, paragraph 1 of the New Jersey Constitution,  
6 the bank is allocated with the Department of Banking, but not-  
7 withstanding that allocation, the bank shall be independent of any  
8 supervision or control by the department or by any officer or em-  
9 ployee thereof, except as otherwise expressly provided in this  
10 amendatory and supplementary act. The bank is constituted as an  
11 instrumentality of the State exercising public and essential govern-  
12 mental functions, and the exercise by the bank of the powers con-  
13 ferred by this act shall be deemed and held to be an essential  
14 governmental function of the State.

15 b. The bank shall be governed by a board of directors consisting  
16 of five ex officio members, or the designees thereof, as follows:  
17 the Commissioner of Banking, who shall serve as chairman; the  
18 Secretary of Agriculture; the Attorney General; the Commissioner  
19 of Environmental Protection; and the Chairman of the Pinelands

20 Commission. Designees of members shall have the power to vote  
21 in the absence of members.

1 24. (New section) The board shall have the following powers:

2 a. To adopt and, from time to time, amend and repeal suitable  
3 bylaws for the management of its affairs;

4 b. To adopt and use an official seal and alter the same at its  
5 pleasure;

6 c. To apply for, receive, and accept, from any Federal, State,  
7 or other public or private source, grants or loans for, or in aid of,  
8 the board's authorized purposes;

9 d. To enter into any agreement or contract, execute any instru-  
10 ment, and perform any act or thing necessary, convenient, or desir-  
11 able for the purposes of the board or to carry out any power  
12 expressly given in this amendatory and supplementary act;

13 e. To adopt, pursuant to the "Administrative Procedure Act,"  
14 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations  
15 necessary to implement the provisions of this amendatory and sup-  
16 plementary act;

17 f. To call to its assistance and avail itself of the services of the  
18 employees of any State, county or municipal department, board,  
19 commission or agency as may be required and made available for  
20 these purposes;

21 g. To purchase pinelands development credits when necessary  
22 to alleviate hardships, as determined pursuant to regulations  
23 adopted by the board. The purchase price in these cases shall be  
24 \$2,500.00, or a fraction of that amount which reflects that portion  
25 of a pinelands development credit allocated to the applicant pursu-  
26 ant to the provisions of this amendatory and supplementary act.

1 25. (New section) Any person desiring to secure a loan using  
2 a pinelands development credit as collateral may apply to the board  
3 for determination of eligibility for a pinelands development credit  
4 guarantee. The board shall notify the applicant of its decision  
5 within 30 days of its receipt of the application.

1 26. (New section) a. The board may extend a pinelands devel-  
2 opment credit guarantee with respect to any loan secured pursuant  
3 to the provisions of this amendatory and supplementary act if:

4 (1) Adequate funds are available in reserve to fulfill the guar-  
5 antee in the event of a default; and

6 (2) The applicant can demonstrate that he holds marketable  
7 title to such property and has been issued a pinelands development  
8 credit pursuant to the provisions of this amendatory and supple-  
9 mentary act, and that this credit has not been otherwise encum-  
10 bered, transferred or redeemed.

11 b. If the application is denied, the board shall return it to the  
12 applicant with a written statement of the reasons for denial.

13 c. If the application is approved, the board shall retain the  
14 original and transmit copies thereof to the applicant and the lender.  
15 The applicant and the lender may then complete the transaction  
16 for the loan. Nothing herein contained shall be construed to re-  
17 quire a lender to approve or deny any loan applied for pursuant  
18 to this act, regardless of the approval or disapproval by the board  
19 of any application for a pinelands development credit guarantee.

20 d. Applications for pinelands development credit guarantees  
21 with respect to loans made for agricultural and horticultural pur-  
22 poses shall be given priority consideration.

1 27. (New section) The bank is authorized to guarantee the value  
2 of a pinelands development credit in the amount of \$2,500.00, or a  
3 fraction of that amount which reflects that portion of a pinelands  
4 development credit allocated to the applicant pursuant to the pro-  
5 visions of this amendatory and supplementary act. Nothing herein  
6 contained shall be construed to establish or limit fair market value  
7 of any pinelands development credit or to preclude the extension  
8 of a pinelands development credit guarantee for any loan of less  
9 than \$2,500.00.

1 28. (New section) a. Following the thirty-first day of a default  
2 on any loan secured, in whole or in part, by a pinelands develop-  
3 ment credit guarantee, the lender shall send notice by certified  
4 mail to the applicant and the board, stating the consequences of  
5 such default. The applicant and the lender may, within 90 days  
6 of the initial default, agree to take any reasonable steps to assure  
7 the fulfillment of the loan obligation.

8 b. In the event the applicant and the lender have not made  
9 arrangements for the continuation of the loan obligation within  
10 90 days of the initial default, the lender shall file a claim with the  
11 board, identifying the loan and the nature of the default and shall:  
12 (1) assign the security interest in the pinelands development credit  
13 to the board in exchange for payment according to the terms of  
14 pinelands development credit guarantee; or, (2) retain the security  
15 interest in the pinelands development credit and waive any claim  
16 to payment pursuant to the terms of the pinelands development  
17 credit guarantee.

1 29. (New section) In the event a default occurs on any loan  
2 secured, in whole or in part, by a pinelands development credit  
3 guarantee and the lender has assigned the security interest in the  
4 pinelands development credit to the board, the board shall au-  
5 thorize payment to the lender up to the limits of the pinelands

6 development credit guarantee, and shall notify the defaulting  
7 party. The board shall, in these cases, commence foreclosure pro-  
8 ceedings in the manner provided by law.

1 30. (New section) The board is authorized to sell, exchange, or  
2 otherwise convey any pinelands development credit which is pur-  
3 chased or otherwise acquired pursuant to the provisions of this  
4 amendatory and supplementary act. All such sales or conveyances  
5 shall be made prior to the expiration of sections 23 through 31 of  
6 this amendatory and supplementary act. The provisions of any  
7 other law to the contrary notwithstanding, no such sale, exchange  
8 or conveyance shall be subject to approval of the State House  
9 Commission.

1 31. (New section) Notwithstanding any other provisions of this  
2 act:

3 a. No pinelands development credit loan guarantee shall be ex-  
4 tended for a period of time in excess of 5 years;

5 b. No pinelands development credit loan guarantee shall be  
6 extended after December 31 in the fifth year next following enact-  
7 ment of this act;

8 c. No pinelands development credit shall be purchased by the  
9 bank after December 31 in the fifth year next following enactment  
10 of this act.

1 32. (New section) The commission shall, within 60 days of the  
2 effective date of this amendatory and supplementary act, adopt  
3 such revisions to the comprehensive management plan as may be  
4 necessary to conform with the provisions hereof.

1 33. This act shall take effect immediately, and sections 23 through  
2 31 hereof shall expire on December 31 in the tenth year next fol-  
3 lowing enactment.

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#### STATEMENT

This bill provides for certain conceptual and technical changes in the "Pinelands Protection Act" (P. L. 1979, c. 111) and in the comprehensive management plan adopted pursuant thereto. These changes are intended to clarify the nature of the relationships between the Pinelands Commission and pinelands counties and municipalities and to establish a practical framework for the implementation of the comprehensive management plan through county and municipal master plans and land use controls.

This bill also provides both legislative authorization and guidelines for a pinelands development credit program. Pursuant to this program, pinelands development credits would be issued to certain landowners within the pinelands area. These credits could

be sold and "transferred" to increase the permitted density of development in other areas of the State more suited to development. In addition, a Pinelands Development Credit Bank would be established to guarantee loans secured by pinelands development credits and to serve as a buyer of last resort of these credits in order to alleviate cases of hardship.

Included in the revisions to P. L. 1979, c. 111 are provisions which: (1) require advice and consent of the Senate for the designation of the chairman of the commission; (2) preclude the delegation to the executive director of the commission any authority to approve, modify or reject municipal or county master plans and land use ordinances or local approvals of applications for development; (3) provide that the standards contained in the comprehensive management plan would be used by municipalities and counties in the protection area to determine regulated or prohibited uses in specific areas; (4) authorize the municipal delineation of innovative municipal planning areas; (5) replace the stated goal of discouraging piecemeal and scattered development with the discouragement of random and uncoordinated development; (6) require that State and local actions with respect to construction or disturbance of land in the pinelands area conform to the objectives of P. L. 1979, c. 111, as amended, and of the comprehensive management plan; (7) direct that local master plans and ordinances would be deemed approved if not acted on by the commission within 60 days of the submission thereof; (8) limit the authority of the commission, subsequent to the adoption of the comprehensive management plan, to review local approvals of applications for development to the review of developments with regional impact (in municipalities where the municipal master plan and land use ordinances have not been disapproved by the commission) and the review of the approval of any application granted by a municipality whose plan and ordinances have been disapproved; (9) direct that county master plans provide that the county may review municipal approvals of applications for development with countywide impact; (10) provide that the commission prepare an annual in-lieu-of-tax payment report, including recommendations for payments to any municipality where the total ratable base has been reduced by 5% or more as a result of tax appeals attributable to pinelands regulations; (11) clarify that the powers of the commission are restricted to the pinelands area unless otherwise expressly provided by law; and (12) direct the commission to revise the comprehensive management plan to conform with the provisions of this bill.

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AN ACT to amend and supplement the "Pinelands Protection Act,"

approved June 28, 1979 (P.L. 1979, c. 111; C.13:18A-1 et seq.).

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

1. Section 2 of P.L. 1979, c.111 (C.13:18A-2) is amended to read as follows:

2. The Legislature hereby finds and declares that the pinelands area comprises pine-oak forests, cedar swamps, and extensive surface and ground water resources of high quality which provide a unique habitat for a wide diversity of rare, threatened and endangered plant and animal species and contains many other significant and unique natural, ecological, agricultural, scenic, cultural and recreational resources; that the continued viability of such area and resources is threatened by pressures for residential, commercial and industrial development; that the protection of such area and resources is in the interests of the people of this State and of the Nation; that such protection will require the coordinated efforts of all relevant municipal, county, State and Federal agencies; that the Congress and President of the United States have demonstrated a recognition of these facts through the enactment of section 502 of the "National Parks and Recreation Act of 1978" (PL 95-625); and, that it is now necessary to implement the aforesaid Federal Act and insure the realization of pinelands protection through the establishment of a regional planning and management commission empowered to prepare and oversee the implementation of a comprehensive management plan for the pinelands area.

The Legislature further finds and declares that protection of the pinelands area can be accomplished without disrupting the economic, social, and essential governmental functions of the counties and municipalities in the pinelands area provided that all of the objectives of this act are realized in the commission's planning; that counties and municipalities should participate fully in development and revision of the comprehensive management plan; that flexible interpretation should be encouraged in commission review of county and municipal master plans and land use ordinances; that the comprehensive management plan should be implemented through county and municipal ordinances, rules, and regulations with commission oversight, rather than through direct commission management; and that commission planning should recognize that the most sound basis for regulation of the pinelands area will rely on local

knowledge and local police power together with regional planning, guidance, data collection, research, training, assistance, and monitoring.

The Legislature further finds and declares that protection of the pinelands area can be accomplished without unduly imposing on individual property rights, provided that the commission develops and recommends suitable programs of compensation for legislative consideration and action.

The Legislature further finds and declares that a certain portion of the pinelands area is especially vulnerable to the environmental degradation of surface and ground waters which would be occasioned by the improper development or use thereof; that the degradation of such waters would result in a severe adverse impact upon the entire pinelands area; that it is necessary to designate this portion as a preservation area, wherein more stringent restrictions on the development and use of land should be utilized and public acquisition of land or interests therein should be concentrated; and, that in order to facilitate such acquisition, and otherwise to effectuate the provisions of this act and the Federal Act, it is further necessary to establish certain notice requirements and procedures for the purchase of land or interests therein in such area.

The Legislature further finds and declares that a program for the allocation and transfer of development credits can, if properly structured, provide a mechanism to facilitate both the preservation of the resources of the pinelands area and the accommodation of regional growth influences in an orderly fashion; that in order to realize the full measure of the potential benefits of such a program, steps must be taken to assure the marketability of these credits; and that the best means of providing this assurance is through the establishment of a Pinelands Development Credit Bank empowered to purchase and sell pinelands development credits and to guarantee loans secured thereby.

The Legislature further finds and declares that the current pace of random and uncoordinated development and construction in the pinelands area poses an immediate threat to the resources thereof, especially to the survival of rare, threatened and endangered plant and animal species and the habitat thereof, and to the maintenance of the existing high quality of surface and ground waters; that such development and construction increase the risk and extent of destruction of life and property which could be caused by the natural cycle of forest fires in this unique area; and, that, in order to effectuate the purposes and provisions of this act and the Federal Act, it is necessary to impose certain interim limitations upon the local approval of applications for development in the preservation area, and upon certain State and local approvals in the pinelands area, all as hereinafter provided.

2. Section 3 of P.L. 1979, c.111 (C.13:18A-3) is amended to read as follows:

3. As used in this act:

a. "Agricultural or horticultural purposes" or "agricultural or horticultural use" means any production of plants or animals useful to man, including but not limited to: forages or sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, and including the breeding and grazing of any or all of such animals; bees and apinary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or any land devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agency of the Federal Government;

b. "Agricultural production area" and "special agricultural production area" mean those areas designated pursuant to approved local ordinances to be particularly suited for agricultural or horticultural purposes pursuant to section 16 of this amendatory and supplementary act;

[b.] c. "Application for development" means the application form and all accompanying documents required by municipal ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or other permit as provided in the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-1 et seq.), for any use, development or construction other than the improvement, expansion or reconstruction of any single-family dwelling unit or appurtenance thereto, or the improvement, expansion, construction or reconstruction of any structure used exclusively for agricultural or horticultural purposes;

d. "Bank means the Pinelands Development Credit Bank established pursuant to section 22 of this amendatory and supplementary act;

e. "Board" means the Board of the Directors of the Pinelands Development Credit Bank;

[c.] f. "Commission" means the Pinelands Commission created by section 4 of this act;

[d.] g. "Comprehensive management plan" means the plan prepared and adopted by the commission pursuant to section 7 of this act;

[e.] h. "Council" means the Pinelands Municipal Council created by section 6.1 of this act;

i. "Development with county-wide impact" means any facility as defined in the "Coastal Area Facility Review Act," P.L. 1973, c.185, (C.13:19-1 et seq.);

j. "Development with regional impact" means any division or subdivision of land into 200 or more parcels, any construction of any housing development of 200 or more units or expansion by 200 or more units, or any construction or expansion of any commercial or industrial use or structure which covers 30 or more acres;

[f.] k. "Federal Act" means section 562 of the "National Parks and Recreation Act of 1978" (PL 95-625):

l. "Lender" means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association maintaining an office in the State, or any insurance company authorized to transact business in the State;

m. "Loan applicant" means a person applying for, or in receipt of, a loan secured pursuant to the provisions of this amendatory and supplementary act;

[g.] n. "Major development" means any division or subdivision of land into five or more parcels; any construction or expansion of any housing development of five or more dwelling units; any construction or expansion of any commercial or industrial use or structure on a site of more than 3 acres; or any grading, clearing or disturbance of any area in excess of 5,000 square feet for other than

(h.) o. "Pinelands area" means that area so designated by subsection a. of section 10 of this act;

p. "Pinelands development credit" means a transferable development right created pursuant to the provisions of this amendatory and supplementary act;

q. "Pinelands development credit guarantee" means a guarantee extended pursuant to section 25 of this amendatory and supplementary act.

(i.) r. "Pinelands National Reserve" means the approximately 1,000,000 acre area so designated by the Federal Act and generally depicted on the map entitled "Pinelands National Reserve Boundary Map" numbered NPS/SO,011A and dated September, 1978;

(j.) s. "Preservation area" means that portion of the pinelands area so designated by subsection b. of section 10 of this act;

t. - - (x) "Protection area" means that portion of the pinelands area not included within the preservation area.

3. Section 5 of P.L. 1979, c.111 (C.13:18A-5) is amended to read as follows:

5. 2. The commission shall consist of 15 members to be appointed and qualified as follows:

(1) Seven residents of the State, appointed by the Governor, with the advice and consent of the Senate, except as otherwise provided herein;

(2) Seven residents of the State, one resident each of the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Ocean, appointed by the board of chosen freeholders of each such county; provided, however, that in any county operating under the county executive plan or county supervisor plan pursuant to the provisions of the "Optional County Charter Law" P. L. 1972, c. 154 (C. 40:41A-1 et seq.), such appointment shall be made by the county executive or the county supervisor, as the case may be;

(3) One member to be appointed by the Secretary of the United States Department of the Interior.

Any appointments made prior to the effective date of this act by the Governor or by any of the respective counties to the planning entity established pursuant to the Federal Act shall be considered appointments made to the commission, and no such gubernatorial appointment shall be subject to the advice and consent of the Senate.

b. Commission members shall serve for terms of 3 years; provided, however, that of the first members appointed by the Governor, two shall serve 3 year terms, two shall serve 2 year terms and three shall serve 1 year terms; and provided further, however, that of the first members appointed by the respective counties, such members appointed from Atlantic and Burlington counties shall serve 1 year terms, such members appointed from Camden and Cape May counties shall serve 2 year terms, and such members appointed from Cumberland, Gloucester and Ocean counties shall serve 3 year terms. Each member shall serve for the term of his appointment and until his successor shall have been

appointed and qualified.

Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only. The membership of the entire commission shall include residents of the pinelands area who represent economic activities, such as agriculture, in the area, as well as residents of the State who represent conservation interests.

c. Any member of the commission may be removed by the appointing authority, for cause, after a public hearing.

d. Each member of the commission, before entering upon his duties, shall take and subscribe an oath to perform the duties of his office faithfully, impartially, and justly to the best of his ability. A record of such oaths shall be filed in the Office of the Secretary of State:

e. The members of the commission shall serve without compensation, but the commission may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

f. The powers of the commission shall be vested in the members thereof in office, and a majority of the total authorized membership of the commission shall be required to exercise its powers at any meeting thereof. No alternate or designee of any commission member shall exercise any power to vote on any matter pending before the commission.

Nothing in this act shall be construed to authorize or permit the commission to delegate to the executive director any power of the commission to approve, reject, or conditionally approve county

master plans as provided in section 11 of P.L. 1979, c.111(C.13:18A-12), to

approve, reject, or conditionally approve municipal master plans and use ordinances, as provided in section 11 of P.L. 1979, c.111 (C.13:18A-12), or to approve, reject, or conditionally approve any application for development, as provided in section 14 of P.L. 1979, c.111 (C.13:18A-15).

g. The Governor shall designate one of the members of the commission as chairman with the advice and consent of the Senate.

The commission shall appoint an executive director, who shall be the chief administrative officer thereof. The executive director shall serve at the pleasure of the commission, and shall be a person qualified by training and experience to perform the duties of this office.

h. A true copy of the minutes of every meeting of the commission shall be prepared and forthwith delivered to the Governor. No action taken at such meeting by the commission shall have force of effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after such copy of the minutes shall have been so delivered; provided, however, that no action taken with respect to the adoption of the comprehensive management plan, or any portion thereof, shall have force or effect until 50 days, exclusive of Saturdays, Sundays and public holidays, after such copy of the minutes shall have been so delivered. If, in said 10-day period, or 50-day period, as the case may be, the Governor returns such copy of the minutes with a veto of any action taken by the commission at such meeting, such action shall be null and void and of no force and effect.

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3.1 Section 6. 1 of P.L. 1979, c.111 (C.13:18A-7) is amended to read as follows:

6.1. a. There is hereby established a Pinelands Municipal Council, the membership of which shall consist of the mayor, or his designee, of each municipality located, in whole or in part, within the pinelands area.

b. [A majority of the membership of the council shall constitute a quorum for the transaction of council business.] Action may be taken and motions and resolutions adopted by the council at any meeting thereof by the affirmative vote of a majority of the [full membership of the council] members present, except that no

action may be taken and no motion or resolution may be adopted by less than ten affirmative votes.

c. The council shall meet regularly as it may determine, and shall also meet at the call of the chairman of the commission.

d. The council shall appoint a chairman from among its members and such other officers as may be necessary. The council may, within the limits of any funds appropriated or otherwise made available to it for this purpose, appoint such staff or hire such experts as it may require.

e. Members of the council shall serve without compensation, and each member shall serve only as long as he is the mayor or the designee of the mayor of the municipality he represents. The council may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

f. The commission shall submit to the council, for review, prior to final commission action thereon, the comprehensive management plan, and any revisions thereto, including the minimum standards for the adoption of municipal and county plans and ordinances concerning the development and use of land in the pinelands area. The commission may also submit to the council any other matter which the commission deems advisable.

g. The council shall review all matters submitted to it by the commission and shall state its position to the commission within 60 days of the submission thereof.

h. The council may make recommendations to the commission on any matters it deems advisable whether or not such matter was submitted to the council by the commission.

4. Section 7 of P.L. 1979, c. 111 (C. 13:13A-8) is amended to read as follows:

7. The commission shall, on or before August 5, 1980, and after public hearings held in the pinelands area and in other areas of the State at places of its choosing, prepare and adopt a comprehensive management plan for the pinelands area. The portion or portions of the comprehensive management plan applicable to the preservation area shall be adopted on or before August 5, 1980. The portion or portions of the comprehensive management plan applicable to the protection area shall be adopted on or after November 14, 1980, but in no case later than December 15, 1980, and shall take effect on the thirty-first day following adoption, except as otherwise expressly provided in subsection h. of section 5 of P.L. 1979, c. 111 (C. 13:13A-5). Such plan shall be periodically revised and updated, after public hearings, and shall include, but need not necessarily be limited to:

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resource assessment which:

(1) Determines the amount and type of human development and activity which the ecosystem of the pinelands area can sustain while still maintaining the overall ecological values thereof, with special reference to ground and surface water supply and quality; natural hazards, including fire; endangered, unique, and unusual plants and animals and biotic communities; ecological factors relating to the protection and enhancement of blueberry, cranberry and other agricultural production or activity; air quality; and other appropriate considerations affecting the ecological integrity of the pinelands area;

(2) Includes an assessment of scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area, together with a determination of overall policies required to maintain and enhance such resources; and

(3) Utilizes soil resources information from the National Cooperative Soil Survey and the soil conservation districts in the pinelands area.

b. A map showing the detailed boundary of the Pinelands National Reserve, such map to delineate:

(1) Major areas within the boundary which are of critical ecological importance;

(2) Major areas and resources adjacent to the boundary that have significance to the ecological integrity of the Pinelands National Reserve; and

(3) Areas of scenic, open space, cultural, and recreational significance.

c. The map prepared pursuant to subsection c. of section 10 of this act.

d. A land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the pinelands area, which policies shall:

(1) Consider and detail the application of a variety of land and water protection and management techniques, including but not limited to, zoning and regulation derived from State and local police powers, development and use standards, permit systems, acquisition of conservation easements and other interest in land, public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites and ecologically sensitive areas, transfer of development rights, dedication of private lands for recreation or conservation purposes and any other appropriate method of land and water protection and management which will help meet the goals and carry out the policies of the management plan;

(2) Include a policy for the use of State and local police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes and provisions of this act and the Federal Act; and

(3) Recognize existing economic activities within the area and provide for the protection and enhancement of such activities as farming, forestry, proprietary recreational facilities, and those indigenous industries and commercial and residential developments which are consistent with such purposes and provisions.

e. A coordination and consistency component which details the ways in which local, State, and Federal programs and policies may best be coordinated to promote the goals and policies of the management plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the pinelands area may be integrated into the management plan.

f. A public use component including, but not limited to, a detailed program to inform the public of appropriate uses of the pinelands area.

g. A financial component, together with a cash flow timetable which:

(1) Details the cost of implementing the management plan, including, but not limited to, payments in lieu of taxes, acquisition, within 5 years of the effective date of this act, of fee simple or other interests in lands for preservation or recreation purposes, compensation guarantees, general administrative costs, and any anticipated extraordinary or continuing costs; and

(2) Details the sources of revenue for covering such costs, including, but not limited to, grants, donations, and loans from local, State, and Federal departments and agencies, and from the private sector.

h. A program to provide for the maximum feasible local government and public participation in the management of the pinelands area.

i. A program for State and local governmental implementation of the comprehensive management plan and the various elements thereof in a manner that will insure the continued, uniform, and consistent protection of the pinelands area in accord with the purposes and provisions of this act and the Federal Act, including:

Standards—

(1) [Minimum standards] for the adoption, as required in section 11 of this act, of municipal and county plans and ordinances concerning the development and use of land in the pinelands area, including, but not limited to, standards for minimum lot sizes and stream setbacks, [maximum] appropriate population densities, and regulated or prohibited uses for specific portions of the [pinelands] preservation area.

These standards, or alternatives developed by the municipalities and counties which are consistent with the objectives and provisions of this act and the performance standards contained in the comprehensive management plan, shall be utilized by municipalities and counties in the protection area for a local determination of appropriate zones for such uses, provided that all such local determinations are consistent with the provisions of this act and the performance standards contained in the comprehensive management plan

; and

(2) Such guidelines for any State or local agencies as may be prepared by the commission pursuant to section 12 hereof.

j. In conjunction with existing State programs and planning processes, a plan to implement the provisions of the "Clean Water Act" (PL 95-217) and the "Safe Drinking Water Act" (PL 93-523) which pertain to the surface and ground water of the Pinelands National Reserve[;], provided that any water quality

standards contained in the comprehensive management plan shall not

vary from any comparable water quality standards adopted by the Department of Environmental Protection;

k. A program to allow for municipal delineation of innovative municipal planning areas in the protection area, subject to commission review and approval, rejection, or conditional approval, as provided in section 11 of P.L. 1979, c.111 (C.13:18A-12). These areas shall be environmentally suitable for more intensive development under strict performance standards and advanced techniques for stormwater and wastewater handling, visual buffering, and location in relation to transportation elements and employment centers;

l. A report to the Governor and the legislature recommending appropriate methods of offering relief to owners of agricultural lands subject to restrictions pursuant to the comprehensive management plan, including but not limited to, studies of an agricultural land bank program, property tax relief, inheritance tax relief, and the purchase by the State or non-profit conservation groups of agricultural conservation easement

m. The report transmitted to the commission by the Department of Environmental Protection pursuant to section 22 of this act.

5. Section 8 of P.L. 1978, c. 111 (C. 13:18A-9) is amended to read as follows:

8. a. The goal of the comprehensive management plan with respect to the entire pinelands area shall be to protect, preserve and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act and the Federal Act.

b. The goals of the comprehensive management plan with respect to the protection area shall be to:

(1) Preserve and maintain the essential character of the existing pinelands environment, including the plant and animal species indigenous thereto and the habitat therefor;

(2) Protect and maintain the quality of surface and ground waters;

(3) Promote the continuation and expansion of agricultural and horticultural uses;

(4) Discourage piecemeal and scattered development; and random and uncoordinated development

(5) Encourage appropriate patterns of compatible residential, commercial and industrial development, in or adjacent to areas already utilized for such purposes in order to accommodate regional growth influences in an orderly way, with particular regard for

location in relation to transportation elements and employment centers

while protecting the pinelands environment from the individual and cumulative adverse impacts thereof[,] ; and

(5) Provide research, data collection, educational, planning, and regulatory mechanisms which strengthen municipal and county land use planning and encourage local implementation of sound, modern master plans and land use ordinances.

e. The goals of the comprehensive management plan with respect to the preservation area shall be to:

(1) Preserve an extensive and contiguous area of land in its natural state, thereby insuring the continuation of a pinelands environment which contains the unique and significant ecological and other resources representative of the pinelands area;

(2) Promote compatible agricultural, horticultural and recreational uses, including hunting, fishing and trapping, within the framework of maintaining a pinelands environment;

(3) Prohibit any construction or development which is incompatible with the preservation of this unique area;

(4) Provide a sufficient amount of undeveloped land to accommodate specific wilderness management practices, such as selective burning, which are necessary to maintain the special ecology of the preservation area; and

(5) Protect and preserve the quantity and quality of existing surface and ground waters.

6. Section 9 of P.L. 1979, c. 111 (13:18A-10) is amended to read as follows:

9. a. During the development of the comprehensive management plan, the commission shall consult with appropriate officials of local governments, including the council, and State or Federal agencies with jurisdiction over lands, waters and natural resources within the pinelands area, with interested professional, scientific, and citizen organizations, and with any citizens advisory committee which may be established by the Governor. The commission shall review all relevant existing information and studies on the pinelands area including, but not limited to, the report of the committee created pursuant to Executive Order 56, issued May 28, 1977.

b. Upon the adoption thereof, the comprehensive management plan shall be submitted to the Governor and to the Legislature. The commission shall further submit such plan to the Secretary of the United States Department of Interior, as provided in the Federal Act.

c. Subsequent to the adoption of the comprehensive management plan, the provisions of any other law, ordinance, rule or regulation to the contrary notwithstanding, no application for development within the pinelands area shall be approved by any municipality, county or agency thereof, and no State approval, certificate, license, consent, permit, or financial assistance for the construction of any structure or the disturbance of any land within such area shall be

as provided  
in sections 11  
and 14 of P.L.  
1979, c.111  
(C.13:18A-12  
and 13:18A-15),

granted, unless such approval or grant conforms to the provisions of such comprehensive management plan; provided, however, that the commission is hereby authorized to waive strict compliance with such plan or with any element or standard contained therein, upon finding that such waiver is necessary to alleviate extraordinary hardship or to satisfy a compelling public need, is consistent with the purposes and provisions of this act and the Federal Act, and would not result in substantial impairment of the resources of the pinelands area; and provided further, however, that the commission shall, within 90 days of the effective date of this act, and after public hearing thereon, adopt rules and regulations which specify the standards for determining such extraordinary hardship, compelling public need, consistency and substantial impairment. this act and of the

7. Section 11 of P.L. 1979, c. 111 (C.13:13A-12) is amended

to read as follows:

by July 1, 1982

and there-  
after

any re-  
vision

11. a. The provisions of any other law, ordinance, rule or regulation to the contrary notwithstanding, within 1 year of the date of the adoption of the comprehensive management plan, or any revision thereof, each county located in whole or in part in the pinelands area shall submit to the commission such revisions of the county master plan as may be necessary in order to implement the objectives of the comprehensive management plan and conform with the minimum standards contained therein. After receiving and reviewing such revisions, as applicable to the development and use of land in the pinelands area, the commission shall approve, reject, or approve with conditions said revised plans, as it deems appropriate, after public hearing, within 60 days of the submission thereof. this act and of

60 days of such submission, the plan shall be deemed approved.

Upon rejecting or conditionally approving any such revised plan, the commission shall identify such changes therein that it deems necessary for commission approval thereof, and the relevant county shall adopt and enforce such plan, as so changed. further revise or resubmit the plan to the commissioner for review

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b. Within 1 year of the date of the adoption of the comprehensive management plan, or any revision thereof, each municipality located in whole or in part in the pinelands area shall submit to the commission such revisions of the municipal master plan and local land use ordinances as may be necessary in order to implement the objectives of the comprehensive management plan and conform with the minimum standards contained therein. After receiving and reviewing such revisions, as applicable to the development and use of land in the pinelands area, the commission shall approve, reject, or approve with conditions said revised plans and ordinances, as it deems appropriate, after public hearing, within 90 days of the date of the submission thereof. any revision  
this act and of  
commission takes no action within 120 days of such submission.

the revised plan and any revised local land use ordinances shall be deemed approved.

Upon rejecting or conditionally approving any such revised plan or ordinance, the commission shall identify such changes therein that it deems necessary for commission approval thereof, and the relevant municipality shall adopt and enforce such plan or ordinance, as so changed; or, further revise and resubmit such plan

and ordinances to the commission for review.

and, (4) at the request of the governing body of such municipality

... shall be provided, delegate the review of any municipal master plan or land use ordinance to the planning board of the county wherein such municipality is located. Any such delegation shall be made only: (1) upon a finding by the commission that such delegation is consistent with the purposes and provisions of this act and the Federal Act; (2) if the commission has approved the master plan for such county; and, (3) at the request of the governing body of such county. The results of any such county planning board review shall be transmitted to the commission prior to the commission's review and approval of any such municipal master plan or ordinance.

c. In the event that any county or municipality fails to adopt or enforce an approved revised master plan or implementing land use ordinances, as the case may be, including any condition thereto imposed by the commission, the commission shall adopt and enforce such rules and regulations as may be necessary to implement the minimum standards contained in the comprehensive management plan as applicable to any such county or municipality.

authorized by this act and

d. Any approval of any application for development granted by any municipality, county, or agency thereof in violation of the provisions of this section shall be null and void and of no force and effect at law or equity.

provided that notice is given by the commission to the applicant and to the municipality, county, or agency within 30 days of receipt of notice of such approval

8. Section 12 of P.L. 1979, c. 111, (C.13:18A-13) is amended, to read as follows:

12. In order to assure that the actions, decisions, determinations and rulings of the State, county and municipal governments shall, to the maximum extent practicable and feasible, conform with the comprehensive management plan adopted by the commission pursuant to section 7 of this act, the commission shall prepare, periodically revise and transmit to all State, county or municipal agencies empowered to finance or construct any capital project within the pinelands area, and to all State agencies empowered to grant or deny any approval, certificate, license, consent, or permit for the construction of any structure or the disturbance of land therein, such guidelines for the location and construction of such capital projects or for the granting of any such approval, certificate, license, consent, permit, or financial assistance, as the case may be, as the commission deems necessary and appropriate.

purposes and provisions of this act and with the



Section 14 of P.L. 1979, c. 111, (C.13:16A-15) is amended to read as follows:

14. Subsequent to the adoption of the comprehensive management plan, the commission is hereby authorized to commence a review, within 15 days after any final municipal or county approval thereof, of any application for development in the preservation area and any application for development with regional impact in the [pinelands] protection area; except that the commission is hereby authorized to commence a review, within 15 days after any final municipal or county approval thereof, of any application for development which is located in a municipality for which the municipal master plan or land use ordinances have been disapproved by the commission.

Upon determining to exercise such authority, the commission shall transmit, by certified mail, written notice thereof to the person who submitted such application. The commission shall, after public hearing thereon, approve, reject, or approve with conditions any such application within 45 days of transmitting such notice; provided, however, that such application shall not be rejected or conditionally approved unless the commission determines that such development does not conform with the approved county master plan or approved municipal land use ordinances, or in the absence of an approved plan or ordinance, with the comprehensive management;

and to the affected municipality or county.

plan or the [minimum] standards contained therein, as applicable to the county or municipality wherein such development is located, or that such development could result in substantial impairment of the resources of the pinelands area. In the event that the commission takes no action within this 45 day period, the application shall be deemed approved. Such approval, rejection

or conditional approval shall be binding upon the person who submitted such application, shall supersede any municipal or county approval of any such development, and shall be subject only to judicial review as provided in section 19 of this act.

b. County master plans shall provide for the discretionary review, by the county, of any final municipal approval of an application for development with county-wide impact in the pinelands area.

c. The commission may request that an administrative law judge review any municipal or county approval of an application for development upon a finding by the commission that there exists a prima facie showing that the approval was granted in violation of this act and of the comprehensive management plan. With respect to any approval granted by a municipality or county pursuant to an approved master plan or land use ordinance, the commission may reverse or modify such approval only by a two-thirds vote of the full membership of the commission.

10. Section 15 of P.L. 1979, c.111 (C.13:16A-16) is amended to read as follows:

in the  
pinelands  
area

15. The commission is hereby authorized to make grants to municipalities and counties for any revision of local master plans or the implementing ordinances thereto which is designed to bring such plans and ordinances into conformance with the comprehensive management plan prepared by the commission. The commission

may make grants to municipalities within the Pinelands National Reserve, but not within the pinelands area, for any revision of local master plans or the implementing ordinances thereto which is designed to bring such plans and ordinances into conformance with the provisions of the comprehensive management plan. The commis-

ion may make such grants from any State, Federal or other funds which may be appropriated or otherwise made available to it for such purpose.

11. Section 20 of P.L. 1979, c.111 (C. 13:16A-21) is amended to read as follows:

and annually  
thereafter

20. The commission shall, within 1 year of the effective date of this act, prepare and submit to the Governor and Legislature a report concerning State payments in lieu of taxes to municipalities in the pinelands area wherein the State owns any land or interests therein or where the total taxable ratables of a taxing

district have been reduced by 5% or more as a result of tax appeals attributable to regulation by the

commission. Such report shall include an evaluation of the manner of calculation and amount of such payments made or to be made pursuant to the provisions of the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P. L. 1974, c. 102; P. L. 1977, c. 172 (C. 54:4-2.2a et seq.); and the "New Jersey Green Acres Bond Act of 1978," P. L. 1978, c. 118, as well as the recommendations of the commission for executive and legislative action on additional or alternative proposals for such payments, including the fiscal implications of any such proposal and potential sources of funding therefor.

12. Section 22 of P.L. 1979, c. 111 (C.13:18A-23) is amended to read as follows:

22. In addition to the functions required pursuant to the "Coastal Area Facility Review Act," P. L. 1973, c. 185 (C. 13:10-1 et seq.), the Department of Environmental Protection shall, in consultation with the commission and within 18 months of the effective date of this act, review the environmental design for the coastal area as it affects the planning and management of the development and use of any land in the coastal area which is also within the boundaries of the Pinelands National Reserve, make any necessary revisions to such environmental design as may be necessary in order to effectuate the purposes of this act and the Federal Act, and prepare and transmit to the commission a report detailing the provisions of the environmental design as so revised and as applicable to such land. Nothing herein contained shall be deemed

to extend the review powers of the commission with respect to any application for development, any approval of municipal and county master plans and land use ordinances, or any granting of State permits, licenses, approval, certificates, consents, or financial assistance beyond the boundaries of the pinelands area as defined in section 10 of P.L. 1979, c.111 (C.13:18A-11), except at the request of the governing body of the affected municipality or county.

13. Section 26 of P.L. 1979, c. 111 (C.13:18A-27) is amended to read as follows:

26. It is the intent of the Legislature that, except as otherwise specifically provided in this act, in the event of any conflict or inconsistency in the provisions of this act and any other acts pertaining to matters herein established or provided for or in any rules and regulations adopted under this act or said other acts, to the extent of such conflict or inconsistency, the provisions of this act and the rules and regulations adopted hereunder shall be enforced and the provisions of such other acts and rules and regulations adopted thereunder shall be of no force and effect.

and except for the provisions of the "Municipal Land Use Law," P.L. 1975, c.291 (C.40:55D-1 et seq.)

14. (New section) Any application for development submitted to the commission which was filed with the commission prior to September 15, 1980 and not subject to a final decision thereon by the commission by January 14, 1981, shall, subsequent to the effective date of this 1981 amendatory and supplementary act, be considered an application for a waiver from strict compliance with the comprehensive management plan, as provided in subsection c. of section 9 of P.L. 1979, c. 111 (C. 13:18A-10), to the extent that the construction or disturbance of land proposed in the application is inconsistent with any provision of the comprehensive management plan unless action had been taken by the commission on said application prior to the effective date of this amendatory and supplementary act.

15. (New section) Pinelands development credits shall be allocated by the commission as follows:

a. In the preservation area:

- (1) One pinelands development credit per 39 acres of wetlands, as defined in the comprehensive management plan;
- (2) Four pinelands development credits per 39 acres of uplands, as defined in the comprehensive management plan;

b. In the pinelands area:

Eight pinelands development credits per 39 acres in agricultural production areas and special agricultural production areas designated pursuant to the provisions of section 16 of this amendatory and supplementary act; except that, with respect to wetlands, other than blueberry fields or cranberry bogs and reservoir areas, one pinelands development credit shall be allocated per 39 acres;

c. Owners of a fraction of 39 acres shall receive that fraction of a pinelands development credit which reflects the ratio equal to the size of property owned and the allocation established pursuant to this section, except that the owner of record of a parcel of more than one-half acre in the preservation area or in an agricultural production area or special agricultural production area, as of February 7, 1979, shall be entitled to at least one pinelands development credit, provided that the parcel of land is undeveloped and was not in common ownership with any contiguous land as of that date.

16. (New section) a. Each municipality located in whole or in part in the pinelands area may, as a part of the revisions of its master plan and land use ordinances, designate agricultural production areas and special agricultural production areas. In making these designations, each municipality shall consider the following:

(1) Significant contiguous areas in active agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L. 1964, c. 48 (C.54:4-23.1 et seq.);

(2) The presence of prime agricultural soils, as classified by the Soil Conservation Service of the United States Department of Agriculture;

(3) Infrastructure development and urban and residential uses which may impede successful agricultural production;

(4) Land already in agricultural use nominated for designation by the owner thereof. Such land shall be included in the municipal designation unless the local planning board finds that such inclusion would be contrary to sound land use or planning principles.

(5) Such standards and recommendations as may be included in the comprehensive management plan.

b. Notice of all designations made pursuant to subsection a. of this section shall be forwarded to the commission and the bank.

17. (New section) The bank shall, upon application of the appropriate landowner, and certification by the commission, issue Pinelands Development Credit Certificates for all pinelands development credits allocated pursuant to section 15 of this amendatory and supplementary act. These certificates shall be issued to the current owner of record of the land, as indicated in the index of deeds recorded in the office of the recording officer of the appropriate county, subsequent to the recording of restrictions imposed on the land prohibiting development other than agriculture and related uses within agricultural production areas and special agricultural production areas.

18. (New section) a. The bank shall establish and maintain a Registry of Pinelands Development Credits, which shall include:

(1) The name and address of every owner to whom a pinelands development credit certificate is issued pursuant to section 18 of this amendatory and supplementary act, and the date of its issuance;

(2) The name and address of every person to whom a pinelands development credit is sold or otherwise conveyed, the date of the conveyance, and the consideration, if any, received therefor;

(3) The name and address of any person who has pledged a pinelands development credit as security on any loan or other obligation, the name and address of the lender, and the date, amount and term of the loan or obligation;

(4) The name and address of any person who has redeemed a pinelands development credit pursuant to section 19 of this amendatory and supplementary act, the location of the land to which the credit was transferred, and the date this redemption was made.

b. No person shall purchase or otherwise acquire, encumber, or redeem any pinelands development credit without recording that fact, within 10 business days thereof, with the bank.

c. The bank may charge fees for the recording of pinelands development credits pursuant to this section. These fees shall be detailed in a fee schedule adopted by rule and regulation, and shall provide sufficient funds to cover the costs of establishing and maintaining the Registry of Pinelands Development Credits.

d. The bank shall provide the information included in the registry to each county and municipality located in whole or in part in the pinelands area, and, upon request, to any other person.

19. (New section) a. The provisions of any law or ordinance to the contrary notwithstanding, every municipality in this State shall provide for the redemption of pinelands development credits as follows:

Each pinelands development credit may be used to increase the number of dwelling units in a proposed development by one unit, up to a maximum increase of 30%, provided that the lot where the development would occur is zoned for a fixed density of at least one dwelling unit per acre and that sewage treatment facilities within the capacity either of an existing sewage treatment plant or of a sewage treatment plant constructed for the development are available to service the development at the time of the occupancy of the first unit.

b. Any person who redeems a pinelands development credit shall pay to the affected municipality an infrastructure redemption fee of \$1,000.00 per extra unit and shall surrender that credit to the municipality.

c. Any municipality may, by ordinance, provide for density increases exceeding 30% or for the total or partial waiver of the

infrastructure redemption fee as provided by subsection b. of this section.

d. Pinelands development credit certificates shall be assessed and taxed in the municipality of origin, prior to the redemption thereof pursuant to this section, in the same manner as real property.

20. (New section) Any municipality located in whole or in part in the pinelands area may implement, by adopting an appropriate ordinance, a municipal transferrable development rights program. Any such ordinance shall provide for the redemption of pinelands development credits issued pursuant to this amendatory and supplementary act, and may provide for preferential density increases upon the redemption of credits issued pursuant to that ordinance.

21. (New section) The commission shall, within 6 months of the effective date of this amendatory and supplementary act, prepare and transmit to the Governor and the Legislature recommendations for methods of compensating municipalities which lose property tax revenues as a result of the transfer of pinelands development credits pursuant to this amendatory and supplementary act.

22. (New section) a. There is established in the Executive Branch of the State Government a public body corporate and politic, with corporate succession, to be known as the Pinelands Development Credit Bank. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the bank is allocated with the Department of Banking, but notwithstanding that allocation, the bank shall be independent of any supervision or control by the department or by any officer or employee thereof, except as otherwise expressly provided in this amendatory and supplementary act. The bank is constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the bank of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The bank shall be governed by a board of directors consisting of five ex officio members, or the designees thereof, as follows: the Commissioner of Banking, who shall serve as chairman; the Secretary of Agriculture; the Attorney General; the Commissioner of Environmental Protection; and the Chairman of the Pinelands Commission. Designees of members shall have the power to vote in the absence of members.

24. (New section) The board shall have the following powers:

a. To adopt and, from time to time, amend and repeal suitable by-laws for the management of its affairs;

b. To adopt and use an official seal and alter the same at its pleasure;

c. To apply for, receive, and accept, from any Federal, State, or other public or private source, grants or loans for, or in aid of, the board's authorized purposes;

d. To enter into any agreement or contract, execute any instrument, and perform any act or thing necessary, convenient, or desirable for the purposes of the board or to carry out any power expressly given in this amendatory and supplementary act;

e. To adopt, pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this amendatory and supplementary act;

f. To call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, commission or agency as may be required and made available for these purposes;

g. To purchase pinelands development credits when necessary to alleviate hardship, as determined pursuant to regulations adopted by the board. The purchase price in these cases shall be \$2,500.00, or a fraction of that amount which reflects that portion of a pinelands development credit allocated to the applicant pursuant to the provisions of this amendatory and supplementary act.

24. (New section) Any person desiring to secure a loan using a pinelands development credit as collateral may apply to the board for determination of eligibility for a pinelands development credit guarantee. The board shall notify the applicant of its decision within 30 days of its receipt of the application.

25. (New section) a. The board may extend a pinelands development credit guarantee with respect to any loan secured pursuant to the provisions of this amendatory and supplementary act if:

(1) Adequate funds are available in reserve to fulfill the guarantee in the event of a default; and

(2) The applicant can demonstrate that he holds marketable title to such property and that property has been certified by the commission to be eligible for issuance of pinelands development credit certificates pursuant to the provisions of this amendatory and supplementary act,

that this credit has not been otherwise encumbered, transferred or redeemed, and that the credit is reserved and pledged as security for the guarantee.

b. If the application is denied, the board shall return it to the applicant with a written statement of the reasons for denial.

c. If the application is approved, the bank shall record a reservation against issuance of pinelands development credit certificates if unsevered credits serve as security for the pinelands development credit guarantee and the bank shall record a reservation against conveyance of pinelands development credit certificates if severed pinelands development credits serve as security for the pinelands development credit guarantee. The board shall retain the original and transmit copies of the application

to the applicant and the lender. The applicant and the lender may then complete the transaction for the loan. Nothing herein contained shall be construed to require a lender to approve or deny any loan applied for pursuant to this act, regardless of the approval or disapproval by the board of any application for a pinelands development credit guarantee.



d. Applications for pinelands development credit guarantees with respect to loans made for agricultural and horticultural purposes shall be given priority consideration.

26. (New section) The bank is authorized to guarantee the value of a pinelands development credit in the amount of \$2,500.00, or a fraction of that amount which reflects that portion of a pinelands development credit allocated to the applicant pursuant to the provisions of this amendatory and supplementary act. Nothing herein contained shall be construed to establish or limit fair market value of any pinelands development credit or to preclude the extension of a pinelands development credit guarantee for any loan of less than \$2,500.00.

27. (New section) a. Following the thirty-first day of a default on any loan secured, in whole or in part, by a pinelands development credit guarantee, the lender shall send notice by certified mail to the applicant and the board, stating the consequences of such default. The applicant and the lender may, within 90 days of the initial default, agree to take any reasonable steps to assure the fulfillment of the loan obligation.

b. In the event the applicant and the lender have not made arrangements for the continuation of the loan obligation within 90 days of the initial default, the lender shall file a claim with the board, identifying the loan and the nature of the default and shall: (1) assign the security interest in the pinelands development credit to the board in exchange for payment according to the terms of pinelands development credit guarantee; or, (2) retain the security interest in the pinelands development credit and waive any claim to payment pursuant to the terms of the pinelands development credit guarantee.

28. (New section) In the event a default occurs on any loan secured, in whole or in part, by a pinelands development credit guarantee and the lender has assigned the security interest in the pinelands development credit to the board, the board shall authorize payment to the lender up to the limits of the pinelands development credit guarantee, and shall notify the defaulting party. The board shall, in these cases, commence foreclosure proceedings in the manner provided by law.

29. (New section) The board is authorized to sell, exchange, or otherwise convey any pinelands development credit which is purchased or otherwise acquired pursuant to the provisions of this amendatory and supplementary act. All such sales or conveyances shall be made prior to the expiration of section 22 through 30 of this amendatory and supplementary act. The provisions of any other law to the contrary notwithstanding, no such sale, exchange or conveyance shall be subject to approval of the State House Commission.

30. (New section) Notwithstanding any other provisions of this amendatory and supplementary act:

a. No pinelands development credit loan guarantee shall be extended for a period of time in excess of five years;

b. No pinelands development credit loan guarantee shall be extended after the thirty-first day of December in the fifth year next following enactment of this act;

c. No pinelands development credit shall be purchased by the bank after the thirty-first day of December in the fifth year next following enactment of this act.

31. (New section) The commission shall, within 90 days of the effective date of this amendatory and supplementary act, adopt such revisions to the comprehensive management plan as may be necessary to conform with the provisions hereof.

Any revision which requires the approval of the Secretary of the United States Department of the Interior pursuant to the Federal Act shall remain inoperative until such approval is granted.

32. This act shall take effect immediately, except that any provision hereof which requires the approval of the Secretary of the United States Department of the Interior pursuant to the Federal Act shall remain inoperative until such approval is granted. Sections 22 through 30 thereof shall expire on the thirty-first day of December in the tenth year next following enactment.



SENATOR RAYMOND J. ZANE (Chairman): I would like to begin the public hearing on Senate Bill No. 3335. There are a number of speakers today and we would like to give them an opportunity to speak. It is our intention to hopefully limit the speakers to three minutes. We would ask the speakers not to be redundant. If there are statements that you would like to submit, those statements will become part of the record without having to be read into the record. If there are any groups here, we would appreciate it very much if a representative from each particular group speaks and reflects the views of the group, as opposed to each and every member of that group stating the exact same position.

I would like to know if the sponsor of the bill is ready to proceed. Senator Perskie, the State of New Jersey is waiting on you. We would like to extend to you the courtesy of being the first speaker on the bill.

SENATOR STEVEN P. PERSKIE: Senator, I appreciate that courtesy and I apologize for the delay. I looked at your witness list for today and in consideration of the length of that list and because of the fact that I expect a number of statements are likely to be made that I would like to have the opportunity to correct, I would simply reserve any comments I might have at this time until after your witnesses have testified.

I would note that I have been in continuous contact with your staff which, as usual, has done an excellent job. We have suggested, as a result of some of the input we have gotten from the Governor's office and elsewhere, a number of changes in the wording. Probably the single most significant change, and the only one that I will take the time now to mention, occurs in Sections 31 and 32 of the Act, which are the last two sections. They are on pages 26 and 27.

Concern had been expressed initially - at your meeting last week and in the media since then - about the possible effect of this legislation on the existing statute and the existing Plan, insofar as the Federal law requires the prior approval of the Secretary of the Department of the Interior for any changes in the Act or the Plan. That was never our intent. In responding to the suggestions made by a number of individuals, we had suggested language which you will find in this draft before you today on both Sections 31 and 32. This makes it clear that the Act that we are seeking here and any amendments to the Plan that would be contemplated by the Act would, in their turn, only become effective upon the approval of the Secretary of the Interior, to the extent that any such approval was required. So, it cannot be argued that the passage of this bill will affect the existing Plan or Federal jurisdiction in any way because this bill and the amendments to the Plan that are contemplated in this bill that will require Federal approval will only be effective when the Federal approval is received.

Removing that as an issue, I think, helps the dialogue and helps to focus attention on the real substance of the bill.

With that, Mr. Chairman, I would simply commend to you the typed version of the proposed substitute that you have there, which is dated July 6th, and ask you for the right to be heard at the end of all the testimony.

SENATOR ZANE: Okay. Fine, Senator Perskie.

Is there anyone here from the Administration? (no response)

Senator Perskie, just an inquiry, it is my understanding that

the Administration supports this legislation in its present form and I would like to clarify that on the record.

SENATOR PERSKIE: Senator, I don't want to be in a position of speaking for the Administration. I will simply indicate again, as I have before for the record, that the language of this bill has been the subject of dialogue with, among others, Administration officials since last December. I have been assured by several of the Governor's staff that the bill will be recommended to him for signature. Counsel O'Hern, publicly, in his testimony last week, indicated that he believed he would be in the position to recommend it for the approval of the Governor. I have never indicated anything more extensive than that, and I don't today.

It is my judgment that the bill is consistent with the Administration's goals in this area, and it is further my judgment that the Administration will reach that conclusion to the extent that it hasn't already done so.

SENATOR ZANE: Okay. Thank you.

Mr. David Moore, please, Executive Director of the New Jersey Conservation Foundation. Mr. Moore, I guess you are familiar with our request: If you have any written statement we would appreciate it if you would submit it. We would like to hear your testimony. Thank you.

D A V I D M O O R E: Certainly the list is a long one. I thank you very much for the opportunity to be heard this morning.

My name is David Moore. I am the Executive Director of the New Jersey Conservation Foundation. We are a private, non-profit, statewide membership organization concerned with open space acquisition and environmental quality throughout the State.

We are very much concerned about the impact of Senator Perskie's bill. We understand the intent is to make some mid-course corrections; however, we feel that there is no necessity for any legislation at this time.

The conformance process is in mid-stream. Most of the towns in the Pinelands are proceeding with that process and we feel that any legislative attempt throws chaos into that process.

The one point that I think is needed and perhaps can be done at this time or at some point later is the Credit Bank Legislation. We feel that is a useful piece of legislation, but it can certainly go by itself.

Most towns, I think, are finding the conformance process a relatively easy one and we would like to see that process go forward. If any corrections are needed legislatively, then that ought to occur following the conformance process at the beginning of next year.

We thank you very much for the opportunity to speak.

SENATOR ZANE: You indicated that you support the concept of the Credit Bank legislation. Is that what you said?

MR. MOORE: Yes.

SENATOR ZANE: Explain your support, if you will.

MR. MOORE: Well, I don't think that it is an absolute essential. That is to say, I think the credit system can operate without a bank. However, to provide assurances - the market assurances particularly - in terms of loans for individuals that are involved in the credit transfer system, I think a bank is a useful extra.

SENATOR ZANE: Are you suggesting that the present system, where

there is not compensation is unfair and that is why this is a better proposal?

MR. MOORE: No. The Credit Bank really isn't a system of compensation; it is really only a method of providing guaranteed loans for credit transfer systems for people with credit.

SENATOR ZANE: Senator Hirkala, do you have any questions?

SENATOR HIRKALA: No questions.

SENATOR ZANE: Thank you, Mr. Moore.

MR. MOORE: Thank you. (written testimony on page lx)

SENATOR ZANE: William Singer, New Jersey Environmental Lobby.

W I L L I A M S I N G E R: Good morning, Senator. My name is William Singer. I am the Legislative Agent for the New Jersey Environmental Lobby. I will make my statement very short.

The New Jersey Environmental Lobby is opposed to passage of this legislation. We feel that New Jersey has a unique opportunity to preserve the Pinelands. It is a natural resource which adds to the capital of the State. We feel that this legislation would inflict a fatal blow to our efforts for preservation.

It is easy to say that the plan isn't perfect. It is easy to say that people have been shortchanged with what has gone on. However, we feel it would be foolhardy to believe that the plan would be perfect in all respects and that all parties would be satisfied.

The environmental community feels that we have compromised on every step along the process. There is nothing left to compromise. If we make more compromises there will be nothing left to preserve.

There has been question about whether this legislation would then be reviewed by Secretary Watt. We are still not convinced from what we have heard that the whole plan would not be subject to review again and we feel that would mean total disaster.

We feel the process is ongoing. There are municipalities trying to comply. To enact this legislation would just add further confusion. We suggest that before you release this bill that you consider what the passage of it would do. Any uncertainty before will be compounded and any sense of regional planning will be totally lost. Thank you.

SENATOR ZANE: Mr. Singer, I would like to ask you a question. What is the further confusion that you foresee for a municipality?

MR. SINGER: I think the municipalities are now in the process of complying with the Management Plan. I think you are talking about extending the date to July, 1982, with uncertainty as to how the process would occur.

SENATOR ZANE: So then, you are really not specific as to what you feel the further confusion would be, am I correct? There are no specifics that you are pointing to that result directly from this legislation.

MR. SINGER: Yes. I think there is confusion now. I think you are just adding another layer. I think we should wait and see what happens under the plan as written and then talk about change.

SENATOR ZANE: Senator Hirkala, do you have any questions?

SENATOR HIRKALA: In your opposition, is there anything that you would recommend in the event the Committee wanted to release this bill? Is there anything you would want to recommend to strengthen your position?

MR. SINGER: Well, I concur with what Mr. Moore said before me about

the Credit Bank. I think that is a valuable part of the legislation. But, I think as far as the rest of the legislation, it should be scrapped at this point. I don't believe it is subject to repair or revision in order to make it better. I just think it should be scrapped.

SENATOR HIRKALA: Thank you.

SENATOR ZANE: Thank you, Mr. Singer. (written statement on page 2x)  
Elwood Jarmer, Director of the Cape May County Planning Division.

E L W O O D R. J A R M E R: Good morning. I am not Chuck Worthington, as some people may think from your list. That should be obvious. My name is Elwood Jarmer. I am the Director of Planning for Cape May County and the purpose of my testimony - I will try and summarize it - is to express the present state of the Pinelands planning in Cape May County and how the Planning Board and Freeholders view these amendments.

The present state of Pinelands planning in Cape May County is that nobody is conforming to the Plan, none of the four towns nor the county. I can't explain why the towns aren't, but let me, in about a minute, highlight the problems the county has with the current Plan.

The current Plan suggests that it should permit about 11,000 dwelling units in Cape May County. A critical examination of that Plan shows that perhaps we can get 1700 units when we use the specific standards that are actually in the Plan.

In terms of the water quality, the water quality of the Pinelands Plan is some sixty times more stringent than the adopted county 208 Plan or the standards of the New Jersey DEP, or the U.S. EPA.

Transfer of Development Rights, which we consider to be a key element, won't function in Cape May County at all the way the Plan is currently structured.

Let me just comment that the proposed amendments, in our view, deal with these issues. We feel that they will give the towns more flexibility. We feel they will address the water quality question. We feel that they will address Transfer of Development Rights' ability to function the way it should.

The Pinelands Commission will still retain the power to approve or disapprove of a county's plans and ordinances. Now, this is a big hammer. So, I think that will protect the purpose of the Pinelands Act -- the fact that the Pinelands Commission will still have that authority.

It is my opinion that the adoption of these amendments would open a door for the Cape May County Planning Board and the municipalities to begin the kind of planning process we should have been doing a number of months ago.

SENATOR ZANE: Mr. Jarmer, you have indicated that no one is conforming with the present Plan. Why?

MR. JARMER: Well--

SENATOR ZANE: If you know the answer.

MR. JARMER: The County -- I have indicated the kinds of problems the county has with the Plan. The County Comprehensive Plan currently recommends about 11,000 dwelling units in the Pinelands area. Ironically, the Pinelands Plan itself suggests a demand of about 12,000 dwelling units, and the Pinelands Plan itself seems to indicate that you could get 11,000 dwelling units under the standards in the Plan. But, when you look at the actual standards in the Plan and apply them to Cape May County, you can only develop about 1700 units. It doesn't work in Cape May County.

Also, the Transfer of Development Rights, or credit system, which was supposed to be a major method to compensate people who own acreage and cannot use it, was supposed to address that problem. It won't function in Cape May County the way the Plan is currently structured.

SENATOR ZANE: Mr. Jarmer, do your comments reflect the views of the Cape May County Board of Freeholders, or are they just your views?

MR. JARMER: They reflect the views to the Cape May County Planning Board and the Cape May County Board of Freeholders.

SENATOR ZANE: And you are authorized to make that representation to us?

MR. JARMER: That is correct.

SENATOR ZANE: Senator Hirkala, do you have any questions?

SENATOR HIRKALA: No questions.

SENATOR ZANE: Thank you very much.

MR. JARMER: Thank you for the opportunity to speak. (written testimony on page 4x)

SENATOR ZANE: The Honorable Dominic Maiese, Mayor of Winslow Township.

Mayor, I know you were late in arriving, but we had indicated that if there are prepared statements that you just submit them to be read into the record. We would rather have your comments as to your feelings on the bill as opposed to reading a long document which we can make part of the record.  
MAYOR DOMINIC MAIESE: I would rather make a comment, Mr. Chairman.

SENATOR ZANE: That is just what we would like.

MAYOR MAIESE: Thank you. Mr. Chairman, members of the Committee, I come here this morning to support the amendment to the Pinelands Protection Act. I have read it thoroughly. I am very familiar with the Act as it is. I find that while I am not very happy with what is being suggested at this point in time, I think it is a step in the right direction.

We find that in our community, Winslow Township, of which I am the Mayor, that while we struggle along the way to have an orderly growth and while we want to comply with all the rules and regulations dealing with this particular situation, it is turning us around and we are going the other way. There are many, many reasons for this and I would like to stay here and try to emphasize for you the importance of having general, orderly growth. When I find that we lose plans in our area to the tune of \$35 million for each plan, it kind of disturbs me. This is because of the Pinelands situation.

While I realize and I understand the importance of preservation of the Pinelands, I honestly believe that in order to protect the protective area that we live in, sound rules and guidelines would be more apropos than the rules and regulations that are set forth as of today in the Pinelands structure.

I certainly want to commend the authors of these amendments. I think they are going to be very helpful to us. I think they are going to be very helpful to the whole South Jersey area. I am hoping that the regulations and laws of this State will be changed to reflect exactly what you have written.

I thank you for the privilege to speak and I am here to answer any questions you may have.

SENATOR ZANE: Mayor, how much of your total township is within the Pinelands or the protection area?

MAYOR MAIESE: Fifty eight square miles of that township.

SENATOR ZANE: And, has the Pinelands legislation, as we presently have it, caused serious problems to your municipality as far as the administration of it and as far as any growth and development?

MAYOR MAIESE: There is no question about it. A burden is put on the township in every way. I said in my opening remarks that I could probably go into detail, but I would be here for quite a while.

Yes, it has affected us tremendously. Our people who we are privileged to represent in this particular part of the County or the State certainly have indicated to me, many, many times, over and over again - those who own property, such as the farmers and those who own a piece of land of maybe two or three acres - the hardship this has created for them alone.

Again, when we try to institute this particular legislation, that again is playing a hardship on us as well.

SENATOR ZANE: Is your entire municipality within the core area or the peripheral protective area?

MAYOR MAIESE: In the protective area.

SENATOR ZANE: You are?

MAYOR MAIESE: There might be some part of that in the core. I don't think so. We are in the protective area.

SENATOR ZANE: How would you describe your municipality -- physical description?

MAYOR MAIESE: I would describe it as a rural area for the most part. We have an area of 58 or better square miles with a population of about 20,000, more or less.

SENATOR ZANE: Is there a town, as such, within Winslow Township?

MAYOR MAIESE: We have a number of small communities. I would say there are maybe 12 or 13 of them all over the place. But, we do have one spot that is considered to have heavier growth than others.

SENATOR ZANE: And that is part of the Pinelands Protection area as well?

MAYOR MAIESE: Well, oddly enough, they excluded that one section. That bothers me. They have excluded the one section. I don't know how many acres there are in that particular part, but they have excluded that probably because of water and sewer. Now, if we can make an exclusion in that area for water and sewer, I am sure there should be exclusion for other parts of the area where water and sewer exist and the quality of the the water becomes better.

SENATOR ZANE: Senator Hirkala, do you have any questions?

SENATOR HIRKALA: No questions.

SENATOR ZANE: Thank you, Mayor.

MAYOR MAIESE: Thank you for giving me the privilege of being here today.

SENATOR ZANE: Carol Barrett from the Sierra Club, please.

C A R O L B A R E T T: Good morning, Mr. Chairman. I am Carol Barrett. I represent the Sierra Club. I am a resident of Camden County.

Before I begin my prepared statement, I would like to say to Mr. Maiese that I am on the Atlantic Basin Sewer Authority's Citizens Advisory Committee, and our observation is that they get more favorable population disbursement in the Pinelands Plan than they do in the 208.

SENATOR ZANE: Mrs. Barrett, before we go further, if you have a prepared statement that can be submitted and made part of the record, I would rather hear your comments as opposed to your reading this to us.

MRS. BARETT: I know. I just have to refer to comments or else I might talk here all day. When you get started on this you can go on endlessly.

We oppose this bill for any further consideration by the State Legislature on the basis that it is unnecessary, detrimental to the Pinelands Protection Act, detrimental to the Pineland Commission's Plan, and will lead to risky, if not positively negative action by the Federal government.

Since this Plan has been accepted and adopted, the Commission and the staff has set out a procedure for the municipalities to come into compliance. I think it is impressive that 32 out of 52 municipalities have signed up for following through. They have accepted the funds and the technical expertise of the Commission staff.

There have also been instances reported in the press that many of the political people in Atlantic County, for instance, who oppose this plan have gone out of their way to try to convince the local governments to stonewall the Commission's Plan. I think that has to be considered, the fact that there are many, various, and sundry interests involved in preventing this plan from being successful.

I think as a constructive suggestion, the staff could have a number of people working on just small applications and be required to give timely responses to the public as well as to the municipalities. Apparent disagreements between all parties can be reconciled if the Commission will seriously endeavor to end the communications and public relations difficulties that evidentially occur constantly. Many political objections, as well as those we hear from applicants and citizens in the Pine Barrens area, seem to dwell on the two above mentioned issues. It is wrong to alter the whole plan to end disputes having to do with side issues.

The plan to send this back to the Secretary of the Interior has been mentioned. The problem involved has been mentioned by everybody who testifies on this and it is not a little issue. The legislation clearly calls for approval by the Secretary of Interior and Mr. Watt has not been sort of receptive to innovative environmental type plans, as we are proposing for New Jersey.

SENATOR ZANE: But is it not true that the Legislation would not be effective until it was approved by the Secretary of the Interior?

MRS. BARETT: I don't know, that's not--

SENATOR ZANE: That's the proposal as it is presented today.

MRS. BARETT: Well, that is true, but it is still ambiguous and sort of assuming.

SENATOR ZANE: I think it resolves that issue though.

MRS. BARETT: I don't think it does, if I may differ.

SENATOR ZANE: Sure.

MRS. BARETT: I am afraid by reading the law specifically, when it says that any revision must be submitted, are you suggesting that any further change in the plan will not take place unless Secretary Watt agrees to it? Is that the idea?

SENATOR ZANE: That's correct. That is the provision in the bill.

MRS. BARETT: Well, that is fine on the face of it, but Secretary Watt is an unknown quantity as far as environmental issues are concerned. He has not only been rather peculiar in his ideas of how to conserve natural resources in this country, but he is under fire all over the place. So, I don't think I want to rely on him. He might very well want to approve these plans hoping to destroy the Plan, which is something that must not be left out of the discussion.

While we have many criticisms of this new bill, which I have listed in detail, one that I will mention before I get on to the forest district is about Section 26 which says: "...and except for the provisions of the Municipal Land Use Law." I think this is very unclear. We don't understand what it means. I don't think you can have Municipal Land Use Law as well as this Plan that the Pine Barrens envisions at the same time.

SENATOR ZANE: What section are you referring to?

MRS. BARETT: Section 26 in the copy I have -- June 29th. It discusses the Municipal Land Use Law. Of course, the Municipal Land Use Law has been in effect. The municipalities have filed their proper update and if that were effective we wouldn't need any kind of regional planning. But, it still is an individual locality planning by itself.

SENATOR ZANE: What is your objection to Section 26?

MRS. BARETT: The way I tried to understand it in the legislation - it was confusing - I don't think you could have both new zoning and new master plans for a municipality under the Pine Barrens Plan and still have the Municipal Land Use Law as the guide, or the legal point. If they stick to the plans that are devised under the Municipal Land Use Law, I just don't understand it. Which are they going to follow? Are they going to follow the plan they developed under the Municipal Land Use Law or are they going to come to some kind of an arrangement with the Pinelands Commission and have that be their legal plan?

SENATOR ZANE: In other words, you are uncertain as to the meaning?

MRS. BARETT: A lot of it has to do with the fact that I have not been involved in this before personally, but I know that other people have questioned it and I think that has to be resolved. It should be made very clear. In fact, that is one of our main problems with this piece of legislation; from the first rough draft we saw up until today it has been very unclear and very contradictory in parts.

SENATOR ZANE: Mrs. Barrett, may I ask you if you have any notation as to the specific sections in the bill you object to?

MRS. BARETT: Yes, they are in that packet I gave you.

SENATOR ZANE: Okay. Would you just tell me what sections they are? Just read them off.

MRS. BARETT: Let's see, we start with the whole introduction; we don't like that.

SENATOR ZANE: Which version of the bill are you referring to, June 29th?

MRS. BARETT: Yes, the 29th. The descriptive beginning even has a very pejorative attitude. We don't think that is a very nice way to start things out. It is not a positive way anyhow.

Then there is Section 2 -- provisions in the Coastal Area Facility

Review Act - CAFRA, bringing CAFRA into this which, of course, is apples and oranges in the sense also that if you follow CAFRA and have local communities approving 25 units--

SENATOR ZANE: Well, what I would like to do is to isolate how many different sections you object to. Just read them off, if you will.

MRS. BARETT: All right. There is Section 2. There is Section 5. Section 5 in (h) says: "Print in Roman". That needs clarification.

Section 7, on page 10, we believe all changes should be out. The word preservation should not replace Pinelands.

SENATOR ZANE: Look--

MRS. BARETT: Do you want me just to go into--?

SENATOR ZANE: I just want you to give us the numbers and sections, if you will.

MRS. BARETT: Okay. I did Section 7. All references to performance standards, being the last word.

Section 11 (a) because of minimum-maximum standards. We object to that. In 11 (a) also, the commission must be able to call up approvals while the plan is being approved.

Section 7 (c) and (d).

SENATOR ZANE: Section 7?

MRS. BARETT: Yes, (c) and (d) in Mr. Perskie's Bill, not the Pinelands Protection Act.

Section 14 (a).

Section 14 (c).

Section 15, where it says, "the Commission may or shall" -- unclear.

Section 20.

Section 22.

You see, another problem with talking like this is that different numbers are used, without referring to the Pinelands Protection Act or this. It is confusing as to what section numbers are what. That's why I wrote descriptions about them.

In Section 22 it says, Section 22 of P.L. 1979.

Section 26. That was the Municipal Land Use Law that I referred to before. The fact they make--

SENATOR ZANE: Just give me the numbers, if you will.

MRS. BARETT: Well, that is it as far as that is concerned.

Page 18 - 14, new section.

The section discussing setting up the bank's Board of Directors -- we wonder why no provision for avoiding a conflict of interest is mentioned.

SENATOR ZANE: In other words, your concerns go beyond the environment then?

MRS. BARETT: Oh, yes.

SENATOR ZANE: Do you have any environmental concerns within this legislation?

MRS. BARETT: Yes, indeed. I will mention the biggest, if I may.

SENATOR ZANE: Please.

MRS. BARETT: In the first place, the bill sort of leads to the idea that you drop the districting. It says that localities shall form their own agriculture districts. The forest districts are where a lot of the controversy lies and they have been from the very beginng. But, back in the days right

before the Plan was signed there were efforts made to introduce what they called new towns in the forest districts, and they said if they could get 500 acres together they could have a new town. Well, a new town, translated, means PUD, which means planned unit development, which is like Levittown, Beckett. It is a large bit of construction, plus the fact that they have commercial, recreational uses, and hotels. Smithville is a good example. So, if you are going to introduce those kinds of new towns, PUD's or whatever you want to call them, there are large numbers of people and they also require many, many human services. If that is going to go into the forest district, you can forget the Pine Barrens. The Pine Barrens can be defined by the forest. That is the basis. Then you have your other attributes, such as wild life. Everything depends upon the forest district being carefully handled -- the ground water supply, the habitat, vegetation, and recreational uses. There would be terrific conflict between the people who now live in the Pine Barrens and the new residents because the life-style would be completely different.

The Pine Barrens people have many occupations, many semi-occupations. They use the resources in different ways than we city folk do. I think I am as much concerned about preventing the forest districts from being developed into suburbs as anything else in this bill, and we would urge this Committee to really-- I know that you men are very responsible men but this is a new ballgame to you. You haven't had this type of bill before. But, we do hope that you will study it and that you will not pass this new piece of legislation.

SENATOR ZANE: Thank you very much.

MRS. BARETT: Thank you.

SENATOR HIRKALA: Is there anything in the bill that you like?

MRS. BARETT: Well, I don't like-- I will answer this way: There might be some provisions in there which are amenable. But, the fact is that it is a new piece of legislation throwing into disarray five years of work preceding it. Then there is the Watt business in Washington. And this is one point we didn't mention: It throws the municipalities into disarray. They already have scheduled how they are coming up with their master plans. They already have their consultants hired. They are supposed to be completed by January, 1982. This bill will put it after July.

Where will applications be handled? Are the applicants to be in limbo again like they were during the moratorium? This is all very -- some of it is hypothetical and some of it is serious. So, we think the bill should not be considered if there are problems.

From what I have read in the papers and from what I have heard the political people say, they are mainly concerned about the way the staff at the Commission handles things. Now, that surely can be resolved. The Commission has a responsibility as well as the public does to see that they find ways to handle the people -- and that means all people, including me. That is a priority. But, I think they can resolve those differences. They are very flexible. To our mind they were entirely too flexible.

So, I think the main objection to the bill is the fact that it is not necessary and its effect will be detrimental.

SENATOR HIRKALA: You listed various objections to certain sections.

MRS. BARETT: Right.

SENATOR HIRKALA: If some of those sections were tightened up and

met some of your objections, would you still feel that it is possible your organization could support this?

MRS. BARETT: No I don't because--

SENATOR HIRKALA: Under any circumstances?

MRS. BARETT: If they made it into an endorsement of the Pinelands Protection Act and the Plan, and even tightened up the Plan a little bit. I understand they say some of the communities are going to be overwhelmed with additional development and that isn't right either. So, there are ways to resolve the way the Plan is, I am sure they can be flexible and change it. But, I don't think that accepting the kinds of recommendations that are in this bill, Senator Hirkala, will be helpful to the Plan. It loosens it up to the point where you have conformance standards as your guide. You cannot depend upon them. (written statement on page 6x)

SENATOR HIRKALA: Thank you.

SENATOR ZANE: Thank you.

Robert Marshall, President, South Jersey Builders League.

R O B E R T M A R S H A L L: Gentlemen, thank you for having me here. Sean Reilly, the Environmental Planner for the Builders League of South Jersey will be making some presentations in our short, verbal presentation.

My name is Bob Marshall. I appear before you today as the President of the South Jersey Builders League, headquartered in Marlton, New Jersey. Our League is a non-profit trade organization representing builders.

SENATOR ZANE: Mr. Marshall, is it your intention to read this entire document?

MR. MARSHALL: Yes, sir, it is.

SENATOR ZANE: Please just submit it and let us hear your comments. Read from it or refer to it, or what have you, but we have the document. It just makes for a long day.

MR. MARSHALL: I understand.

We are part of a broader coalition, basically.

SENATOR ZANE: I might add, we will be certain this is made part of the record. (written statement on page 15x)

MR. MARSHALL: Thank you very much.

The broader coalition is the Coalition for the Sensible Preservation of the Pinelands. During the Pinelands process we were very instrumental in providing very thoughtful engineering analysis, legal analysis, economic analysis, and the hardship cases that the Pinelands presented itself with.

We believe, basically, that the Perskie Bill, 3335, does not deal with the substance of the Pinelands Plan, which we basically feel has some fatal flaws and we will show you graphically what we believe those flaws to be.

We believe that the bill simply attempts to make the Plan more locally acceptable through the process of administration. We do believe there is something to be said in support of the bill, and probably the basis of support from Governor Byrne is the fact that it attempts to return administration of the Plan to the original concept of regional oversight of a locally implemented plan.

When the Governor's Counsel, Mr. O'Hern, was serving as Commissioner of DEP and acting as the Administration's spokesman for the Pinelands legislative

process, he assured the committees that were hearing the bills at that time that after the preparation of the regional plan the bill would act as an overseer to local implementation and, in effect, to act like a quality control agency.

The headstrong Commission, however, bolted from that point of view and is headed on a course which clearly needs legislative redirection. This is one of the only positive developments in the Perskie Bill in our opinion.

SENATOR ZANE: Could I hear that again, please?

MR. MARSHALL: Okay. We believe that we need legislative redirection on part of the Perskie Bill. We think that returning the control to the local municipalities and having the Pinelands Commission act as an overseer, which was O'Hern's interpretation of the original bill, is exactly the way it should be and was the original intent.

I would like to bring up one example here in our presentation -- a good example of how far afield the Commission has gone with its planning. An applicant requested permission to raise pheasant and quail on his three point four acre lot in the preservation area and sell quail eggs. The Commission's ruling was that, yes, he could raise the pheasant and quail because that was a permitted wildlife management use under the plan. However, he could not sell the quail eggs because that was an agricultural use and the only agricultural uses permitted in the preservation area are, (1) berry culture; (2) horticulture of native plants; (3) timbering; and (4) bee keeping.

SENATOR ZANE: Had he previously been engaged in that activity?

MR. MARSHALL: No.

SENATOR ZANE: I would like to know what happened to the quail eggs.

MR. MARSHALL: So would we.

We think this example shows clearly that the Agency has gone wild with the Plan, and we think the Legislature must come to the rescue of reasonableness in the Pinelands Plan.

We do not think Senator Perskie's bill adequately addresses certain types of land use, and that is our major objection.

I would like to present some more shocking information in terms of graphics. Sean Reilly will show them to you. They point out a lot of the horror stories.

The map in exhibit 1 shows the orange colored areas, which are the proposed growth areas in the Pinelands Plan. The Plan proposes to direct 25,000 housing units, expected in the next ten years, into the remaining developable parts of this coded area, equaling less than 4% of the Pinelands area. Not only is the area designated to accepted the growth too small to let the free marketplace compete to build a range of affordable housing, but virtually none of the area has sewer and water service to accommodate the growth.

In effect, this means there will be a moratorium of at least, we estimate, three to five years until systems are approved, built, and funded. And, with the Federal cuts that President Regan has put in place and with the State cap and the financial hardship to the towns, these plants and facilities will never be built.

It is clear to any logical observer that the private sector, that is business and industry, will have to work together within municipalities to share the cost of providing these sewer and water services.

The final "Catch 22" is if a builder tries to build at less density than was provided for in the Plan, requiring no public water or facilities

in order to meet the town's wishes, the Commission will therefore deny the project for not meeting the area growth needs.

Exhibit number 2 is the map of the State of New Jersey showing the virtual impossibility of any immediate relief for normal growth outside the Pinelands area. The yellow coded areas across the map from northeast to southwest is the proposed growth corridor in the Department of Community Affairs proposed State Development Guide Plan, which recently was approved.

The red dots represent municipalities which have been under a sewer ban ranging from two to thirteen years in duration, and today are still polluting those streams that they dump their effluents into. Areas in the south Jersey growth area which do not have red dots generally do not have public sewers. Virtually all of the logically and practically developable growth areas are under a sewer ban in southwestern New Jersey.

Exhibit number 3 is a graphic depiction of the sewer ban problem which shows each town and the duration it has been under sewer ban. This is a very sad chart, gentlemen. The 52 bans here affect approximately 95 towns statewide and have been in place for up to 13 years. The bans with the red 'x's' above them are plants which we have determined from the DEP's files are polluting the State's waterways and have no hope of Federal funding to correct the problem.

The myth concerning Federal funds to resolve sewerage facility problems has to be exploded. There is no fiscal year 1981 or 1982 Federal sewer water funds to help the Pinelands Commission growth areas or the 95% of all the towns under sewer bans. And, we have information that there are about to be another 48 sewer bans placed.

SENATOR ZANE: For the record, would you explain the sewer bans?

MR. MARSHALL: Pardon me?

SENATOR ZANE: For the record, would you explain what you mean by sewer ban?

MR. MARSHALL: In 1972 the Clean Water Authority Act came out and in effect said that within a certain time frame towns would have to clean up their act in terms of polluting the waterways. The Federal government was to supply 75% of the funds for each town or municipality or MUA to provide sewerage for its town or municipality. Over the period of time from 1972 to 1981, as you can see by this chart, the demands -- in 1971, Sean, I think it was a couple of million dollars. As we go along there - I will run through it - the 1981 comparison of funds available, contrasted to the 231 municipal and regional sewer project applicants, including the towns under sewer bans, shows the disparity, the difference between the demand, which are the red lines, and the blue and green lines of the supply. It is \$3.2 billion. That is the difference between the available supply and the actual demand.

SENATOR ZANE: Mr. Marshall, are you speaking on a statewide basis?

MR. MARSHALL: Yes, I am, sir.

SENATOR ZANE: Then this is not really on the bill, is it?

MR. MARSHALL: This is just New Jersey.

SENATOR ZANE: Please explain the connection between that and the Pinelands bill.

MR. MARSHALL: Okay, the connection is this: All of these overlapping regulations, including the State Guide Plan - the yellow areas where growth is to occur under the mandated State Guide Plan - and the available sewers

for the growth to occur is a myth; it is not there. The Pinelands, therefore, by its restrictive nature, in pushing growth to the areas where the State says that growth can occur -- it cannot occur. It is a contradiction. There are 52 bans in place right now, with a possible 48 within the next six months, and there is no Federal money to provide for sewage expansion, which means development. The densities in the Pinelands being only 4% of that area, with no apparent sewerage and no water, will not be able to get money from anywhere to build those facilities and no town in that area will be able to fund those facilities themselves. If you had to just solve the Camden problem right now, with Camden alone the town would be more bankrupt than it already is.

We basically feel that we have got to come back to reality with the Pinelands Plan. We can support, and we do support, the Perskie amendment, although we don't feel it goes far enough in terms of answering the questions of where will the people live; where will the sewer be provided; where will the water be provided; and who will fund those items.

In closing we think that it is also too complex to work out with the bill and we reluctantly support S-3335 in the hope that if the municipalities are given a greater voice in the process, their more unified reason may prevail and correct the specific deficiency of a Plan gone wild.

Mr. Chairman, thank you for the opportunity to present our views. Sean Reilly, our Environmental Planner, and I will answer any questions you may have.

SENATOR ZANE: Does anyone on the Committee have any questions?  
(no questions. Thank you very much.

Mr. Richard Squires. I believe he is the Director of the Atlantic County Board of Freeholders.

R I C H A R D E. S Q U I R E S: Good morning. At this time I would like to identify myself as Richard E. Squires, Chairman of the Atlantic County Board of Freeholders, as well as a municipal Certified Tax Assessor in Atlantic County with Egg Harbor Township.

My concerns are a little bit different than most of the people who are possibly concerned with this bill. I support Senator Perskie's bill for these reasons: We in Egg Harbor Township have inherited a solid growth area and as a tax assessor, I must point out that the people are going to be paying for an awful lot more in services in a shorter period of time than the normal flow of zoning would permit.

I also have to bring to the attention of this Committee that the tax ratable base that we all recognize exists on an annual basis, has already been affected by word of mouth as to what the Pinelands legislation has done prior to this bill. Many people have felt that automatically they were curtailed and not personally in a position to get any additional use out of their land. I, as an assessor, can tell you that is not the case and I think clarification of those problems is too slow in being announced.

As far as the productivity of a bill such as this, we in our area feel that this is definitely the right direction to help give the local municipalities back the right to administer their zoning ordinances in such a fashion that they were brought up to date back in about 1979 on State construction. Most of the municipalities in Atlantic County definitely have brought their master plans up to date and feel they can address where zoning and preservation

should continue to be. There is no question that we are very much impressed with the preservation area; it is the protection area that we get into problems with. We find that duplication of rules and regulations certainly slows down the building processes, where those individuals are not the large builders, as I might constantly hear, but are individuals where families have always tried to have their remaining members, sons and daughters, build on the same farmland tract, or something of that nature. These kinds of people have been hit with such bureaucratic tape that in many cases it causes a financial burden on the families, and I mean not just the ones who are young, getting married, and starting out, but the mothers and fathers also where they have tied to keep them close to either the plant or to the home town businesses that they have established over their lifetime. The cost of construction constantly changing will affect the amounts of money they have saved towards the day they will be able to finally get their project underway, whether it be a residential home or a family homestead along an area of land they have owned for years, saving it until the 80's, when they were financially in position to start construction.

Our obligations here, I feel, are to recognize each and every property owner as opposed to rumors that we constantly hear of protecting the big land holders. I am still concerned that there are more of the smaller numbers of people being affected than has ever been publicized.

In closing, I would just like to say that if you have any questions I would certainly be glad to answer them, but I am here supporting Senator Perskie's Bill, Senate Bill 3335.

SENATOR ZANE: Freeholder, with your county being so much a part of the Pinelands area, have you experienced any particular difficulties with the day-to-day operations and functions of the decision-making process of the Pinelands Commission itself?

MR. MARSHALL: Yes. Let me say that you must remember that with the casino industry we are under one mandate, to provide housing. Automatically, that runs into the Pinelands restrictions and the red tape for the application processes. Many, many of the people and constituents who have come to my office and who have applied locally for approvals, for some reason or another have been delayed or, in many cases, turned down, and the individuals cannot afford all the paperwork, the architectural and engineering forms that must be prepared. And, I am talking about the small guy who is doing one or two houses, not the one who is building twenty-five or fifty homes. We do now get copies of the correspondence which never came across the tax assessor's or the Freeholder's desk until that last couple of months that the Pinelands Commission has been acting on it.

I think a lot of the problems that come to my ears have been from the staff, people acting on behalf of a law that they really have interpreted for themselves.

SENATOR ZANE: Have you found the action of the Pinelands Commission to be unreasonable at times?

MR. MARSHALL: I personally have not appeared in front of them. However, I have had personal stories brought to my office on a weekly basis. As I said, I am a tax assessor and those people cannot understand why they are asked to pay taxes on something they no longer have the use of. It does make it very difficult for the tax appeal laws of New Jersey to perform

the job that goes with the other collar I wear under the tax assessor's hat, because whenever someone is refused an approval for the use of their land, they automatically take it as a decrease in value. Many times their original denials have been because they have to do certain other requirements to meet the qualifications. That is when I say it gets into a lengthy process.

SENATOR ZANE: Mr. Squires, would your position be the same if you were not under a mandate because of casinos in Atlantic County? Would your support of the bill be the same if you were not under that mandate for growth?

MR. SQUIRES: Definitely, because I come from the individuals and their problems as opposed to-- You know, I have been in this business since 1962 and I can only tell you that people have spent their last dollar to pay their taxes, which I have seen many families do by sometimes avoiding their pharmacy bill and their doctor's bill in order to pay their taxes. Then when they have planned their use for it - I am talking about the clanish families - it is just a shame because no one can explain to them that they cannot do it with what they thought was a large enough parcel to do it with.

SENATOR ZANE: Does anyone else on the Committee have any questions? (no questions) Thank you very much, Mr. Squires.

Mr. Kenneth LeFevre, Atlantic County Freeholder.

K E N N E T H     L e   F E V R E: Thank you, Senator. Again, for the record, my name is Kenneth LeFevre. I am a Freeholder at-large of Atlantic County and also Vice Chairman of the Board of Freeholders.

In the last two and one-half weeks I held two public hearings to solicit input from the public concerning their dealings with the Pinelands Commission and staff relative to application approval for development and for waivers and letters of interpretation. And, as a result of those two hearings, which provided approximately five hours of testimony, one thing became very clear to me, and that was the injustices that have been imposed upon the people who live in the Pinelands -- the little people.

The real Pinelands issue, which is seldom considered, is the affect the current Plan is having on the working men and women who presently live, or who hope to live, in the Pinelands.

As a result of the two public hearings I held in the last two weeks, I can now cite to you dozens of illustrations of the ruinous effect this present Plan is having on the little people. Can there be any justice in this great land when the designated guardian of our rights is the purveyor of such unjustifiable and unnecessary human grief? The State weeps whenever a Pinelands tree is bulldozed down; yet, it displays brutal insensitivity to the uprooting of Pinelands families, to the desecration of their tradition, heritage, culture, and way of life.

It is not the big builder who is being devastated by the State's building ban; it is the little people who are being financially and psychologically destroyed. In its obsession to block big builders from further development in the Pinelands, the media has ignored the suffering inflicted on those little people. Their plight is very real, and their grief and heartaches are terribly distressing to all of us who witnessed their testimony at my two public hearings. We only hope that the Legislature will address these great injustices before it is too late.

A new approach must be taken toward protecting the Pinelands. Reaching agreement on the fate of the Pinelands that would satisfy all concerned is

probably impossible. There are those environmentalists who would still like to leave the entire area untouched and who are dedicated to safeguarding this eco system, but who have given no thoughts to the rights of individual property-owners. Then there are those who still insist that sizeable portions of the land should be used to meet pressing demands for development in south Jersey, in Atlantic County. So, the quest for a happy medium still continues and there is no reason to believe that final approval of this latest bill, S-3335, would end once and for all all the great Pinelands debate. But, what I perceive as the single greatest problem with the plan to date has been the lack of local support for the Plan in its present form.

If a preservation plan is to work, it will take the approval and cooperation of local officials, which this Plan has failed to achieve. I strongly believe that decisions to be made about the area must be made by the people who live in the pines communities, many who contend they can look after the place themselves and resist what they see as a bureaucratic meddling by the Federal and State governments. This bill, S-3335, would reverse the present planning process by empowering the municipalities to draw their own zoning plans, subject to approval by the Commission, rather than having the Commission compel the municipalities to conform to its own plan. We all believe we have to protect this valuable eco system. The only question is how we can reach those goals together. Now is the time for many groups that have been squabbling over the future of this natural wonderland to minimize their differences and start seeking areas of agreement. A new approach must be taken towards protecting the pinelands, and I believe that this bill, S-3335, is that first step. Thank you.

SENATOR ZANE: Thank you very much. Are there any questions from the Committee? (no questions)

Mr. Robert Stobbart, Pinelands Commissioner, Cape May County. Mr. Stobbart, you know our request about prepared statements. If you would submit it, we would like to hear your comments as opposed to having you read it to us. Thank you.

ROGER STOBART: Thank you for this opportunity to appear before you this morning. I have submitted copies of my statement. As you stated, I am the Commissioner from Cape May County. I am going to briefly summarize my statement. I believe Elwood Jarmer, who is our Planning Director, has already spoken. So we may cover some of the same ground.

The County of Cape May and the four municipalities in the Pinelands National Reserve within the county have unanimously opposed the Comprehensive Management Plan since its inception. They continue to do so. They have refused financial aid. They have pledged noncompliance and they have not wavered from that pledge. There is no reason that I can find to believe that they will voluntarily come into compliance unless meaningful changes are made in the application of the Plan and its effect within Cape May County.

If that doesn't occur, I think an already overburdened and overworked Pinelands Commission staff very well may find itself with the added responsibility of implementing and enforcing the Plan within Cape May County, as is mandated in Section 3-701 of the Plan. And I think similar situations exist in other counties and other municipalities. This is a real danger. The staff is already stretched, I feel, rather thin. I received a memo from our Executive Director within the week, in which he indicated that there is necessary a 16 percent cut in the personnel on the Commission staff. That cut is made necessary by budgetary constraints and, in spite of that, I received also within the last week a memo from the Budget Subcommittee, in which they indicate that they cannot live within the \$900,000 budget allotted and are suggesting an interim budget that is fully \$148,000 above the allotted budget.

It would appear that an additional workload brought about by the staff being forced to implement the Plan throughout the Pinelands might well be the straw that breaks the camel's back.

In some ways the Commission appears to me to be floundering. It is polarized. There is not movement. There is not ---

SENATOR ZANE: How is it polarized?

MR. STOBART: It is polarized, Senator, in that there are those who feel that radical changes are needed and there are those who from the beginning have been in my judgment dogmatic that what is must be and that there can be no changes. The makeup of the Commission is such that the powers who feel that there are no changes needed have a majority, such an overwhelming majority that no compromise can occur. Anyone who disagrees is simply rolled over.

The staff, I feel, is to a degree over its head already in terms of keeping up with the work at hand and we face further staff reductions.

The Pinelands development system simply has not worked. There has not been a single Pinelands development credit change hands that anyone knows about.

Eventually, in my judgment, we will end up with a sensible program for preservation in the Pinelands. I think the important question is whether that program will take place under this administration and with this Legislature or whether it will take place as the result of a salvage operation and corrective measures taken by a later administration and a later Legislature.

The people of Cape May County are sensitive to their land-use needs. They feel that they have good professional planning. They demand good professional planning from their municipal and county leaders. They are receptive to additional input, additional information, additional advice. They were justifiably outraged at the arrogance of a Pinelands Commission that came into the county and zoned the preponderance of the land in the Pinelands area in Cape May County for one dwelling unit per 15.8

acres when the DEP standards and the standards accepted nationally would require less than 1 acre per dwelling unit. They were outraged when the Pinelands Commission located the only high-density development area in Cape May County in an area that hasn't sewers, has no plans for sewers, has no funds to build sewers. The effect of this is that there is no relatively high-density area within Cape May County in the Pinelands.

They resent what they perceive to be - and I think correctly perceive to be - an indifference on the part of the Pinelands Commission as to their planning needs and their desire to offer input into the Plan.

On the other hand, I think they are receptive to rationally supportable performance standards within which they can establish their own planning patterns within their own goals and in a locally independent way. I think they are receptive to the standards that would bring about the result that I believe the original Pinelands Protection Act attempted to bring about.

Senate Bill 3335 certainly doesn't solve all the problems with the Pinelands plan. There remain, I think, questions of interpretation. I think there are questions of implementation and the bill certainly doesn't do away with what I perceive to be a deeply ingrained mistrust of the Pinelands Commission and its staff.

Senate 3335 does appear to provide a basis at least for a cease-fire and renewed negotiations. It does appear to provide a mechanism for a sensible protection of the Pinelands. And it does appear, I think, to provide legislative guidance and direction to a Commission that I think without that guidance very well may fail in its important mission to protect the Pinelands. I think 3335 points in a direction which may result in cooperation between some of our municipalities - maybe all of them - and the Commission, and may ultimately lead to a plan that everyone can live with and the conformance of the communities in our county and probably the same in other counties.

Thank you for your attention. (See appendix for written statement.)

SENATOR ZANE: Mr. Stobbart, are you suggesting that the cuts could be lived with by the Commission if, in fact, some of the responsibilities were passed on to the local municipalities as opposed to the Commission, itself?

MR. STOBART: Yes.

SENATOR ZANE: Are the cuts primarily in the technical area for the plans and what have you?

MR. STOBART: I was given a copy of the budget in the last few days and in a brief look at it, they seem to be across-the-board cuts. There are some technical personnel that have been cut. There are some clerical personnel that have been cut. There is the need to shift the duties of certain technical personnel back and forth between the planning and the review staff.

SENATOR ZANE: Mr. Stobbart, there has been some suggestion when we first considered this bill before our committee that there was a problem of attendance by the Pineland Commissioners themselves. Is that accurate?

MR. STOBART: I joined the Commission in September, I believe, of 1980. Before that, I was on the other side of the fence. One of the things that outraged me the most was attending meetings, attending hearings, hoping to offer input and finding very frequently very, very few Commissioners present.

SENATOR ZANE: You meet how frequently?

MR. STOBART: The Commission now is supposed to meet once a month, although at the May meeting there was no quorum.

SENATOR ZANE: It is my understanding that there are 15 Commissioners; is that correct?

MR. STOBART: That's correct.

SENATOR ZANE: What is the average attendance at the meetings by the Commissioners, themselves, who make these decisions?

MR. STOBART: I would think in excess of 10 on the average, possibly 12. Only once in my experience have we ever lacked a quorum and that was a meeting that had been rescheduled on rather short notice.

SENATOR ZANE: I have two other questions. What was the rationale offered by the Commission to establish a ratio of 1 dwelling unit per 15.8 acres in your county? That, I imagine, was in the core area.

MR. STOBART: No, that is in the protection area.

SENATOR ZANE: You can't construct within the core area, correct?

MR. STOBART: We are as far south as you can get. We are far away from the core. The decision, the determination, is based on a water quality standard, the theory being that the greater the land area, the more rain will fall on the land area, the more water will be available to dilute the nitrates produced by the septic systems. The accepted level - the generally accepted level - nationally and by the DEP is 10 parts per million, except in some very special areas that I think very few people are complaining about. But in the run of the mill areas, the Pinelands' standard is a great deal higher than that and it necessitates this ---

SENATOR ZANE: What was the recommendation by DEP or the standards if you are familiar with them?

MR. STOBART: DEP's standard, except as to critical core type areas, is 10 parts per million.

SENATOR ZANE: No, no. I mean as to the ratio of dwelling units.

MR. STOBART: They don't make that recommendation.

SENATOR ZANE: I misunderstood that. I thought in your earlier testimony you indicated that there were DEP standards.

MR. STOBART: They have water quality standards and you can calculate from the water quality standard what the resultant lot size would be.

SENATOR ZANE: Did you make that calculation?

MR. STOBART: I haven't; many others have.

SENATOR ZANE: Do you know what that was in the same area?

MR. STOBART: I do within a couple of thousand square feet. It is slightly less than 40,000 square feet, which is slightly less than an acre.

SENATOR ZANE: In other words, the Commission established a standard nearly 16 times higher?

MR. STOBART: That is correct.

SENATOR ZANE: Does the Governor have veto power over your minutes and proceedings?

MR. STOBART: Yes, he does.

SENATOR ZANE: Would something like this have been called to the attention of the administration? Are your minutes that detailed on decisions such as this? If you don't know, ---

MR. STOBART: The minutes of all the meetings are submitted to the Governor. Today, I believe the minutes are submitted sequentially. When I joined the Commission, they were not being submitted sequentially. In my judgment, there has been a problem with the completeness of the minutes and this is something that we frequently discuss at the meetings. But the plan, itself, was submitted with the minutes of the meeting at which we adopted it. Certainly all these standards are there.

SENATOR ZANE: Okay. Thank you very much. Do any other committee members have any questions?

SENATOR DUMONT: Is your count per quorum 8 out of 15?

MR. STOBART: That's correct.

SENATOR DUMONT: How many are usually present, 10 or 12?

MR. STOBART: That would be my guess.

SENATOR DUMONT: There is no salary connected with being a Commissioner, is there?

MR. STOBART: No.

SENATOR DUMONT: Is there any expense connected with it?

MR. STOBART: Very little. There is driving expense and that is reimbursed.

SENATOR DUMONT: Thank you.

SENATOR ZANE: Thank you very much.

Candace Ashmun, Pinelands Commissioner.

C A N D A C E M. A S H M U N: Senator Zane, thank you, and thank all of your colleagues for the chance to comment.

I think I would like to restrict my comments to the parts of my statement that deal with local conformance. Professionally, I work with municipalities all over the State in trying to get their quality of life and environment in line with their social and economic problems. So I have dealt for many years on this basis.

I think it is important for this committee to understand how the conformance is going and what it relates to. It is my opinion that this particular bill at this time is unnecessary. There are many things in there which are already happening and which do not need to go through the delay of the legislative process right now. I think that we will be doing the local officials and the residents of the pines who are trying to protect themselves and their resources from exploitation and court-imposed zoning a great disfavor. It delays and clouds the issue of conformance in my opinion.

It has been stated that the changes suggested in this legislation are only cosmetic. I think they are substantive and will have a negative effect on the municipalities in the pines who are acting in good faith. All 38 of them are working in good faith to bring their Land Use Act into conformance with the Pinelands Protection Act. It is interesting that they are all familiar with working under the former statute of the Municipal Land Use Act. One of the things that is accomplished under this process is that we are really doing the things that are asked for in the Municipal Land Use Act, but we are doing them without costing money for data gathering. We are doing them without extra money for a lot of the things that have had to go on in other developing areas of the State. The staff and the funds of the Pinelands Commission have been available.

In the Land Use Act, the Legislature asked for regional planning. They asked the towns to deal with regional concerns. And, in this case, that is what is being done.

I think those of you who have read the Plan will remember that in each of the implementing articles and purpose sections there is a review of the goals and objectives of the State and Federal acts and there is also a policy statement on the part of the Commission regarding the flexibility of the implementation. I would like to read you just one small quote: "However, it is a policy of this Plan to allow municipalities the greatest degree of flexibility and discretion in the preparation of local plans and ordinances, so long as the plans and ordinances do not conflict with the ultimate objectives and minimum requirements of this Plan. . ."

It goes on to say: "...This Article permits the Commission to assess local decisions on an individualized basis and will preserve local discretion to the maximum extent practical, provided that local preferences are in fundamental harmony with the overall objectives of this Plan."

I think you will find that municipalities which have entered into this conformance process have found that local control is far from dead and, in fact, the planning called for in the Plan is basically an implementation of the earlier Municipal Land Use Act.

I think you will find that the towns that are acting in good faith - and there are 38 of them - are not stone-walling the Commission. They are coming in and they are finding that we who are on the Conformance Subcommittee of the Commission are working to adjust everything we are doing to everything that they need. If regional planning is your business, you know you don't do it on an inch by inch basis. That has to be done at the local level. That is what we are trying to do now: adopt the regional concerns and let the local municipalities work into the system.

I think you will find the officials - and you have heard today - predominantly county officials - clearly feel that good planning is a threat. I don't feel that way about the municipalities. I feel very strongly that the people of the pines and the people of New Jersey and all of you and all of us should be worried about helping the towns protect themselves. (See appendix for written statement.)

SENATOR ZANE: Thank you very much.

SENATOR DUMONT: Commissioner, if you believe this is not going to destroy home rule, why are there mayors and freeholders here supporting the bill and opposing the work of the Pinelands Commission as it now exists?

MS. ASHMUN: Well, I don't feel it destroys local control because I think what has happened is that the Plan has been developed and the 38 towns that are working with us have found that it does not destroy local control. We are not doing local zoning; they are doing local zoning. They are making those decisions. They are not being made by the Pinelands Commission. The guidelines that are asked for in this Act --- and one of the things about this Act is that there are so many things in the amendments that are already happening, that are already being done on a day-to-day basis. If we start messing around with legislation and start having the Secretary of Interior holding things up, we are going to have all these towns at a standstill. The problem of who designates agricultural production areas - the guidelines are already there. They don't have to be put into a new Act. People are going to be standing and waiting to exercise their Pinelands development credits. The reason that we don't have credits working now is because the towns haven't finished their zoning and it can't happen until there is a receiving area having been designated by a town. Those things need to move ahead. I think we are just causing real problems at the local level by not moving on and we have been working hard to move on.

SENATOR ZANE: Thank you very much.

Maybe we will hear from some of the local officials. Mr. John Heinz, Mayor of Egg Harbor Township.

We have a long list of speakers and we had originally planned to somehow try to limit each witness to three minutes if possible. I would ask each succeeding speaker to do that or we are going to be until the wee hours of the morning.

J O H N H E I N Z: Thank you, Senator.

First of all, I would like to tell you that I am the Mayor of Egg Harbor Township. I was former Conservation Commissioner for that municipality. So I feel I have some background on the subject. I am also President of the Mayors' Association

in Atlantic County.

Egg Harbor Township is a municipality of some 68 square miles immediately adjacent to Atlantic City. We share a common boundary with many of the island communities. The reason I am mentioning this is because during the latter part of the 1970's we did, in fact, experience an 87 percent growth factor. And I want to draw your attention to the fact that under the Pinelands Plan, Egg Harbor Township has been designated as a major growth zone. Obviously, that consideration of the tremendous growth that had taken in the '70's was not considered.

I am particularly concerned about the fact that as a mayor, as a very active mayor, as a Planning Board member for some 4 years, at no time did I feel that I had an opportunity for proper input on the Plan. In the preamble to both the draft and the adopted Plan, it was very clear that in order for the Plan to be successful, acknowledging that there would be a need for housing because that inventory, in fact, was very short, certain municipalities were going to have to play a key role in providing housing.

My position in opposition to the present bill is slightly different than a majority of the municipalities in as much as this Plan calls for absolutely unprecedented additional growth in an area which has absolutely no infrastructure. The draft plan was passed on to the municipalities and, after the draft plan was passed on, our engineer for our local municipal Utilities Authority was asked as to the existence of infrastructure. In other words, the regional growth zone was already established. By the way, coincidentally, the growth zone begins exactly where the infrastructure ceases, simply indicating the lack of local input.

Gentlemen, I particularly want to call your attention to the fact that the Legislature, and rightfully so, called upon the mayors of the subcommittee to provide input to the Pinelands Commission in the development of that Plan. I want to bring to your attention that those meetings were scheduled for Sunday afternoons during the summer months, for one, and obviously you can well imagine the attendance and all being elected officials, you know the demands placed upon us for our family life and you know how impractical a Sunday afternoon meeting is.

I also want to bring to your attention that anyone who could think that a format, bringing 52 mayors together to discuss the intricacies of their own master plans, is absolutely ludicrous. I think this is the failing of the Plan. It is an attempt to group together certain land masses and to suggest and, in fact, impose specific land usages which as local officials - and keeping in mind that we have expended great sums of money to devise our own master plans - we would not recommend.

Since the Plan has been adopted and seeing approvals which are completely contrary --- in fact, according to a newspaper account, one of the commissioners stated that the Commission fully realized that Egg Harbor Township would be a sacrificial lamb. I am not quoting, but that was the basic intent, that there were certain sacrifices that would have to be made. My contention is that if the goal of this Plan is preserving the environment, that no community should have to be a sacrificial lamb. We have an application right now that has been submitted to the Pinelands Commission where the developer was recommending, based on local zoning, 30 units on a 37-acre tract. That particular project was rejected by the Pinelands Commission with a recommendation for 124 units because the project was not dense enough. This, again, is in an area with no infrastructure, no city water, no city sewer.

The transfer of development rights I am very concerned about because obviously the growth zones are one of the areas where one can exercise that

right, so it is targeting growth in those areas. The very unique thing about my municipality is the fact that we do not have a local purpose tax. It is a somewhat enviable position, but I think I owe it to my constituents to try to maintain that situation for as long as possible, basically because we have a very strong commercial tax base. You realize in order to cope with the demands made by the public in terms of municipal services, that position of having no local purpose tax will be very short lived. When I have to go to a local purpose tax, my ability to respond to this type of development called for in the Plan is going to be absolutely zero.

SENATOR ZANE: Mayor, I am going to ask you to try to conclude your remarks on the bill.

MAYOR HEINZ: Basically, I am in support of the bill because I feel that it will return the local control. As a matter of fact, I am a strong proponent of the fact that we can have a good workable marriage with this bill. Mrs. Ashmun I think was absolutely correct. I, as a municipality, cannot afford to hire the professionals to obtain the environmental documentation that is necessary. That I appreciate. We can work it out. But it should be administered locally because I feel that we understand our area. We know our area.

One other very quick observation that I would like to bring to your attention is the fact that in my municipality is one of the few areas where the Pinelands does not apply in the mid-point of the municipality. In fact, we have Route 559. The center line of that road is a high-growth Pinelands district. On the other side of the road is the limited or nongrowth CAFRA zone. There is absolutely no reason. There is nothing unique about the center line of that road from an environmental standpoint that should make this difference. As a matter of fact, I was recently rejected a CAFRA planning grant because of its low-growth designation. So it is totally inconsistent with the Pinelands Plan.

SENATOR ZANE: Thank you very much. Are there any questions?

MAYOR HEINZ: I would like to submit this letter that came from a resident. I think it typifies the sentiments. (See appendix for letter.)

SENATOR ZANE: Thank you.

Mr. John Rauscher, Waterford Township Committeeman and President of South Jersey Sportman's Cooperative.

J O H N R A U S C H E R: I would like to thank you for this opportunity to speak this morning. I speak in several capacities. One, I was born and raised in the Pinelands area. I have watched the change in development over the years. Secondly, I am a committeeman in Waterford Township, which is right in the heart of the Pinelands area now. Thirdly, I publish a newspaper for sportsmen, called "Sportsmen's News." Our current circulation is about 30,000, strictly in South Jersey. Fourth, I am Chairman of an organization called the Outdoorsman's Action Coop, which was formed last year to try and resolve some of the problems caused by Section 23 (b) of the Pinelands Act, which involved closing of roads, the Pinelands access roads, which the sportsmen are very much interested in.

We started out on an adversary basis with the Pinelands Commission. At least, we felt it was. We wound up in a cooperative situation with them. Their help was greatly appreciated and they are working with us and appreciate our help. Section 23 (b) was changed because of our efforts.

OAC represents 15,000 sportsmen in Southern New Jersey. Our feeling about the Pinelands Act, speaking for the OAC, ---

SENATOR ZANE: What are your comments on this bill? Would you restrict your comments to this bill?

MR. RAUSCHER: We have no wish to see the Pinelands Act changed as it

stands now. The simplistic feelings of the sportsmen are - and they are simplistic at this point - that if something isn't done now to save this area, it will not exist in a very short period of time.

As to my feelings as a resident of the area, I have seen things happen that are alleviated now by the Pinelands Act and have been. A small example if I may give one: In the township where I live and in which I am a committeeman right now, at the time the Act was going into effect, houses were being built in swamp lands. It was dry swamp land at that point because it was a dry year. The township has since spent roughly a quarter of a million dollars to solve the problems created by that building - and they probably never will be solved completely - situations such as houses being built and the builder buying the house back from the owner, filling the cellar and putting a slab under it, in order to solve a water problem that shouldn't have existed to begin with, simple things like this that the Pinelands Act has changed and will change.

As far as development goes - and this is what we are talking about as I understand the amendments proposed - if it is allowed to go on unchecked, there will be consistent and uncontrollable problems as we have had in the past down there. The Pinelands Act, itself, has not stopped development. I have direct experience with this. But because perhaps of a shortage of staff, which I know they are subject to, things move slowly through the Pinelands Commission - applications for development and this type of thing. As a committeeman now, I can say Waterford Township is working with the Pinelands Commission, replanning the township, redoing our master plan. It doesn't stop development. It changes it. It limits it in some cases. Some people may be hurt on an immediate basis. Based on what I have seen and based on what I know about the situation with Pinelands credits and the flexibility built into the plan, it is not going to be a serious problem over the long term.

If we go back to a situation where the Act is made ineffective or is eliminated for some reason, we won't have a Pinelands area to deal with shortly. There are areas in Waterford Township and other places where development has taken place right up to the edge of the State forest, this type of thing. It is impossible to use those areas for recreation with housing built within a hundred yards of it. There is no possibility at all.

I support the plan as it stands. I do not wish to see these amendments take place. Dilution of this plan, I think will result in a return to where we stood before, which will not be a good situation for the residents or the Pinelands area itself.

SENATOR ZANE: Thank you very much. Are there any questions? (No questions.)  
Mike Lacey from the League of Municipalities.

M I C H A E L L A C E Y: Good morning, gentlemen. I will make my comments extremely brief.

SENATOR ZANE: Good.

MR. LACEY: While many sections of this bill that return authority and power to Pineland municipalities appeal to the League, we are concerned with the new sections of the bill that deal with the development credits. For this reason, because of the impact and the importance of this legislation, we would like to request that it be held to allow for distribution and close study of it. That, basically, is my statement.

SENATOR ZANE: Thank you very much. Any questions?

SENATOR DUMONT: How long do you suggest it be studied?

MR. LACEY: We would like to see the bill be available in printed form from the library so we can distribute it to our Taxation and Finance Committee and also Planning and Zoning Subcommittees. I would say basically a month after the

bill is available, just to allow for review by people in the field because of its technical nature.

SENATOR ZANE: Thank you very much..

Stephen Lee, a cranberry and blueberry grower.

S T E P H E N V. L E E, S R.: Good morning, gentlemen. My name is Stephen Lee. I am a blueberry and cranberry grower right in the heart of the core area.

I appreciate this time to be able to talk to you because this is the first time that any of us that live in the area that has been affected have been able to sit and talk to people that are listening. And we appreciate it.

I am not going to take any more of your time. But we do appreciate this. I believe the points I wanted to make are in those papers. Thank you very much. (See appendix for written statement.)

SENATOR ZANE: Thank you very much.

Peter Furey, Director of the Coalition to Save Agriculture. (Not present.)

Franklin Parker, Pinelands Commissioner. (Not present.)

Terry Moore, Executive Director of the Pinelands Commission.

T E R R E N C E D. M O O R E: Thank you, Senator.

Mr. Parker asked me to send his regrets. He had a family operation this morning, so he was not able to attend.

I would just like to bring to the committee's attention three points within this proposed legislation, which I think should be touched upon. They relate primarily to Mr. O'Hern's statements before this committee at its last session on seven or so points regarding the Governor's support or non-support of this bill.

One, of course, related to a position that if there were significant changes necessary within the plan, itself, substantive rather than procedural changes, that such action would prove to be of some difficulty. I would like to bring your attention to page 10 of the bill which has the language regarding the protection area, which indicates very basically that the primary source of the plan's basis shall be performance standards. I think that I could state quite clearly to this committee and that I would have to recommend very clearly to the Pinelands Commission that if performance standards are the sole basis of the comprehensive management plan proposed under these amendments, it would result in substantial revisions to the present plan because that plan is based in one case on management areas which I believe by this reading would have to disappear from the comprehensive management plan. This is also a provision that was looked at very carefully by the Department of Interior in its environmental impact statement that was done on the comprehensive management plan and was dismissed as a basis for the plan as less appropriate than the one that is contained in the present plan.

SENATOR ZANE: Mr. Moore, doesn't the language that you are referring to suggest that the performance shall be consistent with your comprehensive management plan, the existing one?

MR. MOORE: I believe it suggests, Senator, that they should be consistent with performance standards contained within the CMP. There was language previously within the bill, which has been removed as of last week, which would have made all local determinations consistent with the comprehensive management plan and the Act.

SENATOR ZANE: Excuse me, sir. Are you dissatisfied with your own comprehensive management plan?

MR. MOORE: I am never satisfied with any comprehensive management plan, Senator.

SENATOR ZANE: Then why does the Commission have it?

MR. MOORE: Pardon me.

SENATOR ZANE: If that is to be the standard --- and I read this as suggesting that that is the standard to be applied.

MR. MOORE: I think the literal interpretation of this language, Senator, is that they will be consistent with provisions of this Act and performance standards contained within the plan ---

SENATOR ZANE: That is exactly as I read it.

MR. MOORE: (Continuing) --- not consistent with the overall plan, which goes beyond just the issue of performance standards.

SENATOR ZANE: I am afraid I don't read it that way, but go ahead.

MR. MOORE: I have discussed this with our Deputy Attorney General and I believe that is the reading that we would go by.

SENATOR ZANE: I am just a country lawyer, but I don't read it the same way he does.

MR. MOORE: I am not even an attorney, Senator.

The next one that I think is the cause of some concern appears on page 16. It is the language that deals with the Commission's voting on applications and it does read: "The Commission may reverse or modify such approval," referring to a local approval, "only by a two-thirds vote of the full membership of the Commission." I believe that the interpretation of this section is very clear, that should an Administrative Law Judge, having had an application referred to him by the Commission, find clearly, based on the finding of fact, that the application did violate even performance standards within the comprehensive management plan, it would take two-thirds of a majority of the Commission to affirm the Administrative Law Judge's recommendation. It has been Senator Perskie's position publicly, I believe, that the amendments to this bill would provide that the Commission have the last word. I do not wish to be facetious, but I think with a two-thirds majority vote to affirm after a hearing a recommended denial by an Administrative Law Judge is somewhat less than the last word and approximates to some extent the last whimper that the Commission would be able to have regarding development applications.

SENATOR ZANE: Mr. Moore, I am not familiar with any other agency - and maybe I am wrong in this - that would have any authority to overrule the decision of an Administrative Law Judge. Maybe I am wrong in that. But I think the next step normally is to proceed to the Superior Court. This I see as returning and still giving authority, but placing a higher standard than a simple majority. Don't you see it that way?

MR. MOORE: I think this language provides that the Commission would have to have a two-thirds vote to affirm a recommendation by the Law Judge and it does not provide for an overturning.

SENATOR ZANE: No. I meant to say "affirm." But that is really leaving the Administrative Law Judge's decision hanging in the air until the Commission acts, does it not?

MR. MOORE: It does do that. It also provides that should the Commission not reach the two-thirds vote, I believe the Administrative Law Judge's recommendation for denial would not stand. I think that is a concern that I have to raise in this body of legislation. This Commission has always worked on a simple majority basis.

SENATOR ZANE: Mr. Moore, let me ask you something. How would someone get to an Administrative Law Judge from a decision of the Commission? Would they not have first appeared before the Commission?

MR. MOORE: The provisions of the new amendments would allow the Commission to refer an application for an administrative hearing and then it would not take action on that application until a hearing had been conducted. That is our present

procedure, although we do it by majority decision, not by two-thirds.

SENATOR ZANE: Thank you.

MR. MOORE: The last one I wanted to point out deals with the agricultural activities on, I believe it is page 19, which merely authorizes municipalities to send notice of designations of agricultural production areas, pursuant to Subsection (a), to the Commission. There is no indication that the Commission would have any jurisdiction over that kind of delineation. That very severely affects the Pinelands development program because I think you have to have some indication and some Commission control as to whether those credits are going to go into certain areas, rather than just a notification procedure by municipalities.

There are others within the credit bank that I think are a cause of concern, particularly as they relate to the fee structure that is set up within this bill, which our analysis would indicate would devalue the value of those credits to property owners that do have them as an additional use benefit to their property.

I just wanted to point those out, Senator, because I think they are issues that do provide rather substantial changes within the present Act and also would result in very substantial changes within the comprehensive management plan. Thank you.

SENATOR ZANE: Thank you very much. Any questions?

SENATOR DUMONT: Doesn't the Commission now designate the agricultural production area?

MR. MOORE: The Commission has designated an agricultural production area which may be revised by municipalities during the conformance year and, indeed, the Commission will have proposals before it at its next meeting for some of those revisions.

SENATOR DUMONT: Suppose a municipality does revise it. Do you have power to reject that revision?

MR. MOORE: As part of their master plan, conformance under the existing Act, the Commission has the power to approve or deny the master plan itself. What we have been doing with municipalities is having them come before the Commission or a subcommittee of the Commission with revisions of the management areas, including the agricultural production area. The subcommittee has recommended changes already to the Commission, based on that local input.

SENATOR ZANE: Thank you very much.

Mr. Bill Thomas, Coalition for the Sensible Preservation of the Pinelands.

W I L L I A M T H O M A S: Senator, I believe my statement has been filed.

SENATOR ZANE: Yes, it has been.

MR. THOMAS: Thank you.

I would just like to make a few comments on that statement. As we say in our statement, the Coalition, which represents realtors, contractors, builders and other associated trades and professions throughout the Pinelands, was not consulted about the bill, as we haven't been from the word go.

SENATOR ZANE: You are speaking about this bill?

MR. THOMAS: That's right. On the other one, we had a lot of consultation on.

SENATOR ZANE: Did you offer - there were public hearings - to give your input on the other bill?

MR. THOMAS: Yes, and we did.

From the beginning - and I can't say it any other way - this thing has been stacked - with seven heavy environmental people, seven from the counties, and one from the Department of Interior. As a member of Ocean County's Pinelands Task Force, I

had a chance to see how it worked with Ocean County and you will be hearing from our planner and one of our officials shortly, as to what they did as far as our master plan was concerned. It was given absolutely no consideration. I think you have a statement to that effect. Those appointed by the counties are the ones at loggerheads with the other group. One of them, Dr. Nanzetta, has said on quite a few occasions that it is a question of absolute closed minds on any change, any maneuvering at all.

The growth areas where they have them located are not going to work. The infrastructure is not there for them. They won't work. They count units - many, many thousands of units - that can go in that area and, practically, will never be put there. In one small township in Southern Ocean County, they would have to build high-rise apartment houses. I am talking now about when you get down near New Gretna. Forget it - it is just not going to happen.

Commissioner Ashmun said there is everything being done to preserve local decisions and that local decisions are far from dead. Nothing could be further from the truth. The 38 municipalities that she said are cooperating cooperated to the extent that they took the money that was offered and one of them in Ocean County gave it back when they saw what it was they had to do.

I don't think there is a chance of the PUDs working. It has been tried in several places in the country and nowhere has it been eminently successful. Pinelands Director Terry Moore says he is worried about the two-thirds majority. Well, he should be because with two-thirds majority, the 7-7-1 are not going to work anymore. This is a plan that is opposed by the people of the area. There isn't one of us, I believe, down in the Pinelands area who doesn't want those streams to continue to run clean. But this is "Big Brother" telling you where you are going to live and where you can't live.

SENATOR ZANE: Mr. Thomas, what are your thoughts on this bill that is before us?

MR. THOMAS: I think what has happened is that it is more or less of a bandaid to make it more palatable to the people in the area. And I don't think it is going to work.

SENATOR ZANE: You and your organization are opposed then to the bill?

MR. THOMAS: I would take the bill if that is all the relief we could get. But I think it is just a political thing. That is my feeling on it. If I can answer any further questions, I will be happy to. (See appendix for written statement.)

SENATOR ZANE: Any questions? (No questions.) Thank you very much.

Is George Buckwald here, Ocean County Freeholder Director? Mr. Buckwald, if you have a prepared statement, we request you submit that statement as opposed to reading from it. Just give us your comments and, hopefully, limit them to three minutes.

H. G E O R G E B U C K W A L D: If I read the statement, it will take three minutes. Could I do that? It is very short and it is concise.

SENATOR ZANE: If you start reading your statement, everyone here is going to want to and that is going to take 10 or 12 minutes. Why don't you submit it. It is going to be made part of the record. Then just give us your thoughts.

MR. BUCKWALD: For the purpose of the record - and I appreciate this opportunity - I am H. George Buckwald. I am a member of the Ocean County Board of Freeholders and Chairman of the Ocean County Planning Board.

We have examined this bill carefully and we have to say that we are in favor of the bill in consideration of the fact that for the first time the county

and the municipalities will have input; that is to say, that under the present law, we are not able to express ourselves. I might tell you that our Planning Department took considerable pains - and you have a copy of it there - to provide the Commission with a report of some 90 pages. It was submitted in September of 1980, with recommendations to the Commission, and we have never heard any comments from them with reference to that submission. That submission I think is clear in itself. You have a copy of it. It details out the effect on Ocean County and its 15 communities within the county - 15 of 33 communities that are affected by the Pinelands Act. It details some of the facts that you have been hearing this morning thus far where we have communities within the Pinelands area that have moderate populations that are scheduled for high development, without the benefits of the resources needed for that high development. It worries us.

It worries us also that the people who own property are not able to use it - not in the core area; we are talking about the perimeter - where the perimeter, of course, has been developed in some ways. This would add to that small development. None of us in Ocean County are against the preservation of that area. I think you will hear that again and again. But we want to be part of the planning and part of the decision-making. We feel that local officials and county officials have a great deal of experience and an opportunity to add their input would benefit the State and certainly wouldn't deter from it.

We have people who have served for years on our boards and commissions, mayors and other people who are interested, who could provide a basis for understanding of the areas of the county, itself. We feel that the influence from Northern New Jersey in appointments is not realistic and not as realistic as the influence from the areas in the Preservation Act and in the comprehensive management plan, and especially in the preservation and core areas.

I would be glad to answer any questions. (See appendix for written statement.)

SENATOR ZANE: Are there any questions?

MR. BUCKWALD: Senator, we feel that limiting the value of the Pinelands development credits to \$2500 is not realistic either and that there should be a marketplace leeway, possibly a minimum payment, but not putting a cap on that value, considering the way values of lands go.

SENATOR ZANE: Mr. Buckwald, did you indicate that you had submitted a report to the Pinelands Commission regarding Ocean County and you have had no response?

MR. BUCKWALD: Yes.

SENATOR ZANE: How long ago was that report submitted?

MR. BUCKWALD: September of 1980. You have it. It is a 90-page report.

SENATOR ZANE: You got no response at all?

MR. BUCKWALD: No response. These recommendations were approved by all of the 15 communities that are in the Pinelands area.

SENATOR ZANE: What portion, on a percentage basis, of your county is within the Pinelands?

MR. BUCKWALD: About two-thirds.

SENATOR ZANE: Do you see this bill as providing you with that vehicle?

MR. BUCKWALD: Yes. We think this is a tremendous improvement on the original bill.

SENATOR ZANE: It would require a response from the Commission; is that correct?

MR. BUCKWALD: Yes.

SENATOR ZANE: If my understanding of the bill is correct, they still

would have the final say on a plan submitted to them.

MR. BUCKWALD: Unfortunately, it is written that way. But we think that any opportunity for the counties and the municipalities to have input is an improvement.

SENATOR ZANE: Thank you very much.

SENATOR DUMONT: How many municipalities do you have in Ocean County in all, George?

MR. BUCKWALD: Thirty-three. There are fifteen in the Pinelands.

SENATOR DUMONT: In the Pinelands area?

MR. BUCKWALD: Yes.

SENATOR ZANE: Robert Shinn, Pinelands Commissioner.

R O B E R T S H I N N: Thank you, Senator. I don't have a prepared statement to give you. But I would like to go through the Act and pick out specific areas I have concern about.

SENATOR ZANE: You can use your three minutes any way you like, Commissioner.

MR. SHINN: I will try to meet that time limit.

I would like to ask Jim Saxton to hold up the map Sean Reilly has. I would like to show the area that is involved in Burlington County and why I am voicing the specific concerns that I am. Can you bring that map a little closer, Jim? I would like the committee to see it specifically. Thank you, Sean, for the use of the map.

The black outline is Burlington County. That large green area is the preservation area, at least 63 percent of which is in Burlington County; and no one is quarreling about the need to preserve that area. More than 5/8ths of Burlington County is in the Pinelands area. We have the largest land area and have long supported preservation of the Pinelands. I chaired the Pinelands Advisory Committee of the PEC in 1977. We issued a positive plan of action calling for a statewide bond referendum for conservation easement and acquisition of the critical areas. We called for in-lieu tax payment and a long-term fiscal reimbursement program to municipalities that were negatively impacted by Pinelands' preservation.

I want to direct my comments to the latter part of this bill, beginning on page 18. There are some very good points in this bill and there are some that I have deep concern about. On page 18, item 15, I think the reallocation of credits, just the reallocation, itself, is positive. I think it clarifies the use of the credit, having one PDC equal one unit of development, rather than one-quarter of a PDC equal one unit of development. It also gives the wetlands designation of one credit for 39 acres, a 1/5th bonus over the existing plan and the Act.

The second section on page 19, at the top, item c, "Owners of less than 39 acres shall receive that fraction of a pinelands development credit which reflects the ratio equal to the size of property owned." They took that portion of an acre down to 1/2 an acre. So a property owner that owned 1/2 an acre would receive one PDC under this allocation. The Commission plan talks about .10 to 9.75; a property owned individually would receive a quarter of a credit, which equates to the same thing. However, in this bill, an owner of a quarter of an acre of buildable lot as of the date of the Act would not receive one credit. He would receive that ratio. I took an example of a quarter-acre lot. Plugged into the ratio, he would receive 1/156th of \$2500 or \$16.03. There are quarter-acre lots buildable in the Pinelands area. I think that lower plateau should be changed to one-quarter of an acre. Again, we are talking about the "little people." I think that should be addressed.

On the same page, item 16, presence of prime agricultural soils as a

technique of special agricultural areas and agricultural production areas - I think that should be modified to include berry agriculture. It wouldn't apply as a prime agricultural soils designation. So, we just need clarification under that section to identify berry agricultural soils.

On page 21, at the top of the page, item c, "The bank may charge fees for the recording of pinelands development credits pursuant to this section. These fees shall be detailed in a fee schedule adopted by rule and regulation, and shall provide sufficient funds to cover the costs of establishing and maintaining the Registry of Pinelands Development Credits." I think there are some ambiguities there because you give the bank a "may" at the top of the section and a "shall" at the bottom and they lose their discretionary ability.

Going down the page, item 19 reads: "The provisions of any law or ordinance to the contrary notwithstanding, every municipality in this State shall provide for the redemption of pinelands development credits. . ." and I think that is very positive. I think that indicates a strong market by legislation. I think there could be other benefits statewide from a strong market relative to agricultural preservation once the PDC market is established as a strong one.

The next item: "Each pinelands development credit may be used to increase the number of dwelling units in a proposed development by one unit, up to a maximum of 30 percent. . ." In the comprehensive management plan, we have density increases of 50 percent and here we are taking it to 30 percent. That is one of my primary concerns because what we have is a net reduction of buying power of a PDC by 40 percent. If you went into a municipality with a density of 2 units per acre, under the Pinelands plan, 50 percent increase would give you 3 units per acre or a full unit extra. Under this plan, with a 30 percent increase, you would have a .6 increase --- you have .6 of a unit rather than one unit. So you have reduced the buying power of the credit by 40 percent; or, in essence, you have reduced what the builder will pay the seller of the credit for that credit by 40 percent.

Going on to item b, it says: "Any person who redeems a pinelands development credit shall pay to the affected municipality an infrastructure redemption fee of \$1,000.00 per unit and shall surrender that credit to the municipality." Again, this is \$1,000 that comes right off the top of the credit. We are taking a 40 percent reduced value credit and taking another \$1,000 away from it. I think you are reducing the value of the credit somewhere between 45 and 50 percent by doing that. So, it is my recommendation that that \$1,000 should be eliminated from the bill.

I think you should take a close look at item c. It says, "Any municipality may, by ordinance, provide for density increases exceeding 30 percent or for the total or partial waiver of the infrastructure redemption fee as provided by subsection b. of this section." I think it gives an arbitrariness to the developing municipality and I don't think has any real place in a piece of legislation, but it is one you can look at and make a judgment for yourself.

On page 22, item d, it reads: "Pinelands development credit certificates shall be assessed and taxed prior to the redemption thereof pursuant to this section, in the same manner as real property." I think this really needs clarification. I feel it flies in the face of farmland assessment because we have to determine the exact point of where you are going to tax that credit. If a farmer has a certain number of credits accrued to his property and they are taxed as real estate taxes at the base value of the credit, he is going to be impacted with a substantial

tax burden. So I think we have to fine-tune when that credit is issued and exactly at what point it is going to be taxed in the manner of real property.

Section 21 on page 22: "The commission shall, within 6 months of the effective date of this amendatory and supplementary act, prepare and transmit to the Governor and the Legislature recommendations for methods of compensating municipalities which lose property tax revenues as a result of the transfer of pinelands development credits. . ." Under Chapter 9 of the comprehensive management plan, there is a financial component that calls for, number one, full in-lieu tax payments once the property is acquired after the date of the Act and it also calls for a municipal fund which the Commission is mandated to monitor municipalities, indicate large tax impacts, and compensate them for those impacts. That, again, requires legislation. I think if that area was implemented in this bill and a fund created, this section would not be necessary.

Section 24: "Any person desiring to secure a loan using a pinelands development credit as collateral may apply to the board for determination of eligibility for a pinelands development credit guarantee. The board shall notify the applicant of its decision within 30 days of its receipt of the application." I think this is going to be confusing to anyone seeking a loan. A loan really needs faster action because once they receive the guarantee, they still have to go to a commercial bank and put in an application with a guarantee. Obviously, the commercial bank is going to look at the ability to repay the loan. You are going to be held up two or three weeks for a board meeting. So, you are looking at maybe a 60-day period trying to use your PDC for a loan. I think using the same system that the Small Business Administration uses with the 90 percent guaranteed loans where the commercial bank would communicate directly with the PDC bank to work out the guarantee would be better. They would be more familiar with the process and it would speed up the whole loan process envisioned under the PDC bank.

I won't read item c, on page 24, but it says in part, "the bank shall record a reservation against issuance of pinelands development credit certificates," of unsevered credits. That paragraph is confusing and it again taps the issue of issued and unissued credits and it puts the PDC bank in a position of possibly being taxed as real property while holding credits. We have to fine-tune the issued and unissued credit question and exactly at what point that is going to be taxed as real property.

In summation - and I hope I haven't gone too far beyond my 3-minute time-frame - I think there are four things we must take legislative action on.

Number one, we must affirm a strong credit market. I think there are items in this bill that address that. I think that is positive.

Number two, we must establish a credit bank and fund it to give the PDC a chance to function.

Number three, we need full in lieu of tax payments for municipalities that are in a position of having major parts of their municipality in acquisition. I use the example of Washington Township because 80 percent of that municipality has been acquired by the state or federal government. There is more acquisition planned in that municipality. Their tax increase in 1980 to 1981 was 66 cents. So they are in a financial situation that they can't cope with and they need in lieu of tax payments and the municipal fund for impact reimbursement.

Number four, establish the fund to provide for municipal reimbursement where major tax impacts occur. That is in the Act and that needs legislative implementation.

I think if we could address these areas in the Act and in legislation --- Several of these aren't addressed in the Act and should be. We have had the

preservation area in law as of August 8, 1980. In 30 days, it will be a year since that law was passed. Those people in that area haven't had their impact addressed and it is starting to affect municipalities. We need to address that.

Thank you very much.

SENATOR ZANE: Commissioner Shinn, I gather then your main concerns really are - not that they are not important because they are very important - but mechanical with the credit and what have you. Apparently, you have not voiced any objection to the concept of the bill or what the bill is attempting to do. Do I gather from that that you support it?

MR. SHINN: I have spent my time - and I haven't had a lot - to address it. I have been very concerned in all the Pinelands legislation about the impact on property owners, farmers, municipalities and the counties. I geared my testimony to that because I knew I would have limited time. But I felt each one of those issues should be addressed.

SENATOR ZANE: What are your thoughts on the bill, other than in those areas? Do you support the concept of the bill?

MR. SHINN: I would have to have some time. I support the concepts of credit reallocation, redistribution. I support the concept of a statewide market, based on the part I have reviewed.

SENATOR ZANE: Do you happen to feel that some of the planning and developing should be returned to the local municipalities, as this bill provides?

MR. SHINN: I think we can amplify what is happening in the Conformance Subcommittee and we are having a very good interrelation between municipalities and the Conformance Subcommittee. I think that flexibility is not common knowledge, but is happening. If we have to reaffirm that in a piece of legislation, I don't object to that.

SENATOR ZANE: Mr. Shinn, there was testimony from county and local officials that there has not been a great deal of good cooperation - that's how I sensed it anyhow - between the Commission and the local municipalities as far as their input. We all want more input into things. But do you think that is a valid criticism?

MR. SHINN: I didn't hear your last comment.

SENATOR ZANE: Do you think that is a valid criticism from the municipalities and counties?

MR. SHINN: I think from a public relations standpoint, from a media standpoint, the Commission has developed an image since its inception of being too powerful, too overburdening. I think, in reality, if you take the last six months, I would say we have turned the corner. We are listening very intently to municipalities. The philosophy is changing rapidly. If you will, the handwriting is on the wall.

SENATOR ZANE: Do I gather from what you are saying then that the criticisms are valid?

MR. SHINN: The credit system?

SENATOR ZANE: Well, you seem to be approaching it in an apologetic way. Do I gather that the criticism from the local and county officials is valid?

MR. SHINN: I think some of the criticisms are valid, not all of them.

I think the counties --- my effort on that Commission has been to listen intently to the local level. I have been working on the Commission to see that that is done. I think it is being accomplished presently. If legislation is needed to affirm that, I don't object to it.

SENATOR ZANE: Commissioner, I would like to ask you a question. I am

not trying to put you on the spot. You are the first Commissioner to testify since we had submitted to us a 90-page document, prepared by the Ocean County Planning Board, which represents their input into the Pinelands and how it deals with their 15 municipalities. In the testimony, it was indicated that, I believe, it was submitted in September of 1980 and they have had no response. Do you have any idea as to why not? And, if not, I understand.

MR. SHINN: Let me tell you my input from Ocean County. I heard the Planning Director testify before the Commission relative to their plan. They have one of the best 208 plans in existence. That testimony was heard. I know they have supported some municipalities from their response to the Commission. I guess he is referring to a formal response from the Commission relative to his submittal, which I don't know, but I assume there was none. However, I think that that testimony was received at the Commission. I think it was excellent testimony that was presented on a verbal basis. I think that document was submitted at the same time. I think that is going to be more relevant relative to the municipality coming into the Commission with that background.

SENATOR ZANE: Commissioner, it was nearly a year ago and there is no response.

MR. SHINN: Terry Moore would have to answer that from the staff position. We didn't answer it from the Commission level and I don't think we would be in a position to answer it.

SENATOR ZANE: And Terry Moore reports directly to the Commission, is that correct?

MR. SHINN: He what?

SENATOR ZANE: He reports directly to the Commission.

MR. SHINN: He is the Executive Director who works for the Commission.

SENATOR ZANE: Thank you very much. Any questions?

SENATOR DUMONT: Did you say you make in-lieu tax payments now?

MR. SHINN: Presently, anything that is purchased by the State in acquisition is in the 13-year in lieu of tax payment program, starting at 100 percent and dwindling to zero in the 14th year and 4 percent in the 13th year. When you have a municipality that is almost totally owned by the State of New Jersey or the federal government through acquisition, in the 14th year when all that tax revenue disappears, that doesn't accomplish too much. So, what was recommended in the plan was a full in lieu of tax payment program. Any areas the State owned, they would continue paying taxes perpetually to that municipality to provide revenues for local services.

SENATOR DUMONT: On the vacant land or on the improvements as well?

MR. SHINN: Primarily on the vacant land. There would be very limited improvements. But, in essence, they would be a taxpayer. But we are talking primarily about woodland and scenic areas.

SENATOR DUMONT: You want the State to do this for every municipality for everything acquired?

MR. SHINN: Everything that is acquired after the date of the Act for preservation, yes.

SENATOR DUMONT: Wouldn't that involve substantial sums of money?

MR. SHINN: In the final analysis, I don't think we are talking about that much money because we are talking about land that is basically low in value, that lies in the area of \$500 per acre value. You would be basing that payment on the prior 12 months tax payment that land has paid to a municipality. I think you are going to get the responsibility one way or the other. If that municipality loses

revenue, you are going to have to put an item in the county budget, or the State budget, or somewhere, to make sure that that municipality continues as a viable one and can operate their school system, etc. So I think it is an up-front way of addressing that and it is necessary because it only goes to stabilize an existing ratable base. It doesn't have any basic increase relative to a 5 percent annual increase. It just stabilizes what that municipality has as a ratable base at a given date.

SENATOR DUMONT: When we thought about trying that in five municipalities in a pilot program of farmland development rights in Burlington County, we found out we couldn't afford it.

MR. SHINN: You are talking about acquisition and conservation easements for agricultural land. I am talking about a full in lieu of tax payment program. We have acquired conservation easements on agricultural land from a county bond referendum. I am not saying that the State can totally afford to put conservation easements on every piece of prime agricultural land. But I think in this forest land that we are talking about, basically the core area of the Pinelands, there is a requirement to help those small municipalities - and I am talking about municipalities like Woodland, Washington, Bass River, Tabernacle and Shamong - with very low ratable bases, very small municipal budgets. We are not talking about very large sums of money. I think historically that the in lieu of tax payment program before the 13-year program has been funded by leases of State-owned lands, revenue from those leases going into the in lieu of tax payment program. So, there is a pot there. I think on an interim basis you could look for some funding through the PDC bank because what they guarantee for a credit value and what they are going to sell it for, I think are two different areas of compensation. So I think some of these expenses could be tied to the bank on an interim basis.

SENATOR DUMONT: Are you talking only about easements or lands with fee simple title?

MR. SHINN: WE are talking about, when a farmer or land owner sells a PDC, what he gets in exchange for that is a conservation easement. So it is not a fee simple title exchange.

SENATOR ZANE: Any other questions? (No questions.) Thank you very much.

Floyd West, Pinelands Commissioner.

FLOYD WEST: Good morning. My name Floyd West, Pinelands Commissioner, and I also would like to address you, Senators, as the Mayor of Bass River Township. Our township, of course, is impacted almost completely by the Plan. We do have some area in the National Reserve that is not, at the present time, under the Pinelands Act. However, the public knows quite well, and have known for a number of years, how I stand on the protection and preservation of the Pine Barrens. I have found support not only in my own township, but throughout the Pinelands for my position and my stand on this issue.

So, I would urge you, Senators, to consider the need for this bill. Is it necessary? I think it is ill-conceived and unnecessary. The Pinelands conformance here is taking place at the present time. Our township is in the midst of conforming. We have been working very effectively with the Pinelands Commission Staff. We have hired consultants. We have received funding and we're moving on towards a Comprehensive Master Plan for our township that we have long desired based on information and data that we could not afford to gather ourselves.

I must oppose this bill for a lot of reasons and I won't go through the entire list. But, I would like to maybe talk about the myth or, at least, it has been implied here today that the bill is designed to aid the little people of the Pine Barrens. Gentlemen, I submit to you that that is humbug. Take a look at Atlantic County. The promise of gambling was to revitalize Atlantic City. Has it kept its promise? But, it wants to absorb the development in the Pine Barrens. I submit to you that I would not allow one house to be built in the Pine Barrens until Atlantic City has been revitalized and made a major city in this State. That's my personal opinion and I don't voice that opinion too much on the Pinelands Commission.

It effectively destroys, I believe, the development credit program which is a keystone, I believe, to making the Plan work. For instance, I'm sure that Senator Dumont would not appreciate the transferring of development credits in the Pine Barrens into his county and I don't think a lot of other senators would appreciate that either. So, I don't think that would work, although I admire that concept. I think that's fine. We should have done that 50 years ago in New Jersey, but we didn't get around to regional planning in New Jersey until the Pinelands Act came along. It's late, but it is going to do an effective job if we allow it to do that job.

It raises serious doubts about the agricultural industry. Gentlemen, under the Pinelands Comprehensive Master Plan, if you want to be a farmer, you have a license to be a farmer. Water quality standards you don't have to meet. You can farm until the cows come home, but if you want to turn your land into a development of houses, then of course you're restricted.

SENATOR ZANE: Is there any restriction on the type of crop you can grow?

MR. WEST: I don't believe there is any restriction on the type of crop you can grow. I don't see anything in the Comprehensive Master Plan that would say you can't grow corn or you can't grow berries or whatever. I have also asked that question. If you want to be a farmer, this bill gives you a license to farm.

The bill, of course, opens the door to unwise and ill-conceived development in the protection area. Now, some people say, "Well, why not develop the protection area, and the core area, we'll trade that off?" The same opponents that I've heard here today appeared before the Plan, many times I believe, before the Plan was ever a reality and while the legislation was being debated and they were opposed to the entire concept. But, today we hear, "We'll trade you the core

area for the protection area." How's that for a deal? If you destroy the buffer zone around the core, you will have effectively destroyed the core area. You can't build up to the Pine Barrens and we've heard millions of words of testimony, hundreds of hours of testimony before our Commission and it's a matter of record. The experts have testified, scientists have testified. The data is there. It's been collected and we based our decisions in the Pinelands Commission on those facts. You can't hope to save a core area without a wide buffer area.

The water quality, the problem with water quality would be a major issue in the bill. I believe the background water quality now in Cape May County is .02. There is a non-degradation water quality policy included in the Comprehensive Master Plan. It says that you can't pollute the water if you put more than so many houses on so many acres and that's based on scientific information and scientific data that's been collected. That's the reason for setting density requirements. We're not trying to zone each municipality. The Commission has not told Bass River Township how to establish its lines. We're drawing the lines of the village; we're drawing the lines of the protection area; we're moving those lines about. We're seeing where those lines should be formed by use of information and technical help. We can't afford to do that on our own, but we've been provided that free of charge.

Another argument is that every development, including doghouses, home additions, need the Commission's okay. How many times have you heard that? That's wrong; absolutely wrong. Proponents, of course, of the bill argue turning that back over to the local government, and that is the whole issue that we're interested in here today. Will it be reasonable planning or will it be, again, local planning? They argue that the local people, the local townships can do a better job on a local basis than on a regional basis. I'll just read you what the editorial said in the Ocean County Observer, I believe it was last Monday. "Many of the communities in which Perskie wants to vest the power to determine the future of the Pinelands are the same ones whose failure to properly safeguard the natural treasures in South Jersey created the need for the Pinelands Preservation Act in the first place." Of course, you say that the Pinelands Commission still has final approval. That's not true either. We must justify a rejection of disapproval and, of course, you know what this would do. It would open up avenues of legal attack that would just simply throw the Pinelands Commission into a state where we couldn't cope with the legal problems that would develop.

Gentlemen, I urge you to try and sort out the issues, the real issues. Just consider the bill; take your time; give it the proper attention that it needs. If we have to go through another debate on Pinelands preservation, whether or not the value of the Pinelands is worth saving or not, maybe we should do that. I don't think it's necessary, but maybe we should. We've debated that for years; at least 100 years of testimony is available to any of us about the value of the natural resources of the Pine Barrens.

I want to tell you, in Bass River Township we depend upon, basically, two industries and this bill, the Pinelands Protection Act, guarantees the continuation of those two industries, recreation and the shellfish industry. If we destroy our rivers, we lose our shellfish industry; we lose our finfish industry and we also lose our recreation industry. Those are the industries that we need.

Bass River Township, last year, experienced an increase in ratables of \$1.5 million, when the opponents of the bill had been telling us all along that they were going to go down the drain. This year, we've seen a 5¢ decrease in the tax rate in Bass River Township. Now, some will say, "Wait until next year, you'll

get it next year." But, let's wait and see. The businesses in Bass River Township have never done better. They're packed. 250,000 people visited Bass River State Park last year. That's a state park, let alone the private campgrounds and industries that support recreation and ties in very nicely with the shore industries.

SENATOR ZANE: Mr. West, let me ask you a couple of questions. Were you present at the time the decision was made when a developer came in and submitted a plan to construct thirty homes on 37 acres and the Commission allegedly rejected that and required that they build, instead, 124 homes on 37 acres?

MR. WEST: I don't recall that. I don't recall seeing that application and I don't recall hearing that decision. I can't recall that. I don't believe I ever heard it.

SENATOR ZANE: Commissioner, would you not--

MR. WEST: --Because, I certainly would have raised the same question that you're raising because I'm an advocate of less density on the land in certain areas.

SENATOR ZANE: Commissioner, let's just clarify one point. If, in fact, that justification can be made for the final approval or disapproval of a plan, that does, in fact, exist with the Commission, does it not, under this bill that we're considering today? I mean, it's not fair to say that the final word is not really with the Commission, as long as you can justify it.

MR. WEST: No. I say that that would not work.

SENATOR ZANE: Don't you feel that you should be able to justify any decision?

MR. WEST: I believe that the Comprehensive Master Plan and the standards that it sets forth is justification enough. I don't believe that we should have to go into court in every case. Suppose, in Mr. Perskie's bill--it changes the Preservation Act into a development act.

SENATOR ZANE: We're getting into the philosophy of it.

MR. WEST: If it's 200--

SENATOR ZANE: Let me ask you a question.

MR. WEST: I would like to answer the one you just asked me. If you had 200 building units approved by a township--suppose Bass River Township approved 200 units and the Commission rejected that. The Commission would have to, if we wanted to challenge that in court, they would have to go to court and take us through a legal process in order to justify their refusal to allow us to build 200 units and you could do that through eternity.

SENATOR ZANE: Do you have any problem with the concept of taking something out of, if you will, an arbitrariness to requiring a justification?

MR. WEST: I sat on the Commission and I heard the testimony and I saw the scientific evidence presented and I don't believe it is arbitrary. I don't believe that what we're doing is arbitrary. In your local municipality, when you have a zoning ordinance and you say, 1 house per acre or 1 house per ten acres, you have some justification for that and some rationale.

SENATOR ZANE: Commissioner, if it is not arbitrary then you can justify it, am I correct?

MR. WEST: Of course.

SENATOR ZANE: And, this bill establishes justification, am I correct?

MR. WEST: The standards in the Plan itself is justification enough. When we set water quality standards, a non-degradation water quality standard that would protect the ground water and surface of the Pine Barrens, that, to me, is

justification enough to reject the dense population that would pollute the waters of the Mullica River and ruin our shellfish industry. That is justification enough. The scientific model has been developed that you feed the information into and the information comes out, the answer comes out based on the information. Yes, you can build on this much land or no, you cannot build on this much land, it would do this to the ground water and that kind of standard is built into the Plan and we don't have to go to court to have a judge tell us, yes or no.

SENATOR ZANE: Any other questions?

SENATOR DUMONT: You said something about the fact that if you want to be a farmer, really a farmer, this bill would help you become one.

MR. WEST: It would guarantee you the right to farm, yes, sir.

SENATOR DUMONT: Is that bad?

MR. WEST: No, sir, that's good and we designed it that way. But, the farmer is saying to us that he is being hurt and I can't justify that.

SENATOR DUMONT: What farmer is saying to you that he is going to be hurt.

MR. WEST: The farmers banded together in a coalition and sued the Commission on the basis that it would put them out of business somehow, and I don't understand how.

SENATOR DUMONT: But, this bill would give the farmer an opportunity to farm. Isn't that true?

MR. WEST: It is questionable in my mind whether it would do that.

SENATOR DUMONT: I thought that's what you just said.

MR. WEST: I said the Comprehensive Master Plan gives them a license to farm. The Comprehensive Master plan and the Pinelands Protection Act does that. This bill raises a question about a viable agricultural activity in the pine Barrens, as far as I can see. It throws confusion into that question.

SENATOR DUMONT: Thank you.

SENATOR ZANE: Any other questions? Thank you very much.

MR. WEST: Thank you, sir.

SENATOR ZANE: Dr. Elizabeth Marsh?

D O C T O R E L I Z A B E T H M A R S H: Good morning. I am the Chairman of the Planning Board in Galloway Township and we on the Planning Board deal very directly with all the consequences of growth in Galloway and in Galloway we deal both with CAFRA and the Pinelands, as we have land in both areas.

Our record in the township for being interested in preserving our Pinelands area is shown by the fact that we zoned our pinelands area at a lower density than our planner recommended when we did our plan. Our pinelands area is zoned, part of it, as no development allowed at all and the second part at five acres. Our board has recently turned down applications which had been approved by the Pinelands Commission and another one which had been approved by CAFRA for environmental reasons.

However, our board and our township has not gone along with the conformance process and the reason has to do with the impact on the little guy. Therefore, my statement is in support of the amended plan because it differentiates between the individual person and the larger developer.

Our society can't afford the kind of bitterness and frustration that we are seeing in our office and before our board from the small developer. That, to me, is the serious problem that we face with the present regulations. For the small developer, even to appear before the local board, before his neighbors and

his peers, is an almost insurmountable obstacle. So, going up through a higher process or one that takes more time is difficult and I think, for environmental legislation, it is dangerous if the impact is too great from regulation. We risk losing all, I think, in environmental legislation.

On the other hand, strong back-up reviews from the State agency are an important aspect of this legislation. Rural boards, inexperienced people, people who have not dealt with large developers are very vulnerable. So, we need that back-up.

As we go into developing our master plans, I would request that emphasis expressed in funds and in staff allocations on direct individual help with plan review to local boards, we really need to have a person whose name we know and will come to us and work with us when we go into developing our master plan or modifying our plan.

In our township, in Galloway, we need to have control over our high-growth areas. We have a high-growth area in our township, in the pinelands. We need to be able to fine-tune our own density and the reason is that our plan is based on our, our whole growth management is based on negotiations with developers. We work with developers and exchange things that we have to have, such as assistance to fire companies, for instance, for higher density. We'll be in bad trouble if we are not able to continue to do that. This is an advantage of having more autonomy in developing our new, future master plan.

I have a comment on the present amendments. I question introducing the county as a third level of review or intermediate level of review. The power to make land use decisions is worth so much money that any level of government that is able to make land use decisions is vulnerable to improper influences and I have some reservations about doing anything that would encourage people of evil intent to try and buy freeholders because the county government is not as exposed to public view as is the state nor as the local government is. Therefore, I have some reservations about allowing an intermediate level of review. I would rather see just two levels in the model of CAFRA with a state level and local level working back and forth between them.

SENATOR ZANE: Dr. Marsh, just as a matter of curiosity, what is your doctorate in?

DR. MARSH: It is in geography. Therefore, I am prepared in the earth sciences and I did my PhD. dissertation on a matter of sociology of rural areas.

SENATOR ZANE: Thank you very much. Are there any questions?

SENATOR DUMONT: Dr., I'm not quite clear. You seem to be somewhat in favor of the bill, but you don't like the counties being involved.

DR. MARSH: I am in favor of the amendments. I just raise this question as not an insurmountable obstacle, but as a reservation that I have.

SENATOR ZANE: Thank you very much.

DR. MARSH: Thank you.

SENATOR ZANE: Peter Lafen, Friends of the Earth?

P E T E R L A F E N: Thank you Senator. I spent the last couple hours listening and taking notes and hopefully condensing all of my points down so that the important points can be made briefly.

I'm speaking here on behalf of Friends of the Earth as one of the national organizations that is very concerned about the course of the Plan. During this past week, since this bill came out, I circulated what was the last draft of

the bill to a number of organizations all of whom expressed grave concerns about what effect the bill will have on the Pinelands planning process and we would all like to submit written comments to the Committee. Those include the National Audobon Society, the Wilderness Society, the American Rivers Conservation Council, and the National Parks and Conservation Association.

I would like to address, first, the question of the review by the Secretary of the Interior. I haven't seen the language yet to date as it has been introduced, but even with that language, I think there is a very serious problem that remains in that the entire process is sort of put into suspension. A community that is trying to comply under these rules that may be tempted by developers or by other influences to go to a different kind of planning procedure in, I believe, a three month period that the Secretary has to make his decision, then another two months to notify the State and then the State has four months to reply to his decision and another two months for another revision. You have a very long period of time in which local communities do not know what plan they're going to be operating under and as far as the Secretary's immediate track record on localities and local economic and environmental concerns--our experience in California is not one that is very hopeful. There, every municipality and the Governor and all the county governments are involved lawsuits to stop him from his actions in resource development, as opposed to the protection of a nationally recognized seacost.

This bill that has been introduced would make it very difficult for the Governor and the State to be able give the assurances to federal taxpayers and to the Department of Interior that, in fact, New Jersey has an effective plan to deal with the Pinelands because so much control over two thirds of the region is taken away from the Commission and although no one expects the Commission to get involved--neither the Commission nor the municipalities expect the Commission to get involved in day-to-day zoning decision under the current plan. There is the power in the case of a significant problem to review that and one particular provision in this bill that I think is very much a problem is the definition of "a development with regional impact." 200 units on 30 acres is obviously one that would have regional impact, but there are many areas in the protection area, to say nothing of the preservation area, where a single house sighted along the banks of a river--there is one house along the Wading River on a high bank in the upper reaches that completely destroys the experience or doesn't completely destroy it, but has an extremely negative effect and can have some implications on the river as far as its status as a wild scenic river. So, one house, if the Commission had been in effect when that house was being built and had ordered it set back another 100 feet, the house would be there and the people would have the ability to enjoy the river in, probably, more privacy than they have now and, yet, for whatever reason, the local municipality was not able to make that decision and people are paying for it. Probably, the homeowner pays for it in that everybody goes by their backyard and they are exposed to a lot more intrusion and vandalism.

We're very concerned with the Commission's workload, taking the powers away from the Executive Director to make what should be routine decisions subject to the review of the Commission, and also changing the voting rules. I believe, also, there are some changes--they may not be in this newest version--in the quorum rules and the burden as far as carrying forward with approving a plan or rejecting it. This could mean, rather than requiring a majority to act, if you have six or seven or eight members--and I'm not really clear on how the numbers are in the latest version--of the Commission leaving for a month or two, all of these plans that the Commission, under the Perskie Bill, would have no power to intervene in once they're

approved, would become approved by default. So, here you have the Governor having to certify to the federal government that, "Yes, we have a plan that takes all of the impacts and takes all of the environmental concerns into account for development," when, in fact, a boycott much like what went on with the Mayor's Council, where they did not meet very much at all, if at all, during the planning process, could bring in all of these municipal plans rather than having the municipalities or the counties come into the conformance procedure.

We were opposed to the PUD's which were rejected within the Commission prior to the Plan. We still think it is highly inappropriate, especially given some of the sights in the Elwood Corridor, in the Atlantic County area, in the Forked River Mountains. Down in Ocean County, we really have some of the wildest areas and some of the most scientifically, genetically most important areas that happen to be close to transportation corridors, close to economic employment areas and so you really put the whole Pinelands at risk by introducing by this legislation a phrase or two that threatens to require rewriting the Plan, shifting the entire emphasis.

There is one provision that I would like someone to check because in my reading, it looks like it repeals the Commission. It's on, I believe, page 7, where section 6.1 is repealed and there is a substitute language. My understanding, and I may be incorrect, is that that section is the Powers of the Commission section and it is replaced by a Powers of the Mayors' Council section. I don't know. That may, in fact, not be a problem, but it is a concern of ours.

The legal activity, again, with the workload that is being placed on the Commission, to allow something to be grandfathered, even though it is illegal under the Plan or other state and federal law, after a thirty day notice period has some real problems not just for the Commission and the general taxpayers, but whoever may be individually aggrieved by that action. They should probably have some rights that would last longer than thirty days after an approval by a municipality.

I don't know whether, going through this Pinelands thing over the years, I've become cynical or whether this is, in fact, a cynical bill. I know it is an election year and nobody can be elected by saying that they oppose Pinelands preservation. That's a theme that's gone on through the years. But, this bill does seem to procedurally tie the Commission into knots and it will, in fact--I think it's evident from the testimony today that you have some lukewarm support for the bill and strong opposition to the bill. I think it provides a lot of threats, creates a lot of threats to the functioning of the process and, in return, New Jersey would not be able to go to federal taxpayers who this year, hopefully, will be giving \$8 million for land acquisition and say, "Yes, we have a program that protects the Pinelands area." One thing I must emphasize is that that area is the entire Pinelands Natural Reserve Area. The core area is one that is very easy to administer with stricter rules because something like two thirds of it is already state owned and a lot of the remainder is in berry agriculture where the land is controlled and is very economically productive.

SENATOR ZANE: I would ask you to conclude your remarks, if you would.

MR. LAFEN: I guess that would simply be it. One final conclusion is to reemphasize that point that Pinelands preservation means the preservation of the Pinelands area, not the core. I think there are a lot of people who go under the aegis of Pinelands preservation and mean purchase the core and sort of let business go on as usual in the remaining two thirds of the Pinelands and I don't think that's an acceptable process.

I have one final point. We would agree--and it is probably unusual for Friends of the Earth to agree with the League of Municipalities--but in this case, we think at least a month would be helpful for people to review this bill and to be able to go through a detailed description and criticism of how this bill interacts with the federal act, the state act, and the Plan.

SENATOR ZANE: Okay, thank you very much.

MR. LAFEN: Thank you.

SENATOR ZANE: Dr. Joan Goldstein, former member of the Pinelands Review Committee?

DOCTOR JOAN GOLDSTEIN: I am Joan Goldstein and I am the author of a book that will appear on the scene in September called "Environmental Decision-making in Rural Locales, the Pine Barrens" and it is a study of the past twenty years of political and social-economic activities over land use planning in the Pine Barrens.

My initial reaction to the Perskie Bill is that it seems to be a throwback, that is, it is sending us backwards to the 1960's when local based planning was the activity with the original land planning organization. What I've traced in my book is the enlarging of commission representation from a locally based group in the late 60's and early 70's to a state represented group in the later 70's, the commission that I served on, the Pinelands Review Committee, to the current Commission which has statewide, local, and some federal participation. It really raises some questions in my mind that I would like answered as to why there would be a return or a rerun to a land management policy of the 1960's and early 70's, which, at that particular time, showed a lack of concern for preservation and protection and which justified the need for an enlargement to the current commission.

On the basis of that, I just want to quote briefly from my book which deals with the question. "Each of these legislative plans calls for citizen based planning commissions, not unlike the direction taken in New York State in its Adirondack Park Commission...From the 1970's onward, in fact, the management of scenic or natural areas adjacent to urban regions in the eastern strip of megalopolis have been the subject of land planning disputes which have ended (temporarily) with the establishment of citizen based land planning agencies or commissions. As such, member planners eventually develop the experience and sophistication to work with the highly subtle form of power maneuvering through which groups attempt to control land management policies."

I think that this is what we've been witnessing even with respect to this bill.

The second point I want to raise is the question of land banking, which has been raised. Somehow, this concept of land banking does not coincide with what I'm familiar with in European land areas where land is set aside or banked for purposes of preservation. It seems to me that it would raise some disputes between local based planning, zoning agencies, and those of the swapping of development rights and it might end up in long and exhaustive court battles without any type of resolution and it should be looked into further in terms of what its long-range implications would be.

The third point, I wonder why methods for compensating municipalities who lose property tax revenues as a result of transfer of Pinelands development credits has not been fully addressed. In the numerous hearings and appeals that resulted over this 20 year struggle that I have been somewhat a witness to and

author of, that has been a constant issue and constant point of concern, potential loss of ratables. Yet, I do not see this legislation dealing with that question significantly.

In due respect to my promise to be succinct, I will conclude my remarks at this point with a quote from my book which deals remarkably with what is going on today. "The viability of the new Pine Barrens land and water management plan will be tested during the early years of the 1980's, in 1981, in fact, when an election year will provide a new governor and a new administrative policy." Thank you.

SENATOR ZANE: Thank you very much. Senator Laskin, please?

(See appendix for written statement)

SENATOR LEE B. LASKIN: Good morning.

SENATOR ZANE: Senator Laskin, I just want you to know that we are absolutely inspired by brief testimony.

SENATOR LASKIN: My testimony today will be very brief. Later on, it will be much more voluminous on the floor of the Senate, but right now, I understand the problem and I see that you have quite a bit of talent ready to testify.

I'm not going to go into a lot of the technical details today, Senator Zane, because there are people here who are talented in that regard. I just want to make a few comments that I think will be appealing to the members of this Committee. There is a section in this bill which I will bring to your attention that I think will scare you half to death and I don't think enough time has been spent on it.

But, let me just say, preliminarily, that I think that the procedure that you are using--and when I say "you", I don't mean you, Senator Zane or Senator Hirkala or Senator Dumont. After all, Senator Hirkala was a member of the committee who put the Pinelands bill together and we all know he was removed from that committee because he wouldn't vote a certain way. So, he was taken off and replaced by someone. Now, we all know that. It has nothing to do with the Pinelands Bill, though.

What bothers me, Senator Zane, and I say this as a friend to you, as a neighbor from a neighboring county, is the way this new bill is being handled. The original Pinelands bill was in the development stage for about a year; six months with Legislative Services in the preparation stage; and then six months with the Environment Committee. And, that committee did a yeoman's job. There were five people on that committee all of whom had diametrically opposed views. There were one or two that were pro environment; there were one or two that were pro development; there were one or two that were pro something else; but there were five really different viewpoints and I think that is why the original bill got such a tremendous analysis from that committee, because there were five different viewpoints, and we spent an awful lot of time hearing witnesses from all over. Some of us were concerned about the little guy who lived in the Pinelands and we put an exemption into the original law, if you remember, which said if you own an acre or less and you want to develop it for yourself, you don't have to go through the monstrosity of the bureaucracy and the Pinelands review. So, we considered a lot of different things.

This bill that you now have before you was considered quite well, I'm sure, by the sponsor, but not by this committee. This committee is hearing the bill, actually, for the first time today. Now, it came up before this committee but not by virtue of a public hearing. Today, you are hearing, for the first time, officially, all sides of the story and I think that the way that bill came through so quickly--and I think it is quickly. It may have taken the sponsor a long time to put it together, but as far as our process is concerned, our legislative process,

this is quick. We're talking about one of the more significant bills that has come through the Senate in our four years. I'm not going to say it is the significant one because there were others of equal stature, but it is one of the most significant. And, to see it rushed through this way is very difficult for me to comprehend. We've all seen the editorial writers write about it all over the state. I won't go into that any further, but I think this fast procedure, no matter whether we want to call it fast or not, it is, in fact, an unbelievably hurried procedure when we're talking about such a significant bill. If it were a validating act, I wouldn't say this, but this is major, major legislation that will affect all of us, not just the Pinelands.

I want to point out that one paragraph to all of you that is so important. There is a significant change in the Pinelands Development Bank section of the law. If I can find it--if you look at page 18 in the new revision--and I don't know what revision you have, but I supposedly have the latest.

SENATOR ZANE: July 6th.

SENATOR LASKIN: Okay, that's the one that I have. If you look at page 18, section 15, it talks about the Pinelands development credit and the Pinelands Development Bank, and I think those of you who have towns that may not be in the Pinelands, towns that I will call developing towns, suburban towns, towns where there is still room for development, I think this has got to scare you to death. I means towns like Salem, Millville, and Sussex and places like that. I mention those towns purposely because two of the senators represent those towns. But, those towns would be diametrically opposed, I think, to what I'm about to say. The Pinelands credit philosophy that is enunciated in this bill says, in effect, if you have land in the Pinelands and by virtue of the zoning of the Pinelands, whether it is a forest or agricultural zone or whatever zone it is, but by virtue of the Pinelands zoning you can't really develop your land to its full potential, you get a credit. Up to 39 acres you get, depending on which section you're in, but I'll make it easy, you get one credit per 39 acres. But, then the bill goes on and says that you are entitled to ten credits. Let me give you an example. Let's say you have ten credits or twenty credits or whatever. The bill says that you can use those credits for development by selling them to some other developer anywhere in the State of New Jersey. That is mandated. So, if you have a municipality that is not in the Pinelands and you have local zoning which does not meet the formula that's in this new law, this law says to forget home rule entirely. If somebody wants to increase the density of their development by up to 30%, under this law they have the absolute right to do so, notwithstanding the local zoning and planning ordinance. If I am in the Pinelands--and I'll make it easy--and I have ten credits because I can't use 390 acres, I can sell those ten credits to a developer in Sussex or one of Senator Zane's towns or one Senator Hirkala's towns, though he wouldn't havr that many because he's from a district that's pretty well built up already.

SENATOR ZANE: Or one of yours.

SENATOR LASKIN: Or one of mine or Cherry Hill or one of anybody's. That's the point. This law says that the developer in the final area, in one of our towns, may increase the density of his development by up to 30%, notwithstanding the local zoning and planning law. I think that is the most terrifying provision for those of you who are concerned about home rule. Now, if you're not concerned about home rule and local zoning and planning, then it's not terrifying at all. Then we have statewide zoning and everybody is happy. This is statewide zoning, up to

30% more density is allowed than is set forth in your local zoning and planning law.

Now, the reason I brought that up first is because you may be more concerned about that kind of argument than you would be about some of these environmental arguments that are brought up that I think are certainly more important. But, from a political non-partisan viewpoint, I think you ought to have it hammered home that the credit system eliminates your local zoning and planning to the extent that it does not follow the formula that is in this law. I think that's terrifying.

With regard to the law generally, there are so many things that I would love--and I will prepare something in writing, not necessarily for this Committee hearing because I think it will get through the committee hearing process before I can write it, but I think for all of the individual senators, there are so many things that scare me about this bill from an environmental viewpoint, other than the home rule argument that I made, that I really think, and I go back to the same problem, we're not spending enough time going through this monstrosity, and it is a monstrosity.

There's a section in here--I just want to point it out to you--that has a new terminology that is not used in any law. There is a section 4 somewhere that talks about performance standards as defined in the Comprehensive Management Plan. I don't know if anybody addressed this yet, but there is no definition of performance standards. If you are interested in maintaining this bill and making it so that it is readable and understandable, you may want to make special note of that. There is a new terminology of performance standards which says that if a developer in some of these protection area towns wants to build less than 200 units, the Pinelands Commission is stripped of its jurisdiction to review it because it's less than 200 units, which I'll talk to Senator Zane about because that ought to scare him. But, it says so long as performance standards are complied with as set forth in the Comprehensive Management Plan. Well, there are no performance standards there. We might perceive them as performance standards, but there is nothing in the Plan, there's nothing in the law which defines the terminology, performance standards, and I think that whatever performance standards means to me is one thing; whatever it means to you, Senator Zane is another thing; whatever it means to Senator Hirkala or whatever it means to Senator Dumont and whatever it means to the lawyer who might be taking this thing into court could mean another thing. That's got to be specifically defined for the benefit of everybody. The towns want that definition so that they know how to comply and act to avoid litigation; and the developers want standards that they can understand so that they don't get involved in a lawsuit.

Now, let me talk about the 200 units. Senator Zane, probably more than anybody sitting here, except maybe me, represents a lot of municipalities. We have been exposed to what we call the "creeping sub-division" problem. We know that so well. That problem is precipitated by the distinction between minor and major sub-divisions and what happens in a lot of our towns--and Senator Zane, you and I both have been concerned about this problem because both of us have been on the other side of that representing municipalities--but our towns are concerned about it. If you apply for a minor--let me change that. The major sub-division is defined as so many units or so many acres or so many something. What the developers have done in our towns over the years is that they have applied for a minor sub-division. They take less than what is required in the major. Let's say a major sub-division means more than two acres. So, a developer can go in with an acre and a half and get a minor sub-division and not have to comply with the major sub-division standards and then he can do that six months later and three months after that and in the course

of two or three years, in most towns where they don't have any prohibition against this practice, and it takes a pretty good lawyer to figure one out, there is an abundance of minor sub-divisions applied for.

SENATOR ZANE: Senator Laskin, not to interrupt you, but at that point then it is a problem with the solicitor because most majors are when they exceed four or five lots and once they do that it is a major and if they come in for two and then they come back for three on the same parcel of land, they, in fact, must comply as a major.

SENATOR LASKIN: In some towns. Again, you're right. It depends on the solicitor. But why should we, when passing a law, not provide for a guarantee that this won't happen. This will happen with this 200 unit provision because a smart developer can come in and, to avoid the jurisdiction of the Pinelands Commission, apply for 190 units and then six months later apply for another 190 units and six months after that, another 190 units and he will never be within the 200 unit prohibition. That's just like the creeping sub-division theory and, you're right, a good solicitor probably could avoid it, but we shouldn't be writing laws to precipitate litigation. We should be writing laws to make sure there is no litigation.

In any event, I'm going to stop now because you have all these other good witnesses. I think that the revision of the Pinelands law should be dealt with over a period of a long, long time and I think that if this Committee has the bill now, which I still can't understand the reason for that other that it is a different committee--I don't understand why the Energy and Environment Committee didn't continue on with the Pinelands bill. One argument was that this committee has more to do with Pinelands than Energy and Environment. But, that overlooks the fact that the Energy and Environment Committee did draw the original bill and they have the expertise to continue, I think, but that's another story. The point is that I think this bill takes away every single protection that the Pinelands law gave to the Pinelands Commission. I don't think there's any doubt about that. The Pinelands Commission, at least in the protection area now, under this bill, would have virtually no jurisdiction. It has some window dressing jurisdiction. It can review some things over 200 units. It can ask for an administrative law judge to hear a case, when an administrative law judge doesn't know the first thing about environment or the Pinelands, and he's going to be looking for legal matters, technical compliance with the statute, but not necessarily whether the concept of the development application is a good one. There are a couple of window dressing things in this bill.

But, just to sum it all up, it takes away every environmental guarantee and protection that this Senate gave to the original Pinelands law. I think that what we're doing is absolutely improper and when I say improper, I don't mean that you're doing anything wrong. I think that what you're about to do, what we might do in the Senate, is a total destruction of the protection area of the Pinelands. I do agree that there should be some revisions in the law, by the way. I don't come here and say that we shouldn't touch the law. There are problems with it. There are mechanical problems. There are problems of bureaucracy and I think that we should address those problems. I think you should address those problems through your committee hearing process, but this is not the way to do it. Thank you.

SENATOR ZANE: Thank you very much, Senator. I think this will conclude the morning session now and we will start again promptly at 1:30.

(at which time a luncheon recess was had)

AFTERNOON SESSION:

SENATOR ZANE: Lauren De Cou, President, New Jersey Farm Bureau.

L A U R E N     D E   C O U:     Senator Zane, and Committee members, I appreciate the opportunity to speak on the amendments as proposed by Senator Perskie on the Pinelands Protection Act.

I had the opportunity about a week ago to make a few comments, and I know I will make more of an impression if I keep my talking here today very, very short - at least I have been promised that. There are a lot more people who are here to testify.

In the essence of time, I would like to state just the major concerns of the farmers as to the effect that the Pinelands Act has had on them. The loss of equity as presented by the loss in land values has caused and will cause a severe problem as to the ability for the farmer to borrow money on a long-term and a short-term basis. I think there is a tendency to not think of the Pinelands Act in regards to the effect it has on business and the economic climate that is necessary in order to keep agriculture viable. In fact, I think there is a tendency for the State to forget about the importance of the economic situation as far as any business in this State. I would hope that in the future one would take into consideration that if we are to continue to have a viable state from an employment point of view, from a business point of view, we must treat all the citizens fairly as far as their equity is concerned.

The removal of home rule, the ability of each local government to assume and conduct its affairs as the people in that area deem necessary is extremely important. The Perskie amendments speak to this and although we fear that it may be not enough, at least this is a move in the right direction, as far as giving some of the authority of home rule back to the local townships and the local communities. By doing this also, we reduce the amount of regulatory harrassment that has prevailed, as far as the agricultural community has been concerned.

Another area that concerns us - and I know that this bill does not speak to it - is as long as we have the Pinelands Act and we don't have enough local say, we have the intrusion of many people into a relatively remote area, and the threat to agricultural equipment and so on through trespass and vandalism has increased markedly over the last two years. How are we going to deal with this?

In summary, I would like to say that although the Perskie amendments will not and do not solve all of our problems, they are a step in the right direction. I do feel that it is the least that the Legislature can do to pass this particular bill. I might also add that it does not give protection to agriculture in the core area. And, how are we going to take care of this. We have spoken somewhat of it in relation to the PDC's but I question whether this in itself--- In fact, I don't feel that this in itself will be sufficient to give the necessary compensation loss that these farmers are due. Thank you.

SENATOR ZANE: Thank you very much. Are there any questions?

SENATOR DUMONT: Lauren, how do you feel about this statewide exchange of development credits?

MR. DE COU: I am dubious about it. I have never seen it work. There are cases in Long Island where this has been done on a very limited basis, and this all started with the TDR program several years ago. I have just mentioned in my final comment, I believe, I question whether it will work. At least it is offered in a form of compensation. I think this is very important. I think

earlier when the Pinelands Act was first enacted, there was no thought of compensation for values taken. This is an effort to take care of that. Whether it is a workable program or not is very, very questionable. (See appendix for written statement.)

SENATOR ZANE: Thank you very much. Peter Furey, Director of the Coalition To Save Agriculture.

P E T E R F U R E Y: Thank you, Senator. I apologize for not being here this morning. In my prepared remarks, we go on record as stating that the amendments are fine as far as they go. Most of the members of the Coalition To Save Agriculture are large berry farmers in the preservation area. This bill is clearly targeted to the protection area. There is some language in the bill which we find helpful in that it clarifies issues such as compensation and marketability of credits, and is a general thrust towards shifting of power into a balance between the Commission as a regional body and municipalities. And, this greater share for municipalities is something that we have been in favor of from the very beginning.

Another comment I would like to highlight from the statement is that we see the plan right now as having two big holes in it. As much as Freeholder Shinn has stated on previous occasions, the compensation mechanism, the PDC's, the bank are still very much up in the air. There is no appropriation for it. There is tremendous uncertainty about values and whether or not this is going to realize compensation for restricted land owners.

The other hole in the plan is, of course, in lieu of tax payments. Preservation area farmers are going to be crushed by the tax appeals. They are going to be left holding the bag. These are two very dramatic financial impacts of the plan we are most concerned about. Otherwise, as far as it goes, we see the amendments as going in the right direction.

SENATOR ZANE: Thank you.

SENATOR DUMONT: Do you believe that this statewide system of transfer of development credits will work?

MR. FUREY: We see the intent behind statewide redemption of credits as just an attempt to increase the market for these credits, to help the chance of these things attaining value. It is, again, uncertain and unknown, but we think it is in the right direction. They are trying to make that system work because there is a need for compensation.

SENATOR ZANE: Thank you very much

MR. FUREY: Thank you, sir. (See appendix for written statement.)

SENATOR ZANE: Margaret Peary, Serious Taxpayers Opposed to Pollution.

M A R G A R E T P E A R Y: Good afternoon. I don't mind telling you that I am a little nervous about this, because I have never done this before. So, what I have to say is not prepared. It will be coming from my heart. I represent a number of people in the Ocean Township area known as Serious Taxpayers Opposed to Pollution. We are also part of a larger group known as POWER, which stands for Protect Our Water, Environment and Residents.

We have been deeply concerned over things that we feel are threatening to our area. Unfortunately, I am at a little bit of a loss today, because I only got this bill a few minutes before I walked in. I am shocked at the way it has been done. I feel it is slipshod at best - the way it has been introduced at the last minute trying to get it pushed through. And, I resent it as a taxpayer. I really resent it.

I feel the pinelands bill is good. If there is anything lacking in it, I think it is the amount of enforcement. The area where I come from, unfortunately,

doesn't enforce its own rules and regulations, and we have had to turn to the pinelands for help. We talk about home rule and yet so many towns in Ocean County in the area where I live don't take advantage of home rule. They ignore their own rules and we are relying on the Pinelands Commission to help us with problems. More recently we have a landfill in our area which seems to be following the pattern of many landfills in this State in that there is leachate that is contaminating the groundwater. By contamination, we are talking about carcinogens, benzene, and vinyl chloride and things like that.

We don't get anywhere with our local representation, and we are relying on the Pinelands Commission to help us, and from what I hear today, this Perskie bill would have an effect on what the Commission itself can do in the protection area. That is the area that I live in. Now, we need protection badly, because our local people are not doing it for us. And, if this bill goes through the way it is now, I don't see the Commission having the power that it has now. We need them, and we need the pinelands bill to remain the way it is.

I have to concur with yesterday's editorial in the Asbury Park Press which is one of our local papers. They supported the original plan. They felt that Governor Byrne had the foresight to approve this plan. The Senate approved it; he approved it. They stand by it, because it was a good plan and it was sorely needed, and I would encourage that attitude - let the plan stay as it is now and don't let this bill go through. Thank you.

SENATOR ZANE: Your nervousness did not show. Thank you very much. Gary Patterson, please, Pinelands Commission.

GARY PATTERSON: Senators, thank you again for allowing us to come and speak to your committee. You heard us address last week the time factor involved, time to review this bill, time to look at all the aspects of the bill, and we still have that problem. Even as of today we have no changes in the time factor and the time clock to do the ticking.

The bill has an assortment, perhaps even a grab bag, of issues that have to be addressed. My suggestion to the Committee and the Senators who have to address the issues yet would be to open this bag up and shake them all out, look at the issues one by one. There are so many facets of the bill. In fact, the amendment that Senator Perskie has drafted for us is even longer than the initial Pinelands Protection Act. There are so many issues to be addressed that they confuse the issue.

Some parts of the proposed legislation are indeed admirable. I am entirely in favor of looking at the transfer of development credits issue. I think that has great merit, but it will have to be very carefully considered. We don't want to take credits and dump them into Cherry Hill or Bedminster without making sure that those communities are able to absorb increased housing on a statewide basis. So, those aspects are very fascinating and should be encouraged.

The other issues that we have been hearing discussed have problems. As you know, I am the Commissioner. I was Vice-Chairman of Governor Byrne's Pinelands Review Committee. For twelve years I have been involved with the protection of the pinelands issue. I have been on a local planning board in the core area of the pinelands, Chatsworth, as well as a zoning board member and a school board member. So, I am familiar with funding issues and tax rateables and all the rest of the smokescreens that I have heard talked about today and many other Committees.

The positions I think I have to address are three, the three largest, in my opinion. The cumulative effect of additional subdivisions that would go through without a regional review. The regional impact is addressed and the proposed

Perskie legislation talks about a 200-unit limit. As you heard Senator Laskin address this, we would have units coming before us of 199, and that precedent was clearly set with DEP's critical area review. Where they said 50 units or less would be reviewed by DEP, we saw the housing developments came in at 49, and in CAFRA it is 25 and the developments came in at 24. So, that is a real loophole that has to be addressed. But, the other issue is this cumulative effect. It matters not over time whether we have one major housing subdivision or many small ones. The impact is the same. The damage is the same.

This piece of legislation addresses the protection area. We heard many people identify the protection area as being critical to preserve the core area. I was Chairman of the Committee that designed the boundaries on the Governors Pinelands Review Committee. At that time, three years ago, we did not have the data, the hard and cold factual data, to make what I now see into hundreds of thousands of dollars of research and data collection, the appropriate information to draw up boundaries correctly. We made a mistake.

SENATOR ZANE: How substantially would the boundaries change?

MR. PATTERSON: The boundaries have been modified, perhaps gerrymandered, at two levels. They were changed a bit when they went to Congress and they were changed a bit when they came through the final Pinelands Protection Act from the recommendations of the Pinelands Review Committee. That is all because we didn't do as good an educational job as we should have to explain why these boundaries were proposed where they should have been. So, some things could change. There is flexibility there. So, those factors could occur. But, our position now is the forest district that Sean's map showed is equally sensitive, ecologically unique as the core, all the way down to Cape May County and Cumberland County. The habitats down there are some of the most outstanding and rare and endangered species of flora and fauna. The water is even cleaner than in the preservation area. Our problem is the waters that run through the preservation area, like the Mullica, the Great Egg, and Atsion, Batsto all originate outside the preservation area. If we don't control the land use at those headwaters, the quality of the water in the preservation area will be degraded. That is why we need that protection. We need the review, a regional review. Winslow or Waterford Township on their own feel that they are not going to do any damage by constructing a certain amount of new housing, but everyone downstream experiences the problem.

That is why we need the regional overview. That is not merely for 200 houses, but maybe 5 houses or 1 shopping center would have that kind of a regional impact.

The other issue is the one of performance standards, and I have all the sections listed here, and you have already had them read into the record before. Performance standards do not work. The performance standard observed by one attorney is going to be different from another attorney. Even if we said, "Do not degrade the water," and they bring in a little black box to locate in the backyard and say, "This will not pollute"---In time it might. But, the damage is then done, and we can't afford to damage an irreplaceable natural resource that belongs to us all.

The last point I have to make is in terms of local home rule. It was addressed well by the speaker before me. The pinelands plan, with this data bank, with its guidelines, helps local government and protects them against the pressure from undue stress for development and we all see that in the creeping subdivision issue. The problem that I have seen as a local planning board member

to stand up and fight in court to insure that our neighborhood was not adversely altered by very large developments.

We have one on the books that was about to be approved for 5,500 units. The Pinelands Plan stopped that. It protected us and gave us the wherewithal to insure that kind of adverse impact did not occur. Historically over time, as we look at land areas that have been set aside, or preserved or protected for all of us, whether it was Central Park or Fairmount Park by homestead law, or whether it was Grand Canyon by Teddy Roosevelt - the literature clearly showed the local people were adversely opposed to that kind of regulation. The Adirondacks in New York proposed four years ago to secede from the State. But, no one would question the wisdom of what was done then. They would have called Teddy Roosevelt a Communist if they knew what the word was. Literature was blue with a tax upon that confiscation - a word that you have heard many times before. I think what we are doing now is right. I think the pinelands plan legally, ecologically, its data base is defensible. It cannot stand a political attack.

We are in a political arena here. The data bank from the pinelands plan is sound. The pinelands plan is defensible. But, if it runs through this arena, changes may occur, such as development credit changes proposed or others where we don't have any basis for that change.

SENATOR ZANE: I would like you to bring your remarks to a conclusion, if you would. You are sort of getting off the bill.

MR. PATTERSON: I urge you to shake the bill out. Take every issue and look at it in detail. There are things here that could be good. There are things here that are absolutely devastating. And, separate them. Don't take them all at once.

The last point I want to make is, my Commission has taken a few bad knocks. The Ocean County representative said they had a plan before us. We could review that plan, Senator. We have had meetings with the Ocean County Planning Board three times. We have made some changes and rearrangements in the growth areas as a result of those meetings. Now, I don't think a particular letter of communication was sent to them saying "We have met and we have talked about these things." I have talked specifically with Steve Pollock himself on these particular issues and the report they did for us. It is sad that that was brought out and not really addressed in turn.

The last point for us is, we have had meetings five and six times a week as the plan was coming to fruition. Many of us, as Commissioners, took the responsibility for meeting within our own counties. I am in Burlington. My freeholder representative Bob Shinn who spoke here is from Burlington, and we took it upon ourselves to work with our own municipalities. If we have the problem of attendance in other counties, maybe we ought to look at those representatives from those counties and find out what is going on. We all have responsibilities to our families as well. And, so, five nights a week out was too much.

SENATOR ZANE: Thank you very much. Any questions? If not, I call Maryann Thompson, Cranberry Farmer. (No response)

Nelson Johnson, Attorney, Hammonton. (No response)

Lee Merrill, Professor of Natural Resources, Rutgers University.

L E L A N D M E R R I L L: I am Leland Merrill. I am here to speak against the amendment. For the last ten years I have worked in natural resource policy. For twenty-five years before that I worked in the agricultural experiment station. I have a deep interest in the pine barrens. I led the movement, along with some

growers who are here in the room, to establish the National Research Center for Cranberries and Blueberries in Chatsworth, and the Research Center for Horticultural Crops. I was also senior author of the plan which you have there, National Parks Service, Rutgers University, which was done during the time the State was preparing its own plan.

Later, a group of scientific workers at Pennsylvania, Princeton, Drexel, Stockton, Glassboro, Monmouth, Rutgers in Camden and New Brunswick got together and offered gratuitous advice before the Commission was set up and the present staff was there. I believe that the Comprehensive Master Plan as it is now written calling for essential preservation in both the protection and preservation zone is the best scheme. I believe that the people of New Jersey in the future will be better served by this, than by the amendment and by the provisions which the amendment sets forth.

The Commission did a herculean job in a very short time to get together a tremendous amount of scientific information. The problem of protecting and preserving the pinelands, I believe, deserves the direct attention of the staff at the Commission level. Despite the fact that my father, if still living, was a City Engineer for thirty years, I don't believe that the municipal government at this time in New Jersey with the scientific data that is being handled by the Commission and its staff of scientists can handle this if the goal is to protect the pinelands as they are. Now, if it is just to protect open space, or a certain amount of open space, I think that is something different.

By training I am a biologist. I have worked in that area, and I know that the work the staff has done and the Commission is first class. I don't think at this time - and I say again, at this time - that the municipalities would be able to handle that data and interpret in their review. Therefore, I think the review should be as it is now the first time at the Commission level. The University, as of July first, has established a Commission of Pinelands Studies to add more information to aid the Commission and aid the people in the State to fine-tune the management of the pinelands area. Thank you very much for this chance to be heard. (See written statement in appendix.)

SENATOR ZANE: Thank you. Edward Lloyd, New Jersey Public Interest Research Group. (No response)

Robert Bradel, Burlington County.

R O B E R T      B R A D E L: You have all heard from associations and representatives of different political bodies, and I am here for a few minutes to talk about the single lot owner. I live in Medford Township. My name is Robert Bradel. I own a lot in the Braddocks Mill Lake section, and I would like to just show you some of the difficulties that a person has in attempting to deal with the Commission and the Commission staff. I would hope that the bill of Senator Perskie would possibly correct some of these problems. I hope it could be strengthened to establish more realistic standards, more logical administration. I think that home rule is helpful, but I also think that realistic standards are needed.

I have a lot on Braddocks Mill Lake that I bought along with two others in 1959. And, I have owned it since that time. I purchased it at fair market value from a corporation, Braddocks Mill Corporation, which I am a partner in, and at this point two years ago, 1978, I guess it was, I was asked if I would sell it, and since I had no particular use for it - we had intended to give it to our son, but he died in 1967 - I said, "Yes, we will put it on the market." That fell through, so we proceeded further to give it to a realtor and made a sale in 1979, August. I sold the lot for \$45,000.

We then applied to the Pinelands and I thought, since I had been retired, I needed the income, that was sufficient reason to allow hardship approval under interim rules. I was totally wrong. It took seven months. At the end of April of the next year the staff said they would not give me the approval because I didn't have a hardship. They also said that I was not three hundred feet, nor could a house be built 300 feet from the stream that runs through the lot, and the lot is two and a half acres. They also said there would be too much nitrate concentration 7.32 parts per million as compared to one of their standards which I had trouble finding, but they said, you have to compare that to two parts per million.

Further, they said that the development of this single lot would result in substantial impairment of the natural resources of the pinelands. That is just one little old building. It is not in the critical areas, as far as water quality is concerned. So, with that as a starter, I retained lawyer. I have the firm of Giordano, Halleran, Crahay to handle an appeal. And, I also asked Medford Township if I could have an exemption to build my own house on it, as a fallback position in case I could never sell it. Well, when the pinelands staff heard that, they said that I lied and threatened to have that exemption removed, revoked.

At any rate, this is a simple proposition. I have a single lot. It is on a stream. There are three other lots on the same stream. Only four houses can be built there. We have gone through hearings and discussions to no end. We are all the way up to November, 1980. I thought we had reached an agreement with the staff providing we would come up with three things - settling the issue of groundwater level, settling the issue of an alternate septic system and a wetlands report. We did all those things, we thought, satisfactorily and they reneged and would not give the approval.

Now we are into the new law. The new law says that if you have an acre and you had a municipal approval that was valid before February of '79 that you could not have a hardship approval. I thought that applied to me. But, the staff has now registered an opinion that since a 1968 municipal approval was done before the municipal land use law, I can't have a hardship approval there. So now we have to go back to court again. I hired another expert on municipal land use law planning and in August we will thrash the matter out some more. It has been almost two solid years discussing this relatively simple proposition. I think I am short close to \$20,000, and have wasted two years, and I am still paying taxes, and I don't have a resolution yet. It appears like the rules are too rigid in the protection areas in some cases. Mr. Patterson spoke about protecting the water going into the pinelands preservation area. I think that is a wise thing. The water that I am sitting on, Braddocks Mill Lake, the whole chain goes away. It goes into the Rancocas and the Delaware. It doesn't need the same type of protection, although it should be protected within limits.

At any rate, I would hope that the Perskie bill would find a way to improve the administration of this situation, and to rectify some of these problems that I have outlined to you. Thank you.

SENATOR ZANE: Thank you very much. Isabelle Dietz, private citizen, Ocean County.

I S A B E L L E D I E T Z: My name is Isabelle Dietz. I am from Manchester Township in Ocean County. I will have to refer to my statement, because I can't speak without the notes.

There has been sufficient comment by others on the specific items in the proposed S-3335. I will comment only upon the very first proposed amendment. The larger part of that paragraph is nothing more than what has been and is being done by the Pinelands Commission, therefore, no amendment is needed. The ending part of the same paragraph is a blatant attempt to strip the Commission of that authority, vested in them by statute, which is the very basis for sound regulation of the pinelands area.

The crying need for regional management has been undeniably demonstrated by a long history of failure by municipalities and counties to control development, to provide needed services to support the same, and to prevent the devastation and pollution of our land. To ask anyone to believe that "local knowledge and local police power" have done the job or will do the job is preposterous. In spite of a few instances of hypocritical sweeteners throughout this bill, I regard it as one more effort by special interests to destroy the preservation effort.

As a private citizen, and to find something in my State government to believe in totally, I have followed the work of the Pinelands Commission and staff through meetings, workshops and hearings. I am convinced that their judgement, together with the background of extensive expert consultant research and data, should be given all consideration over this obvious attempt to thwart their dedicated work. They should be allowed to continue without this destruction. No amendment is in order at this time. (See appendix for written statement.)

SENATOR ZANE: Thank you very much.

MRS. DIETZ: Thank you for hearing me.

SENATOR ZANE: Helen Sciarra, Environmental Defense Fund.

H E L E N S C I A R R A: We have submitted a written statement through the mail. So, I would just like to comment on certain observations as a private citizen and as an environmentalist.

Important consideration should be given to the fact that ever since the adoption of the Pinelands Preservation Plan the pressure to compromise began almost at the outset, from one Committee to another that I have attended, until it finally comes to this Committee. I urge this committee to stop compromising this land and bite the bullet. Do what must be done. Vote down the Perskie bill. Small communities need a strong pinelands plan. Some local communities have absolutely no local control. They have to rely on the pinelands for protection. I sincerely mean that.

In these communities it is a bread and butter issue. People in these communities don't have the monetary means or the desire to attend meetings that no one listens to. So, it is important. If in fact there are communities that do have local control, then there is no problem with them. I am an active citizen who participates at the local level, and there should be no problem with them to conform with the master plan. But, believe me, there are many communities - and I live in one of them - that have absolutely no local control. I can't say that any more emphatically. Thank you very much.

SENATOR ZANE: Thank you. Gretchen Duncan, Ocean City, Environmental Association of Cape May County.

G R E T C H E N D U N C A N: Thank you. I will be very brief. We would just like to submit our opposition to Mr. Perskie's bill, citing the fact that we believe it is a cynical bill. I submit this New York Times Editorial of today.

SENATOR ZANE: Thank you very much. Charles Fenning, private citizen.

C H A R L E S F E N N I N G: Mr. Chairman, I represent the residents of the Mount Pleasant section of the Borough of Woodbine, Cape May County. Our area is basically homesteads, one to fifteen acres of land. I would like to address the portion of the bill that would limit development for approval to 200 units or greater.

Presently under the protection of the pinelands, the Borough of Woodbine is considered a pinelands village. Development is limited to 3.52 acres, I believe it is, per unit. With removal of this protection, our area would be subject to the small developments which have been discussed previously. We could have developers move in and put in 20 or 25 homes. Under this protection area, if a developer would like to put in his homes, we are protected and the area will remain basically farmstead. We would not have homes on small lots. We would like to protest this bill under that area. I would like to make one statement on the area of home rule. It is my feeling that if we did have comprehensive home rule, none of us would have to be sitting here today.

SENATOR ZANE: Mr. Fenning, I think that the concern that you have under the present law would be a greater concern to me than what is projected, because you are talking about preserving an area of 3.5 acres per dwelling unit; and if I understand the authority of the Pinelands Commission at this point, on that same 3.5 acres of land, if they saw fit and could justify it, they in fact could go to four or five dwellings in the same area by their determination.

Whereas, under this bill, as I understand it, that would be a decision made by the local planning board and ultimately approved or disapproved one way or another by the Commission themselves. I see greater concern for your concern under the present law.

MR. FENNING: Well, we know that not every planning board or local politician considers the wishes of all the citizens. Sometimes they consider their own personal wishes or the wishes of a few. At least under the present plan, if a developer would like to put in houses using less land, he would also have to go to the Pinelands Commission. It is another step in protecting our area from uncontrolled growth.

SENATOR ZANE: Thank you very much. Jane Bloom, Natural Resources Defense Council.

J A N E B L O O M: I am an Attorney with the Natural Resources Defense Council, which is a national non-profit organization which is dedicated to the protection and wise use of natural resources. We are supported by 48,000 members and we have 2300 members in New Jersey. We have actively sought adoption of an effective plan to protect the pinelands and have participated at all stages of review of the plan.

Today we strongly urge you to reject S-3335 to amend the Pinelands Protection Act, and to give your continued support for implementation of the plan. No new legislation is called for at this time. To amend the plan at this early stage of implementation would be senseless and it would result in unreasonable delays in attaining needed protection for the valuable and sensitive resource of the pinelands. In essence, we feel that this bill would effectively undermine the plan's carefully conceived scheme for pinelands protection.

Key provisions of this bill will have a devastating effect on protection of the pinelands. First, Section Four, as has been reiterated by other speakers, would reduce the careful regional planning - district boundaries, density in limitations,

and use restrictions which are at the heart of an effective management plan for the area - to the status of mere recommendations which are not binding on municipalities and counties in the protection area. Municipalities and counties would have to meet as yet undefined performance standards. This would really defeat the purpose and effectiveness of the regional planning approach, which is the key to protecting the pinelands.

A similar provision was promoted last year by a coalition of builders and was evaluated for its environmental effects by the Federal government, and rejected as environmentally unsound.

Secondly, Section Nine of the bill would severely curtail the Commission's ability to insure effective implementation of the plan in the protection area by limiting its direct review authority to developments of 200 or more units. For under 200 units, the Commission could not reverse approval by a municipality that was granted in violation of the act plan unless it had a two-thirds vote of the full membership of the Commission. I believe Terry Moore explained the severe limitation that places on the Commission. The inevitable result of this limitation would be the proliferation of scattered and piecemeal development throughout the protection area with consequences such as the degradation of pristine water quality of the area, not only in the protection area, but in the preservation area as well.

The plan was prepared pursuant both to federal and state mandates to protect a very vital area, and both of these statutes declare, even under the proposed bill, that there is an overriding need to preserve and protect and enhance the significant values of the land and water resources of the pinelands. To meet these goals, the Commission spent two years, over two million dollars, and reviewed countless documents of evidence, studies, to develop its plan. There is a very strong scientific basis - environmental, economic and other impacts were all studied and adoption of the plan followed not only close cooperation with municipalities and counties, but there was significant public debate. The draft plan was revised significantly prior to adoption to respond to the needs of many diverse interests, including small land owners, farmers and builders, and there were revisions made, such as blanket exemptions for subdivisions that accrued prior to the moratorium, an urban reserve provision that would have allowed increased density.

In strong contrast to the carefully crafted plan that the Commission came up with, S-3335 was hastily drafted. It is ambiguous, and it leaves a great many questions of critical importance to the public unanswered.

SENATOR ZANE: Excuse me, ma'am, how do you know it was hastily drafted?

MS. BLOOM: Well, it may not have been hastily drafted, but it was certainly hastily rushed through.

SENATOR ZANE: How do you know that?

MS. BLOOM: Well, first of all, we know there have been even changes in the last several days. None of us have received a copy of the bill.

SENATOR ZANE: Rushed through what?

MS. BLOOM: Well, the way I understand it, there was an emergency rule that was sought to be pushed through last Monday, which would have read this thing out of Committee and made it available to be passed very quickly.

SENATOR ZANE: Would you believe that is not true? I am very frankly a little bit annoyed with the constant reference to "pushing this bill through." You know, we were given a bill and we are paying prompt attention to a bill. I think a justifiable chastisement is in order, if you will, if in fact we sat on a bill. There are bills here that I am sitting on in my Committee, and I am going

to sit on them, too, because they are bad in my opinion. But, this bill we are not. We are airing it. You are here today with the opportunity to express your views on the bill.

MS. BLOOM: I appreciate that opportunity.

SENATOR ZANE: Excuse me one second. I just resent the reference that this is being railroaded, or is a window dressing, or what have you. This Committee is seriously considering this bill, and if we wanted to just railroad it, we would not have called a public hearing, and we would have released the bill last week.

MS. BLOOM: My understanding is that significant public pressure---

SENATOR ZANE: I am sorry to vent my spleen, if you will, on you, but I am just tired of the reference.

MS. BLOOM: Well, it is my understanding that severe public pressure was exerted on Monday and that prevented this from being very swiftly passed. This hearing is the only opportunity so far that any of us have had to deal with something that could make very major changes in the Pinelands Protection Plan.

SENATOR ZANE: I am sure you are pleased to have this opportunity, aren't you?

MS. BLOOM: Yes.

SENATOR ZANE: That was afforded by this Committee.

MS. BLOOM: Well, we certainly do appreciate that. In contrast to the kinds of impact analyses that were done on the plan, we have not seen any analysis that has been done to assess the impact adoption of the bill would have on the environment of the pinelands, its economy, culture and other essential characteristics, and we would really appreciate seeing that sort of thing.

More importantly, there has been no supporting evidence that has been directly presented to the public that the bill will achieve the legislative goals of the affected, protection preservation and enhancement of the pinelands. Nothing at all has been offered to demonstrate that the plan, which has only been in operation for six months, will not work. We believe that the plan is now in place, and should be given a chance to work, and no changes should be made in the act until insight gained from the implementation process indicates that there are changes that are necessary. Thank you for this opportunity to testify. (See appendix for written statement.)

SENATOR ZANE: Thank you very much. Are there any questions? If not, I now call James T. B. Tripp, Environmental Defense Fund.

J A M E S T. B. T R I P P: Mr. Chairman, members of the Committee, ladies and gentlemen, the Environmental Defense Fund strongly opposes the proposed amendment to the Pinelands Protection Act. We do so on the ground that in our view it would undercut what is now an orderly planning process that stimulates sprawl development in the longrun.

The basic issue before this Committee, in our view, is whether the New Jersey pinelands, 1.1 million acres, is a unique, irreplaceable state and national resource, not just a county or municipal resource. It was in recognition of the fact that it is a unique state and national resource that the Congress of the United States designated the pine barrens as the first national reserve of its kind and that this state passed the Pinelands Protection Act in recognition of the unique features, the forests, the farmland, the endangered flora and fauna, the highly pristine groundwater, the rural wilderness character so close to massive metropolitan areas.

Let us remember for a moment what the original institutional resource problems were that were addressed by the federal and the state legislation. The

resource problem is simply the gradual loss of the natural resources of the pine barrens through sprawl and piecemeal development, which have cumulative impacts, not just large, massive developments, but continuing small developments. What was the institutional problem? The institutional problem which gave rise to the federal and the state legislation was the inability for very obvious and practical reasons for 52 municipalities and several counties to provide the overall, coordinated plan of action to protect the resources of the pine barrens. The problem simply was, as I have indicated, sprawl development.

This bill would call for more strength and commission review of developments of more than 200 units. We have to remember that from the point of view of the resources of the pine barrens, the development of 200 units would have more or less the same impact as ten developments of 20 units each. There is no difference.

What is the basic concept of the Comprehensive Master Plan which has now been developed after hours and hours of hearings and development of all kinds of reports by scientific consultants? The general concept of that plan is an effort to accommodate the population growth that was projected by the State of New Jersey in a manner to conserve the resources of the pine barrens. And, the only way that anyone has suggested that that can be done is to channel or to encourage population development in and around existing population centers which have existing infrastructure, and to minimize development in large, contiguous tracks of forest land and farmland that still remain both in the protection area and the preservation area. The need to preserve large, contiguous tracts of land is specifically mentioned in the federal and the state legislation. There is no other way - I submit that no one has proposed an alternative way - to protect these resources and to accommodate growth.

This bill, it seems to me, while coerced to maintaining the present institutional framework for review of proposed developments in the preservation area would alter it in a rather radical way with respect to the protection area. And, let me suggest that at the end of my concept there is some way the protection area can be severed off from the preservation area. They are two different chunks of real estate. There is a piece of earth over here, and here is another piece of earth. But, that simply belies the basic hydrological links between the protection area and the preservation area. The fact is that the present legislation, in our view, and the master plan, recognizes the hydrologic processes and the ecological at work in the pine barrens. If you have a development in the protection area, that pollutes the groundwater and the protection area, eventually that groundwater is going to move. It may take years. It may take decades. It is going to move towards the preservation area, and over time it is going to affect what goes on in the preservation area. There is just no way around it. If you want to protect the resources of the preservation area - and let's assume that is your only goal - the only way you are going to be able to do that is through stringent controls on development within the protection area. I would submit that was the design of the present legislation and the design of the comprehensive master plan.

I would submit that the proposed bill basically treats the protection and preservation areas - two distinct pieces of real estate - and fails to recognize these hydrologic and ecological processes and these links that I have talked about. It also fails to recognize that incremental damage to the resource of the pine barrens can simply occur through incremental groundwater pollution. A little groundwater pollution over there, and a little groundwater pollution over there, it keeps adding up and the end result is a significant transformation of a system. What is needed is obviously a bold and innovative program of action. That is

what the federal legislation called for and what the state legislation called for, and that is, I would submit, in large part what is happening. New Jersey should be proud of what is happening. Many other states in the country look to New Jersey and what has happened. What we do not need is a retreat from basic principles - basic principles recognizing the unique features of the pine barrens and basic principles recognizing the hydrologic and ecological processes at work here, the cultural amenities of the pine barrens. Recognition - as much as we might like to think that 52 municipalities can do the job by themselves with those municipalities having prime rate land use controls, that simply cannot be done.

Let me submit that what we have going on here is a very important experiment, perhaps unprecedented in this country. It is an experiment that should be allowed to work. You should be allowed to see what the outcome of that experiment is before you dismantle the rather delicate and fragile - politically fragile - institution that has been set in motion here. If three or four or five years from now you conclude that this experiment does not work, that everyone is intensely unhappy about it, then I submit it might be appropriate for this Committee and this Legislature to think about making some major alternations in that set up. But, this is not the time to do that. If, in fact, the experiment is thwarted now, if those institutional arrangements are altered now, the end result may be severe damage to the resources of the pine barrens. And, remember, that damage is irreversible. It cannot be undone. Thank you very much.

(See appendix for written statement.)

SENATOR ZANE: Thank you. Thomas A. Thomas, President, Town Plan Association. (No response.)

John Gallegos, Private Citizen, Galloway Township.

J O H N G A L L E G O S: Senator, I intend to condense what I have here. It has already been rewritten several times this morning.

Let me introduce myself. I am John Gallegoes, a member of the Galloway Planning Board. I am also a member of the Atlantic County Environmental Advisory Services Board.

Basically, I have quite a few problems with what has come to be known as the Perskie Bill. It seems that the initial thrust of the bill is very disconcerting in that it proposes significant reduction in the Pinelands Commission regulatory powers. Effectively, it appears to me to reduce them to an advisory capacity. Especially significant is the thought that the Commission may only be empowered to rule in projects that are 200 dwelling units or greater in size, or in commercial or industrial uses on 30 acres or more, which are known as regional impact types of projects. This really bothers me, especially if you consider just why the Pinelands Act was instituted in the first place, in an effort to protect the groundwater water quality inherent in the Pinelands. Most of the projects that would be below 200 dwelling units in size - maybe I shouldn't say most - but a good percentage of the projects below 200 dwelling units in size would, in fact, utilize septic systems. Septic effluents are one of the major pollutants, one of the major concerns of the Pinelands Commission and the Pinelands Act when it was first instituted. Preservation of the groundwater is a high priority and deserves consideration. By no means should the Commission be restricted to just projects 200 dwelling units or larger.

SENATOR ZANE: What number of units would you recommend that be exempt? That is really what we are talking about.

MR. GALLEGOS: I don't think that there should be a restriction because, in fact, a single-family unit can contribute as much septic effluent as can a unit per acre in a larger project.

SENATOR ZANE: Okay. Thank you.

MR. GALLEGOS: Also, should the Pinelands Commission be forced to rely upon legal proceedings, as indicated, such as hearings before an Administrative Judge as a means of challenging municipal or county approvals of application for development, then the Commission's functions and effectiveness would be seriously impaired by cap and budget constraints. You all are probably familiar with that.

The end result would be that some environmentally unsound projects would be approved, as the Commissioners would be forced to challenge only the worst projects, due to budget dictates.

New Jersey DEP's coastal zone mangement program does not have such a policy nor are they forced to a two-thirds vote of any sort, such as is indicated on page 16.

If the bill is passed as proposed, then the Pinelands Protection Act and the CMP must be returned to the Secretary of the Interior's Office, in accordance with the National Parks and Recreation Act of 1978. This could be disastrous to the entire concept of the plan in view of the fact that there is a good possibility the plan might not reemerge from the Secretary's Office. With the plan goes the preservation area. With the plan goes the protection area. With the plan goes the federal funding that is supposed to be directed towards this project. It doesn't make sense to me at this point to risk losing the whole concept of pine barrens preservation in this manner. And I am not convinced that the amendment to the bill, as proposed by Senator Perskie, would prevent this from happening.

As far as the home rule idea is concerned, I am not opposed to home rule if, in fact, it is apparent that the home-rulers themselves possess the expertise

or have the technical background necessary to make a logical or feasible planning decision, especially when the environmental health and welfare of a recognized unique resource is at stake. For instance, in my own neighborhood, we have the Brigantine National Wildlife Refuge; and I can currently see that area right now being built up to the Refuge boundaries with projected populations of some 50,000 units by 1990 and an additional 40 to 50 thousand people by that same year, just for that one area. There are other cases in point, such as groundwater pollution, in the area known as the Goose Ponds, which I think show poor judgment on the part of local governments - of local planning boards.

The point I am trying to make is that the home rule concept is good only if the environmental experts are available therein. Without the experts, home rule can often spell disaster. Therefore, with the experts we have in the Pinelands Commission, these experts should be the ones to do the decision-making as long as that decision-making occurs within the field of their expertise.

Finally, I would like to indicate that a multitude of municipalities with various land use laws can disrupt the regional context inherent in the New Jersey Pinelands management policies and ultimately encourage scattered development throughout the Pinelands area rather than the well managed development that is being proposed by the Pinelands plan. I think the intent of the Pinelands Protection Act was to encourage well managed development, rather than scattered piecemeal development as you might get through the home rule concept.

I have a whole list of specific points that you might not like me to read through right now.

SENATOR ZANE: Pardon me?

MR. GALLEGOS: I have a whole list of specific points on the bill.

SENATOR ZANE: Why don't you submit them.

MR. GALLEGOS: I might just read through the pages.

SENATOR ZANE: Why don't you just submit them to us.

MR. GALLEGOS: All right.

SENATOR ZANE: There are more than 30 speakers remaining.

MR. GALLEGOS: I just want to give a brief summary. The proposed Act or amendment has several good points within it, for the most part in the last 10 pages, it appears. However, these better points are offset and lost amid the many obvious attempts to strip the Pinelands Commission of its vital regulatory powers, especially in sections on pages 4, 6 and 7.

Let me close by simply stating that I stand firmly opposed to this bill and hope that it does not pass. Thank you for this opportunity to appear before you and offer my views.

SENATOR ZANE: Thank you very much.

SENATOR DUMONT: Are you opposed to home rule or are you in favor of it?

MR. GALLEGOS: I indicated before that I was for home rule if, in fact, the qualified experts existed in the home rule form of government that were able to make the proper decisions in planning, zoning, in local government matters.

SENATOR DUMONT: Do you think at the county, state or national levels of government you have more experts than you do in your local municipalities?

MR. GALLEGOS: I think in the Pinelands Commission, we have more environmental experts than we have on the local levels, yes.

SENATOR DUMONT: All right. Thank you.

SENATOR ZANE: Thank you very much.

Freeholder Barbara Sigmund, President of the New Jersey Association of Counties.

B A R B A R A B. S I G M U N D: Thank you, Mr. Chairman and members of the committee for this opportunity to appear before you on behalf of the New Jersey Association of Counties, which as you know represents the elected and appointed county officials across the State.

Last week the New Jersey Association of Counties passed unanimously in the resolutions section of our annual conference, a resolution approving Senate Bill 3335. The Association of Counties did so because most county officials believe that this bill reinserts the important and legitimate function of municipal and county governments into the process of protection of the Pinelands.

The question before us in this bill is not the question of whether the Pinelands should be protected. That question has been courageously and prudently answered in the affirmative by the Governor and the Legislature and by our congressional delegation. But the tension between the interest of the whole and the interest of the parts has always been an important one in our system of government. And when addressing the institutional question so eloquently spoken to by previous speakers, we must also remember to protect the legitimate interest of local and county governments in environmental and development issues. I might say, parenthetically, that I have served as a member of both a municipal and presently the Mercer County Planning Board and that I find that there is a constant and growing sensitivity to environmental questions among members of these local boards and commissions. We mustn't make the mistake of thinking that the only people who are interested in protection and environmental interests are those who seem to be on super municipal or super county kinds of councils. There is, as I stated, a growing concern, a legitimate one, right within the members of those local governing bodies themselves, and I think that is one that somehow or other ought to be incorporated into the provisions of the continuing government of the Pinelands.

The New Jersey Association of Counties believes that this bill does not represent a retreat from basic principles, but a reassertion of basic governmental values and a redress of the necessary balance between local and regional governments in this one important area.

The New Jersey Association of Counties believes that S 3335 restores proper balance to regulatory regional planning with strict environmental standards - very important - in a valid local land use control and regional oversight, as we understand was intended the original Pinelands Protection Act.

Thank you very much, Mr. Chairman. (See appendix for written statement and resolution.)

SENATOR ZANE: Thank you very much.

Nelson Johnson. (Not present.)

Lester Block, Private Citizen, Mullica Township.

L E S T E R B L O C K: My name is Lester Block and I am here representing the Atlantic Audubon Society. I am also a resident of Mullica Township.

I will just highlight some of the things I have in my written testimony. We think that limiting the Commission's jurisdiction to only those developments of 200 or more units/parcels, or those that would cover more than 30 acres, defined as "developments with regional impacts," is absurd. We have defended this against CAFRA in the past. CAFRA was mentioned before as having jurisdiction over 25 or more units. The problem we have with them is that most of these approved developments, approved by home rule and local governments that are 24 units or less, have septic systems, many times in areas with a high water table.

The bill also recommends the regional zoning boundaries become advisory rather than mandatory. We can't agree to this either, because if you have just an

advisor of a regional zoning boundary, you have trouble with different municipalities being right next to each other. On this side, this part of the municipality is a conservation zone and, on this side, the local municipality would zone it a high-growth zone. You would have a salt and pepper effect of conservation zone versus high-growth zone. So we feel that the regional zoning boundaries should remain.

The bill would also remove a formal distinction between high-growth and low-growth areas. CAFRA has such a distinction. I would like to mention that we are currently involved in a legal battle with a development in Eastern Galloway Township. It is a high-density development in a low-growth area. This type of designation gives the private citizen as well as the Pinelands Commission, for example, legal ground to oppose such developments. Without this designation, that takes away our legal grounds to oppose such developments.

Again, it recommends minimum lot sizes and maximum density limits and a list of acceptable and prohibited uses would become recommendations, not requirements. If they are not requirements and the local planners lack proper education or expertise, or what have you, they can't make a proper decision. I have something to show you on that later.

Finally, the bill would allow PUDs in forested areas. The development my group is fighting in Eastern Galloway is a PUD being put in a rural and undeveloped area that is low-growth under CAFRA and has a high environmental sensitivity as defined by them. I want to submit with my testimony a map of Eastern Galloway. These are the borders. To the north is the proposed Marine Sanctuary of Swan Bay. They are having a hearing at this hour in Stockton on it. It is a public hearing on the environmental impact statement. To the east is the Brigantine National Wildlife Refuge. Directly to the west is the Pinelands. Here in the only open area in the township that is rural and undeveloped, with the exception of some further ones out in Western Galloway, it is virtually loaded with development. Not all these have been approved yet. But they have all come before the local planning board. It is predicted that they will take in about 50,000 people.

The point I wanted to make here is that this is what happens when home rule is given back to the municipalities who don't have the expertise to make a proper decision. I guess I should show this map to the people here too. It is virtually fully developed.

Now, speaking as a private citizen of Mullica Township, I agree with the recommendation made before that small communities such as Mullica Township need the Pinelands Plan because we have little or no local control over development. Just at last week's planning board meeting - and I attend the planning board meetings regularly - we were told that there were four parcels of land being developed without building permits and the people never came before the local planning board. We have this problem consistently. The local planning board has adopted the Pinelands Plan and it is coming before the Township Council.

I would like to make a few comments on some of the things mentioned before. Mr. Elwood Jarmer from Cape May County said that the plan would interfere with their 208 management plan. When Galloway Township approved the Smithville project, they used up their Atlantic County 208 water quality management plan allotment from now until to the year 2000. That was issued by the New Jersey EPA.

Robert Marshall said there would be no sewers in the growth areas and he mentioned the lack of federal funding for such. I agree, but I also attend some of the Galloway Township Planning Board meetings and they work with developers to provide the sewers. If the developer really wants to build here, he will provide the sewers. He will provide the municipal services that are necessary. It doesn't have to be something that comes from federal funds all the time. This seems to be

the way Washington is leaning now. They want the local government and the State to pick up these tabs instead of it coming out of the taxpayers' fund.

Freeholder LeFevre mentioned two public hearings he held. I attended the Galloway hearing. Basically, people came and complained against the Commission. Their complaints were centered against the Commission, not against the Plan. The problem was with the Commission. The only ones who complained against the Plan were members of the John Birch Society. And, if anyone would like to see it, I have the propaganda they passed out at the end of the meeting.

When Mr. Stobbart gave his testimony from Cape May, he mentioned that the water quality nitrate standard was 16 times higher than DEP's average. I would like to quote something from this paper, "Soils, Septic Systems and Carrying Capacity in the Pine Barrens," by John J. Taylor and Lowell A. Douglas. It says, "Since the pine barren soil groundwater system is especially sensitive to the addition of effluents, proper planning to minimize groundwater pollution is essential." It goes on, and here is the rest of the quote.

SENATOR ZANE: I think we are getting off the bill that is before us.

MR. BLOCK: This is new to you and I would like to make it clear to you people since you were here listening that this is an important consideration. (reading) "It is concluded that the rate of denitrification in the sandy soils of the pine barrens region is almost nil and almost all," and he has in parenthesis, "99 plus percent of the nitrogen in the effluents will reach the water table as nitrates. Hence, the stricter controls. . ." - and that is what I referred to for my explanation.

I guess the point I wanted to make is just to show that home rule can be abused, not intentionally, but if the local officials don't have the expertise to deal with it, and they really need the Pinelands Plan. Thank you. (See appendix for written statement.

SENATOR ZANE: Thank you very much.

SENATOR DUMONT: Do you feel there is some superior wisdom at the state and national levels of government that municipal and county officials do not possess?

MR. BLOCK: I don't think it is wisdom so much as it is that the Pinelands Commission has the expertise. They have staff biologists. They have staff geologists and people who can deal with these problems. We don't have these on the municipal level. Most municipalities can't afford them if they are small. If they are larger, maybe they can. But again, it is at the taxpayers' expense. Here we have a plan that is also at the taxpayers' expense. Why don't we take advantage of it.

SENATOR DUMONT: Okay.

SENATOR ZANE: Thank you.

Mary Ann Thompson, Cranberry Farmer.

M A R Y A N N T H O M P S O N: In the interest of a hot afternoon, I will attempt to keep my comments brief. I would like to submit to the committee a very detailed statement on the bill once I have a final copy of the bill with all the amendments.

First, I would like to point out, as a cranberry grower from South Hampton Township, that there are several farmers in my area who have the problem that there is not enough land. They rent land from speculators. Under the present plan, they would be put in an agricultural district and they will be assured that they probably will be able to continue renting the land. Under the bill, we have no hopes that the municipality of South Hampton will designate this area as an agricultural production

area. We have tried before to get it done and the municipality has not been sympathetic.

I am also concerned because from my own standpoint my farm is in three townships. So, I will be dealing with increased bureaucracy in three townships in order to get an agricultural district. I am very concerned about the outcome since I would like to stay in farming.

My second point is, from reading the procedural process and also from looking at the development review, dividing the review amongst the municipalities, the county and the Commission and taking away some of the Commission's review power, I feel will not adequately protect my own farm from possible pollution and also possible development problems. I would like to point out that there are a large number of cranberry growers in the protection area. They are not all in the preservation area. The problem is, from the municipality's standpoint, because I have dealt with this before in trying to get help in enforcing certain environmental standards, that a favorite tactic of the builders recently has been to threaten to sue the local municipalities. So, even when they have been sympathetic to us, they have been unable to deal with the numerous suits because they are under a cap. They have very bad budget problems and even one suit, bringing in expert witnesses and other people to back their standards up, could cause them tremendous financial burdens. In many cases, they simply try to come to some kind of arrangement with a developer and we have the development.

My third point would be that actually this bill, in addition to increasing the bureaucracy for the citizens, is not actually addressing the problems that we do have under the present plan. There are many simple ways to deal with this and they are not in this bill. For instance, someone could ask the Governor to get more administrative help for the Commission. The Commission presently has not enough secretarial help. You can tell when you call and you can't get people to answer. This is a very simple procedure.

The second thing is to do things that other regional administrations have done, such as the California Coastal and the Adirondack; that is to put single-family applications on a fast track, having a different type of application and a different type of review. And, in those cases, other regional programs have used the executive director to actually facilitate those, with happy results instead of complaints.

The other thing would be to have a lead agency approach which would coordinate all the agencies acting with the Commission instead of having the Commission coordinating all the different agencies. You can actually set up change of authority and have one person dealing with the applicants.

There is also another way to get better information to the people. Many people I spoke to in Atlantic County aren't even aware that there are single-family exemptions. They don't have anyone to go to. In some cases, this could also be worked out with their own representatives in trying to facilitate this information.

Definitely, this bill has to be looked at by all the people in the pine barrens because when I was talking to the "pineys," they couldn't really even believe that this bill was going through. They haven't even heard about it and they are very suspicious as to what is going on since they haven't seen it. Thank you for your time.

SENATOR ZANE: Thank you very much.

Nan Walnut, Rancocas Creek Water Shed Association. (Not present.)

Joe Taylor, Private Citizen and Farmer, Burlington County.

J O S E P H T A Y L O R: I want to say to the committee that I am grateful for the hearing that you are holding today and grateful too to the people who were here a week ago - I wasn't here a week ago - who perhaps had some influence in having you hold this hearing. Thank you for the opportunity.

I am a farmer and have been at least a part-time farmer all my life. I have been an elementary school teacher for 19 years and an elementary school principal for another 19 years. As a family farmer, we raise vegetables, fruit, hay and straw. I am a Farm Bureau member. I live in Cinnaminson Township, a good ways from the pine barrens; but I am familiar with the piecemeal development that occurred in our township. Where there used to be perhaps 25 or 30 farms, there are now 4. I know something about the development that happened in Berlin Township where I was principal for awhile, in Midford Township also and down in Medford in Gloucester County.

The Perskie Bill disturbs me because it opens the door again, I think, for entirely too much home rule where, as has been said here today several times, there is not the opportunity and the technique and the people skilled to deal with the kinds of matters that would come from developers.

One thing was said by Lauren DeCou, the President of the Farm Bureau of New Jersey, with which I do not agree. He mentioned one thing that bothers farmers is when they have too many neighbors, too many hunters, and too many trespassers. Yet he says he think this bill would be helpful. But it would certainly in my opinion, allow many, many more neighbors close to farms in the protection area.

I want to speak also of another position that I have. I am a landowner in the protection area in Hamilton Township, Atlantic County, by marriage. My wife and her family own 100 acres on the Great Egg Harbor River between Weymouth and Mays Landing. Last year about this time and extending on through the summer and into the fall, we attended a number of meetings of the Planning Board in Hamilton Township. We feel that the decisions made there by Hamilton Township in compliance with the comprehensive plan of the Pinelands Commission is laudable. I attended one such hearing where Senator Perskie, himself, was present representing developers who wanted to develop parts around Mays Landing that were not within the growth area, including the part that my wife's family own. Resorts, International, was back of one of those plans. It seems to me that to pass this bill - these amendments - would open the door for more of that kind of thing. The area in question where our property is is in the local zoning forest conservation area. The Commission plan keeps it in the forest conservation type area. There are growth areas, but they haven't yet been built upon by quite a bit.

I would just say further something about my knowledge of the people who live in the protection area. It seems to me that the farmers who may support the Farm Bureau in their support of this plan are the ones who perhaps want to sell rather than go on farming. And, if we look down the road 10, 20 or 30 years, I am sure that we are going to have higher costs of transportation for food. We are going to have a more difficult time to find places where farmers can farm and can operate and I feel that we need very much the protection of the Pinelands Commission plan to see that we don't have more loss of good farmland and we don't have more loss of good farming opportunities. We need, I think, to give this Commission plan a good chance. Give it 4 or 5 years, at least, before trying to alter it right in the middle of the stream before it has hardly gotten underway.

In conclusion, I would say developers who wish to develop in the Atlantic City-Cape May areas should be confined in their efforts to the already existing growth areas that are designated in the Commission plan where there are, in many cases, existing utilities, etc. They certainly should not be taking away the places

in the Pinelands and certainly not farmland that I want to preserve for the farmers who live there and for the future of my own grandchildren, as well as other New Jersey citizens. Thank you.

SENATOR ZANE: Thank you very much.

Thomas Norman, Attorney from Medford. (Not present.)

Barbara Fordyche, Association of New Jersey Environmental Commissions.

B A R B A R A F O R D Y C H E: I represent the Association of New Jersey Environmental Commissions. The Association is a statewide organization of 2,000 members. We have been working in the Pinelands with environmental commissioners for about two years.

We feel that additional Pinelands legislation is unnecessary and improper. Since the adoption of the plan, we have been following the activities of the Pinelands Commission's Subcommittee on Conformance. A majority of Pineland municipalities, 32 out of a total of 56, are now working in cooperation with the Pinelands Commission to bring their master plans into conformance with the regional plan. We feel that an unnecessary interruption in the conformance process now in midstream would be a slap in the face for communities who have already invested their resources to comply with the plan.

I have a map which I would like to show you which illustrates the status of conformance of the Pineland municipalities. The municipalities which are colored in red have contracted with the Pinelands Commission to comply with the plan. Most of these communities are already meeting with the Commission and at least one of them has their master plan ready to be certified. There are 32 of those in that category. The yellow, which are 8 communities, have declined to work with the Commission and 4 have a decision pending. But, as you can see, the majority are already working with the Commission. For this reason, we feel that the proposed amendment would be a disservice to these communities and the people that have been working in them.

SENATOR ZANE: Thank you very much.

Joseph Marshall, Private Citizen, Mid-Atlantic Legal Foundation.

J O S E P H M A R S H A L L: Mr. Chairman, my name is Joseph Marshall. Although I am a private citizen, I am here on behalf of the Mid-Atlantic Legal Foundation in Philadelphia. I have prepared a rather lengthy statement which I will submit.

SENATOR ZANE: Thank you very much.

MR. MARSHALL: I would like it entered into the record.

SENATOR ZANE: Surely.

MR. MARSHALL: Mr. Chairman, members of the committee, ladies and gentlemen, as I said, my name is Joseph Marshall, an attorney with the Mid-Atlantic Legal Foundation. Currently, we are representing Mr. Marvin Matlack, a Pinelands area resident, and his family; the Pineland Landowners Defense Fund, Inc.; and the school boards of Washington and Woodland Townships in certain legal proceedings through the State, involving the Pinelands. It is on behalf of these individuals and these parties that I am offering testimony today.

As I have stated, I have a rather lengthy statement. I will just submit it and try to summarize it for you very briefly.

Number one, contrary to public belief, neither Mid-Atlantic nor the parties involved are here to oppose the preservation of the Pinelands. That decision has been made and now the best thing to do is implement it.

In fact, the real reason we are here, as we do not either support or oppose the Perskie Bill, is that we feel we must attempt to participate in any

effort to amend or change the Pinelands Protection Act as it exists today. basically in order to raise some of the concerns which we feel are inherent in the present plan and which we would ask the committee and the State Legislature address. Specifically those concerns are four.

One is the severe financial impact upon municipalities and other units of local government located in the Pinelands.

Two is the discriminatory nature of the so-called "piney" exemption.

Three is the performance of the Pinelands Commission's staff.

The fourth and most important is the effect of the Pinelands comprehensive management plan upon individual property owners, which we feel represents an unconstitutional taking of private property without the payment of just compensation.

We remind the committee that in order for a governmental action to be valid, both the ends and the means must be legitimate. We feel and we respectfully submit that the present mechanisms used to achieve the preservation of the Pinelands are deficient. For example, a large number of individuals whose only crime was to live on land in the Pinelands prior to the imposition of Governor Byrne's moratorium are being asked to bear the burden of protecting the Pinelands. Ironically, both the state and federal legislation refers to the Pinelands as a great national treasure and how it is in the nation's interest to preserve it. It seems patently unfair to force this small and blameless segment of the population to pay for it.

SENATOR ZANE: Mr. Thomas, are you using this for a forum? We would like your comments on the bill.

MR. THOMAS: No, I am not. It is on the bill.

SENATOR ZANE: I would like your comments on the bill. I think you are giving us your position on the Pinelands and the problems.

MR. THOMAS: What we are saying, number one, is that the bill does address the compensation issue rather sketchily and, in summation - and this will be dealt with greater in the testimony - the Pinelands development credit does not represent adequate compensation or constitutional compensation. I will just leave it at that then. (See appendix for written statement.)

SENATOR ZANE: Thank you very much.

One last call for Thomas Norman, an attorney from Medford. (Not present.)  
Harvey Moskowitz, Professional Planner, of Livingston.

H A R V E Y M O S K O W I T Z: Thank you.

My name is Harvey Moskowitz. I have prepared a statement. So I will just keep my remarks brief with respect to the bill. I have also included my own background as a professional planner on levels of government from the State to County Planning Director and as a consultant to private municipalities. I think for the record I should also show that I am consultant to a number of large developers in the southern part of the State, as well, including Kravco and the Smithville Development Company.

I would like to speak in favor of the bill. In my opinion, I think the amendment answers many of the major concerns of knowledgeable officials and planners who have had experience with respect to the original legislation. Specifically, I am particularly impressed with the shift, if you will, to the local municipalities to prepare their own master plans and development ordinances. I think we learned in the late '60's and early '70's that you can't superimpose planning from above. In order to have effective planning, the people for whom you are planning have to participate from the very beginning in terms of developing ordinances and master plans.

I think it is also important that these plans and ordinances have to be

in conformance with the overall regional plans so that, in fact, we don't end up negating regional plans and regional goals and objectives.

I also think the proposed bill answers another problem, namely, the tendency of regional planning agencies to get too involved with minor matters, literally small lot subdivisions which really have no basis or impact in terms of the overall health, if you will, of the entire region. What this bill does, I think, is forces the Commission to focus on the larger issues, the larger developments, still giving them the right to get involved when a smaller development proposal does have regional impact, but with somewhat higher standards.

Many of these comments are spelled out in the written statement. The only problem I have with the amendment - and I think I should note that for the record - is the question of transfer of development rights through the registry of Pinelands development credits. In theory, I am very much in favor of the concept of the transfer of development rights. It is a fairly complicated and complex issue. One of the problems that I feel has not been addressed is, for example, the impact of the transfer of development rights on other municipalities throughout the State. The Act provides for mandatory acceptance of development credits in all other municipalities, provided, of course, the density is in excess of one unit per acre and provided, of course, there is adequate sewer capacity. It would seem to me that there are municipalities in the State, particularly those with adequate sewer capacity which are trying to encourage urban development or new development which would readily buy, if you will, or accept those development credits. I think to require all municipalities to buy the concept or require them to accept the transfer development credits is premature. I would prefer to see an omnibus transfer of development rights bill, a bill which I think has been introduced in the last two sessions of the Legislature which hasn't been adopted - it may have had a hearing, but I am not sure of that - rather than an attempt to move such a far-reaching and precedent-setting program in a bill relating to just one portion of the State, although an important portion and a large portion of the State.

I would suggest as an alternative, one, the transfer development credits be made optional so that not every municipality has to accept them if they don't want and, second, the committee might wish to consider limiting the mandatory area of that to the general Pinelands area, as opposed to the entire State of New Jersey.

That sums up my testimony, Mr. Chairman. (See appendix for written statement.)

SENATOR ZANE: Thank you very much.

SENATOR DUMONT: You don't remember, do you, Harvey, the number or the sponsor of that bill you were talking about?

MR. MOSKOWITZ: No, but I can get that for you, Senator. Were you one of the sponsors?

SENATOR DUMONT: No, but I will take a look at it.

MR. MOSKOWITZ: I can get that to you.

SENATOR ZANE: Mae Barringer, Pinelands Coalition.

M A E B A R R I N G E R: I certainly will try to adhere to the three minutes.

I would like to highlight a couple of things in my statement.

First, I would like to mention the fact that it has been extremely difficult to review this bill simply because it keeps changing. Even after the 29th, there was a morning version and then an afternoon version. I have here a version of 4-27, another one 6-22, two versions on 6-29. Then today, I just found

there is a version dated July 6th. We had absolutely no time to look that over, neither have our lawyers or experts.

It was mentioned earlier there is a conflict in this hearing time. Some of the people who would have liked to be here to speak today, especially the Shell Fisheries Association, felt it was important for them to be in Stockton this afternoon for the Mullica River Sanctuary hearing.

Included in the statement I have just given you are editorials in the past week from the New York Times, Asbury Park Press, Courier Post, Burlington County Times, Trenton Times and the Atlantic City Press. I think you will agree from those editorials and the commentaries that have come out in the newspapers in the past week, the impression has been given, no matter how erroneously, that perhaps this bill was being pushed through rapidly. So I think the public can be excused for having that impression. We have had a very difficult time obtaining copies of the bill. The bill that we were given last week is simply a xeroxed copy with many changes, many revisions. We have not seen a printed bill yet and that is a problem.

At best, we find that the bill has been confusing, very difficult to read, and even more difficult to interpret. Because of the limited time we have had, you were kind enough to give us one week to review it and come before you for a public hearing. Our attorneys have not been able to review it entirely. Our experts have not gone over it completely. We will be submitting a more detailed statement to you later.

Earlier there was mention of the attendance of the Pinelands Commission. I would like to clarify that no fifteenth member has yet been appointed by the federal government. So there are just fourteen members and, of late, they have done a pretty good job of attending.

There was also mention by several people - Bill Thomas of the Builders Coalition and George Buckwald of the Ocean County Freeholders - that there were North Jersey appointments and they implied that perhaps there were a lot of North Jersey appointments. There are, in fact, only three out of the fourteen who are from North Jersey. All the others are from South Jersey.

I would also like to reiterate what others have said here today, local control was what has gotten us to this point in regional planning in the first place. For the past 200 years, the Pinelands communities did govern themselves. But in the past 200 years, we didn't have the pressures in our Pinelands communities that we have today. We didn't have casino gambling. We didn't have the massive influx of people from the Philadelphia area and North Jersey area. Land was considered worthless in the past. There was no pressure to build there.

We also would like to reiterate what has been said, that the performance standards are wide open to interpretation. We feel that that would be a major loophole in this bill.

There was a statement earlier by someone that there was no input from local officials. I attended the meetings of the Pinelands Municipal Council. On only one occasion could they achieve a quorum of members present. That was their opportunity to really be effective. Fifty-two mayors speaking out with one strong voice would certainly have had an effect on the Legislature. But they refused to meet.

We would like to know what would happen to the Pinelands during the year's extension that would be given for conformance. What regulations would apply? This is a question that hasn't been answered by anyone.

To highlight my written testimony, the purpose of the transfer of development credits or the Pinelands development credits was to accommodate the housing needs of the region, especially due to casino gambling. Transferring these

credits to North Jersey will not alleviate any pressure for housing in the Atlantic City area.

Also using the water quality standards which would be comparable to the DEP's, which is the way the June 29th version reads, is unacceptable to us. Arnold Schiffman, the Director of DEP's Division of Water Resources, testified at an earlier hearing on the comprehensive management plan, and I will quote from him. He said, "This would denote a world of minimum water quality and, frankly, I do not want to live in a world of minimum water quality." The Pinelands Commission should, and must, have the leeway to establish more stringent standards to protect this vital resource.

Under the Perskie Bill, the credit bank would be permitted to purchase PDCs in the case of hardship. However, hardship is not spelled out in that bill and we feel that that should be clearly defined because that is also wide open to interpretation.

Innovative municipal planning areas or PUDs which would be permitted in the protection area are unacceptable because no matter how advanced the techniques of storm water or waste water handling, housing developments in the wrong locations cannot maintain the essential character of the existing pinelands environment, a specific goal of the planning for the protection area even under the Perskie Bill.

Finally, the definition of a regional impact as being 200 units or more, meaning housing units, we presume, or commercial or industrial development of 30 acres or more, has no rational relationship to the goals in the legislation. Under this provision, we feel there could be perpetual gravel pits and perpetual toxic waste dumps, since they could come in with 29 acres, as Senator Laskin mentioned, the creeping subdivision. We also have the creeping commercial and industrial development.

To sum up, we feel the Perskie Bill is unnecessary. It has been poorly researched, we feel. It is fraught with quicksand and will undo all the planning accomplished over many years, using millions of taxpayers' dollars.

We cannot believe that the New Jersey Legislature is really ready to enact this piece of legislation, which can do absolutely nothing to further the cause of protection and preservation of the pinelands' resources, but which will imperil the entire pinelands region. Thank you. (See appendix for written statement.)

SENATOR ZANE: Thank you very much.

Ann Auerback, Natural Resources Chairman, League of Women Voters.

P E A R L S C H W A R T Z: I am sorry but I am not Mrs. Auerback. She had to leave, but she asked me to give you this as a member of the State Natural Resources Committee.

My name is Pearl Schwartz and I am a resident of Ocean County.

SENATOR ZANE: You may submit that if you like and it will be included in the record.

MS. SCHWARTZ: I will, but I just want to make one or two brief points.

As we have testified in the past, the League supports a meaningful regional plan that can be implemented and enforced through a regional land management program.

The Pinelands are a contiguous ecosystem and watershed with delicate, easily disrupted composition. The task of preserving the Pinelands in their natural state is, of necessity, beyond local capabilities.

Then we have a number of specific items that we question and I am not going to read those.

We believe that the wording of this bill is vague, circumspect and equivocal, but with far-reaching consequences. By voting this bill out of committee, it is our

feeling that you will do a disservice to the citizens of New Jersey.

I would like to add that some of us in the League in Ocean County were part of the Ocean County Task Force. We reviewed that 90-page document that was spoken about this morning and we had a number of criticisms and disagreements. Those were not answered by our own Freeholders and Planning Commission. (See appendix for written statement submitted by the League of Women Voters.)

SENATOR ZANE: Thank you very much.

Dr. Philip Namzetta, Pinelands Commissioner, of Atlantic County, Stockton State College.

PHILIP N AN Z E T T A: I support the bill and I intend, right now, to take three minutes to address what I see as the main issue raised by the opponents of the bill in saying that essentially it is not needed or it is not time for it yet. You have heard the individual horror stories from members of the public. They have been exposed to the newspapers. They have been represented at public hearings. There have been recent public hearings in Atlantic County which have brought them out. You have heard reference from Mayor Hintz of Egg Harbor Township about how the Pinelands will sacrifice certain municipalities, in his case Egg Harbor Township, and others in Atlantic County, to provide the regional growth necessary from the whole Pinelands area. It will do that with densities which the Pinelands Commission's plan projects at 4.6 units for each developable acre within the regional growth center; that is 1 1/2 times as high as some of the major PUDs, which have been criticized here this afternoon.

You have heard from other representatives about local irresponsibility and you have heard the contempt in which they hold local officials. That contempt permeates the Pinelands plan, permeates the approach which the Commission and the Commission's staff take to local officials.

I want to relate just for a minute why I think that is an important point to raise. Several years back at Stockton, I founded the Center for Environmental Research. One of the things we began to do was to provide training sessions for local governmental officials interested in improving land use planning. It was for Atlantic County officials. We met Friday nights about once each 4 to 6 weeks. The municipal officials came to those meetings on Friday nights and listened to the experts. They asked questions about how they could control development, how they could improve the decision-making in their municipalities. They were, in fact, hungry for the sort of assistance which the Pinelands Commission could have provided for them and the support which it could have provided.

The spirit, I am saying, is there. The willingness is there on the part of local officials to take the responsibility if they can be helped rather than circumvented by a plan which brings the decision-making, itself, to the Pinelands Commission instead of to the local level.

Now, when I go to those municipalities, they ask me whether they are at risk legally if they don't conform, can they not conform, how can they resist the Pinelands plan, and what can they do to help overcome this. Their attitude is one of absolute resistance to what the Pinelands plan is bringing to them. These are the same officials who were strongly in favor of learning how to improve their own local decision-making when that opportunity was presented to them.

The Pinelands Commission has a number of members who have never worked on a local planning board of in local government and who don't understand local government. The experts on the Pinelands Commission staff include not a single licensed planner in the State of New Jersey, where any municipality in developing its master plan will have a licensed planner to assist.

I don't think that it is being represented to you accurately that the Commission brings the expertise which locals need. What it brings is decision-making which the locals should be carrying out. This amendment offers a secure framework in which that sort of local decision-making can take place and in which Commission standards are the starting point and in which local decision-making is preeminent, but in which there is always a fall-back position, even for a single-family house on a single-family lot if the Commission feels there is a serious abuse. The Commission is not limited to reviewing those projects which have 200 units or more. If the problem is sufficiently serious that a strong feeling on the Commission exists, as exhibited in a two-thirds vote, the Commission can call up for review any project in the Pinelands area if it wishes to exercise the two-thirds vote. And, beyond that, the Commission is empowered to deal with projects which have regional impact.

I think the amendment presents a secure framework, presents a reasonable balance between local decision-making and Commission standards on the one hand, and oversight review on the other hand. And I certainly urge you to report the bill out with your endorsement.

SENATOR ZANE: Thank you very much.

William G. Baranyay, New Jersey Audubon Society.

W I L L I A M G. B A R A N Y A Y: I am William Baranyay, Executive Director of the New Jersey Audubon Society. The New Jersey Audubon Society opposes Senate Bill 3335 on the basis of its overall intent, as well as on a number of specific points.

This bill addresses two entirely separate issues, the processes and procedures of the Pinelands Commission and its relation to county and municipal governments; and the allocation and transfer of Pinelands Development Credits. These are two separate issues and should not be considered together.

The Pinelands Development Credits are an important tool for directing growth and for providing recompense to land owners in the preservation area.

SENATOR ZANE: Sir, all of this is within your statement, is that correct? Would you just like to submit your statement and highlight your position?

MR. BARANYAY: Yes. I just wanted to say that thoughtful legislation would be needed here to fund a PDC bank in order to implement the carefully planned and balanced program described in the Comprehensive Management Plan.

As for the other part of the Perskie Bill, the New Jersey Audubon Society is firmly against any effort to emasculate the planned regional approach to growth and land use management embodied in the Pinelands Commission.

First, no further legislation concerning the Commission itself is needed. The Pinelands Protection Act clearly defines the role of the Commission and recognizes the need for regional planning and implementation when it speaks of the need for coordinated efforts of all relevant municipal, county, state, and federal agencies.

We would note that the Pinelands Mayors' Council never obtained a quorum to review and comment on the Comprehensive Management Plan.

Next, I would like to say that the development with regional impact is defined in section 3 of S-3335 and in Section 14, Senator Perskie would limit the Commission's review to any application for development with regional impact in the protection area. This paragraph means that local municipalities could approve, without reference to any area of the Pines, sub-divisions of 199 parcels, developments of 199 units, and industrial complexes of 29 acres. The cumulative effect of these small developments on the environment of the Pinelands could be devastating. The Commission is now authorized to review any proposed development in the Pinelands area. Senator Perskie would not only amend and limit that authority, but he would require a two thirds vote of the full Commission to reverse or even modify a proposal once locally approved. This two thirds requirement would effectively rob the Commission of its mandated responsibility. The preservation and protection of the Pines must be accomplished on a regional basis. Just as the unique and sensitive Pine Barrens eco-system crosses municipal and county boundaries, so the mandate to safeguard this special part of New Jersey transcends the rights of individual government units. Thank you very much. (See appendix for written statement)

SENATOR ZANE: Thank you very much. Joseph Plonsky, Ocean Acres?

J O S E P H P L O N S K Y: Good afternoon, Senators. I'm one of those little fellows who is often referred to here at this conference but is then politely set aside and forgot about. I purchased a couple of lots in Ocean Acre back in 1975 for the purpose of building a home and retiring when I achieved the position of being a senior citizen. However, during the interim, I found that there was no desire to protect property rights. Concern was more for the bird, the bee, the turtle and the frog. As a result, this Pinelands Commission was established and there was no

proper reference or consideration made for people who had purchased property in areas where, legally, major sub-divisions had been approved by the same people who live in these towns and had ample opportunity to testify at these hearings prior to the approval of the sub-divisions and they now take the attitude, "Well, we suckered them into buying the lots. Now, let's hit them on the head and take it away from them by declaring it as meadowland."

Now, I'm in favor of the Perskie Bill to begin with, but I think there ought to be some other protective conditions incorporated in that bill also. These protections should relate to those persons who have purchased properties and either provide for a grandfather clause to permit them to build in those approved sub-divisions--and I don't mean sub-divisions that were approved after the Governor's moratorium, but I mean sub-divisions that were legally approved prior to the Governor's moratorium. By the way, speaking about the Governor's moratorium, as you know, there was no valid cause or reason at that time to put a stop to this construction. He took the attitude, well, just because you may rob a bank, let's put that guy in jail because he may rob a bank. Now, there was no legitimate reason and no research done to show that these lands in the Pinelands were, if built on, a potential danger to the water table. It was subsequent to that moratorium that the evidence was compiled and then presented to the Pinelands Commission.

SENATOR ZANE: Mr. Plonsky, let's try to stay on the bill, if we could.

MR. PLONSKY: So, on the bill, I would like to see that the property rights of people be given careful consideration. You know, that's part of our Constitution. We all feel that people who come here and are presenting their position take no consideration of the Constitution that states that property rights are paramount. After property rights follow the other human rights, civil rights, the rights of free press.

So, I think, basically, there has got to be some consideration in this amendment to provide for the property rights of people who bought in good faith and now are unable to build. When I was estopped from building, I could have built for \$30.00 a foot. Today, if I want to put a house up there, it would cost me \$50.00 a foot. I don't think that's a reasonable attitude for any Legislature to make or any legislative body to make.

You know, the expression is made that home rule is for the birds. Well, you know, the whole last election was based on home rule. When Reagan says that we have over-regulation by government and let's get down to the local areas and let them carry the burden, that's what they were elected for. I'm sure, in your august body, you're not chosen because you are either an engineer or a geologist. You were elected because you've got good common sense and you were capable of being elected by your electorate. I think the same thing should hold for the persons who have bought in good faith. They should be given all the consideration above and beyond what is being given now. This idea that, "Well, you're stuck, that's too bad; maybe we'll take care of you in five years," I don't think that's fair. I think the time is now for that to be taken care of. There's been an injustice imposed on the people who in good faith bought properties so that they could have a retirement home and are now being penalized for planning ahead because some people feel that, "Well, maybe, possibly, if so, and when, home rule, you can't trust those birds because they're susceptible to bribes or things like that," I think that's out of place and I would respectfully ask that a provision be incorporated in this amendment to the Pinelands Act that either a requirement that the grandfather clause be imposed or

that proper compensation be made based on the purchase price of the land at the time it was purchased so that proper restitution could be given to the property owners. Thank you Committee members.

SENATOR ZANE: Thank you very much. Jeanne Fijolkowski, Galloway Township?

J E A N N E F I J O L K O W S K I: First, I would like to pay you a compliment. The appreciation that was spoken earlier for you listening has been great to hear. Maybe this is one of the reasons that some of the people have vented towards you because we're used to being snowballed and not listened to when we would like to be. This is one of the reasons that would like you not to pass the bill because if home rule was in the true sense, that we, the homeowners, had more to say in what rules and regulations we had to follow or adhere to, then home rule would have some meaning to us. As a mother of six children, I know what home rule means.

What alternatives will we have as private citizens if we do not agree with the municipality, if we don't have an overseer such as the Pinelands Commission. Comments by Mr. Squires and the small landowners and the family businesses, I would like to elaborate just a little bit on that. Family businesses in the Pinelands area--excuse me, I would like to refer specifically to the shellfish because that's where I live, although my family hasn't been in the shellfish industry for four generations. This has not been looked into. There is no buffer zone between Smithville, as was stated earlier, and the wildlife preserve, and it also has been proven, has been investigated, that it will be detrimental to that.

When Mr. LeFevre commented earlier on some of the municipalities not conforming, I disagreed. I have attended meetings and I will call them anti-pines meetings because this is what it is. One, in particular, that I refer to was at A.C.C. Mr. Worthington called the meeting and, of course, Mr. Perskie, Mr. Hughes, Mike Matthews, Richard Squires, Philip Nanzetta, Mayor Heinz, Ken LeFevre and our own Gabriel, our former Mayor, and Harry Leeds. Now, when they took a count, they said 18 municipalities were represented. But, these were not 18 pinelands municipalities. They were in fact municipalities like Pleasantville, which has nothing to do with it. As far as I'm concerned, I think they have been badgered by them and, if they don't conform, it appears to me that they make it politically not promising, their future, if they don't go along with what's been going on, and this goes for both sides.

Just to elaborate again, a little bit, on how we're treated with your home rule, it has been arrogant; you are not allowed to speak; interrupted; your train of thought transferred completely to something else and I don't feel that we have a chance unless we have someone in there that cares for "the little people." There has been a contradiction by all of the people that have spoken today, the list that I previously read, including Mrs. Marsh, as to where the concern lies and it lies with the small people. The small landowners are not the ones that I feel they are concerned with.

You also commented on the discretion of the solicitor when three or more minor sub-divisions come in. They could make them comply. So far, when we ask or make comments about this, they say, "Well, we're not going to ask them because, if they don't want to bring it in, then why should we stir the pot." I think it should be and I'll be one to call up and stir it.

Mrs. Marsh also commented that she did not want the help of the tri-level government intervention and this is actually what we have today. They want to make it the way they want it. They want to control it. I also would like to emphasize that so far, with the things I've said about no buffers and the zones that they don't want to designate high or low, they just want the local people to have say over it, I think it is piecemeal and because there are too many changes in local elections, we really can't plan and hopefully we'll get better ones, but we may not. Therefore, I would like to be able to appeal to someone like yourselves or the Pinelands Commission to intervene or help us in some way. We really feel that it's been almost a hopeless case to get anything said. Thank you again.

SENATOR ZANE: Thank you very much. The next witness is Harry Wooden of Evesham Township. We're going to terminate these hearings at 4:15 and allow Senator Perskie, at that point, excuse me, 3:45.

HARRY WOODEN, J.R.: Thank you, Senator Zane and other members of the Committee. Having heard some of the remarks since about 11 o'clock, I'm very tempted to precede my remarks with something which, while it may seem facetious, I don't mean to demean this hearing, but rather I think it focuses on the central, underlying issue both behind this bill and behind all the claims of development pressure justifying scuttling or amending or reducing the Pinelands Commission or its control over things. I think there might even be some environmentalists that would accept the Perskie bill on its face if Senator Perskie were to agree to amend it by including a provision that required all casinos to appear before the Pinelands Commission before they got approval. Because, if there is anything that meets the definition of regional impact, and I mean impact in capital letters, underscored and in bold faced type, it is the casinos. Their impact has been so grossly mishandled in Atlantic City and Atlantic County is, quite frankly, the interests in that area are now looking for some way to shove that off or pass the buck off into the Pinelands and that is really what's behind this. I'm not saying that there is a big plot or anything. I think everybody knows it if they read the papers, follow the tragedy that has been happening to all the senior citizens and the taxpayers in Atlantic City who were promised tax relief, housing relief within Atlantic City to result directly from the cornucopia of casinos and it hasn't happened, not one bit. There's been a more than doubling on re-evaluation and then a 25% tax increase on top of that. I think that's a crime and I don't mean in a criminal sense. I think it's a crime in the moral sense and I think that becomes a driving force behind many of the maneuvers that we've seen in the last two years. I think it forces a very serious re-examination of the motivations behind this bill.

I will make my remarks brief. I appreciate the opportunity here, as I did last week. I think this committee has slowed down what very much was and has been defined by newspapers ranging from the New York Times to the Asbury Park Gazette to some of the local weekly papers as a hell bent rush to get this bill through without a responsible review.

SENATOR ZANE: Do I detect at this point that your opinion has changed on that?

MR. WOODEN: As I said last week, Senator Zane, I feel this committee has been the one element that has slowed that rush, but there has been a rush. One only has to look at the quoted remarks of the sponsor of the bill and some of the other sponsors of the bill. But, I also would refer to the fact that I believe it was Senator Merlino that made the comment in the paper last week when informed that

the issue that had been raised by myself and several others, not that he was referring to me and my comments, about the possibility that if this bill is adopted, it would require a new review and approval by the new Secretary of Interior, his comment was, "Well, in that case, I wouldn't support the bill or want to see it signed." Well, I think somebody ought to examine very carefully Section 502 which specifically says, in the first sentence, "A local jurisdiction or the State shall obtain the approval of the Secretary prior to any modification of the approved plan." Then we look in one of the last sections of the Perskie bill, which requires that within 90 days of adoption of this bill that the plan be modified. Now, I don't need to go any further. I think we well know--we even see the spectacle that some of the arch-supporters, the strongest supporters of the Republican administration currently in power in Washington, the Republican Senator from California, Hayakawa, stated, "James Watt is out of control." I'm not here to demean James Watt. The record is there and the newspapers. He wants to lease every square inch of oceanfront to oil leasing, even Santa Barbara channel. I think we ought to very seriously consider whether we want to take one step that exposes three and a half years of effort by yourselves, by the Pinelands Commission, by the Governor, by the Pinelands Review Committee to Secretary Watts' hands.

What are the builders and their allies squawking about, in reality? Before the Pinelands Planning Commission came into existence, before the Governor's moratorium, they had the deck very heavily stacked in their favor through the 1975 Municipal Land Use Law and through their use of Section 1983 Civil Rights suits. The institution of the Pinelands Planning Commission and the Pinelands Protection Act has started that pendulum swinging back closer toward center. But, it is still on their side, because the people who are often the only people to be heard at local government levels speaking for critical review of developers' applications are the very people who cannot afford one ten thousandth of the expenditure that the developers and their allies can afford to bring up experts and lawyers and so forth to bring pressure on the local body. So, even if the local bodies are proceeding totally honestly, they have to face things like the June 26, 1981 Supreme Court decision, City of Newport vs. Fat Concerts which, while it took away the right of punitive awards against municipalities, it underscored the right of recovery of punitive damage awards in civil rights suits against individual governing bodies, planning boards and similar local officials. That is a loaded gun and no local municipality has the resources to achieve what the Pinelands Commission has achieved through its study and research and documentation. Without having the Pinelands Commission in place as it is now operating and without giving it a chance to do that, without short-circuiting the process, when we're halfway through the compliance process, when far more municipalities have chosen to comply than not, to turn around and now insert this bill would leave things in a very muddle, and I think that is the real intent of the whole process. All we have to do, if you want to see an example of what local municipal government is capable or not capable of doing, without going into any specifics, is take a look at the Big Hill Landfill in Southhampton. The residents there in the adjoining community have been petitioning their township government for years about that. What did it do last week? In a somewhat heavier than normal rainstorm, it literally landslided into three houses, including releasing sludge into one house.

Those are all matters that, frankly, local municipal government might--

SENATOR ZANE: Mr. Wooden, I'm going to have to ask you to restrict your comments to the bill. There are four other speakers and we're going to stop in seven minutes, come hell or high water.

MR. WOODEN: I appreciate that. What I'm doing is citing an example of the very things that you've heard all day long citing why the bill is needed and I'm saying that they are actually a direct reverse of the facts as they exist in New Jersey and many other states.

Local municipal governments should have a say, but they are limited in their power to act. The laws that already exist, which Senator Perskie's bill even referred to, stated, "Will remain in effect." The Municipal Land Use Law of 1975 took much of the power that municipalities might otherwise have and kept it under the control of the State and let the builders have the pendulum balance on their side.

I will try to sum up by saying several key factors as I see them which I hope you do consider. My basic bottom line is that I don't think this bill can be responsibly reported out without very thorough examination of a couple key factors in the bill. I will say to you right now that I believe that there is a very strong, pressing need for legislation dealing with Pinelands Development Credits and, generally, the transfer of development rights throughout New Jersey. But, I think that alone would require the exhaustive hearings somewhat on the scale that the original Pinelands hearings got.

SENATOR ZANE: Mr. Wooden, one more minute, please.

MR. WOODEN: It is a gross distortion to term that the thresholding of a level or above of 200 parcels or 200 dwelling units or 30 acres as being developed with regional impact and everything below it not be. In the Pinelands, by definition, everything has the potential to have regional impact. Otherwise, you, as Senators, the Legislature, the Governor would have not seen fit to adopt the bill originally. It wouldn't have made sense to adopt if that were not a true fact.

Senator Laskin pointed out--and I won't go into details--the danger of the cascaded applications. All one has to do is look at what happens with septic tank reviews at DEP now. They come in with 49 and they come in a couple months later with another 49 and they avoid the DEP review and nobody has successfully forced them to do otherwise.

I don't need to go over the Secretary of Interior's review. I think I've made my point on that. I think there is a responsibility, if anybody doubts that point, to get a clear written commitment from the Secretary's office that he will not require such a review if this bill adopted. Then and only then can anybody responsibly say that there is no danger of that. Even then, I'm not sure that I would trust him.

I think the bottom, basic line which I made last week, I will only repeat it. Home rule in planning has been a fiction in New Jersey for quite some time, as it is expounded here so often. There is home rule involved, no question, but not to the degree that they claim there was before the Pinelands Planning Commission. The Pinelands Planning Commission did not take away any of that because it wasn't there to be taken away.

Finally, I would urge this committee and anybody else who is examining this objectively to simply look at an awful lot of these individual hardship claims very closely. I mean on a sampling basis. I think you will find in many cases, like one that appeared about three speakers before me, four years ago they were under a sewer moratorium that was not a creature or a creation of the Pinelands Planning Commission because the Pinelands Planning Commission, of course, did not exist then. In our township, 78% of all applications for reductions in the taxes, on tax appeals last year, were on land that had already been determined to be undevelopable since

1973 when the local township adopted a virgin soil limitation with regard to septic tanks or land that was in an area close to streams and lakes with a water table less than one foot from the surface. So, for them to come and try and tell us that the Pinelands Commission did this, in many cases, is either a gross misunderstanding on their part or gross fraud. It is one or the other. I think that ought to be examined before anybody takes those sort of statements at face value. I urge you to look at that. I think your committee has done an honorable job in opening this to a public hearing, but I think you realize by the testimony today that it has really opened up a can of worms that has to be thoroughly examined. Thank you very much.

SENATOR ZANE: Thank you very much. Nan Walnut, please?

N A N H U N T E R W A L N U T: Gentlemen, I am Nan Hunter Walnut and I am Secretary of the Rancocas Creek Watershed Association. I have a very brief statement to make for the Association.

Due to the fluidity of Senate Bill 3335, which seems to be having hourly amendments, it is difficult to offer precise comment. The piece of legislation that we reviewed was dated June 29, 1981, and it was released at 4 o'clock PM on that day. It is our understanding that there have been amendments to that bill which we have not had an opportunity to examine.

We believe that S-3335 would be the vehicle that would wreck the entire Pinelands Comprehensive Management Plan. In our opinion, it is so loosely written and ambiguous that it is open to widely varied interpretations. This would provide ample loopholes for the development interests and would result to going back to building as usual in the Pine Barrens.

It appears to us to be a reincarnation of the Pinelands Environmental Council, which everyone knows was a dismal failure.

A few, but by no means all, of the objections are:

1. Using the CAFRA standards for review, 25 units and over;

The regional impact standard of 200 units or more. This means that most developments would come in with 24 or 199 units respectively.

2. Using the DEP water quality standards, these are inadequate for the Pinelands and would result in degradation of the ground water.
3. Allowing municipalities and counties to develop alternative standards.
4. Placing the onus on the Pinelands Commission to prove that an application violates this Comprehensive Management Plan. It should be the other way around.

If Senator Perskie and the other sponsors of S-3335 had a more wide-angled view of what regional land use planning entailed, they might have had more foresight than to present the parochial, biopic, emasculating clauses contained in S-3335. We feel that there are too many negative and ambiguous factors rampant in S-3335 that would completely undermine the splendid efforts and expertise that went into the shaping of an innovative and imaginative regional land use plan. In no way can the Rancocas Creek Watershed Association support S-3335. We believe that the current legislation and resulting Comprehensive Management Plan are perfectly adequate and should be given an opportunity to be tested. Gentlemen, thank you very much.

SENATOR ZANE: Thank you very much. The next speaker will be Mary Archibald.

M A R Y A R C H I B A L D: Good afternoon. I am a private citizen of Camden County and I oppose the Perskie bill because I believe that it strips the Pinelands Commission of the regulatory powers in the protection and deletes from the Pinelands Protection Act the specific goal of discouraging piecemeal and scattered development. I believe that there is a great need for a regional development plan rather than a plan by municipalities because if one municipality makes a mistake, the mistake is continued on throughout the region and this is too bad because of the far reaching effects it has on the environment.

I believe, if the Perskie bill passes and it is written into the Act, that there will be damaging effects to the core area of the Pinelands and this will effect the unique flora and fauna of the region, as well as the pristine water supply.

In addition, I think that if changes are made in the Act, as it stands, it is possible that the \$23 million appropriated by the federal government could be taken back because Secretary of Interior Watt has to review any changes that are made and since he is hostile to the environment he is likely to scrap the entire Pinelands Plan and this would be a disaster.

SENATOR ZANE: Thank you very much. John Dressler will be our last witness.

J O H N D R E S S L E R: Senator, I live in Ocean County in Berkeley Township within the Pinelands and I have the support of the Holly Park Civic Association in opposing Senator Perskie's bill. We think it's a regional problem and we're particularly concerned about the 200 home loophole. Thank you. (See appendix for written statement)

SENATOR ZANE: Thank you very much, There's an Edward Lloyd who I understand just came in. Mr. Lloyd, if you would, submit a statement to the Committee and it will be included within the record. We have a little bit of a time problem. We're going to conclude right now and Senator Perskie is going to speak. You were called earlier. If you submit your statement, we'll include it within the record. Thank you very much. Senator Perskie?

SENATOR PERSKIE: Mr. Chairman, Senators, I hope you are feeling better than you look. You are to be commended for your patience today.

I will not attempt to belabor the record or your patience with a point by point refutation of much of what you've heard. I trust in your ability to read the bill and I trust in your ability to understand and comprehend what it says. Suffice it to say that a great deal of the specific criticism that has been addressed at the bill is, in my judgement, misplaced or is based on an inaccurate or, in some cases, a non-reading of the specific language of the proposal.

There was one witness who referred specifically, and I want to leave this in your mind, as you review this bill over the next few days, I would remind you of the testimony this morning of one witness who referred to the initial opening statements that are included in the language of the bill and the word she used was "pejorative." Do you remember that? I want you to remember that when you read the language that says, "The Legislature further finds and declares that the protection of the Pinelands area can be accomplished without disrupting the economic, social, and essential governmental functions of the counties and municipalities in the Pinelands area, provided that all of the objectives of this Act are realized in the Commission's planning. Counties and municipalities should participate fully in development and revision of the Comprehensive Management Plan; flexible interpretation should be encouraged in Commission review of county and municipal master plans and land use

ordinances; that the Comprehensive Management Plan should be implemented through county and municipal ordinances, rules, and regulations with Commission oversight, rather than through direct Commission management; and that Commission planning should recognize that the most sound basis for the regulation of the Pinelands area will rely on local knowledge and local police power together with regional planning, guidance, data collection, research, training, assistance, and monitoring." If you agree that that language is pejorative, than you shouldn't release this bill. If you think that this bill returns us to the 1960's when every municipality had its own way, than you shouldn't release this bill. If you think this bill denegrates the philosophy of regional planning which most of us have fought for, and certainly I, as an individual, and the other sponsors of this bill have stood for that publicly for several years, than you shouldn't release this bill. But, if you agree that the core and the essence of this bill is to preserve intact a regional approach to the preservation of the Pinelands using the State's authority and that of the municipalities and counties in a true partnership, then you should release this bill. If you agree that the purpose of this bill is not increase development, but to increase the municipalities' right to determine where appropriate development should be placed in these municipalities and upon what terms, than you should release this bill. If you believe that the power that we give in this bill to the Pinelands Commission to approve every local ordinance that has to be adopted and to review every determination, 199 units or 201, under appropriate circumstances and under vigorous environmental standards that are spelled out in the bill, than you should release this bill.

Let me say a word about procedure. Mr. Chairman, you have expressed for your committee and I would tend to express for myself the frustration--I would call it anger, but you're more temperate than I--about the misstatements that have been made with respect to the process that the bill has undertaken. A newspaper reporter decided, on his own, without talking to anyone, that we intended, you as a committee and I as a sponsor, to try to get this bill through the Legislature in one day. It was never true; it wasn't true when he wrote it; and it isn't true today. That allegation you have heard from a great number of people. You, by your actions, have proven that that wasn't true. I only have my statements to prove it.

You have given this bill a careful hearing today. It is my request and my suggestion that through your staff you initiate the preparations of an advance copy of a proposed Committee substitute in the form of the July 6th version that you're dealing with here today and that can be printed this week. All you have to do is talk to Al Porrone and get an advance copy of the proposed reprint in this form. I would suggest that that be done and I would request that the Committee conduct a committee meeting with respect to this bill within the next two weeks, assuming that that bill can be printed this week.

I think that the public hearing process, while it didn't elicit any specific information, I think it was a useful and healthy exercise in terms of airing some of the issues. If we did nothing else, perhaps we put to bed, among those who are willing to listen, some of the concerns and some of the misconceptions that have been thrown about.

In the end, then, what I think has to come out of this--and I appreciate being given the opportunity to conclude--what has to come out of this is the reassertion, the reinsistance that what is at issue in this bill is not the question of whether there will be a regional approach or whether there will be meaningful state authority. That is not at issue. As one who voted in favor of and helped to shape the original statute with his eyes open and with a full appreciation for the significance of the

regional concept that was embodied in that bill, I would be and the other sponsors of this bill, who also voted in the main if not entirely for the original Act, would be hard pressed today to defend any approach that backtracked on that commitment.

What is at issue in this bill is whether we are going to have a workable Pinelands plan in the long-term, whether we have a decent and workable system of transfer of development rights, which is at the base of a system of compensation for some of the affected landowners, and whether we will be able to attract the active support and cooperation of the municipal officials or whether that will be extorted from them because, in my judgement and in the judgement of many other local officials in the League and in the Association of Counties and individual board members and staff people, in the long run, if the municipal officials do not actively and enthusiastically participate in the working out of this most difficult program, it must fail of necessity.

The Governor of this state is justifiably quite proud of his commitment and his state's commitment to a Pinelands protection program. So am I; so is every sponsor of this bill; so is every person who supported the original concepts that were contained in the 1979 statute; and so are the three congressmen from this state, from the southern part of the state, who led the fight in the Congress to get the federal act passed in 1978. None of us are prepared to go back to the days when there was no regional approach. None of us are prepared to backtrack on the commitment to the preservation and to the protection of the respective areas of the Pinelands. And, speaking for the other sponsors of this bill, I must close by inserting something of a personal note. There is enough room for legitimate dispute on the issues of this bill. I would suggest that the personal remarks that have been made not only to me, but the other sponsors and anyone who dares to agree with what we have chosen to try to do in this bill, are inappropriate not only in this kind of procedure, but the legislation as a whole.

I thank you very much for your consideration and, again, I would request that you arrange to have the advance copy of the committee substitute printed as soon as possible and that you schedule your committee meeting within the next two weeks.

SENATOR ZANE: Senator Perskie, the Committee, at lunchtime, we spoke briefly and we're going to work out a date in the very near future within those two weeks, depending upon schedules, vacations and what have you for a further consideration of the bill. Everyone that wanted to has had the opportunity to speak on the bill. I don't think that anyone was denied that opportunity with the one exception and that gentleman was called twice earlier and was not here at the time and his statement will be included in the record. So, I believe that everyone has had that opportunity. I, myself, think the public hearing was worthwhile. There were a couple of concerns that I had about the bill that I think were satisfied. I find that there is a lot of misgiving and misunderstanding, as I sense it, in the bill. One of the concerns which I think has been, hopefully, clarified is that, I understand the bill, and Senator correct me if I'm wrong, if there is in fact a development with 199 homes and if there are certain criterias established, the Pinelands Commission does, in fact, still review that process, whether it's 199 homes of 55 homes, am I not correct?

SENATOR PERSKIE: Senator, you are absolutely correct and I would appreciate taking one moment. I had meant to touch on that from two points of view. Number one is the so called creeping development problem and, number two, exactly the scope of review. I want to clear that up for the record so that none of you are concerned about that.

Let me take the creeping development question first. It is simply unreasonable to assume, both from the CAFRA experience and from other experiences on the local level, that the authorities are not equal to that task. The standards that are written in here permit the Pinelands Commission to challenge a project that is smaller than 200 units if it can establish that the project being considered is in violation of the standards of the Management Plan. It is simply a different procedure that is established. Over 200 units, they have an automatic right of review directly by the Pinelands Commission. Under 200 units, they have to first find a prima facie showing of a problem and it then goes to an ALJ or Administrative Law Judge for his review and then back to the Pinelands Commission. That assumes, incidentally, that you are in a municipality whose ordinance has already been approved by the Pinelands Commission. Remember, if you're talking about a development program in a municipality that is not in compliance with the Plan, the Pinelands Commission has an automatic right of review of every project of whatever size. So, there is no threshold at all. The 200 unit threshold is only applicable in a municipality that has an approved ordinance and even under those circumstances, the Pinelands Commission has a process of review. It is a different process, to be sure, and it is a process that reflects that the municipality in question has submitted their ordinance and the ordinance has been approved and, pursuant to that approved ordinance, the municipality itself has issued an approval to the project. But, both from the point of view of the access of the Commission to that project, number one, and from the point of view of the Commission's ability to intersect somebody who wishes to fragment a development at less than 200, the Act is equal to the task and the standards in the Act are very clearly specified. So, I do not believe that the Commission's powers to review those kinds of projects are substantively affected. I appreciate you making the point. I had meant to in my own conclusion.

SENATOR ZANE: Senator, the only concern that I really have on the bill at this point, the only major concern that I have--I guess there are two really--the discussion with Freeholder Shinn concerning the tax problem and I think maybe Senator Dumont shared that same concern. The other, I guess, major concern that I have is how we're going to deal with other municipalities. I think the point raised by the League of Municipalities whereby the credits will be available to be used in other municipalities for the additional 30% increase in construction. One other point that I think should be mentioned, Senator, I'm not aware of any other commission, authority, department, or what have you whereby there is a further participation other than in the Superior Court whereby the administrative law judges make a decision. Am I correct?

SENATOR PERSKIE: You are.

SENATOR ZANE: That does, in fact, as far as I'm concerned, give greater authority to the Commission--I'm not saying than they have now--but greater authority to the Commission than any other body that exists under the laws of this state.

SENATOR PERSKIE: Without question. Let me, if I may, on your prior point, simply point out that those two concerns are really one. The concern that Commissioner Shinn expressed is directly related to the concept of the redemption of the transfer of development rights. There can be no real market for those rights unless they are permitted to be redeemed on a statewide basis. I do not believe, for reasons that we can discuss at your committee meeting, that that is an onerous burden on the municipalities outside the Pinelands area. Because, as a practical matter, the great majority of those units are going to be redeemed within the municipalities

themselves. In fact, in many cases, we hope to be able to encourage, through waivers of the structure redemption fee and the like, intra-municipal redemption so that credits that are issued with respect to a given section of a municipality may be redeemed within that same municipality for distribution into the growth areas of that municipality. But, whether or not that is the case, that's all the same subject and what we intended to do in this bill was to suggest a system for the creation and redemption of the development rights and, while, as one witness said, it doesn't solve the compensation problem--your bond issue may be a much better solution to solving the overall compensation problem--what it does do is improve dramatically on the Pineland Commission's sketchy and, in my judgement, ultra vires attempts to create by regulation, as opposed to legislation, a system of transfer of development rights and if their regulatory structure, as I believe both legally and practically it will have to, then, in my judgement, that will gut a great deal of the effectiveness of the plan and that is one of the reasons that we put it in this bill, to give flesh and to give substance and to improve upon the workability of the Management Plan so that it would succeed in an area where I and a number of other individuals are convinced that left alone it has to fail.

SENATOR ZANE: With the approval of the Committee, I will ask that staff have the bill prepared in a final form and available, hopefully, within this week and, also, I would suggest to Senator Dumont and Senator Hirkala that any amendments that they may wish to propose in addition to what we have in this version to be considered today, the July 6th version, that they contact the staff and have those amendments prepared for consideration at the next meeting and at that meeting within two weeks, I would like us to consider this bill for either releasing the bill or holding the bill or for further amendment or what have you.

SENATOR PERSKIE: Mr. Chairman, I would simply request through you that if any amendments are suggested either by members of the Committee or otherwise, that perhaps the staff could circulate them to me and to the council's office and to the Commission, I assume, and any other interested parties so that we could have a chance to look at them before your next meeting.

SENATOR ZANE: Are there any comments from members of the Committee?

SENATOR HIRKALA: Senator Perskie, in view of the public hearing that was held today, do you yourself intend to make any further amendments?

SENATOR PERSKIE: Beyond those that have already been suggested to the staff, including specifically the one I mentioned at the outset this morning about taking care of the so-called "Watt" problem--and I agree with those who feel that we should not, in this Act, open up to the Secretary the original plan, and the language that Mark has now is equal to that problem. Other than that, I do not, at this point, have any proposals to make. I do not have, as a result of the testimony this morning or today, any further amendments. It's possible that later in the week or early next week there might be some input that I would want to suggest to the Committee, but I don't have anything in mind at this point.

SENATOR HIRKALA: Mr. Chairman, may I suggest that Senator Perskie receive a copy of every written presentation made to us today so that he can study them to see whether there might be something that was brought to our attention that should be answered by him.

SENATOR PERSKIE: I would be happy to do that Senator. I do want to reiterate that a great deal of what you were told today simply does not comport with the text of the bill that is before you.

SENATOR DUMONT: Do you have any objections to making the statewide problem of transferring the development credits optional rather than in confining anything mandatory to the region of the Pinelands, rather than make mandatory throughout the state because that bothers me?

SENATOR PERSKIE: I understand that, Senator. It is something that we have spent a great deal of time talking about. The problem with doing it that way is that that in turn renders or throws in substantial question the clause that I consider to be critical, which is that only to the degree of a 30% increase in any given zoned unit can those redemptions be made mandatory to begin with. In other words, the 30% figure was expressly settled on with the understanding that the redemption could be on a statewide basis. If you take away the one, you have to take away the other and, if you take away the other, then you have a program that is going to be a major problem from another point of view. In other words, if you take away the 30% and you have an unlimited required increase for the municipalities that do have to have the redemption, then you have another whole series of problems. I had mentioned earlier to you last week, and I think you might have heard it again today from someone else, that this bill satisfies or, more accurately, there is no one who enthused about all of the sections of this bill. I sat today and you did and you heard people who attacked it from two radically different directions. On the question, for example, that you raised, you heard Commissioner Shinn's testimony and you heard from those who feel that it goes far too far, and there are many who expressed some concern over what the impact will be on a statewide redemption. The fact of the matter is that the bill is in a balanced posture and it has been expressly designed to try to ameliorate some of the concerns on either side of the fence, without throwing anybody off of it. I would simply suggest to you that the nexus between the statewide redemption and the 30% allowance figure is very tight and must be maintained.

SENATOR ZANE: Senator Perskie, just one quick question. Would you have any problem--and I don't know exactly what I have in mind at this point--but qualifying those municipalities to which those rights could be transferred by open space or whatever?

SENATOR PERSKIE: Well, it may well be that some kind of formula could be developed. Frankly, I would want to discuss that with some of the staff people. Perhaps Mark could work with us. He knows with whom that dialogue would have to be undertaken and it's possible that we could come up with a formulation that would exclude those municipalities that, as a practical matter--I think you heard somebody mention Joe Hirkala's district as being an unlikely candidate and I agree with that by reason of the existing population that is already there. It may well be we could come up with a formulation that would solve some of the problems and, Senator, some of yours as well and I would have no problem with trying to do that and, in fact, I'll start working on that about 9 o'clock tomorrow morning.

SENATOR ZANE: Thank you very much. That will conclude the public hearing on this bill. Thank you.

(Hearing Concluded)

# *New Jersey Conservation Foundation*

300 Mendham Road, Morristown, N. J. 07960

201-539-7540

Statement on S-3335 presented before the Senate Committee on Natural Resources and Agriculture, July 7, 1981

Senator Zane:

Thank you for the opportunity to present this statement on S-3335.

My name is David F. Moore, and I am executive director of the New Jersey Conservation Foundation, a private, nonprofit, statewide membership organization concerned with open space acquisition and environmental quality throughout the state.

We are very much concerned about the impact of Senator Perskie's bill. The existing Pinelands Protection Act plan and implementation process appear to be working well. The Pinelands Commission is a new and young bureaucracy, continually under attack from opponents, and under stress from uncertainties with funding, legal challenges and legislative proposals to change the system. Given those conditions, the success of the commission plan and conformance process to date is spectacular.

Most towns are finding the conformance process an easy one. Since 90% of the process involves meeting the requirements of the Municipal Land Use Law, and since the Commission is anxious to provide as much planning and enforcement power as possible to the local level, the goals of S-3335 appear to be met quite adequately by the existing legislation and plan. All that S-3335 appears to do is to put the conformance process in limbo, thus creating additional uncertainty about the plan among the landowners, the Commission and the municipalities affected.

Some items in the bill put into legislative form practices already in force as a result of the plan or of Commission policy. There is no need to legislate what is already existing practice.

The provision for statewide credits, local credits and local designation of agricultural districts adversely affects the farm community, both in the Preservation Area, in the Protection Area, and indeed statewide, since towns in rural areas must increase density to accommodate Pinelands credit transfers. The lack of an appropriation for the credit bank is a serious problem too, since two years ago the Governor's Counsel determined that a Green Acres appropriation for such a purpose would be unconstitutional.

The present plan provides more than sufficient room for meeting development demands, while attempting to save millions in taxpayer dollars by concentrating development near existing roads, water supplies, sewerage facilities and town centers. S-3335 would do just the opposite, since it calls for locating planned unit developments wherever environmental standards would support them, with minimal regard for existing services. The same situation would hold true for developments of less than 200 units or commercial developments of under 30 acres in size.

We oppose S-3335 for all the reasons stated. The Pinelands Commission and plan should be given a chance to work before any additional legislation is considered, with the exception of the credit bank authorization and appropriation.





**New Jersey Environmental Lobby**  
**(The League for Conservation Legislation)**

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Box 605, Teaneck, N. J. 07666

TESTIMONY OF WILLIAM S. SINGER

BEFORE THE SENATE NATURAL RESOURCES AND AGRICULTURE COMMITTEE

ON JULY 7, 1981

IN REFERENCE TO SENATE BILL 3335

Good day. My name is William S. Singer, and I am the legislative agent for the New Jersey Environmental Lobby, a coalition of environmental groups and individuals in the state of New Jersey. I am pleased to have this opportunity to speak to you today in reference to Senate Bill 3335 introduced by Senator Steven Perskie.

I will make my statement short. The New Jersey Environmental Lobby is opposed to passage of this legislation. New Jersey has a unique opportunity to preserve the Pinelands, a natural resource which adds to the capital value of our state. Governor Byrne, this Legislature, our congressional delegation and the Pinelands Commission have been working for years now to accomplish this goal. S.3335 would inflict a fatal blow to these efforts.

It is easy to say that the Pinelands Preservation Plan is not perfect. It is easy to say that certain interests have been short-changed in the process. However, it would be foolhardy to believe that any plan would be perfect in all respects and that all parties would be satisfied. The environmental community feels that it has compromised on every step in the planning process and that there is nothing left to compromise. If the

legislation under consideration is passed, the remaining Preservation Plan will be a mockery and of little use to anyone. Building and development will abound and any protection of the Pinelands will be minimal.

In addition to these factors, the proposed legislation is replete with ambiguities, errors and oversights. However, there seems to be little sense in outlining each of these problems to you. This legislation does not need to be fixed up and repaired, it needs to be scrapped.

If this Committee releases this bill and the Legislature follows its action in due course, it is highly likely that the entire preservation scheme will have to be reviewed again by the Department of Interior Secretary James Watt. We can only expect that such a review will mean total disaster to any preservation at all.

At this point, what is needed is time. The municipalities in the Pinelands region are in the midst of the compliance process with the Comprehensive Management Plan. At least 32 communities are well into the process. The Pinelands Commission prepared its plan based upon extensive expert analysis including economic, scientific and environmental concerns. To enact this legislation will throw the whole process into confusion.

Before you consider releasing this legislation, it is respectfully requested that you consider what passage of S.3335 will do. Any uncertainty that may have existed before this point will only be compounded. Any sense of regional planning for this area will be destroyed.

TESTIMONY TO THE  
NEW JERSEY SENATE COMMITTEE ON  
NATURAL RESOURCES AND AGRICULTURE  
REGARDING AMENDMENTS TO THE PINELANDS PROTECTION ACT  
July 6, 1981

Introduction

My name is Elwood R. Jarmer and I am the Planning Director in Cape May County. The purpose of my testimony is to give you the perspective of the Cape May County Planning Board on the present pinelands planning process and our views regarding the proposed amendments.

Existing Situation

At the present time neither the County Planning Board nor any of the four County's pinelands municipalities intend to conform to the Pinelands Plan as it now exists. I won't attempt to explain each town's position, but a brief review of the County Planning Board problems with the present plan should suffice.

Growth Potential - While the Pinelands Plan documents a demand for 12,400 dwellings and theorizes a potential of approximately 11,000 dwellings allowable under this plan, a critical analysis of the plan's standards indicates that only 1700 dwellings could be realized. Ironically, the current County Planning Board Comprehensive Plan recommends approximately 11,000 dwellings.

Water Quality - The County's adopted 208 plan calls for water quality standards comparable to current US EPA and NJ DEP requirements. The Pinelands Plan contains standards 60 times more stringent and suggests that a standard for "pristine" areas should apply to areas proposed for development.

Transfer of Development Rights - The current provisions for TDR in the Plan preclude their use in Cape May County.

Agriculture - The agriculture community has significant problems in a number of areas with the Plan (i.e., loss of land value, water quality standards, etc.)

Planning Process - The present "overview" process of the Pinelands Commission is cumbersome and too heavy handed.

Proposed Amendments - The proposed amendments do much to remedy the problems mentioned earlier. My reading of the amendments indicate that:

- Towns and Counties in the protection area will have the flexibility to prepare or revise master plans and zoning ordinances according to local needs, incorporating appropriate pinelands performance standards and not in accordance with a definitive map and density requirements of the Pinelands Commission.
- Water quality standards and associated densities will be governed by the U.S. and DEP requirements and not dictated by the Pinelands Commission.
- Transfer of development rights will be permitted in any pinelands municipality.
- The "call up" process of the Pinelands Commission will be limited to projects of regional significance.
- The agricultural community should view the amendments favorably, but should be specifically consulted.
- The Pinelands Commission still retains the approval power over local and County master plans and development ordinances which should insure that the basic intent of the Pinelands Act is fulfilled.

Summary and Recommendations

It is my conviction that the Cape May County Planning Board, and indeed most other county and local planning boards, will view these amendments as providing the framework for a real mutual pinelands planning program and will cooperate with the Pinelands Commission toward that end.

I appreciate the opportunity to speak to your committee and will attempt to answer any questions.



# Sierra Club

WEST JERSEY GROUP

"... TO EXPLORE, ENJOY AND PRESERVE THE NATION'S  
FORESTS, WATERS, WILDLIFE AND WILDERNESS..."

July 7, 1981

Comments on Senator Perskie's Amendments to the Pineland Protection Act to the Senate ~~Natural Resources & Environment~~ <sup>Natural Resources & ~~Environment~~</sup> Committee; Senator Zane, Chairman.

The Sierra Club opposes this bill for any further consideration by the State Legislature on the basis that it is unnecessary, detrimental to the Pinelands Protection Act and the Pinelands Commission's Plan, and will lead to ~~negative~~ <sup>hasty</sup> actions by the federal government.

Since being accepted by the state and federal governments, the Pinelands Comprehensive Management Plan has set in process the steps necessary for local compliance. If this schedule of work being done by 32 of the municipalities is interfered with by extension of time to beyond July, 1982 instead of the present accepted time of January, 1982, it will cause ~~disturbance~~ <sup>disruption</sup> to the people working on the new plans. The applicants for various developments will again be put in limbo, the system of process now will be obviously changed. There has been much progress made since the plan was adopted last November, 1980, 32 of 52 municipalities have signed.

As a constructive suggestion, the staff could have a number of people working on just small applications and be required to give timely responses. Apparent disagreements between all parties can be reconciled if the commission will seriously endeavor to end the communications and public relations problems. Many political objections, as well as those we hear about from applicants, seem to dwell on the two above mentioned issues. It is wrong to alter the whole plan to end the disputes having to do with side issues.

To send this plan back to the Secretary of the Interior, James Watt, would be a disaster. He has by actions and words expressed little support for new environmental initiatives such as our unique method to protect this natural area. This project is looked upon nationwide, it has given hope to other like areas and could indeed be a much-copied model. This Secretary of the Interior could cost us past, present and future financial

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assistance. New York Times article by Anthony DePalma, July 5, headlined "PINELANDS PLANS FOR LAND IMPERILED" tells of the difficulty we are now faced with - requiring resubmission of this plan may be the final blow. The plan must be sent to Washington if any revisions are made. That is stated very plainly in the federal legislation establishing the Pinelands National Reserve.

While we have many criticisms of this new bill, one in particular bears highlighting. It is the provision for "municipal delineation of innovative municipal planning areas" (Section 4-k)

The last few days before the plan was formally adopted, November 21, 1980, there were pressures brought to bear for inclusion of NEW TOWNS for the Forest District. That was translated to mean P.U.D.s (Planned Unit Developments. To the unfamiliar, they are large developments for many varied residential units, recreational areas (in the past, golf courses etc.) commercial and industrial space allotted. They could be almost self-sustaining but of course would require much construction and services to the new residents. At that time it was suggested that 500 acres in these forests areas would be a start.

The forest areas of the Pine Barrens actually should be treated like the Preservation Area - just as careful of the ecological damage possibly imminent. The forest areas define the character of the Pine Barrens. Construction of large-scale, multi-purpose developments in this part of the Pines threaten the entire ecosystems. Surface and groundwater; vegetation and wildlife; recreational uses; life-style of the present residents; culture of the Pines; competition for uses between the new and older residents; integrity of the interrelated eco-systems; all of this would be in jeopardy if large-scale developments are allowed in what is designated presently as the Forest District. Another element to be seriously considered is the fire hazard. There is responsibility needed in deciding how much danger people would be subjected to by this phenomenon.

P.U.D.s are - Levittown (now Willingboro) Smithville, Wrangleboro, Reeds Bay, Beckett -  - a perilous undertaking in the best of times but unacceptable at any time for the forest areas of the Pine Barrens.

More on the Pineland Bill, S. 3335. This issue of encouraging

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municipalities to plan for intensive development concepts under "strict performance standards" is most threatening to us. Because the idea has been brought up time and time again we suspect the authors of this bill will continue to push for such development in the forest and rural areas. It would be destructive to the Pine Barrens as they are now and as we hope they will remain.

We urge this committee to reject this bill.

*Carol Barrett*

Carol Barrett, N.J. Chapter Sierra Club  
1305 Walnut Ave.  
W. Collingswood, N.J. 08107

Attachments



# Sierra Club

WEST JERSEY GROUP

Carol Barrett, Chairman

"...TO EXPLORE, ENJOY AND PRESERVE THE NATION'S  
FORESTS, WATERS, WILDLIFE AND WILDERNESS..."

July 7, 1981

Additional comments about S3335, Senator Perskie's amendments to the Pinelands Protection Act.

The descriptive paragraph on 1st page..."The legislature further finds, etc." downplays the role and importance of the commission and the management plan. States by implication a threat to property rights, etc. The local governments, drawing up their master plans to conform to the advice and direction of the Pineland Commission's regional plan, have the benefit of expert information. They have received money for this work and should continue to get technical help. If they were required to accept complete responsibility for future zoning and plans based on "performance standards" they would need expensive technical assistance to defend their restrictions against well-financed development interests. That is just one objection to the local governments assuming more control and the Pinelands Commission being given less authority.

Section 2 - m & n. Provisions in the Coastal Area Facility Review Act are not compatible with the Pinelands Protection Act. The number game (24 units, or under, being exempt and 200 units & 30 acres considered regional impact) is meaningless for environmental siting. One of the loudest complaints about C.A.F.R.A. is the fact that the cumulative effects can be very harmful. The Division of Coastal Resources has reports which demonstrate the bad result.

Section 5 - h (Says PRINT IN ROMAN) needs clarification.

Section 7 - page 10. ALL CHANGES SHOULD BE OUT. Word Preservation should not replace Pinelands. Performance standards work only possibly in certain sites. NOT GOOD FOR REGIONAL PLANNING

Districts should remain. They are clear and understandable. Agriculture cannot be determined by one local government. Farms often cross lines. The Plan is finely balanced by its districts and growth allocations. This method proposed in Senator Perskie's bill could, and no doubt would, bring chaos to those making decisions.

Pine Barrens and if the so-called "Innovative municipal planning areas" suggest or include large Planned Unit Developments in forest areas or rural areas it will lead to their suburbanization or any other words for too much population and construction destroying the whole concept of the Pine Barrens.

We cannot afford to rely on "maybes" and monitoring to prevent any deterioration of the groundwater, soils, vegetation, habitat, rivers (headwaters) in the forest and rural areas. The important Ellwood Corridor would not be respected - relying on "performance standards, techniques for storm-water and wastewater handling, buffering, and location in relations to transportation elements and employment centers" will lead to the abhorred "scattered and piecemeal" or "random and uncoordinated" development.

The present plan calls for developing near infrastructure and clustering in presently constructed places. If they mean by transportation calling for new transportation facilities that will lead, as is historical, to encouraging large development and call for sewer lines, etc. <sup>with a way,</sup> All planners know what must come first to bring in new development plans and pressures.

In Section 11 (a) include minimum and maximum standards. If locals are to have more responsibility they must have more specific rules and definite restrictions regarding protection and prevention of possible problems into the future.

Also, in 11.a - the commission must be able to call up approvals - while the process of accepting or rejecting a plan, the commission should be able to approve applications until final acceptance is secured. If the plan goes back and forth before approval, the commission must have <sup>the</sup> knowledge <sup>of them</sup> and authority to pass on applications.

SECTION 7 - c & d - difficult if not impossible to keep up with many numbers of same in this fashion. Time limit of "30 days" should be changed to "90 days"

Section 14 - (a) should be 45 days. Also, figures changed from 200 units or 30 acres to 20 units and 3 acres. Population figures or density should be used as in plan. New paragraph - "except that the commission is hereby...." needs clarification. (45 days here too.) In same section, in "the approved county master plan....." omit "in the absence of the approved plan or ordinance"

SECTION 14 - c. "prima facia" is too difficult - ease up on this.

In same paragraph, two-thirds vote for commission should be a "majority".

10. Section 15 of .....

15. The commission may (should read, shall - if dollars available)

11. Section 20 of P.L. 1979, etc.

20. The commission shall within 1 year.....or ~~where~~ where the total ratables of a taxing district have been reduced by 5% or more as a result of tax appeals attributable to regulation by the commission - should be out.  
Too imprecise and impossible to determine. Many factors other than plan will be at work. Too many variables.

12. Section 22 of P.L. 1979 etc.

Nothing herein contained shall be deemed to extend the review powers, etc. beyond the boundaries of the pinlands area.. there is the issue of the part in Galloway Township in Pinelands National Reserve to be considered.  
It is important.

13. Section 26 etc. Addition of "and except for the provisions of the

"Municipal Land Use Law" There will be conflict with this. One can supercede the other. If Municipal Land Use Law were sufficient, we would/need the plan.

Question: Why and What does it mean?

*not*

Regarding the designating of Farmland Districts in local areas: Farmers should be able to petition Commission and planning of local areas as to where the areas are and should be planned for. Many farms cross municipal boundaries. This, as in other Districts of Plan, must be arranged regionally.

Conflict of Interest possibilities regarding Banks for Board of Directors. Strong provisions for avoiding possible conflicts of interests essential.

The way the Perskie bill address the Pineland Development Credits will actually cost the small land owner ( little guy) credit values.

PAGE 18 - 14. (New Section) Is this a "grandfathering" process? We need know how many, where, which area (Preservation, Protection)environmentally sensitive area? This does not allow for sufficient review.

We defer to Commissioners Shinn and Darlington plus other experts who worked on the Management Plan to set up the Pineland Development Credit system. This is indeed a problem if other statewide gov't.s must accept additional development will they be able to without creating environmental or economic difficulties for themselves.

FINAL NOTE - we object to this bill - the prospect of Secretary Watt of Interior taking plan back and maybe calling for past moneys and determining future funds on changes of legislation and plan basis is not to be considered lightly. The federal bill requires any state or plan revision be sent to him for review and approval.

P.S. WATER QUALITY STANDARDS Still working on data regarding different water quality and characteristics in D.E.P. as well as other interested experts. State DEP has proposed water quality standards. The evidence is not in yet about all Pines Water statistics and should not be definitely decided for DEP authority at this time.



# Sierra Club

NEW JERSEY CHAPTER  
360 Nassau Street, Princeton, N.J. 08540  
(609) 924-3141



## WATT DID YOU SAY?

"A local jurisdiction or the State shall obtain the approval of the Secretary (James Watt) prior to any modification of the approved plan. Any jurisdiction that implements changes to the approved plan, or adopts or acquiesces in changes to laws, regulations, or policies adopted to implement such plan, without approval of the Secretary, may be liable for reimbursement or offset of all Federal funds previously granted to it under this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants."

Section 502, National Parks and  
Recreation Act of 1978 which  
established the Pinelands National  
Reserve

## DON'T RISK LOSING FEDERAL FUNDS FOR PINELANDS ACQUISITION!

Please protect the public interest in sound, professional, integrated,  
regional land use planning in New Jersey's fragile and valuable Pinelands.

Don't overturn in one day the results of a decade long democratic political process.

## OPPOSE THE PERSKIE PINELANDS AMENDMENT!

TESTIMONY  
OF  
ROBERT E. MARSHALL  
PRESIDENT, BUILDERS LEAGUE OF SOUTH JERSEY  
BEFORE  
THE SENATE NATURAL RESOURCES  
AND AGRICULTURE COMMITTEE  
SENATOR RAYMOND ZANE,  
CHAIRMAN, PRESIDING  
JULY 7, 1981

Good morning Senator Zane and fellow committee members. My name is Bob Marshall and I appear before you today as President of the South Jersey Builders League whose headquarters is in Marlton, New Jersey. The League is a non-profit trade organization representing builders and allied professions and businesses in South Jersey.

The League, as a part of a broader coalition, has been involved with the Pinelands planning process since its inception. This coalition called The Coalition For The Sensible Preservation Of The Pinelands expended upwards of a quarter of a million dollars during the public participation process of the Pinelands Plan's formulation, bringing scientific, engineering, legal, planning and economic information to the Commission for its review and consideration.

Needless to say, the Commission's final draft plan was virtually identical to its first draft and our thoughtfully prepared analyses were almost totally disregarded.

Senator Perskie's bill, S-3335, still ignores our basic findings and does not bring quick relief to the economic hardships created by the Plan.

The bill does not deal with the substance of the Pinelands Plan which we feel has some fatal flaws. It appears the bill simply attempts to make the Plan more locally acceptable through its process of administration.

Something to be said in support of the bill however, and probably the basis of support from the Governor, is the fact that it attempts to return the administration of the Plan to its original concept of regional oversight of a locally implemented plan. When the Governor's counsel, Mr. O'Hern was serving as the Commissioner of D.E.P. and acting as the Administration's spokesman in the Pinelands legislative process, he assured the committee's hearing the bill that the Commission, after the preparation of the regional plan, would act as an overseer to local implementation to act, in effect, like a quality control agency.

This headstrong commission, however, bolted from that point of view and has headed on a course which clearly needs legislative redirection. In this respect, Senator Perskie's bill, S-3335, is a positive development.

However, to give you an example of how far afield this Commission has gone with its planning, and about which Senator Perskie's bill does nothing, let me give you a synopsis of Letter of Interpretation #3 issued by the Commission. An applicant requested permission to raise pheasant and quail on his 3.4 acre lot in the Preservation Area and sell quail eggs. The Commission's ruling was that yes he could raise the pheasant and quail because that was a permitted wildlife management use under the Plan. However, he could not sell the quail eggs because that was an agricultural use and the only agricultural uses permitted in the Preservation Area are:

Page 3  
July 7, 1981  
Robert E. Marshall, Testimony

1) berry culture, 2) horticulture of native plants, 3) timbering, and 4) beekeeping.

We think this one example shows clearly that this agency has developed a Plan going beyond reasonableness and is in need of reigning in. The Governor and the Legislature must come to the rescue of reasonableness in the Pinelands Plan.

We expect you will hear other cases of personal human hardship created by the "2 generation extended family" rule for individuals building on private lots in the Preservation and Agricultural Areas.

We do not think Senator Perskie 's bill adequately addresses these types of unreasonable land use controls in the Plan.

I would like to present some shocking information to this Committee concerning the short sightedness of the Pinelands Plan concerning its attempt to redirect growth to so called "appropriate" areas and the need for Pineland's towns to have a greater say in where growth should go.

Map, Exhibit #1, which I have before you, shows orange colored areas which are the proposed growth areas in the Pinelands Plan. The Plan proposes to direct the 250,000 housing units expected in the next 10 years into the remaining developable parts of this coded area which equals less than 4 percent of the Pinelands area. Not only is the area designated to accept this growth too small to let the free marketplace compete to build a range of affordable housing, virtually none of this area has sewer and water service to accommodate the growth. This means an effective moratorium on growth for 3 to 5 more years until systems are approved and built. In light of the current federal budget cuts and constraints and the

state cap many of these facilities will never be built. It is clear to any logical observer that the private sector that is business and industry will have to work with municipalities to share the cost of providing these sewer and water services. It is also just as clear that no town which is in disagreement with the commissions growth densities is going to cooperate with a developer to put the facilities to service this over concentration of growth in limited areas. The final Catch 22 is that if a developer tries to build at less density, requiring no public sewer and water facilities, in order to meet the towns wishes, the Commission denies the project for not meeting the areas growth needs.

Some supporters of the Plan and opponents of the bill before you consider this an acceptable situation, saying growth can locate outside the Pinelands area in the meantime.

Exhibit #2, a map of the state of New Jersey, shows the virtual impossibility of any immediate relief for normal growth outside the Pinelands area.

The yellow color code traversing the map from northeast to southwest is the proposed growth corridor in the Department of Community Affairs Proposed State Development Guide.

The red dots represent municipalities which have been under sewer bans ranging from 2 to 13 years in duration. Areas in the South Jersey growth area which do not have red dots generally do not have any public sewers. Virtually all of the logically and practically developable growth area is under a sewer ban in south west New Jersey.

Exhibit #3, is a graphic depiction of this sewer ban problem which

Page 5  
July 7, 1981  
Robert E. Marshall, Testimony

shows each town and the duration it has been under ban. The 52 bans affect approximately 95 towns statewide and have been in place up to 13 years. The bans with the red x's above them are plants, which we have determined from D.E.P. files, are polluting the States waterways and have no hope of Federal funding to correct the problem.

The myth concerning federal funds to resolve sewerage facilities problems which the Pinelands Commission and the U.S. Environmental Protection Agency tried to perpetrate has to be exploded.

There is no fiscal year 1981 or 1982 federal sewer or water funds to help the Pinelands Commission's growth areas or the 95 percent of all the towns under sewer bans.

Exhibit #4, graphically shows the federal funds available to New Jersey from 1971 to 1981. The 1981 comparison of funds available as contrasted to the 231 municipal and regional sewer project applicants (including the towns under sewer bans) shows a disparity of \$3.2 billion in eligible cost vs. \$112 million in available federal 75 percent matching funds.

In closing, we feel the Pinelands planning and implementation process is too complex to work out particular problems with it in a bill. We therefore reluctantly support S-3335 in the hopes that if the municipalities are given a greater voice in the process, their more unified reason may prevail and correct the specific deficiencies of a plan and process gone wild.

Mr. Chairman, thank you for this opportunity to present our views.

JULY 7, 1981

STATEMENT TO THE NEW JERSEY COMMITTEE ON AGRICULTURE AND THE ENVIRONMENT  
RE: S-3335 (PINELANDS PROTECTION ACT) (PERSKIE) BY ROGER L. STOBART,  
PINELANDS COMMISSIONER, CAPE MAY COUNTY

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The County of Cape May and the four municipalities in Cape May County that are within the Pinelands National Reserve have, from the beginning, unanimously opposed The Comprehensive Management Plan for the Pinelands. They have pledged their refusal to voluntarily comply with the plan and they have not waived on that pledge. They have refused financial assistance from the Commission and there is no movement in prospect toward compliance with the regulations in their present form.

Unless meaningful changes are made in the application and operation of the plan in Cape May County, there is the possibility that an already short-handed and overworked Pinelands Commission staff may find itself with the added responsibility of trying, as it is mandated to do under Section 3-701 of the plan, to implement the plan itself without local co-operation.

Similar situations exist in other counties. The potential burden of enforcement in areas refusing to comply could become overpowering. Moreover, the Commission's budget is seriously strained at present levels of activity. The staff must be cut by 16% according to a recent memo to the Commission from the Executive Director. Even with this cut the staff and Budget Subcommittee cannot balance the budget and are asking the Commission to approve an interim budget which is fully \$148,850 over the \$900,000 allotted to it. They justify this deficit budget by stating in a memo to the Commission that they are "reasonably confident that a solution can be found".

The fact seems to be that the Pinelands Commission is beginning to flounder. It is polarized. The staff is seriously over its head in terms of keeping up with its work load, and further staff reductions threaten to worsen the situation. The Pinelands Development Credit System has simply not worked - not a single credit has changed hands as far as anyone knows.

There is no doubt that eventually we will have a sensible program for the protection of the Pinelands. The question, I believe, is whether it will occur as a result of the efforts of this administration and this legislature; or as the result of corrective action by the next administration and legislature. Until meaningful modifications take place, there is the greatest risk that the plan will fall of its own enormous weight.

The people of Cape May County want good land use planning. They insist on it from their municipal and county leaders. They are highly concerned about water quality and the preservation of special areas. They are receptive to expert advice and recommendations to help them deal with their special planning problems.

They were justifiably outraged by the arrogance of a Pinelands Commission that zoned the preponderance of the county Pinelands area for 15.8 acre lots, when the D.E.P. water quality standards require less than one acre per dwelling unit.

They were justifiably outraged when the Pinelands Commission located the only high density development in an area where there are no sewers, and no plans or funds to build them, so that in effect our county would not have sufficient land to accomodate needed growth.

They resent the indifference of the Commission to their attempts to have a voice in their own land planning.

On the other hand, they are deeply interested in sensible protection of their environment and would be receptive to rationally supportable performance standards within which they could establish their own planning patterns in a well informed and locally independent way.

Senate bill 3335 does not solve all the problems with the Pinelands Plan. There remain many questions of interpretation and implementation and there remains a deeply engrained distrust of the Commission and the Commission staff. S.3335 cannot cure these ills overnight.

Senate 3335 does appear to provide a basis for a cease fire and renewed negotiations. It does appear to provide a mechanism for sensible protection of the fringe area. It does appear to provide legislative guidance and direction to a Commission which, without it, may well fail in the very important mission of Pinelands protection.

Because S3335 points in the direction of sensible Pinelands protection and because I believe it is a necessary step toward gaining the cooperation of dissenting communities in Cape May County and elsewhere, I urge you to give this bill your support. Thank you.

ROGER L. STOBART

PINELANDS COMMISSIONER, CAPE MAY COUNTY

Statement on S. 3335 presented before the Senate Committee  
on Natural Resources and Agriculture - July 7, 1981.

Senator Zane and Gentlemen:

Thank you in advance for the opportunity to discuss with you this pending legislation. I am Candace M. Ashmun, a member of the Pinelands Commission having served since March of 1979. First on the Pinelands Planning entity established by Governor Byrne, then on the Pinelands Commission since the passage of the New Jersey Pinelands Protection Act in November of the same year. The last six years of my professional career have been spent as the executive director of the Association of New Jersey Environmental Commissions and as such I have devoted my time to working with municipal officials throughout the state to improve the quality of life in local communities without disturbing the economic or political system so critical in this local control state. During my tenure on the Commission, it has been my effort to utilize that experience in helping to frame the Comprehensive Management Plan for the Pinelands.

It is my opinion that the legislation being discussed today in no way improves the capability of local officials or the residents of the Pinelands area to protect themselves and their resources from exploitation and court imposed zoning. In fact, I feel that this legislation in a number of cases destroys local control and impinges on the ability of property owners such as farmers and small builders to realize the potential of their property. It creates an unnecessary delay and clouds the issue of conformance which is so important to the local municipal governments. Landowners will have to wait and wait to hear from local officials what the local zoning requirements for their land will be, and farmers will have no ability to demand right-to-farm regulations nor exercise their development credits.

It has been stated that the changes being suggested are not substantive, but merely cosmetic. They are substantive and will have a negative effect on the municipalities in the Pinelands area who are already well on their way to establishing local land use patterns in conformance with the goals of the Pinelands Protection Act.

As a member of the Commission's Sub-Committee on Conformance, I have had the pleasure of working with the municipalities and the staff to develop local land use plans within the extremely flexible guidelines provided by the Plan. Those of you who have read the Comprehensive Management Plan will remember that in each of the implementing articles the purpose section reviews the goals of the state and federal acts and states the policy of the commission in carrying out these goals. For example in Article 3 on page 353 of the Plan it states in part:

"However, it is a policy of this Plan to allow municipalities the greatest degree of flexibility and discretion in the preparation of local plans and ordinances, so long as the plans and ordinances do not conflict with the ultimate objectives and minimum requirements of this Plan..."

"...This Article permits the Commission to assess local decisions on an individualized basis and will preserve local discretion to the maximum extent practical, provided that local preferences are in fundamental harmony with the overall objectives of this Plan."

I think you will find that municipalities which have entered into this conformance process have found that local control is far from dead and in fact the planning called for in the Plan is basically an implementation of earlier statewide legislation governing local zoning and planning, the Municipal Land Use Act. The difference is that the Pinelands Communities do not have to carry out the expensive data gathering, the difficult regional planning and the court tests without support of a regional agency and without the funding from the Commission. The residents of the Pinelands can meet the real requirements of the state's land use act using Pinelands Commission funds and data as well as its planning staff.

I submit to you that all the local control goals listed in the Amendment to Section 2 are already being carried out and should be allowed to move forward without further legislative delay. The towns and landowners in the Pinelands deserve no less from their legislators.

The Comprehensive Management Plan already calls for studies of innovative planning areas suggested in the Amendments to Section 7.

The affect of the amendment to Section 26: Which will be to grandfather preliminary approvals for developments which are random and uncoordinated, and are in fact prohibited in a prior section. It will permit actions in the Pinelands areas totally in contravention of the goals of the Pinelands Protection Act.

The new Section 16(a) will delay the designation of agricultural production areas and will, in cases of municipalities dominated by development interests, result in the failure to provide farmers with the benefits of Pinelands Development Credits and right-to-farm ordinances. It will once again cause a conflict with the basic purposes of the act, which is to preserve and enhance agriculture, and will result in the loss of New Jersey's prime agricultural areas.

In conclusion, I would like to emphasize that in my view the Comprehensive Management Plan meets the needs of municipalities interested in preserving their resources, enhancing agriculture, and meeting the economic needs of their residents, as required by the federal and state acts. As you have heard, officials, predominately county officials, clearly feel that good planning is a threat. The passage of this legislation will do nothing to help municipalities, residents of the Pines, or the people of New Jersey, and is an unnecessary piece of legislation designed to cloud the issues and benefit a narrow group of interests.

## ARTICLE 3

# Certification of County, Municipal and Federal Installation Plans

### PART 1—PURPOSE

#### Section 3-101.

##### Purpose

The Pinelands Protection Act is a legislative determination that management and protection of the essential character and ecological values of the Pinelands require a regional perspective in the formulation and implementation of land use policies and regulations. The Act also recognizes, as does this Plan, that local government participation in the management process is fundamental to achieving the goals and objectives of the Act. The Act and this Plan contemplate that local governments will be the principal management entities implementing the Plan, with the Pinelands Commission providing technical assistance to local authorities, monitoring development review and updating the Plan.

The Act also contemplates that the Commission will achieve local participation in the implementation program and oversee implementation of the Plan. The Act provides for certification of local master plans and land use ordinances by the Commission, after which the certified plans and ordinances act as the governing regulations for the municipalities. However, if a local government should choose not to participate in the implementation program, then the Act requires that the Commission adopt and enforce such rules and regulations as are necessary to implement the minimum standards of this Plan.

This Plan is intended, therefore, to serve two functions: as a general guide for local authorities in preparing master plans and

land use ordinances for certification by the Commission, and as a planning and regulatory mechanism that can be adopted and enforced by the Commission if a county or municipality fails to secure certification.

A local authority that incorporates all of the elements of this Plan in its local plan and ordinances will be assured of certification. In contrast, municipal plans and ordinances that deviate from the essential nature of this Plan are unlikely to be certified. However, it is a policy of this Plan to allow municipalities the greatest degree of flexibility and discretion in the preparation of local plans and ordinances, so long as the plans and ordinances do not conflict with the ultimate objectives and minimum requirements of this Plan. There are some elements of this Plan which must be strictly followed. For example, the minimum density provisions in the designated growth areas and the density limitations in the other areas are critical to the overall objectives of the Plan for the distribution and intensity of land uses, as is the requirement that lands in designated growth areas be eligible for density bonuses in the form of transferred Pinelands Development Credits. Conversely, the distribution of densities and many of the uses authorized in the various areas are left to the discretion of the local prerogative. This Article permits the Commission to assess local decisions on an individualized basis and will preserve local discretion to the maximum extent practical, provided that local preferences are in fundamental harmony with the overall objectives of this Plan.

SUBMITTED BY MAYOR JOHN HEINZ

9300 Atlantic Avenue  
Apt. # 204  
Margate City, N. J. 08402  
July 3, 1981

The Honorable John Heinz  
Mayor, Egg Harbor Township  
Bargaintown, N. J.

RE: Pinelands Project #81-0851  
Block 48-E, Lot 7, Egg Harbor Township

Dear Mayor Heinz:

In February of this year we entered into a contract to purchase the above captioned parcel of land. We have gone to much expense to have the parcel engineered and subdivided and submitted to the Pinelands Commission. This was accomplished through W. C. Kissane Assoc., Engineers, whom I am satisfied submitted the project in the proper manner.

The pre-application conference was held on March 24th, and all work was prepared to go before the Egg Harbor Township Planning Board on March 6th, 1981.

As a result of the Pinelands pre-application meeting it was determined that an increase in lot sizes to a pure acre would be sufficient and that we would surely make the April 6th meeting of the Egg Harbor Township Planning Board.

The above decision, of course, resulted in our losing one lot and one month's time.

After revising the project to conform to the pure acre lot size it was decided by the Pinelands Commission that only four of the lots would be permitted to be developed until such time as Egg Harbor Township would knuckle under and conform to the Pinelands Commission's Comprehensive Plan.

I feel this is inequitable and devious; to use me as the means to force Egg Harbor Township to adopt the Pinelands Management Plan.

Since I am privy to a letter sent to you by the sellers, I feel this project is getting the run-around and I am being penalized by the Pinelands Commission.

There have been several calls made to the Pinelands Commission, directed to the office of Lynn Riley, the former representative for this area, and the new representative, Ellen Reynolds. The calls were made both by my Real Estate Broker and my Engineer. The last call that was responded to by Ellen Reynolds, we were told that all previous references were made to the wrong project number (a very flimsy excuse).

Page 2

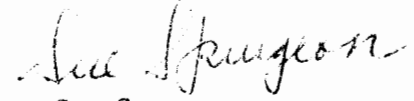
Re: Pinelands Project #81-0851  
Block 48-E, Lot 7, Egg Harbor Township

At this point in time my opinion is that the Pinelands Agency has treated me in a cavalier manner and is typical of the premise that when an agency is too far removed from the people it is dealing with, they become a number in a computer or in a file. Paranthetically, the location of the Pinelands office in New Lisbon is certainly poorly located to the citizens of Egg Harbor Township, especially for a State Agency dealing with vast numbers of people, wherein access to Public Transportation should be a primary consideration.

In your capacity as Mayor of Egg Harbor Township, I would appreciate any effort you could exert on my behalf to obtain equitable treatment for me from the Pinelands Commission.

Thanking you in advance for your time and consideration in this matter.

Sincerely yours,

  
Sue Spurgeon

TESTIMONY TO THE  
NEW JERSEY SENATE COMMITTEE ON NATURAL RESOURCES AND AGRICULTURE  
ON S-3335  
PROPOSED AMENDMENTS TO THE PINELANDS PROTECTION ACT  
Tuesday, July 7, 1981 - N. J. Statehouse

Given By:

Stephen V. Lee, Sr.  
Friendship Road - Speedwell  
Chatsworth, N.J. 08019

Good day, gentlemen, my name is Steven Lee and I am a lifelong blueberry and cranberry grower along the Wading River just a few miles south of Chatsworth in the heart of the Pines. I am the immediate past president of the State Board of Agriculture and have held numerous positions on various boards in the federally-chartered farm credit banking system. My purpose in appearing before you today is to share with you some of my own personal feelings about the present Pinelands Plan and the proposed amendments under consideration. I will leave the more detailed and specific remarks on this legislation to Mr. Peter Furey, who is the director of the Coalition to Save Agriculture of which I am a trustee and member.

I support the persistent theme in these amendments which restores a greater share of freedom and responsibilities to local governments. From my experience, it is clear that local residents have contributed greatly to the preservation of the Pines down through the years. Cranberry growers for many years have purchased land in their upper watersheds to secure a permanent, natural area for reservoirs and clean water. Many practical ideas on forest management have been developed by local farmers and adopted by the State Forestry Services. In fact, our family had long used what is know as prescribed or controlled burning until the State came along and barred this practice. When they gradually saw the benefits of this practice in preventing wild fires, it became an adopted management program for the State. There is a lesson here that I will use in my conclusion.

My support for the provision in this bill to build in more local powers and trim some of the excessive authority in the Commission also stems from a feeling I have that there is too much influence in the program from outsiders. By outsiders, I mean non-residents or those who have lived here for only a short while. There are many people with a tremendous knowledge and long-term experience in the Pines who have yet to play a meaningful part in this program. It still puzzles me how people marvel at the great beauty and stretches of unbroken forests without understanding what was being done

to keep it that way by local residents. Rather than displace them, the Commission should have offered genuine assistance to local governments from the start rather than sending inexperienced staff around telling people how to run their local governments.

The sections in this bill which call attention to the compensation and other financial issues are greatly needed. In my opinion, the residents and local governments in the Preservation Area are going to take a real beating in the loss of tax revenues. Owners of vacant land have paid a very large share of the property taxes in my area and they now are filing successfully for tax appeals. That will really hurt the financial operation of our farm. It also leaves us bearing a disproportionate share of the cost in maintaining a recreation area for people from all over New Jersey. I think that is unfair and I believe the Plan will have a big hole in it until greater attention is paid to these financial issues.

I will conclude here by saying that much of the opposition to the Pinelands program could and should have been avoided. Experience and common sense in conjunction with a true spirit of cooperation would have gone a long way toward achieving a good program. Instead, the Commission rushed in and began dictating to everyone how things were going to be. This has had a severe polarizing effect in such a large, complicated issue like the Pinelands. Very few people really understand what it takes to protect the area, and I suspect part of the reason for the heavy controls is that the Commission was not quite sure how to proceed with all the power given to it by the Legislature. For that matter I would argue that most of the legislators in the Senate and Assembly did not know or even read the original bill when it was enacted two years ago. Most of the urban and suburban residents of New Jersey have no perception of the 100,000 acres in the Wharton tract, for example, or how much open space should be required in the Plan. The expressions of local residents, in my opinion, have been overshadowed by professional environmentalists and the preservationist supporters of the program. Approval of these amendments will help equalize an imbalanced situation.

The control burning situation I mentioned earlier is an example of how outsiders

to the Pines were proven wrong in their original approach. With a little persistence and patience on our part, the state eventually came around and this resulted in the betterment of the Pines. The Legislature should heed the advice of local residents and enact changes in the Pinelands program to ensure that the program works fairly without seriously affecting landowners and local residents.

I would be pleased to answer any questions you might have.



State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF PARKS AND FORESTRY

STATE FORESTRY SERVICES

PLEASE ADDRESS REPLY TO  
CN 028  
TRENTON, NEW JERSEY 08625

May 5, 1980

Stephen Lee  
Speedwell  
Chatsworth, NJ 08019

Dear Steve,

On April 15, 1980, the New Jersey Bureau of Forest Fire Management was honored, during an Earth Day Celebration at the War Memorial Building, when presented with a plaque for outstanding services.

I am exceptionally proud of this honor, accept it in the name of every Forest Fire Service employee, and wish to thank you personally for your dedicated contribution. I fully expect that we will continue to perform in a most creditable fashion.

Each Division Office will have an exact replica of this plaque in the near future and display it with the pride we all feel for our magnificent organization.

With kindest personal regards, I remain.

Sincerely yours,

James A. Cumming  
State Firewarden

JAC:ms

PS  
Still grateful for your assistance re prescribed burning.

Testimony on Behalf of the Coalition for the  
Sensible Preservation of the Pinelands for the  
Senate Committee on Agriculture and Natural  
Resources On Senate Bill S-3335

Good Morning. My name is William Thomas and I am a realtor from Ocean County, New Jersey. The Coalition for the Sensible Preservation of the Pinelands is comprised of realtors, contractors, builders and other associated trades and professions throughout the Pinelands region. We have been active since the Pinelands Protection Act was proposed as legislation. We would like to thank the Committee for presenting us with this opportunity to testify and comment on Senate Bill 3335 which would amend the Pinelands Protection Act.

First, we would like to express our concern that neither we nor any of our individual groups were consulted by Senator Perskie prior to the preparation of S-3335. It would seem that our groups are the most directly effected by the Pinelands Protection Act and therefore we are suprised and somewhat chagrined that we were not consulted. Probably because we were not consulted, we feel that this bill is merely a band aid approach to a festering sore and does not go nearly far enough in correcting not only the inequities of the Pinelands Protection

Act but the overreaching and arrogance as expressed in the Comprehensive Management Plan of the Pinelands Commission.

We especially abhor the concept of the Pinelands Development credits, because we feel they are no more than transfer development rights in disguise. We are fearful that the Pinelands Development credit system is unworkable now and will be unworkable in the future. It is a veiled attempt to overcome the obvious problems of the Pinelands Protection Act and the Comprehensive Management Plan which result in a taking of property without compensation.

While the bill does make several significant procedural changes which would probably be beneficial to Coalition members, as I said previously the bill does not go nearly far enough. For instance, contrary to the provisions of the Pinelands Protection Act and the avowed purpose of S-3335, the Comprehensive Management Plan provides that before a municipality or county can declare an application for development complete for filing, a Certificate of Filing must be obtained from the Pinelands Commission. The submission requirements in order to obtain the Certificate of Filing are so onerous as to cost developers thousands of dollars on what may be meaningless studies and mapping. Even more arrogant is the Pinelands Commission's staff practice in its Certificate of Filing of

making a determination as to whether the development plans conform to the provisions of the Comprehensive Management Plan. Nowhere in the Pinelands Protection Act is this power delegated to the Commission, but nevertheless the Commission staff has arrogated this power even though it is not even contained within the Comprehensive Management Plan. S-3335 would do nothing to alleviate this very pressing and realistic problem which causes delays in applications and adds unnecessary costs to an already inflationary housing market. Although S-3335 seems to imply that the Pinelands Commission should not have this initial review power, it is not explicit within the bill. The bill does make at least one beneficial change. The Commission, again contrary to the provisions of the Pinelands Protection Act by which the Commission is to merely recommend water quality standards to DEP, has adopted its own water quality standards. S-3335 would reassert the legislative intent to have DEP retain its authority to set these standards.

If it were not onerous enough that all of these extremely burdensome requirements are contained in the Comprehensive Management Plan, the Commission has compounded the problem by at the same time mandating twenty-five percent low, moderate and middle income housing in regional growth regions for subdivisions of over twenty-five units. How can the Commission

in one breath increase substantially the cost of constructing housing and in its next breath mandate construction of low, moderate or middle income housing regardless of permitted lot sizes etc. Unfortunately, the Pinelands Commission majority is not in touch with reality and S-3335, while it may be a signal that the legislature is unhappy with the performance of the Pinelands Commission, unfortunately does not bring the whole Pinelands question back to reality. As long as the Pinelands Commission is dominated by extreme environmentalists, reality will not be a part of the Pinelands Commission operations. As long as the Pinelands Commission insists on zoning for municipalities (although they give lip service to the great flexibility in the Comprehensive Management Plan for municipalities when in fact there is very little such flexibility) reality will not be a part of the Pinelands Commission plans. So long as the Pinelands Commission staff has the right to inject itself into planning board hearings without any legislative authorization, reality will not be part of the Pinelands Commission's plans. So long as the Pinelands Commission insists on zoning a vast portion of the Pinelands area for sixteen acre lots regardless of site specific environmental constraints, reality will not be part of the Pinelands Commission Plan. These issues, unfortunately, are not addressed by S-3335 and until they are intelligently

addressed by this legislature and the administration, the Coalition will continue in its efforts to overturn the onerous provisions of the Comprehensive Management Plan.

Again, we thank you for the opportunity to testify with respect to S-3335 and if you have any questions, I would be glad to entertain them.

STATEMENT  
OF  
THE OCEAN COUNTY BOARD OF CHOSEN FREEHOLDERS  
REGARDING  
SENATE BILL 3335, AN ACT TO AMEND AND  
SUPPLEMENT THE NEW JERSEY PINELANDS  
PROTECTION ACT  
BEFORE  
THE SENATE NATURAL RESOURCES AND ENVIRONMENTAL COMMITTEE  
ASSEMBLY CHAMBER, TRENTON  
JULY 7, 1981

Good morning, ladies and gentlemen, my name is H. George Buckwald and I am a member of the Ocean County Board of Chosen Freeholders and Chairman of the Ocean County Planning Board. I would like to thank the members of this committee for the opportunity to speak in support of the passage of Senate Bill 3335. This Bill will, when enacted, provide what Ocean County considers to be very necessary changes in the present Pinelands legislation. While there may be differing opinions regarding the many problems that have arisen as a result of the Pinelands Protection Act and the adoption of the Pinelands Comprehensive Management Plan, Ocean County considers positive action on this Bill to be an important step in refining the Pinelands Protection Act to provide for an effective and meaningful role for County and local governments.

I do not wish to spend a great deal of time discussing the individual provisions of this Bill, rather I would like to spend a few moments discussing why the County feels so strongly that there is a need to revise the present legislation that governs the operation of the Pinelands Commission.

Nearly two thirds of Ocean County falls within what has traditionally been considered the Pinelands. The need to protect the sensitive environmental features of this area has long been recognized by the people of Ocean County and their elected representatives. The County has been actively involved in a long list of efforts to protect areas such as Cedar Creek, which is considered one of the most pristine watersheds in the Pines. Ocean County is neither contesting the need for a regional approach to the management of the Pinelands nor is it arguing against the need for reasonable standards to insure that new development does not adversely impact sensitive areas. Further, the County supports the strict preservation of the core area to guarantee that a large contiguous tract of Pinelands habitat will be preserved for future generations.

What the County does contest is the continued failure of the Pinelands Commission and its staff to take into consideration the requirements of local governments, and to more closely coordinate local plans and policies with those of the Commission. A cooperative effort involving municipal, County and State governments was, I feel, the intent of both the federal and State legislation and should be a clear objective of the Pinelands Commission. This Bill would further that goal. While the County has specific concerns over several aspects of the Bill, including limiting the value of Pinelands Development Credits to \$2,500 and failing to resolve the issue of lower tax assessments which are likely to result from public acquisition or regulation, the clear establishment of a meaningful role for municipal and County governments in managing the Pinelands merits the County's support.

I have been involved in planning for a great many years, both at the municipal level and as chairman of the Ocean County Planning Board. I know that planning is not an exact science and that equally reasonable conclusions can often be arrived at from the same basic information. The issue is often what should be the highest priority between equally important but often conflicting factors; is it the environment, or affordable housing, or jobs? It is the resolution of these conflicts that I feel is one of the most important functions of planning.

That is why, when the Pinelands Commission was preparing its Plan, the Board directed its planning staff to cooperate fully with the Commission, its staff, and consultants so that the Commission would be aware of the work that has already been done in the County. That is why when the draft Pinelands Plan was released, the Board created the Ocean County Pinelands Task Force, comprised of representatives from local government, business, environmental groups and service organizations to advise them on the contents of that Plan, and what it would mean for Ocean County. That is why the planning staff carefully reviewed the entire three volume plan suggesting revisions that it felt would improve the Plan's land use recommendations and make it work in Ocean County. These recommendations were presented to the Commission in September of 1980 in a 90 page report. These recommendations incidently had the full support of each of the 15 municipalities in Ocean County which are within the Pinelands area.

Unfortunately, the Commission has virtually ignored the County's recommendations. It failed to incorporate any of the major changes suggested in the land capability districts for Ocean County and despite several requests for a written response to the County's comments we have received nothing from the Commission listing the reasons why our suggestions were rejected. The result is a plan imposed on the County and its municipalities that is both inappropriate and unworkable from a technical standpoint and is therefore unacceptable to Ocean County.

There is a real need to restore an effective role to local and County governments in preparing and implementing a management program to protect the Pinelands. They must be permitted to use their local knowledge and experience to apply the regional recommendation of the Pinelands Commission to their communities, and be provided the flexibility to interpret these recommendations to address local needs while still meeting the goals and objectives of this Bill. Without such a role, I think it will be impossible to make the necessary decisions that will result in a plan for the Pinelands that protect this important resource, while still providing for consideration of local needs. Without this agreement, the issue of Pinelands Protection will remain unresolved.

R-E-S-O-L-U-T-I-O-N

JULY 1, 1981

WHEREAS, the New Jersey Pinelands Protection Act of 1979, as amended, and Section 502 of the National Parks and Recreation Act of 1978 established the Pinelands Commission to prepare a comprehensive management plan for the New Jersey Pinelands; and

WHEREAS, pursuant to these Acts, the Pinelands Commission prepared and adopted the Pinelands Comprehensive Management Plan which has been approved by the Governor of the State of New Jersey and by the United States Secretary of the Interior; and

WHEREAS, the standards, regulations and procedures contained in the Pinelands Comprehensive Management Plan ignore legitimate local plans and policies and result in unacceptable land development patterns, erode the fiscal integrity of local governments in the Pinelands and place an unfair and devastating financial burden on the residents and taxpayers of Ocean County and its municipalities; and

WHEREAS, the Pinelands Commission has continually demonstrated no concern with the negative fiscal, economic and land use impacts the Plan will impose on the residents and governments of Ocean County and its municipalities; and

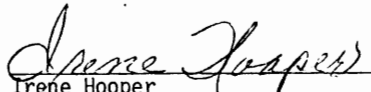
WHEREAS, legislation has been introduced in the New Jersey Senate that would further amend and supplement the New Jersey Pinelands Protection Act which would serve to address the publicly stated concerns of this Board by clarifying the relationship between the Pinelands Commission and Pinelands Counties and municipalities, providing for the implementation of the Plan through County and municipal land use plans and ordinances, improving the compensation mechanisms contained in the Plan and generally providing local governments with the required flexibility to preserve the resources of the Pinelands while insuring that local goals and objectives are met.

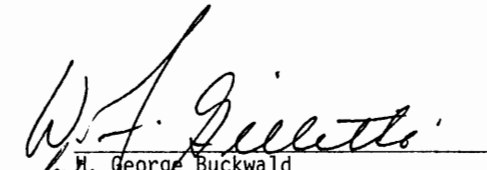
7

NOW, THEREFORE, BE IT RESOLVED that the Ocean County Planning Board be recorded as supporting passage of Senate Bill 3335 which amends and supplements the New Jersey Pinelands Protection Act.

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the Ocean County Board of Chosen Freeholders, Ocean County Pinelands municipalities, Ocean County Congressional and State Legislative delegation, members of the Senate Natural Resources and Environment Committee, the Pinelands Commission and the Governor of the State of New Jersey.

Attest:

  
Irene Hooper  
Secretary

  
W. F. Gilletto  
Chairman

E-14 Lakeview Terrace  
Princeton, N.J. 08540  
(609)452-1796

Testimony on the Perskie (D-Atlantic) bill to amend  
and supplement the "Pinelands Protection Act." July 7, 1981

by

JOAN GOLDSTEIN, PH.D.

Author of the book:

ENVIRONMENTAL DECISION MAKING IN RURAL LOCALES:  
THE PINE BARRENS

and appointed member of the former Pinelands Review Committee.

For the past fifteen years there has been little doubt that the region known as the Pinelands will be managed by some system of regulation. The only question has been managed at what level: local, state, or federal, or a combination of these three. State Senator Steven Perskie raises the spectre of the 1970's with his proposed bill to amend the Pinelands Protection Act; and he does so by re-interpreting the base of power and decision making once again at the local level.

Local decision making and non-federal intervention was the basis for the first legitimate planning agency in the Pine Barrens, the Pinelands Environmental Council, known as the PEC. This locally based group was replaced in the late 1970's by Governor Byrne's appointed Pinelands Review Committee, a planning and advisory committee organized around the idea of statewide responsibility for planning and reflective in its membership of local and statewide representation. This committee in turn, recommended the formation of a local-state-federal based commission. That Commission, known as the current

Pinelands Commission is now being re-drafted to return the management and regulation of the Pinelands to local police power vested in county and municipal ordinances and in local planning bodies. Thus the circle is complete. The questions to be answered are those that begin with the word, "why". That is, why did the legislation change from locally based committees to statewide advisory committee to finally, the present commission; and more significant, why return to a system resembling the 1970's.

The answer to that question should lie within the drafting of the proposed amendments. Thus the Perskie Bill begins: "...protection of the pinelands area can be accomplished without disrupting the economic, social, and essential governmental functions of the counties and municipalities.." Do we consider then that the current commission and its base of statewide and federal involvement does disrupt local governmental functions? And if that is the case, why then does the bill not address those problems. In short, there is an absence of a rationale which would explain the proposed amendments, or the suggested re-run to systems of the 70's. To make the point, I quote from my book on this important transition from the 1970's to the 80's in land management policies:

"Each of these legislative plans calls for citizen based planning commissions, not unlike the direction taken in New York State in its Adirondack Park Commission, nor Vermont in their creation of the Regional Plan Commissions of the early 1970's. From the 1970's onward, in fact, the management of scenic or natural areas adjacent to urban regions in the eastern strip of megalopolis have been the subject of land planning disputes which have ended, (temporarily), with the establishment of

citizen based land planning agencies or commissions. As such, member planners eventually develop the experience and sophistication to work with the highly subtle form of power maneuvering through which groups attempt to control land management policies."

When we are dealing with land planning commissions, we understand that changes will occur given the shift in elected officials and state politics, so we are not surprised at the move for change. What is not clear is whom these changes will benefit and whom they will disadvantage. In short, will the obvious curtailment of the Pinelands Commission base of power, (as well as the Directors'), serve to enhance the protection of the Pinelands? I must ask this question since the proposed amendments most certainly provide limitations on the power of the Commission: by proposing commission oversight rather than direct commission management, for example; and by allowing development or subdivisions of land parcels of 200 units before the Commission can regulate that development.

A second and fairly intriguing concept suggested by the Perskie amendments is the proposed transfer of development rights which are referred in the bill as "land banking." This appears a departure from the land banking experience of western Europe where land is bought by the public and reserved or banked for future use. Here, as we understand it, more densely populated areas can exchange development rights with Pine Barrens landholders. Does this plan then override local control of zoning in the more densely populated regions. Would management disputes occur which could lead to legal battles between the private negotiation of development rights and the public system of zoning and control?

Finally, I wonder why methods for compensating municipalities which lose property tax revenues as a result of transfer of pinelands development credits has not been fully addressed. In the numerous hearings and appeals resulting from the struggle over Pineland management policies, this question has been consistently raised. The potential loss of ratables has been the significant local issue in the question of government management. It is an issue here as well, though that solution has not been indicated.

I close this testimony with a concluding statement from my upcoming book on the Pine Barrens:

"The viability of the new Pine Barrens land and water management plan will be tested during the early years of the 1980's, in 1981 in fact, when an election year will provide a new Governor, and new administrative policies."

TESTIMONY By

Lauren DeCou, President, New Jersey Farm Bureau

to

Senate Committee on Natural Resources and Agriculture

on

S-3335, Proposed Amendments to Pinelands Protection Act

Tuesday, July 7, 1981 - 9:00 a.m.

Statehouse -- Trenton, New Jersey

Good day, gentlemen, and thank you for the opportunity of appearing before you on these proposed legislative changes to the Pinelands Protection Act. I will amplify here somewhat upon my verbal remarks at last Monday's Committee meeting on the bill. At that time, I represented to you that New Jersey Farm Bureau supports this bill as the least the Legislature should do in correcting the inequities that have developed in the Pinelands program. Also, I stated concern for the fate of our farmers in the Preservation Area, which is not directly impacted by any of these changes. I defer comment on this aspect of the bill to the Coalition to Save Agriculture and support their position in this regard.

To the agricultural community, the Pinelands program and its sweeping regulations have been a source of serious concern for the last two and a half years. We believe that the original state legislation far exceeded the intent of the authorizing federal statute, and subsequently the program has been out of step ever since. The commission has and is experimenting with an unjustified interpretation of the constitutional limits in regulating private property without compensation, far beyond anything the state or federal statutes ever intended. The additional language added to the Act in these amendments dealing with compensation, marketability of Pinelands credits and emphasis on local level implementation will help alleviate problems caused by the Commission's literal interpretation of the Act.

To illustrate this disenchantment with the Pinelands Plan, I have attached copies of the resolutions adopted at the 1980 Farm Bureau convention and the 1981 State Agricultural Convention which criticize certain features of the Plan. Also, the Committee should be aware that the American Farm Bureau Federation Board of Directors voted unanimously in March of this year to make available whatever legal and financial resources are needed to <sup>help</sup> contest the down-zoning of farmland without fair compensation. Furthermore, we understand that the Farm Credit Banks of Springfield, the chief lender of credit to farmers in the Pinelands, are unhappy with

the impact of the Plan as stated in a letter to the Commission on March 2 (see attachment).

This is not a good opportunity to detail our problems with the program, but you should be aware of our concern in the following areas: loss of equity and terms for short and long term credit; increased exposure to increased property taxes; disruption in local government authority; threat of regulatory harrassment; trespass and vandalism problems to berry growers in the core area; and some others. In observing the Commission and its operations, we find that it operates more as a power structure managing and regulating economic growth rather than a regional planning entity seeking to protect environmental quality. The distinction may be a bit subtle, but I can assure you that it embodies the source of many complaints about the program you will hear today and those that have been made previously by responsible opponents of the program. Excessive power vested in a governmental commission that can dictate rules affecting land values and new construction in over one million acres of New Jersey is simply not wise. The Perskie amendments are on target when they return a greater share of responsibility to local governments while leaving the regional planning and municipal compliance structure in place.

Specifically, we view these amendments as making a variety of positive changes without, unfortunately, guaranteeing the security of existing farm enterprises in the Preservation area. We see improvements in the mandates to the Commission in preparing a report "offering relief to owners of agricultural lands"(new sec. 7 L) and a report<sup>on</sup> in-lieu taxes needed to replenish municipal tax bases eroded 5 percent or more by the regulations of the Commission (amendment to Sec. 20). We are interested by new Sec. 16 a, which will allow the farmers in entire pineland areas to work with their municipalities in designating agricultural and special agricultural production areas. This will hopefully enable these designations to appear similar to a more voluntary system, allowing the PDC's to act as an incentive to have farm

so designated (assuming PDC's will attract a meaningful cash value).

Otherwise, we still see uncertainties surrounding the PDC system and bank. While it is likely that the \$1,000 per PDC redemption fee will undermine the potential value of these credits, we feel the state can off-set this impact by guaranteeing a minimum value for the credits in the early going by expanding the appropriation to the bank and by enabling the bank to act as a stand-by purchaser of credits. We will closely follow the supplemental appropriations bill and early implementation of the bank and PDC system to be in a position of recommending changes if and when they become necessary. The Coalition will have more specific remarks on this topic.

In conclusion, I would like to point out that the enactment of these amendments to the Pinelands Act or lack of same will have a tremendous impact on the potential of a statewide farmland preservation program ever getting off the ground. As I have pointed out, and as Senators Zane and Dumont pointed out last week, farmers across the state are apprehensive of the short-cuts taken at the landowners expense in this program. Your positive consideration of these changes and subsequent approval by the Legislature and Governor will help alleviate not only some of the disputes raised to date by farmers in the Pinelands but also the skepticism toward new land use controls by all farmers as well.

I would be happy to answer any questions you may have of me. Thank you for your attention.

10. RECYCLING OF INDUSTRIAL, COMMERCIAL, MUNICIPAL & RESIDENTIAL WASTES

Farm Bureau shall promote research into the recycling of industrial, commercial, municipal and residential wastes for useful purposes.

Primary emphasis should be placed on finding ways to purify and channel waste water back into the natural recharge system instead of dumping it into the ocean.

11. GYPSY MOTH

New Jersey Farm Bureau shall support and promote efforts to eradicate the Gypsy Moth.

12. SURFACE DRAINAGE

Farm Bureau shall seek to get the proper authorities to cooperate in correcting problems of surface drainage from roads and highways, running off onto agricultural fields, where crops are endangered.

13. PESTICIDE CERTIFICATION

Under the Federal Insecticide & Rodenticide Control Act (Revised 1978), certification is to be carried out by the individual states. Farm Bureau shall seek to obtain where necessary those changes in the State Certification Regulations which exceed the federal or surrounding states.

14. PINELANDS

Farm Bureau recognized the need to maintain a balanced ecosystem in the Pinelands. Farm Bureau also recognized that there are persevering forces which give little credit to the pioneer farmers and their present day descendants who turned an unwanted (and then undesirable) area into a highly productive and necessary food producing area -- while maintaining and enhancing its beauty and environmental quality.

Passage of the Pinelands Act (Chapter III, 1979) and the subsequent creation of a "Pinelands Commission" has given a non-elected, regional planning and enforcement body land use and water quality control over 7 counties and 57 municipalities encompassing nearly a million acres, most of which is privately owned land. For agricultural landowners, this action threatens the present land values and could prevent any future accrual of value to their farmland. By effectively locking up the land, through construction prohibitions and restrictive water quality standards, the stage has been set for permanent agricultural zoning.

# NEW JERSEY

## FARM BUREAU

# POLICIES

and

# DIRECTORS HANDBOOK

# 1981

NEW JERSEY FARM BUREAU

168 West State Street, Trenton, New Jersey 08608

Farm Bureau continues to oppose any rules, regulations, ordinances, standards and the like which have the effect of confiscating property, property values and property rights without just compensation.

Therefore, New Jersey Farm Bureau, in light of current government initiatives shall seek:

1. For any lands or property rights confiscated by the Federal or State government or any of their authorized agencies or agents for the purpose of protecting or preserving an area known as or intended to be a "Pinelands Preservation Area", and "Pinelands Protection Area", the landowners whose rights or lands are confiscated as the result of any such action, must be compensated fairly for any rights or lands confiscated.
2. Any program which is developed for the purpose of pinelands preservation must include a mechanism to compensate the landowners involved for any loss in property rights or lands confiscated. This compensation could be delayed at the landowners option for an indefinite period providing tax advantages for the landowner as well as providing significant advantages to the State or Federal Government making the purchase, since the initial cash required would be considerably reduced. Also, it is essential that farmers maintain their ability to conduct future agricultural operations on the lands retained. This must include the farmers right to farm, right to expand as technology and economics may dictate and to have control over the many uniquely diverse elements which affect the business of farming, including growing alternate crops.
3. The Federal Omnibus Parks Bill of 1978 requires that economic activities "such as agriculture" be represented on the Pinelands Commission. We favor appointment or re-appointment by the Governor, of farmers representing the various types of agriculture in the designated area such as blueberry, cranberry, dairy and field crops. The land use plans must be developed by the residents of the affected area and not be imposed by others from outside the area.

Further, that the "Comprehensive Management Plan" CMP must, in addition to Section 1-2-3 of this Resolution, include provisions for adequate protection of private property from unauthorized trespass and vandalism.

New Jersey Farm Bureau supports the Coalition to Save Agriculture recognizing that this is not just a Pinelands problem; but that it is a potential problem for all of agriculture.

14a. PINELANDS NATIONAL RESERVE - ABUSE OF PROPERTY RIGHTS  
(Specifically Recommended To Be Introduced for National Policy)

The Omnibus Parks Act of 1978, Section 502, created the Pinelands National Reserve in an area of over one million acres in Southern New Jersey, which is approximately 20% of the state's total land area.

This National Reserve is the first such federally-designated area in the United States, supervised by the Heritage, Conservation, and Recreation Service (HCRS) of the US Department of the Interior.

This HCRS unit of the Department of Interior is itself a newly created agency within the Department, and as such deserves close scrutiny of its policy-making activities regarding land management programs.

Section 502 also established the Pinelands Planning Commission to develop a Comprehensive Management Plan for the Pinelands National Reserve.

This federal legislation was subsequently the basis for a significant expansion of the Commission's powers when the State of New Jersey enacted the Pinelands Protection Act (C.111,P.L. 1979) despite strong opposition from farmers in the Pinelands area and the New Jersey Farm Bureau.

This re-authorization and expansion of powers was described as being inconsistent with the intent of the federal legislation on numerous occasions by the Congressional representatives for the major portion of the Pinelands (Rep. William Hughes, N.J.-1, and Rep. Edwin Forsythe, N.J.-6) a situation which is greatly complicated by the fact that no Committee record of the US Senate deliberations exists to answer such questions of Federal legislative intent.

The Comprehensive Management Plan for the Pinelands which has been prepared by the Commission contains a mandatory, radical, down-zoning of farmland and other areas without fair compensation, to a degree that is far beyond any precedent in New Jersey and many other places in the United States.

The New Jersey Farm Bureau cites the Comprehensive Management Plan of the Pineland Commission as an illegal confiscation of property rights in violation of Fifth Amendment property rights. The American Farm Bureau Federation should recognize the Pinelands program in N.J. as a direct threat to the property rights of farmers and ranchers across the United States, inasmuch as the plan was authorized by Congress in Sec. 502 of the Omnibus Parks Act when it created the Pinelands National Reserve and related land planning authority.

The officers and staff of AFBF be directed to seek executive legislative, or other review of this federal program so that the best interests of its members both in New Jersey and throughout the country are protected now and in the future.

1123

*[Handwritten signature]*  
N.J.F.B.

AGRICULTURAL CONVENTION

1981

RESOLUTIONS PROPOSED BY

RESOLUTIONS COMMITTEE

WALTER ELLIS, JR., Chairman, Board of Managers, Cook College,  
Rutgers University

THOMAS B. DARLINGTON, Vice Chairman, Tru-Blu Cooperative  
Association, Inc.

STEPHEN GEORGE, Morris County Board of Agriculture

DAVID KYLE, Somerset County Board of Agriculture

WILLIAM PETTIT, SR., Burlington County Board of Agriculture

WILLIAM C. HANCOCK, JR., Salem County Board of Agriculture

T. LAUREN DE COU, New Jersey Farm Bureau

JOHN U. MAPLE, New Jersey State Grange

J. PETER VERMEULEN, State Board of Agriculture Liaison

January 27, 1981

PROPOSED RESOLUTION #14

PINELANDS COMPREHENSIVE MANAGEMENT PLAN

1           With a deep appreciation for the land and the           1  
2           environment, farmers recognize the need to protect natural       2  
3           resources for future generations. With those aspects in mind       3  
4           and the Pinelands Protection Act calling for the enhancement of       4  
5           agriculture, farmers readily responded to the Secretary's request   5  
6           for an Agricultural Advisory Task Force to assist the Pinelands       6  
7           Commission in developing the Comprehensive Management Plan.       7

8           While the plan adopted by the Commission, and approved       8  
9           by the Governor and the U.S. Secretary of Interior, responded to     9  
10          many task force suggestions, other provisions cause great       10  
11          uncertainties both for farmers within the pinelands, and the farm   11  
12          community at large.   12

13          These provisions include, but are not limited to:           13

14          (1) Development restrictions and their potential           14

15               to   15

16               A. Reduce property values, collateral holdings,       16  
17               and borrowing capacities for pinelands               17  
18               farmers;   18

19               B. Reduce property assessments and municipal       19  
20               tax bases which will probably require higher       20  
21               tax rates and property taxes for pinelands       21  
22               farmers; and   22

23               C. Divert development pressures to prime           23  
24               agricultural lands west of the pinelands               24  
25               area with the possibility of adversely               25  
26               affecting that valuable resource.                       26

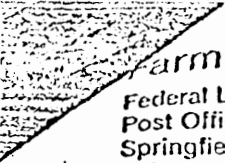
- 27 (2) Increased visitor traffic with greater exposure  
28 of private property to trespass and vandalism.  
29 (3) Extensive intervention by state government which  
30 erodes citizen involvement and self determination  
31 by local officials.

32 THEREFORE, BE IT RESOLVED, that we, the delegates to  
33 the 66th State Agricultural Convention, assembled in Cherry Hill,  
34 New Jersey, on January 27, 1981, fully supports protection of  
35 the pinelands for the public benefit provided:

- 36 (1) The costs of such protection are accurately  
37 identified and equitably distributed among all  
38 beneficiaries;  
39 (2) There is established a genuine policy-management  
40 partnership involving the Commission, local  
41 governments and landowners, and  
42 (3) There is immediate action to correct existing  
43 inequities and limit discretionary powers  
44 assumed by the Pinelands Commission.

45 BE IT FURTHER RESOLVED, that copies of this resolu-  
46 tion be transmitted to the Governor, members of the Legislature,  
47 the Chairman of the Pinelands Municipal Council and the Pinelands  
48 Commission.

*passed*



# Farm Credit Banks of Springfield

Federal Land Bank, Federal Intermediate Credit Bank, Bank for Cooperatives  
Post Office Box 141  
Springfield, Massachusetts 01101  
Telephone (413) 786-7600



March 2, 1981

Mr. Anthony J. Esser  
State of New Jersey  
Pinelands Commission  
Post Office Box 7  
New Lisbon, New Jersey 08064

Dear Mr. Esser:

We welcomed the opportunity to meet with you and the group of concerned individuals from your Pinelands office on February 25. Unfortunately, I did not get the names and titles of the people in attendance and would appreciate it if you could forward this information to me.

I do feel it is important that you have a clear understanding of Farm Credit's concerns relative to the Management Plan for the New Jersey Pinelands.

Farm Credit is charged with the responsibility to provide a dependable source of credit to farmers, fishermen, and their cooperatives which contributes to a prosperous, productive agriculture. Because we are owned and capitalized by our farmer/borrowers, we have a responsibility to make sound and constructive loans that are adequately secured and have reasonable repayment ability. Anything that could jeopardize the value of the pledged security on these loans is a great concern to all of us.

Our fear is that the Pinelands Management Plan will cause a decrease in land values or prevent land values from keeping up with the pace of inflation in the Core and Protection Areas in the Pinelands; and therefore, undermine the economic well being of our farmer members and their ability to profitably conduct their business operations, both now and in the future.

Adverse weather conditions (drought) have plagued Southern New Jersey for the past two years, resulting in many of our farmer/borrowers being unable to repay their operating loans from crop proceeds. This has necessitated a carry-over of a portion of these operating loans. The ability of our Production Credit Associations to rely on the value of real estate as additional security for operating loans has enabled us to continue to provide financing during periods of adversity. However, the potential reduction in value of real estate makes it increasingly difficult for our PCA's to provide needed production financing for these farmers during these periods.

March 2, 1981

While the loan guarantee proposal advanced by Mr. Chavooshian could provide a degree of protection for lenders, I fail to understand how a loan guarantee would compensate the farmer or land owner for any decrease in land values that may occur. Credit, or a guarantee of credit, is not an acceptable substitute for the loss of farmer equity.

Apparently, you, Mr. Moore, and Mr. Chavooshian are convinced the demand for Pinelands Development Credits (PDC's), will result in a price that will amply compensate land owners for any reductions in market value. I recall you indicated that the value of a single PDC is projected to be in the \$17,000 - \$35,000 range. If this is the case, it would be reasonable to assume that the State of New Jersey would be willing to pay a fair value within this projected range for each PDC and purchase them at that price. Thus, any land owner wishing to sell his PDC's could be assured of a fair market value as a reasonable compensation for the decreased value of his land. In the event that the PDC's do increase in value above this figure, those individuals that have not sold their PDC's to the State would receive the higher market price when they sold their PDC's to a developer. Likewise, the State could also sell those PDC's it had acquired to developers. I assume the State would manage the sale of its acquired PDC's in such a manner as to not undermine private sales or prices.

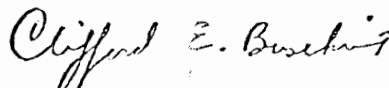
I was surprised to learn that the provisions in the revised plan do not provide for PDC's for forest land. How are the owners of this property being compensated for any decrease in value?

At the risk of sounding philosophical, it seems only fair that if the purpose of the Pinelands Management Plan is to restrict the freedom of the property owners in the Core and Protection Areas to benefit the entire population of the State, then those individuals in the Core and Protection Areas should at least be compensated for any resulting decrease in their real property values. The aforementioned Plan would require New Jersey to place a reasonable floor under the compensation formula you developed and take the risk until the open market establishes a price equal to, or higher, than this guaranteed PDC value price. You and Mr. Chavooshian indicated that this would likely take three to five years. Failure to provide such a guarantee could force some property owners into liquidating their properties at distressed prices.

I sincerely hope this matter can be reasonably resolved so that none of our borrowers, Associations, or any property owners, in the Core and Protection Areas suffer unfair losses.

If you have any questions, I will be happy to discuss them with you.

Sincerely,



Clifford E. Busekist  
Senior Administrative Vice President

CEB:jd

cc: T. Moore, J. Fairchild, A. Myles, J. O'Day

TESTIMONY By

Peter J. Furey - Director, Coalition to Save Agriculture

to

Senate Committee on Natural Resources and Agriculture

on

S-3335, Proposed Amendments to Pinelands Protection Act

Tuesday, July 7, 1981 - 9:00 a.m

Statehouse -- Trenton, New Jersey

The Coalition to Save Agriculture, an incorporated group of farmers from throughout the Pinelands Area, wishes to go on record with the Senate Committee on Natural Resources and Agriculture regarding the proposed amendments to the Pinelands Protection Act, with the following comments:

-it is obvious by the strong response elicited to date by these proposals that serious, unresolved issues still existed when the Pinelands Comprehensive Management Plan was adopted by the Commission late last year. The Coalition has contested the status of the program in preliminary legal action because of this. These amendments will correct this situation, thereby eliminating one of the Coalition's contentions about this program.

-these amendments include statutory authorization for a Pinelands Development Credit Bank, an idea developed and recommended by the Commission and its staff. The amendments also include some new features to the PDC system contained in the Pinelands Plan. The Coalition feels very skeptical about the chances of the regional TDR system ever working or developing significant cash values for landowners holding PDC's. There are many reasons why we feel this system will not work as presently constructed. The attached letter states the Coalition position on the credit system, the chief changes being: expand the appropriation in support of the bank from \$5 to 30 million; establish a floor or guarantee on the value of each credit at \$2,500; and allow the bank to act as a standby purchaser of credits. The system should then be closely monitored for needed modifications in its early stages. The PDC program is based on several assumptions that must be perfectly inter-related for the whole program to work.

The Coalition is insistent that farmland owners, especially in the Preservation Area, not be unfairly regulated to cause any loss of land value without compensation.

-we continue to be dissatisfied by the Commission's work in accurately pinpointing the economic consequences of the Plan and its regulations. We noted that the Commission's Economic Analysis was released on November 20, 1980, just one day before the Plan was finally adopted by the Commission. We feel that this Analysis is weak, understates the property value and property tax impact of the Plan, & is in need of thorough review. We hope that the directives contained in these amendments for reports on compensation mechanisms and in-lieu tax payments will become the basis for a more realistic appraisal of the economic costs being absorbed by local residents as a result of this program.

-the amendments will serve to bring the Pinelands Protection Act more in line with the historical legislative intent on the Pinelands. There was a good consensus of support, including local residents, when the federal legislation was passed in November, 1978.

The subsequent moratorium Executive Order and state legislation in early 1979 has created the disharmony which you witness here today. The state legislation was passed very narrowly if you look at the test votes; Assemblyman Doyle last June sponsored a bill which led to a postponement of the adoption date; Assembly Majority leader Karcher sponsored a bill last November which passed by a wide margin (46-13) that called for the removal of the Commission's mandatory powers in the Protection Area. You can see from this record that the Legislature is only

exercising its legitimate and important role of oversight when it considers this bill.

-we feel that the amendments do not "emasculate" or threaten the Pinelands as some people have charged. On the contrary, as far as they go, they will help the entire planning and management process.

-it is clear that this bill is oriented to the Protection Area. We expect that other pieces of implementing legislation will provide needed support to protect those in the Preservation Area.

-in general, we see these amendments as a step in the right direction. We concur with most of the changes, and have commented specifically with the staff of the bill sponsor and this committee. The amendments conform to the mainstream opinion of our group, which is that there should be less restriction and more flexibility in the Protection Area with a corresponding targeting of compensation for landowners and municipalities in the Preservation Area.

xxx

March 27, 1981

Mr. William E. Kenny  
Assistant Secretary of Agriculture  
N.J. Department of Agriculture  
C.N. 330  
Trenton, New Jersey 08625

RE: PDC bank legislation

Dear Mr. Kenny:

This is in further reference to the meeting held in the State Board room on Tuesday morning (March 24) with representatives from the Pinelands Commission staff about the matter noted above. I certainly appreciate having been invited to participate in this meeting.

\* The Pinelands Development Credits (PDC) program really goes to the heart of our contentions about the Pinelands program. We share the feeling expressed in the Cliff Busekist (Farm Credit Banks of Springfield) letter of March 2, which reads in part:

"Credit, or a guarantee of credit, is not an acceptable substitute for the loss of farmer equity".

The Pinelands Plan seems to have created a dilemma for the Commission that can be resolved by either finding a more secure method of providing compensation for equity loss or in the alternative, loosening some of the restrictions imposed on farmland. We will keep you advised of our position and policies as events proceed.

There are a few observations I would like to make about the current form of the PDC bank bill, which are:

- the Commissioner of Banking is slated to be the Chairman of the 5-man board. What experience does that Department have with farm credit?
- Commission representatives admitted that their consultants found little evidence of open market purchase of TDR's in the country; what has happened to date are partnerships formed with credit-holding landowners by developers who build in "receiving" or growth areas

(over)

Letter to WM. Kenny  
March 27, 1981  
Page #2

- we are most skeptical of any substantial value ever accruing to these PDC's, given a long list of variables that could undermine the system. Certainly, it is hard to place any confidence in the \$17,000 - \$35,000 range projected by the Commission's consultants.
- political opposition to the concept of PDC's exists in Atlantic County. We are conscious of the need to play a constructive role in the discussion of this legislation, lest any part of agriculture be accused of undermining a program that attempts to address one of its serious concerns with the Pinelands Plan (i.e. borrowing capacity).
- two minimum suggestions for change in the bill as currently drafted would be to : a) expand the appropriations from \$5 to \$30 million (a figure mentioned by their consultant at the November 7 Commission meeting), and b) liberalizing the conditions during which a PDC could be purchased by the bank (i.e. stand-by purchaser instead of only hardship circumstances)
- the 5-man board according to the bill seems to have unlimited discretion in establishing rules and regulations for the PDC's. I believe this covers up the fact that many questions about the system have yet to be resolved.

We will keep you advised of our thoughts on these and other Pinelands issues as events proceed.

Thanks again for inviting me to the meeting.

Very truly yours,

✓  
Peter J. Furey  
Director

PJF/db  
cc: Secretary Phillip Alampi  
Lauren DeCou

N.J. SENATE COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

Thank you for the opportunity to be heard. I am Leland Merrill. I am on the staff at Rutgers, New Brunswick, and have been for the past ten years working in the natural resource areas. For 25 years before that I worked in agricultural experiment stations; for more than ten years as dean and chief administrative officer of New Jersey's station. I have a deep interest in the Pinelands and I developed, along with staff and growers, the cranberry and blueberry station at Chatsworth and the horticultural research establishment on the edge of the Pinelands near Centerton. I was senior author of the Rutgers National Park Service Plan for the Pinelands which was prepared independent of State efforts in 1978 before the passage of the state and federal legislation. The Plan which we developed is very similar to the comprehensive Master Plan which was produced by the Pinelands Commission, its staff and its many competent consultants.

A group of workers in several academic institutions including University of Pennsylvania, Princeton, Drexel, Glensboro, Stockton, Rutgers Camden and New Brunswick, and Monmouth met as a Technical Advisory Committee on several occasions to offer free of charge basic approaches to planning for the staff of the Commission. A number of these people later worked as consultants to the Commission as the CMP was developed.

I believe that the CMP as it is developed in areas of land and as it calls for review and approval of development in both of the Pinelands areas -- both the protected and unprotected areas is a good program of carrying the written intent of the Pinelands Protection and Development Act, as I understand the language of that Act, into the practical implementation of that Act, which will be

best served by the continuation of the operation of the CMP as it stands. The assistance which the municipal planning process is receiving from the Commission is best operated under current procedures if the resource is to be preserved. I recognize this is a conservative approach to the management of the resource but I believe it profits the best utility of the considerable body of scientific knowledge which has been assembled by the Commission. I commend them for their work.

The problem of protecting and preserving the Pinelands at the municipal level is a formidable one. My experience beginning in a project in 1974 is that municipalities at this time do not have access to the mass of information which I see as essential to protecting the resource. The Commission itself has done a Herculean job in gathering and interpreting data. More information is still needed to fine tune the job of managing the resource. At this time, I believe that it is not realistic to believe that municipalities will be able to meet the letter and spirit of the state and federal legislation. Hopefully, they would permit the local government to improve their abilities to manage the Pinelands. The Commission needs to be first contact at this time.

The State University, as of July 1, has established a Division of Pinelands Research which will continue and broaden the flow of usable data to the Pinelands Commission. Independent support has been received to help the work get underway. The basis of the program will be to gain information to improve the management process in the public interest.

Thank you for this opportunity to be heard. I would try to answer any questions you may have.

July 7, 1981

Statement to the New Jersey Committee on Agriculture and the Environment -  
Re: S-3335 - Pinelands Protection

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Senator Zane, members of the Committee:

There will be sufficient comment by others on the specific items in the proposed S-3335. I will comment only upon the very first proposed amendment.

The larger part of that paragraph is nothing more than what has been, and is being done by the Pinelands Commission, therefore no amendment is needed.

The ending part of the same paragraph is a blatant attempt to strip the Commission of that authority, invested in them by statute, which is the very basis for sound regulation of the Pinelands area.

The crying need for regional management has been undeniably demonstrated by a long history of failure by municipalities and counties to control development, ~~and~~ to provide needed services to support the same, and to prevent the devastation and pollution of our land. To ask anyone to believe that <sup>quote</sup> "local knowledge and <sup>unquote</sup> local police power" / have done the job or will do the job is preposterous.

In spite of a few instances of hypocritical sweeteners throughout this bill, I regard it as one more effort by special interests to destroy the preservation effort.

As a private citizen, and to find something in my State government to believe in totally, I have followed the work of the Pinelands Commission and Staff through meetings, workshops and hearings. I am convinced that their judgment, together with the background of extensive expert consultant research and data, should be given all consideration over this obvious attempt to thwart their dedicated work. They should be allowed to continue without this disruption. No amendment is in order at this time.

ISABELLE T. DIETZ  
Manchester Township, Ocean County  
66X

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*U.N. Representative*  
John H. Adams  
*Executive Director*

## TESTIMONY OF THE NATURAL RESOURCES DEFENSE COUNCIL, INC.

ON  
S.3335 TO  
AMEND THE PINELANDS PROTECTION ACT  
BEFORE THE  
NATURAL RESOURCES AND AGRICULTURE  
COMMITTEE  
OF THE  
NEW JERSEY SENATE

Presented by

Jane Bloom  
July 7, 1981

My name is Jane Bloom. I am an attorney with the Natural Resources Defense Council in New York.

The Natural Resources Defense Council (NRDC) appreciates this opportunity to testify on S. 3335.

NRDC is a national nonprofit organization dedicated to the protection and wise use of threatened resources and the enhancement of environmental quality. Supported by 48,000 members, 2,300 of whom reside in New Jersey, NRDC has actively sought the adoption of an effective resource management plan for the Pinelands, participation at all stages of public review of the Pinelands Comprehensive Management Plan (CMP). Today, we strongly urge your rejection of S.3335 to amend the Pinelands Protection Act, and your continued support for implementation of the CMP.

I. No New Legislation Is Called For At This Time

To amend the Pinelands Protection Act at this early stage of implementation of the CMP would be senseless, fiscally wasteful, and would result in unreasonable delays in attaining needed protection for the valuable and sensitive environmental resources of the Pinelands. In essence, S.3335 would undermine the carefully conceived scheme for Pinelands protection by removing the Pinelands Commission's authority to oversee implementation of the CMP and by making the CMP purely advisory to municipalities in the Protection Area.

The Plan was prepared pursuant to the state Pinelands Protection Act and the federal National Parks and Recreation Act of 1978. Both statutes recognize that the Pinelands constitutes a unique ecosystem, containing invaluable yet fragile resources. These resources--which include the largest unpolluted aquifer on the east coast, pristine rivers and streams, a unique dwarf pine forest, and numerous endangered plant and animal species--are increasingly threatened with destruction by the pressures of encroaching development. The federal and state statutes declare the overriding need "to protect preserve and enhance the significant values of the land and water resources of the Pinelands." (§502(b)(1) of the Parks and Recreation Act; §8(a) of the Pinelands Protection Act).

Both statutes recognize that, because the Pinelands is a single unit, geographically, ecologically, economically, and culturally, it requires both a regional management approach and the efforts of all levels of government, federal, state and local, as embodied in the National Reserve concept adopted for the Pinelands. Management schemes based on solely municipal control or involving a commission with mainly advisory powers were thus ruled out as ineffective to provide the degree and kind of protection needed to preserve the resources of the Pinelands.

To meet the goals of the federal and state statutes, the Commission spent 2 years and over \$2 million to develop a sound Plan. The Plan was based on over 15 years of accumulated data and intensive

study by both state and federal governments of every aspect of the region's resources, and on careful analysis of the impacts of the protection plan on the environment, economy and culture of the Pinelands.

The Plan meets the statutory objectives of providing strong protection for the Pinelands. Furthermore, it provides for all regional growth demands predicted for the next decade, including those associated with Atlantic City casino development. The Department of Interior concluded that the CMP constituted the best alternative among those studied, to achieve the primary goals of the federal and state legislation (Heritage Conservation and Recreation Service, U.S. Dept. of Interior, Environmental Impact Statement, p. 2.10, December, 1980).

Adoption of the CMP followed close consultation with municipalities, counties and extensive public debate, in which the Commission weighed, balanced, and accommodated the diverse interests at stake. The draft plan was revised significantly prior to adoption to respond to the needs of municipalities and counties, small landowners, farmers and builders.\*/

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\*/Significant revisions made prior to adoption of the final plan included a blanket exemption for subdivisions which had received final municipal approval prior to Governor Byrne's building moratorium of February 7, 1979, and for certain classes of single family dwellings on lots of 1 acre or more. In addition, the Commission added an "urban reserve" provision which allows rural development districts to become more densely populated growth districts when municipalities can demonstrate that new housing units are needed.

The Plan was adopted by the Commission in November, 1980, approved by Governor Byrne in December and given federal approval in January, 1981 by then-Secretary Andrus. It is now in the implementation phase. Already thirty-two of the fifty-two municipalities in the Pinelands have committed themselves to bringing their master plans and ordinances into conformance with the CMP. The Commission is now negotiating with other municipalities and counties using the flexibility that is built into the Plan to reach agreement on conformance with the CMP.

II. S.3335 Will Disrupt the Implementation Process Now Underway and Will Result in Waste of Taxpayer Dollars

To amend the enabling legislation for the Plan at this stage, when the Plan has just begun operation would be extremely unwise. To do so would disrupt the implementation process that has begun, create waste of taxpayers money, and create great uncertainty regarding the future and fate of the Pinelands.

Amendment S.3335 would throw the process by which localities are currently bringing their ordinances and master plans into conformance with the CMP into disarray. This is because new standards would have to be established in the CMP. Localities would have to then conform to these standards. Moreover, in the interim, implementation of the CMP would be delayed one year. The bill is silent concerning what, if any, protection will be provided for the Pinelands in the interim.

In addition, the major changes in the CMP which would appear to be necessitated by the bill could cost New Jersey taxpayers a significant sum of money. The \$2.5 million spent thus far for planning will have been wasted, and the planning effort unnecessarily done over at taxpayer expense. In addition, in the likely event the new plan fails to meet federal standards or gain approval of the Secretary of Interior, New Jersey would be obligated to repay the \$9.25 million of federal funds given to the state that has already been spent. An additional \$16 million of federal money which can now be given to the state for acquisition under the approved CMP, \$8 million of which has already been approved by the House of Representatives, would have to be foregone.

III. S.3335 Is Ill-Conceived and there has been Inadequate Opportunity for Public Review and Comment

S.3335 was hastily drafted, is ambiguous, and leaves a great many questions of critical importance to the public unanswered. This hearing, which comes barely a week after copies of the bill became publicly available, is the public's only chance thus far to review the legislation and comment upon it. In fact, the bill was placed on a fast track last week and seemed destined for passage, without any public hearing or review.

That the Senate came so close to slipping S.3335 by without public scrutiny is outrageous in light of the intensive public interest and debate and national attention that has surrounded the CMP. In contrast to the intensive analysis and public scrutiny

to which the Plan was subjected prior to adoption, no analysis has been done to assess the impact adoption of the bill would have on the environment, economy, culture, and other essential characteristics of the Pinelands. No supporting evidence has been presented to demonstrate that the bill will achieve the legislative goals of effective protection, preservation and enhancement of Pinelands resources, goals which the bill purports to retain. In short, too many crucial questions are left unanswered to permit the legislature to scuttle a CMP which is supported by extensive scientific and other data, and has been years in the making.

In addition, the bill is plagued by a number of significant ambiguities, which raise questions about the intent of the legislation. For example, the bill provides that water quality standards contained in the CMP "shall not vary from any comparable water quality standards adopted by" DEP. It is unclear whether this means that the CMP must incorporate DEP's water quality standards, such as the 10 ppm standard for nitrates. If it does, water quality in the Pinelands would be severely degraded. In assessing the protectiveness of a 10 ppm standard for nitrates in the Pinelands, the federal EIS concluded that such a standard was not protective enough for the Pinelands ecosystem (EIS at 6.60). Because the entire Pinelands ecosystem depends on an abundant supply of water of high quality, this provision of S.3335 could seriously undermine the entire protection scheme for the Pinelands.

IV. S.3335 Is Substantively Deficient and Will Undermine Effective Protection of the Pinelands

Although the effects of many of its provisions are uncertain, certain key provisions of S.3335 will have two clearly devastating consequences for protection of the Pinelands. First, Section 4 of the bill would amend §7(i)(1) of the Pinelands Protection Act to reduce the careful regional planning--district boundaries, density limitations, and use restrictions--which are at the heart of an effective CMP, to the status of recommendations which are not binding on municipalities and counties in the Protection Area. Municipalities and counties would have to meet as yet undefined performance standards. This would defeat the purpose and effectiveness of the regional planning which is the key to protecting the Pinelands.

A similar provision involving the replacement of set densities and planning boundaries with performance standards was proposed by the Coalition for Sensible Preservation of the Pinelands last year. It was dismissed as "environmentally unsound" in the federal EIS on the CMP. (EIS §VIII, p. 31). The EIS stated that this approach would result in harmful, scattered and piecemeal development and impose on localities a "recurring, expensive, cumbersome and questionably effective administrative burden in trying to enforce compliance with performance standards." [EIS at 4.3].

Second, Section 9 of the bill, amending §14 of the Act,

would severely curtail the Commission's ability to assure effective implementation of the Plan in the Protection Area by limiting its direct review authority to developments of 200 or more units. The Commission could not reverse approval by a municipality of a development of under 200 units that was granted in violation of the Act or the CMP, without a two-thirds vote of the full membership of the Commission. The inevitable result of this severe limitation on the Commission's power to review development that violates the Act or Plan will be the proliferation of scattered and piecemeal development throughout the Protection Area, and the consequential degradation of the pristine water quality and other precious resources of both the Protection and Preservation Areas.

In sum, S. 3335 is ill-timed, poorly drafted, and would remove effective protection from the Pinelands. NRDC strongly urges the Committee to reject it.

The Plan is in place and needs to be given a chance to work. No changes should be made until insight gained from the implementation process itself indicates what, if any, changes are necessary.



# ENVIRONMENTAL DEFENSE FUND

STATEMENT OF THE ENVIRONMENTAL DEFENSE FUND  
BEFORE THE NEW JERSEY STATE LEGISLATURE REGARDING  
A PROPOSED AMENDMENT TO THE PINELANDS PROTECTION ACT

by: James T.B. Tripp

We have reviewed the proposed amendment of and supplement to the Pinelands Protection Act (S 3335) known as the Perskie Bill. We strongly oppose the enactment of this proposed legislation on the grounds that it would undermine the stature of the Pinelands Commission, undercut an orderly planning process now in progress, stimulate piecemeal sprawl, promote uncertainty in institutional relationships, generate a lack of coordination among the counties and municipalities of the Pine Barrens and accelerate the pollution of the ground and surface water resources of the Pinelands and the desecration of its unique floral communities.

1. The Pinelands - a unique state and national resource

The basic issue for this Committee, the state legislature, the Governor, the State, and the nation, posed once again by this proposed legislation, is whether the New Jersey Pinelands is a unique, irreplaceable natural resource of state-wide and nation-wide importance. The 1978 federal legislation and the 1979 state legislation answered this question strongly in the affirmative.

In recognition of this fact, the 1978 federal Act designated this resource as the first national ecological Reserve. The Commission itself, composed of representatives of the Pinelands counties and basic interests in the Pinelands, answered the question in the affirmative by a vote of 11 to 4. We believe that a substantial majority of all of the participants at the numerous hearings that took place throughout last summer and last fall spoke out in favor of recognition of the state and national importance of the Pineland resources and the need to conserve them. It cannot be doubted that the scientific community in the State of New Jersey and beyond recognizes that the Pinelands of New Jersey constitutes a remarkable ecosystem.

These unique resources are all identified in the federal and state legislation. They include the different forest communities, the large mass of pristine groundwater, the large number of endangered flora and fauna, the expanse of a vast rural wilderness area in close proximity to major metropolitan areas to the South and North and unusual cultural amenities. The protection of these resources is clearly reflected in the goals of both the federal and state acts ---goals which, on paper, are not altered in the proposed legislation.

2. The institutional and resource  
problems addressed by the existing  
legislation

As we sit here considering a substantial amendment to the existing state legislation, we must once again ask the question what the perceived institutional and resource problems were that the

existing federal and state laws were designed to address. The resource problem addressed was the gradual loss of the remaining 1.1 million acre Pineland resource in the heart of the most densely populated state in the union. The institutional problem which was addressed was the inability of the 52 municipalities of the Pine Barrens, within the framework of the Municipal Land Use Law of the State of New Jersey, to provide an overall coordinated program of action to protect the Pinelands resource in a manner consistent with all recognized state and national interests. In other words, the problem which the federal and state legislation was designed to address was piecemeal development or rural sprawl, not just large-scale developments but many small developments, the cumulative impacts of which over ~~time~~ would constitute an irreparable desecration of Pineland resources. Let us remember that, from the perspective of the resource, the impacts of 10 sprawl developments of 20 units each are comparable to the impacts of one 200 unit development. Both types are undeniably developments of regional impact. Indeed, the underlying thesis of the existing federal and state legislation is that there is no development in the Pine Barrens which is not potentially of regional impact.

### 3. Basic concepts of the Comprehensive Master Plan

The response of the Pine Barrens Commission, following almost two years of arduous efforts, scores of hours of public hearings, consultation with the best scientific consultants and consideration of a wide range of competing political interests has been a conceptual plan, designed to accommodate population growth as

projected by the State of New Jersey, but to do so in a manner intended to protect most of the remaining Pinelands forest, farm land and groundwater resources by channeling that projected population growth into and around existing population centers, to the maximum extent feasible, with special considerations for small individual lot owners and developments fully approved prior to February 1979. The Commission, in our view, recognized that the only way to accomodate population growth and to conserve much of the natural resources of the Pine Barrens, as mandated by the federal and state acts, would be to channel projected population growth as much as possible into the designated Regional Growth Centers. Unfortunately, the proposed bill (p. 10, Section (8)(b)(5)), runs directly counter to this essential policy. No one, in our view, has successfully presented a basic alternative concept to this scheme. There are those who argue for more traditional municipal control coupled with utilization of so-called "performance standards" (a term which appears in the proposed legislation), but performance standards, as traditionally defined, while potentially effective in protecting our water and air quality, are not effective in conserving large expanses of vegetation -- the asset of greatest value in the Pinelands.

4. Intimate hydrologic links between  
the preservation and protection areas

The Master Plan, the present day outcome of the federal and state legislation, together with the state legislation, has recognized the unusual features of the core 360,000 acre preservation area. However, based on numerous consultant reports prepared by

the most knowledgeable scientists, the Commission recognized that this core preservation area cannot in fact be protected if areas around it, which bear a close hydrologic nexus to it, through groundwater and surface water systems, are developed in the absence of strong regional controls. The Commission, therefore, developed a concept of Forest Districts -- areas of value in and of themselves in terms of their forests, animal and water resources, areas which presently are largely undeveloped where large scale conservation of natural resources is still feasible; but, perhaps most important, areas which in fact are in close hydrologic connection with the preservation area. These forested tracts in the protection area require a high level of protection and land use control if the resources of the core preservation area are to be adequately protected over time. A fundamental reason underlying the concept of promoting growth in population centers at the periphery of the Pine Barrens is the protection of the preservation area. No one has suggested how rural development can be condoned over a substantial period of years in the protection area in the designated forest areas, without significant long term damage to the water and vegetative communities of the preservation area.

In this respect, the existing legislation and the Master Plan recognize the omnipresent force of the basic hydrologic and ecologic processes of the Pinelands, a natural reality not reflected in the proposed legislation. Let us remember that these basic hydrologic and ecologic processes know no and respect no county or municipal boundaries. Water -- principally groundwater --

through its recharge areas, vast underground reservoirs and discharge of groundwater into surface streams and wetlands -- is the medium which ties the large expanse of the Pine Barrens together into an integral ecosystem.

Not only does the proposed legislation fail to recognize the central role of hydrologic processes throughout the Pinelands, but it fails to recognize the incremental damage to resources of incremental groundwater pollution. The pollution of that groundwater, particularly through large-scale development in the critical recharge areas of the forest districts, would eventually lead to massive, unwanted transformations of the vegetative and animal communities of the preservation areas, even if no development were condoned there at all. Yet, although the existing legislation, both federal and state, refers to the extraordinary expanse and quality of the existing groundwater resources of the Pine Barrens -- a quality closely linked to the unusual geology of the Pine Barrens and its vegetation, the proposed legislation at pp. 10-11 (subsection (j)) would in fact condone significant degradation of the quality of the groundwater by prohibiting the adoption of any water quality standards more stringent than those which may be promulgated by the Department of Environmental Protection.

5. Needed -- a bold and innovative program of action

Clearly, if this world renowned resource is to be protected, surrounded by Atlantic City and its casino establishment and burgeoning metropolitan centers to the North and South within the most densely populated state, a bold and imaginative program of action is required, one which does not simply bow to the traditional mold of municipal, county and state relationships.

In our view, with many compromises, some of which we opposed, the basic concepts of the Master Plan reflect this vision which we have described, with population growth generally channeled to existing population centers with infrastructure in place and conservation of large tracts of undeveloped land in both the protection and the preservation area. These concepts represent a fulfillment of the basic vision of the 1978 Federal Act and 1979 Pinelands Protection Act. The key ingredients of that visionary concept include: (1) substantial preservation of large tracts of forestland and farmland outside, as well as within, the preservation area; (2) focusing of population growth; and (3) region wide or state wide review of and control over development proposals, both large and small, in recognition of the cumulative impacts and downstream impacts (spatially and time-wise) of numerous alterations.

6. The proposed legislation -- a  
retreat from basic principles

The proposed legislation represents a retreat on all these points -- indeed, a massive retreat -- a rout. Although some may view the proposed legislation as a compromise with the environmental position, it is not. It is not a "reasonable compromise", not just because it is confusing and will create unnecessary institutional uncertainties and statutory ambiguities which can best be exploited by those with the resources to take advantage of them, but because it nullifies the basic principles of existing federal and state legislation. The underlying concept and purpose of the existing acts are lost in this verbage. In essence, the bill proposes an institutional mish-mash. It represents a nullification of a bold innovative plan or program of action for which New Jersey can be proud. It represents a return to business as usual.

What is the problem which the proposed legislation intends to address? On its surface, in that it legislates a massive institutional shift, largely back to the status quo ante , it would appear to define the problem as an unacceptable loss of control by municipalities over land use issues within their boundaries as a result of a shift of authority to the Commission, a region-wide state authorized entity. However, it was recognition of just such an institutional rearrangement, required by the very regional nature of the resource itself, which was the impetus behind the federal and state legislation. What evidence has been presented to this Committee and to the legislature that the municipalities, within the legal framework set out in this proposed legislation, will in fact have or can exercise the legal power to attain the objectives of the existing legislation, objectives which are retained unaltered in the bill? No such evidence is available because none exists.

There is little in the proposed legislation that suggests that the basic goals of the existing state and federal legislation are not still acceptable and should not be achieved. Existing state legislation recognizes that the preservation of large tracts of contiguous forest land would be necessary to protect the resource. Although these goals are retained, the re-evaluation of the municipalities as the primary, if not sole, determinants of land use in the protection area, with significant weakening of the Commission's review power and the conformance process, raises a serious question whether the proponents of this legislation intend to retain the statutory goals as serious propositions, not mere

verbage, full of sound and fury, signifying nothing. If the goals are to be attained, this proposed bill should not be enacted.

#### 7. A future view of the Pinelands

Behind the institutional issue of municipal, county, Commission and state relations, is a more basic substantive issue -- what will the Pinelands look like in ten, twenty or fifty years if this bill is passed compared to what the area would look like if the Master Plan, within the framework of existing legislation, is implemented with present Commission controls. We suspect that the Pinelands will look quite different if the proposed legislation is passed -- more rural sprawl, less concentration of development, far less control over groundwater pollution, growth uninfluenced by an unfortunately impractical pinelands development scheme condoning continuous, rather rapid desecration of pinelands resources.

If this is not the difference in the vision of the Pinelands reflected in the proposed and existing legislation, if in fact the proponents of this legislation claim that their vision is the same, then we simply see no reason for this legislation. There is a total lack of evidence that the present scheme won't work in attaining the stated goals and objectives set out in the state and federal legislation. In addition, there is no evidence that the present institutional scheme is not necessary to attain the lofty goals of those acts. The municipal conformance process is in fact working. Insofar as it is not working, it is due to continuing efforts in the last year to sabotage the basic frame-

work of the state legislation. Once this assembly speaks with a clear voice that the present scheme is to be retained, we are confident that all present impediments to the conformance process will expeditiously disappear.

We strongly oppose the proposed legislation. The remarkable land use and institutional experiment now underway in the State of New Jersey in the Pinelands counties should be allowed to continue. If experience shows (as it has not to date) that the concept of a regional program of action proves unworkable or unacceptable over time to the people of the State of New Jersey, the present legal framework, following the passage of the years, can always be dismantled. If, as a result of this proposed legislation or other changes, piecemeal sprawl progresses such that the waters of the Pinelands are polluted and large tracts of contiguous forests are broken up, the damage cannot be undone. The potential for irreversible injury requires continuation of the present experiment, not shifting horses in midstream.

#### 8. The PDC bank

In written comments on the draft Master Plan, we have supported the concept of a PDC bank. However, it must be properly capitalized (minimum \$5 million), and reception areas limited to the Pinelands region subject to the land use contours of the Master Plan.



# ENVIRONMENTAL DEFENSE FUND

July 7, 1981

## APPENDIX A

### COMMENTS OF THE ENVIRONMENTAL DEFENSE FUND, INC. ON SPECIFIC PROVISIONS OF §3335

by: James T. B. Tripp, Counsel  
Martha Mixon, Science Associate

#### General

1. The plan is based on numerous scientific, economic and environmental studies and was prepared with a great deal of public input and debate. Many revisions to the plan would be mandated by passage of this bill. There has been no analysis of, for example, the added population that would be accommodated in the Pinelands as a result of these revisions, to 1990 and 2000. As another example, in the Comprehensive Master Plan the PDC supply is carefully tailored to the projected demand for them in the designated receiving areas. In the bill the PDC supply is increased about four-fold with no accompanying analysis of statewide demand, or other justification. Furthermore, without any regional control of municipal land use plans outside the Pinelands would have no value there.

While in this bill there is no specific language making the Commission "advisory only" in the Protection Area, as in previous Perskie bills, the Commission's power is seriously weakened.

#### Specific Objections

1. p. 10. "Minimum standards" would be replaced by "standards," which apply only to the Preservation Area rather than all of Pinelands Area. (g)(i) would provide that "These standards, or alternatives .... shall be utilized by municipalities and counties in the protection area for a local determination of appropriate zones for such uses,..." Apparently, these standards would be advisory only in the Protection Area.

p. 10-11. The proposed bill states that water quality standards contained in plan shall not vary from any comparable water quality standards adopted by DEP. This conflicts with the goals of state

and federal acts. These acts emphasize the necessity of maintenance of high quality surface and groundwaters which provide a unique habitat for a wide diversity of fare, threatened and endangered plant and animal species.

2. p. 11. Paragraph (k) would allow PUDs in forest districts, or elsewhere, although the Commission studied this proposal prior to adoption of plan, and rejected it.

3. p. 11 - Section 8 would be amended to modify the goals of the state act in material respects. Under (b)(4) "Discourage piecemeal and scattered development" would be changed to "discourage random and uncoordinated development"; and in (b)(5) the words "in or adjacent to areas already used for such purposes" would be deleted, therewith removing the legislative preference for favoring growth in areas adjacent to existing population centers.

4. p. 13. The deadline for conformance would be extended to July 1, 1982. The result would be further disruption in the conformance process which is already well underway. 32 of the 52 Pinelands municipalities are working on conformance, and the first municipal plans will be certified very soon by the Commission.

In addition, under the proposed legislation, plans could be approved by default if Commission takes no action within 60 days on county plans, or 120 on municipal plans. This is unacceptable in light of recent budget and staff cuts at the Commission. Seven county plans and 52 municipal plans will have to be certified, theoretically, by the end of the year.

5. At p. 14B, local approval of a development that violates the Act becomes "null and void" only if the Commission notifies the applicant and municipality of the violation within 30 days. In view of recent budget and staff cuts, this limitation is unacceptable.

6.p. 15. The Commission's call up authority in Protection Area would be limited to developments having "regional impact," defined on p. 4 as 200 or more units. In lieu of its call up authority the Commission could request ALJ review of a development.

7. p. 17, ¶12. The Commission's review powers would be strictly limited to the "Pinelands Area." There would be no way of implementing the plan in the National Reserve Area not contained in the State Pinelands Area. Since critria for the Secretary's approval in the federal act is that there must be evidence that the plan will be implemented throughout the Reserve, this arbitrary limitation is unacceptable.

8. p. 17, ¶13. The supremacy of the Pinelands Protection Act over the Municipal Land Use Law would be reversed. The MLUL has no provision for regional planning or state oversight comparable to that in the State Pinelands Protection Act. Furthermore, this would clear the way for the grandfathering of numerous subdivisions that had preliminary local approvals when the moratorium took effect because of the definition of preliminary local approval in the MLUL.

9. pp. 18 to end.

This portion of the bill provides legislative authorization for the PDC system and sets up the PDC bank. Although, in written comments, we have strongly endorsed a PDC bank, the scheme proposed here is unworkable and makes unnecessary and unacceptable modifications to the transfer and valuation scheme set out in the Comprehensive Master Plan. Modifications include:

a) Changes in allocation of PDCs

| <u>Plan</u>          |            | <u>Bill</u> |
|----------------------|------------|-------------|
| Present Area, upland | 1:39 acres | 4:39        |
| Wetlands             | 0.2:39     | 1:39        |
| Ag. production areas | 2:39       | 8:39        |

- b) Municipalities, rather than the Commission, are given authority to make their own designations of agricultural production areas (p. 19).
- c) Mandate that every municipality in the state "provide for the redemption of PDCs" (this would include Preservation Area municipalities, as the bill is written)- an unworkable proposal.
- d) Each PDC could be used, according to the bill, to increase the number of dwelling units in a proposed development by 1 dwelling unit up to a maximum increase of 30% (see p. 21). Compare to CMP, p. 210 bottom, and Table 7.4, p. 211.
- e) The legislation provides no appropriation for bank. Although it is suggested that funds could come from Green Acres, we doubt the constitutionality of such a scheme. The Commission's economic consultant, Dr. James Nicholas has estimated that a capitalization of approximately \$5 million is needed.

RESOLUTION

For the 31st Annual Conference/NJAC The Playboy Resort/McAfee N.J.  
Thursday Morning, July 2, 1981 President Sigmund Presiding  
Sponsored by Richard E. Squires, Atlantic County

- - - - -

WHEREAS the New Jersey Association of Counties in plenary session has heard a detailed presentation of Senate Bill #3335, the Perskie Pineland Amendment, and has considered the essentials of that bill, and  
WHEREAS, Public Hearings on S-3335 are scheduled on July 7, 1981, in the Assembly Chambers, at the State House, Trenton, N.J., and  
WHEREAS, S-3335 completely retains, both in principle and in fact, all the present strong protection for the Core Preservation Area, and  
WHEREAS, S-3335 restores proper balance to regulatory regional planning and strict environmental standards in a valid local land use control and regional oversight as intended in the original Pineland Protection Act, and  
WHEREAS, S-3335 authorizes a viable Pinelands development credit system which begins to provide compensation for preservation and agriculture land owners, and  
WHEREAS, S-335 provides for correction of major problems of the Pinelands Commission and its staff as perfected in revealed and extensive public comments, and  
WHEREAS, S-3335 addresses the major concerns voiced by County and municipal officials about the Pinelands Commission and its staff and its plan,  
NOW, THEREFORE BE IT RESOLVED at the NJAC meeting in plenary session, strongly endorses S-3335; and  
BE IT FURTHER RESOLVED that NJAC urges the Senate Natural Resources and Agriculture Committee to report out S-3335 promptly and with favorable recommendations, and  
BE IT FURTHER RESOLVED that NJAC urges the New Jersey Senate and General Assembly to convene on an early date and adopt S-3335; and  
BE IT FURTHER RESOLVED that NJAC request Governor Byrne to sign promptly S-3335; and  
BE IT FURTHER RESOLVED that NJAC calls for Counties and municipalities in the Pinelands once S-3335 has been signed into law to work fully and carefully with the revised performance process; and

BE IT FURTHER RESOLVED that copies of this action be distributed to the full memberships of the N.J. Senate and General Assembly, the Governor and N.J. Congressional delegation, County Executives, and members of all Boards of Chosen Freeholders, the Pineland Area Mayors, Pinelands Commissioners and the media.

ADOPTED this 2nd day of July, 1981 in  
31st Annual Session at  
Great Gorge, McAfee, N.J.

FOR THE ASSOCIATION:

Barbara B. Sigmund  
President or Vice President

Attest:

Jack Meyer  
Secretary-Treasurer

Position Statement

I am representing the Atlantic Audubon Society. We are a conservation organization centered in Atlantic Co., with members in Cape May, Ocean, Gloucester and Burlington Co's. We would like to thank this ~~Commission~~ Committee for the opportunity to express our views. An opportunity we are not often granted since our local officials tend to ignore us. A good example would be the appropriation of \$40,000 of the taxpayers money, by the Atlantic Co. Freeholders, to support a private interest group the Pinelands Area Review Committee (PARC.) ~~Not~~ us, nor any of the citizens of Atlantic County were consulted about the spending of this money. PARC, by the way, of which Phil Nanzetta is a Member and Charles Worthington who was co-Chairman, opposes the Pinelands Plan fully.

The Pereski Bill, or more correctly the Pereski-Nanzetta (of PARC fame) bill has incorporated into it several major provisions that, unless amended or deleted, will cause the eventual demise of the Pinelands as well as the Pinelands Management Plan.

First, any "easement" in the Present Pineland's Management Plan can, and probably will, cause this whole issue to be brought before the Dept. of the Interior for further review. With the present state of affairs in Washington, D.C. and James Watt as Secretary of the Interior, there is a good chance the entire plan might be scrapped. We say this because, after N.J.'s adoption of its present plan, Interior issued a statement that said, - that a tougher law is needed to meet the requirements of the 1978 federal law concerning the preservation of the Pine Barrens.

Easing of the present plan will only make current problems worse, and lengthen the planning process.

Second, the bill would limit the Pinelands Commission's jurisdiction to only those developments of 200 or more units/parcels, or those that would cover more than 30 acres - defined as "developments with regional impacts."

high-density development for this Low-Growth Area, with no concern what-so-ever for the integrity of the environment. We say this because Galloway has already reached its sewerage and road capacities and, this part of the Township abuts the Brigantine National Wildlife Refuge. In our opinion, this area should have been designated/zoned a conservation zone because CAFRA has determined it has a high environmental sensitivity. But, since it is one of the few undeveloped areas of the Township - "home rule" bowed to development pressures - AGAINST CAFRA guidelines.

CAFRA also maintains jurisdiction over all development in the Coastal Zone of 25 or more units. Here again, "home rule" is often ABUSED. Local planning boards often approve developments of 24 units or less (exempted from CAFRA jurisdiction) complete with septic systems, in areas where septic systems are unacceptable. This, in turn, causes groundwater pollution. Also, 24 units seem to grow with time.

We are not saying that all municipalities act in this way, but I think we've proven "home rule," if abused, can have devastating effects. Consequently, the proposal to limit the Pineland Commission's review power to 200 or more units or to developments with regional impacts is absurd! Although the Pinelands Commission maintains the right to stop any development of less than 200 units, such a process would be TIME CONSUMING and at THE TAXPAYERS EXPENSE. Also, giving local municipalities too much power will allow them to treat developers unequally. Such treatments can cause the eventual demise of the Plan as a whole. We strongly recommend that the Pinelands Commission's review powers be maintained at present levels, ~~not~~ like CAFRA, limited to developments of at least greater than 24 units. Bear in mind that ~~with~~ with a 24 unit cutoff, these smaller developments are the largest polluters.

This bill would also make regional zoning boundaries advisory rather than mandatory. Once again, claimed to be an attempt to restore "home rule." (I've already

explained the abuse of "home rule" and its effects.) This provision would cause "extreme problems" with the regional planning process, because neighboring municipalities often do not have similar zoning ordinances where their borders meet. This illustrates a significant constraint when one wishes to achieve both local and regional environmental quality goals.

Consequently, the regional zoning boundaries must remain mandatory in order to achieve a regional environmental goal. Otherwise, each municipality, left to its own devices, will create a "salt and pepper" type of development and conservation (zones) throughout the pines.

Making minimum lot sizes, maximum density limits, and a list of acceptable and prohibited uses recommendations rather than requirements is still another provision this bill makes to take regulatory powers away from the Commission and favor developers. Once again, CAFRA, the sister agency, has such a list. But each development is analyzed on a case by case basis. Here is where the exceptions are made - It is NOT a decision for local municipalities.

This bill would allow PUD's in forest areas. In fact, it streamlines the approval process for such developments. PUDs, by their nature, often have local zoning rules "WAIVED" in favor of development. It also permits light industrial/commercial uses. These uses were, in no way ever considered for the Pinelands Protection Area.

The bill would also remove the formal distinctions between high-growth and low-growth areas. Without such distinctions, legal grounds for opposition would be removed and PUD development could theoretically, take place anywhere in the Pinelands. For example, once again in Eastern Galloway, the Smithville PUD is being opposed by a coalition of concerned citizens. One of the keystones of that appeal, is that it is high-density growth in a low-growth area. Consequently, the formal distinctions must remain!

a 2/3 rda vote of the Commission to deny any approvals granted on the local level. In our opinion, this is excessive, as it gives the minority the power to over-rule the Pinelands Commission.

In closing, we'd like to show you what "home rule" under DEP/CAFRA has done to Eastern Galloway Township. (Refer to Map). Remember this area is rural and undeveloped and is wedged between the Pinelands, the Brigantine National Wildlife Refuge and the future Swan Bay, Mullica River Estuarine Sanctuary. This area is, or will be, almost totally developed mainly because it lies just outside Pinelands jurisdiction.

Without the present Pines Plan, or with the adopting of the Perskie Bill (Senate Bill #3335) development can and will flourish throughout the Pines. In fact, the bill streamlines the process for development.

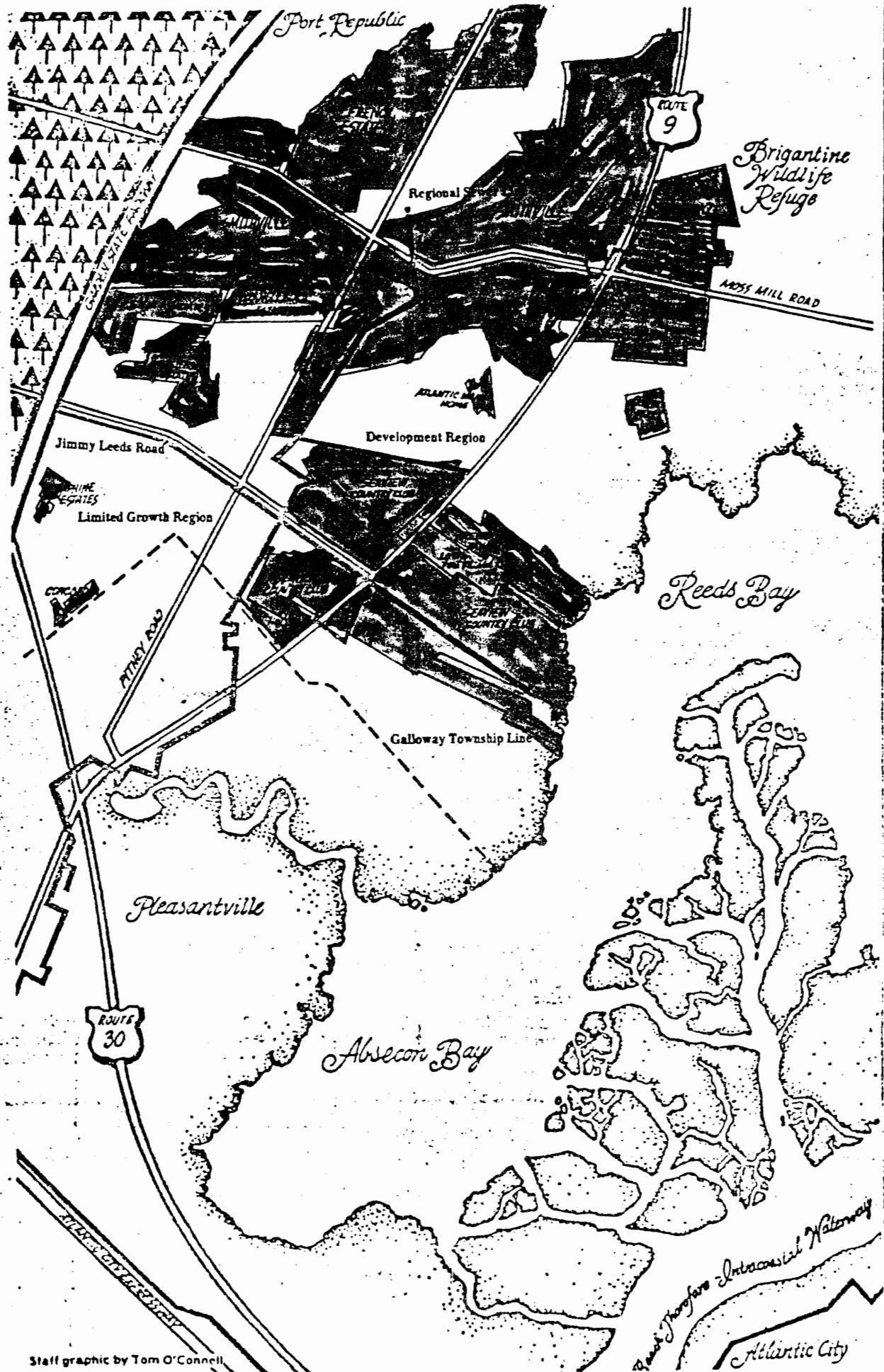
In our opinion, the credit bank is the only viable part of this bill. Hence, we recommend that no legislative change is needed at this time.

Thank you.

Sincerely,

Deeter C. Block

President-elect, Atlantic Audubon Society



Staff graphic by Tom O'Connell

96X FUTURE 'METROPOLIS' — A map of Galloway housing developments which could total nearly 50,000 units.



# Mid-Atlantic Legal Foundation

SUITE 600, 1521 LOCUST STREET PHILADELPHIA, PENNSYLVANIA 19102 TELEPHONE (215) 545-1913

## INTRODUCTION

I am Joseph W. Marshall, staff attorney for Mid-Atlantic Legal Foundation.

The Mid-Atlantic Legal Foundation was founded in 1976. It is currently headquartered in Philadelphia, Pennsylvania, with an office in New York City.

Although national in scope, the Foundation is especially interested in issues affecting the Mid-Atlantic region of Delaware, Maryland, New Jersey, New York, Pennsylvania and West Virginia.

Mid-Atlantic Legal Foundation is a nonprofit, public interest legal center which provides representation and information at all levels of judicial and administrative proceedings concerning issues of broad public interest.

The Foundation does not charge for its representation, and is funded entirely by contributions from a diverse group of business firms, foundations, trade and professional associations, as well as individual supporters.

Presently, the Foundation is representing Mr. Marvin Matlack and his family, the Pineland Landowners Defense Fund, Inc., which is a group of approximately 250 persons who own land in the Pinelands, and the school boards of Washington and Woodland Townships in certain legal proceedings concerning the Pinelands.

*Dedicated to representing traditional American values in the courts.*

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P. 2 - Introduction

It is on behalf of these parties that I offer the following remarks.

## TESTIMONY

My purpose today is not to speak in support of or opposition to the proposed amendments to the "Pinelands Protection Act." Rather, it is to share with this Committee some of the issues that have been raised during the past two years; issues which we believe must be addressed before any reasonable balance between the protection of the Pinelands and the rights of individuals owning property there can be struck.

Initially, I must emphatically state that the concerns raised herein are not an attempt to reopen or continue the debate as to the wisdom of protecting the Pinelands. The political decision making process having been completed, the question of whether or not to preserve the Pinelands in approximately its present state is closed, subject only to a retrospective review based upon new information and/or changing priorities. Thus, it is assumed for the purposes of this discussion that the regulation of the Pinelands is a permissible area of government involvement.

The fact that the preservation of the Pinelands is a proper end to be pursued by governmental action, however, is only a part of the scrutiny which that action must be subjected to. In order for the governmental act to be valid, both the end sought to be achieved and the means utilized to

to arrive at that end must be legitimate. It is respectfully submitted that many of the existent mechanisms employed to regulate and protect the Pinelands are deficient and, therefore, must be corrected.

Essentially, the effort to preserve the Pinelands is a joint federal-state venture, with a limited, unclear role for the many units of local government located therein. The federal government initiated the effort when it passed the National Parks and Recreation Act of 1978. This legislation offered the State of New Jersey both money and technical assistance if it would assume the lead role in regulating the Pinelands. New Jersey responded; first by the moratorium on building imposed by Governor Byrne in February of 1979, and then passage of the Pinelands Protection Act in June of the same year.

The end result of this offer and acceptance was the New Jersey Pinelands Comprehensive Management Plan which was adopted in November of 1980 and approved by the then Secretary of the Interior, Cecil Andrus, on January 16, 1981. Several challenges, both procedural and substantive, to this process are currently before various state and federal courts.

Although the Pinelands Comprehensive Management Plan has only been in effect for a period of months, building in the Pinelands has been essentially discontinued since the imposition of the Governor's moratorium over two years ago.

The State's position appears to be that limited building will be permitted in the so-called "protection area," while virtually no building will be allowed in the "preservation" area, except if the property owner can meet one of two narrow exceptions. Thus, the vast majority of the individual property owners have been and continue to be in a virtual state of suspended animation.

At this juncture, it is necessary to note that this restriction on building applies to all regulated land in the Pinelands, even that which was purchased prior to the moratorium. Moreover, the experience of the past two years has been that the state has purchased very little of the privately owned land subject to restriction and has not evidenced an intent to increase this activity. Finally, the transfer or "Pinelands" development credit, possessed by the landowners in various amounts depending upon acreage owned, has proved so far to be worthless.

The net effect of the current method of preserving the Pinelands, then, is that many individuals are left owning acres of vacant land which cannot be built upon. Simple logic dictates that land which cannot be built upon is worth less than land where building is permitted. Units of local government, such as school boards, are also affected, as without further building, there can be no expansion of the

P. 4 - Testimony

tax base thus causing the existing property owner to bear an increased tax burden. I am sure that the Committee is cognizant of the large number of successful tax appeals which have been brought in the Pinelands and have resulted in a substantial lowering of assessments on vacant land.

In spite of this documented and predictable effect, the state has offered no compensation or relief to either the affected landowner or municipal corporation. Instead, it has adopted the philosophy that as long as an individual is allowed to own his or her land, no compensation is required - no matter what the actual effect on the landowner is. The only exceptions to this approach are the so-called "Piney Exemption", which allows certain qualifying individuals to build one home which they in turn must occupy themselves, and the Waiver of Strict Compliance, which seeks to recognize extraordinary hardships in limited cases. Unfortunately, the vast majority of landowners in the Pinelands qualify for neither exception.

Accordingly, the primary gravamen of the landowners' complaint is best set forth as the state's action being, in reality, a governmental taking of their privately owned property which, in order to pass both state and federal constitutional muster, requires the payment of just compensation. The other concerns such as the shrinking tax base, the financial strain on units of local government, and the discriminatory nature of the so called "Piney Exemption"

are all subsumed within this issue. The following story is illustrative of the profound effect that the current effort to preserve the Pinelands has had on individual property owners.

In September of 1976, Mr. Joseph Hamilton purchased a tract of land, approximately one hundred(100) acres, in Shamong Township. The tract is partially located in both the "Protection" and "Preservation" areas of the Pinelands National Reserve. Mr. Hamilton purchased this land for the purpose of building homes for himself and his daughters, as well as subdividing it and selling off a number of lots in order to provide income after his retirement.

In order to finance the sale, an eight year, purchase money mortgage, held by the seller, for \$98,000 at a 7 1/2% rate of interest was negotiated. The terms of the mortgage provide for semi-annual payments of \$8,000, and the current balance is approximately \$80,500.

Immediately after acquiring the tract of land, Mr. Hamilton began the process of securing the necessary state and municipal approvals so that he could subdivide his property. Because Shamong Township had suspended all building pending the completion of its Master Plan, this process took almost two years to complete. Finally, however, in November of 1978, a 37 lot subdivision received final approval from the Township, the County, and the Soil Conservation District.

This approval was contingent upon Mr. Hamilton improving approximately 3400 lineal feet of Township Road which he was prepared to do.

After securing the abovementioned approvals, Mr. Hamilton then attempted to obtain the required approvals from the State Department of Environmental Protection (DEP) which was the final necessary step before he could commence selling his lots. Accordingly, Mr. Hamilton accompanied a geologist from the Water Resources Division of the DEP on a site visit of his property where he was told that while everything was satisfactory the Department had been instructed not to release written commitments in anticipation of the Governor's moratorium. On March 23, 1979, Mr. Hamilton received DEP's written denial of his permit applications.

Unfortunately, in December of the previous year, Mr. Hamilton had received firm offers, accompanied by the tender of down payments, for three of his lots. The lots sold totalled approximately sixteen (16) acres and the three offers, together, were for \$96,500 or approximately \$5,000 per acre. The offers, however, were contingent upon the new owners being able to build one house per lot, and when Mr. Hamilton could not produce the necessary building permits the offers were withdrawn and he was forced to return the money.

Upon receiving the initial denial from DEP, Mr. Hamilton immediately appealed the decision directly to the Secretary.

After a number of communications, Mr. Hamilton was referred to the Executive Director of the Pinelands Commission, Mr. Terrence Moore, for the purpose of working out a solution to his problem. In June of 1979, Mr. Hamilton began meeting with the Pinelands Commission staff where he was promised assistance in alleviating his situation. Interestingly, in July of 1981, Mr. Hamilton is still meeting with the Pinelands Commission staff and is no closer to a solution than he was two years ago.

Originally, he was informed that he would be eligible for three building permits based upon the "Piney Exemptions" available to himself and his two daughters.

He then requested that the State acquire his land, but his request was denied in April of 1980.

In August of 1980, he was informed verbally by a member of the Pinelands Commission staff that he would receive six(6) building permits in order to compensate him for having to improve the 3400 lineal feet of Township road.

Because of his inability to sell any of his lots without building permits, he began to fall behind in his mortgage payments and is currently more than 18 months, or three payments, past due.

In September of 1980, Mr. Hamilton was served by attorneys for the person who is holding his mortgage with a foreclosure notice. He immediately notified members of

the Pinelands staff of the foreclosure notice and was promised assistance in preventing the action.

In December of 1980, Mr. Hamilton was informed that the Pinelands Commission staff had told the person holding his mortgage that he would received thirteen(13) building permits and perhaps more if he needed them.

On January 22, 1981, the Superior Court of New Jersey, Chancery Division, Burlington County, restrained Mr. Hamilton from "selling, transferring, granting or otherwise disposing of the Pinelands Development credits with respect to the lands which are the subject of this foreclosure action."

In February of 1981, Mr. Hamilton, although never having made a formal application, received a waiver of strict compliance based upon extraordinary hardship from the Pinelands Commission and their approval of seven(7) building permits; five(5) on 1 1/2 acre lots and two(2) on approximately 35 acre lots. In addition, Mr. Hamilton was advised to seek a waiver of the road improvement contingency on his Township approval which he did. However, that request was denied, on April 16, 1981 by the Shamong Township Planning Board.

In April of 1981, Mr. Hamilton was informed by the attorney for the person holding his mortgage that unless the past due payments were made immediately, he would have no choice but to actively pursue the foreclosure action. This produced additional communications with members of the Pinelands Commission staff but, to date, no satisfactory solution has been reached.

The sad conclusion to Mr. Hamilton's story is that his land is scheduled to be sold at a Sheriff's sale at the end of this month. Furthermore, as a result of having to participate in the appeal process and its attendant meetings and procedures he has been unable to maintain his job as a real estate salesman. Finally, Mr. Hamilton has been forced to sell his home and has incurred substantial personal debt.

Besides raising serious questions as to the ability, competency, and compassion of the Pinelands Commission staff, Mr. Hamilton's story starkly illustrates the awesome, individual impact of the current effort to preserve the Pinelands. He is a man who in attempting to provide for his family's future long before the moratorium, faces personal financial ruin, exclusively as a result of the Plan's operation.

Nor is Mr. Hamilton alone. Members of the Pineland Landowners Defense Fund, Inc. include many individuals who own property that has been passed down from generation to generation, people who have a commitment to the area and are not interested in intensive development of it, as well as those like Mr. Hamilton who bought land as a means of providing for the future. These people are being forced to pay a very heavy price for doing nothing more than living or owning land in the Pinelands prior to 1979. It is indeed ironic that both the federal and state legislation refers to the great

national treasures of the Pinelands and how it is in the state and national interest that the Pinelands be preserved. It seems patently unfair that the benefits of preserving the Pinelands, which will inure to everyone, must be paid for by an extremely small and blameless segment of the population.

I have not advanced, in depth, the legal theories which the parties represented by the Mid-Atlantic Legal Foundation feel entitle them to redress. Suffice it to state, however, that the primary complaint revolves around the taking of private property without the payment of just compensation clauses, which are contained in both the state and federal constitutions. Hopefully, the legislature will find merit in our contentions and act to correct the present infirmities. Although it is too late to undo the damage of the past two years, it is not too late to prevent situations like Mr. Hamilton's from occurring in the future.

On behalf of the Matlack family, the Pineland Landowners Defense Fund, Inc., the school boards of Washington and Woodland Townships, and Mid-Atlantic Legal Foundation, I would like to thank this Committee for its invitation to testify and for the opportunity to present our concerns. I will of course be happy to answer any questions or provide further information as the Committee desires.

Thank you.

STATEMENT IN SUPPORT OF THE PROPOSED AMENDMENT TO SUPPLEMENT  
THE "PINELANDS PROTECTION ACT"

My name is Harvey S. Moskowitz. I'm a professional planner and I have been involved in the practice of planning since 1957. A copy of my curriculum vitae is attached. I would like to note, however, that during the period I have been practicing planning, I have been involved in planning at all levels of government; with local communities, as a planning director for Passaic County, New Jersey; and for approximately two and a half years as executive assistant to the Commissioner of Conservation & Economic Development, the predecessor agency to the present Department of Environmental Protection. I was also consultant to the Lake Hopatcong Regional Planning Board, one of three regional planning boards in the State of New Jersey. As a consequence, I think I bring some insight into the problems of realistic regional planning and effective local implementation.

For the record, it should be noted that I am presently consultant to nine New Jersey municipalities as well as various private developers. In the southern part of the State I am consultant to Kravco, a Philadelphia developer; Smithville Development Company, builders of the Towne of Smithville PUD; and Bally of New Jersey, developers and operators of Bally's Park Place, Inc.

I speak in support of the proposed amendment to the Pinelands Protection Act. I think the proposed amendment addresses many of the major concerns of knowledgeable officials, planners and environmentalists, without adversely affecting the primary purpose and

intent of the original act; namely, to assure total protection of the environmentally sensitive preservation area and to require and implement effective regional planning for the entire protection area.

My experience and that of other planners clearly indicates that unless those for whom you are doing the planning participate from the very beginning in the development of the plans and implementation measures, you cannot have effective planning. Most planners accept the premise that one cannot superimpose planning from above and hope to have wholehearted support and true cooperation. We learned very painfully in the late '60s and '70s, that that type of planning is no longer valid planning. This position, in my opinion, holds for plans being developed for a street-front, neighborhood, municipality or region. Effective planning requires that those most vitally affected by the planning effort should actively participate in the preparation and implementation of the plans.

The present Act, I think, is glaringly deficient in that respect. The proposed amendment would require that the municipalities and counties themselves prepare and implement those plans and ordinances but only within the guidelines and standards established in the Comprehensive Management Plan. Thus the amendment assures that overall regional goals and objectives have been satisfactorily implemented on the local level.

The proposed amendment also addresses another issue which I think is inimical to effective and efficient implementation of the Comprehensive Management Plan. It removes the Commission and staff from the minor and small development proposals which have no

regional or county impact. One of the problems that I've noted with respect to regional planning agencies is the tendency to get involved in small projects with no impact of the overall efficacy of regional goals and objectives. It's important to note that the amendment does not prohibit the Commission from becoming involved where even small projects affect regional goals. It does, however, focus the Commission's involvement on large-scale developments, 200 units or more, which clearly have a regional impact. There is no reason in my view for a regional agency overseeing development in a 1,000 square mile area to concern itself with a two or three lot minor subdivision.

Some concern has been raised with respect to the elimination by the Commission of the authority of the executive director to approve or reject applications. From my experience as planning director of Passaic County, in actual practice it is the staff and executive director who determine which projects do get approved, although there is a requirement for action by the appointed officials. Realistically, it is the staff and director who essentially make the critical recommendations.

I think many of the other changes contained in the bill correct some of its shortcomings. I think it will continue to encourage innovative planning, but most important of all, it will carry out the original intent of the Protection Act.

The one change with which I do raise questions is the question of the transfer of development rights through a registry of Pinelands Development Credits. It requires that every municipality in the State must provide for the redemption of Pinelands Development Credits according to a set formula. It also establishes a Pinelands

Development Credit Bank. My opinion is that the whole question of transfer of development rights is so complex that it should not be included as part of the Pinelands Protection Act. I am not against this part of the Act, to provide for such credits. I think it helps to carry out the intent of the Act. The problem I have is that to establish that provision throughout the entire State without the opportunity for other communities to provide for the transfer of development rights would be a mistake. I think an omnibus Transfer of Development Rights bill which would include the Pinelands, possibly under a special section, would be a more equitable and more reasoned approach. I frankly think that outside of the general Pinelands area, the acceptance of the development credits would be difficult at this time.

With that caveat, I would urge that the Legislature adopt the proposed amendment.

# HARVEY S. MOSKOWITZ / P.P., P.A.

community planning & development consultant

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## 1. Education

Secondary School: Weequahic High School, Newark, N.J. 1950

Rutgers University: BA, Economics (City Planning option) 1954

New York University: MPA, Public Administration 1965  
(Urban Planning Major)

Rutgers University: Ph.D. Candidate

## 2. Professional Organizations

Member, American Institute of Certified Planners (successor to AIP)  
Member, N.J. Association of Consulting Planners

## 3. Licenses and Registrations

New Jersey Professional Planners License #12  
Michigan Professional Community Planners Registration #126  
(inactive)

## 4. Related Professional Activities

Former Member, New Jersey Board of Professional Planners,  
1975-1980 (President, 1978-1979)

## 5. Publications

a. Harvey S. Moskowitz and Carl G. Lindbloom, The Illustrated Book of Development Definitions, Rutgers University, Center for Urban Policy Research, 1981.

b. "Strategies for Stopping Shopping Centers: Using the Tools of Planning and Land Use Regulation," Strategies for Stopping Shopping Centers, A Guidebook on Minimizing Suburban Shopping Center Growth, Laurence A. Alexander, editor, Downtown Research & Development Center, N.Y., N.Y., 1980.

c. Harvey S. Moskowitz and Carl Lindbloom, "Fair Share and Regional Need," in After Mount Laurel: The New Suburban Zoning, Jerome G. Rose and Robert E. Rothman, editors, Rutgers University, Center for Urban Policy Research, New Brunswick, N.J., 1977, pp. 104 to 113.

- d. "More Effective Development Controls for Downtown," Downtown Planning and Development Annual 1977, Laurence A. Alexander, editor, Downtown Research & Development Center, N.Y., N.Y., January 1977.
  - e. Harvey S. Moskowitz and Carl Lindbloom, A Guide for Residential Design Review, New Jersey Department of Community Affairs, Trenton, N.J., September 1976.
  - f. "Planning Boards," The New Jersey Municipal Land Use Law, A Series of Monographs, New Jersey Department of Community Affairs, Trenton, N.J., June 1976.
  - g. "How to Use Experts Effectively in Land Regulation Proceedings," Real Estate Law Journal, Volume 3, No. 4, Spring 1975.
  - h. Site Plan Review and Approval, A Procedural Guide for Local Officials, New Jersey State Department of Community Affairs, Trenton, N.J., February 1975.
  - i. "Planning in the Garden State," Suburban New Jersey Life, Volume 43, No. 6, August 1973.
  - j. "Traffic Problems in Major Cities," Downtown Action on T-P-T, National Retail Merchants Association, New York, 1970.
  - k. "Implementation of the Comprehensive Plan," The Local Planning Process in New Jersey, Bureau of Government Research & University Extension Division, Rutgers - The State University, New Brunswick, N.J., December 1967.
  - l. "Subdivision Control in New Jersey," Federation Planning Information Report, Volume 1, No. 1, New Jersey Federation of Planning Officials, January 1966.
  - m. "Winning Public Support for the New Zoning Ordinance," New Jersey Municipalities, Trenton: New Jersey State League of Municipalities, November 1965.
  - n. "The Economic Pattern of Metropolitan Newark," Newark Commerce Magazine, Spring 1965.
6. Employment
- a. 1970 to present Planning Consultant; head of own firm.
  - b. 1967 to 1970 Vice-President, Alexander & Moskowitz, Inc. planning consultants.
  - c. 1966 to 1967 Planning Consultant; head of own firm.
  - d. 1963 to 1966 Executive Assistant; New Jersey Commissioner of Conservation & Economic Development.

- e. 1961 to 1963 Planning Director; Passaic County, N.J. Planning Board.
- f. 1957 to 1961 Project Planner; Candeub, Fleissig & Associates, planning consultants.

7. Teaching Experience

- 1974-present Coadjutant Staff, Department of Urban Planning and Policy Development, The Graduate School, Rutgers University.
- 1965-1974 Extension Division, Rutgers University; various courses in planning and zoning.

8. Detailed Professional Experience

- 1970-present Planning Consultant.

Presently planning consultant to the following N.J. municipalities: Bethlehem and Lebanon townships (Hunterdon County); Morris Township, Mt. Arlington Borough and Borough of Madison (Morris County); Hardyston Township and Mopatcong Borough (Sussex County); Cranford Township (Union County); New Milford Borough (Bergen County); also consultant periodically to the New Jersey Department of Community Affairs and Department of Transportation. Practice includes testifying in courts and before planning boards and boards of adjustment.

For present and previous municipal clients, assignments included project review of major regional shopping centers; review and redesign of several planned residential developments containing approximately 5,000 dwelling units, preparation of ordinance standards and procedures, review and redesign of approximately 5 million square feet of office and laboratory space. Work also includes the preparation of master plans and land development ordinances (zoning, subdivision and site plan) in accordance with the 1975 N.J. Municipal Land Use Law.

Private clients include Bally's Park Place, Inc., on all planning and housing matters relating to their casino-hotel; Exxon, Gulf Oil Company and Amoco on matters relating to service station locations and site planning; City Federal Savings, Elizabeth, N.J., on proposed corporate headquarters; Gordon Construction Co., Elizabeth, N.J., site design and zone changes for specialty shopping center; Olympia & York on PUD in Old Bridge, N.J.; and various housing developers on matters relating to site design, zone changes and variance applications for various projects.

1967 to 1970 Vice-President, Alexander & Moskowitz, Inc.

Full range of planning activities with emphasis on central business district planning. Clients included Little Rock, Arkansas; Mattiesburg, Mississippi; Clearwater, Florida; Salisbury, Maryland; Portsmouth, Ohio; Niagara Falls, New York.

1966 to 1976 Planning Consultant.

Prepared central business district plans for Salisbury, Maryland and Lebanon, Pennsylvania. Completed a number of industrial feasibility studies and subdivision layouts for private clients, and zoning and subdivision ordinances for several New Jersey communities.

1963 to 1966 Executive Assistant to Robert A. Roe, Commissioner of the New Jersey Department of Conservation and Economic Development (predecessor agency to the N.J. Department of Environmental Protection).

Participated in all phases of department's work including state and regional planning, water supply, open space and recreation, capital budgeting, public information, economic development and transportation.

1961 to 1963 County Planning Director and Economic Development Coordinator of Passaic County.

Inaugurated the county's 701 master plan program; supervised a full range of county planning activities. Prepared county's overall economic development plan and supervised retraining programs and applications for loans and grants to spur economy.

1957 to 1961 Project Planner with Candeub, Fleissig & Associates.

Full responsibility for the preparation of community master plans, renewal studies and planning, special projects.

# LEAGUE OF WOMEN VOTERS OF NEW JERSEY

212 WEST STATE STREET, TRENTON, NEW JERSEY 08602 TELEPHONE (609) 394-1200 FAX (609) 394-1200

## TESTIMONY NEW JERSEY SENATE COMMITTEE ON AGRICULTURE JULY 7, 1981

Good morning. My name is Ann Auerbach. I am the Natural Resources Director for the League of Women Voters of New Jersey. I am here today to comment on S.3335.

As we have testified in the past, the League supports a meaningful regional plan that can be implemented and enforced through a regional land management program. The only way to ensure implementation is to have a regional planning agency with authority to impose appropriate land use standards and monitor their effectiveness.

The Pinelands are a contiguous ecosystem and watershed with delicate, easily disrupted composition. The task of preserving the Pinelands in their natural state is of necessity beyond local capabilities. Furthermore, if there is to be a New Jersey Pinelands in the future, the management and development plan for this area must overstep political boundaries.

The League of Women Voters of New Jersey has strong reservations about the proposed amendments to the Pinelands Protection Act of 1979 with regard to sound regional planning vs. increased local authority. S.3335 is a poorly drafted and ambiguous bill. As we reviewed it, the following questions of definition and clarification arose:

- 1) Is funding of the Pinelands Development Credit Bank by Green Acres monies legal and constitutional? It is our understanding that these monies are dedicated according to the wording of the bond issue that is presented on the ballot. Legislation is needed to amend those Green Acre bonds and the amendments must be voted on.
- 2) There is not clear definition of the designation of "hardship" in section 23 g. We want to know who will be compensated and who will not, and by what guidelines.
- 3) Can senatorial courtesy render the Commission ineffective and a Commission in name only?
- 4) Why was the wording "scattered and piecemeal" changed to "random and uncoordinated"? What is the meaningful difference?

We believe that the wording of this bill is vague, circumspect and equivocal, but with far-reaching consequences. By voting this bill out of committee it is our feeling that you will do a disservice to the citizens of New Jersey. Thank you.

PUBLIC HEARING: SENATE COMMITTEE ON  
NATURAL RESOURCES AND AGRICULTURE  
TRENTON, N J - July 7, 1981

NJAS STATEMENT ON S3335, THE PERSKIE BILL

My name is William Baranyay, executive director of the New Jersey Audubon Society.

The New Jersey Audubon Society opposes Senate Bill 3335 on the basis of its overall intent, as well as on a number of specific points.

This bill, which would amend and supplement the Pinelands Protection Act of 1979, addresses two entirely separate issues: the processes and procedures of the Pinelands Commission in its relationship to county and municipal governments, and the allocation and transfer of Pinelands Development Credits.

These two ARE separate issues and should NOT be considered together.

Pinelands Development Credits are an important tool for directing growth and for providing recompense to landowners in the Preservation area. Thoughtful legislation will be needed to establish and, especially, to FUND a PDC Bank, in order to implement the carefully planned and balanced program described in the Comprehensive Management Plan.

However, needed PDC legislation SHOULD NOT be the carrot which leads to unnecessary, ill-conceived and damaging legislation - legislation which will destroy the very concepts it was meant to foster. We ask that Pinelands Development Credit legislation be considered separate and on its own merits.

As for the other part of the Perskie bill, the New Jersey Audubon Society is firmly against any effort to emasculate the planned REGIONAL approach to growth and land use management embodied in the Pinelands Commission. And we believe the Perskie bill to be such an effort.

MORE

Firstly, no further legislation concerning the Commission itself is needed. The Pinelands Protection Act clearly defines the role of the Commission, and recognizes the need for regional planning and implementation when it speaks of the need for "the coordinated efforts of all relevant municipal, county, State and Federal agencies...". The Commission is the coordinator of such agencies, and must have review power in order to be effective.

Secondly, some specific points: 1) S3335 replaced comprehensive regional planning with county and municipal ordinances. We believe that the goals of the Pinelands Protection Act WILL best be met through direct commission management - management that will take a broad approach to growth and preservation, unbiased by local economics and politics.

We would note that the Pinelands Municipal, or Mayors, Council NEVER obtained a quorum to review and comment upon the CMP. Only once was the Council able to do business, and that was because of the presence not of locally elected officials, but of their designees. Senator Perskie himself recognizes this high degree of local interest in section 6.1 when he substitutes a "majority of the members present" for a majority of the whole. This amendment would permit only 1/5 of the mayors (10 out of 52) to take action on matters of critical, long-term importance.

2) "Development with regional impact" is defined in section 3 of S3335. And, in section 14, Senator Perskie would limit the Commission's review to "any application for development with regional impact" in the protection area.

MORE

This pair of paragraphs means that local municipalities could approve, without reference to any other area of the Pines, subdivisions of 199 parcels, developments of 199 units and industrial complexes of 29 acres. The cumulative effect of these "small" developments on the environment of the Pinelands will be devastating.

3) The Commission is now authorized to review any proposed development in the Pinelands area. Senator Perskie would not only amend and limit that authority, he would require a 2/3 vote of the full Commission to reverse or even to MODIFY a proposal once locally approved.

This 2/3 requirement would effectively rob the Commission of its mandated responsibility.

These are but three of many concerns the New Jersey Audubon Society has about S3335. We reiterate that this bill is not only unnecessary, it is damaging. The preservation and protection of the Pines MUST be accomplished on a regional basis. Just as the unique and sensitive Pine Barrens Ecosystem crosses municipal and county boundaries, so the mandate to safeguard this special part of New Jersey transcends the "rights" of individual governmental units.

The New Jersey Audubon Society urges VOTE NO ON this bill.

Thank you.

X X X X

217 Butler Blvd.  
Bayville, N.J. 08721  
July 7, 1981

Natural Resources and  
Agriculture Committee

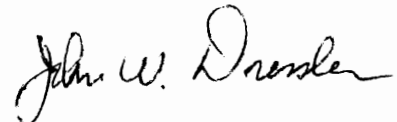
As a resident of Ocean County, which is in the Pinelands, I would like to express my opposition to the bill proposed by Senator Perskie for the following two reasons.

1. The bill is unnecessary. There is ample land for healthy economic growth in Ocean County without weakening the Pinelands Act and endangering this environmentally sensitive region.

2. The bill is detrimental to Ocean County. Ocean County has one of the lowest incomes per capita in the State and a large population of senior citizens on fixed incomes. The increase in taxes to provide new schools and hospitals would impose a serious financial hardship on these people.

Ocean County is having difficulty finding suitable landfill disposal sites and large population increases in the Pinelands would compound this problem and increase the possibility of water pollution.

Tourism would suffer if money were diverted from recreational projects into providing increased municipal services. The area would lose the semi-rural seashore quality that makes it attractive to tourists.



John W. Dressler



TESTIMONY OF EDWARD LLOYD OF THE  
N.J. PUBLIC INTEREST RESEARCH GROUP  
BEFORE THE SENATE NATURAL RESOURCES  
AGRICULTURE COMMITTEE, JULY 7, 1981

Good afternoon. My name is Edward Lloyd, and I am the Executive Director of the N.J. Public Interest Group Research Group (PIRG), a non-profit, non-partisan research and advocacy corporation seeking to foster consumer and environmental protection in the State and nation.

First, PIRG would like to call attention to the process by which these amendments to the Pinelands Protection Act were introduced, distributed, heard by the Legislature, the Pinelands Commission, and the general public. As you know, the development and final passage of the Pinelands Protection Act in 1979 was a lengthy process, and the Act itself has had only a very short test period, too short for any of us to draw final conclusions about its practicality. In any case, we find the current process-- of amending the Act-- to be far too hasty for the review needed. The week between the last committee meeting and this hearing is hardly adequate time for the public to assess the impacts these amendments will have on water and air quality, among other concerns.

PIRG sees no need to rush major amendments in the commission's regulating powers through the Legislature. Moreover, because these changes will require a revised plan to be sent back to the Secretary of the Interior for approval, it is imperative that the public be given more time to consider these amendments and their environmental impacts. It is obvious from Secretary Watt's actions since last January that were he to be given the chance to review this Plan environmental destruction rather than preservation would result.

PIRG believes that the Legislature's original method of preserving and protecting the Pinelands-- through direct commission management-- is far and more efficient than and superior to relying on a maze of county and municipal ordinances, rules

and regulations, with limited commission oversight to accomplish this goal. Frankly, we do not believe this approach will work. If local municipalities need greater input to the Commissions' deliberations, a two-tiered process with municipal and commission review is desirable. But to leave to local determination land uses in the protection area is to ask for irreversible development mistakes.

The Legislature must realize that the Pinelands— both the preservation and the protection areas— are first, unique, and second, an extremely fragile ecosystem. PIRG's major concern in the Pinelands struggle has been and continues to be protection of the ground and surface waters from pollution. Loosening restrictions for development in the outer ring, as these amendments would, means virtual pollution of the entire area. There is absolutely no proof that increased development and "innovative planning" will not cause pollution of the aquifer. PIRG believes that the burden of proof must rest on those who wish to loosen development restrictions.

The Legislature must not pass these amendments in haste and risk pollution of the aquifer without knowing what the specific impacts of such a development will be.

Moreover, Section 712 mandates that any water quality standards contained within the plan shall not vary from any comparable water quality standards adopted by the DEP. This means that this fragile area, which probably needs greater protection than the rest of the state's waters will merely meet the status quo. This precludes upgrading or improving water quality standards for the Pinelands. The status quo is not good enough for the Pinelands.

PIRG also finds that this bill will put a great strain on municipalities, who will be called upon to analyze and make determinations on planning and development for which they have neither the money nor the technical staff. Given the "cap" on municipal spending, it is unrealistic to expect municipalities to be able to review these applications for development adequately. Municipalities may also be more sensitive to the threat of lawsuits than would the Pinelands Commission when rendering a negative decision on an application. The distance of the Pinelands Commission is necessary to the effective protection of the Pinelands from unnecessary development. The fact is that new cities or suburbs, employment centers and highways do not belong in the Pinelands, in

either the protection or preservation areas. The State should not be encouraging development in order to accomodate growth...it should be controlling,directing and limiting growth in order to preserve the ecosystem. You cannot develop the outer ring and expect the inner core to remain pristine.

PIRG believes this bill is unworkable in its present form and asks that the committee reject the bill. Thirty-two municipalities are already well into the process of complying with the Comprehensive Management Plan. What we need is time to let the Plan and the Commission work, rather than rushing to judgment about its performance. PIRG thus finds S.3335 to be unnecessary, vague and destructive.

Thank you for the opportunity to present our views.



GENERAL ASSEMBLY  
OF NEW JERSEY  
TRENTON

**MICHAEL J. MATTHEWS**  
ASSEMBLYMAN, DISTRICT 2 (ATLANTIC-BURLINGTON-OCEAN)  
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Testimony Before The Senate  
Natural Resources and Agriculture  
Committee

Chairman Raymond J. Zane  
Vice-Chairman Joseph Hirkala  
Member-Joseph A. Maressa  
Member-Wayne Dumont, Jr.  
Member-James H. Wallwork  
Aide-Mark O. Smith

Gentlemen:

I originally voted against the initial Pinelands legislation. My opposition was not because I didn't agree with the concept, but because I was afraid of the great latitude that was left to the staff's discretion.

I think we all agree that the Pinelands is a unique pristine wilderness area that must be protected.

The major points of contention are as follows:

- 1) The boundaries of the Pinelands.
- 2) Just compensation to municipalities in lieu of taxes
- 3) Just compensation to land owners whose property is being devaluated.
- 4) Mechanism to provide a value to developmental credits.
- 5) Assurance that farmland will retain its value especially for equity financing purposes.
- 6) Provision for latitude on the local level so that municipal planning and zoning boards have latitude for greater input.

I feel the Bill sponsored by Senator Perski addresses many of these issues.

Testimony Before The Senate Natural Resources and Agriculture Committee

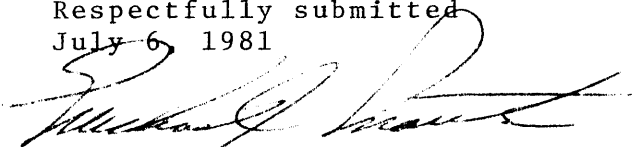
If the Pineland Developmental System is to work, as described by the Pineland Commission Master Plan, this legislation as well as Senator Yates' Bill, must be implemented to provide funding.

I feel uncomfortable with the definition of the major development being 200 parcel or more. I think the CAFRA designation of 25 parcels or more would be a more realistic number.

Putting an arbitrary value of \$2500 on 39 acres seems to be an unrealistically low price to put on 40 acres of land. It would seem that a much more equitable price could be arrived upon by analyzing recent sales outside of the Pinelands jurisdiction and comparing them with regards to vegetation, water table and suitability to development.

I would like to thank you for the opportunity of allowing me to testify before you this morning, and I hope you will keep in mind the severe impact, without just compensation, current Pinelands Legislation is having on both individuals and municipalities.

Respectfully submitted  
July 6, 1981



Michael J. Matthews  
Assemblyman

MJM/11

TESTIMONY OF ASSEMBLYMAN GERALD R. STOCKMAN  
FOR THE PUBLIC HEARING  
ON S-3335  
BEFORE THE  
SENATE NATURAL RESOURCES AND AGRICULTURE COMMITTEE

Senator Zane, members of the Senate Natural Resources and Agriculture Committee: Thank you for the opportunity to submit this testimony to you today. As the Assembly sponsor of the "Pinelands Protection Act" (P.L. 1979, c.111), I would like to share with you my views on Senate Bill No. 3335.

To begin with, I would like to state that I have no major problems with most of the 18 supplementary sections of this bill. These new sections allocate pinelands development credits and establish a Pinelands Development Credit Bank to guarantee the marketability of these credits. In my opinion, this should facilitate the implementation of the comprehensive management plan for the pinelands area.

With respect to the amendatory sections of S-3335, however, I have several concerns which I would like to express. These concerns fall into two main categories. The first category is the changes which the bill clearly makes which I believe are ill-advised; the second, and probably the most important category, is the areas where this bill would, in my opinion, result in confusion, varying interpretations, and, ultimately, litigation.

The changes which S-3335 clearly makes which I oppose include (1) removing the requirement that protection area municipalities comply with the minimum standards for local plans and ordinances which are included in the comprehensive management plan (section 4); (2) extending the deadlines for local conformance (section 7); and (3) limiting the power of the commission to review local approvals which may have been granted in violation of the plan. These three revisions change the basic trust of the Pinelands Protection Act at a time when it is not clear that change is needed. The compre-

hensive management plan is only recently adopted, and many municipalities are now in process of conforming. Changing the ground rules at this point would be a disservice to the many who have been operating thus far diligently and in good faith.

Bad as these changes are, the confusion which S-3335 is likely to create may be even worse. For example, local governments in the protection area would have to conform to something called "performance standards," a term which is not defined. What does this mean? If these standards mean minimum lot sizes, setbacks, etc. then the bill should so state so that this is clear. If, on the other hand, these standards mean something else, then we in the Legislature must define that something else in order to reach an intelligent decision on this important matter, thereby letting those on both sides of this issue - and the courts - know what we intend. Similarly, section 13 of S-3335 confuses the relationship between the Pinelands Protection Act and the Municipal Land Use Law - a relationship which is now understood by all. Does the new language mean that the approximately 10,000 units which received preliminary subdivision approval prior to the passage of the Pinelands Protection Act will now be built in total disregard of the comprehensive management plan? This is at least a plausible interpretation of this language, and corrective action is necessary if this is not our intention. Lastly, we should be fully aware that passage of this bill - and the resulting revisions to the comprehensive management plan - will be subject to the approval of James Watt, Secretary of the U. S. Department of the Interior. If that approval is not given, New Jersey is liable, under federal law, to repay millions of dollars in federal grants which the State has received in the last two years.

For all of the foregoing reasons, it is important that the Legislature proceed deliberately and wisely in considering S-3335.

In my opinion, that measure, as now written, represents movement in a direction which is in the interests of a very few and not of the present and future citizens of this State.

Thank you.





