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PUBLIC HEARING

before

SENATE SPECIAL COMMITTEE TO STUDY COASTAL AND OCEAN POLLUTION

Vessel pollution, sludge and dredge spoils dumping, wood-burning barges, the status of the ocean dumping sites, and a review of the causes of the recent Ocean County beach pollution incident

June 16, 1987
Room 418
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Frank Pallone, Jr., Chairman
Senator Richard Van Wagner
Senator S. Thomas Gagliano

ALSO PRESENT:

Leonard J. Colner
Office of Legislative Services
Aide, Senate Special Committee to Study
Coastal and Ocean Pollution

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New Jersey State Legislature

**SENATE SPECIAL COMMITTEE
TO STUDY COASTAL AND OCEAN POLLUTION**
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June 9, 1987

NOTICE OF PUBLIC HEARING

The Senate Special Committee to Study Coastal and Ocean Pollution will hold a public hearing on Tuesday, June 16, 1987 at 10:00 A.M. in Room 418, State House Annex, Trenton, New Jersey.

The purpose of this public hearing is to discuss the monitoring and enforcement of marine pollution laws. Particular topics of concern at this hearing will include: vessel pollution, sludge and dredge spoils dumping, woodburning barges, the status of the ocean dumping sites and a review of the causes of the recent Ocean County beach pollution incident.

Anyone wishing to testify should contact Leonard Colner, Committee Aide, at (609) 292-7676.



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SENATOR FRANK PALLONE, JR. (Chairman): Attention, we are going to start the hearing. We do not have amplification. These mikes are for recording the public hearing, not for amplification. The reason is, this room is supposed to have very good acoustics. But, please, if you cannot hear, and you want us to speak louder, just indicate that. The same thing with the speakers here.

The purpose of this hearing, basically, is several-fold. On the one hand, we are going to focus on the monitoring and enforcement of marine pollution laws, with particular concern to vessel source pollution. When I say vessel source pollution, I am not only referring to pleasure craft and commercial craft, but also the monitoring of barges that are traveling to and from the sludge dump site, the dredge spoil site, as well as the wood-burning site. As those of you who have been at previous hearings of this Committee know, we have been particularly concerned about the wood-burning site. I know DEP has a new enforcement program for that site, and we want to learn a little about that enforcement program and how it is going.

The reason I think this hearing is particularly important today is because several weeks ago, at the end of May, several beaches in Ocean County were closed due to pollution problems. We were told, or at least the inference was, the reason for that was related to vessel source pollution. I don't know if that means ocean-going craft, or because of problems with the barges at the 12-mile site.

Just for a little background, this is, I think, the fifth hearing that this Special Committee to Study Coastal and Ocean Pollution has had. We had one in January in Long Branch, which focused on the ocean dumping sites. In a sense, this is a follow-up to that hearing, in that we would also like to get some information about the status of the 12-mile sewage sludge site and the phase-out, whether or not that phase-out is on

schedule, because that is another thing that is of concern to the Committee, and I think to the public in general.

With that, I want to start the hearing with our DEP representatives. Unlike some of the previous hearings, we are going to try to keep this relatively short. I think the last one, if I am not mistaken, was about 12 hours. It started at 10 in the morning and ended about eight or nine o'clock at night. We are going to try to keep this one down to maybe three hours, or four hours at the most. We are going to break at 12 or 12:30 for lunch, and then we will come back and maybe have another hour or so, and that is going to be it.

We plan to have some follow-up hearings this summer, which is one of the reasons I don't want to spend the whole day here today. It has been suggested that we take up three additional topics, and within the next week or so we will be announcing exactly what we will be doing over the summer. Let me just mention the three possible hearing topics. We have had a request from both the New Jersey Marine Science Consortium and the American Littoral Society, as well as, I think, from Senator Gagliano, to have a hearing, or discussion, on incineration of toxic waste at sea, or ocean incineration. So that may be one of the topics this summer.

We have also had a request, I guess in part, from Clean Ocean Action, to deal with the issue of pre-treatment and toxic waste in general in the ocean environment. So that may be a second hearing. Also, depending upon what happens today, there was a suggestion -- I think maybe Senator Gagliano made the suggestion last time -- that perhaps we should spend a day on the wood-burning issue. I know there is going to be another public hearing this summer, I think in Point Pleasant, on that. But, depending upon what we get into today, we may also deal with that over the summer.

So, if you have any questions that are not answered today, there will be follow-up, either at subsequent hearings

this summer or through written testimony. As I said, since we do not have the Federal EPA today, the focus is going to be mainly on what the State can do in these various areas I discussed previously. We do have a commitment from the Federal EPA that they will be available for any of the hearings this summer. They couldn't be available today, because this hearing was called on such short notice.

With that, I will ask Senator Gagliano if he would like to say something.

SENATOR GAGLIANO: Speaking of short notice, Frank, I would appreciate it if you would give me a week or 10 days next time, please. I have other commitments for this afternoon, but I wanted to come over and stay as long as I could. If you see me disappear, it is because I do have other commitments which I could not avoid.

SENATOR PALLONE: Let me say that I appreciate your coming. You have been at every one of these hearings so far. We will make an attempt to give you a longer notice.

SENATOR GAGLIANO: If you would like to meet once a week, I would meet once a week, but I just have to have advance notice so I can schedule my calendar. I told you the story before about how busy we are.

What I would like to ask DEP to do -- or whoever has jurisdiction -- is to explain to us why we had to declare beaches closed. If that was the case, and I probably would agree that it was wise to close the beaches when we did last month, I would like to know whether or not there was any-- Or, was there any investigation or examination into the debris, the litter, the garbage that was found floating in the ocean, or located on the beaches, which in any way is identifiable as to the source? If there is any such identification, will there be prosecutions?

I think that all of us are totally fed up with people using the ocean as a cesspool and as a garbage dump. That is

why I am here, because I would like to see it stopped, totally. It just seems to me that we hear about the issue of closing beaches, and we hear about debris on the beaches, but we somehow don't come to any answer with respect to source. Even if it is milk cartons, I want to know where those milk cartons came from. If it is any identifiable garbage whatsoever, it should be investigated to the nth degree. I don't know whether it is or not, but I think that is something we've got to talk about. We have to start pinning the rose on those who deserve it, and we're not, that I know of.

That is really what I am interested in, Frank. I think you are, too. I think we all are. We want to know what the source is. Thank you.

SENATOR PALLONE: Thank you, Senator Gagliano. With that, I think we will start with George McCann, from DEP, who is Director of the Division of Water Resources. George, I think you have an idea of what we want. Maybe start out, if you could, with the Ocean County beach closings and what you perceive as the source, and how that may be linked to either the sludge dump site or vessel source pollution.

G E O R G E G. M c C A N N: Thank you, Mr. Chairman, Senator Gagliano. It is a pleasure to be here to testify, because the problems of ocean pollution and coastal pollution of the waters is certainly one of the higher priorities in the Department. In the Division of Water Resources, it ranks at the top. We have put a great deal of effort into evaluating -- analyzing -- the sources of the problems, and I think we have done much to pinpoint some sources and are looking to take actions to correct those.

I would like, in response to your request, to start out with a discussion of what occurred about three weeks ago, and then talk about, in a broader context, some of the other issues you raised in your letter of invitation to us, and what it is exactly that we are doing.

Most specifically as it relates to the Ocean County closing which occurred about three weeks ago, the material that was collected on the beach is best characterized as greaseballs, floatable materials of plastic hygienic devices which were coated with floatable debris -- I would categorize it as possible grease accumulations -- also possibly some sludge materials which had accumulated on each one of these small floatable articles which were found on the beach. I can give you that detail because in analyzing it, it was determined that the material must have been in the ocean for at least a couple of weeks before arriving at the beach. It was not the result, in our opinion, of any short dump that would have occurred a day or so before it came to the beaches, but certainly related to material that had been disposed of in the ocean some several weeks before it arrived on our beaches.

The material was in the ocean and was held in that manner due to the weather conditions which had preceded several weeks before it appeared on our beaches. The currents were mild. There were no storm events that would have mixed the ocean, and it was in a concentration that, although held out for several miles, arrived on the beaches during the last week in May.

The material, in our opinion, was at least passed through, if not, in fact, generated from the 12-mile dump site. We have not been able to definitively identify the source of this material. We have been working with the U.S. Coast Guard. They are currently doing a model of the ocean currents over a several-week period, to see if they can determine which vessels may have been dumping at the 12-mile site, or in that general area, in the few-week period before the material arrived on the beach.

So we have not yet definitively identified any source. We are awaiting further results from the U.S. Coast Guard to see if they can indicate to us any vessels that may

have been in the area that would have contributed to this problem.

SENATOR GAGLIANO: Excuse me, Director. What exactly are we still dumping at the 12-mile site, legally? As terrible as it sounds, what are we legally dumping at the 12-mile site?

MR. McCANN: At the 12-mile site, there were previously four groups that used it for ocean disposal of sludge. Those were Westchester County in New York, Nassau County, New York City, and what we refer to as the "New Jersey Consortium," which represents six authorities in northeast New Jersey. Westchester and Nassau Counties are now totally out of the 12-mile site. They deposit all of their sludge at 106 miles.

SENATOR GAGLIANO: Excuse me. Through you, Mr. Chairman, what date did Westchester and Nassau stop dumping? When did they cease dumping there? How long ago?

MR. McCANN: It was last year. I am not sure of the exact date.

SENATOR GAGLIANO: Okay, but it has been at least several months?

MR. McCANN: Yes, absolutely.

SENATOR GAGLIANO: So this, theoretically, would not be the cause. Okay.

MR. McCANN: New York City has approximately 90% of their sludge still being disposed of at the 12-mile site. The other 10% goes to 106 miles.

SENATOR GAGLIANO: In terms of New York City, 90%-- How does that relate in terms of tons or gallons or equivalents -- something we can measure? What are they dumping out there? How many tons a day, or gallons?

MR. McCANN: The annual wet tonnage that is generated by the entire region -- on an annual basis -- is 6.9 million wet tons. About 50% of that tonnage comes from New York sources; the other 50% comes from New Jersey sources.

SENATOR GAGLIANO: So, figure seven million wet tons-- By wet tons, that just means what? What is the definition of a wet ton, not 2000 pounds?

MR. McCANN: Well, it is 2000 pounds, but it is 2000 pounds of wet weight.

SENATOR GAGLIANO: Mixed with water?

MR. McCANN: Mixed with water, right.

ERIC EVENSON: Without having been dried, as opposed to dry tons. It is a different measure -- chemical measure.

SENATOR PALLONE: You better identify yourself for the record.

MR. McCANN: Yes, I'm sorry. This is Mr. Eric Evenson who is accompanying me. He has coordinated many of the activities in the Division of Water Resources as they relate to ocean pollution concerns. He serves as an Executive Assistant directly out of my office.

SENATOR PALLONE: Thank you.

SENATOR GAGLIANO: Okay. So, between northern New Jersey and New York City, we are contributing about seven million wet tons, or seven million times 2000 pounds -- in pounds.

MR. EVENSON: Correct.

SENATOR GAGLIANO: That will end when?

MR. McCANN: All of the sludge disposal at the 12-mile site is to cease by the end of this calendar year -- December 31, 1987.

SENATOR GAGLIANO: Are there any applications for extensions?

MR. McCANN: None that we are aware of. There are none in New Jersey and, in our most recent discussions with EPA, there are none for New York City.

SENATOR GAGLIANO: Okay. So, we can feel comfortable that by December 31, this year, that will stop?

MR. McCANN: The 12-mile site will stop.

SENATOR GAGLIANO: Will there be any other dumping at the six-mile site?

MR. McCANN: The six-mile site is governed under a very different permit program by EPA, and, to my knowledge, there is no provisions for the stopping of that six-mile site.

SENATOR GAGLIANO: Those are dredge spoils, right?

MR. McCANN: Yes, correct.

SENATOR PALLONE: On the 12-mile site, when you say-- We know the deadline is December 31. The reason, I gather, that you are saying there shouldn't be any problem with ending December 31, is because all of the equipment, the vessels and everything, is in place so that those authorities can go out to the 106 miles.

MR. McCANN: The only limiting factor to not getting to 106 miles today, is available vessel capacity.

SENATOR PALLONE: But there is no question that that capacity will be there by the end of the year?

MR. McCANN: The ships are already under construction. I believe they are being constructed in Singapore for the transport association that does the hauling of the sludge. The vessels are twice the size of the ones they currently use, and they are well on schedule to be available at the very latest, by the end of the year.

SENATOR PALLONE: So, if there was any question that someone might not meet the deadline, there would already be some indication of that?

MR. McCANN: Correct.

SENATOR GAGLIANO: Well, I am concerned. I think we ought to go on record as being opposed to any extension. We've got six months, basically. I think this Committee should go on record, Frank, as being opposed to any extension, because I just have this sneaky feeling that come September 1, October 1, they are going to say, "Well, we couldn't do this," and "We couldn't complete that. The ships have to arrive here from a

foreign country." We'll hear just a lot of baloney about the need for an extension. I think there are six months plus -- six and a half months to go, and we ought to go on record. I think DEP should go on record. I think the Governor should go on record. I think everybody in New Jersey should certainly go on record, as forcefully as we can, that there be no extension.

SENATOR PALLONE: I agree completely. I think we can say that on behalf of the Committee as a whole.

SENATOR GAGLIANO: If we say that now, I think maybe they will get the message that we don't want to see an application come in for an extension. They have six months -- six and a half months -- to do the job. It has been extended over time already. So, no more extensions.

SENATOR PALLONE: George, did you mention the New Jersey authorities as well?

MR. McCANN: The New Jersey authorities, which we generally refer to as the New Jersey Consortium-- The Consortium is made up of six authorities in the northeast area of the State. Presently, they are under contract with the association known as the 106-Mile Transport Association. It is a group of three barge haulers who have formed an association for this purpose. They are under contract to have 25% of their sludges hauled to 106 miles. The remainder is disposed of at the 12-mile site. However, we have recently met with them in an effort to see if there is any potential for having additional capacity utilized, maximizing the filling of the barges, to get as much of the material as possible out to the 106-mile site, particularly during the summer months, when we know the end is coming at the end of this year.

I would also add that we would support that there be no extensions granted. My opinion is that there is certainly an economic interest on the part of the 106-Mile Transport Association to do it as quickly as possible. They are spending large sums of money having these vessels constructed, and they

will be paid considerably more money to have the sludge disposed of at 106 miles, as opposed to the 12-mile site.

SENATOR PALLONE: In other words, for the New Jersey authorities, it is the same holdup at this point, which is the vessels.

MR. McCANN: The New Jersey authorities are dependent upon the contract arrangements, and it is a vessel problem. There is just not adequate capacity.

SENATOR PALLONE: What happens as of December 31 if either New York or the New Jersey authorities, you know, decide that they need an extension, or that they can't meet the deadline? Are there any kind of financial penalties? Is there anything in place that would deal with that; I mean, in terms of the penalties? Senator Gagliano made the point, which is that we don't want that to happen, and you're saying there is no reason for it to happen, because the vessel capacity is there. But I am just wondering what the procedure is. Are there any kind of penalties, or anything, that they would incur?

MR. McCANN: Yes, there are penalties under the Marine Sanctuaries Act, which governs the discharge to the ocean, administered, of course, by EPA. I agree also with you that we should be strongly supporting no extensions. The amounts of penalties they may issue would be a decision by EPA, against either New York City or the New Jersey authorities for failure to meet the deadline. I wouldn't know exactly what they might have in mind as a target amount of money.

SENATOR GAGLIANO: Well, I'll bet if it were a dollar a wet ton, they would be a little concerned. I just have a suspicion that someone is going to say, "We can't make that date" -- or whatever -- "The ships aren't ready. They are not going to get here. We don't have the crews." There is going to be something, George, and I think we better be ready for it. I think the first thing we should do, as the State of New Jersey, is, if there is any indication that they want an

extension, I think we should maybe go to court to prevent that from happening, maybe on whatever injunctive type basis we could use through the Attorney General, to prevent it. I just feel that these things are always, "Well, we can get an extension." We'll wait, we'll see, and then what will we do? We can't keep it in the tanks in New York, so we must go back to 12 miles -- or continue at 12 miles. I think we have to anticipate problems now.

MR. McCANN: I quite agree with you. I think there is some history of delays when it was solely in the hands of either New York City or possibly with the New Jersey authorities, on moving out of the 12-mile to the 106. The reason I am optimistic, as I say, is that there certainly is economic interest on the part of the private hauling operation. They want the business to go to 106 miles. They are making substantial capital investments. But I think it has to continue to be monitored, as you suggested, so we can be assured that we do meet the schedules and, if there are going to be any delays, we know as soon as possible whatever those might be, in order to head them off and take very aggressive actions here in the State of New Jersey to now allow those to take place.

SENATOR PALLONE: Can we go back to-- When you started out, you were talking about the possible source of pollution that caused the closing of the beaches in Ocean County. From what I wrote down, you said you believed the material was generated from the 12-mile dump site. But I guess there is some question about whether or not that was from the site itself, as opposed to some vessel, either a barge going to the site, or a commercial ocean-going vessel that may have dumped.

I just want to know what is being done to investigate that at this point?

MR. McCANN: Well, what we have done-- We feel that the material at least passed through the 12-mile site, either generated from the site, or as a legal activity of disposal of sludge materials, or possibly it may have come from some other vessel. We have looked to the U.S. Coast Guard to do a detailed modeling of the vessels. They can identify vessels that were in the areas at certain days in advance of the occurrence on the beaches. There is a little bit of educated guess work in trying to assess how long exactly the material was in the ocean, and to tie that to the model the U.S. Coast Guard is using, which accounts for the currents and the wave actions for moving the materials.

So, we are trying to pinpoint what vessels they are, and we are dependent on the Coast Guard for that information.

SENATOR PALLONE: George, you know, the reason-- I thought when I was reading the newspaper accounts of this, that that was maybe the first time I ever heard anyone admit that the 12-mile site itself might be a cause of pollution. We have heard over the years that the dumping at the 12-mile site itself doesn't really cause any problems. I don't know if the material there is capped or not, as it is at the dredge spoil site. It's not, I guess, at the sludge dump site.

MR. McCANN: No, it's not.

SENATOR PALLONE: There is a possibility then that either this is from a vessel that was coming through the site, or it's possible that the site itself may have generated it.

MR. McCANN: What I would comment on that is, I don't think our position on the 12-mile site itself would change as to whether it is harmful or not. The sludge material -- sludge, in and of itself -- when properly disposed of at the 12-mile site, would drop to the bottom of the ocean. The material we found on the beaches was more of a floatable nature. The oil and grease which accumulated and formed these greaseballs as it picked up sand particles and other particles

in the ocean, the floatable plastic from various hygienic devices, are not -- should not be in the sludge that is disposed of at the 12-mile site. They are, in fact, specifically an end very characteristic of what you might find floating in a sludge digester. That type of material is supposed to be deposited only at the 106-mile site, not at the 12-mile site.

So, what it might suggest is that there may have been an accumulation of material that was in the sludge barge -- that may have been in the sludge barge -- and dumped at the 12-mile site, that should not have been there. That is what the concern is. That is what we are looking at, because it is not permitted, by any means, to be dumped at the 12-mile site -- that type of material.

SENATOR PALLONE: That raises a number of questions. It kind of gets to the heart of why we are having the hearing today. I mean, on the one hand, it would seem to suggest there is a problem monitoring dumping at the 12-mile site, or possibly even at the 106-mile site. You know, just monitoring barges in general. And also suggests that-- I would like to know what kind of enforcement action can be--

Let's assume that we do find the causes. What kind of enforcement action does DEP, or even EPA, take in those circumstances? And maybe thirdly-- Also, you are raising a question to me, which is that some material is allowed to be dumped at the 12-mile site, and that is different material than can be dumped at the 106-mile site. I wasn't aware of that distinction, unless I am missing something.

MR. McCANN: There is material--

SENATOR PALLONE: Before you go on, I would like to say that Senator Van Wagner is here. Senator, would you like to make some comments at this point? Basically, we are investigating the causes of the Ocean County beach closings and vessel source pollution in general.

SENATOR VAN WAGNER: No, other than the fact that this is clearly deja vu, and I know I have been here before. It seems like 10 years or more, and we are still dealing with problems of shore dumping and probably an inability to monitor.

I hope we have an updated assessment, which is the request I know I made in Long Branch when we had that public hearing, in terms of what we're doing to advance the general cause of trying to clean up the ocean. I hope to hear from people today who will tell me somewhat better things than I have heard so far. What else can we say? You know, we've been here before. I am not surprised that we had another mishap.

I would like to see what land-based alternatives have been developed at this point, but clearly you are trying to identify this latest problem, which is probably difficult to identify. I hope we can shed some additional light on the picture. Perhaps at the end of this hearing we can move forward toward taking some remedial action.

That is all I have to say, Mr. Chairman.

SENATOR PALLONE: Thank you.

SENATOR GAGLIANO: Excuse me, Frank.

SENATOR PALLONE: Go ahead, sure.

SENATOR GAGLIANO: May I go back? I wonder if DEP could give us a report -- to the entire Legislature; that would be fine, too, but certainly to this Committee -- on the status of the process by which New York City and the New Jersey Consortium will be taking their sludge -- or residue, or whatever we call it -- to 106 miles. We all know that that is not the answer, but it is an interim answer. It is certainly a hell of a lot better than taking it out 12 miles, which is probably more like seven or eight miles when it is dumped. But, 106 miles is a lot better.

We would like to know the status of the various contracts that they have entered into for ships, for crews, for whatever needs to be done in terms of pumping the material into

these ships, so we would know now where they stand, and how close they are to being able to actually go into operation.

~~SENATOR VAN WAGNER:~~ SENATOR VAN WAGNER: Senator, if I may, I would like to add an addendum to that and possibly on that point to Senator

SENATOR GAGLIANO: Fine.

SENATOR VAN WAGNER: If you can, would you also focus on how well you intend to improve, or attempt, with the Federal government, to improve the monitoring of these barges going 106 miles, given the fact that we have difficulty, in some cases, monitoring them going 12 miles? I would like you to focus on that, as well as the unloading and other questions posed by Senator Gagliano.

SENATOR PALLONE: There is no problem in giving us that type of a report, is there?

MR. McCANN: Absolutely not.

SENATOR PALLONE: Okay..

SENATOR GAGLIANO: That should be available, shouldn't it? I mean, they've signed contracts, and the contracts should be partially executed, I would think.

MR. McCANN: Yes, absolutely.

SENATOR GAGLIANO: Delivery dates should be available on the ships.

MR. McCANN: We will pull together all of the information. We have been meeting, most recently in the last couple of weeks, with EPA, and certainly with the New Jersey Consortium, to discuss many of these issues. Let me focus on the monitoring one.

SENATOR PALLONE: Yeah, focus-- That's all right, I'm glad you mentioned it, because we do want that information. Hopefully, we can receive it by the next hearing we have. I'm taking down everything about what we are requesting, and we will send you a letter about this as well.

MR. McCANN: To keep me honest.

SENATOR PALLONE: But, in terms of-- Just going back again to the specific incident, you know, three things again -- and I just wrote them down: The distinction between what is allowed to be dumped at the 12-mile site versus the 106-mile site, if there is such a distinction. What type of monitoring is being done now that will prevent an illegal barge -- you know, a barge from dumping illegally at the 12-mile site? And, what penalties could be taken if you do, in fact, find that that is what happened?

MR. McCANN: Okay. The distinction between the 12-mile site and the 106-mile site-- The distinction is that material which is from the clean-out of a digester which has held the sludge is strictly prohibited from going to the 12-mile site. It must be -- if it is disposed of in the ocean -- disposed of at the 106-mile site. The material you would have in this clean-out is generally oil, grease, floatable materials, hair--

SENATOR GAGLIANO: Solids?

MR. McCANN: --residues, and some solids that would have been remaining in the digester, other than the sludge material. That is strictly prohibited because of its very nature, in that it will float when going to the 12-mile site.

SENATOR VAN WAGNER: Are you going to prosecute?

MR. McCANN: We would not be prosecuting, of course. EPA is the regulatory agency that must take the action.

SENATOR VAN WAGNER: I would suggest that you go directly to the Attorney General and prosecute, and force EPA's hand. Force them to act.

SENATOR GAGLIANO: How do we--

SENATOR PALLONE: I still don't understand, George, what the distinction is. First, give us that distinction again, and then tell us the normal monitoring. Then we can get into the penalties. I am not sure I understand what is allowed. That is not allowed at the 12, but it is allowed at the 106?

MR. McCANN: Right. EPA has--

SENATOR PALLONE: What is the type of vessel that does this? I don't understand the distinction between what is

MR. McCANN: They would put it on one of the vessels that would be going to the 106-mile site.

SENATOR PALLONE: Okay, but this is for municipal sewerage authorities -- right?--

MR. McCANN: Yes, correct.

SENATOR PALLONE: --who are cleaning out--

MR. McCANN: The digesters that have the sludge in them, where they are generally a treatment -- an anaerobic treatment -- of the sludge in the digester.

SENATOR PALLONE: So, this is the tank, in effect, where all the stuff is mixed before it is taken out. That has to be cleaned periodically.

MR. McCANN: Correct.

SENATOR PALLONE: They are allowed to do that at the 106-mile site, but not at the 12?

MR. McCANN: Correct. They are prohibited from doing it at the 12-mile site. It specifically says that in the permits.

SENATOR PALLONE: And you suspect that maybe this is what happened -- that somebody did this at the 12-mile site.

MR. McCANN: The material we observed was characteristic of what you would find in that type of a washout. One of our concerns is, was some of that material mixed with other sludges and disposed of at 12 miles, when it should not have been?

SENATOR PALLONE: All right.

SENATOR GAGLIANO: How do you monitor that?

SENATOR PALLONE: Yeah. What is to prevent that from happening again? How is it monitored?

SENATOR GAGLIANO: George, who is in the sewer plant? Who is working in the sewer plant when the sludge is pumped

into a barge, or a ship that goes to 12 miles, who says, "Okay, stop now, because you have done that, but you are now getting into the part that has been screened off"? I assume it is a screened-off type of thing which catches the solids, the plastics, the hygenic devices, whatever they are, and keeps them separate from the sludge.

Who is in the sewer plant who says, "Okay, stop, you cannot mix these two; they cannot all go to the same place"? Who is there to monitor that sewer plant?

MR. McCANN: Of course, it is the responsibility of the operator of the authority to comply. Who's there? It would be--

SENATOR GAGLIANO: We don't have inspectors?

MR. McCANN: Correct. It would be coincidence if we, or EPA, had an inspector there at the time when they were, in fact, pumping the sludge. We do not routinely, by any means, have inspectors observing the loading of the barges.

SENATOR PALLONE: So, George, once that material is on the barge and ready to go out into the ocean, there is no one who would know what is supposed to go to 12 versus 106? There is no one monitoring at that point. It is all decided before they leave, and it is up to the individual sewage authority to make sure it is done properly.

MR. McCANN: It is up to the individual sewerage authority to ensure that that type of material does not go on the barge if it is scheduled to go to 12 miles, correct.

SENATOR PALLONE: But there is nobody -- there is no Coast Guard personnel, or EPA personnel -- who says -- you know, who periodically goes out there to the 12 miles, or the 106 miles, to inspect these vessels at that point?

MR. McCANN: Well, they do monitor the trip of the vessels. They can establish that the vessels have gone all the way to the 12-mile site or to the 106-mile site. On some of the vessels, they equip them with a black box which sends out a radio signal.

SENATOR PALLONE: The Coast Guard told us that at the last hearing.

MR. McCANN: But all of the vessels are not equipped with those black boxes. The black box is sealed and gives out a signal that can be tracked, so you can be assured that they are at the appropriate site. The Coast Guard is the other monitoring means, by being physically out in the ocean.

SENATOR GAGLIANO: EPA will not have personnel on these ships when they go out? A hundred and six miles is a pretty good run.

MR. McCANN: EPA--

SENATOR GAGLIANO: Will they? Will they have crew on board?

MR. McCANN: It is my understanding that they will not have crew on board. However, they have, in recent discussions-- I don't have a firm commitment from them, but they are looking to establish some monitoring of the actual dump sites, physically going out there to ensure that compliance is being made with their permits.

SENATOR VAN WAGNER: George, I don't want to sound upset or frustrated, but in 1975, in the World Trade Center, we sat with all of the people who are probably in this room -- or their predecessors, perhaps -- and talked about black boxes; we talked about monitoring; we talked about the jurisdictional problems; we talked about all of those things. Each year, at the shore, at one point or another, we have had a mishap. Okay? It is now 1987. All right? I am not criticizing you; I am not criticizing the Department. But, when are we going to have a set of criteria that says, "This is how you shall dump; this is who you shall have there"? When are we going to sit with EPA and say, "We need your assistance to help us in those jurisdictional areas where we cannot intervene"?

Now, clearly, from what you have said so far, there are several jurisdictional areas where we could intervene.

Certainly at the municipal level -- as Senator Gagliano said, you know -- who is the onloading foreman? What is the procedure? What is the criteria? How much should this barge hold? All right? From that point, there are other kinds of jurisdiction. It is the Jersey coast. It is impacting our coast, our environment, our health, our tourism industry, and whatever else -- our municipalities. At this point, for God's sake, 12 years later, with the same -- with advanced technologies and all kinds of increases in budget, should we not have now a network put together, a criteria set forth, for what we will allow and for what we will not allow?

MR. McCANN: Let me see if I can answer the question a couple of ways for you. First, the answer on the 12-mile site is the elimination of its use. That is scheduled to take place by the end of the year.

SENATOR GAGLIANO: By all users?

MR. McCANN: By all users.

SENATOR GAGLIANO: With no exceptions?

MR. McCANN: With no exceptions. That is only the 12-mile site.

SENATOR VAN WAGNER: George, let me make it clear. I am not just talking about intervention. I am talking about the use of the courts -- okay? -- the courts. Come down, and come down hard.

SENATOR PALLONE: You see, George, all these points that are being made are very important. You mentioned-- I am just trying to analyze the specific incident, and maybe we shouldn't spend that much time on the specific incident. But it just seems to be so illustrative of the problem.

SENATOR VAN WAGNER: That is correct. The specific incidents are serious specific incidents that have been occurring for years. That is the problem.

SENATOR PALLONE: And what I can see from what you're telling me is, on the one hand, we don't know for sure that the

person who made the decision to put this material on the barge at the sewage authority, or at that level-- We don't really have any way of knowing that he -- or outside third-party EPA/DEP monitoring -- to know that he is putting the right stuff on the barge that is supposed to go to 12 versus 106. In addition to that, we don't really have -- other than the fact that someone is sitting at the control room and knows, you know, that the vessel is going all the way to 106, or going to 12 -- we don't really know what happens en route, unless I am missing something.

MR. McCANN: You are correct, in that we are dependent upon them to correctly dispose of -- to empty out the sludge materials from the--

SENATOR GAGLIANO: At the right place.

MR. McCANN: Excuse me?

SENATOR GAGLIANO: You know, George, it would be so simple for an engineer to design a system which would be tied to the pumps on the ship. We could know exactly where that ship was when those pumps went on that dumped the sewerage sludge. Did you know that? To me, it would be so simple. We can track airplanes practically from the time they leave Europe, and we know exactly where they are, and exactly when they will land at Kennedy. We could so readily design a system which would tell us exactly where that ship was when it dumped its cargo. It would be so easy. I wonder if we are doing that. That is one of the reasons why I want to know what we are doing in terms of these contracts.

MR. McCANN: I quite agree with you. The expansion of the use of this black box that we talk about on the vessels would do just that. It would give us a signal at the point when the dump was initiated. Thereby we could identify the exact point--

SENATOR GAGLIANO: Why couldn't DEP order that, at least with respect to the New Jersey authorities? That is half

of the dump. That is half of the system, so to speak. We have jurisdiction over them. I'm sure that if they want to expand their system, they get permission from you; they get funding from the State and Federal governments. Why couldn't we require that of any ship they use, that that ship be equipped, so we would know exactly where that ship is when it dumps?

SENATOR VAN WAGNER: You're going to license this, aren't you?

MR. McCANN: Well, no. The privately owned vessels are under the permits administered by EPA. I quite agree with you that that is what we do want. We talked to them about that. I think it should be a necessity that it be installed on every one of the vessels.

SENATOR VAN WAGNER: They've got to be licensed. Once you license them, you can set the criteria for meeting the parameters of that license. You can say to them, "If you do not do this, if you do not have this" -- as Senator Gagliano said-- Contract with them. Say, "We will develop a contractual agreement with you for monitoring. We are going to license you, and this is what you have to have." Then they would have a clear view-- The private operator would have a clear view of what he needs to have and what he has to do and, as Senator Gagliano also said, we would be able to monitor from point to point, and along the way, if capacity changes. And, if they don't line up, then you go to court.

SENATOR GAGLIANO: The honest ship operator would like to have that black box, I would think, because--

SENATOR VAN WAGNER: I'm sure.

SENATOR GAGLIANO: --they are going to do the job correctly. They don't care that Laran (phonetic spelling), or whatever it is, locates them exactly when that dump occurs, because they are doing it properly. It just seems to me to be so simple from an engineering standpoint to design such a thing, but we, for whatever reason-- I haven't read about anything that we're doing.

MR. McCANN: Well, there is no question based upon the monitoring that is at least done of the trips the vessels take, that they are, in fact, going the distance to the sites. The issue is--

SENATOR VAN WAGNER: What they are doing as they move along.

MR. McCANN: Exactly.

SENATOR PALLONE: And what they put initially on the barge.

MR. McCANN: Exactly. Those are the two areas we have to focus on. I think certainly there is technology readily available to ensure that the dump is not initiated any earlier than the targeted dump site. That can be done simply by the radio signals. The monitoring aspect then becomes, what is getting into the barge that is supposed to be there or is not supposed to be there.

I would tell you that we have met with the New Jersey authorities over the last several weeks to eliminate the potential that we are speaking of, of any of this material getting in with the sludge, and to have an analysis made of their treatment systems to see if we can have the material removed otherwise in advance of the sludge being emptied from the tank, specifically looking at taking the scum and grease components that do have these other particles in them -- and floatables -- to see if they can be extracted, and then disposed of, potentially either in a landfill or by incineration.

SENATOR PALLONE: Because actually, even if you bring them out to the 106-mile site, the danger is there, too.

MR. McCANN: If they float, they will still float. Correct.

SENATOR PALLONE: Kind of refocusing, in a sense, one of the precedents, I guess, or experiments done with this monitoring, involves the wood-burning site. In other words, I

understand that with the wood-burning site, you have taken over some of EPA's responsibilities for monitoring and enforcement. Could a similar arrangement-- Maybe we don't want that; maybe EPA should be doing it, and we should be, you know, forcing them to do it. But, is there some way for the State DEP to make a similar arrangement with respect to sludge dumping, as you now have with the wood-burning, where there is better State monitoring or enforcement?

MR. McCANN: Let me explain what we have done: In January of this year, an agreement was signed between our Department -- Commissioner Dewling -- and Regional Administrator Daggett from EPA, which delegates their authority, and deputizes us to act on their behalf in monitoring the wood-burning barges. We are notified in advance of a wood-burning barge going out into the ocean, and we -- the Department -- charter a vessel to accompany the ship out to the burn site. Four of those have taken place since January -- since we have had the agreement in place.

Can similar activity be done on the sludge dumping? EPA has not been as receptive to developing an agreement as they were with the wood-burning issues -- which we pressed on late last year -- to have us take over those responsibilities. But it is something we can continue to do. It is a very different situation. It is a daily activity, as opposed to the wood-burning barges, which happen less frequently. Every several weeks, we have a barge that goes out.

The sludge dumping would require daily activity. The trip to 106 miles is about a two-day journey to go out there and to come back, so it would require people being there 24 hours monitoring. I think that is part of the problem EPA has had in trying to figure out how to actually monitor it. That does not answer the question of who is going to do it, and how can we best do it? I think we need to work further with them to see what improvements either they are going to make to make sure it happens, or to have us assume some responsibilities.

SENATOR VAN WAGNER: Now, beyond that, if I might, Mr. Chairman. I'm sorry.

SENATOR PALLONE:--No, go ahead.

SENATOR VAN WAGNER: You know, we've talked about what we would like to see in terms of monitoring. Okay? Taking it a step beyond. George, are we going to have a mitigation schedule set up? Are we going to have a schedule that demonstrates to the Legislature, to the people, that we are going to mitigate the necessity for ocean dumping by shifting most of this waste into other alternative disposal techniques, if you will? We have a Solid Waste Management Plan. We have an overall disposal plan, I think. Are we going to dovetail and link that into a mitigation schedule for pulling as many of these disposal operators out of the ocean and into land-based alternatives?

MR. McCANN: We have, and we will require the evaluation of the long-term sludge disposal option. Looking at the land-based considerations, we have generally landfilling as an option, which is a rather difficult one in managing, given landfill capacities. Incineration similarly is a problem in those areas, but needs further consideration because of the air issues. I could not say to you that the 106-mile site should be totally eliminated as a consideration, because I think it has to be--

SENATOR VAN WAGNER: I did not say eliminated; I said mitigated.

MR. McCANN: Well, mitigated, and taken into account in a balance of evaluation of land-based alternatives. It may very well be that the 106 mile, although not desirable, is the best of the worst solutions. That is something that has to be balanced in comparison with the air emissions issue, if it is incineration, or disposal in landfills or other means of sludge disposal.

A number of the facilities in New Jersey that dispose of sludge in the ocean, in fact, built incinerators. They have incinerators standing there that cannot pass the test of getting the necessary permits to operate them. So they could not, in fact, put that in place, due to the air emissions concern. PVSC is a good example. I think the incinerator was at a cost of some \$30 million to construct, but is not able to be used.

SENATOR VAN WAGNER: So, what you're saying to me is, here we are at the threshold of the twenty-first century -- okay? We have developed capacities and technology beyond anyone's imagination -- okay? And throughout the entire universe, we are still faced with three basic alternatives: burn, landfill, or ocean.

MR. McCANN: Basically. There are some variations on how to handle the sludge. There are different types of processes whereby you would burn it or otherwise treat it, and then eventually still have a residual material that has to be disposed of. We can talk about composting or a host of other types of facilities.

SENATOR VAN WAGNER: What about pre-treatment? How far have we gone into that?

MR. McCANN: Pre-treatment is a solution to getting many of the materials that we might consider harmful out of the sludges -- out of the sludges before they get to the treatment plant, of course. Pre-treatment programs are in place. The authorities, in particular, that dump the sludge, that are delegated authorities, have responsibilities for establishing pre-treatment programs, and putting in place the necessary ordinances to monitor the various industries that discharge to their systems, and police it, and so on. The Department oversees those responsibilities and monitors the activities of the individual authorities.

SENATOR PALLONE: Senator, do you want to ask something else? George, I just want to wrap up the Ocean County beach closing, and then maybe we can move on!

SENATOR VAN WAGNER: I am finished.

SENATOR PALLONE: The two things that are still outstanding, if you would just comment-- One is, specifically, what is being done now to investigate that problem? In other words, you mentioned that you think it may have been a barge that was illegally dumping at the site. What is the follow-up at this point, just so that we know what is happening since that specific incident?

MR. McCANN: We did extensive sampling of the waters to assess, from a water quality standpoint, if there was a problem at the beaches. That was reflected in the beach openings after we were sure that the levels were not of any serious nature, and that they had gone down. There were not bacteria counts to be concerned with.

SENATOR VAN WAGNER: You got in there fast.

MR. McCANN: Excuse me?

SENATOR VAN WAGNER: You got in there fast.

MR. McCANN: Yes. So, we did that aspect from a water quality standpoint. As far as tracking it, and identifying the source, as I said earlier, we are very much dependent upon the Coast Guard to see what information they can give us to identify any vessels that were in the area at or about the time frame we are speculating it would have occurred.

SENATOR PALLONE: And they are going to get back to you on that?

MR. McCANN: Yes.

SENATOR PALLONE: We could even ask them. They are coming in at noon, supposedly. We could ask them what they are doing in that respect.

MR. McCANN: Yes.

SENATOR PALLONE: Okay. Now, the other thing that came up in the context of the last couple of weeks' activities -- if you would just touch briefly on this -- was the algae bloom. We followed the Ocean County beach closing the next week with the algae bloom, and basically we were told, "Oh, that's nothing. That is just a natural phenomenon." I would like you to comment on that, because that was a concern to Monmouth County residents as well and, of course, you have three Monmouth County Senators here.

MR. McCANN: And a Monmouth County resident.

SENATOR PALLONE: Yes, I know.

MR. McCANN: The green tide and red tide are various colors and different types of algae blooms. There are brown tides. They are a natural phenomenon. They occur throughout the world, in various oceans throughout the world. The cause of those is not clear. It has not been clearly, scientifically established as to what causes one of those blooms. It has been associated with a series of different parameters related to the weather, water temperatures, no storms occurring over a certain period of time, certainly nutrients adding to the algae bloom. It is a naturally occurring--

SENATOR PALLONE: But, I mean, is it definitely pollution related in any way? Is this something that is a phenomenon of-- You said, an increased amount of nutrients in the ocean.

MR. McCANN: One of the things we are specifically participating in is-- The Department, in a cooperative effort with EPA and NOAA, is doing a study to see if we can assess any direct linkage of the contribution of, say, wastewater from an outfall to the occurrence of one of these alga blooms. There were studies under way last summer. We are continuing those efforts with EPA and NOAA, but, to date, there has not been any definitive scientific determinations to say that this discharge from an outfall, or any other particular source, has directly

caused an alga bloom resulting in a green tide or red tide. It is naturally occurring, as I said. It occurs in areas of the world where there are no known sources of pollution directly going into those waters, yet the bloom will occur.

SENATOR PALLONE: We are told, of course, that it doesn't in any way affect the health, that it is safe to swim, and all that. Maybe we should mention briefly that we have an ocean health study that we are hoping will begin in July. That is going to track whether there is a relationship between swimming in coastal waters and health-related risks.

But, at this point, you feel there is no health problem from an algae bloom? You don't have to close a beach; you don't have to prohibit people from swimming in any way?

MR. McCANN: The thing of greatest concern, I think, is certainly the aesthetics. There is a foamy scum-type layer that you can see in the area of the bloom. In many instances when they have occurred in the past, it has been suggested that it may be sludge, always a potential suspect for any problems we see in the ocean. But, in fact, it is not related to sludge at all. Aesthetically, it has a foam layer that appears on the water. It may not be desirable to be swimming in that type of water, but--

SENATOR PALLONE: See, I mention it because, when that happened in Monmouth County waters -- which I think was the weekend after the Ocean County incident -- you know, I was getting the usual response. You know, I would go down to Max's Hot Dogs, and people would walk in from the beach, and say, "Well, I was swimming in the water, and my eyes are tearing. I've got a cold, a sore throat, and the whole thing." A lot of people link that phenomenon to health effects, which is, I think, one of the reasons why we need this study that is going to start in July.

MR. McCANN: That is the study that is being coordinated with us and the Department of Health and the Save Our Shores people, and a number of others.

SENATOR PALLONE: Do you want to comment on that briefly? That is not the focus today, but--

MR. McCANN: Well, just briefly, we are looking to expand some of the considerations we use for generally monitoring the water quality to see if it is appropriate to have other measures -- if that is appropriate -- to determine whether bathing waters are safe or not safe. The standards we use are World Health standards. They are used internationally, and they are accepted as appropriate standards. The use of other types of virus testing, and so on, is being evaluated. I think we are committed to doing everything we can to see if there is more that DEP and the State of New Jersey can do to ensure that we have safe waters for everyone to use. That is the purpose of us going those extra steps; going beyond what is accepted as World Health standards and measures for safe bathing waters, to see if there is anything else that would be indicative of a problem and, if there is, to incorporate it as something that we would use to regulate and control the waters.

SENATOR GAGLIANO: Going back again to the travel to the 106-mile site, George, would you be able to arrange for this Committee to visit one of the ships? I am talking about the ships that will serve the New Jersey authorities. When they are here, maybe we could actually have a meeting on board ship. I don't care if it is at sea or not. I mean, it can be tied up alongside a pier someplace in the Hudson River, or wherever it is. But I think it is important that we focus on that, and that we remind people of what is happening.

So, if we could be invited to go on board one of these ships, and have it explained to us exactly how this thing is going to operate--

SENATOR PALLONE: I think that is an excellent idea, and I would wholeheartedly support our Committee doing that. Maybe you can arrange it and get back to us.

SENATOR GAGLIANO: When we were in Seattle, I went to see the ship owned by At Sea Incineration. A whole bunch of us went to see the ship and, of course, they went bankrupt. They never put the ship into operation. But, I think it would be a good idea if we could do that. It would help us to focus in on this issue, so that people will understand that something is happening that is different than what has happened for the last 50 years.

MR. McCANN: I think it is an excellent idea, and I will take the steps to see what I can do to have that arranged for you, and I will get some dates.

SENATOR PALLONE: We'll follow up on it.

SENATOR GAGLIANO: Okay.

SENATOR PALLONE: I would now like to move on to the wood-burning issue, and have you describe, in some detail, exactly what DEP is doing under this new arrangement with EPA.

MR. McCANN: Okay. Specifically, what we are doing is-- We have two individuals who are on a ship that is chartered by our Department to follow the vessel from the New Jersey/New York Harbor out to the burn site, observe the entire burn, and then follow it back in, the purpose being to ensure that, first of all, the material that is on the barge does not fall off, for whatever reason, before it gets to the burn site; that it is properly loaded, and not overloaded, as we believe was the problem in the past; and that when the burn is conducted, it is thoroughly conducted, that it is not a short burn, and all the materials have thoroughly incinerated before the fire is extinguished, and monitor that. We have been out there. There have been four burns since January -- since we signed the agreement. We have been out there on all but one of them. There was a bit of a problem on logistics, but that should never occur again. We intend to be out on every one of the burns from now on, to ensure that none of the material is lost. If it is, to have it recaptured, and potentially have EPA take actions for fines, and so on, under the agreement.

SENATOR GAGLIANO: I think that ever since then, we haven't heard any more complaints about partially burned timbers on the beaches. So, maybe enforcement does work, doesn't it?

MR. McCANN: I quite agree with you. I haven't heard any complaints either. I don't think we have missed any -- hopefully not.

SENATOR PALLONE: Well, let me give you one, because--

SENATOR GAGLIANO: Got one? I haven't heard any.

SENATOR PALLONE: Well, John Kaye, the Prosecutor, sent me a letter the other day, from Monmouth County, saying that there were boats -- including his own -- that were having navigational problems because of what appeared to be material from the wood-burning site. I haven't heard of anything washing up on beaches, but I have heard of pleasure craft having problems because of wood adrift. Again, it is hard to say whether that is from the site or not, but the problem does continue to some extent.

But you definitely made a commitment now that every vessel is going to be accompanied in this fashion by a DEP vessel?

MR. McCANN: Yes.

SENATOR PALLONE: Okay, because I thought there was some question about whether or not that was going to be on a spot-check basis versus every burn.

SENATOR GAGLIANO: Every burn.

SENATOR PALLONE: But now you're saying every burn?

MR. McCANN: We're going out every burn, yes.

SENATOR PALLONE: Okay. Would you give us a little more information? I received a-- I guess I didn't bring it today, but just within the last couple of days, I received another temporary -- another application for an interim permit for the two private companies. I guess it is Weeks, as well as Ocean Stevedoring, or whatever, that they had applied again

for an interim permit for another year. I understand EPA is still doing a study to determine whether or not they are going to permanently designate the wood-burning site. I know this Committee previously did indicate, again, that we were very much opposed to any wood burning; that we did not want to see the site designated on a permanent basis; that we are opposed to continuation of interim permits.

I would like to see DEP take the same position. Maybe you could update us a little about the possible designation of a permanent site, and what is going on with these interim permits again.

MR. McCANN: Well, the burn, of course, is all related to the Harbor Cleanup Program. We are very supportive, of course, of the Harbor Cleanup Program. We think it is very important. The need is to have disposal of the material once it is collected in the harbor. The actual status of the EPA study-- I can't answer that. I know they were looking at reissuing additional interim permits, but I don't know the current status of what their evaluations are for the long-term use of the site for disposal.

SENATOR PALLONE: I guess we will have to ask EPA when they come in. I know they have been continuing this interim permitting one-year annual process. You know, your monitoring -- it seems, or hopefully -- will take care, or will at least go far toward dealing with that problem. But I just wouldn't want to see them designate that permanent site, because that-- Basically, we are going to say it's okay to do this permanently, and no effort will be made to look into land-based alternatives. And, in the case of wood-burning, the land-based alternatives would seem to be relatively simple, to me, as opposed maybe to some of the other ocean dumping issues.

SENATOR GAGLIANO: Why isn't -- following up on what Senator Pallone said-- They have these huge chippers now that will go into a housing development and chop up trees -- chip

trees -- that are two or three feet around. Is that because there is creosote and other materials already mixed in the wood that they can't then dispose of it on landfills, or whatever? What is the basic problem, George?

MR. McCANN: What I understand is that the treatment of the -- exactly your point -- wood, and it is all treated, because it is all used for pilings and piers, and so on-- It is a disposal problem. That is my understanding of that not being a readily available disposal technique. That is the extent of what I do know about it.

SENATOR PALLONE: As far as I know, Senator, they really have not been looking into land-based alternatives at all.

SENATOR GAGLIANO: Well, there is no reason why these things can't be chipped right in place, in my opinion. Now, that may be somewhat off. Maybe there are metals in there that would damage the chipper. But if you see these huge land developments, they have no problem taking trees and putting them in one end, and they come out wood chips at the other end. So, except for the fact that the creosote and other preservation materials are probably not the kind of thing you would want to introduce back into soil systems-- That is the only reason why I think it would be more advantageous to burn them, but I don't know.

MR. McCANN: Well, they are heavily laden with materials to preserve them. There are chemicals in there, and that does create a problem. But I am not familiar with the development of any other land-based alternatives for disposal.

SENATOR GAGLIANO: Maybe they could give us a paper on that.

SENATOR PALLONE: Yeah. Well, you suggest it, Senator.

SENATOR GAGLIANO: I just wonder, George, if one of the people at DEP or EPA could give us a brief paper on the issue of why we have to have wood burning at sea, as opposed to some land-based alternative.

SENATOR PALLONE: I think maybe -- following up on what you suggested last time -- we should have a day just devoted to that issue, because we don't seem to be getting any answers. Even when EPA was here last time, we didn't really get any answers.

Just going back to what we said before about the possibility of having something similar with the sludge dumping in terms of monitoring that you now have with the wood burning-- I would just like to get some idea of the costs of that, because you indicated that the biggest problem may be that, you know, since there is so much more sludge dumping, and you are going out to 106 miles, as opposed to 12, I guess -- or 17 with the wood burning -- it would be a much more extensive operation for DEP to do that kind of monitoring.

Do you have any idea -- ball park figures -- of what we would be talking about? How much does it cost you now to have that vessel go out for the four burns, for example?

MR. McCANN: I don't know the exact cost of the charter boat, but I can find that out for you.

SENATOR PALLONE: Yeah, I would just like to get some idea. If you could give us some information -- you said four burns; three have been accompanied -- on what the cost is to send that monitoring vessel out, and the personnel, and then if we could get some figures that we could extrapolate from that to see how many voyages there would be for the sewage sludge, we could get some kind of an idea of cost.

MR. McCANN: I would think that if we were going to the 106-mile site, the preferred means would be to physically be on the actual vessel, as opposed to renting a separate vessel.

SENATOR VAN WAGNER: What kind of wood is it, George?

MR. McCANN: Excuse me?

SENATOR VAN WAGNER: What kind of wood mostly are you burning?

MR. McCANN: It is the wood materials collected from the harbor, the pilings, and the piers. You know, many of them have fallen apart and have fallen into the river.

SENATOR GAGLIANO: Pilings, timbers.

SENATOR VAN WAGNER: There is no other way to get rid of that?

SENATOR GAGLIANO: That's what we're after.

MR. McCANN: Well, the question was just asked, what has EPA done to assess other alternatives? I am not familiar. Shipping-- We were just discussing a bit of a problem with the materials that are in the chemicals in the wood itself. It is treated to preserve it.

SENATOR VAN WAGNER: It doesn't hurt the ocean -- right? -- if you leave it whole and dump it in there?

SENATOR GAGLIANO: It doesn't hurt the air either.

MR. McCANN: Well, it is not intended to be dumped there; it's burnt.

SENATOR VAN WAGNER: Or the air?

SENATOR PALLONE: Oh, I think it does.

MR. McCANN: I am not suggesting that it doesn't. The burning of it, certainly, in the harbor area would be a far worse problem. I think that is how they arrived at a decision to move it offshore -- to do the burning out there. It would have a lesser impact, certainly, not that it is without having any impact.

SENATOR PALLONE: Of course, if you are on the beach, and it comes back on a nice day, you know, you just breathe that stuff.

SENATOR VAN WAGNER: I wasn't trying to be facetious. It's just that I have become very frustrated over this whole thing, because every year it is either Ocean County beaches being closed, or Monmouth County beaches being closed. Obviously, it is not your fault, perhaps, but, you know, somewhere along the line there is a glitch in the system. We

have been talking about this for a long time. I know there are ways of developing garbage-to-waste ratios in terms of the volume of garbage that might be mixed with certain types of pre-treated sludge if it is dried sufficiently, and it can be safely disposed of in a lined landfill which, by the way, is usually lined with a double clay liner and a vinyl plastic liner on top of that, a sand blanket on top of that, and a leachate collection system designed to collect the leachate, which is a material that comes down when the landfill comes down.

I just think that if we began to work in partnerships with some of these municipal authorities, looked at them as instrumentalities of the State, developed a real working partnership with them and the landfills, whether they are municipally or privately operated, we could probably arrive at a mitigation schedule that would be acceptable environmentally, and would probably give us an opportunity to take a lot of this junk out of the ocean, which I think is really the least -- and I think you would agree -- the least best alternative. Maybe you don't agree, I don't know. But it seems to me that when you get in the ocean, you are talking about the food chain and all kinds of other possibilities. I agree that land-based alternatives, in many cases, aren't much better, but if we develop a technique, even for a minute portion of the waste, that allows us to do it in a relatively safe fashion, on a well-constructed lined landfill, that we could start to reduce the amount of material we are putting in the ocean. And I think you agree with that.

MR. McCANN: We would agree. The disposal of sludge, you know, continues to be a problem for us statewide.

SENATOR VAN WAGNER: Nationally, perhaps, sewer systems.

MR. McCANN: Well, one of the limiting factors, of course, in the State of New Jersey, is the availability of the

land just for the construction in the immediate vicinity of the facilities that generate the largest quantities of sludge. The ones that are currently using ocean dumping are the more densely populated urban areas in the northeast part of the State.

SENATOR VAN WAGNER: Nobody else anywhere else?

MR. McCANN: No, it is just those facilities in that part of the State that are going to the ocean.

SENATOR VAN WAGNER: You know that for sure? There is nobody else in the central or southern part of the State?

MR. McCANN: That is correct.

SENATOR VAN WAGNER: Okay.

MR. McCANN: No other parts of the State. However, in other parts of the State there may be more land available. It continues to be a disposal problem to those communities on getting rid of sludge. It is not like a lot of other issues on siting a facility for that purpose.

SENATOR VAN WAGNER: So, we are starting to zero in. What you have is a demographic problem. Is that correct?

MR. McCANN: Okay, yes.

SENATOR VAN WAGNER: You have a demographic problem. In other words, you are generating the material in a place that is many miles away from where you do have landfills to accept this -- acceptable landfills.

MR. McCANN: Well, where we may have potential land to construct landfills. There are some in the State, certainly, but, you know, I think the problems involved with hauling northeast New Jersey sludge to possibly the southern part of the State, or any other part of the State, are rather large in and of themselves, but are the types of things we do need to have considered as looking at land-based alternatives. It is just a matter of the demographics; where it is being generated is not a readily available disposal option at that immediate area.

SENATOR VAN WAGNER: What if we started, for example, without recreating the wheel-- Suppose we started a very strong informational program, designed by DEP -- I mean, we have a lot of, you know, "New Jersey and You, Perfect Together," and a lot of other things -- maybe aimed at the public in general, saying, "Look, this is what we are up against. Now, you want clean beaches. They are one of New Jersey's most important resources, whether you come from the northern part of the State, the central part, or the southern part. These are our alternatives. These are the things that we may or may not have to do in order to get ourselves out of the ocean," and begin to -- concurrent with the research I hope we are doing to develop techniques -- begin to educate the public a little bit. Some say that had we done that with the radon problem, we might have been in a better position today to move that material. I don't know. You know, it's easy to be a Monday morning quarterback, obviously.

I don't mean to sound like a broken record, George, and I said this to you at our hearing in Long Branch, but we, as legislators, are constantly being asked by people, "What are you doing?" and we have no alternative but to say, "We are conducting a hearing" -- thanks to Senator Pallone -- "we are attempting to get at who did what to whom and when." We bring you in. There will be other people here to testify. I know we have had you on too long, perhaps, but you are the Department. I mean, you're it. You are, in a sense, our vehicle for attempting to get things done, because, God knows, the Legislature has no power to do that, really, other than to direct, request, ask, or otherwise beg, that something be done.

It just seems to me -- and, again, pardon me for my frustration -- that here we are 12 years later from the time I first remember sitting in a bistate ocean dumping hearing in the World Trade Center -- and we were bashing the World Trade Center at that time, and I suppose we still bash them whenever

it is convenient, and perhaps deservably so -- but yet we have apparently not really moved off dead center in terms of developing, on an analytical basis, what we can do to solve the problem. That is what frustrates me. Maybe I'm placing too much of a burden on you. Maybe it is a responsibility that goes beyond us. You know, I don't know. It just seems to me that 12 years later we have three alternatives, which are the same three we had 12 years ago, except we are 106 miles further away now. We haven't improved our monitoring, but, you know, we will be able to do it better when we get to 106 miles.

MR. McCANN: Well, the only comment I would make is, most of the responsibility certainly rests with the generators of the material. There have certainly been delays in them working to develop other alternatives. In fact, even the implementation of the 106-mile site, although not the ultimate answer-- There have been considerable delays in even having that being utilized to eliminate the 12-mile site as a disposal site.

We can look at, and try to work on the development of technology, and we can try to push and drive and take enforcement actions as necessary to move the generators of this material into looking at other options. One of the things that I know you have heard for many years now is the responsibility here vis-a-vis DEP/EPA and controlling and regulating. While anyone had a permit as issued by EPA to allow them to dispose in the ocean, they had a legal -- they continued to have a legal avenue for that disposal, which would preempt, I think, any actions that we would be able to take to have them do otherwise, because they have been endorsed by the regulatory agency that is charged with those responsibilities. So, that has been a frustration for us, to be able to have this thing move in a more positive direction, on a more expeditious schedule. I share your frustration.

SENATOR VAN WAGNER: I know you do, George.

SENATOR PALLONE: Okay, let me just see if-- As far as the wood-burning is concerned, and I know Senator Van Wagner mentioned the effects of air pollution and the creosote, and I know EPA has been doing studies on that, I think we wanted to focus today primarily on enforcement in vessel source pollution, the monitoring of the barges, whatever. I think you went into that in some detail, but I do think we are going to have to have another session just on the whole wood-burning issue. We would need EPA here to do that, so I think we will just move on from that.

I wanted to just mention briefly, though, with regard, again, to the monitoring of the dumping, the same problems that exist with the sludge dumping-- Do you perceive similar problems with the dredge spoils at the six-mile site? Is it basically the same phenomenon in terms of the monitoring or lack thereof, or is this a different situation?

MR. McCANN: I don't believe EPA is performing any more, or any limited monitoring of the dredge spoils site. I know we are not doing it. I don't believe there are any routine inspections being done at that site, so I would say similar problems -- the potential for problems can exist there.

SENATOR PALLONE: I know, George, you wanted to get into a little bit about the larger question of vessel source pollution from ocean-going vessels. You mentioned the MARPOL Convention. Did you want to comment on that briefly?

MR. McCANN: Yes. The Department undertook a study where we hired Admiral Price, who has spent many years in the maritime industry, to make an evaluation of the potentials for disposal of garbage, floatables, other waste materials, from ocean-going vessels. The report has been completed. It is currently in print, so we can make it available in the next week or two.

SENATOR PALLONE: We would certainly like copies of that for all the Committee members.

MR. McCANN: Absolutely. We intend to get it to you as soon as it is available. I think the strongest thing that would indicate, is that if we could have your support, and that of the entire Legislature, to move the U.S. Congress to enact the Annex V Amendment to the MARPOL Agreement, that would then look to ban the disposal of these materials from the ocean-going vessels. There are-- I believe the numbers are in the hundreds per day of vessels that enter and leave New York Harbor -- the New York/New Jersey Harbor -- everyday. Much of the material is disposed of just outside the three-mile site. It is continuously disposed of as they travel across the ocean, but part of the reason they dispose of it, we found out, has to do with some of the laws governing checks by the Federal agencies of the cargo on the ships and inspection of the ships. If it is disposed of, of course, it doesn't have to be categorized or tested or anything else as to what its source was, and so on. Therefore, it is disposed of out in the ocean, thereby doing away with the matter for the vessel.

We would look to have that not be the case. The material will either be disposed of properly-- In many cases, ships use incineration as a technique on the vessel itself as they travel across the ocean, or they keep the material on board and then have it disposed of in port, once the vessel arrives there.

SENATOR PALLONE: This Annex V, is there any movement on that in Congress at this point?

MR. McCANN: Not enough, certainly, that we are aware of. We think it would be most appropriate if we could take a strong position to encourage the U.S. Congress to move quickly on it.

SENATOR PALLONE: Maybe another thing we, as a Committee, can do, is send a letter to our congressional delegation, asking that there be movement to have that ratified. We will follow up on that, as well.

Now, this deals with mostly large commercial ocean-going vessels, as well, I guess, as pleasure crafts. But, there aren't too many cruise ship-types. You're talking about large ocean-going vessels -- right? -- that are going to South America, Europe, whatever. You're not talking about the small crafts.

MR. McCANN: Well, the pleasure crafts leave everyday for trips to Bermuda, the one-day cruise to nowhere, and so on.

SENATOR PALLONE: Yeah, but they are the large cruise ships. That is what I'm saying.

MR. McCANN: Oh, yes, yes.

SENATOR PALLONE: We're talking about the large ships, either tankers, large cruise ships, whatever.

MR. McCANN: The focus was on larger ocean-going vessels, not the individual pleasure crafts.

SENATOR PALLONE: The small crafts that we have that go out into the ocean or into our harbors-- This doesn't apply to them, but to what extent is that regulated by the State or by the Federal government?

MR. McCANN: The different concerns on the crafts would be sanitary wastes and how those are handled on a small pleasure craft. They are supposed to be policed by the U.S. Coast Guard or by the marine police from the State troopers. They are supposed to have adequate devices on the vessels. That does not, I guess, say that they are not used. It is difficult to monitor their use while they are out in the ocean.

SENATOR PALLONE: I know, yeah.

MR. McCANN: The other types of concerns are litter or other materials that are thrown overboard. I think some of the things that have been done in enacting legislation dealt with the six-pack holders being made only of a plastic substance that would disintegrate after exposure to the sunlight in 12 hours. That has helped to deal with some of those things. It does not prohibit it, certainly, from being brought in from other states, and that kind of thing.

SENATOR PALLONE: I realize we can't monitor every yacht or rowboat out in the water, but I am just wondering if you have any general suggestions to the Committee about needs for increased enforcement or legislation with regard to pleasure crafts.

MR. McCANN: I think the real key to the pleasure crafts is to look to educate the users -- the owners -- of the vessels about what harm they are doing. They have a pleasure craft to enjoy it when they go out on the water, and you can't very well enjoy it if your props are fouled by material that is disposed of off the side of the boat. I think we are trying to make an effort to have people be more aware of it. We are looking to have posters put up at marinas as an education technique. We are trying to work with Tourism and other groups who are interested -- other boating groups we can find to work with -- to have a better understanding that this material just shouldn't be thrown off the side of their boats. It becomes a problem for them or a neighboring vessel user.

SENATOR PALLONE: The only other thing we did want to mention today is, has the Department taken a position on the request by duPont to renew the dumping of chemicals at, I guess, the 106-mile or nearby site? Have you taken a position on that, because I know that legislators feel very strongly -- I can't speak for everyone, but I think in general -- that those permits should not be reauthorized? There is a hearing coming up, I believe, in July, to deal with the reauthorization. I am just wondering if DEP is taking a strong position against that, and I would hope they would.

MR. McCANN: We have not come out and taken a position on that, but it is something we will assess and look to, to take a formal decision on.

SENATOR PALLONE: Is there any reason why you wouldn't be opposed to it? I mean, it doesn't seem to be of any benefit to the State of New Jersey.

MR. McCANN: I quite agree that it does not appear to be of any benefit, which would suggest that there is no reason why we would support it. But we have not taken a formal position.

SENATOR PALLONE: Are there any other questions of DEP? (no response) Is there anything else you wanted to add about the general topics we discussed?

MR. McCANN: Maybe just to highlight a couple of other things that are under way. We have continued to do our monitoring program of the beaches with detailed monitoring and assessment of the treatment plants. This has been very successful. I brought some additional copies on that which I will leave with you. Tremendous focus is now being brought to non-point source contributions. The Department has again come out with some publications to try to educate the general public and to work cooperatively with local municipalities to begin to address these problems, all of which have contributed to the quality of the water -- to the detriment of the quality of the water.

The other activity we have initiated is on the floatable studies, to look at the problems we experience on the beaches -- the material. We have already conducted, first literature searches, and secondly, the beach surveys and the classification of the different debris we have found on the beaches. We are now identifying the target sources -- potential sources -- that we want to look at for these different floatable materials. Then we will look to set the floats actually from these various points in the next few weeks, and have those put out.

One of the things we want to have people appreciate as we put out the floats is that we need a bit of cooperation from every beach-goer, because they will be tagged, and we need to at least identify what beaches they arrive at, so we can look at the sources that contributed to those. We are looking at

the various areas in the harbor area, including landfills and so on, and all of that is currently under way. So, we are taking a lot of steps; I would like to think aggressive steps, to try to identify these problems so we can deal with them. There is more that needs to be done. I think we have done a considerable amount over the last couple of years, certainly, to deal with these problems. We will do everything we can to either eliminate, or certainly reduce beach closures in New Jersey.

SENATOR PALLONE: I appreciate that with the floatables, because, as you know, we did have a separate hearing just on that, up at Woodbridge that time. I think the study is very important.

I just wanted to ask you-- I understand you have added more monitoring with regard to the weekly testing that you are requiring the local health officials to do to monitor for more things, or-- What exactly is that?

MR. McCANN: That is related to part of the health effects study. We are looking at a different testing mechanism, which would be the intercocci test, as opposed to the fecal coliform standard. It is a different measure.

SENATOR PALLONE: Is that being utilized now? Are you requiring them to do this different kind of testing?

MR. McCANN: In select areas, we are having them do that. We are trying to make a comparison to see if there is any link between one level and the other, as the appropriateness of using that as a measure of bathing water quality. So, it's more a study phase -- an assessment phase -- that we are in now. If, in fact, it is demonstrated that it is a more appropriate standard, either in and of itself or in conjunction with existing standards, we will then look to moving to have those adopted for the future.

SENATOR PALLONE: For the next year.

MR. McCANN: But right now we are making those assessments.

SENATOR PALLONE: In terms of the time period, you still begin testing when, and you finish when? When are you requiring the towns to do the testing from? ... think of MR. McCANN: We begin May 1 and we continue through to the end of September.

MR. EVENSON: The second week in September.

SENATOR PALLONE: And it is still once a week?

MR. McCANN: Yes.

SENATOR PALLONE: You have not toyed with the idea of doing it more than once a week? You don't feel that is necessary?

MR. McCANN: Well, we have chosen what would be the peak period at the beginning of the week -- peak potential for finding problems -- by going out there right after the weekend periods. Of course, we go out there, and if there is any indication of elevated levels, we bracket out the area where we found those, and we go out and verify those samples. So, I think it represents a--

SENATOR PALLONE: Do we still have the hot line?

MR. McCANN: Yes, we have the hot line. The number is a toll-free number.

MR. EVENSON: It's 1-800-648-SAND.

MR. McCANN: SAND.

SENATOR PALLONE: We asked you for the 800 number, right?

MR. McCANN: Yes, you asked us for the 800 number.

SENATOR PALLONE: Gee, a solid accomplishment.

MR. McCANN: It was not easily done.

SENATOR PALLONE: Okay. Are there any other questions? (no response) All right, thanks again. Would you be able to stay and listen to some of the other testimony in case we have questions, because I know that a lot of the environmental groups that are here are probably going to have some questions? I don't know if they would be addressed

directly, but maybe at some point you could be called up again. Would that be all right?

MR. McCANN: I would be happy to stay.

SENATOR PALLONE: Okay, thanks a lot.

I think we will go on for at least another half hour or so before we take a break -- or maybe even an hour before we take a break. Mr. Joseph Przywara? I am probably not pronouncing your name correctly.

J O S E P H J. P R Z Y W A R A: You did a very good job.

SENATOR PALLONE: Mr. Przywara is from the Ocean County Health Department. I know he is particularly concerned, because he had the biggest problem this summer.

MR. PRZYWARA: That's true. Thank you for the honor of appearing in front of this Committee.

I think the hearing is important, because many of the concerns of Ocean County, especially those related to floatable materials or other kinds of materials, are indeed valid concerns. Ocean County has been aggressive over the years in developing programs to assure some of the best water quality for the residents and for the visitors. Back in 1977, there was a surface water quality project which was initiated under 208, which is a Federal implementation law, wherein the county developed 57 sampling points throughout the whole county. We sampled biweekly -- or bimonthly -- for some year and a half period for some 15 separate parameters. It is still an ongoing program.

Several years ago, in conjunction with DEP and the U.S. Geological Survey, a groundwater ambient water quality study was also initiated, and it is still ongoing.

Ocean County has shown concern about its water quality by initiating a County Utility Authority that is responsible for the collection and disposal -- the collection, treatment, and disposal -- of all of the sewage generated in Ocean County and parts of southern Monmouth County. They have three sewage

treatment plants, all of a secondary nature. As previously said, they are not disposing of their materials in ocean dumping.

Many of the comments I have will be repetitive of what the Committee members have asked DEP, and I think it is important that they have been asked before, because it shows there is a necessity to be addressed.

One of the things I think is necessary is incentive. Incentives, either negative or positive, punitive or monetary, have to really be looked at. Monetary maybe for giving financial aid to develop a process to get it out of the ocean, or solving the problem. Punitive, because if you are an abuser, you should pay for it.

SENATOR VAN WAGNER: I agree. Form a partnership where it is possible, and punish people who do not live up to it.

MR. PRZYWARA: That is correct. Again, a good point of partnership -- which Mr. McCann just addressed -- is the Coastal Cooperative Monitoring Program, that is done in conjunction with DEP.

SENATOR VAN WAGNER: That's a good start.

MR. PRZYWARA: The focus in relation to the recent materials floating up on the beach-- There was very quick action on the part of DEP, the County Health Department, and EPA. I think there were some 700 or so samples taken in the matter of a four-day period. That is an astronomical amount of work for several agencies to put together. Fortunately, what it proved, even though the materials came up on the beach, was that the water column, or the water itself, was identified to be within acceptable standards at all times.

I think it is necessary that there be some method developed to ensure that the boats, the barges, etc. go to their point of destination. I heard about the black box. Some boats have it. I wasn't familiar with it, but I have learned a

lot today. I notice now that there are eight frequencies sent out and you can track it. But, unfortunately, there are those boats that do not have the black box, and we don't know where they are going to.

I think that if there is some methodology, such as with the wood-burning barges, that a representative from DEP should go along. I spoke to one of the people in the audience, and he was concerned with one of the New York sites that disposes sludge. Maybe there is a potential for an inter-agency agreement with EPA, that DEP may monitor those boats.

I also learned something with reference to sludge disposal on the tops and bottoms of the sludge tanks. I didn't realize there was a reason for the 12-mile site and a reason for the 106-mile site. I think that is really important now, because when I sat and talked to DEP on where this particular material may have come from, and we speculated a lot, one of the things was that maybe it went out to the sludge dumping site. Now, I never realized in all of our conversations how that may have gotten there by being improperly pumped out of the sludge digesters and put on the wrong boat going to the wrong destination. I think it is a necessity that someone go to those sites with those boats to see that it doesn't happen again.

I think Ocean County took a real big black eye because of that sludge material. I know the tourism industry really suffered for it. It is not the fault of Ocean County.

SENATOR VAN WAGNER: I might add, Mr. Chairman, it is a fact that Ocean County has probably one of the most sophisticated utilities operations in the area of sewerage disposal. I think it is the second largest, isn't it, behind Bergen, or is it bigger than Bergen?

MR. PRZYWARA: I couldn't tell you that for sure, but they are right up there at the top.

SENATOR VAN WAGNER: They work very hard at it, I know that. And you can make the Coast Guard Auxiliary, and maybe there could be some kind of communication set up with the pleasure cruises and boaters, whereas if any materials are seen floating, or in large masses, there could be some reportability. I know there is something such as you said, Senator Pallone, with reference to someone who was boating and had problems with floating water and stuff like that. I think it is imperative that if there is any kind of a strange slick -- be it an algae slick or whatever -- seen out there, that there be some method of reporting that, possibly to DEP, as we did in this particular case with the Ocean County incident. They went up in helicopters, and a representative of Ocean County went up in a helicopter, to see what we could see visually from the air. In one particular case, where we thought we had two slicks because of the foaming material, we were pleased to hear later on that they were algae masses, which were previously spoken about. But I think something has to be developed in that area.

The last topic I have was also addressed -- the small pleasure boats and the large cruise vessels. I think there should be some look into-- If the large vessels, be it the major cruise boats that go on several-day trips to nowhere-- There should be something looked at to see if there is some possible method of land-based disposal of all of those materials.

SENATOR VAN WAGNER: That is what they call them now -- a cruise to nowhere, right? They have special cruises to nowhere.

MR. PRZYWARA: I realize that. We know of one ship that went on two cruises to nowhere right before the incident, so we wonder if that wasn't somehow related. But I think that

has to be looked into. As Mr. McCann said, that is being looked at.

I think it is important, too, that with the regulatory approach, we have an educational approach. I get in many arguments with boaters in the Barnegat Bay about their abuse of the Barnegat Bay waters. Fortunately, I happen to know people who have lived in the Barnegat Bay area for a long time, who would not be guilty. You know, it is sort of like a dog not going where he sleeps. But the problem is, we have a lot of boaters on the bay who are weekend boaters or seasonal boaters, who just come down for a short period of time. I am not necessarily convinced myself that they are treating the waters properly. They may be dumping their heads directly in and throwing the garbage over, etc. I think there is a necessity for a public education campaign to bring these people into the proper perspective as to what they should be doing with their materials. I think the potential for having dump stations along the marinas should be looked into, where people could pump their boats out, and then that material could be collected and properly disposed of at a treatment facility.

I tend to be very short at times, and I am finished early. I would just like to say that Ocean County has held its ocean waters in the highest respect, and we would like to see that other people keep them the same way.

Thank you.

SENATOR PALLONE: Thanks a lot. I appreciate your coming down, because we did want to focus on what was happening in Ocean County in particular. Hopefully, as a result of the hearing, we will be able to look into some of these things -- the increased monitoring and enforcement possibilities that were mentioned today.

SENATOR VAN WAGNER: I also congratulate you for a nice, concise paper. Well done.

MR. PRZYWARA: Thank you. I would just like to mention again something that the Senators asked about. I think all of these cooperative programs between DEP and the local and county health departments have been really an essential part of ensuring good ocean water quality. We have always tried to assist in the monitoring program. We worked with them on the floatable program. It is our intention to keep doing so.

SENATOR PALLONE: There is no problem with the municipalities or the county handling that -- right? -- at this point. I mean, they haven't experienced any difficulties. I know that everyone always complains that we put more requirements and regulations on the towns, and we don't provide the money, but I guess this is not something that is posing a problem.

MR. PRZYWARA: In this particular case, it isn't, but that is a problem, and we are all aware of it. As a sideline, I happen to live in Plumsted Township next to Colliers Mills, and one of our philosophies is, why is DEP always dumping on Ocean County? When northern Jersey had the problem with the solid waste, we got it in Ocean County. Now we're getting the radon. But, that is another issue.

SENATOR PALLONE: All right, thanks again. Thank you for coming down.

Just so you know a little bit of the order, we are going to have Dr. Mytelka next, from the Interstate Sanitation Commission, and then Cindy Zipf, from Clean Ocean Action, will follow Dr. Mytelka.

D R. A L A N I. M Y T E L K A: Good morning, Senator Pallone and Senator Van Wagner. My name is Dr. Alan I. Mytelka. I am Director and Chief Engineer of the Interstate Sanitation Commission.

SENATOR PALLONE: Do you have a copy of your remarks?

DR. MYTELKA: No, I don't have a copy of my remarks, but I do have a letter to read to you. I was going to say that

before I deliver some of my remarks, I have been asked by our Chairman, Mr. Frank Pecci-- He is the Chairman of the Interstate Sanitation Commission. He is from New Jersey. There is a rotating chairmanship of our Commission at two-year intervals. Mr. Pecci has asked me to please read this letter to you prior to whatever remarks I have to make:

"Dear Senator Pallone: I am taking the somewhat unusual step of asking ISC Director, Dr. Alan I. Mytelka, to read this letter to you for the record, because it is on a matter of the greatest concern.

"It is a matter of concern to the environment of New Jersey. It is a matter of concern to my Commission and, as Chairman of the Interstate Sanitation Commission, it is a matter of deep personal concern to me.

"I feel so strongly about this that I think it best if I express my feelings now, at the beginning of my tenure as Chairman. For, as Chairman of an impartial tri-state agency that is proudly entering its second 50 years of environmental progress, I want it made emphatically clear that I will brook no obstacles to that progress.

"At the Commission's recent quarterly meeting, I was both chagrined and upset that I did not get the expected support from New Jersey DEP on our budget request for next year. I was told that, on instructions from the DEP Commissioner's office, the New Jersey DEP representative was directed to abstain. This is especially upsetting, for as you are aware, DEP Commissioner, Dr. Richard T. Dewling, also wears a second hat as one of our Commissioners.

"This follows on the heels of remarks -- attributed to DEP and ISC Commissioner Dewling -- suggesting that the very Commission he has a statutory duty to serve on, the ISC, is superfluous and ineffective. I can only hope there has been a misunderstanding about our Commission -- yes, the same Commission which has performed many services for the State --

and at the request of Dr. Dewling's Department -- over the years.

"It is incumbent upon me to note that during Dr. Dewling's years as Deputy Regional Administrator and Acting Administrator of Region II of the U.S. EPA, little progress was made on vital issues which the ISC always has fought for, such as year-round disinfection and strict effluent requirements, while at the same time, the EPA encouraged such negatives as 301(h) variances.

"I would feel badly if the negatives of Federal service and any misconceptions about the ISC held by EPA were introduced into State government.

SENATOR PALLONE: Say that again, please.

DR. MYTELKA: "I would feel badly" -- this is Commissioner Pecci talking -- "if the negatives of Federal service and any misconceptions about the ISC held by EPA were introduced into State government. As a tri-state environmental agency, the ISC enjoys working in a spirit of cooperation with DEP in New Jersey. Clearly, it would be unproductive and a disservice to New Jersey to have any negative attitudes on the Federal level filter down and interfere with the nourishment of our traditionally close relationships.

"In accepting my Commissionership from Governor Kean, and as Chairman of the ISC, I feel a deep sense of responsibility to see that, as an impartial monitoring and regulatory agency, the ISC plays its full role, as mandated by the Compact. Let it be emphasized that the ISC will honor its obligations and pursue its goals with undiminished vigor and without compromise. This I pledge you.

"Aside from environmental considerations, for both the Commission and for me, it is a matter of the greatest concern. It is a matter of our integrity. Sincerely, Frank A. Pecci, Chairman"

Why don't I give you this letter?

SENATOR PALLONE: Yeah. Before you go on to your comments, I wanted to make a comment. Senator, did you have any comments?

SENATOR VAN WAGNER: I am somewhat chagrined by a letter like that, when we are dealing with a solid waste crisis in this region of immense proportions. We are dealing with a toxic waste problem that probably-- I don't know if it will be solved in my lifetime. And you're saying to us -- or Chairman Pecci is saying to us -- that over the course of time there has been a negative attitude in relationship to the Federal government, and apparently he is implying very strongly that the same attitude is now infiltrating the State of New Jersey DEP.

DR. MYTELKA: My reading of the letter was that he has said there -- and I think it is something you ought to pursue with him -- that the Federal EPA--

SENATOR VAN WAGNER: Or are you saying you are dissatisfied with Region II administration. I got confused by that.

DR. MYTELKA: We are talking here about the EPA Region II and his attitude toward the Commission. He feels that it is filtering down to the State level, which would be upsetting. I think it is--

SENATOR VAN WAGNER: Has anybody on the Commission ever come forward before this, under the circumstances that have occurred for years and years now, and directly pointed out that there is a lack of interest in Region II and the Interstate Sanitation Commission?

DR. MYTELKA: Well, our relations with EPA Region II are something that is pursued by the Commission with EPA Region II as an independent Commission. What I believe the Chairman is saying is, what goes on between us and Region II is something that we need to straighten out with them, as he has expressed it in the letter. I think this is something you

ought to express directly to him. He would not like to see that kind of an attitude filter down to affect our relationship, which has been a traditionally close relationship, working with DEP in New Jersey.

SENATOR VAN WAGNER: Does he have any reason to feel that way?

DR. MYTELKA: Judging by the letter he wrote, besides the remarks attributed to the present Commissioner, I think he was particularly upset about the abstention of the voting in terms of the Commission pursuing funding from the State of New Jersey next year, and there may be other things. I think that is something you ought to take up with him. Senator, I will let him know of your personal interest, and yours, Senator Pallone, and I will have him contact you.

He asked me to deliver this letter to you. I am doing that. I have remarks pertaining to the agenda here, but he told me he just felt so strongly about it-- He asked me, but it's like when I was in the Army. When a colonel asked me -- and I was a lieutenant--

SENATOR VAN WAGNER: I understand.

DR. MYTELKA: He asking was-- He said, "I want you to deliver that letter, and read it at the hearing," and that is what I have done.

SENATOR VAN WAGNER: Okay, thank you.

SENATOR PALLONE: The only thing I want to say, Doctor, is, when you appeared, both before the Assembly and the Senate during the budget process, there was a request for-- Well, I guess there is almost always a request for increased funding for the ISC. The question has come up about whether or not the ISC should be funded at all, maybe we shouldn't have an ISC, and all that. My feeling, primarily based on conversations with you and the fact that you have been before this Committee, as well as the Budget Committee, is that, you know, if anything, we should encourage the ISC, and should

provide more funding for the ISC, particularly since the action that took place within the last few weeks -- which maybe you are going to comment on -- where you and your staff, as executive -- you know, in terms of daily administration -- are going to have more opportunities now to hold public hearings, and hopefully follow up with some enforcement action on the raw sewage issue and other issues.

I see the ISC as a very important third party, in a sense, between the Federal government and our own State DEP. I would, in no way, want to imply that this Committee does not see the need for the ISC and the need for expanded powers and opportunities for the ISC. You have been very cooperative with this Committee. When we first started, you indicated that you would be willing to join with Woodbridge Township in a suit against New York City, with regard to the Fresh Kills Landfill. I know the ISC has been a party to that suit, and is pursuing it with the Attorney General. You have been to every Committee meeting we have had, and hopefully this new power that you and your staff will have in terms of hearings and enforcement opportunities will, you know, even bring forth more support for the State of New Jersey.

I don't know if you are going to comment on that in the context of today's hearing, but if you would like to, go ahead.

DR. MYTELKA: Well, I would like to comment on some of the things that recently took place at the Commission.

SENATOR PALLONE: Okay.

DR. MYTELKA: I would like at this time, I think, to turn to the remarks of our Chairman, not my remarks. That is something he wanted to get off his chest to the Committee and put on the record.

Before I start, I would like to just address something that came up before in this morning's testimony regarding the appearance of plastics and other floating debris on the beaches

of Ocean County, and the possible sources of them. Even though Ocean County is probably 100 miles south of our district, which, as you know, extends only from the northern part of the State down to Sandy Hook and Sandy Hook Bay, and then out on to Long Island, nonetheless, some of my Commissioners read in the newspapers or heard on the radio that New York City was at fault. These are some New York City Commissioners, and they wanted to know why I didn't go out and do battle. I told them, "Hey, this is something that took place down there."

I would like to take this opportunity to talk about the solids that got onto the beaches there. Now, I haven't seen those solids. I assume they were plastics of one sort or another. To my knowledge, it has not yet been definitively assigned to source as the sludge dumping grounds roughly 12 miles offshore. But, let's assume for a moment that that is at least a place where some, or a good part of it did originate.

In terms of what is dumped out there at the 12-mile site, in the State of New York, the State of New York still puts a good portion of its sewage out there, and it is at least supposed to be getting out by the end of the year. It is sewage sludge out there. Now, in the State of New York, the screenings, that is, the first stage of sewage when it comes down the sewage interceptor into the plant-- There are big rakes there. They are called screenings. That removes the plastics, the Tampon applicators, the condoms, and all of the other kinds of floating materials.

The City of New York takes those solids -- those plastic floatables -- and disposes of them on its landfill -- out at Fresh Kills, as a matter of fact. So, the sewage sludge that is deposited out in the ocean -- now at 12 miles, and hopefully soon to be out at 106 miles; well, that is supposed to be a temporary site also -- those kinds of plastics that have been getting onto the Jersey beaches, at least did not come from New York from that source.

SENATOR VAN WAGNER: They get on the Raritan Bay beaches.

DR. MYTELKA: Pardon me?

SENATOR VAN WAGNER: They come off the Fresh Kills Landfill and get on the Raritan Bay beaches.

DR. MYTELKA: Well, that is another-- I'll get to that.

SENATOR VAN WAGNER: I want you to know you are being very fair about it.

DR. MYTELKA: I will talk about Fresh Kills shortly, what we are doing, and what is going on with that case. I know you are very interested in that, Senator.

SENATOR VAN WAGNER: Yeah, I have been on Fresh Kills myself.

DR. MYTELKA: You have asked me some very pointed questions last time, and I would like to carry forth very quickly.

SENATOR VAN WAGNER: Thanks, Doctor, I appreciate that.

DR. MYTELKA: In the northern part of the State of New Jersey, whether you call it the Consortium, or whatever -- those sewage treatment facilities -- the same solids that get onto the rakes in New York get onto the rakes, or the bar screens -- call them what you want -- on the first part of the treatment facility, and they are removed. Now, it is my understanding that those solids then go into the sludge and are disposed of with the sludge at sea by the New Jersey communities.

My understanding is also that that is because there is either a State law or regulation prohibiting those screenings from being deposited on landfills in the State of New Jersey.

SENATOR VAN WAGNER: No.

DR. MYTELKA: I am just telling you that that is my understanding. If I am incorrect, I stand corrected.

SENATOR VAN WAGNER: No, not under the Solid Waste

Management Act or any other bill or law or regulation that I know of.

DR. MYTELKA: Well, I certainly would stand corrected, but I would suggest, though, that it be found out where the screenings from the treatment facilities in the northern part of New Jersey go. At least as a temporary measure until everything gets out to 106 miles at sea, it should not go out to the 12-mile site. Since it is separated already on the screenings, it would not seem to make too much sense to reintroduce it back into the sludge.

SENATOR VAN WAGNER: I am not sure whether the waste stream waters that are promulgated by the Department of Environmental Protection direct those screenings to any particular spot. I don't know.

DR. MYTELKA: It has just been my understanding, though, that they do not go to the landfills.

SENATOR PALLONE: So we understand what we are talking about, when George was here before, he suggested that it may be -- although we have to look into it further -- that the material that caused the Ocean County beach closing was a barge that was supposed to dump at 106, but dumped at 12, and that was the washout from the sewage treatment process.

DR. MYTELKA: I believe I heard it is from the digesters, which is the end of the treatment facility -- from the sludge.

SENATOR PALLONE: All right. Are you suggesting that in New York State material cannot be dumped at sea?

DR. MYTELKA: What I am suggesting is, in New York -- at least New York City; Westchester and Nassau Counties go out to 106 miles, so that is not an issue now--

SENATOR PALLONE: Right.

DR. MYTELKA: --those screenings are not placed in the digesters -- do not get into the digesters -- and do not get into the sludge barge in any other way, because those screenings are trucked directly to the landfill.

SENATOR PALLONE: But then in New Jersey we don't do that?

DR. MYTELKA: That is my understanding at least. So, if I am correct in what my understanding is, then it might be worthwhile to see that those screenings are not introduced into the sludge or onto the sludge barges.

SENATOR VAN WAGNER: I don't think that is correct, though.

DR. MYTELKA: Well, then, as I say--

SENATOR PALLONE: George, if you want to comment, go ahead, but I suggest that you come up here so we can have your comment recorded.

Let me start off by saying that I am not looking to get into a New York versus New Jersey battle here.

DR. MYTELKA: I don't think it is.

SENATOR PALLONE: Dr. Mytelka is from New Jersey anyway; he is not from New York. But, in any case, we do want to get to the bottom of this.

SENATOR VAN WAGNER: This is a processing question.

SENATOR PALLONE: Yeah.

SENATOR VAN WAGNER: It has nothing to do with New York or New Jersey.

SENATOR PALLONE: Okay.

MR. McCANN: The comment I want to make is, of course, you know, we look to see screenings being a likely source of the floatables, to ensure that they are being properly handled and are not going into the sludge material. Similar techniques of bar screens, or different screening devices, are used at New Jersey facilities. The material is collected. Some of it is being disposed of by landfill. Edgeboro and HMDC are both being utilized by some of those facilities in that part of the State. In one case, it is actually burnable material that does go into an incinerator and is burnt. It is permitted to be done so.

I would suggest to you-- What I was saying earlier, was that despite the best design of screening devices and so on, there are some materials that find their way to the end of the process. They are not perfect, by any means, and most of them -- the vast majority of them -- are eliminated through the earliest steps in the treatment system. But some of the materials do find their way into the sludge, and they accumulate when they are in the digester. When it is washed out, you have the accumulation of the material that has floated in there, and it is a concentrated amount.

SENATOR PALLONE: But do both New York and New Jersey, then, use the digester and have to have it washed out periodically and taken out to sea?

MR. McCANN: You routinely have to maintain it, yes. But we do--

SENATOR PALLONE: And both states do, in fact, take the material out to sea, then, at that stage?

MR. McCANN: Yes.

SENATOR PALLONE: All right. Go ahead, Doctor. Let's continue.

SENATOR VAN WAGNER: Now we've cleared that up.

SENATOR PALLONE: Well, in other words, both states dump the stuff. So, it's--

DR. MYTELKA: There is no doubt about it. Both states are putting that sludge out there.

SENATOR PALLONE: It would be nicer if neither did, but go ahead.

SENATOR VAN WAGNER: They dump it one place or the other.

DR. MYTELKA: That certainly is true.

SENATOR PALLONE: Now that we have established that, go ahead.

SENATOR VAN WAGNER: They don't have much choice.

DR. MYTELKA: I think what I would like to do is focus on a few of the things the Commission is doing, to aid you in your understanding. In terms of the monitoring enforcement we do, we do coordinate our monitoring here in New Jersey with DEP. The monitoring we do in our district -- Raritan Bay, the Hudson River -- is done on a coordinated basis with them, so there is no overlapping, and the greatest benefit is gotten from it. That has been ongoing for years, and we are continuing to do so.

Also, in terms of the monitoring of the effluence from the treatment facilities, we get together regularly with DEP personnel. Our staffs get together to discuss who is going to be sampling what and when, so there is no overlap. That has worked out very well, and that is continuing.

In terms of the enforcement, at this past Commission meeting, procedures were adopted by the Commission to allow, in a more modern vein, enforcement hearings to be held by the staff, with recommendations then to the Commissioners as to any actions to be taken. Heretofore, in the last year or so, we have gone directly into court several times, and I want to touch on what the status of that litigation is, shortly. Nonetheless, litigation in court is a long procedure. It is costly. You are at the mercy of what the judge is going to do and when he is going to do it. We felt, at the Commission, that a more efficient way of handling it would be to hold hearings. So we adopted procedures to allow everybody due process of law. Basically, it would allow for negotiations over a short period of time. If that fails, then, as Director, I receive authority from the Executive Committee -- I don't have to go back to the full Commission -- for hearings. I make recommendations to the Commission, and the Commission can take its action in a short period of time. We are hoping it is going to speed up the enforcement proceedings and the cleaning up of the waters in particular areas we are going to be looking

at, to use this technique. It is raw sewage. The potential is for over-building, or building in places in which the infrastructure is not yet in place. So, rather than have to wait until something is in and operating, and then go into a court procedure, we will try to prevent the added pollution by taking Commission action before construction, or before completion of the construction.

Also, leachate from landfills, or the potential for it-- This is an area where we are going to be looking to use this technique of hearings, in order to further pollution abatement.

SENATOR PALLONE: Let me just stop you there for a second. I know we are getting off the hearing a little, but we did deal with this at a previous time, and I think maybe we can get an update at this point.

As a result of the hearing in Woodbridge, we did have the problem with Tottenville, and I know that you -- and I suppose the Commission as well -- were influential in getting DEC to reimpose the moratorium on Tottenville.

DR. MYTELKA: That is correct. That is for new construction.

SENATOR PALLONE: Which is an example, you know, of the type of thing you are discussing, where you have new construction and it is not linked to a sewage treatment plant. But you still have the raw sewage problem in Tottenville.

DR. MYTELKA: That is something we think will be amenable. The present raw sewage that is going on, and that at present projections, as expressed by the City of New York at least, will be going on for at least another seven years, and only as short as seven years if they can get the permits and if they can find the money-- Handling that kind of a situation -- the ongoing pollution -- I think would be very amenable to this kind of a hearing process and enforcement.

SENATOR VAN WAGNER: Do you think they will get it built before they finish repairing the Belt Parkway, or is it the same 30-year time lap?

DR. MYTELKA: Since I may very well be a hearing officer at that, I do not wish to comment on it at this time, Senator.

SENATOR VAN WAGNER: I didn't mean that.

SENATOR PALLONE: Let me ask you, Doctor, just briefly-- We know we still have the raw sewage problem from Tottenville and Staten Island because of the buildings or residences that were there before--

DR. MYTELKA: That is correct.

SENATOR PALLONE: --the moratorium was put on it. Where else do we have raw sewage coming from New York? Is it just Tottenville and Staten Island, or do we still have the problem at Brooklyn and Manhattan?

DR. MYTELKA: No, there is no more raw sewage coming out of Manhattan. The North River Plant, although it is a primary plant, is treating it and disinfecting it. The Red Hook Plant went on-stream approximately a month ago. There is no more raw sewage coming out of Brooklyn. There is a very small amount of raw sewage still going directly into Jamaica Bay, and that is being handled by the city now.

SENATOR PALLONE: Now, that's Queens?

DR. MYTELKA: That's Queens. To the best of my knowledge -- and I say the best of my knowledge; I am sure there may be one small pipe here or there that someday will turn up -- there is no raw sewage coming out of the State of New Jersey, at least into our district.

SENATOR PALLONE: So the main problem, then, is Staten Island?

DR. MYTELKA: In terms of raw sewage. We view 700,000 or two million gallons a day -- whichever number you want to express -- as being significant. Others make it less, though.

But we at the Commission think it is significant; it is not minuscule. What we need to do, and what we are aiming to do, is, in as short a period as possible, have a definite plan -- a definite signed agreement -- as to when it is going to be removed. I can't tell you when it will be. The process is in motion now.

SENATOR PALLONE: You feel that because of this new hearing process, that you are going to be in a position to step that up?

DR. MYTELKA: That is correct.

SENATOR PALLONE: And if it doesn't work out, you get a signed agreement, and are going to have a hearing?

DR. MYTELKA: Well, I hope there is going to be a signed agreement without a hearing; otherwise, it will be a signed agreement, I would hope, with a hearing.

SENATOR PALLONE: What kind of a time period are we talking about?

DR. MYTELKA: I will be evasive, and say shortly.

SENATOR PALLONE: Okay.

SENATOR VAN WAGNER: What is the problem, hooking up-- What is the problem?

DR. MYTELKA: The treatment plants there, by the way, are operating very well.

SENATOR VAN WAGNER: Very well, right.

DR. MYTELKA: Port Richmond and Oakwood Beach are monitored and they are well-operated plants. The problem is, their interceptors aren't there, and part of the problem is due to EPA's holding it up for 10 years, arguing about whether there should be a gravity or a pumping system.

The other problem has to do with, I suppose, from the City of New York's point of view, that they would like to construct things at their schedule and in what they conceive to be their cash flow situation. I don't think that is necessarily what a regional perspective on a reasonable time schedule should be.

SENATOR PALLONE: Let me just understand, though. In other words, the capacity is there with the existing plant.

DR. MYTELKA: The treatment plants are there.

SENATOR PALLONE: And the capacity is there to take in everything that is built.

DR. MYTELKA: Absolutely.

SENATOR PALLONE: It is just a question of hooking up.

DR. MYTELKA: Hooking up from the houses that are there to the plant, which is--

SENATOR VAN WAGNER: Here's what you've got.

SENATOR PALLONE: I know. You've got this--

SENATOR VAN WAGNER: You've got this great bureaucratic debate going on in EPA for 10 years over whether you should use gravity feed or-- What was the other one?

DR. MYTELKA: Pumping.

SENATOR VAN WAGNER: Now, this is really a high-level debate. You've got to know this. You know, it's a joke. That's what it is. It is an absolute joke.

DR. MYTELKA: Well, that situation is over. It is past, Senator. The question now is, how fast can we get the City of New York to build these interceptor sewers?

SENATOR VAN WAGNER: Fund it. They have the capacity. They don't need EPA's money.

DR. MYTELKA: We are entering into negotiations with the City on this.

SENATOR PALLONE: I understand your point.

DR. MYTELKA: I don't want to be any more specific at this time.

SENATOR VAN WAGNER: I will tell you what we are going to get to do here in this State of New Jersey, ultimately, and I don't really like to say this, because I like to see interstate cooperation. I know you have worked toward that, Doctor, and I have a great deal of respect for you. But, we are going to get to the point, ultimately, where this

Legislature is going to pass some strong legislation, for a change, and it is going to say, "This is a resource of the State of New Jersey" -- whether it is the Raritan Bay or the ocean. And we are going to put the Attorney General on there, along with officials of the various communities, and we are going to say, "Now, each day that this resource is damaged, we are going to levy penalties" -- whether we ever collect them or not -- and ultimately those penalties are going to affect the credit rating of whatever jurisdiction has had that action taken against it

And what we are going to have, instead of interstate cooperation, is interstate war. That is the shame of it all.

DR. MYTELKA: Senator, I share your frustration. I submit that at least in the last couple of years, our Commission has become more active in this. I think you ought to hold off just a little longer to see whether we succeed or not.

SENATOR VAN WAGNER: I hope so.

DR. MYTELKA: If we don't, I can't blame you for doing what you are suggesting.

SENATOR PALLONE: All right. Let me just understand, though, you're saying that shortly you expect to have some kind of an agreement, and then we will have the hearing pursuant to these new procedures.

DR. MYTELKA: What I have done with my staff-- These procedures were only passed last week at the Commission meeting.

SENATOR PALLONE: Right.

DR. MYTELKA: A week and a half ago, at this point in time. I have been meeting with my staff. We have been laying out what our priorities are. There is obviously more to do than we can do, or anybody can do. We are laying out our priorities as to what we think needs to be done. I can assure you that the elimination of raw sewage is right up there at the top of the priorities.

SENATOR PALLONE: Once this agreement is reached, though, how long, approximately, would it take to eliminate the problem? I mean, you talk about a schedule pursuant to the agreement. How many years, approximately?

DR. MYTELKA: I would suggest to you, without wanting to prejudice any hearings, that that will not take place overnight. It would be, I think, at least several years, in all candor. But several is not necessarily seven, or longer. Whatever we sign will be open to public scrutiny, and if you feel we haven't done what we should be doing, I am sure you are going to be calling me up before you, and saying, "What did you do that fool thing for?"

SENATOR PALLONE: That's true. Okay, go ahead. Let's move on to another topic.

DR. MYTELKA: Other areas that are ongoing now, which I want to touch on-- Regarding the suit we have joined Woodbridge and the Attorney General on against the City of New York, Department of Sanitation, based upon what has happened and what we asked for in our court papers, about a receivership if the City is not willing to build that transfer station, the City is asking for relief from the judge from that order. They don't want to have to build it any more on the water. They have until sometime in July of this year to get their papers in. We will then have a very short time thereafter to respond to it. I can't respond to what I haven't seen yet. The City has been in touch with me: "Are you people dead certain? Are you sure that when you wrote those papers that is really what you meant to do?" I assured them that we did not write them for our good health, that we meant every word we said.

If they can come up with a quicker way of getting something done-- I am not particularly interested in whether it is cheaper or not. I am not interested in public moneys, whether it be here or New York, if they are spent unwisely. If they can get something done quicker, so much the better. Otherwise, let it be, and let the judge's order stand.

SENATOR PALLONE: Has the New Jersey AG been involved in-- I mean, have you been cooperating with them on refuting, or going against this--

DR. MYTELKA: During the discovery period that has taken place, there has been very good cooperation between ourselves, the Township of Woodbridge, and the AG's office.

SENATOR PALLONE: They have been resisting this in the same way?

DR. MYTELKA: They have been pursuing the process. There has been a lot of discovery, meaning you question everybody and their sons over there to try to find out who said what to whom and when, and what the internal process of the City is.

SENATOR PALLONE: But I'm saying, the AG has been resisting this request by New York, as well, to avoid the receivership.

DR. MYTELKA: Well, it was we who asked for it, not the AG, and I don't want to speak for the AG's office on that. I would say there has been very good cooperation between us and the AG. I think we are all waiting to see what rationale the City uses as to why it should not build this enclosed unloading facility. Then we will take it from there.

SENATOR VAN WAGNER: At the Fresh Kills?

DR. MYTELKA: At Fresh Kills.

SENATOR VAN WAGNER: That is going to solve our problem with floatables in Raritan Bay, isn't it?

DR. MYTELKA: It ought to go a long, long way towards it. I am not trying to hedge, but, you know, there may be-- Such things as combined sewers do add at least some proportion.

SENATOR VAN WAGNER: Do you barge the floatables that come off the digesters? Are you barging them or trucking them into the Fresh Kills Landfill?

DR. MYTELKA: That is trucked.

SENATOR VAN WAGNER: It's trucked.

DR. MYTELKA: As far as I know, it is trucked.

SENATOR PALLONE: In other words, the next stage of this is going to be in July, when New York files and gives their rationale for not needing the receiver -- the--

DR. MYTELKA: For not needing to build this covered facility.

SENATOR PALLONE: To build the facility, okay.

DR. MYTELKA: Then we will have a short time thereafter to respond to them as to what we think about what they say. I can't comment on what we are going to say, because I don't know what they will say.

SENATOR PALLONE: Okay.

DR. MYTELKA: All I can assure you of is that we are pursuing this as quickly as the courts allow and as due process allows.

SENATOR VAN WAGNER: Isn't the Fresh Kills Landfill already over capacity?

DR. MYTELKA: No.

SENATOR VAN WAGNER: If it were in New Jersey, would it be over capacity?

DR. MYTELKA: I don't know what regulations New Jersey would put on it. There is a statutory limit, or at least there is a limit, on the height on that landfill of roughly 506 feet, or 510 feet. I have forgotten the exact number. They are well below it.

SENATOR VAN WAGNER: It's 510 feet.

DR. MYTELKA: Okay. They are well below it, so the landfill is not at capacity.

SENATOR VAN WAGNER: Have you seen the Fresh Kills?

SENATOR PALLONE: I understand that when it reaches capacity, it will be higher than the Highlands. That is what I was told. We will have a new Highlands.

DR. MYTELKA: I would like to say something which I said last time--

SENATOR PALLONE: We could put a lighthouse on it.

DR. MYTELKA: --which I am sure none of you like to hear. I don't like saying it, but I think I ought to say it, though.

SENATOR PALLONE: No, you shouldn't.

DR. MYTELKA: I don't think the question is, will it reach 510 feet? I think the question is, what will that 510 feet consist of? Will it consist of garbage -- almost exclusively -- you know, debris, which it is now, or will the life span of that landfill be extended because it will be filled with some garbage, but a lot of ash from resource recovery facilities? That is the one place the City essentially has left to it to dispose of anything within its boundaries, and they have not been any more successful in finding other communities in New York State to take their solid waste, than communities in New Jersey have been successful in taking their waste from one community to the other.

SENATOR VAN WAGNER: Doctor, I want to ask you a very pointed question.

DR. MYTELKA: Yes, sir?

SENATOR VAN WAGNER: We know -- I think most of us are aware -- that the Fresh Kills Landfill and its location present a potential problem for many communities in New Jersey, particularly in the Raritan Bay region. And, of course, by implication, that could directly affect some oceanfront communities, although primarily the problem has been experienced by Raritan River and Bay communities -- primarily.

You just made a very important point -- a point which I at least think is important. That is, as resource recovery facilities begin to develop, that landfill will be used as a backup landfill for the disposal of ash, along with the tons and tons of garbage that are being dumped there each day.

DR. MYTELKA: Theoretically, the garbage gets less as the ash builds up.

SENATOR VAN WAGNER: Is there a coordinated, working relationship between the State of New Jersey, the City of New York, the Interstate Sanitation Commission, and any other players in that development, that will somehow or other ensure that we will not create a very hazardous and critical situation by overloading that landfill, either by virtue of ash or garbage?

DR. MYTELKA: Let me tell you the position the Commission has taken on this: Although in the process which has just started up again from the Brooklyn Navy Yard resource recovery facility -- that has just started up again--

SENATOR VAN WAGNER: We have Battery City Park, or whatever the hell it is called.

DR. MYTELKA: Well, there are others. We have taken the position that if the ash is put within our district -- because theoretically the State of New York may still find someplace to put some of that ash in upstate New York, but I wouldn't count on that, really-- Our position has been that that ash ought to be treated as if it were hazardous, and that wherever the ash is put, it be put into a secure landfill, rather than just put on land, so that when it rains, and rain goes through it, the leachate will go into the receiving waters and create a problem. That is our position. It has been our position and it is our position. It is the position we will be putting forth at those hearings.

We cannot require, in the permits-- The Commissioner of New York, who issues that permit-- We cannot require what he should put in the permit. Our position is, this is what he should do, because if he doesn't, we will be in the position of having to wait for a problem and then having to go in ourselves and take action -- the Commission. We are trying to forestall it by getting him, in the permit he issues, to recognize the potential problem of that ash, and to make the landfill a secure landfill for it.

SENATOR VAN WAGNER: At Fresh Kills?

DR. MYTELKA: If it goes into Fresh Kills, it ought to be that Fresh Kills be made secure for that ash.

SENATOR VAN WAGNER: Is Fresh Kills lined?

DR. MYTELKA: At the present time, no. As I indicated before--

SENATOR VAN WAGNER: Will it be lined? Will the new disposal areas contain liners? Will it be subject to the same state-of-the-art requirements that New Jersey landfills are now subject to?

DR. MYTELKA: Are you talking about for garbage or for ash?

SENATOR VAN WAGNER: For anything. I am assuming that you would never even think about disposing of hazardous materials at a landfill.

DR. MYTELKA: Well, what we are suggesting is, whether ash is classified legally as hazardous or not, you consider it as if it were, in terms of leachate, to avoid any problems in the future. The present landfill is not lined. One of the things we are looking at -- the staff of the Commission -- is-- One of the areas of concern to us is leachate, whether it be potential leachate coming into Cheesequake Creek, or the leachate from Fresh Kills. And there are potential leachate problems in other parts of our district. At our Commission, we cannot require linings as a regulation. What we can do, though, is do our best -- and we are doing our best -- to see that there are no water pollution problems caused by it. But we don't have the authority to go in there and say, "You must put in a liner" -- into any landfill. I am talking about the Commission now. We cannot do that. We can have discussions, and we have had, and will continue to have, some with DEC about this type of an issue. But I can't tell you we are going to do something that we don't have the authority to do. I wouldn't want to mislead you that way.

SENATOR PALLONE: Please go on.

DR. MYTELKA: Another area of litigation -- as you know, we are involved -- has to do with Hudson County. The status of that litigation is -- These are several communities, including the Hudson County Utilities Authority. Effluence from there does get down into a mix with the city's effluent and does come along the Jersey shore. So, there is, and should be, an interest on the part of the shore communities in what is going on in northeastern New Jersey, in terms of treatment abatement there.

I just finished signing an affidavit yesterday, as the responsible official on our Commission, for certain proceedings before the court. Shortly, the judge is going to be issuing a decision as to either accepting or not accepting -- whether, in fact, he is convinced there are problems there, and there is a finding of guilt. If he does that without the need for a trial, fine, because then we can get on to the issue of remedies so much sooner.

My understanding is that some of the communities there may wish to -- as is their legal right, of course -- argue that they are not guilty. That would be a shame in a way, even though they certainly have a legal right to, because it would just prolong the day when we are going to get the abatement done. We will have to wait and see what they do. It would be a shame in a way if they didn't allow this thing to go on faster, because one of the things that might force our Commission to do then, would be to hold hearings regarding the development that is going on there, as to where the effluence from that construction would be going. We certainly don't want to be in the position of countenancing any more poorly treated effluence going into our waters.

SENATOR PALLONE: Well, Doctor, this is an issue that hasn't been raised before this Committee before. I am not that familiar with it. You're talking about the upgrading of the primary treatment, then--

DR. MYTELKA: The upgrading of primary--

SENATOR PALLONE: --and the lack of capacity?

DR. MYTELKA: Well, there are two things involved: One is the upgrading of primary. It is primary treatment there, and so far I haven't seen the first shovel of dirt turned, in terms of construction.

SENATOR PALLONE: For secondary?

DR. MYTELKA: Yes. I was greatly criticized -- our Commission was, I should say, because I do not take it personally -- at an appropriations hearing, about why we are not suing New York more, and why are we suing Hudson County?

SENATOR PALLONE: But you're suing them in order to upgrade from primary to secondary, and increase capacity then. Is that basically it?

DR. MYTELKA: I would think there would have to be a capacity increase, but certainly to get it up to what the Commission's effluent requirements are and to have those plants built, meeting those requirements.

SENATOR PALLONE: There are no plans at this stage to build any plants?

DR. MYTELKA: Well, there is a lot of paperwork going on. There are a lot of plans going on. There are a lot of promises going on, which have been going on for 18 or 20 years, I guess -- maybe even longer. But, so far, the construction hasn't started yet, nor have I seen definitive plans signed off by, let's say, ourselves, EPA, the communities that are going to build them. That is why the litigation is going on, to get them to build them. That is why we joined EPA's suit, to ensure that not only is it done, but that it is done to meet our requirements also, to ensure that what we are requiring, and what we required of plants such as Passaic Valley and MCUA in New Jersey and the City of New York -- the same ethical requirements they have, these communities will have. We want to make sure that there isn't going to be any lesser treatment afforded to them.

So, this litigation is going on. As I said, hopefully, based upon what I signed, and some of my staff signed, in terms of affidavits, and what is going on in terms of EPA, the judge will shortly issue a ruling -- I am hopeful -- saying that on the face of it they are guilty, and now let's get on to the remedy part of it, which is, what are they going to build, and when are they going to build it? Then let's get on with the building.

If, in fact, the communities contest the guilt and want a trial on the guilt part, of course, that is going to prolong things. That would be a shame, because it is just going to be that much longer until we get the pollution abated. We will see what we can do at the Commission to hurry things along if, in fact, that should happen. So, I don't want to prejudge that.

SENATOR PALLONE: Okay.

SENATOR VAN WAGNER: I have to tell you that I find this bizarre; I really do. I've got to tell you, I really find this bizarre. I'm sorry, but I have to tell you. It is bizarre to me, the point we are reaching now, where both states -- whether through their Governors, who have all sorts of bistate authorities, agencies, you name it, commissions, and everything like that -- and we have not, together-- We have not, together, developed some kind of criteria for establishing, together, some type of an approach to solving what is probably the most serious problem we have between the two states -- one of the most serious, at least.

DR. MYTELKA: Well, unfortunately, we have arrived at a solution. The unfortunate--

SENATOR VAN WAGNER: But we're suing; we're bringing, you know--

DR. MYTELKA: Yeah, that is the unfortunate part. Whether it be the Legislature, the Executive Branch, or a commission such as ours, empowered-- That is what we are. We

are an agency of the states -- of both states, or all three states, in a broader sense. Unfortunately, though, we have not reached the point -- maybe it is fortunate in some respect-- We just can't go in and say, "By golly, you are going to build it tomorrow." The local communities which bear a large part of the financial burden of building, as well as almost all of the burden of operating these things, for various internal reasons, are not just jumping for joy at the thought of spending tens of millions of dollars building facilities. So, it is unfortunate that in our system -- and I don't mean to be pontifical about it -- in our system of government, these communities have to be sued before they build. Whether it is the smallest community, or the largest community, they just don't come forth and say, "We are going to do it." What they are saying is, "We are only going to do it when you put the pressure on us to do it." That is the system we have. Since that is the system, I view our Commission's function as to put the pressure on them to do it, and that is just what we are doing, as forcefully as we can.

SENATOR VAN WAGNER: Well, your Chairman sent us a letter today. He said he was upset about the fact that DEP abstained on a vote relative to his funding, and he expressed, you know, some serious concern, if not outrage perhaps. Over the long course of the history of this whole thing, which we have discussed many times, why wouldn't it have been of interest to someone to express that outrage about the foot dragging, etc., and bring the Governors of both states together, along with the communities, and say, "We are going to get this done, or you are going to go to court. We are not going to be able to develop--" Or, I assume that was said in various ways.

DR. MYTELKA: It probably wasn't said as exclusively as that. What I said today was, at the Commission I think we have put our house in order, in terms of what our procedures are for holding hearings to do this. What we said at the last

Commission meeting -- and what I have said here is -- we are prepared to do it, if it is necessary; in fact, we are doing it. That is why I would hope that this litigation in Hudson County goes along quickly now, so that we are not forced -- I am talking about the Commission now -- to take the alternative route of saying, "You are not going to be able to have any of these hookups going, and then what are these buildings going to do?"

SENATOR VAN WAGNER: Did you offer any incentives, or suggest any incentives, along the way?

DR. MYTELKA: I think the incentive is-- The incentive to the community, I think, is-- We are not a source of funding. The incentive is that if you don't--

SENATOR VAN WAGNER: No, but you could recommend, though.

DR. MYTELKA: Well, the incentive to the community is, do it; otherwise, some of the construction you want to go on may not be able to take place as rapidly as you want it. I think that is the incentive to the community.

SENATOR PALLONE: Okay. Is there anything else, Doctor, because we do want to move on?

DR. MYTELKA: I would like to move on, unless there are any other questions.

SENATOR PALLONE: No, I mean do you have more topics?

DR. MYTELKA: I have a few things I want to say about dredge spoils.

SENATOR PALLONE: Okay. One of the things-- I know we don't have much time, but maybe that is going to link into the question of vessel source pollution. I know you are not -- that you do not have much authority -- or I don't think you have a lot to do with the vessel source problem.

DR. MYTELKA: No, we do not.

SENATOR PALLONE: But if you have anything to add-- I would like to hear any comments about that, as well as the dredge spoils. Go ahead.

DR. MYTELKA: One of the areas of dredge spoil problems is, of course, New York Harbor. It is necessary that that dredging go on. It is necessary for the vitality of the harbor for both of the states -- New York and New Jersey. It is necessary for commerce to go on to maintain our position in terms of being able to trade. The problem has been, where do you put the dredge spoils? The Corps of Engineers has had a multi-year study going on -- we participated in it, as well as the environmental departments and various Federal agencies -- as to what to do with it.

We have sent a letter to the Corps of Engineers, recommending that they develop new burrow pit areas. In other words, the present burrow pits that exist there -- these were pits where sand and gravel were mined at one time-- There is a lot of contentiousness as to utilization of them, either because it may spill over into adjacent or close-by navigational channels, or have effects on some of the communities, both in New Jersey and Staten Island, in terms of added mishaps there. What we have recommended is that they develop new areas for burrow pits -- the sand that is mined there then is an added resource -- and that this get on and be done with, so we don't spend the next five years trying to find a place to put the sludge spoils, and so that the harbor itself just fills up with silt.

Other potential areas, whether you build new islands out there-- I just don't think that would go anyplace, although it does have some merit. It has been talked about for 20 years, and it has not gone anyplace.

SENATOR VAN WAGNER: Twenty-four.

DR. MYTELKA: All right, 24 years. Upland disposal of dredge spoils is just not going to go. We are talking now about the materials that are considered hazardous in nature, not just, you know, the clean bottoms. So, rather than go into a series of litigations for the next umpteen years with

environmental groups or government groups, we have recommended that the Corps designate some new burrow pit areas,--and let's get on with the process. We have written to the Corps to that effect, and have put ourselves on record on that.

SENATOR PALLONE: That is your preference?

DR. MYTELKA: That would be our preference. Let's get on with the job, rather than just making more studies and having more talking about it.

SENATOR PALLONE: I don't want to cut you off. I just want to ask one thing, though: Is it possible for the ISC-- I am not suggesting that we would want to do this, because, you know, it probably would be better for DEP or EPA-- I mean, EPA has the responsibility. It might be a good idea for DEP to take on some of that responsibility in terms of monitoring and enforcement of vessels. Would the ISC's compact prevent it from getting into that type of thing? You don't deal with that because of your compact basically?

DR. MYTELKA: In theory, we could do something about it within our district. As a practicality, we don't have all the vessels. We certainly would help if we could -- help DEP and EPA, maybe, in coordinating some of it, if that would help. But, in reality, we do have limited resources. I think there are things we could do which are much more important, that the individual intrastate agencies, for instance, are not equipped to do, or empowered to do. We ought to do more of what we ought to be doing. And, while that is important, I think we should leave that to the agencies that are better equipped to do it.

SENATOR PALLONE: Okay. Are there any other questions?

SENATOR VAN WAGNER: Nope.

SENATOR PALLONE: Thank you for coming down again. I appreciate it.

DR. MYTELKA: Thank you very much, Senator.

SENATOR VAN WAGNER: Thank you, Doctor.

SENATOR PALLONE: Cindy, I would rather have you before we break for lunch.

CINDY ZIPF: Great.

SENATOR PALLONE: So, I will have Cindy Zipf, from Clean Ocean Action; Derry Bennett, from American Littoral Society; and Stan Raymond. Where is he from?

MS. ZIPF: He is from Ocean County Citizens for Clean Water. He is from one of the groups that was in touch with you.

SENATOR PALLONE: Okay. Why don't you all come up now, and we will hear from you?

SENATOR VAN WAGNER: And that's it?

SENATOR PALLONE: Yeah. We may just be able to--

SENATOR VAN WAGNER: You can do the whole thing, Frank.

SENATOR PALLONE: We may not even have to break for lunch. But anyway, you go ahead. I don't want to interrupt you, or cut back on your presentation.

MS. ZIPF: Shall we go boy, girl, boy, girl?

STAN RAYMOND: I just have a brief statement. My name is Stan Raymond. I am President of the Ocean County Citizens for Clean Water. I want to read you a statement we put out the week of the contamination: "The members of the Ocean County Citizens for Clean Water are extremely concerned about the sewage contamination that forced the closing of our beaches. As this highly visible health threat follows our shores, we insist that a full-scale investigation be accomplished to determine the source of the waste and, if appropriate, punish the polluter.

"If irresponsibility or deliberately malicious dumping are found to be the source of this unwanted reminder of the consequences of using the ocean as a cesspool, the offenders should receive all of the severest possible penalties.

"The OCCCW believes it is a mistake to simply assume that this waste has come from any one source, such as an errant offshore barge, without absolute proof. This incident should

receive as much, or more, effort from regulatory agencies and public investigative officials as other shore area pollution problems."

I just want to add one thing that I think is extremely ironic. Our group has been working on the Ciba-Geigy outflow pipe line which discharges toxic chemicals 2500 feet off of Ortley Beach -- we have been doing this for three years -- but it takes a visible show of pollution to make people worried about what is going on at the beaches.

SENATOR VAN WAGNER: It's more show biz.

MR. RAYMOND: Yeah. We have known, and have tried to make the public aware of the fact, that toxic pollutants that are not visible to the eye, in the form of four million to nine million gallons a day, are being pumped off the beach -- 2500 feet as I said. This effluent was termed, by DEP, to be the most mutagenic effluent ever tested by the DEP. Last summer's test showed that this effluent reaches the beach once every three to four days. Okay?

Now, we think that that could have drastic effects on the hundreds of thousands of beach-goers who use those beaches 20 miles up and down Ocean County all summer. Maybe we need to put a dye or something else into the effluent that makes it yellow, red, or orange, so that people can see that the effects do reach the beach. If we could get some action such as this hearing today, we might have some help against a silent killer, whose carcinogens take 20 years to act. They are poisoning our children for years to come.

SENATOR VAN WAGNER: You know what I suggest on top of that, if that is the proper way to do it? I suggest we have a daily penalty for each day that there is not a movement toward mitigating that. I guarantee you that once strong economic measures are put into place, and lead to the ultimate prosecution of people, we will get some real action.

MR. RAYMOND: Well, we have a 35-count indictment the Attorney General is working on right now. We hope that will come to fruition.

SENATOR VAN WAGNER: Yeah, I know that. I have been following your work down there fairly carefully in the newspaper.

MR. RAYMOND: That is really all I have to say, except I would like also to encourage the Senators here to heed the request of the Environmental Federation, of which we are a member, to include in their budget moneys for enforcement that were deleted from the Assembly version of the budget, so that some of these enforcement efforts can take place.

SENATOR PALLONE: Let me just say on that, Stan--

SENATOR VAN WAGNER: Appropriations.

SENATOR PALLONE: As you know, those -- not all of them, but I guess a good portion of them -- increased enforcement resolutions were suggested to the Senate Committee, I guess, back in April, or maybe it was May. I did put in a lot of the resolutions. We have had meetings-- Well, actually, we had a meeting yesterday with the Federation people, to try to make sure that the conference budget we adopt between the two houses does have all, or at least a significant amount of the increased money that would be necessary for those enforcement measures. I can't say, you know, exactly how much is going to be in the final budget, but I think a major effort is being made to put in a lot of it.

The only thing I was going to ask you about-- Maybe it is premature, but I know that Cindy had requested, or had talked about one of the hearings we were going to have this summer focusing on toxics. I was thinking more in terms of pre-treatment. But, Cindy, is what he is suggesting in terms of Ciba-Geigy linked to what you had in mind? Do you have a comment on that?

MS. ZIPF: It is certainly linked. However, I think the complexity and the outrageousness of some of the things that Ciba-Geigy is doing should perhaps be the focus of just one Committee hearing down in Ocean County.

SENATOR PALLONE: Well, maybe that is one thing we will add to consider. I mean, we don't know exactly how many hearings we are going to have, but I will add that to the list of things to consider for the summer.

MR. RAYMOND: I think it is really important, and we might consider doing this as rapidly as possible, since in the Superfund final phase, or feasibility study, one of the recommendations we feel possibly may come out of what's going on, is that the Superfund water that is being treated, or pumped out of the Superfund site, be put through the pipe line. If that happens, we think the New Jersey Legislature should go on record as opposing that as a solution to the problem. But we fear that may be one of the recommendations.

SENATOR VAN WAGNER: What do you mean by "Superfund water?"

MR. RAYMOND: The Superfund site which exists at the Ciba-Geigy site--

SENATOR VAN WAGNER: Yeah, but I mean-- Oh, you mean the runoff from cleanup?

MR. RAYMOND: --over 100,000 barrels -- the cleanup method to be used may be-- The solution may be to purge that groundwater and just put it through the pipe line.

SENATOR PALLONE: Well, we can talk to the three of you afterward about exactly what we should be focusing on in that respect.

SENATOR VAN WAGNER: In other words, the solution to pollution is pollution.

SENATOR PALLONE: All right.

MR. RAYMOND: That is correct.

MS. ZIPF: Circumvention, and then pollution and delusion.

SENATOR PALLONE: Go ahead.

SENATOR VAN WAGNER: George, you'll get a chance.

MR. McCANN: Thank you.

MS. ZIPF: I am Cindy Zipf. I am the Coordinator of Clean Ocean Action, which is now a coalition of 75 organizations throughout the region concerned about ocean pollution issues. The coalition networks to over 200,000 individuals. For the past three and a half years, we have been focusing on ocean dumping and other coastal sources of pollution.

It surprises me tremendously that we have to sit here and hold these hearings on the monitoring of the dump sites we have off our coast, and not talk about why we shouldn't have those dump sites off our coast. This is the only place in the country where these dump sites exist. I find it appalling that we are constantly talking about, "Well, how can we monitor these sites? How can we deal with these sites?" These sites are here because of errors long ago, and we are simply continuing that precedent. I think it is time that the State of New Jersey takes a hard line against dumpers. Much of the waste generated and dumped in the ocean originates in the State of New Jersey, and we are spiting our face constantly. I think it is time that the State of New Jersey take a hard line.

I commend this Committee, because through this Committee some of this gross mistakes have been identified, and legislation has followed, that perhaps will begin to identify and attack some of those sources of pollution.

SENATOR VAN WAGNER: But you see the importance of the educational component of this. As George McCann said, once you say we are not going in the ocean any more, then you have to begin to convince people in other areas of the State -- all right? -- that it is feasible to locate either incineration facilities, lined landfills, or other kinds of facilities. I think that along with that educational process, if we put in

place a strong component for pre-treatment-- Okay? I have suggested and I have introduced legislation along the lines of dioxin and related substances, that we develop a consortium, the ultimate goal of which would be to build a facility in this State which can test and analyze and assess the kinds of materials that are being generated here, and to make a determination as to which ones can, in fact, be safely disposed of in an incinerator or a landfill -- lined properly -- which ones have to be handled in a very careful fashion, and then sit down and discuss with other states how we can reach an agreement in the proper way to dispose of this.

We have spent 20-some-odd years talking about this.

MS. ZIPF: I agree. I think, also, at the same time-- I think that when we get into that toxics hearing with regard to toxic wastes and pre-treatment and things, I think the real solution is source reduction, recycling, and--

SENATOR VAN WAGNER: Without question.

MS. ZIPF: --waste identification -- just identifying which materials there are no alternatives for, or which are just too hazardous to really do anything with, and just not allow them in the State of New Jersey any more, or anywhere.

SENATOR VAN WAGNER: Get an educational process.

MS. ZIPF: Right. I think to go on just specifically with a problem area-- We all know the problems, but I think in terms of monitoring enforcement, I was very shocked, again, at the limit of monitoring, which is basically no monitoring at all, and no surveillance. The Coast Guard has a tremendous job that it is entrusted with -- monitoring all of the New York bight and all of the dumping and all of the vessels coming in and out of that port facility, and the drug traffic, and everything else. Meanwhile, their budget is cut drastically.

At the last Senate hearing, the Coast Guard presented testimony which stated that their Category B -- which includes all ocean dumping of sewage sludge, the 106-mile sludge site,

the Mud Dump site, and the wood-burning-- They try to get a 10% monitoring rate. In other words, 10% of those materials dumped are monitored by the Coast Guard directly. The rest are passively monitored. Sewage sludge alone -- just sewage sludge -- in 1986, there were over 2582 dumps. That is a tremendous number of dumping activities going on out in our open ocean that are basically unmonitored. I think the State of New Jersey, considering the fact that these things are taken off its shores, has to take a direct role in the monitoring of that activity.

SENATOR PALLONE: Cindy, you then think we should look in the direction of having the State do something similar to what it is doing with wood burning now, that we should maybe take over some of the roles the Feds now have, and try to monitor?

MS. ZIPF: I think so. I think the bottom line is, if it is going to be dumped in the ocean -- I don't agree that it should be dumped in the ocean, but if it is going to be dumped in the ocean -- it should, at minimum, be materials that we would all want in our back yards, and it should be policed the way you would want anything to be policed on land. The fact that we can dump things and do things out in the ocean that we would never allow here in the State on our land, is appalling -- absolutely appalling.

SENATOR PALLONE: I am just wondering, you know-- We don't have the EPA here today, but we know the main responsibility for the monitoring, if there has even been any -- or whatever monitoring there is--

MS. ZIPF: And surveillance.

SENATOR PALLONE: --has been Federal.

MS. ZIPF: Right.

SENATOR PALLONE: With the wood burning, there was that precedent set of the State taking over some of that Federal responsibility. I am just wondering if you think maybe we should pursue that for some of these other dump sites?

MS. ZIPF: I think so, but I don't think at the cost of the State. I have some suggestions that--

SENATOR PALLONE: Okay. Go ahead; I didn't mean to interrupt you.

MS. ZIPF: Okay. If I may semi-quote out of context--

SENATOR PALLONE: Do whatever you like.

MS. ZIPF: --the Surgeon General, barring abstinence--

SENATOR VAN WAGNER: Why not?

MS. ZIPF: --prevention is part of the solution. Much of the waste, as I said, is generated in New Jersey. I think here the Senate can take an aggressive stand against those generators of waste. For instance, duPont. There is a duPont plant, known as the Greselli (phonetic spelling) plant in Linden, New Jersey, which generates waste, takes it off our coast, and dumps it into the ocean. I think the Senate should take a strong arm and write a letter to the president of duPont, and take an aggressive stand against duPont for seeking additional permits.

In addition, Allied Chemical Company is also dumping acid 15 miles off Long Branch. They should also get a very strong, hard-handed letter from the Senate, opposing what they are doing.

SENATOR VAN WAGNER: You know what they could have done? They could have taken a lot of the money they put into the budget to force us to change the products liabilities laws, and utilized it to try to upgrade some of their facilities. That would have been a great idea. You've got some good thinking. You ought to write to the corporate structure there.

SENATOR PALLONE: You know, we have -- not to stop you again; I feel like I am always stopping you-- As far as duPont is concerned -- and this is true, I think, of the wood burning as well -- there are what we call resolutions -- Senate resolutions, Senate joint resolutions, and other assorted non-binding recommendatory type actions that are there, either

that have been passed or are at different stages during the Legislature-- You know, the problem is, they do not have any force of law. And, of course, this Committee already said we were going to write a letter to duPont, and I know that I and other individual members of the Committee have done that.

MS. ZIPF: Right.

SENATOR PALLONE: But I guess, even with duPont--

MS. ZIPF: I think, take a very public stand.

SENATOR PALLONE: Yeah, but is there anything we can do with duPont, other than, you know, our SJRs and our SRs?

MS. ZIPF: You can request, again through resolution and letters to EPA that they deny the permits to duPont. EPA has set a precedent for undoing what they have done with the ocean incineration hearings. They proposed--

SENATOR PALLONE: What I meant to say, though, was, other than our calling upon the Federal government to take action. I mean, since the plan is in New Jersey--

MS. ZIPF: There could be an investigation as to how much duPont does for the State of New Jersey. Does the State of New Jersey hold any contracts with duPont? Are there any transactions that take place between the State of New Jersey and duPont that can be looked into, and then, therefore, not do business with duPont if they are going to dump on the State of New Jersey and in the State of New Jersey waters.

There is a tremendous charter boat industry that depends on that 106-mile site canyon fishing area.

SENATOR PALLONE: Is there some way, Cindy, because it is starting in New Jersey, that we can prevent the ships from actually taking the material out?

MS. ZIPF: Well, it is a Federal permit, and one of the things -- as I go on -- that the State of New Jersey can do, is to start taking a strong position on the things that do emanate from its lands, requiring, as your bill has -- the State of New Jersey -- the industries to produce clean sludge.

The sewage sludge generators in New Jersey should have clean sludge by 1991, clean being that material we would all want to put on our gardens and our lawns. ~~That material is not clean and we want to~~ SENATOR PALLONE: What I meant, though, is, if you remember with the ocean incineration--

MS. ZIPF: Yes?

SENATOR PALLONE: --since the ships were being ported, either in Philadelphia, or wherever they were--

MS. ZIPF: Right.

SENATOR PALLONE: --there was some talk about the State having the jurisdiction to prevent the material from leaving port.

MS. ZIPF: Okay, I see where you are heading, and that is next.

SENATOR PALLONE: Since this plant is in New Jersey, I wonder if we can stop it from going out to sea.

SENATOR VAN WAGNER: It's in her statement.

MS. ZIPF: One of the things that has to go on -- which I will get into -- is the consistency determination under the Coastal Zone Management Act, which is what EPA had to get from DEP, in order to conduct ocean incineration proceedings.

SENATOR PALLONE: Do you need a similar one for duPont dumping?

MS. ZIPF: Well, all of the dumping sites -- all of the dump sites -- where a vessel leaves the waters of a particular state to do something off the coast which could impact the coastal waterways, have to get a consistency determination. So, in other words, a sludge dumping site had to get a consistency determination from the State of New Jersey. The wood-burning site has to get a consistency determination from the State of New Jersey. So, with all of these things, somewhere there should be a consistency statement from the State saying it is okay. I think that those consistency determinations should be reexamined by this

Committee, and once those consistency determinations are reexamined, that they include strict enforcement, similar to what is being done with the wood-burning operation.

However, I think if, as George McCann goes back to find out how much this is costing -- in other words, how much does it cost for that boat to follow that wood burning-- Is it coming out of my tax dollars and the citizens' tax dollars? If so, I find that absolutely appalling.

SENATOR PALLONE: It has to be. Who else is paying for it?

MS. ZIPF: It should be the wood burner.

SENATOR PALLONE: No, I know, but I'm saying, right now, you can be sure you are paying for it.

MS. ZIPF: Right. Well, I should be sure that I am appalled that I am paying for it. I think clearly that part of the consistency determination should be that the permittee pay for the State of New Jersey to be insured, either through following vessels, or through other types of surveillance, that the actual activity that is permitted is taking place in the correct manner.

SENATOR PALLONE: So, even though you would prefer to have the State, as a third party, do the monitoring, you would like the vessels, or the company, to pay the State to do it?

MS. ZIPF: Oh, absolutely.

SENATOR PALLONE: I am just trying to clarify, because they are more than willing to monitor themselves, but that is not what we are talking about.

MS. ZIPF: No, we are not talking about self-monitoring. We know what that causes.

SENATOR PALLONE: George, do you want to comment on this consistency determination, because this has always been an unclear area to me. I know it came up in the context of the incineration of toxics at sea, but how does it play into duPont, for example?

MR. McCANN: The consistency determination-- There is a limit, and it is six miles, as I understand it, that other parts of the Department control. So, when we look at the sludge dumping site, it is beyond the limits we would look at. When you look at the wood-burning site, it is also beyond. Certainly the vessels go through the area--

SENATOR PALLONE: Yeah, but that's not-- During the debate over ocean incineration, the question was about the State making a consistency determination about the vessel traveling through New Jersey waters. I don't understand what you are saying. That was the whole issue, that it was inconsistent with our coastal zone policy to have this vessel carrying this material through our waters, because it might spill and cause all kinds of problems. Do you have to do the same thing with these other--

MR. McCANN: I can look into it. It is dealt with in a different part of the Department, but I will look into it. I am not aware that they gave any consistency determinations for sludge dumping because the vessels were going through waters that we--

SENATOR VAN WAGNER: What do you charge them, George?

MR. McCANN: Excuse me?

SENATOR VAN WAGNER: What do you charge them? What is their permit fee? No permit?

MR. McCANN: I don't believe there is for those types of activities. I don't think there is anything issued, not to my knowledge.

SENATOR VAN WAGNER: Why don't we charge them, maybe \$25,000, \$35,000?

MS. ZIPF: More than that.

SENATOR VAN WAGNER: I think we have to start somewhere, you know.

SENATOR PALLONE: Is there any way-- We know for example -- I go back to duPont, which I asked you about

previously-- You know, duPont applies to EPA for the permit, and they have the public hearing. We send letters saying it is awful, and we pass Senate resolutions saying it is awful. Is there anything the State of New Jersey can do, given that duPont's plant is located in New Jersey, and that they have to take the material from there and take it out to sea through New Jersey waters? Because the plant is located on New Jersey property on land, or because they have to travel through New Jersey waters, is there anything we can do to control it; even though EPA may like it, for the State to say, "We don't like it, so therefore you can't do it," because of the jurisdiction over the fact that they are here?

MR. McCANN: I would have to explore an answer to that question for you. Unfortunately, that is not part of our responsibility in the Department. If we have those kinds of jurisdictions in the Department, I will look into the matter, regarding all vessels, as to what approvals--

SENATOR PALLONE: All right. The same principle for Allied Chemical.

MR. McCANN: Sure.

SENATOR PALLONE: Not even the fact that they are going through the coastal zone, but maybe the fact that their plant is here, we can say, "Hey, we do not think it is a good policy for a New Jersey company to be taking this material out to sea, and because you are located here, we are not going to let you do it."

SENATOR VAN WAGNER: I have an excellent idea. We have, in this State, a law which I happened to have sponsored, along with Dr. Villane, called the Shareholders Protection Act. It provides certain protections to New Jersey-based corporations. Now, this may not apply to duPont or Allied. I don't know if they are incorporated in this State. But maybe what we might want to do is simply say, as part of that law, "If you want to be protected by this umbrella, and not be a

takeover target" -- which is basically what the bill is designed to do, so we don't lose companies from this State -- "you have to comply with certain kinds of requirements environmentally. If we find out that you don't have this kind of protection, or if you haven't taken these kinds of steps, and you are not willing to submit to these consistency compliances, then you are automatically excluded from the protection of this law."

Maybe they might take us into court and say, "You can't do that," etc., but it may be a good way of at least focusing some serious attention on the fact that the Legislature is, in fact, very serious about this. That's one approach -- just an approach.

SENATOR PALLONE: We'll let Cindy continue now.

MS. ZIPF: Two points about consistency: I know the Coastal Division of the State of New Jersey is the one that grants the consistency -- John Weingart's group.

SENATOR PALLONE: Weingart's office, yeah.

MS. ZIPF: I know that consistency was granted for wood burning, which is appalling to me.

SENATOR PALLONE: I didn't know that; that's interesting.

MS. ZIPF: I believe it was done in 1981, or 1980, but you might want to check into that. So it has been done for another dumping activity which is happening along the coast of New Jersey. If it is done for that, we should be able to look into the others. If they haven't been granted -- if consistency hasn't been granted -- why, by all means, we should not grant consistency. That would stop a lot of these projects from happening.

SENATOR PALLONE: We are assuming that DEP is on our side on this--

MS. ZIPF: Oh, sure.

SENATOR PALLONE: --which it may not be, George,

because, as you know, you really do favor wood burning, at this point.

MR. McCANN: No, no. Certainly, we are on your side. The consistency determination on the wood burning, that I am aware of, had to do with the activity of the collection of the woods from the harbor, and that whole activity needed to be permitted under consistency determination. I do not believe -- but I am going to check all of this for you -- on the actual burning aspect of it, that that was included in the determinations they made. They approved of the activity that was being conducted in the harbor. I will look into it.

SENATOR PALLONE: Yeah, but the bottom line is that you do not disfavor wood burning.

MR. McCANN: I understand.

SENATOR PALLONE: All right. A gentleman has his hand up. The only reason I don't want to answer questions is because we want this on tape. You are?

JOHN TAVOLARO (speaking from audience): I am John Tavolaro, Army Corps of Engineers.

SENATOR PALLONE: May we have your testimony afterward?

MR. TAVOLARO: I just wanted to mention something. The consistency-- (remainder of comment lost to transcriber; Mr. Tavolaro not near microphone)

MS. ZIPF: Oh, okay. So, we allowed the collection of it. I don't know if that--

SENATOR PALLONE: Were you able to get that on the record from that distance? (negative response from Hearing Reporter)

SENATOR VAN WAGNER: He can repeat it when he comes up.

MR. TAVOLARO: I would be happy to entertain questions.

SENATOR PALLONE: You can repeat what you said when you come up here. Go ahead, Cindy.

MS. ZIPF: I think that is one area where we can really take a strong arm. Obviously, the answers aren't here. It is an area we should take a strong arm against.

Senator Pallone, to follow up, did you mention that the State of New Jersey did not grant consistency for ocean incineration?

SENATOR PALLONE: We did.

MS. ZIPF: Yes, we did. I thought I had heard the opposite.

SENATOR PALLONE: No, I know New Jersey did.

MS. ZIPF: I find that outrageous, as well.

SENATOR PALLONE: Yeah, particularly since EPA later decided itself that it wasn't good.

MS. ZIPF: It was very ill-founded.

SENATOR PALLONE: So, we were there for more--

MS. ZIPF: It was a very embarrassing position the State of New Jersey was in, again.

I touched on a number of these things. I think, also, that with regard to the sludge balls washing up on Ocean County's beaches -- just to touch on that for a second-- I have a problem with the sewage sludge containing floatable materials such as what washed up on Ocean County's beaches, in that it is a violation of the permit entirely. There is to be no floating material dumped in the ocean. So, if we ever do-- I don't think we will ever find out who was responsible for the sludge balls washing up onto Ocean County's beaches, but I think clearly that if, in fact, there is any possibility at all that that material did come from the 12-mile sewage sludge dump site -- and I am not convinced that it did -- if it did, I think there should be a follow-up to find out if, indeed, there is any floatable material in those tankers, as Dr. Mytelka has suggested.

SENATOR PALLONE: But I'm confused, because it seemed to me that George said they do allow these-- What did you call them, digesting tanks?

MS. ZIPF: The digester sludges--

SENATOR PALLONE: You do allow that to be washed out, and it does contain floatables.

MS. ZIPF: I was not aware that it did contain floatables, since the digester sludge is sort of the scraping of the bottom of the barrel, so to speak. It is the cleaning up of that waste that has sort of been settling out in the nooks and crannies. It is a cleaning out process. Sewage sludge is a somewhat semi-heavy material that settles out to the bottom, so the stuff that is on the bottom of that material is somewhat heavy, and it is a scraping.

MR. McCANN: If you would like me just to clarify, the process they use is, the digesters are emptied from the bottom portions of the tank, so the floatable materials that are on the top come closer to the bottom as you drain out the tank. The material that is left in the bottom-- The procedure they use is, they hold down to a certain level -- okay? -- and at that level, it is assumed that that is the floatable component that contains the largest quantities of oil, grease, and scum. There are some floatable materials in that, and although there are processes to eliminate them through the treatment system -- the treatment train -- they still find their way in there -- a small percentage when you start at the head end, but inevitably there are some components with it.

So, it is floatable material because the tank is actually emptied from the bottom, and it comes to the bottom of it. And that is the washout material that I spoke of before. It does not, and by permit it cannot -- the sludge disposal at 12 miles -- cannot have floatable materials. It is illegal to have them. It is inconsistent with their permit requirements, and so on. That was one of the concerns we had, because that type of material should not have been there at the 12 miles.

SENATOR PALLONE: But it is going to be allowed, and it is allowed, at the 106?

MR. McCANN: The digester washout materials go to the 106; floatable materials are not supposed to be part of that. But, again, inevitably there are some amounts of it that--

MS. ZIPF: But not much, right?

MR. McCANN: Very limited.

MS. ZIPF: Very, very limited. I mean, one of two applicators, a couple of condoms, and maybe a couple of other items. Right?

SENATOR PALLONE: So everything is from Fresh Kills then?

MR. McCANN: But you have an accumulation of the material in this floatable component that is part of the digester washout. So, although it is very little, if you get very little from several days before you have a washout, or many days before the tank is cleaned out, there is an accumulation.

MS. ZIPF: I am highly concerned with the amount of Tampon applicators and condoms that were on the beaches, as well as those floatable sludge balls. It just doesn't make sense to me that that material is on the beaches.

SENATOR PALLONE: So you think it may be that more of it is coming from this source than we previously suspected.

MS. ZIPF: From which source?

SENATOR PALLONE: Well, I am assuming that most of that comes from Fresh Kills and raw sewage, but you think more of it may come from this source than we previously suspected.

MS. ZIPF: I think the sludge balls and the Tampons incident was a separate incident, not at all dealing with the daily flush of applicators we get everyday on the beaches from northern Monmouth on south. It was a separate incident. I am not at all convinced that it occurred from material dumped at the 12-mile site. It may be that a vessel went through the waters off the coast of New Jersey and opened up their containment facility for numbers of people, such as a cruise ship, where the material is contained, and they let go of their containment, which is not a violation of Federal law, so it can be done outside of three miles off our coast.

SENATOR PALLONE: And that is why you need the MARPOL.

MS. ZIPF: That perhaps could have been the source. I am not saying-- All I am saying is that I have a difficult time understanding how that material can get from the 12-mile site all the way onto Ocean County's beaches, aside from the fact that that kind of material should not be dumped at that site at all.

Also, the fact that you mentioned, we have been browbeaten for the last 10 years at least -- and Senator Van Wagner can probably vouch for that, as well -- that the material dumped at the 12-mile site does not impact New Jersey beaches; that it is the material coming from the Hudson River plume, that flushes past our coast everyday.

SENATOR PALLONE: But with the MARPOL Agreement that was discussed-- Would that take care of the possibility-- I mean, if that were enforced -- that amendment to the Agreement, or whatever, the Annex V, or whatever--

MS. ZIPF: Annex V.

SENATOR PALLONE: --would that preclude a cruise ship from doing what you are talking about?

MS. ZIPF: That is a good question. I don't know if that would include Tampon applicators and other wastes. I don't know. That would be a good question.

SENATOR PALLONE: Is that what that amendment is designed to deal with, that type of a situation, George?

MR. McCANN: It is designed to deal with all marine pollution. The MARPOL stands just for that -- marine pollution. It would require, on vessels, treatment systems for waste materials, and would also have provisions for containment of solids, to be either held and disposed of in port, or possibly incinerated on the ship, if that was approved.

MS. ZIPF: But would that include floatables within the sewage effluence?

MR. McCANN: It should have a screening system. In other words, it would be the equivalent of a small treatment

package plant on the ship, as opposed to being on the land, that would handle the waste flow. Also, certainly on ships they are instructed not to have things of that nature disposed of in waste facilities, but there would be screenings to take out whatever materials there were, and that would then be added to the other solids from the ship.

MS. ZIPF: I would hate to be the one to enforce that one.

SENATOR PALLONE: Well, it's not even the law, so we don't have to worry about enforcing it yet.

MS. ZIPF: Right, right. If that does include it, that is a step in the right direction, but, as of now, the Coast Guard determined that dumping of sewage -- raw sewage -- within Federal waters was not a problem.

SENATOR PALLONE: It's allowed.

MS. ZIPF: I think Derry can talk a little bit about marine source pollution in the coastal waters.

Just a couple of other quick points, and I will finish up and let Derry go on. With regard to the consistency determination, it could include -- or it should include -- the fact that no dumping of any liquid waste should take place without the black box -- what has commonly been called the black box, which we talked about a little bit here today. The black box has been talked about for 10 years. It seems as though it is a decent device. We certainly have the technology to do this. I mean, we monitor what the Russians are doing for tea sometimes. We have incredible surveillance, yet when it comes to ocean dumping, we don't.

SENATOR VAN WAGNER: They're better at embassies.

MS. ZIPF: Yes, they're better at embassies. We should require the black box on all vessels dumping any liquid waste into the marine environment.

SENATOR PALLONE: That is something you think we could put in as a matter of State law, pursuant to this consistency determination?

MS. ZIPF: Right.

SENATOR PALLONE: But George, I guess, might disagree with that. We will have to look into it.

MS. ZIPF: As he is shaking his head. New Jersey has to claim a stronger enforcement ability with regard to the ocean dumping of waste. The Federal government is running us blind with what they are doing. We should be able to take-- Granted, it is not going to be a lot of New York's material; certainly most of it is New Jersey's. The wood is partially New Jersey's; dredge is partially New Jersey's; sludge is half New Jersey's; the Allied waste is New Jersey's; and the duPont dumping is New Jersey's.

SENATOR PALLONE: Where is Allied based?

MS. ZIPF: Allied dumps waste at the 15-mile site.

SENATOR PALLONE: Yeah, but where are they based in New Jersey?

MS. ZIPF: Linden, I think, as well.

SENATOR PALLONE: Linden?

MS. ZIPF: Linden. With regard to wood burning, it was talked about at a separate hearing. However, I think if there is any jurisdictional ability at all for the State of New Jersey to put a court order for no burns to take place until the environmental impact statement is completed, I think it should. This burning has been taking place for a very long time, and New Jersey should look into the feasibility of a restraining order to stop any wood burning from occurring this summer, or at any time, until the final environmental impact statement is presented by the EPA. I think it is appalling; it is a violation of NEPA, which is a Federal law that requires environmental impact statements. The process has been done for long enough that they can complete an environmental impact statement. It took them a very short amount of time to put together an environmental impact statement for ocean incineration, and here we are wood burning, a much more

barbaric technology, and yet we haven't seen an environmental impact statement.

SENATOR PALLONE: So, your argument would be that we could-- Basically what you are saying is that we could sue the Feds and allege that they have taken so long to prepare this EIS for wood burning-- You know, that would be the basis for saying it shouldn't be allowed.

MS. ZIPF: Stop all wood burning until they go through that process.

SENATOR PALLONE: Frankly, I have called Karen Howard and EPA officials pretty regularly, and I haven't been able to get any indication from them about when this thing is going to be finished.

MS. ZIPF: I have heard the end of July.

SENATOR PALLONE: Of this year?

MS. ZIPF: Of this year, which I heard last year.

SENATOR PALLONE: They wouldn't tell me that. I called within the last week or so, and they wouldn't give me that date.

MS. ZIPF: Oh, really, they wouldn't? Well, at any rate, I think the State could certainly follow that up.

Then, another resource I think the State has that it doesn't utilize, and perhaps with better funding could get better enforcement with these people, is the New Jersey State Marine Police. They are out there, and perhaps part of their jurisdiction could be monitoring to see if any of the ocean dumping activities, or any ocean dumping activities of any kind, are occurring within New Jersey waters, or, in fact, perhaps if any of the materials that were dumped, washed into New Jersey waters.

Some time ago, the State of New Jersey had helicopters it used to monitor activities off the coast. I think that kind of monitoring and surveillance should perhaps be included again. I know a lot of people like to take rides in helicopters, and perhaps that could be one way we could--

SENATOR PALLONE: To justify the new helicopters, other than for ceremonial purposes.

MS. ZIPF: Yes, put them into use.

SENATOR PALLONE: Okay. Did you get that? That is Senator Weiss' aide to my left. I just thought maybe-- I wanted to make sure she took note of that.

MS. ZIPF: Also, I would like the State of New Jersey to look into any feasibility for the State of New Jersey to take any kind of action regarding waste dumped in such a manner offshore to enter into the three-mile limit as a violation of New Jersey law. Then New Jersey could seek criminal indictment, and perhaps even jail sentencing or very high fines in the hundreds of thousands of dollars, for any kind of activity which enters into the New Jersey waters.

Clearly, the tourism industry is the lifeblood of the Jersey shore, and the impact from just the sludge balls washing up on the beaches the day after Labor Day -- or Memorial Day weekend -- was absolutely critical to the citizens who earn a livelihood from tourism. The thousands of dollars it impacts them, we could never begin to figure out, but I think that New Jersey perhaps could look into that.

SENATOR PALLONE: Cindy, you are raising a number-- I think a lot of the things you are raising are really seeking to extend New Jersey's jurisdiction and enforcement power. They are all very creative and innovative, and I think we have to look into them. The only problem is going to be to what extent we find we are impinging on interstate commerce, or Federal jurisdiction, or whatever. I think we definitely should make an effort to look into all of these things.

MS. ZIPF: I think the State should get hard-nosed and hard-armed, and push the laws -- push interstate laws, push Federal laws -- to the absolute extreme with State jurisdiction.

SENATOR PALLONE: And the bottom line is, if the Feds come in and say, "Well, that is our jurisdiction," then you are

just pointing out all the more why they should be doing more.

MS. ZIPF: Right.

SENATOR PALLONE: If they say, "The State can't do it; we should be doing it," you know, it will just point--

MS. ZIPF: Then, come up with the money to fund it properly to make sure it happens in the proper way. They are not doing it; they are not going to do it. They are getting cut and cut and cut, as far as budgetary things are concerned, and the Jersey shore can no longer depend on the Federal government to do anything for it.

SENATOR PALLONE: Yes.

MS. ZIPF: New Jersey is going to have to watch out for its own. If you are not going to stop them from dumping, you've got to take a hard-nosed approach to controlling what they are dumping and how they are dumping it.

SENATOR PALLONE: Well, that is what we found with the wood burning. That is a perfect example of it. Okay, Cindy, thanks a lot. Mr. Bennett?

D E R R Y B E N N E T T: Are you finished, Cindy?

MS. ZIPF: Yes, I'm all finished -- for now.

MR. BENNETT: I just have a couple of brief comments, because I think the others have covered most of the issues.

One of the things that occurred to me about this is, when you get into any of these ocean dumping or ocean pollution issues, one dumper, or one causer, of the problem likes to point to others and say, "They are the real problem, not us." This is what happens when you talk about the impacts of one kind of dumping compared to another. It seems to me that one of the things to do here is to make sure that everybody-- There is plenty of blame to go around, for everybody to share the blame, and for everybody to begin to share some of the work of getting things cleaned up.

An example of that is, we often talk to the small boat community about doing a better job of treating their own boat

waste in recreational boating. Generally, they tend to think -- and I understand this -- why should they worry about their 22-foot boat going out on the weekend, when we've got the Hudson plume, the eight million tons of this, or whatever? There is an argument there. But the opposite of that, of course, is that every contributor is part of the problem and should be part of the solution.

I would encourage you to-- John Teiteman (phonetic spelling) from the Consortium -- he is down in the Manahawkin office -- has just put together a little study of the whole issue of how you deal with pump-out stations and sewage handling for small boats, and the kind of "Catch-22" you get into with that. In the Navesink River, where they are trying to open the areas to shellfishing, there are regulations the Federal government publishes about the number of pump-out stations you need to locate in that body of water, so you can then establish that as a new discharge area. Their argument is, until you have "X" number of pump-out stations in there, you can't really tell the boaters there are the facilities. And until that takes place-- What you have now, I think, in New Jersey -- if I am not mistaken -- is one, or possibly two pump-out stations in the whole State. Other than that, they are using chlorinators, masurators, and storage systems. Essentially, what the boaters are doing is flushing in the rivers, or they are waiting until they get offshore and then flushing.

Along the lines of small steps for mankind, on the floatables, I see your table there littered with the same thing that is at our table, that is not over here, and that is the strofoam cup. The State of New Jersey could regulate its own cafeteria for State employees, and say, "No more strofoam." We've got Doc Villane's Tampon applicator bill. Maybe we could introduce similar legislation and get rid of some of the other things.

I should point out that Steve Sotner (phonetic spelling), who works for Clean Ocean Action, has come up with an alternate use of the Tampon applicator. This is a fishing lure made out of one, which has been field tested. We think it is going to be a big seller, at least as a fund raiser.

I would second the effort to keep the squeeze on duPont. Again, duPont will say, as Allied has said, "There used to be "X" hundred dumpers offshore; now there are only three, and our stuff doesn't really hurt anything." But they are the last three, and they are symbolic, as well as harmful. We ought to get them out.

To the extent that the Littoral Society and other groups can provide volunteers to monitor things, as we have done with the Littoral Society's divers, who do volunteer water quality testing all summer, there may be a system that could be set up to ask that boating public to be part of some kind of monitoring or watchdog process. The think you have to remember is that those people work five days, or four, or six, or whatever, to have a day off to go out in the ocean to have fun. So my feeling would be that if they are willing to volunteer to do that, then maybe the people who work for DEP and EPA should be willing to volunteer some time, too. "What's sauce for the goose is sauce for the gander."

Lastly, I would encourage you also to provide that the people who have permits to dump at sea, or burn at sea, or whatever at sea, absolutely pay 100% of the costs of monitoring and enforcing the regulations. Put the burden of that -- which is a big burden-- There are probably only going to be, what, eight or ten wood-burning dump burns per year -- probably one a month at maximum -- and that is not very big. But when you start talking about the sludge dumpers and things, that's a lot of money and a lot of time, and that ought to be paid for by the people who are doing the dumping.

I would just encourage you to continue the fight to make sure that the sludge that is dumped into the ocean after 1991 is so clean that it doesn't have to be dumped there any more, because that is a temporary site. We think it

SENATOR PALLONE: Okay. Thanks a lot Derry. Thank you all of you. I appreciate it -- the vanguard of the clean ocean community.

Now we will have the representatives from the Army Corps and the Coast Guard. Is there anyone else in the audience who is here to testify, other than those two agencies? (no response) I think maybe we might as well just hear you, and then we will conclude everything. It will be easier. It doesn't matter to me.

MR. TAVOLARO: Thank you for the opportunity to testify today.

SENATOR PALLONE: Are you Mr. Craemer?

MR. TAVOLARO: No, I'm sitting in for Mr. Craemer. I am John Tavolaro, Water Quality Compliance Branch, Army Corps of Engineers.

SENATOR PALLONE: And how do you spell your last name?

MR. TAVOLARO: T-A-V-O-L-A-R-O. I have about a 10-minute slide presentation, if that is okay.

SENATOR PALLONE: Well, let me just ask you, is that the same slide presentation we have seen before?

MR. TAVOLARO: No, it is a different one, because the focus of this talk was on management and monitoring of ocean disposal.

SENATOR PALLONE: Oh, so this one focuses on monitoring. It is not going to go through all the sites and what is being dumped. It is the monitoring one.

MR. TAVOLARO: Yeah.

SENATOR PALLONE: Okay.

MR. TAVOLARO: If that's all right?

SENATOR PALLONE: Yes, we would be very interested in that. How are we going to do it, though? Do we have a screen, or what?

MR. TAVOLARO: I don't know, I guess against the wall.

SENATOR PALLONE: Isn't it going to be too light in here? Should we turn the lights out? We'll turn the lights off first. Let me see how the-- It doesn't look as though this is going to work.

MR. TAVOLARO: Well, maybe I can just run through the presentation.

SENATOR PALLONE: Without the lights do you think we can see it? (discussion regarding inability to show slides)

MR. TAVOLARO: Well, the slides would only illustrate what I can verbally describe, so we can forego the slides. Why don't we do that?

SENATOR PALLONE: All right. Go ahead.

MR. TAVOLARO: Sorry for the delay. What I would like to talk about is the Corps' involvement in management enforcement and monitoring activities, primarily for the ocean disposal site for dredge material. I can also field any questions about the wood-burning site and wood-burning activities, since I am involved with that, to some degree, also.

I don't think I have to emphasize the need for dredging in New York Harbor. The natural depth of the harbor is only 19 feet, and our vessels need a lot more than that to safely navigate the harbor. That amounts to approximately five to seven million cubic yards of dredge material removed from the harbor annually. As the amount of available land has been used up over the course of the years, more and more materials have been going to the ocean -- more and more dredge material. At this point, about 90% of all dredge material generated from the Port of New York and New Jersey is ocean disposed at the six-mile site. That site has been used since approximately 1914, and the present Mud Dump site was designated in 1984 for 100 million cubic yards.

Ocean disposal of dredge material is regulated under the Marine Protection, Research, and Sanctuaries Act of 1977 -- the ocean dumping act. Let me explain the relationship between the agencies in dredge material disposal activities. The Corps of Engineers is the regulatory agency -- the prime regulator of dredge material disposal, for both Federal projects, Corps projects, and permit applicants. The USEPA is in the role of a concurring agency. They either agree or disagree with our determination. If they disagree, there is a procedure to elevate the decision to the Washington level.

The National Marine Fishery Service and the U.S. Fish and Wildlife Service are commenting agencies. They supply comments, and we are supposed to take those comments into account. If there is a discrepancy, again there is an elaborate elevation procedure that those two agencies can undertake. The decision gets decided on a higher level.

The Corps of Engineers has the lead role -- to manage and monitor the Mud Dump site, with USEPA input and guidance. The management of the site is primarily a Corps responsibility, and EPA-- Again, legislatively they have a lead role, but they defer most of those activities to the Corps of Engineers. They, again, are in the role of the concurring agency.

Before ocean disposal is allowed, however, there is a lot of testing that is done on the dredge material, both physical and chemical testing, and biological testing. Bioaccumulation and bioassays are done; a bioassay to determine if the material is toxic or not, and the bioaccumulation is done to determine if there is a bioaccumulation potential, even though the material is not outright toxic.

Besides all of the testing that needs to be done on dredge material before it is allowed to go to the ocean, the applicant or the Federal project-- The Federal project must demonstrate that there is no practicable alternative to ocean disposal before it is allowed.

SENATOR PALLONE: I don't want to interrupt you, but I -- and I think the Committee in general -- are familiar with the whole permitting process. I think our main concern is what is done in terms of monitoring. Once the permit has been granted, what is done to monitor the barges as they go out to sea to make sure that what is loaded onto the barges is what is to be disposed, so we are not taking less hazardous material-- You know, those are the types of things I would like you to comment on, if possible.

MR. TAVOLARO: Okay. Let me make the distinction then between surveillance and monitoring. Surveillance is making sure that the permit conditions are adhered to; that the material that is supposed to get dredged comes from the right location and goes to the right spot, is dumped, etc.

SENATOR PALLONE: Right.

MR. TAVOLARO: Monitoring is looking at the environmental impacts -- monitoring the environmental condition of the disposal site. That is something very different, and we make a distinction between the two. They are related, but they are very different.

As far as surveillance, the Corps of Engineers has a patrol boat. It used to have more than one, but we have one patrol boat that patrols the harbor area, primarily everywhere inside of Sandy Hook and Rockaway, to look for illegal activities, unpermitted activities, those sorts of things.

As far as the dumping goes, we primarily rely on the U.S. Coast Guard for our surveillance zone, as does EPA. The Coast Guard keeps track of the vessels through a reporting procedure that I am sure they can elaborate on better than I can. So far, that has been working. We don't hear of many cases of short dumping. Usually the way we know about a violation-- Because of the highly densely populated area we live in, we learn about a lot of violations through reports from other people -- the general public -- and then we

investigate them. So far, the system has been working pretty well. The material that is supposed to go to the dump site winds up going to the dump site, and the material that needs to get capped, let's say, is getting capped by the right project. We can check up on those records, and we do that.

SENATOR PALLONE: See, John, the only thing-- You tell me if I am wrong, but in the situation with sludge -- sewage sludge that is being dumped -- if there is an illegal dump and the material washes ashore, we know it because, you know, it smells and it fouls the beaches. If there is an illegal dump with the dredged materials, would we know about it? In other words, what I'm saying is, if I have my permit to take the material -- the muck -- from a certain location off the pier, in say, Manhattan, or wherever, and instead of going out to six miles I dump it at three miles, who is going to know if someone is not actually watching me? I mean, with dredge materials, we're talking about heavy metals, things that accumulate over periods of time, but not necessarily material that someone would detect if it were illegally dumped. Am I making-- Do I have the--

MR. TAVOLARO: I understand your question, yeah.

SENATOR PALLONE: It may very well be that a lot of this is happening and you are not aware of it because there is no way of knowing it unless there is actually somebody there.

MR. TAVOLARO: Well, there are ways you can tell. One way is to look at the dumping records. They have to report to us. The tug captain has to report to us when he is leaving and when he has come back. We know how long it takes to get to the dump site.

SENATOR PALLONE: Right.

MR. TAVOLARO: We keep records of that. We know it takes so many hours to get there, drop the load, and come back.

SENATOR PALLONE: But you don't actually do that monitoring -- the Corps doesn't. It is the Coast Guard that does.

MR. TAVOLARO: Well, the Coast Guard has its reporting procedures, and we have some reporting procedures of our own, as well as going to the dump site and the water of that dump site.

SENATOR PALLONE: Well, what are those? Explain them to me.

MR. TAVOLARO: We have a Harbor Supervision and Compliance Section as part of our regulatory branch. They are the ones with the patrol boat. The tug operator calls in to us, as well as to the Coast Guard, when he is leaving. Then he calls back in when he has finished the dump. If we know it is a six-hour trip and the guy is back in three hours, there is a problem. He could not have gotten to the dump site. If the trip took six hours or longer, because of bad weather, or whatever, we can see that. Now, there is no incentive to short dump, other than to save time and save money. So, why would someone short dump, run around for three hours, and come back, just to short dump? It doesn't make sense to do it that way. We do not see that happening.

Do accidents happen? Perhaps. Perhaps accidents happen. In the past, some have happened where there has been some short dumping involved, but we have known about them.

SENATOR PALLONE: What about-- I will make an analogy again to what was stated previously with the sludge dumping. What about-- How do you know that what is being dredged-- You know, I have seen the permits. They will say, "You can take this material from a certain section," off the pier, say, in Hoboken or wherever. How do we know the barge going out now is the one taking the material from that particular site, which has been tested and found to be hazardous, or whatever?

MR. TAVOLARO: Well, that is where our patrol boat comes in. There is a finite list of permits. There are not that many people ocean dumping at any one time. So, they can basically make their rounds, and they check up on-- They know where the permits have been issued, you know, for which slips, and they know whether they are in the right slip or not.

SENATOR PALLONE: Is that one patrol boat, though? With the whole New York Harbor, which takes in all the boroughs and New Jersey and Long Island-- One patrol boat. It seems to me that that is awfully limited.

MR. TAVOLARO: That is all we have. We used to have more, but we were cut back in our budget. Whether it is adequate or not, it seems to be at this time, again because of the amount of activity for ocean dumping. There is a finite list of people who are actively dumping at any one time. In a given month, it may be only two or three, really.

SENATOR PALLONE: So, in other words, you don't have as many vessels going out as they would, for example, with the sludge dumping? You would be more-- Would you say two or three a month?

MR. TAVOLARO: Well, no. There are many more barges that go out to dump at the dredge material site, because of the need for the operation. It is smaller quantities than there would be-- I am really speculating. I am not sure how many sludge trips there are, but I would imagine there are less, because if you are going 106 miles offshore, you would want to get the biggest load per trip, whereas with the six-mile site, they are using smaller vessels. But there are fewer places where that dredge material is originating from.

SENATOR PALLONE: So, it might not be as difficult for you to monitor the material being placed on the barges.

MR. TAVOLARO: Right.

SENATOR PALLONE: The more difficult thing might be to monitor-- In terms of the amount, the more difficult thing would be to monitor the vessels once they leave, to make sure they are going out to the site and coming back. In other words, if we were to start some sort of a program to actually accompany vessels, it might even be more difficult with the dredge materials than with the sludge materials, because you would have more vessels.

MR. TAVOLARO: Yes. There are many more trips made to the disposal site, so you would need that many more following trips, or barge watches on the tugboat, or what have you.

SENATOR PALLONE: You mentioned cutbacks. Do you feel that this one patrol boat, basically traveling through the entire New York Harbor, is sufficient? Were there more in the past?

MR. TAVOLARO: There were more in the past. We used to have 24-hour patrol -- three or four ships. I am talking about maybe five, six, seven years ago.

SENATOR PALLONE: So, there is actually significantly less surveillance, as you put it, than there was then?

MR. TAVOLARO: There is less surveillance now that the Corps is doing it, right, than there was in the past.

SENATOR PALLONE: Because of cutbacks?

MR. TAVOLARO: Yes.

SENATOR PALLONE: That's terrible.

MR. TAVOLARO: Well, again, the question has to be whether what we have now is adequate or not. The surveillance of the dredging sites, I think is adequate, because there aren't that many at any given time, and they know where they are. So, if they see a dredging activity that is not in the place where it is supposed to be, they know that. As far as trailing the vessels out to the Mud Dump site, I don't really know if it is necessary to trail every single vessel; again, because you have a reporting procedure whereby you can keep track of where the vessels are at a given time. Do you really need a following vessel for dredge materials? I don't really think you need that in every case. Maybe in some cases, where it is a particular project that needs capping, or if it is a particularly significant project, you would need people to ride the barges, and we have done that in the past. But I think on a day-to-day basis, it is not really necessary.

SENATOR PALLONE: But, in terms of the amount of material that is being dredged and dumped, there is no less an amount of material than there was three or four years ago, when you had more patrol vessels involved, is there?

MR. TAVOLARO: There is less material being dredged now than there was, let's say, 10 years ago; a little bit more than there was five years ago, but that is only because the testing was going through a growing phase, and a lot of people didn't apply for permits then.

SENATOR PALLONE: Now, what about the capping? What monitoring or surveillance-- I am confusing the terms now. What goes on there?

MR. TAVOLARO: Well, the surveillance is primarily the same, with one addition. We throw this back on the applicant. If it is a case of a private applicant, which for capping projects it generally is, they have to let us know what other permitted project is going to cap their project. Then, when they have notified us-- They can't get permission to dredge until they have notified us of that fact. We check up on that then. We make sure that the dredge material is suitable to be used as a cap. We then keep a careful eye on the reporting logs, to make sure that the project did follow in the specified time frame, after the other project had been completed.

SENATOR PALLONE: What about when they get out to the site to do the capping? Is there any monitoring at that level -- at that point?

MR. TAVOLARO: This now gets into management of the site. All dredge material is disposed of at a single location. All dredge material coming from New York Harbor is disposed of at a single location, which can be shifted around a dump site, but at any given time there is only one location it all goes to. That is marked by a special buoy called a "taut moored buoy." It is on rubber tadders. It deviates only about five or ten feet from the location over the bottom. All

dredge material is pulled up alongside the buoy and dumped there. We do periodic bathymetric (phonetic spelling) surveys to make sure that that is the case. Some of the slides I have would have shown you some of those surveys. You can see a very well-defined peak where the taut moored buoy is located at the dump site. So, we can account for the material through a monitoring program. Again, it is related to surveillance, but we consider it part of the monitoring to do these periodic surveys of the dump site.

SENATOR PALLONE: What about the phase-out? I understand -- whether it was the Clean Water Bill or the Water Resources Act -- that Federal legislation has a clause in it that requires that you move beyond 20 miles within three years or so. What is the status of that?

MR. TAVOLARO: Section 211 of the Water Resources Development Act of 1986 calls for USEPA to designate an ocean disposal site for dredge material no closer than 20 miles from shore, to be designated within three years, also, of the enactment of the Act, and to be used for dredge material determined not to be acceptable for the Mud Dump Site. It does not close the Mud Dump Site, per se. It says that material that is not determined to be acceptable material for the Mud Dump Site has to go to the new site. Acceptable material is defined in the Act as rock, sand, and material determined to be substantially free of pollutants.

Now, there is a lot in those few words of Section 211 that need interpretation -- the terms "acceptable" and "substantially free of pollutants." The time frame itself is quite optimistic, because of the amount of time it takes to do environmental impact statements and those sorts of things. Right now, USEPA, on the Washington level, is determining how to interpret Section 211. They have asked us for input, and we provided that. EPA Region II has also provided input as to how to interpret some of these aspects of Section 211, but right

now there has been no decision made as to how to interpret
Section 211.

SENATOR PALLONE: Well, now, explain one thing to me.
The three years-- When is that up?

MR. TAVOLARO: The Act was made law in November, 1986,
so if you read the Act literally, November, 1989, I would
imagine.

SENATOR PALLONE: I am kind of getting an inference
here -- which maybe you are not going to agree with-- The
inference I am getting here is that you may find that a lot of
the material that is-- You know, the question is the degree of
hazardousness. I mean, you could, I guess, come up with some
interpretation of the law to say that nothing that is being
dumped at the Mud Dump Site is now unacceptable, and therefore
has to be moved out. Is there a recognition that some of that
material has to be moved out, or are they just going to kid us,
and say, "Well, everything is acceptable, so we don't have to
move away"?

MR. TAVOLARO: That is the "Catch-22" you get placed
in. You see, we operate under existing rules and regulations
for ocean dumping right now, and nothing that is not
acceptable-- That's two negatives. You can't dispose anything
unacceptable--

SENATOR PALLONE: Right.

MR. TAVOLARO: --out at the dump site now.

SENATOR PALLONE: So they may very well say that
everything is acceptable, and they don't have to move.

MR. TAVOLARO: Well, let me finish. Usually the way
it is interpreted is that Congress does not make a law that
does not make sense. It is understood that if Congress enacts
a law, it makes sense. There has to be some intent of Congress
that must be carried out by that law. What we have recommended
to USEPA -- and their lawyers are also looking into it -- is,
okay, we can't say that nothing should go to the new site.

There has to be some material that goes to the new site. Perhaps it is material that only needs to be mitigated in some way at the present dump site; perhaps material that needs to be capped. But if material is determined under the existing regulations not to need capping, then maybe it is still acceptable for continued disposal at the Mud Dump Site.

SENATOR PALLONE: So you might make the distinction between the materials. That might be the boundary line; the material you now have to cap may have to go out there.

MR. TAVOLARO: Perhaps. That was just a suggestion. The thought behind that is, maybe what we have is a situation where, de facto, a special clause of the Ocean Dumping Act applies to the New York bight now, which means that it is even a little bit more stringent. Maybe there is some material that would be acceptable someplace else for ocean dumping at the six-mile site, but maybe not here. It would have to go to a 20-mile site. In other words, it is still acceptable for ocean dumping, but we just might have--

SENATOR PALLONE: When do you expect to get some kind of an indication of this, because we are almost into the end of the first year, right?

MR. TAVOLARO: I wish I knew.

SENATOR PALLONE: You know, we are going to continue to have hearings, but I would ask that we be provided with whatever guidelines come up -- if you could provide them to me when they come out.

MR. TAVOLARO: Yeah.

SENATOR PALLONE: Because I think this is something the public hasn't paid too much attention to, but I think it is very important.

MR. TAVOLARO: Yeah, it is kind of-- If I may add my own personal insight -- opinion -- it is kind of ironic that the same bill that authorized an awful lot of new dredging projects on the one hand -- that has authorized all this

dredging -- on the other hand has affected the place where you dispose of it.

SENATOR PALLONE: Yeah. Maybe material they need to be dumped.

MR. TAVOLARO: It is going to be interesting to see how the two of them can fit together with time.

SENATOR PALLONE: Yeah, well, that is the way things are, oftentimes. It's like, you spend more, but you reduce taxes at the same time, right? The same principle.

Did you have anything else you wanted to add?

MR. TAVOLARO: The only other thing-- There are two things I would like to add: First of all, as far as dredge material disposal is concerned, we do spend an awful lot of time and energy monitoring the environmental effects of ocean dumping at the six-mile site. We don't do it in a vacuum, either. We do it with the cooperation of a special steering committee of agencies, including the New Jersey DEP, and their counterparts in New York State. We also look very much at alternatives on a regional basis, and also on a local basis. It is not a "dump and forget" scenario with dredge material.

We spend hundreds of thousands of dollars each year on monitoring activities, and more on other types of related activities. I just wanted to make the point that we do an awful lot of work. In fact, we have a pretty detailed survey of the dump site coming up -- a survey using a system called "The Remote System" -- which essentially is a camera mounted on a frame, which takes pictures of, let's say, the top foot of the bottom of the ocean. We have covered the entire site, and that should be available in draft form by the end of this month.

SENATOR PALLONE: Okay. Is that something we could have a copy of also?

MR. TAVOLARO: You sure could.

SENATOR PALLONE: I kind of see, although there are differences, I think, the same kind of principles that we were looking at in terms of the sludge dump site, in terms of

whether or not the State should take a role, or whether or not there is increased monitoring needed, you know, on the vessels, or whatever. The same principles kind of apply. The only thing is, as you are pointing out, it is going to be even that much more difficult, because there are going to be more vessels that will have to be monitored.

MR. TAVOLARO: Let me emphasize something, too. If you say the monitoring -- or the surveillance, I should say -- the surveillance has to be passed on to the permittee, well, for a lot of dredging projects there is no permittee. The "permittee" is the Federal government--

SENATOR PALLONE: Yeah.

MR. TAVOLARO: --or, in some cases, the State government. So, you wind up paying anyway. You wind up paying through your tax dollars.

SENATOR PALLONE: I think that is true, yeah.

MR. TAVOLARO: In the case of wood burning, for example, we do have a ship -- not just New Jersey DEP -- but we also, in the Corps of Engineers, have required that the contractor have a trailing vessel with a Corps employee on it--

SENATOR PALLONE: Yeah.

MR. TAVOLARO: --with the capability of picking up any floating drift that might fall off the barge. That is an additional cost that is getting passed right back to the Federal government and to the State of New Jersey, because half of the projects are State projects. The Drift Removal Program is State sponsored.

SENATOR PALLONE: I think you are making a good point, but I think at the same time, you know, the environmentalists who are here-- They are not completely unknowledgeable about the fact that ultimately it is the government that is still paying -- or a different arm of the government. But I think the feeling is, if the one who is seeking the permit -- whether it be government or private -- if the burden of paying is put

on that person, then maybe there will be more of an incentive to correct the situation, even if that happens to be a government entity, than if it is just the Federal agency, or the DEP, or the EPA that is paying the cost, which makes sense, I think.

MR. TAVOLARO: I just wanted to point out that it is not the good guys on one side and the bad guys on the other. We are all enmeshed in the same system that benefits and feels impacts from some of these projects.

SENATOR PALLONE: Right, right. Thanks a lot. This was very informative. I appreciate it.

Now we will have -- is it Lt. Thomas Reilly?

L T. T H O M A S R E I L L Y: Right.

SENATOR PALLONE: I don't know if you have a prepared statement. You have been here listening to most of the testimony. Basically, we just want to find out what the Coast Guard's role is, in terms of monitoring vessels going back and forth to the sludge dump site, the Mud Dump Site for dredge materials, and vessel source pollution in general, you know, be it ocean-going vessels as opposed to pleasure crafts. I know it is a broad area, but please tell us as best you can.

LT. REILLY: Okay. Senator, I have with me the same statement we read on January 7. If you like, I could read that again, or we can just submit that for the record, whichever.

SENATOR PALLONE: Why don't we just submit it, since we already have it? Has there been any change in terms of monitoring or surveillance efforts since that time? Has there been any change in terms of the amount of activity or the procedures or anything?

LT. REILLY: Well, yes, but only in the sense that we have received many more inquiries from the press, both related to the garbage barge, for example, and to sewage and sludge allegedly washing ashore in the vicinity of Long Branch. For example, "Channel 10 News" down in Philadelphia interviewed

us. So, from that standpoint, we have been very on top of our own records, and we are very well aware of who is going where and when; probably more so than we normally would be, in anticipation of questions from the press and from legislators like yourself.

SENATOR PALLONE: I think you arrived around 12. I don't know if you heard the testimony by George McCann about the incident that may have caused Ocean County beach closings at the end of May -- about three weeks ago. He mentioned that the Coast Guard had been asked, basically, to do a review to see what vessels may have been in the area and dumped material, either barges, or whatever, illegally.

LT. REILLY: We did that. Essentially, for the time frame we are looking at, which was the week of May 22-- Well, let me just backtrack momentarily. The specific locale we are addressing is well south of the 12-mile dump site -- Long Beach Island being that particular area -- the Barnegat Bay area. Our initial premise was that the likelihood of a barge or a vessel that was transiting to the 12-mile site contributing to that -- what is the word I am looking for -- dumping, was negligible. There was probably a very obscure chance of that.

So, we looked at the vessels transiting to the 106-mile site. During that week -- between the twenty-second and specifically the twenty-eighth -- there were 10 vessels. During the time frame that we are looking at -- which was basically Tuesday the twenty-fifth and Wednesday the -- maybe that was Monday the twenty-fifth, Tuesday the twenty-sixth, and Wednesday the twenty-seventh -- there were two vessels that were transiting to the 106-mile site, those being the OD No. 1 and the Morris Burman (phonetic spelling). Both of those are barges.

On Thursday, we received our inquiry from the press -- from Admiral Price specifically -- requesting us to do this, and Friday we went out, and rather than waiting for these two

vessels -- or for the operators of the tow boats that were towing these two barges to submit the track lines, we met those vessels, as they were coming in -- coming back into port. We physically retrieved their notification forms, which I have for you, and will submit for the record, if you would like that. In both cases, the times-- Again, one of the points that the gentleman from the Corps mentioned was, one of the ways we have to track a vessel is-- We are looking at how long has it taken him to get to the site, then how long is he there, and how long does it take him to come back. So, from a purely time standpoint, we can tell if he has been gone the requisite time. Okay? In both cases, yes, that was the case, and in both cases they stated that they did dump within the boundaries of the 106-mile zone.

SENATOR PALLONE: You mean where they were allowed to dump?

LT. REILLY: Exactly.

SENATOR PALLONE: So, you don't have any reason to believe--

LT. REILLY: You may have this, if you like.

SENATOR PALLONE: Sure, we will take that, as well as your previous statement, for the record. So, in other words, what you're saying is, whatever evidence you have does not seem to indicate that it was a barge going to either the 12-mile site or the 106-mile site that was illegally dumping.

LT. REILLY: Well, the likelihood of it being a barge going to the 12-mile site is remote, in my opinion.

SENATOR PALLONE: And the reason for that again? I didn't quite follow that.

LT. REILLY: If you just look at the spatial distance between the actual location of the 12-mile site to Long Branch, the chance of sludge coming ashore in the locale in and around Long Beach Island is slim, in my opinion.

SENATOR PALLONE: It's too far away.

LT. REILLY: It's too far away.

SENATOR PALLONE: But if they are traveling to the 106-mile site--

LT. REILLY: Then there is always the chance that they could transit close to shore and then veer out to the 106-mile site. Now, that would increase the distance they would have to travel, but the possibility does exist, and that is what we explored.

SENATOR PALLONE: Is there anything further to explore, or is this the end of it now? Are you still looking into it?

LT. REILLY: Not really. I mean, once they have told us, what else can we do?

SENATOR PALLONE: Okay. So, in other words, whatever request DEP made, this is the conclusion, and you are not pursuing it any further. Okay. George, we don't have any answers. We don't expect any.

MR. McCANN: Well, you know, all along I have not been very optimistic that we would ever identify the actual source of the problem. Any information we could have gotten from the Coast Guard to help find the source, we would have followed up on, but we were suspecting that it may very well be that we would not be able to pinpoint it to any particular source. That was our thought all along.

SENATOR PALLONE: Yeah. But the bottom line is, you just feel from the type of material that was washing up onshore, that it could very well have been this -- what is it? -- disbursal tank -- the wash-up from one of those things?

MR. McCANN: The digester tank.

SENATOR PALLONE: Digester, I'm sorry.

MR. McCANN: You know, it was that type of waste material. It had the oil and the grease accumulations you would get from that. That is one of the potential sources that would come to mind just by the characteristic nature of the material.

SENATOR PALLONE: Yeah.

MR. McCANN: Can we, or will we ever be able to pinpoint any particular vessels that may have dumped that-- (remainder of sentence lost to transcriber; Mr. McCann not close enough to microphone) If I may, just one question.

SENATOR PALLONE: Why don't you come up here, because otherwise you may not be recorded?

MR. McCANN: It was my understanding that we were going to have a model that was going to be run, predicting, I guess, I don't know, what the ship travels, the currents, and so on. Is that something you were going to do?

LT. REILLY: No. Who did you discuss that with?

MR. McCANN: Larry Schmidt told me. I am not sure who in the Coast Guard he discussed it with.

LT. REILLY: I don't even know who Larry Schmidt is.

MR. McCANN: Oh, okay. Well, he is our spokesperson who contacted you. But, I will have to look into that. I understood you were going to do some kind of a run -- computer model -- that would make some assessments of who would have, or could have been in the areas we identified as the affected areas in the waters, based upon some assessments that we had made.

LT. REILLY: That's possible. You must be talking about-- There are mass transfer equations that would indicate how long it would take a particular body to travel from Point X to Point Y, given ocean currents and whatnot. We use that for assessing the disbursing action of oil pollution. Whether that was done or not, I am not sure. Frankly, I have not been contacted on it. It is possible that it was.

MR. McCANN: Okay. Well, I will double check on that, because we were going to see if we could match that with any information of vessels in the area to see if we could put anything together. I am not, as I said, very optimistic of our being able to point a finger at any one source, but we wanted

to see if we could cover all of the bases in evaluating, or assessing potential sources.

SENATOR PALLONE: I know you got into that in your statement. My recollection of exactly what was in your statement on January 7 is not that great right now, but I know you did mention specifically about the regular monitoring that takes place, which is basically onshore, in the sense that the vessel is tracked, you know, where it left the harbor, when it gets to the 106- or the 12-mile site, how long it takes to get back, and then there was the whole question thrown out here about the black boxes, and how the monitoring or surveillance could be improved.

Would you just focus on that, and maybe repeat that for a second?

LT. REILLY: Sure. We are passively monitoring all of the vessels going out to the sludge sites. According to the permits, each vessel operator has to tell us when he is going to be leaving, where he is going, the volume of the sludge, when he is going to get out to the site, when he is coming back, and where he is going back to, and they do that. They have to give us two hours advance notice as to when they are going to leave.

We have a duty desk that is manned 24 hours a day, so there is never a question of them not being able to get in touch with us with that information. We have a vessel tracking service which acts as a traffic police arm, so to speak, in the New York Harbor. The vessels all utilize that resource, because we know which vessels are transiting the Arthur Kill, for example. Each and every one of the vessels is in touch with our vessel traffic system verbally over the radio. We are monitoring them on the radar, and we also have TV surveillance in certain situations, depending on where the vessel is leaving from.

When they get out past Norton's Point, which is roughly in-between Staten Island and Sandy Hook, we will stop our active surveillance from vessel traffic. They call in to Sandy Hook, and say, "We are at this particular point. We are entering your zone right now, and we will be at the dump site in "X" minutes or "X" hours." Then they return. The same process occurs on their return trip.

As far as the black box, which is the ocean dumping surveillance system, it is outfitted on three of the 22 vessels that are going out to either the 12- or 106-mile site. Again, as has been discussed in previous testimony, we are tasked in our own Coast Guard Mission Performance Standards for surveilling actively 10% of the activities. We have outfitted three vessels -- the North River, the Kimberly Ann, and the Lisa. The North River, in terms of frequency, transits out to the 12-mile site more than any other vessel. So I am talking not only in terms of pure statistics -- three divided by 22 -- but in terms of frequency out to the sites. We are far surpassing our 10% obligation.

Now, it is not enough to monitor with radar, because one is only looking at a blip on a screen. One is not able to ascertain whether a dump is actually taking place or not. This was recognized -- I don't know -- two or three years ago, whenever the wheels started going behind the ocean dumping surveillance system. The black box also has on it a transponder, which is able to assess the draft of the vessel as it changes. So, as a dump occurs, the vessel becomes lighter, and now sits higher on the water. So, in that sense, we know exactly where they are going, and we know exactly when they have dumped. At present, though, it is only on three vessels. The plan is to outfit two more vessels by the end of this year, and ultimately the goal is to outfit all of the vessels.

SENATOR PALLONE: That would take how long, though? I mean, isn't there any schedule?

LT. REILLY: To my knowledge, there is no schedule yet. It would be conjecture on my part to give you a date.

SENATOR PALLONE: Is this a tremendous expense to do this, or what? We are especially particularly interested in this.

LT. REILLY: Well, you know, really, I can't answer that question. However, it is fairly sophisticated -- the piece of equipment that is employed. In terms of maintenance contracts that a company would have to purchase-- You know, it would be a cost. Whether it would be a significant cost, I don't know.

SENATOR PALLONE: What about the dredge materials? Are there any of those outfitted with the black box, or not?

LT. REILLY: No.

SENATOR PALLONE: It is strictly for the sludge?

LT. REILLY: It is strictly for the sludge. All we are doing with dredge right now is passively surveilling. That is what we are doing with the other 90% of the sludge vessels.

SENATOR PALLONE: Just what you do with the others?

LT. REILLY: The same thing.

SENATOR PALLONE: And the wood burning-- Well, I know the State is involved with that now.

LT. REILLY: With the wood burning, we are a little more-- That has received considerable questioning, or concern, from your clientele, for example, and we are now actively involved in pre-departure inspections. We haven't had many barges going out -- many wood-burning barges going out -- recently. Of note, though, EPA has included almost all of our suggestions in the most recent interim permits, which were just tabled last week.

SENATOR PALLONE: Which were just received, yeah.

LT. REILLY: Those included that they have to transit now during daylight hours. What they had been doing was leaving at night. They also have to commence the burn during daylight hours. They have to have the trailing vessel in all cases.

SENATOR PALLONE: Just the one that they provide?

LT. REILLY: Right, that is the one they provide. And they also have to give us, I believe, 12 hours -- perhaps it is 24 hours -- notice as to when they are going to be going out. What they had been doing, for example, was calling at 4:30 in the afternoon and telling us that they were going to get under way at nine o'clock. That was not giving us a whole lot of time to react. So we requested, through EPA, that they modify their procedures, so that if a vessel-- A vessel now, if it is going to go out, has to get out in the early morning hours, or after, well, 5:30 a.m., right now, at this time of the year, just to be within the bounds of the permit. It makes it easier for us to-- Or, it makes it doable for us to get someone out there to inspect the thing prior to its departure, which was not the case, well, even last year.

SENATOR PALLONE: Lieutenant, if any of these-- I mean, some of the things that are being suggested here with the black box being required on more vessels or, you know, increased surveillance for sludge dumping, similar to what you are now doing for wood burning-- How would those decisions be made? I mean, is that within the Coast Guard internally that a decision is made to require a black box, or to place more? I am just wondering.

LT. REILLY: Well, certainly at the headquarters level. I don't know what--

SENATOR PALLONE: I always think in terms of legislation, but you are not going to get Congress to pass a bill, probably, that is going to require black boxes, I guess. Unless I am missing something, that would be a little too--

LT. REILLY: No. We are tasked with surveillance. If you look at that word, how do you define that word?

SENATOR PALLONE: I am just wondering what kind of pressure -- I guess maybe I shouldn't ask you -- can be brought on the Coast Guard to require a black box, for example, on

every vessel? Is that a regulation, maybe, that would have to be changed?

LT. REILLY: I am not so sure we are the body -- or that we are the organization -- you would want to apply pressure to. The reason I say that is, if it were included in each of the permits which are issued by EPA--

SENATOR PALLONE: Oh, okay, so it is EPA then? It is EPA that would have to make that a condition of the permit?

LT. REILLY: Yes.

MR. McCANN: Correct.

SENATOR PALLONE: Okay. Similarly, with regard to the monitoring, that is also put in as a condition to the permit? The way it is with the wood burning, it could be put in as a condition to the permit for sludge dumping?

LT. REILLY: Well, as far as the monitoring goes, I don't think so. We are given carte blanche -- well, free rein -- to board the vessels whenever we want, for example, when they are actively engaged in ocean dumping activities. As far as the numbers go, with the ocean dumping surveillance system, it is very easy to monitor. Were all of the vessels outfitted, it would be very easy to keep track of all of them with a very minimal expenditure of extra man-hours, the reason being that all I would have to do would be to press a couple of buttons, and I would get a printout that would say, "Here is exactly where this vessel has gone, and here is where it dumped."

SENATOR PALLONE: So that is really the key. One of the most important things, then, maybe today, is to try to get this black box outfitting done.

LT. REILLY: From my standpoint, my branch, or I am tasked with managing the system. I am 100% behind the ocean dumping surveillance system. Given the number of activities that I am tasked with doing, for example, boarding the oil tankers, boarding the freighters as they are coming in, inspecting all of the facilities -- the 250-plus facilities --

in the New York/New Jersey area, along with ocean dumping and ocean burning, given the manpower that I am allotted, it is imperative to me that this system go on-line.

SENATOR PALLONE: Yeah.

LT. REILLY: Now, to shift gears a little bit, EPA -- specifically Mr. Frank Sulac (phonetic spelling) -- has given me a call, specifically requesting that we ride a couple of the 106-mile ocean sludge dumps, which we are going to do. The way I can justify that is, the number of vessels going out to the 106-mile hazardous waste site leaving the duPont facilities has declined somewhat this year. So in terms of just doing what we did last year riding vessels, I can justify riding a couple of vessels this summer, and I will do that. We are going to coordinate that.

SENATOR PALLONE: Well, that is encouraging certainly.

LT. REILLY: And, just for the record, Allied Chemical is in East Elizabeth.

SENATOR PALLONE: Oh, East Elizabeth, okay. We finally got that down.

Well, you are certainly moving in the right direction. Just try to see if we can step it up even more, or faster. What you are saying is that you are sympathetic to all of this. It is just a question of seeing what--

LT. REILLY: Well, we are definitely sympathetic to it. We have our own constraints, though, internally. If you give us more, we can do more. That is really the bottom line.

SENATOR PALLONE: Yes, financial aid. Okay, thanks a lot. Mr. McCann, do you want to ask him any questions?

MR. McCANN: No, thank you.

SENATOR PALLONE: All right. Thanks a lot for coming down. We appreciate your cooperation with everything. We will take that statement again and put it in the record, as well as those other materials. Those are copies we can keep, right?

LT. REILLY: Yes, sir.

SENATOR PALLONE: We are going to close the hearing, but as I mentioned, we will have, probably, anywhere from two to four hearings over the summer, covering the other topics that we discussed. Within the next week or so, we will announce the subjects and the dates of those hearings. We also have a commitment from EPA to come to those hearings in the summer, as long as we give them enough advance notice.

Thanks again, and thank you, also, for recording this. Your name, I didn't ask?

MS. PARKS: Priscilla Parks.

SENATOR PALLONE: Priscilla Parks, okay. Thanks also to Len Colner and Senator Weiss' aide. I forget your name, too.

MS. DANKOFF: Erica Dankoff.

SENATOR PALLONE: Erica Dankoff. All right, thanks again.

(HEARING CONCLUDED)

APPENDIX

New Jersey State Library



SENATE SPECIAL COMMITTEE TO STUDY COASTAL AND OCEAN POLLUTION
JUNE 16, 1987
STATE HOUSE ANNEX, ROOM 418
TRENTON, NEW JERSEY

TESTIMONY OF GEORGE G. MCCANN
DIRECTOR OF THE DIVISION OF WATER RESOURCES
DEPARTMENT OF ENVIRONMENTAL PROTECTION

OPENING REMARKS - Thank you for the opportunity to speak at this special committee hearing. This is a priority issue of the Department as it is for this committee.

Status of the Department's activities. The following is an update of the many activities that the Department has undertaken to address the issues of ocean pollution.

- Coastal Monitoring Program completed for 85/86. Monitoring is once again underway for this year.

- A shore symposium was held on March 11, 1987 entitled Coastal Water Quality and Your/Us. We released findings of the report which indicate that the more significant contribution to increase bacterial counts to the bathing beaches was a result of non-point source pollution, primarily observed in the back bays.

- Non-point source pollution. Two publications have been prepared by the Department, one entitled "The Clean Water Book" which is directed to the general public to educate them on other sources of pollution from non-point source contributions. The second publication entitled "New Jersey Stormwater Management Program" which is directed to local officials to provide them with information on the Stormwater Management Act and various programs in the Department to administer that act.

- Legislation regarding floatables. The Department strongly supports this legislation to ban the sale of various plastic hygienic products.

- Memorandum of agreement regarding woodburning barges. The Department was asked by EPA to monitor this activity. Four burnings have taken place since the signing of this agreement and the Department has been provided surveillance of these burnings.

- Vessel Pollution Study. The Department authorized a study to be conducted by Admiral Price regarding the discharge of ocean going vessels. The study has been completed and is currently in print and will be available July 1, 1987.

- Floatable Study. This study is currently underway. The literature search and beach debris survey and classification has been completed. The surveillance of sources and design of the floatable study is currently underway.

- Sludge disposal. Currently what is referred to as the New Jersey Consortium which represents six authorities utilize the 12 mile site and the 106 mile site. 100% sludge disposal at the 106 mile site is scheduled to be accomplished by the end of this current year.

- Green/Red Tide Study. Joint study by the EPA, NOAA and the Department, we are participating in this study.

- National Estuary Program. We have initiated meetings with New York State and EPA and the Commissioner has sent a letter of interest requesting that we have funding to conduct the study of the New Jersey New York Harbor water resources.

- Ocean County. Regarding the recent incident during the week of May 26th thru the 31st, material was deposited on a 12 mile stretch of Ocean County beaches which contained a high concentration of floatable materials. This material included plastic hygienic devices and grease and oil particals which also contained some fecal material. The material appears to have been deposited by the meteorologic and current conditions that preceded the event for several days. One suspected source of the material is the 12 mile sludge disposal site. The event does not appear to be associated with any unpermitted activity. The Department is currently working with EPA, the six New Jersey sewage authorities that utilize the 12 mile site and the 106 Mile Transport Associates to eliminate as many floatables from the sludge disposal operation as possible and to increase the amount of sludge transported to the 106 mile site during the last six months of this year.

- Conclusion. As you can see a great deal of attention as been given to these various concerns by the Department to eliminate pollution of coastal and ocean waters. Much more needs to be done but we believe that we have a better understanding than we did before regarding the various sources. I will be happy to answer questions.



OCEAN COUNTY HEALTH DEPARTMENT

C.N. 2191
Toms River, N.J. 08754
201-341-9700

CHARLES KAUFFMAN
PUBLIC HEALTH COORDINATOR

SENATE SPECIAL COMMITTEE TO STUDY
COASTAL AND OCEAN POLLUTION

June 15, 1987

Presented by: Joseph J. Przywara
Environmental Health Coordinator

As Ocean County has been aggressively insuring that the quality of ocean waters are maintained at its highest level, the Freeholders have established a Utilities Authority for the purpose of collecting and treating all sewage waste generated within its boundaries.

It is unfortunate that this county has gone to such lengths to insure the quality of water and yet we become the unlucky recipient of materials floating in on our beaches. On behalf of Ocean County and the Ocean County Board of Health, I would like to suggest that the following measures be given consideration to insuring that future events of materials landing on our shores do not reoccur.

1. Incentives, either negative or positive, i.e., punitive or monetary, be given to those facilities that are currently utilizing our ocean sites for disposal.

It would be hopeful that such incentives may expedite those agencies to insuring that some land-based technology will be utilized.

2. The New Jersey Department of Environmental Protection should supply personnel to travel with the sludge disposal, dredge spoils, and wood burning barges until the ultimate site of disposal. At least the residents of the State could be assured that the materials that are approved for disposal are indeed the only items disposed and that the barge reach the final approved destination.

3. A coordinated program utilizing the Coast Guard, the Coast Guard Auxiliary, and private boat owners that would allow for the reporting of floating material and/or slicks. In this manner, private owners reporting any such conditions should activate a response by the appropriate agency to insure that these materials do not reach our shores.

4. There is a necessity to review the current regulations relating to private vessels and large cruise ships' method of disposing their sewage and/or garbage. Consideration should be given to insuring that all vessels have the availability of pumping their waste out so that it may be treated appropriately. With all the congestion of the numerous smaller boats in our inland

water ways (bays and rivers), it is my opinion that many may be discharging their waste in these areas. In relationship to large cruise ships and vessels, there should be methods of disposing of all waste generated somewhere when they are docked. If that is totally out of the question, then may be all waste should be disposed at a much greater distance from our shore than they are currently allowed.

I thank this committee for the opportunity it has given the Ocean County Health Department for presenting its views on eliminating ocean pollution problems. Ocean County holds its ocean water in highest respect and feels it is compulsory for all others to do the same.

STATEMENT OF LIEUTENANT COMMANDER KEVIN J. ELDRIDGE
U.S. COAST GUARD
BEFORE THE
SPECIAL COMMITTEE TO STUDY COASTAL AND OCEAN POLLUTION
N.J. STATE SENATE
JANUARY 7, 1987

GOOD MORNING, MR. CHAIRMAN:

I AM LIEUTENANT COMMANDER KEVIN J. ELDRIDGE, CHIEF OF THE PORT SAFETY DIVISION OF THE COAST GUARD CAPTAIN OF THE PORT OF NEW YORK. I AM PLEASED TO APPEAR BEFORE YOU TODAY TO DISCUSS THE CAPTAIN OF THE PORT OF NEW YORK OCEAN DUMPING SURVEILLANCE RESPONSIBILITIES AND ACTIVITIES.

THE OCEAN DUMPING PROGRAM IS PRIMARILY THE RESPONSIBILITY OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY, WHICH ISSUES PERMITS FOR OCEAN DISPOSAL, AND THE USCG ROLE IN THIS PROGRAM IS, PRIMARILY, ONE OF SURVEILLANCE. FEDERAL AUTHORITY FOR USCG SURVEILLANCE ACTIVITIES DERIVED FROM THE MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT OF 1972 (MPRSA), 33 USC 1401 ET AL, FROM WHICH THE OCEAN DUMPING REGULATIONS, 40 CFR 220 ET AL, HAVE BEEN PROMULGATED. SPECIFIC USCG SURVEILLANCE AUTHORITY IS TRACED FROM 33 USC 1417(C), WHICH ASSIGNS OCEAN DUMPING SURVEILLANCE TO THE

SECRETARY OF THE U.S. DEPARTMENT OF TRANSPORTATION, TO 49 CFR 1.46(N)(5), WHICH DELEGATES THIS RESPONSIBILITY TO THE COMMANDANT OF THE U.S. COAST GUARD. FURTHER OCEAN DUMPING AUTHORITY IS DERIVED FROM THE REFUSE ACT, 33 USC 407, WHICH PROHIBITS ANY PERSON FROM DISPOSING OF GARBAGE OR TRASH WITHIN THE TERRITORIAL WATERS OF THE U.S.

FOR ACCOUNTING PURPOSES, OCEAN DUMPING MATERIALS ARE SEPARATED INTO TWO CATEGORIES, "A" MATERIALS, WHICH ARE REQUIRED TO BE DISPOSED OF AT THE USEPA DESIGNATED CHEMICAL AND INDUSTRIAL WASTE DISPOSAL SITES, AND "B" MATERIALS, WHICH CONSIST OF ALL OTHER MATERIALS. USCG MISSION PERFORMANCE STANDARDS SET THE SURVEILLANCE GOALS AT 75% FOR CATEGORY "A" OCEAN DISPOSAL ACTIVITIES AND 10% FOR CATEGORY "B" ACTIVITIES. THE USCG CAPTAIN OF THE PORT, NEW YORK (COTP NY) CURRENTLY SURVEILLS DUMPS AT THE 106 MILE INDUSTRIAL WASTE SITE FOR CATEGORY "A" ACTIVITIES. CATEGORY "B" ACTIVITIES SURVEILLED BY COTP NY INCLUDE DUMPS AT THE 12 MILE SLUDGE SITE, THE 106 MILE SLUDGE SITE, ACID DUMPS AT THE 20 MILE DUMP SITE, AND VARIOUS DESIGNATED "MUD" SITES, WHICH ARE LISTED IN 40 CFR 22.

ALL EPA PERMITTED DUMP ACTIVITIES THAT DEPART THE PORT OF NEW YORK AREA ARE PASSIVELY SURVEILLED BY COTP NY. PASSIVE SURVEILLANCE CONSISTS OF THE TRANSPORTERS CALLING INTO THE COTP OFFICE ACCOUNTING FOR THE TYPE OF DUMP ACTIVITY, THE TIMES DEFINING THE ACTIVITY, DESTINATION OF THE

ACTIVITY, DEPARTURE POINT AND VOLUME OF THE LOAD TO BE DISPOSED. AFTER THIS INFORMATION IS RECORDED, COTP NY PERSONNEL ISSUE A TRANSIT NUMBER TO THE TRANSPORTER AS HIS AUTHORIZATION TO PROCEED. UPON RETURN TO PORT THE TRANSPORTER IS FURTHER REQUIRED BY THE EPA PERMIT TO SUBMIT TO THE COTP NY AN OVERLAY OF THE DUMPING VESSEL'S DUMP ZONE TRACKLINE AND A STATEMENT THAT THE PERMIT CONDITIONS FOR THE PARTICULAR DUMP WERE MET. THESE OVERLAYS AND STATEMENTS ARE FORWARDED TO THE EPA WHERE THEY ARE ANALYZED FOR POTENTIAL VIOLATIONS. CATEGORY "A" ACTIVITIES ARE SURVEILLED BY DEDICATING A SHIPRIDER TO OBSERVE THE DUMPS. IN THE 1986 CALENDAR YEAR, COTP NY RECORDED 15 SUCH DUMPING ACTIVITIES.

THE OCEAN DISPOSAL SURVEILLANCE SYSTEM (ODSS) DEVELOPED BY THE U.S. COAST GUARD RESEARCH AND DEVELOPMENT CENTER IN GROTON, CT. WAS PLACED ONLINE IN 1986. THE ODSS ELECTRONICALLY TRACKS THE VESSELS ENGAGED IN OCEAN DUMPING ACTIVITIES AND STORES THIS INFORMATION IN A COMPUTER MEMORY. BRIEFLY, THIS IS ACCOMPLISHED BY PLACING A REMOTE ELECTRONIC DEVICE ON A VESSEL CHOSEN TO BE TRACKED WHICH RECORDS THE VESSEL'S POSITION AND THEN STORES THIS INFORMATION IN MEMORY. ALONG WITH THIS POSITION INFORMATION, THE SENSORS INDICATE WHEN THE VESSEL IS ACTUALLY DUMPING. THUS FAR, 3 OF THE 22 DUMP VESSELS HAVE BEEN OUTFITTED WITH THE ODSS SENSING EQUIPMENT. IT SHOULD BE NOTED THAT THIS SYSTEM IS IN THE LATER STAGES OF DEVELOPMENT AND THAT THE ULTIMATE GOAL IS TO OUTFIT ALL VESSELS INVOLVED IN OCEAN DUMPING ACTIVITIES WITH

THIS EQUIPMENT. FOR THE RECORD, 2592 SLUDGE ACTIVITIES WERE RECORDED BY COTP NY IN THE 1986 CALENDAR YEAR.

OCEAN BURNING IS NOT DEFINED BY THE MFRSA; HOWEVER, DUE TO THE FACT THAT OCEAN BURNING ACTIVITIES ARE REGULATED IN 40 CFR 22, COTP NY HAS CUSTOMARILY RECORDED ALL SUCH ACTIVITIES. THE USEPA ISSUES THE PERMIT FOR THE WOODBURNING ACTIVITY. THE PERMIT REQUIRES THE TRANSPORTER TO CONTACT THE COTP NY FOR A TRANSIT NUMBER PRIOR TO HIS DEPARTURE. FURTHER, THE TRANSPORTER IS REQUIRED TO RADIO COAST GUARD SANDY HOOK TO INFORM THEM WHEN THEY ARE ON SCENE AND COMMENCING THEIR BURNING OPERATION. AT THE CONCLUSION OF THE BURNING OPERATION, WHICH CAN TAKE DAYS, THE TRANSPORTER AGAIN RADIOS SANDY HOOK TO INFORM THEM THAT THEY ARE DEPARTING THE BURN SITE. A FINAL RADIO CALL IS MADE TO SANDY HOOK BY THE TRANSPORTER UPON ARRIVING AT OLD ORCHARD SHOALS, ENTRANCE TO RARITAN BAY TO CERTIFY THAT THE LOAD IS COMPLETELY OUT AND TO OBTAIN PERMISSION TO ENTER THE UPPER BAY OR ARTHUR KILL WATERWAY. BURN BARGES IN THE PROCESS OF BEING LOADED IN THE PORT ARE SURVEILLED FOR PROPER LOADING BY CG VESSELS ON ROUTINE HARBOR PATROLS, BUT NO FORMAL PREINSPECTION HAD BEEN CONDUCTED PRIOR TO DEPARTURE. MOUNTING PUBLIC INTEREST AND A SPECIFIC REQUEST FROM THE USEPA IN AUGUST OF 1986 TRIGGERED A HIGHER LEVEL OF SURVEILLANCE ACTIVITY BY COAST GUARD COTP NY PERSONNEL. OF THE 6 BURNING ACTIVITIES RECORDED DURING THIS TIME FRAME 2 PREDEPARTURE INSPECTIONS, 1 IN-TRANSIT INSPECTION AND 1 POST ARRIVAL INSPECTION WERE CONDUCTED; THE

BARGES WERE EITHER BOARDED OR PHOTOGRAPHED. THE U.S. ARMY
CORPS OF ENGINEERS HAS ALSO DONE SOME IN-TRANSIT SURVEILLANCE
AS WELL. BASED ON THESE SURVEILLANCE ACTIVITIES, COTF NY HAS
RECOMMENDED SOME CHANGES BE MADE TO FUTURE PERMITS.

THANK YOU MR. CHAIRMAN. I WOULD BE PLEASED TO ANSWER
ANY QUESTIONS YOU OR MEMBERS OF THE SPECIAL COMMITTEE MAY
WISH TO ASK.

OCEAN DUMPING NOTIFICATION FORMTO: CAPTAIN OF THE PORT OF NEW YORK
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IIDATE: 5/28/87FROM: Ocean Disposal #1
WASTE TRANSPORTER

- I. COTP REFERENCE NUMBER: NJ019
 NAME OF PERSON CONTACTED: Slougher
 NAME OF TOWING VESSEL: Alexandra
 NAME OF VESSEL MASTER: George Palmer
- II. TYPE OF MATERIAL (CONTENTS): sludge
 VOLUME (Gallons, Wet Tons, Dry Tons): 5,500
- III. POINT OF DEPARTURE: Little Ferry
 DATE AND TIME OF DEPARTURE: 0130
 WEATHER CONDITIONS: _____
 REMARKS: _____
- IV. NAME OF DUMP SITE: 106 mile site

POSITION

	<u>DATE</u>	<u>TIME</u>	<u>LATITUDE</u>	<u>LONGITUDE</u>
ARRIVED AT DUMP SITE:	<u>5/28/87</u>	<u>2123</u>	<u>39°00'0N</u>	<u>72°03'7W</u>
STARTED DUMP:	<u>5/28/87</u>	<u>2127</u>	<u>38°59'71N</u>	<u>72°03'65W</u>
NOTIFIED U.S.C.G.:	<u>5/28/87</u>	<u>0400</u>		
ENDED DUMP:	<u>5/28/87</u>	<u>2253</u>	<u>38°52'50N</u>	<u>72°03'39W</u>
DEPARTED DUMP SITE:	<u>5/28/87</u>	<u>2330</u>	<u>38°56'8N</u>	<u>72°05'0W</u>

WEATHER AND TRAFFIC CONDITIONS: _____

REMARKS: _____

V. TO THE BEST OF MY KNOWLEDGE, ALL CONDITIONS OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S OCEAN DUMPING PERMIT UNDER MY DIRECT CONTROL WERE MET.

SIGNATURE: _____

VESSEL MASTER

DATE: _____

5/28/87

The reverse side of this document contains a navigational overlay of the above named vessel's track line during a dumping operation under the conditions of U.S. Environmental Protection Agency Permit No. (Shown Below). The overlay represents an accurate description of the time and position at critical points of the dumping operation, including entry and exit from the dump site and the beginning and end of dump. As master of the vessel/ barge, I further certify that the dumping conditions of the applicable permit were met.

Date: 5/28/87

Signed: *Geo. Palmer*
Master

USCG Reference No. 02701

	<u>Date</u>	<u>Time</u>
Arrived At Dump Site	<u>5/28/87</u>	<u>2123</u>
Started Dump	<u>5/28/87</u>	<u>2127</u>
Ended Dump	<u>5/28/87</u>	<u>2233</u>
Departed Dump Site	<u>5/28/87</u>	<u>2330</u>

Remarks: _____

Tons Dumped

EPA Permit No.

5,500

NJ 019

5,500 Total Tons Dumped

39° 00.00N

21°

2127

2330

2253

55.0

55.0

50.0

50.0

45.0

45.0

38° 40.00N

72° 05.00W

72° 00.00W

106 MILE SLUDGE DUMP ZONE
(NOT FOR NAVIGATION)

DATE:

5/28/87

TOWING VESSEL:

Alexandra

BARGE:

Ocean Disposal #1

U.S.C.G. REF. NO.:

02701

MASTER:

George Palmer

13X

OCEAN DUMPING NOTIFICATION FORM

TO: CAPTAIN OF THE PORT OF NEW YORK
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION II

DATE: 5/28/87

FROM: GENERAL MARINE TRANSPORT CORP.
WASTE TRANSPORTER

I. COTP REFERENCE NUMBER: 0-2610

NAME OF PERSON CONTACTED: DESGG SANDY HOOK

NAME OF TOWING VESSEL: KATE

NAME OF VESSEL MASTER: GEORGE F. MANUEL

II. TYPE OF MATERIAL (CONTENTS): SLUDGE

VOLUME (Gallons, Wet Tons, Dry Tons): 12,900

III. POINT OF DEPARTURE: WILSON AVENUE

DATE AND TIME OF DEPARTURE: 5/27 - 0050

WEATHER CONDITIONS: CLEAR & CALM

REMARKS: _____

IV. NAME OF DUMP SITE: 106 MILE

POSITION

	DATE	TIME	LATITUDE	LONGITUDE
ARRIVED AT DUMP SITE:	<u>5/28</u>	<u>0200</u>	<u>39°00.0'</u>	<u>72°05.0'</u>
STARTED DUMP:	<u>5/28</u>	<u>0205</u>	<u>38°59.7'</u>	<u>72°04.5'</u>
NOTIFIED U.S.C.G.:	<u>5/27</u>	<u>0815</u>	<u>40°18'</u>	<u>73°43'</u>
ENDED DUMP:	<u>5/28</u>	<u>0550</u>	<u>38°59.5'</u>	<u>72°04.0'</u>
DEPARTED DUMP SITE:	<u>5/28</u>	<u>0555</u>	<u>39°00.0'</u>	<u>72°04.5'</u>

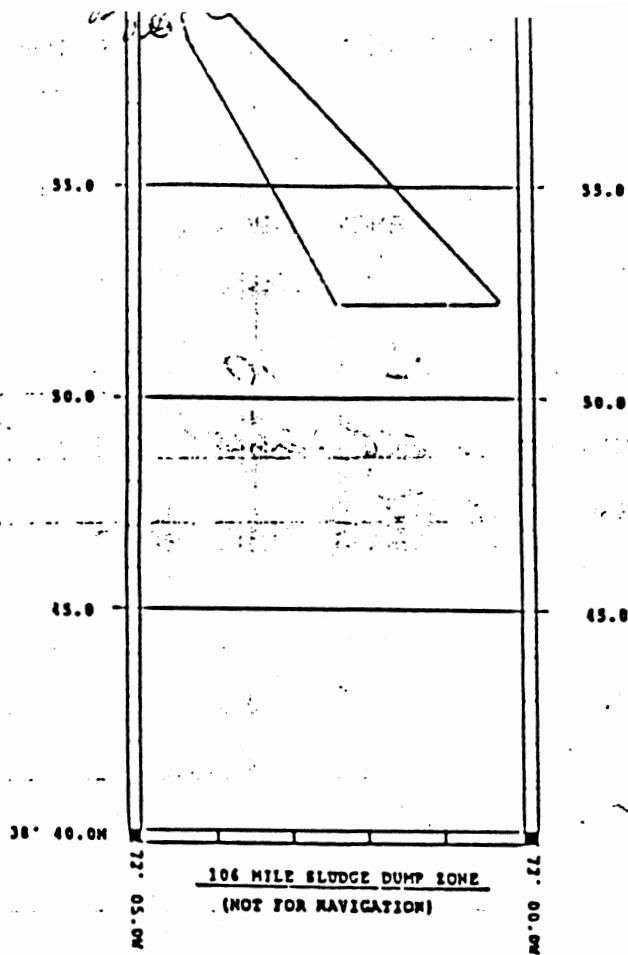
WEATHER AND TRAFFIC CONDITIONS: OVERCAST & CALM

REMARKS: _____

V. TO THE BEST OF MY KNOWLEDGE, ALL CONDITIONS OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S OCEAN DUMPING PERMIT UNDER MY DIRECT CONTROL WERE MET.

SIGNATURE: George F. Manuel
VESSEL MASTER 14X

DATE: 5/28/87



DATE: 5/28
 TOWING VESSEL: KATE
 BARGE: MARSHALL BERTMAN
 U.S.C.G. REF. NO.: 2-3610
 MASTER: G. F. ...

This document contains a navigational overlay of the above named vessel's track line during a dumping operation under the condition of U.S. Environmental Protection Agency Permit No. 71-123. The overlay represents an accurate description of the time and position at critical points of the dumping operation, including entry and exit from the dump site and the beginning and end of the dump. As master of the vessel/barge, I further certify that the dumping conditions of the applicable permit were met.

DATE: 5/28/87 SIGNED: [Signature]
 USG Reference No. 2-3610

	Date	Time
Arrived at Dump Site	<u>5/28</u>	<u>0200</u>
Started Dump	<u>5/28</u>	<u>0205</u>
Ended Dump	<u>5/28</u>	<u>0550</u>
Departed Dump Site	<u>5/28</u>	<u>0555</u>

Remarks: _____





