

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

before

SENATE COMMITTEE ON AIR AND WATER
POLLUTION AND PUBLIC HEALTH

on

SENATE BILLS NUMBERS 817, 822, 823,
824, 928 and 967
(Water Pollution)

Held:
March 1, 1971
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator James H. Wallwork (Chairman)
Senator Frank C. Italiano

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SENATOR JAMES H. WALLWORK (Chairman): Good morning, ladies and gentlemen. Will the public hearing on water pollution bills in the Senate come to order.

I am Senator Wallwork, Chairman of the Air and Water Pollution and Public Health Committee. I want to welcome every one of you here this morning.

We have a series of listed bills, S 817, S 822, S 823, S 824, S 928 and S 967, to be considered primarily today. However, I know that we have experts in various fields and I don't want you to limit your remarks in the water pollution field to just these bills, because you might have some things to bring before the Committee today that will help us in our deliberations in trying to develop a comprehensive program for not only sewage treatment and clean-up along our inland waterways and rivers, but the general upgrading of clean water throughout the State. So please bring any points that you would like to raise to our attention.

Unfortunately, three of the members on my committee are on the Appropriations Committee and they are meeting practically around the clock during the recess period and the fourth member is away on a trip. So probably I will be the only one here today. However, I think that getting the information on the public record will be vital to the Committee and to the Senate and Assembly at large in our deliberations this year on water pollution.

Senator Dickinson, who is the sponsor of various bills along with me, is not able to be here because he has broken a leg, as probably many of you know, and just isn't able to move around yet.

The first speaker this morning is Dr. Sussman. Will you give us your full name and your organization, sir.

O S C A R S U S S M A N: Senator Wallwork, my name is Oscar Sussman. I am President of the New Jersey Public Health Association and I have a prepared statement here that I would like to read.

The New Jersey Public Health Association is a non-profit, voluntary association whose members include doctors, dentists, engineers, nurses, veterinarians, public health administrators, lawyers and other professionals in the health field as well as laymen with an interest in the subject of Public Health.

It is appropriate, we feel, for this association to comment upon the public policy positions being taken these days by government in regard to protection of the environment and the public's health. We have no axe to grind other than to advance and support the cause of public health in the interests of all of our people, and to awaken citizen interest to the serious health problems in the State. We consider pollution to be among these problems.

We have appeared before at public hearings in the case of air and water pollution. It is no secret that the New Jersey Public Health Association is for stronger enforcement of the laws now protecting our environment; our testimony at these hearings has made that clear. We have in the past several years, felt the evidence around us showed a need for tighter regulations, for an extension of the pollution laws and for an encouragement of stricter enforcement in the courts to punish the uncooperative.

The water pollution abatement bills being considered here today seem rational and realistic in every aspect and should support an extension of controls in several areas left vulnerable heretofore.

There should be no quarrel with them in any quarters if there is a serious intention to get on with the pollution battle. In some cases, industry is told to do a better job. In other instances, the bills call for greater efforts by the state to provide local aid in the pollution fight.

In our opinion Senate Bill 817 would make a notable contribution to better administration of a pollution abatement program by requiring, where necessary, pre-treatment standards for sewage that may be discharged into public sewage treatment plants. As a general rule, we applaud such a regulation. There is ample precedence for this. As you may know, many of our sister states have such a requirement, especially those states supporting a large industrial segment. But more than that, pre-treatment means the protection of our treatment facilities and those we hope to build. There are already in the records examples of strong industrial wastes damaging beyond usefulness the biological systems of secondary treatment plants into which these effluents were allowed to flow.

Factories discharge three to four times as much oxygen-demanding wastes as municipal sewers as a rule. Most industrial wastewater discharges can be reduced by treatment and the redesigning of production processes to allow for recycling. The cost of waste treatment processes for all industry has been estimated at under 1 percent of gross sales; for some industries treatment costs may be much higher. There certainly would seem to be no inordinate demands on industry to undertake a pre-treatment operation where necessary.

For these reasons, we feel that rather than the community building a regional treatment plant to handle all types of complex wastewaters, the case is well made for pre-treatment processing by the plant responsible for those wastes. (And there is the safety factor involved, too). It makes little sense to build an expensive sewage treatment facility only later to discover that the newest chemical plant permitted on the watershed is emptying a toxic, complicated wastewater product into the system.

We think the state's regional construction program will move ahead faster if the Department of Environmental Protection is armed with this legislation. However, if industries already on the watershed are part of such a problem, it is felt that they should be ordered where necessary to install pre-treatment systems now with care taken not to penalize these plants. And they should be allowed to take advantage of the law giving them a tax break on the cost of installation of the pollution abatement equipment.

Also in the area of equitable sewage treatment accountability, we also support S-824 in its goal of safeguarding equitable schedule of rates based on the volume and characteristics of the sewage and wastes which affect the cost of treatment and disposal. This has been followed by some of our present regional trunk sewer systems successfully and we consider it a good law to protect the operations of future regional systems.

Bills S-822 and S-823 we recognize as a practical means of guaranteeing construction and expansion of regional treatment plants

and trunk sewer mains as part of regional systems by amending statutes already authorizing the state to give financial assistance for planning sanitary sewer facilities. We think most people today realize that the local municipality, with an overreliance on the property tax, cannot fund the costs of such projects on a go-it-alone basis.

The Public Health Association feels that water pollution abatement through sewage plant construction should be an ongoing program until we have all the facilities found necessary to overcome the problem. For that reason, we must have state funding as the bills anticipate, to move the program forward even after funds are exhausted from the 1969 Clean Water Bond referendum, which guarantees a 25 percent state share of the cost of projects.

However, there must be some show of good faith on the part of the local municipality. We favor S-822 as policy but feel that safeguards should be built in to require the municipality to take action and not sit back and wait until the bond issue money is exhausted and then get into line for state aid.

We cannot afford a sudden stop to the sewer program because the bond money has dried up as was the case with Green Acres.

Senate Bills S-928 and S-967 also have our endorsement. The problem of oil spills, accidental acid spills and accidents of other toxic wastes has been with us a long while. Industries, I'm sure, have come to realize how seriously government and the public look upon these occurrences.

Pollution of our waterways and oceans by oil discharges was dramatized for us with the 1969 Santa Barbara, California, offshore oil "blowout," but here in our own state we've had our own example. In the Arthur Kill last August 30,000 gallons of low-sulfur number 6 oil was dumped into the Kill when a tanker was pumping the oil into tanks at Port Reading. It was days before the beaches of Raritan Bay area were clear again of the residues.

As the Daily Register of Red Bank commented editorially, later: "The whole thing was an accident. But those accidents are occurring much too often. Rigorous regulations are needed. Still liability imposed on industry and shipping should spur the provision of safeguards against the accidents and provide formidable deterrents to deliberate violations of antipollution statutes." It was pointed out that small organisms vital to the marine food chain were killed in the polluted area and fish life along the coast threatened. Beaches were closed, inconveniencing vacationists and depriving municipalities of bathing revenues. And sea birds were fatally stained by the oil.

The oil spill problem doesn't seem to go away. Just this past week I read of an oil spill close to home that was feared might affect the quality of the water supply of the Middlesex County Water Company. The oil was discharged into the Delaware-Raritan Canal from Trap Rock Industries, Kingston. The Department of Environmental Protection had to check into the situation to get the company to clean up the oil.

The same week a truck accident in Warren County, also in Somerset County, caused the spillage of 2,000 gallons of oil into a tributary of Middle Brook. And a spokesman for the Bound Brook Water Company had to reassure an uneasy public that there was no danger to the water supply.

It seems to me we have a serious situation. A law tough enough might cause people to be more careful.

A recent study stated that 10,000 spills of oil and other hazardous materials pollute navigable waters of the United States each year, most of them from vessels, but about one-third from the leaks involving pipelines, oil terminals and bulk storage facilities. We wish there was a breakdown of this sort available for New Jersey.

Maine has established a Coastal Protection Fund to cover cleanup costs and third-party damages until liability is established or when the source of oil cannot be determined. Funds for these purposes will be acquired from a half-a-cent a barrel charge on oil and oil products transferred into or out of the State. California and Massachusetts have statutes which prescribe responsibility for removal of oil discharges into their waters.

We think it's time to spell out the game plan in New Jersey for discharge of petroleum products and other hazardous substances onto our shorelines, stream banks, beaches through an amendment of our basic water pollution control laws. These bills are on the right track.

We applaud that part of S-928 dealing with accountability for unlawful discharges of this nature and think the possibility of damages up to \$5 million for a single occurrence will act as a deterrent.

We would, however, ask this legislative committee to consider if there is not some way of getting around the small operator running the gasoline service station who sneaks the dirty oil remains down the nearby storm drain. This goes on. The problem is catching up with the violator. We have no suggestions to make so far as overcoming the problem other than through an appeal to local health officers to consider periodic spot checks on the local gas stations. We do not feel there are many violators in this regard. But there are enough to make us aware of the problem. It could be a matter of an educational program with the dealers. The New Jersey Petroleum Council might take on the job. It is felt, however, that the law should be tough on these individuals too when they remain unresponsive to the public welfare and fail to heed the needs of preventing even small unnecessary actions that ruin our environment.

This is the extent of our testimony today. We support the work of this legislative committee and the State Department of Environmental Protection and justify our testimony on grounds that public health is always involved when environmental decay is at hand.

Thank you.

SENATOR WALLWORK: Thank you, Dr. Sussman. I would react to one comment that you made about the small oil spills and maybe the people from the Petroleum Council could speak on this later on. It would occur to me that we might develop a program whereby the oil companies making the gas deliveries - in other words the suppliers - would be given the additional job of picking up the wastes from the individual gasoline stations. This would help the individual gasoline station operator and would then centralize the disposal of the wastes from the gasoline stations. That occurred to me offhand as, perhaps, a solution to this problem that you point out.

DR. SUSSMAN: It certainly brings the problem back to those that initiate it because--

SENATOR WALLWORK: Well, we are all initiators.

DR. SUSSMAN: I know, but I mean if the company is making money on delivering the oil and the gasoline to the station then they should help the gasoline station get rid of the excess waste.

SENATOR WALLWORK: Right. It is perhaps a good solution to the problem as you present it.

Thank you very much, Dr. Sussman.

Commissioner Bay.

L O U I S B A Y: Senator Wallwork, ladies and gentlemen. I am Louis Bay, 2nd and I am a member of the Passaic Valley Sewerage Commissioners and I am representing the Board here this morning.

For too long our environment has been despoiled. It was assumed in the past that nature was an inexhaustable sponge for man's pollution. The rapid progression towards ecological death is beginning to be arrested. Public officials on every level of government are now sensitive to the need for effective standards of environmental control.

I speak for all of the Passaic Valley Sewerage Commissioners when I say that we are totally committed to doing whatever is possible to free the waters in our district from pollution. We are equally committed to the task of updating our treatment facilities, so that we will have the finest and most modern treatment plant in the nation.

Legislation in the field of environmental control must aim for the high objectives all ecologists agree are necessary. Nonetheless, regulatory legislation must be tailored to meet the realities imposed upon governmental agencies by existing law. Sometimes prospective legislation can be well intentioned but, nonetheless, may not achieve the results desired.

We Commissioners at Passaic Valley have reviewed the group of Bills under consideration today by this Honorable Committee. Essentially, we find the objectives to be meritorious. We believe, however, that in some respects the provisions of the Bills could be advantageously amended. The statutory structure of Passaic Valley Sewerage Commissioners, as well as the special conditions under which we must operate, make it quite different than any other regional authority. The systems of revenue of the Passaic Valley Sewerage Commissioners are not structured on rates, and except for two special cases authorized by statute, Passaic Valley Sewerage Commissioners do not have contractual privity with the original generators of sewage. The revenues of the Passaic Valley Sewerage Commissioners are derived from member municipalities who own and operate their own collector systems. We believe that many of the provisions of the proposed bills would conflict with existing provisions of Title 58.

The proposed bills have been reviewed by our Chief Engineer and Chief Counsel and they are here today to discuss some of the problems in detail. It is our considered opinion that the bills in their present form might create serious statutory ambiguity if they are made to apply to the Passaic Valley Sewerage Commissioners. Furthermore, the bills in their present form would impose a fiscal burden on the 28 communities comprising the Passaic Valley Sewerage Commissioners, without necessarily giving a compensurate ecological benefit to the more than one and a half million people and the more than 1,700 industries who are in our district.

We would respectfully suggest to this Honorable Committee that the bills dealing with an equitable rate system be carefully analyzed in terms of the fiscal impact on every municipality in the district. The present method of quantative metering is automatic and relatively inexpensive. Equitable rate charges, as contemplated by the bills, presuppose qualitative monitoring at frequent intervals. Consider for a moment the cost impact for a city such as Newark if it were required to maintain inspection teams to make qualitative samplings of sewage on a regular basis throughout the city. We do not suggest that there should not be equitable rates based upon character and volume of discharge, but we do earnestly ask that the members of the Legislature be fully informed of the fiscal impact of such legislation and that they ask themselves if they are prepared to impose that additional burden on our already distressed municipalities. If the winds of change make Equitable Rates inevitable, then the Legislature should consider methods of funding the changes other than through the local tax rate. In the final analysis, all of us, you as well as we, serve the same people.

Allow me to thank the Committee for the opportunity to bring to you the views of the Passaic Valley Sewerage Commissioners. I trust that the Committee will find the suggestions we will make through our Chief Engineer and Chief Counsel constructive. They will be pleased to respond to any questions from the members of the Committee. Thank you.

SENATOR WALLWORK: Thank you, Commissioner Bay. I do have some questions which I will defer until after we have heard from some of your other members. I would like to break in here because I should have called Mr. Stephen Wise first, I think. If you have no objection we will hear testimony from Mr. Wise and then come back to your other two members of the Commission because I think that you will give us some very good testimony.

Mr. Wise, pardon me, I was thinking you were number two on my list. Would you give us your full name and your affiliation, sir?

S T E P H E N W I S E: I am Stephen Wise and I am the Legislative Chairman of the New Jersey State Clean Water Council and also attorney to Linden-Roselle Sewerage Authority, covering the municipalities of Linden and Roselle.

The Clean Water Council is a statutory body created by the New Jersey Legislature originally as an advisory body to the Commissioner of Health. It became effective in September 1968 and began acting at that time.

When the new Department of Environmental Protection was formed, the Council's authority was changed to an advisory body to the Commissioner of Environmental Protection. As such, one of our jobs, as set forth in the statute creating the Council, is to examine into legislation - or examine existing legislation - and even recommend new legislation to the Commissioner, in considering what should be done in the water pollution field.

As part of our job, the legislative committee of the council, and I as chairman, had an opportunity to examine the four bills, primarily 817, 822, 823, and 824. The legislative committee examined these bills and went into them in some

depth including the policy behind them.

Prior to any information concerning this hearing, I believe it was in the fall of 1970, the Clean Water Council recommended to the Commissioner of Environmental Protection that he take whatever action necessary to see that the theory behind these bills was favorably acted upon by the New Jersey Legislature. We felt that the problem of setting pre-treatment standards and primarily the problem of governing uniform rates in specific areas was a good one and a necessary power needed by the Commissioner. And although we did not consider any of the technicalities of the bill and will leave that to the Senate, the theory behind all of these bills we felt was a very good one and requested that the Commissioner take such action as was necessary to act on them.

We therefore are happy to see that the bills are now receiving consideration in the Senate and the Council requests that the Senate act favorably on the bills, the theory behind them, and give the Commissioner the power to put into effect the setting of the standards and also the right to govern the uniform charges in specific areas by each authority.

I don't know whether you know, Senator, but our Council also holds public hearings each year. The first public hearing we held was during the year of 1969, preliminary to the passage of the bond issue. We held seven hearings around the State of New Jersey and, as such, we had an opportunity to hear many different sides of the water pollution problems. One of the things that came out and was very evident in these hearings was that authorities, in areas where they have not been established for a long period of time, are floundering because they have no direction or guidelines as far as setting standards and as far as rate settings. And I think that giving the Commissioner the right to set these standards, even though they will apply to the entire State if they are passed, and giving him the right to also govern the charges and see that uniform charges are in effect in the different sewerage authorities, will give these authorities the direction

they need ~~and therefore~~ we strongly suggest and request that the Senate favorably act on these two specific points, as governed by the four bills which are related, and give the Commissioner the power he needs so that we can more quickly try and clean up the mess that we have in the State of New Jersey as far as water pollution is concerned.

Again, also, as the previous speakers, I wish to thank the Senate for permitting us to testify and to make our views known.

SENATOR WALLWORK: One question, Mr. Wise. I read your summary of the report from your last public hearing, the fall public hearing, and you touched on regionalization which I am quite interested in; I introduced a bill a couple of years ago mandating regionalization. You didn't really comment specifically on regionalization. What is your opinion of mandating a regionalization program based on the Clean Water Council's hearings and judgment?

MR. WISE: Well, I have the report here that the Clean Water Council rendered on that.

As you, yourself, stated, on October 20th we held a public hearing primarily geared to whether regionalization, or some sort of State regionalization, should be put into effect. The summary of the report, which includes our recommendations - and I am going to repeat, really, what you said - is as follows: 1. that the Department of Environmental Protection should have the power to establish regional sewerage authorities and require them to take the necessary action to comply with treatment standards. 2. The Department of Environmental Protection should act as a temporary receiver for a regional agency that fails to meet its timetable for action set by the Department. The receivership should last until the regional sewerage system is functioning properly. 3. A State agency should be empowered to provide financial aid for construction of regional sewerage systems. The agency should provide State grants, advances on Federal grants, and low interest loans. 4. The cost of constructing and operating regional sewerage

authorities should be defrayed by equitable charges against users. The charges should be based on the quantity and quality of the waste treatment.

Those were, primarily, the recommendations, and I think that you can see that they include what we are here today to discuss. This was based on a full day's testimony. We listed in the appendix the list of the speakers and I think, Senator, if you read the appendix you can see there was a large number of speakers and they came from all over, including Ohio and Maryland which presently have programs. We invited them to come and speak to us because we wanted to get an idea of their programs.

There is no question that the council is strongly in favor of regionalization because we feel that it is the best method of cleaning up the problems that presently exist in that it would be a cheaper method than a lot of little sewerage authorities, it gives greater supervision, and it is a program which we think will be more effective than the program as it presently exists.

SENATOR WALLWORK: Right. I basically agree with your testimony and your report. I would have serious reservations about the receivership aspect of it - giving the State the obligation of stepping as a receiver. I don't know whether that is feasible or not; that is a debatable point. Thank you very much, sir.

Mr. Lubetkin, please. Will you give us your full name and your position please?

S E Y M O U R A. L U B E T K I N: My name is Seymour A. Lubetkin, Chief Engineer, Passaic Valley Sewerage Commissioners.

I have been asked to address this Committee on behalf of the Passaic Valley Sewerage Commissioners. We have reviewed the bills, and as Commissioner Bay indicated, I will discuss only engineering and technical aspects, while Mr. Segreto will point out the legal problems.

Senate bill 817. This bill is an act empowering the State Department of Environmental Protection to establish

pretreatment standards for sewage that may be discharged into public sewage treatment plants in this State and providing for the enforcement thereof and for the exceptions thereto in certain cases, supplementing Title 58 of the Revised Statutes.

The principle of requiring pretreatment in order that a given waste not upset a treatment plant is not only good, but is necessary. However, the Passaic Valley Sewerage Commissioners feel that the details of the act, as presently constituted, will be expensive and difficult to implement for the following reasons:

(1) There are more than 1,700 industries in the Commissioners' present service area and, with rare exception, these industries are connected into municipal systems, and the combined municipal system is connected to the Commissioners' trunk sewer.

(2) In many cases, the combined waste is completely different from the individual wastes that form the combined wastes, due to dilution, chemical alteration, etc.

(3) It is the combined waste the P.V.S.C. must treat, and if this combined waste is satisfactorily treatable, why trouble individual users?

(4) The long trunk line of the Commissioners alters wastes, thus a waste discharged in Paterson may have different characteristics when reaching the plant than the same waste discharged in Newark.

(5) The P.V.S.C. have about 90 points where it is necessary to check the municipality's waste as a unit, as opposed to the tremendous task and cost of checking periodically each of the 1,700 industries whose connection points are difficult to determine.

We realize that one of the requirements for obtaining Federal Grants on projects is the ability of the Grantee to require pretreat-

ment where necessary. The Commissioners agree with this, and believe they have this right, but in order to reaffirm and strengthen this objective, legislation should be adopted which would provide that no person, firm or corporation, public or private, or any municipality, shall discharge or allow to be discharged any substance, alone or in combination with any other substance in the sewage, which cannot be treated by the public sewage treatment plant, or alters the sewage so that the combination cannot be treated by the public sewage treatment plant to the extent that the effluent of this plant cannot meet the standards required by the State Department of Environmental Protection for the receiving waters.

Such legislation should also provide that if upon notification of the nature of the involved violation, the violator or violators do not alter their waste by pretreatment or other means to such an extent that the discharge is no longer in violation of the act, by a time as set by the Authority, then the violator or violators shall pay a mandatory fine of \$X per calendar day, until such time as the violation ceases.

This type of legislation, when applied to the Commissioners, would work as follows:

When a combined waste is found to be inimical to the treatment process for any reason whatsoever, then the municipality, wherein the waste emanates, is notified and, with the Commissioners' cooperation and its own knowledge of its local sewer system, they trace

this waste to its source , and the particular pretreatment for this volume of waste at that location is requested of the violating industry, and a practical time table is set for accomplishing this. We have done this, with success in the past, in a few cases.

The Department of Environmental Protection still has sufficient control in that it would determine if effluents meet standards set up by both the Department and the Federal Authorities. If these standards are met, the treatment plant has done its duty and the Department has done theirs. If the standards are not met, the Department need only serve notice on the treatment authority, and whatever is necessary would have to be done (including altering any pretreatment requirements) to have the Authority's effluent meet necessary requirements.

(6) Compare Senate Bill # 817 as written, with the Commissioners' suggestion. They accomplish the same thing - pretreatment by industry where necessary. However, S-817 requires standards be set before the fact, which at best can only be arbitrary, and of necessity must be too strict, since they must be general covering all industries in the system equally. Implementation covering 1,700 industries would require extensive sampling, laboratory work and policing at great costs. The Commissioners' suggestion is simple, requiring pretreatment only when necessary, and policing only when trouble occurs.

If the Department of Environmental Protection feels that this legislation is necessary for them to control other sewer sys-

tems, then I suggest that the legislation be altered to require the Department of Environmental Protection to sample, check and control the industries itself, and relieve already overburdened municipalities of the tremendous cost of this police work.

SENATE BILL # 822

The Passaic Valley Sewerage Commissioners concur in the need for this Act, as it is obvious that the funds derived from the 1969 Water Conservation Bond referendum will not be sufficient to subsidize the massive amount of work that must be done in this State. However, the Commissioners would like a clarification of "an amount not less than 25% ..." Does this mean that the Commissioner of Environmental Protection may pay any amount from 25% to 100% of the project as he may feel proper, and could he pay different percentages to different projects at his discretion, or does the 30% maximum of the existing Bond Legislation still hold?

SENATE BILL # 823

The Passaic Valley Sewerage Commissioners are only concerned with the wording of paragraph (e) of this Act. The Commissioners agree there should be an equitable cost recovery schedule for the use or services of the sewerage system, including an allowance for bond debt or construction cost recovery, but they do not agree on the details and feel the interpretation of these may cause a problem in the future. The definition of an equitable charge should be left to the authority operating the treatment system, as they know

their costs better than any other. The problem of mandating items in legislation is that they may not apply in certain particular instances, while they may apply in others, again depending on the treatment process. For example, take chlorine demand, one of the items mentioned. This is a measure of the difference in the amount of chlorine that is applied and the amount of chlorine residual in the water, and in equitable rate discussion, is supposed to be a measure of the amount of chlorine required to be used by the treating authority. This is not necessarily true, as the chlorine demand is altered in the treatment process. Thus a waste with a very high chlorine demand (40 ml/l) before treatment may have an extremely low demand after treatment (2 or 3 ml/l) if that which caused this requirement is bio-degradable (included in B.O.D.). At the same time, a waste with a lower demand (20 ml/l) may end up after treatment with a demand of (5 ml/l) which is higher than the first waste, so that the amount of chlorine actually used could conceivably be opposite to chlorine demand of the raw waste.

Biochemical oxygen demand is another parameter mentioned. It is assumed that this directly affects costs, as B.O.D. removal means the supplying of oxygen to stabilize the sewage. This is generally true, as compressing air or using mechanical aerators is expensive, but it is not necessarily true in all cases. The Commissioners are presently checking a process that will remove the required amount of oxygen from the air without compressors or aera-

tors. If this process works, the cost of operating the Commissioners' system may be relatively independent of the B.O.D. applied for a given percentage removal. Actually, the Commissioners expect a higher percent removal, the higher the dissolved B.O.D., with no extra operating cost, up to breakdown of the system. Whether we can achieve this or not, I am not in a position to say, but if we can, why should we have the problem of being mandated by legislation to use a parameter that may be valueless. Other parameters may fall in the same category. The point I am making is that a statement concerning equitable rates, reflecting cost of treatment, should be sufficient without legislatively including items that may become irrelevant with time.

The other problem is that of measuring these parameters and a clarification where the parameters are to be measured. The present parameter used, volume, can be measured by the installation of automatic equipment (at a cost of from \$1,500.00 to over \$10,000.00 each) at various locations. The Commissioners have over 90 of these set to measure flow continuously so that the Commissioners are able to measure the volume of flow from each municipality now served. There has been no automatic metering equipment developed that will continuously, or even intermittently, measure such parameters as chlorine demand, biochemical oxygen demand, or chemical composition, and the meters measuring solids are extremely expensive and unreliable, requiring much maintenance.

With the Passaic Valley Sewerage Commissioners' present sys-

tem, we require six full time meter men and one full time engineer's assistant to read and maintain these 90 meters, as each meter is visited three times a week, and the more important ones on a daily basis. This costs the Passaic Valley Sewerage Commissioners (with automatic equipment) approximately \$75,000.00 per year, not including any major repairs. With the other items to be measured, the plants must be visited, and samples taken and brought back to the laboratory for analysis. If we are required to do this in the more than 1,700 industries, the costs will be considerable, particularly when you realize that the Commissioners' personnel cannot just go on private property and open valves, etc. They must go to the front gate, get clearance, and be escorted to the point of sampling. Even then, there is no way of knowing if our sample is representative of average conditions. If a company knows we are sampling (once a year) for billing purposes, what is to prevent them from altering a process temporarily. Surveys of each plant would have to be made (taking a week or more) to ascertain flow patterns to determine that no waste is by-passing the point of sampling. If the present cost of \$ 75,000.00 were multiplied many fold, there is necessarily an increase in the cost of operation.

Another point is that this act would go into effect January 1, 1972. The Commissioners could not begin to accomplish this by that date.

SENATE BILL # 824

What I have said for # 823 applies generally to # 824, with

an additional question, "What is a generator of liquid waste?" Is it a complete municipality, or is it an industry, a homeowner or an individual. Again I will restate that Passaic Valley agrees with equitable rates, and they hope to institute those that are fair to all users (with Federal approval).

SENATE BILLS # 928 AND # 967

These Bills do not directly effect the Commissioners, and therefore no engineering comments are needed.

Gentlemen, the Commissioners wish to thank you for the opportunity of presenting their views before you at this time. We have had this type of discussion with Federal people because of their requirements and I'd like to get into the record a copy of the letter which we sent to them on November 13th which explains our problem and our interpretation to them. We have not received an answer to date. This was addressed to Mr. Sutton, Director of Facilities Program Office.

(See page 81 for letter.)

I thank you gentlemen and I will be willing to answer any questions on the Engineering aspects of this.

SENATOR WALLWORK: All right, please let me ask a few questions, Mr. Lubetkin.

Would you say, based on your experience, and maybe counsel can comment on this too, that the current statutes that we have, which were established way back in the early 1900's, are adequate for the Passaic Valley Sewerage Commissioners to operate under?

MR. LUBETKIN: I think some modification should be made.

SENATOR WALLWORK: Along what lines?

MR. LUBETKIN: There are several lines. One is the rate structure, the other is pre-treatment standards to be more explicitly stated, as I have indicated in my report to you. I have some other personal ideas but I don't think they are official from the commission.

SENATOR WALLWORK: All right, could I request the commissioner that your group meet and maybe, within a month or two, give us your best judgment of recommendations of improvement in the existing statute because I think that your commission is the only one that has a special statute, isn't it? Am I not correct in that?

MR. LUBETKIN: That is my understanding.

MR. BAY: We would be glad to be of help to you.

SENATOR WALLWORK: We would like to make your job easier and give you an opportunity to do a better job and, certainly, it would seem to me that upgrading some of the statutes would be proper.

One that I would be very much interested in is the bill that was recently passed in the Legislature a year or two ago giving you an additional bonding authority. I would like to know if that again is geared into just being based on volume and not on quantity as well as quality so that we are not caught up in this trap. Because by 1974 we can be out of that little problem and, I think, as your letter does intimate here, the Federal Government last fall came out saying that in order to be eligible for Federal funds you are going to have to have a system of charging based on volume and intensity. Now isn't it true that New York City has had rules and regulations on that; are you familiar with those, Mr. Lubetkin?

MR. LUBETKIN: I know that there is a bit of difference of opinion between New York City and the Federal Government and they have submitted to the Federal Government, as we have, their interpretation of Federal requirements.

SENATOR WALLWORK: I did get a copy a year or more ago. This is their rules and regulations relating to the use

of the public sewer system for the discharge of sewage, industrial wastes and other wastes, including surcharges and penalties. So, they do have a surcharge policy.

MR. LUBETKIN: Yes, but you see they deal directly with their industries because they are the municipality. We deal with municipalities and there are different municipalities. We don't even have jurisdiction over the sewers within the municipality.

SENATOR WALLWORK: Should you?

MR. LUBETKIN: There might be problems with that as to cost. In other words, we have, as I indicated, twenty-two owner municipalities. Some of them have very modern systems and some of them have very old systems. Now, if a municipality happens to have a modern system with little maintenance and we are required to maintain all of these and these all enter into our cost structure, the division of cost might be impossible to be made equitably because it is difficult to keep time cards on work in Newark and work in Paterson. I believe that our present system is the best way. Let us worry about the trunk sewer and concentrate on our efforts of treatment, and let each municipality handle the mechanics of its streets and sewers. I mean, you run into problems of ripping up streets, etc. There are many complexities that, if you are not the municipality, occur when dealing with local sources.

SENATOR WALLWORK: Let me ask you this one question. You are responsible for about how many miles along the Passaic River now?

MR. LUBETKIN: Approximately twenty seven miles.

SENATOR WALLWORK: All right. Twenty seven miles in the Passaic River?

MR. LUBETKIN: Yes, that's the river. We also have branch rivers such as Saddle Brook and there are a lot of tributaries. This is the area where we police for pollution.

Is this the question you were asking?

SENATOR WALLWORK: Yes, basically.

Now, the reason behind the question is, should your

role be expanded? Is this adequate for efficient water pollution control?

MR. LUBETKIN: Well, this is a matter of policy and what the Legislature wants us to do. We are creatures of the legislature. The problem, of course, is the definition of water pollution. We have-- it has been defined to me by our counsel as the water itself, the quality of the water. We have no jurisdiction over debris on the banks, we have no jurisdiction of floating material that comes off the banks which is not particularly integrated into the water causing water quality changes. We have even - I won't say we have no jurisdiction, but it is practically impossible to police barges going up and down the river. One of the real problems in the Passaic River complex is appearance or "eye pollution." That is one thing which we have absolutely no jurisdiction over. The banks along the river are atrocious in many, many cases and we actually don't know what can be done. We have asked municipalities to invoke the offices of the Board of Health to try to have river bank clean-up. There have been successful programs but they haven't been long-lasting and shortly after banks are cleaned up, a couple of months later, you would go by and you would never know they had been cleaned up.

You know the problem of the barges in the river. This is beyond the commissioners' jurisdiction also. Our jurisdiction at present is limited to water quality. There are over four hundred outlets into the river which we monitor and sample and we believe we have controlled pollution emanating from our area.

A big problem also is the pollution above the Great Falls that comes into our district which we have absolutely no control over.

SENATOR WALLWORK: How extensive is that pollution?

MR. LUBETKIN: Quite extensive. I think there are representatives of the Department of Environmental Protection here, in whose jurisdiction it is, that can give you details. We try to cooperate with them and I am sure they cooperate

with us. If we find a specific pollution in that area, we notify them. If they find a specific pollution in our area, they notify us. I think we have a very good working relationship right now.

SENATOR WALLWORK: Well, it would occur to me that included in your recommendations would be some recommendations to give you a larger role in the overall eye-appeal, air pollution area that would, maybe, fit in because of certain materials evaporating, in other words, a whole total picture in the pollution area that would be within your capability.

I would like to hear about that because although you didn't comment on 967, for instance, I have an amendment that I want to make in there that would talk about not only pollution products and hazardous substances but also just plain trash and that would then bear in on the cost of clean-up because whether they pollute with petroleum or trash, it is the same type of thing, you might say; it is just a question of cleaning up oil spills or cleaning up dumping barges, for that matter, as well as plain garbage in an Inland Waterway.

Are you going to pretty much hit the target date of 1976 for establishing secondary treatment?

MR. LUBETKIN: Our work is on schedule as far as the engineering work is concerned. We are having, as I indicated, a little problem. We had hoped to be under construction on our first phase, we had submitted it to the Department of Environmental Protection in July. They have submitted it to the Federal Government. At present, it is in the hands of the Federal Government and we have not received approval so we cannot proceed - it is eight months already. We hadn't anticipated this much delay.

SENATOR WALLWORK: But the hang-up isn't at the State level? I thought the way your letter read that--

MR. LUBETKIN: The letter was dated November. In November it was still in the State hands; subsequently it has been delivered to the Federal people.

SENATOR WALLWORK: When was that, do you know?

MR. LUBETKIN: January 7th.

SENATOR WALLWORK: So they have had it a month and one-half?

What is the latest that you could get the approval of the Federal Government and still be on target?

MR. LUBETKIN: That is difficult to say. Things are so interrelated. As I said, we would have liked to have been under construction. Now one of the target dates we have is to stop chlorination by May 15, 1972 and this is part of the first phase.

Now, in order to stop chlorination by May 15, 1972, we have to have been in construction by the beginning of May 1971. We have to have an awarded contract and it takes at least six weeks to advertise and award a contract. So, I should have to get an approval before the end of this month in order to be able to chlorinate by May 15, 1972.

SENATOR WALLWORK: We talk primarily sewage but when you talk about sewage treatment, are you lumping in the effluents that are put in by chemical wastes?

MR. LUBETKIN: Yes, when I talk sewage it is all combined industrial and domestic wastes. Also, in our area, there are several combined sewers, such as Newark, Paterson, and therefore during storm times we have infiltration and runoff into the sewer.

SENATOR WALLWORK: If an industry dumped rather hard substance to treat, when you have a secondary treatment program, into the river line or sewer line and it came down and hit your treatment plant, could it effectively break-up or cause quite a problem in secondary treatment? I mean, right now you are just filtering primary treatment so when you get into secondary treatment, what might happen if somebody dumps something in the sewer line that would cause a breakdown in your treatment plant?

MR. LUBETKIN: Of course, this is theoretically correct but you have got to recognize that we have the advantage of regionalization and size. We treat an average

of two hundred and fifty million gallons a day. There is no one industry large enough that it effectively dominates the waste.

Now, even at the worst, you could dump a toxic material, a heavy metallic material, something that would kill. We have several things going for us; number one, a dilution in the chemical alteration as it meets all the other waste before it gets to us. Number two, the time delay factor in the sewer. If it is something in Paterson, for example, it will be in the sewer close to nine hours before it reaches us and there could be a chemical decomposition of breakdown. Or, even if it hits the plant in a toxic condition, it will adversely affect the plant and depending on the type of secondary treatment, will depend on how badly it affects the plant. If you have an activated sludge type of treatment plant, it could knock out your plant for a short period of time until you recover.

At the same time there are other types of treatment plants where it will just depress your efficiency for a period of time. It will go through - I will assume it is a slug, not a continuous thing - and the plant will recover. But with all the particular things I have told you it is improbable that something like this could happen, but not impossible. Now, if it should happen, we have, as I have said, the ability to - if it is a continuous thing - trace it back and force that particular industry to pre-treat to a standard so it wouldn't affect us.

SENATOR WALLWORK: All right. Well, I had no objection to your recommendation off hand. Without being an expert in the field, it would seem logical to me, for instance, to let the Passaic Valley Sewerage Commission have the authority to promulgate rules and regulations, subject to the approval of the Commissioner of the Department of Environmental Protection, on your rate schedule, so that it could be worked out and consequently updated and come within the umbrella of State rules and regulations and Federal requirements.

I'd like to introduce Senator Frank Italiano, a

member of the committee and who is also on the appropriations committee. Frank, we are glad to have you here. He's been meeting practically around-the-clock the last couple of weeks on the appropriations and I am happy that you are able to be here this morning with us.

Let me ask one other question, Mr. Lubetkin, on volume. If we were able - and this may be long-range thinking and long-range planning - able to reduce the volume of water in effect being flushed down common ordinary household toilets, would that be a step in the right direction, so far as sewerage treatment plants are concerned, in handling the volume of material or do you need a certain volume to insure that it dilutes the intensity?

MR. LUBETKIN: Well, the question is very general. If you are talking as it applies to Passaic Valley, that particular volume of individual domestic conservation of water is relatively small compared to industrial use. We find our problem is infiltration of municipal sewers, storm water, etc.

Our dry weather flow is of high enough concentration that I don't think we would want it much more concentrated. It is easier to treat a more concentrated waste when you are talking of percentages but the discharge is also more concentrated.

SENATOR WALLWORK: What percentage are you treating based on industry versus individual homes?

MR. LUBETKIN: We are roughly fifty-fifty. But the industrial waste is of a more concentrated character.

SENATOR WALLWORK: All right, thank you very much.

Chief Counsel Segreto. Would you give us your name and your representation, sir.

J A M E S V. S E G R E T O: I am James V. Segreto; I am Chief Counsel of the Passaic Valley Sewerage Commissioners.

Senator Wallwork, before getting into the prepared statement, I could comment generally about your questions concerning Chapter 14 of Title 58, the statutes which govern Passaic Valley. As a body of legislative guides, Chapter 14

is about as archaic as a body of statutes could possibly be. They require more than amendment, in my humble opinion; they require a general revision.

The statutes, to the extent they set up our structure administratively, cover very little. We could use amendments in that area. The judicial remedies that are available to us are the remedies of seventy years past. They are not the kind of remedies that are needed in the light of today's structure.

One quick example is that the maximum penalty provision which we can impose is \$25.00 a day. That, of course, is unrealistic; it is no deterrent. So, for all intents and purposes, the only remedy which we have is to proceed in the summary way in our Chancery Courts for injunctive relief. I think most people in this field agree today that in addition to the injunctive remedies which are available, there must be some meaningful penalty provision. Now, I would add parenthetically, and I will allude to this in my comments, the Commissioners do not think, however, that the penalty provisions should be made applicable to public bodies such as municipalities; we think that is self-defeating. But we think in terms of non-public bodies - we should have meaningful penalty provisions. We have some problems dealing with existing contracts. We have to remember we have contracts which were enacted pursuant to the statute and which have been in existence for forty years with the municipalities. In formulating any legislative change, the serious problem of a retroactive impairment of those contracts comes to mind.

I will just allude briefly to our problem on the bond legislation. We had no bonding authority prior to 1953; that gave us \$10 million worth of bonding authority. The 1969 act gave us unlimited bonding authority.

I can represent to you, Senator Wallwork, that the 1969 act does require amendment. As a matter of fact, we are now working on a proposed bond issue and, in my opinion and in the opinion of Bond Counsel of New York, there

are certain technical emendations which must be made. We can put together, as a general recommendation, the views of the Commissioners and will do that as quickly as possible.

SENATOR WALLWORK: Yes, I would like to receive that and maybe even the technical changes, not only from the Passaic Valley Sewerage Commissioners but from other authorities represented here today from throughout the State. Because, frankly, I hope that you people from Passaic Valley and other authorities will look to us at the State level, the Committee and the Department of Environmental Protection - and I am sure I can speak for Commissioner Sullivan in this - we want to be helpful to you people in making it easier for you to do a better job. We are not sitting here trying to crack the whip, we want to respond to your problems and I think it is time we do update that. So, Commissioner, if you would carry that message back to the members there, because I know in the past we have enjoyed a reasonably good relationship working between the commission and us with some of the problems that you have had. Mr. Lubetkin and I even enjoyed a trip into a sewer one day, ourselves.

MR. SEGRETO: All right, Senator.

At the request of the Commissioners, I have reviewed Senate Bills Nos. 817, 822, 823, 824, 928 and 967. In reviewing them I have limited my inquiry to the effect of the proposed bills on the operation of the Passaic Valley Sewerage Commissioners, and have had an opportunity to compare their legal effect with existing statutes. Some of the bills have no special application to the Passaic Valley Sewerage Commissioners, and accordingly, I will not make any comments concerning them (these bills are Nos. 822, 928 and 967).

With respect to the other bills, it is my considered judgment that in their present form they would create conflicts with existing statutes which regulate the operation of the Passaic Valley Sewerage Commissioners. Additionally, I have grave reservations about the effect of the proposed

bills on contractual commitments which the Passaic Valley Sewerage Commissioners have with member municipalities and with bond holders. I will consider each of the bills separately.

SENATE BILL # 817

This is a bill which would empower the State Department of Environmental Protection to establish pre-treatment standards for sewage to be discharged into public sewage plants. The bill also contains penalty provisions.

The definition of public sewage treatment plant contained in the bill would make its provisions applicable to the Passaic Valley Sewerage Commissioners. Its provisions, however, would be inconsistent with the legislative mandate under which Passaic Valley Sewerage Commissioners operate. P.V.S.C. does not deal contractually with original generators of sewage. Except for two cases, essentially the function of the P.V.S.C. is to contract with member municipalities and provide for the receipt of the effluent from the municipalities. The municipalities pay their share of the cost of the operation of the P.V.S.C. based upon the ratio of their flow to the total flow. The individual users in each municipality do not pay fees or charges to the P.V.S.C. That direct contractual relationship is between the individual user and the respective municipality. Because of that special relationship whereby P.V.S.C. deals only with the municipality, the provisions of the statute providing for application standards, inspections and penalties would be impossible of performance by the P.V.S.C., unless the entire intendment of Chapter 14 of Title 58 is modified.

Section 5 of the bill, if the bill were applicable to the P.V.S.C., would presumably require us to adopt rules and regulations providing information to be stated in applications to be filed by anyone making a connection to the collector system. The statute would therefore require the P.V.S.C to receive applications for connections for the collection system when the P.V.S.C. has no jurisdiction as far as connections are concerned within the individual municipality. Those applications, if they are to be required, should be submitted by the requesting connector to the municipal body regulating the internal sewer system in the municipality. The rules and regulations referable to such applications should be made by the municipality which has jurisdiction. Additionally, the inspections provided for under Section 5, paragraph C, for inspections to determine compliance with pretreatment standards, should be made by the municipality having the contract with the connector to the system, or by the State. The P.V.S.C., not having jurisdiction or connection with the originator of the waste user, should not be required to promulgate regulations for applications; should not receive applications; and should not make the internal municipal inspections proposed to be required by this statute.

If the bill were modified so that these provisions were not applicable to the P.V.S.C., or if it were modified to reflect the statutory conditions under which the P.V.S.C. must operate, so that the P.V.S.C.'s jurisdiction and relationship continues to be between

itself and the member municipalities, then the bill would not be legally objectional nor would it involve inherent conflict with the provisions of Title 58 regulating the jurisdiction and affairs of the P.V.S.C.

In Section 7 of the bill, the penalty provision will provide for fines of not less than \$1,000.00 a day, nor more than \$5,000.00 a day. The penalty provision would be applicable also to municipalities. Unquestionably, the bill should provide for injunctive relief to prevent violations, but there is a serious question of the wisdom of the provision for the imposition of fines against municipalities for their violations. The provisions of the bill under Section 9 impose a penalty against governmental agencies who do not enforce the provisions of the bill or rules and regulations promulgated. It seems the height of folly for one governmental agency in the State to seek to impose fines on another governmental agency of the same State. The State, as a sovereign entity, ultimately represents the people, and each of the municipalities in turn represent the same taxpayers, and it must be remembered that if a penalty or fine is imposed for a violation, that fine is ultimately paid by the taxpayers. It seems oppressive to provide for the imposition of fines where the State determines that a county, municipality, authority or other public body is not enforcing the provisions of the act or any rules or regulations promulgated thereunder. The intendment should be to achieve the purposes of the act and the injunctive remedies are adequate for that objective.

I might say, parenthetically, that it is important to emphasize here that we are talking about penalty provisions as they apply to governmental agencies.

If standards are set under this bill, the applicability of the standards should be limited in time. The preamble to the bill under Section 1 indicates that pretreatment standards are only a temporary expediency to deal with the present time lag, until treatment plans are updated to be able to adequately treat sewage. Since the bill is meant only to fill that time lag, provision should be contained in the bill to make the setting of standards inapplicable to any treatment plant or system which has been upgraded to conform with standards for effluent discharge.

In my considered opinion, Senate Bill No. 817, in its present form, conflicts with the provisions of Chapter 14 of Title 58, and either this Bill or Chapter 14 of Title 58 would require modification.

SENATE BILLS # 823 AND 824

These companion Bills deal with imposition of equitable charges. Bill # 823 deals with the right of a Commissioner to impose equitable charges as a precondition to grants. Bill # 824 requires the adoption of equitable charges by all public agencies.

The statute makes it mandatory that any public body or agency which is authorized to establish and fix rents, rates, fees or other

charges for direct or indirect connection with, or the use or services of, a sewage system, shall make the charge in accordance with equitable schedules and classification. In the case of P.V.S.C., we do not operate on the basis of fixed charges, rents, rates or fees. Under the appropriate statute, the entire operation of P.V.S.C. must be funded by the member municipalities. The individual municipalities' share is determined by the proposed operations budget for the ensuing year, multiplied by a factor arrived at by the relationship of the estimated individual municipal flow to the total estimated flow of the P.V.S.C. for the year, with corrections and adjustments at the year's end. In the case of the P.V.S.C. operation, the statutory intendment could be achieved only if the language were modified to provide that the member municipalities of P.V.S.C., in fixing their charges to individual users were required to use a similar equitable basis. P.V.S.C. has no jurisdiction under the existing laws to attempt to impose the equitable share provided for in the Bill upon individual users whether they be residential, commercial or industrial. The language of the statute, accordingly, should be modified to either expressly not be applicable to the system of charges by P.V.S.C. to the individual municipalities, or to explicitly provide that in the case of the P.V.S.C.'s district, the responsibility for making equitable charges to users devolves upon the individual municipalities.

It should be noted that the effective date of the bill is proposed to be January 1, 1972, and it seems to be totally unrealistic

to expect that any of the effected governmental agencies could possibly implement a system of equitable charges based upon the intensity and characteristics of the effluent by January 1, 1972. If the intendment of the bill is to make it applicable to the P.V.S.C., then its system of proposed charges would conflict with the existing provisions of Title 58 as they apply to P.V.S.C. It must be recalled that in 1954, P.V.S.C. issued approximately ten million dollars worth of bonds upon the authority of Chapter 388 of the Laws of 1953, which included a statutory covenant by the State of New Jersey in favor of bond holders, which was incorporated in N.J.R.S. 58:14-34.24, and which provides in part:

"The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds that the State will not limit or alter the rights hereby vested in the Commissioners to acquire, construct, maintain, reconstruct and operate the sewage system, and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, and will not in any way impair the right or remedies of such holders . . ."

That statutory pledge was incorporated in Section 604 of the Bond Resolution adopted by the P.V.S.C. on October 22, 1954, which pledges to the bond holders the covenant by the Commissioners to "allocate to and demand and collect from the Contracting Municipalities and other users of the system in proportion to the amount of sewage by them respectively delivered and discharged into the system in each year."

Additionally, under Article IV, Section 401 et seq., the Bond Resolution provides for an annual estimate of operating expenses

pursuant to the existing statute, and the inclusion in the annual estimate of operating expenses of interest and principal obligations due on the bonds and for apportionment among the contracting municipalities in proportion to the amount of sewage by them respectively delivered and discharged into the system.

No action can be taken by the State of New Jersey which would change the essential terms of the security pledge as contemplated by Title 58 for the bonds.

I might add parenthetically, Senator, that we are dealing with bonds that went for 2 1/4 percent. If the Legislature were to breach the statutory covenant and now modify the principles applicable to systemic revenues, that would give to the bond holders the right to immediately call the bonds and demand payment.

Now, it doesn't take too much imagination to understand that people holding 2 1/4 percent or 2 1/2 percent bonds, if they are given an option to call them in immediately, would do precisely that and the Commissioners then would be faced with the obligation of either looking to the municipalities to come up with the amount of money necessary or, in the alternative, to refund under the new statute and we would be dealing in that context on the bond market with 5% bonds.

SENATOR WALLWORK: Well, those bonds mature though in 1974, do they not?

MR. SEGRETO: 1974, that's right. So, this particular aspect is a temporary problem that would be resolved by 1974.

An additional legal problem would concern the existing contracts between the P.V.S.C. and the member municipalities. Those contracts were executed pursuant to the provisions of the statute and provide for payment by the municipalities based on a ratio of flow. There are serious reservations about the right of the Legislature to adopt legislation which would impair and attempt to modify existing contracts.

These very complicated legal questions can be obviated by modifying the proposed bill in the alternate fashions hereinabove suggested. If the Legislature wishes to adopt the equitable charges concept to the P.V.S.C., it could only be done as to the ultimate composite discharge of each municipality, and it must be done so as to not impair neither the existing contracts with the municipalities, nor the statutory covenants to bond holders.

The equitable charge concept is one to which P.V.S.C. subscribes. In the context of our present statutory operation, however, Chapter 14 of Title 58 requires modification, and the consent of the municipalities and the bond holders is needed.

SENATOR WALLWORK: Well, I would say, sir, that it is not our intention to work at counterpoint with the Passaic Valley Sewerage Commissioners. I think we can get on common ground with some of the suggestions that you, the Commissioner and Mr. Lubetkin have made. They are certainly good, valid recommendations that could be incorporated as modifications are made in the new pieces of legislation.

Let me ask specifically: The authority that the legislature gave to you,--was it last year or the year before, it escapes me - have you gone out and marketed any bonds under your new authority?

MR. SEGRETO: We are in the process of doing that now. The bond resolution is being prepared and there will be an initial bond sale of \$20 million which will cover the chlorination and the updating of the head-in facilities.

SENATOR WALLWORK: When do you expect to go for that \$20 million bond issue?

MR. SEGRETO: We think that the bond resolution, which has been prepared in first draft, will be completed within a matter of two weeks so that it will be ready to be presented to the Commissioners for introduction. There are a couple of ancillary problems that we are trying to resolve. The one is, of course, the lack of Federal approval, so far. The second problem is one that has arisen and has to do with the head-in facility, Senator. It deals with--

SENATOR WALLWORK: What facility?

MR. SEGRETO: The head-in facility. Those are the facilities at the Newark Bay; that is at the ushering point where all the treatment is done.

We are mandated by the Chancery Court to update those facilities and we are preparing to do that; all the engineering work is done. We are ready to go out under contract but in order to do that we have to acquire certain land in the North Bay area and it happens that the parcel of land that we need for this purpose is subject to tideland claims of the State of New Jersey.

Now, in order to acquire title and to certify it, we must get the quick claim release from the State of New Jersey. Unfortunately, Mr. Sullivan's department has declared a moratorium on these quick claim releases. We are going to submit to them, in a day or so, a formal application for quick claim of the State's rights because we don't think we can be put in the dichotomous position of being asked to proceed and then at the same time have in

court the tideland claim with the State as an obstacle to it.

SENATOR WALLWORK: How long have you been discussing this with the State? When did this problem first arise?

MR. SEGRETO: This problem first arose, I think, in December when we got our title binder which indicated that there is a claim, an in-court tidelands quick claim right. We immediately contacted the State Department of Navigation and they told us about the moratorium. They nonetheless sent the applications to us. In order to process the application we had to have a survey made with bench-mark indications of high water marks. We got all of that information. That has been completed. We now have it - the application is finished - and that will be going in to them.

SENATOR WALLWORK: That is a problem that has developed over the last couple of months?

MR. SEGRETO: Yes, it is a problem that arose as soon as our title binder indicated that there was a tidelands claim.

SENATOR WALLWORK: All right, now a couple of other questions and I am sure maybe Senator Italiano has some questions.

The bond covenant for the \$20 million, does that have, I would assume, the same type of covenant in the law now as you had for the old bonding regulations back in 1954?

MR. SEGRETO: Chapter 14 has not changed. The new bond covenant would be the same, yes.

SENATOR WALLWORK: Well, I would like to receive the considered judgment of the Commissioners as early as by the end of this week on this issue because although we all want to be helpful, your counsel and the Commissioners and everyone involved within the Authority as well as our State people, I think it should be stricken from the bonds that are going out or the law should be changed immediately so that you don't have that restrictive covenant. I think that you ought to have a program such as Mr. Lubetkin recommended here, based on volume and intensity, giving you the authority to promulgate rules and regulations subject to the Commissioner's approval.

If it meets Federal standards, it seems to me it would be adequate.

So, I think that we can get on common grounds but I wouldn't want to see the Commission, in effect, preempt the possibility of getting either State or Federal funds because you are tied up in your own bond program of \$20 million. If you don't meet Federal requirements for Federal funds, then you wouldn't meet, potentially, State requirements. I think we have to recognize then that we are going to have to have, everywhere in New Jersey - and I individually am committed to it - charges based on quality and quantity of treatment. I am not fixed to any way that it should be specifically spelled out; I think the regulatory suggestion that Mr. Lubetkin made made sense. So, would you look into that?

MR. BAY: We certainly will have our counsel and bond counsel confer on that and whatever is necessary, we appreciate this gesture offer on your part.

SENATOR WALLWORK: Right. I think that is important.

MR. SEGRETO: And I think, Senator Wallwork - as a parting comment - I think it is awfully important that if the matter of public policy is to make a system of equitable charges applicable to us, remember that we deal with the municipalities. If we in Passaic Valley, as a public body, are going to be ourselves asked to implement equitable charges, then we are going to have to be asked to do that and to assess charges to municipalities volumetrically and, also, based upon the character of their combined flow into our system.

Now, the other alternative is in the special case of the Passaic Valley Sewerage Commissioners to say, yes, there shall be a system of equitable rate distribution but considering the special nature of this entity - this regional entity - that in the case of P.V.S.C. districts, the responsibility to impose that is on the municipality. In either of these alternatives you will achieve the ultimate objective but you won't put us in the impossible position of attempting to impose a charge on an ultimate user with whom we have no privity.

SENATOR WALLWORK: No, but could we not in certain industrial cases put the burden on the industry to have the necessary metering devices on quantity and quality within their own establishment, subject to inspection at unannounced times, and have them maintain their volume and intensity flow charts? Consequently from that data their charges could be assessed. Now, we would have to make sure that they are recording properly but this could be done by the municipality, perhaps, in unannounced inspections.

I don't know, but that is another way of putting the enforcement back on the individual industry because after all it is a benefit to him if he is not polluting or not sending in poisonous chemicals, etc., to have this fact known for a cheaper rate. That is open to negotiations, I would say.

MR. SEGRETO: We would add - and I think this is something that occurred to Mayor Bay - as you were saying, Senator, who would be obligated to make this periodic inspection? We do think that if we are propelled into a jurisdictional area such as that, it would be a departure from what has heretofore been our jurisdiction. It would involve, on our part, administrative burdens which we have not had and in light of the penalty provisions which are incorporated in this bill, we would not want to be put in the position where we would be subject to penalty provisions in an area which we have never been in and would be costly for us to precipitate ourselves into.

SENATOR WALLWORK: All right. I would like to receive from the Commissioners, as soon as possible - possibly a follow-up after the bond question, because the \$20 million bond issue you are hoping might generate as much as \$60 million of Federal and State aid, and that is important - a letter on the various problems as you see them, not only on getting Federal approval but the problem of the quick claim, the purchase of the land, so that you can have the treatment plant built, and all the various attendant problems. Then we on the committee can analyze them and be as helpful to you as possible in expediting the program so that you don't fall behind and you can hit the

target date of 1976.

Is it not true that New York City is supposed to have its program completed by 1976?

MR. SEGRETO: Yes.

SENATOR WALLWORK: All right, well, we sort of have a little race here and I would certainly want to see New Jersey first in this particular race.

MR. BAY: As an added bit of information to you, Senator, 40% of our money comes from the city of Newark and 18% in that area from Paterson. so--

SENATOR WALLWORK: We have this financial problem.

MR. BAY: It will assist you in determining our ability to perform in some direction.

SENATOR WALLWORK: Senator Italiano, do you have any questions?

SENATOR ITALIANO: Yes, just one question to clear my own mind. It is apparent, if I am correct in what you have stated so far, that you are agreeing with the concept of the legislation but your problem revolves around, primarily, the mechanics and the penalties with reference to counties, municipalities and the other governmental subdivisions, is that correct?

MR. SEGRETO: Particularly, Senator, as it would apply to Passaic Valley, yes.

SENATOR ITALIANO: That sums everything up, practically, in reference to what you have been saying here this morning.

SENATOR WALLWORK: Thank you very much.

MR. SEGRETO: Thank you for the very fair opportunity to be heard.

SENATOR WALLWORK: Mr. Lubetkin?

MR. LUBETKIN: I just wanted to say, Senator, that the point you brought up about our new bond issue was brought up with our bonding counsel because we didn't want to issue bonds and tie ourselves into this either. We have made a promise to the Federal people. Our counsel indicated that the problem was in the bond resolution primarily and he thinks

he can work a bond resolution which would say this and if the legislation changes, it would apply so as not to give bond-holders an out as we change our legislation. But we will get a written opinion from our bond counsel.

SENATOR WALLWORK: I would like to have that because I can almost unequivocally say that the committee's impression - and I think it could very well be the feeling of the legislature - that if that is going to be a provision, it is similar to the provision we always find ourselves in with the Port Authority; we are powerless to act. Here is an opportunity to react before the bonds are issued and I, myself, would strongly urge that the legislature modify the law before your bonds are out to market. So, I think the guidelines from this committee would be that you will be operating under the quantity and quality provision, whether you would enjoy it or not, so that you didn't go through the exercise of going out to market and then having the whole thing reversed. We should qualify that as soon as possible, preferably this week. Thank you very much.

MR. LUBETKIN: Thank you.

SENATOR WALLWORK: Mr. Lund from the State Chamber. Would you give us your name and organization, sir?

W I L L I A M C. L U N D: My name is William C. Lund; I am employed as Manager of Environmental Protection with Union Carbide Corporation at its Bound Brook, New Jersey, Engineering Center, but I am appearing here today as Chairman of the New Jersey State Chamber of Commerce's Water Pollution Control Committee. We are a group of about 40 technical specialists and managers with diverse backgrounds and disciplines, but all with one common responsibility - to work through the Chamber toward an orderly and effective cleanup of New Jersey's fresh and tidal waters.

We appreciate this opportunity to present our views on these bills which deal with proposals to improve and maintain the quality of New Jersey's surface waters, an area of vital interest to a large number of employers in this State.

With respect to S-817, which would empower the New Jersey Department of Environmental Protection to establish and enforce sewage pre-treatment standards for sewage discharged into public sewage treatment plants, we generally support the adoption of such standards -- providing that proper consideration is given both to the nature of the waste discharged and the adequacy of the sewage treatment plant in treating the waste.

It is our belief that these considerations can best be handled by the local or regional authorities rather than at the State level. If pre-treatment standards are to be adopted, we believe that local municipalities and/or sewerage authorities should be the agent to make this determination.

S-817 recognizes in Section 3a (1) that rules and regulations covering pre-treatment standards will vary from plant to plant around the State. Since this problem is so inherently local, we feel that the solution to this problem is a function of local government. In testimony before the New Jersey Clean Water Council we have acknowledged that there is a need for the State to have some powers to compel sewerage regionalization but we have grave misgivings about legislation which would move the State well toward a complete takeover of a municipal service.

If pre-treatment standards are to be adopted either locally or on a statewide basis, proper consideration should be given to the length of time that a private industry or agency must pre-treat prior to an adequate public sewage treatment plant becoming operational. Industry should not

be compelled to, or penalized by a requirement to install extensive pre-treatment equipment if in the near future a new municipal plant will be created that will handle local waste without pre-treatment and do so more efficiently, thereby obviating a need for private pre-treatment. The language of Section 4 should thus be tightened to take account of this time-lapse aspect of the problem.

Continuing on the bill itself, we would also suggest that the definition of sewage -- Section 2 (e) -- be amended to more accurately depict that type of waste which needs pre-treatment. In this regard, we suggest restricting this definition to (a) waste that is non-biodegradable, and (b) waste that contains hazardous or toxic substances in concentrations detrimental to the safe or efficient operation of the treatment plant, and (c) radioactive materials.

Finally, some industries which are geographically located in densely populated areas are not in a position physically to construct some of the more popularly accepted methods of pre-treatment which, for example, may require lagoons, retention or equalization Ponds.

With respect to S-822 which mandates the State to pay to any local government or regional agency, after the 1969 Water Bond Referendum funds are exhausted, not less than 25% of the total construction costs of any projects approved by the Commissioner of Environmental Protection, we would like to point out several aspects which might warrant your consideration:

First, on line 7, page 1, the reference to the State Department of Health should be corrected to read the State Department of Environmental Protection.

We now would call attention to substantive areas within this bill that deviate from the concept of State-level assistance to local communities for sewage purposes, as authorized by the public at the 1969 bond referendum.

The 1969 legislation provided that the State would contribute 25% of the eligible costs of approved sewerage projects. In contrast, S-822 commits the State to pay not less than 25% of the total costs of approved projects. There are two points worthy of note here: (1) the 1969 legislation set State participation at 25% while S-822 sets a floor of 25% under the aid amounts, a percentage which presumably could be adjusted upward by the Commissioner if he saw fit to do so; and (2) there is a vast difference between eligible costs as used in the 1969 legislation and total costs as provided in S-822. "Eligible" refers to costs eligible for Federal participation and a number of very substantial costs are excluded under the Federal programs, among them land acquisition, collection systems, etc. Under the total cost concept of S-822, the State would be undertaking participation in heavy costs for which there is no Federal participation that we know of under the Water Quality Program and minimal participation (if any) under other Federal assistance programs. The point we wish to make here is that municipalities or authorities to be aided under S-822 could be accorded more generous treatment than those aided under the 1969 bond program. That

would hardly be an acceptable situation -- better treatment for laggards than for those acting promptly to relieve their pollution problems!

A second point concerning S-822 is that it promises substantial future aid to local agencies from the State Treasury in the absence of an additional "clean water" bond program. Quite apart from the age old question of one Legislature binding a subsequent Legislature on the matter of appropriations, we would point out: (1) the commitment is completely open-ended; (2) there is a question whether the Treasury is now or will be in the foreseeable future prepared to accept such a burden; and (3) should not such long term capital aid be bonded?

With respect to S-824 which would require municipal sewage treatment plants to enact equitable charge schedules based on volume and strength, and S-823 which conditions state funding to public sewage treatment plants on a similar schedule of charges, we believe that the matter of funding (including provision for debt service) should be left to negotiation between the users and the regional authority. We would support any reasonable financing system which could entail user charges, connection fees, equitable charges, or such other financing techniques as may be available under State and local law. The primary criteria for such a financing system should be that it recovers the facilities costs equitably. We feel it is best that the State not mandate any particular financing method, leaving such details to local determination based on local conditions.

With regard to S-928, which is concerned with the discharge of petroleum products and hazardous substances upon the waters of this State, we note that the Federal Water Quality Improvement Act of 1970 deals with oil spills and other hazardous pollutants and gives the Federal regulatory authorities control responsibility for coastal and inland navigable waters. We question whether there is a need for additional (and perhaps conflicting) laws at the State or local level. If, however, this Committee deems it advisable to release this bill, we offer the following comments:

1. Regarding Section 3-a, and specifically the term "and all other liquid hydrocarbons", we suggest that this term be revised as follows: "and other liquid hydrocarbons which are immiscible with water".
2. Regarding Section 3-b, and specifically the term "compounds which, when discharged in any quantity", we suggest that this term be revised as follows: "compounds which, when discharged in quantities or concentrations".
3. Regarding Section 9 on page 3, we suggest that the two noted exceptions relating to liability be expanded to include riot, sabotage and vandalism.
4. Regarding Section 10, line 16 on page 3, and Section 11, line 22 on page 4, and Section 12, line 20 on page 4, we suggest that the term "in concentrations" be inserted to make the sentence read as follows: "In the case of pollution of said waters by substances in concentrations known to be injurious".

One other comment we wish to make is that references in this bill to the State Department of Health should be corrected to read the State Department of Environmental Protection. This same comment also would be applicable to Senate Bill No. 967.

Regarding S-967, we have one comment. On Section 1, line 22, page 1, we suggest that the term "in concentrations" be inserted so that the text would read as follows: "waters by substances in concentrations known to be injurious".

Again, our appreciation for this opportunity to offer comments on these Senate bills. Thank you very much.

SENATOR WALLWORK: Thank you, Mr. Lund. Let me ask one or two quick questions. What are immiscible hydrocarbons, for instance?

MR. LUND: I believe I qualified that and said, "immiscible with water."

SENATOR WALLWORK: So, in other words, you would want in there, "and other immiscible liquid hydrocarbons." What would be an immiscible hydrocarbon? Would it have any effect even if it remained in solution?

MR. LUND: Well, Senator, this goes back to the--

SENATOR WALLWORK: I am just trying to find out why you want to qualify "and other liquid hydrocarbons which are immiscible with water."

MR. LUND: Well, the intent of the bill, I believe - at least this is my interpretation - is that it pertains primarily to floating materials or materials which will sink but which are not miscible with water, the waters of the receiving stream or the waters of the sewerage treatment plant.

SENATOR WALLWORK: Well, would mercury -- that's immiscible ---

MR. LUND: Mercury is not a carbon, sir.

SENATOR WALLWORK: No, I realize that but I mean when we are talking about hydrocarbons, what would be miscible; what would go into solution?

MR. LUND: Hydrocarbons which would go in solution? Hydrocarbons is a tremendously general term. It primarily means substances which contain carbon and hydrogen. For example, alcohol is one and also sugar is a very good one. We imbibe them, both, some now and then, and some very frequently. I guess you might call them pollutants with a stretch of the imagination.

SENATOR WALLWORK: Well, I just wondered why you wanted to get the immiscible-- No, the intention here, of course, is to prevent any deleterious substance and the bill will be amended, I would assume, to include refuse - as I mentioned earlier.

MR. LUND: This refuse in this particular case will be material immiscible?

SENATOR WALLWORK: Yes, it would be. All right, thank you very much.

MR. LUND: Thank you.

SENATOR WALLWORK: Mr. Smith.

Before Mr. Smith begins, are there any other persons here who have not signed up on the yellow sheet and are here to testify and want to testify today? If you would sign up I would appreciate it.

Would you give us your full name and your organization?

A R N O L D S M I T H: Yes, my name is Arnold Smith and I am a partner in the engineering firm of Nebolsine Toth McPhee in Norwood, New Jersey.

SENATOR WALLWORK: Do you have anything prepared?

MR. SMITH: No, I just have a few comments. It won't take very long.

On Senate bill 817, which refers to pre-treatment, I think the provision which provides for the Commissioner

to mandate pre-treatment is going to produce an awkward situation, as I believe the representative of the Passaic Valley Sewerage Commissioners mentioned.

It is almost impossible to cover every situation; for example, some of the work we have done on the treatment plants had a contributing area with a very high infiltration so that the domestic sewerage was comparatively weak. While they are trying to correct this situation, it is extremely difficult and expensive to separate the sewerage.

Now, in this particular case the treatment plant could handle a fairly concentrated industrial waste because it would just bring the sewage up to a normal strength, so to speak. So, to mandate it without going into each individual problem-- I would prefer to see it negotiated between each regional plant or each treatment plant and the industry itself. We found this satisfactory in our work.

Senate bill 823, which refers to grants and charges, line 35, calls for amortization of the sewerage system. A sewerage system, to me, generally means the complete system where you are talking about lateral sewerage interceptors, treatment, etc., and usually in our work and negotiations with municipalities I've never seen an industry get involved in the cost of the sewerage system itself, except as it applies to a particular industry where they required a larger interceptor to carry their waste. I'm not sure whether that is the intent of this or not - whether the industry is supposed to get into the cost of the entire lateral sewer system. Do you understand what I am saying?

SENATOR WALLWORK: I understand your problem, or your suggestion there, and you raise a good point.

MR. SMITH: I notice on bill 824, line 11, where it calls for chemical compensation - I wonder if that shouldn't be composition?

SENATOR WALLWORK: It probably should be.

MR. SMITH: I would also like to comment on 967, where you mention hazardous substances. The previous speaker

brought that up.

We represented an industry that wanted to discharge a small amount of alcohol into its sewer, which would have diluted by 1,000 or so times, and the municipality had a regulation saying that no inflammable material could be discharged. I brought up the point that every bar in town would be in violation if they threw half a highball or a martini down the sewer because alcohol is flammable. I think you get into the same problem here when you say hazardous. I think it should be qualified in some manner and refer to the concentration at which it is hazardous. I think that applies to 928 also.

I think that is all I have to say.

SENATOR WALLWORK: All right, Mr. Smith. I don't think I have any questions. Senator Italiano, do you have any questions?

I appreciate your appearing here today and I do have a copy of the letter which you sent to me, where you raised some good points, I think, and we will certainly be taking your recommendations and observations into consideration in our deliberations. Thank you very much.

MR. SMITH: Thank you.

SENATOR WALLWORK: Will you state your name and your organization please?

W I L L I A M W H I P P L E, JR: My name is William Whipple, I am Director of Water Resources Research Institute at Rutgers University, which was created in 1965 by Federal legislation and which is a part, however, of the University itself - it is not a Federal agency.

We have had a good deal of work involving various parts of the University, economic and political, but mostly scientific aspects. This has been about 85% water pollution and the rest involved other water problems of the State. We have done field work, mainly in the Passaic, Raritan, Mullica and Delaware Rivers. We have had \$1,100,000 in Federal funding during this time and something more than \$200,000 State

funding plus smaller amounts from other sources. We have had projects handled by Princeton University and Stevens Institute but mostly within the various parts of Rutgers University.

There are under consideration five bills concerning water pollution, namely, S817, S823, S824, S928 and S967.

These bills appear to be generally advantageous. They would extend the financing of corrective works - bill 822 which appears to be desirable - and add provisions for equitable sewer charges to both municipal and industrial facilities for waste waters handled by a central or regional treatment plant. Such charges are most useful if proportioned to the true cost of treatment, as provided in these bills. The only disadvantage to such legislation is that most treatment plant operators do not now have the expertise to make the necessary determinations. If regional sewerage authorities were in existence, as recommended in the report of the New Jersey Clean Water Council for 1970, such authorities might be assumed to be able to arrange for the necessary studies from their technical staffs; but most municipal agencies will have difficulty - as I think has previously been testified to. It should be expected that the Department of Environmental Protection or various consulting firms will have to be called on for assistance.

S817 is a far-reaching measure proposing establishment of pre-treatment standards for materials or sewage discharged into the public treatment plants of the State. The objectives of the bill are commendable, namely, to prevent deleterious wastes from entering treatment systems which these systems are incapable of handling. The difficulty with this proposal lies in its implementation. There are hundreds of plants involved which do not, in most cases, have staffs adequate to devise the necessary standards, and still less to enforce them. The technical resources of the State have not yet been able to provide adequate surveillance to the treatment plant effluents and to control the thousands of sources which contribute to these effluents would be a much greater undertaking. The passage of a law which cannot

be generally enforced would be undesirable because it would foster capricious and irregular enforcement and a disrespect for law as a whole. It would appear to be preferable for the legislature to consider the water pollution picture as a whole and to set up more effective machinery for implementation of basic requirements before proceeding to add new major requirements. Regional sewerage authorities would be an appropriate framework for carrying out such implementation.

S928 and S967 provide a tough approach to curb discharges of deleterious substances, not only into streams but upon their banks or in any location where they may wash into streams. Such legislation is realistic because great quantities of oil wastes, especially, are discharged into ravines and minor tributaries of water courses. However, care should be taken to define what is meant because, as drafted, the act would probably prohibit salting of streets and highways, for example. The complete enforcement of this proposed legislation will be difficult but in view of the possibility of proceeding initially only against the larger offenders, this should not preclude action at this time. It is assumed that the act is meant to prohibit introduction of such substances without treatment, since treated wastes are governed by other provisions of present law.

I appreciate the opportunity to be heard on this legislation.

SENATOR WALLWORK: All right. I would like to ask a couple of questions, Mr. Whipple.

You talked about, under S817, the need for metering. Do we have the technology to meter on intensity or quality of waste material?

MR. WHIPPLE: Those technologies are being developed by monitoring devices and certain elements can be satisfactorily monitored on a day-by-day basis. Such things as ammonia or acidity can very readily be monitored. Others, such as dissolved oxygen can be fairly well monitored. But that

it not a constituent of wastes, it is only an indicator, and biochemical oxygen demand cannot satisfactorily... be monitored except by removing samples for later processing, which is quite expensive. Many of the other waste constituents are, really, almost impractical to monitor; the only way of doing it in most cases is simply be removing, periodically, samples of the stream - sometimes these must be refrigerated and processed later in the laboratory.

SENATOR WALLWORK: Well, is it realistic then to even consider, at this stage of the game, a pre-treatment program?

MR. WHIPPLE: I think that in principle, a pre-treatment program should be considered, the reason being that we have some flagrant cases. Although the law may permit this, - existing law may give some leverage against it, but I think it would be well to clarify and strengthen that because there may very well be some extreme cases that come up. But I think that I would not require continuous monitoring of this - a setting of definite standards - but let this go to remedy abuses in definite bad situations that are created. There are some cases in which entire treatment plants - big treatment plants - have been put out of action for a period of days by some wastes that are coming in and there should be unquestioned authority to deal with this. But I believe that the technology isn't advanced to the point where it would be realistic to set up a complete monitoring program and a complete set of standards. Even where, theoretically, the technology does exist, it is so expensive and the number of people who are capable of carrying these things out is so limited that I believe your legislation is in advance of its time, if I can put it that way.

SENATOR WALLWORK: I don't think we have any further questions. We appreciate your being here this morning. Thank you.

MR. WHIPPLE: Thank you very much.

SENATOR WALLWORK: Mr. Ruppert. Will you give us your full name and your organization, please?

L E O N A R D H. R U P P E R T: Senator Wallwork, Senator Italiano, my name is Leonard H. Ruppert. I am Executive Director of the New Jersey Petroleum Council, with offices at 212 West State Street, Trenton, New Jersey. Our organization is a business league representing oil companies and their affiliates doing business within New Jersey.

My comments today are in reference to Senate Bill 928 concerning the discharge of petroleum products into state waters.

We have reviewed this legislation and have several comments and suggestions to offer for your consideration.

If this legislation is enacted as written, we foresee three problem areas:

1. It should be recognized that passage of S928 will compound the problem already faced by oil companies of having to deal with a multitude of governmental agencies in the event of an oil spill. Agencies which now have jurisdiction in this regard include the United States Coast Guard, United States Army Corps of Engineers, Delaware River Basin Commission or Interstate Sanitation Commission, and Federal Environmental Protection Agency. The entry of the State into the same field should take cognizance of these efforts already underway so that proper lines of authority are established and action to cope with emergencies does not become bogged down in bureaucratic red tape. Oil spills presently are covered under Federal law PL 91-224, which establishes liability up to \$14 million against persons responsible for oil spills. I might also add that it sets \$10 thousand fines for failure to report and it establishes \$10 million civil liability and also there is another provision for one year's imprisonment for failure to report. S928 would be an addendum - an additional requirement - to this Federal law and the legislation itself should recognize this fact to

avoid duplication of effort.

2. We also are concerned with the provisions that would permit the Department of Environmental Protection to authorize any third party clean-up without restraint. We believe that the "third party" reference, as now contained in the bill, should be clarified and limited for better control. Where a person is responsible for the discharge, he should be given the opportunity to decide if the discharge removal services of a third party are required. These services should then be undertaken only under direction of a competent authority.

3. Regardless of the quantity of material spilled, this bill, as written, would permit the Department of Environmental Protection to initiate a civil action for up to \$10 million rather than \$5 million, which we believe is your intent.

To clarify the provisions of this bill, and to bring it into conformity with existing Federal law, we recommend these specific amendments:

In line 2, paragraph 4 on page 2, after the word "state", we would insert the words "except as provided in paragraph 5." We would then suggest adding a new paragraph 5, reading as follows: "This act shall recognize the existence of the Water Quality Improvement Act of 1970, Public Law 91-224, 91st Congress, HR 4148, April 3, 1970, which pre-empts the provisions of this act in cases of navigable waters of the United States, territorial waters of the United States, water of the contiguous zone of the United States and the shorelines adjacent thereto. This act further recognizes the duties imposed by PL 91-224 and the administration of the act by the United States Government."

The existing paragraph 5 would be renumbered to become paragraph 6 and would read as follows: "Any person responsible for discharging petroleum products or hazardous substances in the manner prohibited by section 4 shall immediately undertake to remove such discharge to the

department's satisfaction. When the discharger fails to immediately undertake to remove such discharge to the department's satisfaction, the department may undertake the removal of said discharge and may retain agents and contractors for such purpose who shall operate under the direction of the department."

On page 2, paragraph 6, line 4, we suggest adding the words "or removal" after the word "damage." For spills in navigable waters, the Federal law, as noted, already extends liability up to \$14 million, or to higher amounts where willful negligence or misconduct are shown. In those cases the person becomes responsible for the full clean-up costs, whatever they may be. Damages and clean-up costs for spills occurring on other waters have never reached or exceeded \$5 million, as shown by any historical record. Exceeding this amount would not be of additional benefit to the public. However, the larger amount would cause a substantial additional insurance cost for companies without any advantage accruing to citizens.

On page 2, line 6, paragraph 6, we recommend that subsection (c) be revised to read "agent or contractors authorized by the department."

On page 3, paragraph 9, we recommend that the exception provided for acts of war and acts of God also include, "(c) negligence on the part of the State government, or (d) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses." The logic of these exceptions was recognized by the U. S. Congress in the Federal act - from which the suggested language is copied verbatim, - and you might also wish to include it in New Jersey's act.

With these changes, which we believe will not reduce the act in any way, we believe that the proposed bill would be greatly improved.

Thank you for your consideration.

I might add that in earlier testimony by, I believe

Dr. Sussman, there was mention made of the waste oil problem from service stations. We do have a program on waste oil reclamation and disposal; details are rather lengthy but if the committee wished them we could provide them to the committee. Members of our association do not condone the dumping of waste oil by any service station and almost all of the dealers now have available to them pick-up and collection services. They can turn to their supplying companies for guidance and assistance on the problem. In the American Petroleum Institute there has been a lot of activity in this regard and right now in Jersey City, I believe it is, or in Hudson County, there is a Federal grant which has been awarded to a reclamation firm which is researching how to reclaim waste oil without any pollution.

Thank you.

SENATOR WALLWORK: Let me ask one question, Mr. Ruppert.

How many of the gasoline stations, in your estimation, are making use of the disposing of oil through pick-ups?

MR. RUPPERT: Well, without putting a number on it, because I can't, I would say the great majority. Now, as you are aware from legislation that comes by from time-to-time, the individual gasoline station operator is an independent businessman and trying to become more so all the time. The great, great majority, I think, do. I think Dr. Sussman, in his testimony, indicated that it was a very small number. As I say that, I recognize it only takes one or two out of ten thousand to cause considerable pollution, if it does go on, and we are working with this - it is an on-going problem. I couldn't put a specific number on it but there may be some.

SENATOR WALLWORK: Would you provide the committee with that information, that program?

MR. RUPPERT: I certainly will.

SENATOR WALLWORK: I have no further questions.

SENATOR ITALIANO: I have just one technical one. On the last page of your statement - not quite the last paragraph, the paragraph before the last where you say, "on page 3, paragraph 9" - the last sentence of (d), "or any combination of the foregoing clauses."--

MR. RUPPERT: This was picked-up from the Federal act, verbatim.

SENATOR ITALIANO: Is that word "clauses" correct?

MR. RUPPERT: That's the way they used it, yes.

This is their language, now you may wish to draft it differently. You talk about acts of war, acts of God, and then negligence - if you use this, it would be negligence on the part of the State government. Then in item (d) they say, "or any combination of the foregoing clauses" - that is a technical way of drafting, I think.

SENATOR ITALIANO: All right, thank you.

SENATOR WALLWORK: Will you give us your full name and your organization, please?

A R M O N D T. U R S I N O, J R. : My name is Armond Thomas Ursino, Jr. I reside in Union Township and I am a member of the 6-member official Environmental Pollution Control Committee of Union Township, appointed by the Township Committee for the purposes of advising them on various anti-pollution measures.

My support of S-928 and S-817 is the direct result of my experience with the Rahway and Elizabeth Rivers in Union.

Accordingly, there are two specific related series of events which substantiate my position in favor of this legislation.

This past summer, a Rahway River walk was sponsored by the Union Township Young Republican Club. Among the notable guests on this excursion, as you recall Senator, were yourself and Senator Matthew Rinaldo. At this time the Senators and concerned citizens witnessed the scientific sampling of the water. I shall draw to your attention an article appearing in the Union Leader of January

17, 1971 - and this is related to a complaint filed against the Division of Fish and Game-against them stocking trout in the Rahway River. This was filed in Superior Court on Tuesday, February 15, 1971. This complaint was instituted by the Environmental Pollution Control Committee and the Union Township Young Republican Club.

Consequently, an order was issued by Superior Court Judge Samuel Alcorn, ordering Lester G. McNamara, Director of the New Jersey Division of Fish and Game, to show cause why his agency should not be enjoined from stocking trout in the Rahway River. The complaint stated that the Rahway River was in such a state that it cannot sustain for any length of time fish stocked in the water.

In an affidavit accompanying the complaint, results of a calliform count - calliform count being relative to human and animal excrement - taken from the River in Union Township on July 22nd, indicated a most probable count of 460,000 per 100 milliliters of water in Union. A count in excess of 24,00 per 100 milliliters was regarded as unsuitable for natural bathing purposes, according to the standards established by the American Public Health Association.

The affidavit also declared that an analysis of Rahway River water, taken in Union last December, indicated there were .58 parts of mercury per billion. This was far in excess of the .10 parts per billion of mercury concentration occurring naturally in ocean waters.

My second major point is the testimony given before a Union County Freeholders meeting on February 11, 1971 by a combined force of members of the Environmental Pollution Control Committee and Union Township Young Republicans. The entire spectrum of our experiences with the Rahway and Elizabeth Rivers was touched upon.

Although sympathetic to our cause of clean water, Director Tiller informed us in no uncertain terms that jurisdiction over the River water, banks and bed has not been fully established at any level of government, let

alone a program of regular maintenance of the waterway.

Accordingly, the preservation of any waterways at all is contingent upon passage of effective legislation which will bring to task the polluters themselves. We should be very cautious, gentlemen, and indeed scrutinize the motives of those who oppose anti-pollution legislation. Opponents would do well to experience ~~the several~~ unscheduled trips I took to the bottoms of the Rahway and Elizabeth Rivers during massive clean-up campaigns.

Senator, I could easily point to a multi-million dollar anti-pollution effort undertaken by United States Steel to alleviate its pollution of the Mississippi River, or I could point to the noble ambitions of detergent manufacturers to produce non-phosphate detergents. But also, with comparative ease, I could elaborate on a 7,000 gallon spill in Union Township into the Rahway River from which the town of Rahway derives 80% of its drinking water. Is it not possible that a #4 oil in its sediment can harbor carcinogenic elements detrimental to the health of citizens, thousands of citizens? In view of these developments, can we seriously consider the issuance of permits by the Federal Government to dump additional pollutants into the already contaminated Arthur Kill?

In consideration of S-928 and S-817, can we not also consider the establishment of a river commission? Witness the testimony of Mr. Lubetkin recently, to the effect that jurisdiction is not specifically assigned to any particular group of legislators or any responsible organization, as far as the maintenance of an entire waterway is concerned. This commission would be responsible for all aspects of the River and its tributaries, including water, beds, banks and any pollution thereof. The commission could receive its initial capital structure by appropriation and thereafter the commission could derive its income from imposition of fines and assessments of industries and municipalities utilizing waterways. This is but a possibility that I mention, gentlemen.

In conclusion may I say that I and my associates are of the belief that passage of this legislation is absolutely imperative to the health and well-being of this generation and, indeed, the existence of any future generation. Thank you for your time, gentlemen.

SENATOR WALLWORK: Thank you for your comments. I don't believe I have any questions.

I understand there is no one else here that wishes to testify; this will be the last individual. Will you give us your name and your organization?

W E N D E L L R. I N H O F F E R: My name is Wendell R. Inhoffer, I am the General Superintendent and Chief Engineer for the Passaic Valley Water Commission.

Just a few brief comments, I think everyone has stated their opinion and I think we recognize there are a number of problems connected with some of these bills, especially in terms of administration.

Passaic Valley is concerned about the Upper Passaic River because this represents our drinking water supply and we are very much concerned with Senate bill 928 in that for the first time the use of petroleum products has been included. We say this because during the year 1969 we had eight spills of oil in the Upper Passaic River Basin. In 1970 we had four and in 1971 we have had three already. This represents a serious problem to the Commission because out of this oil we must make drinking water and although we have the facilities to handle most of this problem there is always the day when the maximum spill could affect the water supply to 700,000 people.

As an example, Senator Wallwork, you have mentioned about regional sewer plants and Passaic Valley certainly is in favor of regional sewer plants on a planned basis. We recognize that regional sewer plants will be implemented up-stream from our intake; as a matter of fact we are faced with a potential, ultimately, of having some 75,000,000 gallons of regional sewerage up-stream from our intake. We must remember that we need this

water. We need this 75,000,000 gallons, whether it is sewerage or not, because there are times when the Passaic River does not have 75,000,000 gallons of water in it - natural water, that is. But when I look at an instance of a petroleum spill just two weeks ago in Wayne Township, where 3,000 gallons of fuel oil was mistakenly discharged through a sewer clean-out instead of the storage tank and completely wiped out the Sheffield Hills sewerage treatment plant, - incidentally it is still not operating properly. - we must realize that the location of any regional facility above the Passaic Valley is of great concern to us, not only because of petroleum products but any other products that could be hazardous to treatment. Treatment plants are not infallible, no matter what type of treatment is provided; there must be breakdowns. If there is a breakdown in a 36,000,000 gallon-a-day treatment plant above water supply, what happens to the water supply? These are our concerns.

On bill S-928 we talk about hazardous subjects, and one of the previous speakers mentioned salt. This opens Pandora's Box because the salt content in the Upper Passaic River seems to be increasing during the winter months every year and we are now receiving some complaints of high chloride contents from certain industries who are concerned with high chloride contents in potable water. We have not yet reached the maximum allowable limits for chloride in potable water, but what happens when we do? The laws, at this time, are somewhat general with respect to discharge of salts, chlorides, into the waters of the Passaic River and we are faced with one industry who may want to discharge ten tons of salt a day into the Passaic River and we are at a loss as to how we are going to stop them.

So, we are concerned about hazardous substances and I think S-928 is a very good bill. The only problem I can see in it is that there seems to be no rules and regulations with respect to the location of sewer sites.

for petroleum products and hazardous products with respect to a water shed. There are many millions of gallons of fuel oil which are now located on the Upper Passaic River Basin and which, periodically, come down to us - mistakenly or accidentally - because of ruptured lines, ruptured tanks, or what have you. I don't know how we can control this but certainly there should be a 928A attached to this which will set up some rules and regulations governing the location of, not only petroleum products, but all hazardous substances when they are located above a major water supply.

Some brief comments on S-817 because I think we have heard a lot about that today and I am sure the problems are all recognized. I think S-817 is a good start but as Mr. Whipple said, it may be a little ahead of time. It seems to me that when we have a law like 58:10-17 which requires an industry to obtain a permit - this law has been on the books many years - when we have a law of this nature which somehow has seemingly been forgotten by all of the municipalities, a law which has not, obviously, worked because of many problems - it probably would take a whole department of men in the State to administer this particular law - we wonder how S-817 can be made to work. I think 58:10-17 is the first step in this overall process of controlling industrial locations. Interestingly enough, if you are an industry in New Jersey and you do fill out this application for a permit under this existing law, if you discharge into a public sewerage facility, questions 9 through 16 need not be completed. These are the most important questions in the application and they determine the quantity and quality of the wastes we were talking about - as they apply to each industry. So that if we eliminate that one phrase in this particular application, I think we are on the right track because industries will then have to decide whether or not they are going to live up, and own up, to the type of waste that they may be discharging.

SENATOR WALLWORK: What is that form again?

MR. INHOFFER: 58:10-17.

SENATOR WALLWORK: Can we see it?

MR. INHOFFER: You can have it.

Perhaps I should clarify one point with respect to that law. You can't ask State officials to administer a law if State officials are not officially notified of the location of an industry in a particular municipality, and where this law has broken down is that municipalities have not notified anybody of a new industry which is coming in. I'm talking now about the Upper Passaic River water shed where we have thousands of industries discharging thousands of gallons of strange industrial wastes and, quite obviously, the municipality does not want to invoke this particular law because that may mean the loss of a ratable. We have seen it in many cases and I feel that, again, there is an administration problem because there are an awful lot of applications that are going to have to be formulated and there are just not enough personnel located in Trenton to do this job - there is no question about it. The Passaic Valley has tried to pick up some of this lack as it pertains to us because we find now that the industrial location represents our biggest problem.

We say, just briefly, in 817 that for the purpose of enforcing the provisions of this act we find that the public bodies, again the municipalities, most likely will take on control. I don't believe we are going to get any kind of reaction from municipal control because they are not going to do it - period. They didn't do it in 58:10-17 and they have not done it in 58:11-10, which requires sewerage to be approved by the State Health Department; right now it is in the Department of Environmental Protection. This law was thrown to the wind and consequently this is the reason our sewer plants are overloaded because there is really no regulation and there aren't enough people in Trenton to go to 750 sewer plants every day to see what new industries or what new connections will be

forthcoming.

Again, in 817, it seems that we are taking control out of the State Department of Environmental Protection and asking the municipalities, authorities, commissions, what have you, to administer this program. I don't think it will ever happen. On page three, item 5 (d), it says that this authority or municipality shall deny the use, or continued use, of facilities to any user or prospective user who is required to file an application under this section. This is already happening. There are many authorities that have schedules of rates and schedules for use of the sewer system and if an industry could not meet the requirements of these schedules they were denied the use of this system. This happens all the time but the next question is not asked: Where does the waste go? Quite obviously it goes in the streams, it goes in the storm drains, and then, of course, in our particular case, we must ferret out the fellow who is responsible. We have had many industries come to us and say, the town won't let us into the sewerage system. That is why I like the pre-treatment requirements in this bill; I think it makes all the sense in the world - to have pre-treatment standards.

SENATOR ITALIANO: Excuse me, at a State level?

MR. INHOFFER: Yes.

SENATOR ITALIANO: Rather than at a local level?

MR. INHOFFER: Absolutely.

I think, very briefly, that 817 is a good bill; I would like to see the control retained at the State level and not given to municipalities because I don't believe they are going to do it nor are they in a position to do it.

SENATOR WALLWORK: How many oil spills have you had in the Upper Passaic in the last two years - about 15?

MR. INHOFFER: Fifteen.

SENATOR WALLWORK: What happened, did you clean

them up or did they just go down stream or--

MR. INHOFFER: Well, in many cases we have had to shut down some of our generating equipment in our plant in order to bypass a good portion of the flow around our water treatment plant. In other cases we have gone upstream with our men and with other personnel and have tried to pick off the oil before it got to the river. In some cases - in one case in Roseland where there was a very bad fire in 1969, 60,000 gallons of oil went down to the Passaic River and got lost in the meadows somewhere. We never did find it. Oil spills are a problem in that sometimes they can get into your intake which can cause tremendous taste and other problems - in your potable water supply. We can handle the problem as long as we know it is coming, of course.

SENATOR WALLWORK: Who pays for the cost of going out and trying to clean this up?

MR. INHOFFER: The people who are buying the water from the Passaic Valley Water Commission. At this stage we have not been able to invoke any charges against accidental spills. We have pursued the issue; I think under the new law, ~~10-1~~, there is provision for the water company to claim the penalties, which we have already done in some cases. We may be able to invoke this law in the event of a petroleum spill, ~~not under this particular~~ law.

SENATOR ITALIANO: What type of penalties are you referring to - that you can invoke?

MR. INHOFFER: Well, damage claims, for instance, in the event we have to turn our generators off - if we lose \$500 per day on that and we must consume \$600 in chemicals to treat our water, we could send them a bill for \$1,100.

SENATOR ITALIANO: They are not really penalties, they are actually damage costs.

MR. INHOFFER: They are damages, right.

SENATOR WALLWORK: So, there are no penalties that you can invoke, is that right?

MR. INHOFFER: Right. There are penalties in that, under the new law, 10-1, for the first time a water company is permitted to sue and get a penalty in the event of pollution - a case of pollution. We have done this.

SENATOR ITALIANO: Over and above your damages and costs?

MR. INHOFFER: Well, in that case the penalties have been quite severe - \$1,000 per day with a maximum of \$2,000, I believe - they are severe enough to handle our costs, yes.

SENATOR WALLWORK: I think it is a maximum of \$2,500.

MR. INHOFFER: \$2,500, yes.

SENATOR WALLWORK: That is at the State level; that doesn't go to the water company.

MR. INHOFFER: Yes, it does - it was signed last June.

SENATOR WALLWORK: Not for the penalties though.

MR. INHOFFER: We have just collected our first penalty under that bill.

SENATOR WALLWORK: Is that right?

MR. INHOFFER: I'm not the attorney so I can't rattle off in numbers.

SENATOR ITALIANO: Well, I'm just trying to determine for myself.

MR. INHOFFER: We do have that right; a water company can collect a penalty.

SENATOR ITALIANO: And in these spills, you have had no assistance from the people responsible for them?

MR. INHOFFER: None, none whatsoever.

We have been more concerned with abating the problem and getting out from under.

SENATOR ITALIANO: Getting what, sir?

MR. INHOFFER: Getting the problem away from our intake so that it does not affect the treatability of the water; this is our main concern.

We haven't had ~~the~~ kind of spill that would, let's say, put us out of business right now - I mean in the last three years. Certain treatment plants have been put out of business; there is no question about that. But, again, they are not regional plants, they are small plants and one small plant out of business is not going to hurt anybody - not us, anyway.

SENATOR WALLWORK: What is your feeling about regionalization for treatment plants?

MR. INHOFFER: Well, I think I expressed that at the beginning. There has to be some element of regionalization, there is no question about it, because there are 120 sewer plants above our intake right now and it is completely uncalled for and unnecessary. There have been all kinds of schemes that have been developed for regional sewer plants, some of which are quite good and some of which, in our estimation, could be quite bad for the water supply aspects of the water shed. We are very much concerned over providing one treatment plant, let's say, to handle the whole water shed because that could be discharged below the intake, but then we would be without water during critical flow periods. Secondly, if the discharge is located above our intake, we could be without a river during an upset of the major treatment plant. So, we have this problem which has to be worked out and there are studies being undertaken right in the near future to come up with a system whereby we can not only provide the best possible service for sewage treatment but maintain the best possible type of water in the river for water supply purposes.

SENATOR WALLWORK: The rate of dumping of chemicals on the roads for melting of snow and ice - you give me the impression that's getting to be a much greater problem. What do you foresee in this area? We ~~are talking~~ about water quality and--

MR. INHOFFER: Well, it is very hard to predict what is going to happen with respect to chlorides, for

instance, because that seems to be the chemical everyone is using. The quantity of chlorides in our finished water continues to rise. We are, perhaps, 75% of the way to the maximum limit during a few week period in the winter when we get the runoff of chlorides. Again, this is a number which we are living with - 250 parts per 1,000,000 as a limit. There are other people that are drinking water with chloride content that is much higher than that. It is not a particular health problem; it is a problem to certain industries who want water of low chlorides, and they are involved in the chloride removal.

So, I'm not too concerned about salt or chlorides, as such, at this particular moment, as long as we recognize that the day is coming when we will exceed the limit and then we may have to do something about it - unless it is proven that this is a problem right now.

SENATOR WALLWORK: What would be your greatest concern at this time?

MR. INHOFFER: Well, my particular concern at this time is the amount, quantity and quality of industrial wastes which are being discharged in the River, unknowingly. There are an awful lot of industries - and we are picking them up one at a time - but there are a lot of industries in our water sheds who are discharging many thousands of gallons of unknown waste, mainly because the State, or Passaic Valley, or anybody else having any kind of jurisdiction, has no knowledge of this particular process which is going on. So, now we have probably the most complete water shed management or investigative program going on in the State today. We can't do it all; it is impossible; we don't have the manpower; the State does not have the proper number of people to put into the field in order to verify all of these particular sources. This is a problem of man hours and it is an impossible problem at this stage of the game.

SENATOR WALLWORK: Where are your points for taking water from the Passaic River?

MR. INHOFFER: We take all our water at Little Falls.

SENATOR WALLWORK: All of Little Falls.

MR. INHOFFER: We have 800 square miles upstream, above us.

SENATOR WALLWORK: So, consequently, the Passaic Valley Sewerage Commission reflects a different viewpoint because there is no water being taken--

MR. INHOFFER: That's right. They have a completely different problem; they have a completely different law under which they operate.

SENATOR WALLWORK: Right, and the Rahway River -- Portions of the Rahway River are taken for water supply?

MR. INHOFFER: I believe that is correct.

SENATOR WALLWORK: So, we are faced with the problem then of having two problems, really; the one of controlling the input into waters where it is going into a water supply system and where - such as the Passaic Valley Sewerage Commission - it is, theoretically, going out to sea after being treated in the treatment plant.

MR. INHOFFER: Right. They are two different problems altogether.

Now, as we get into regionalization we will find that the problems of the Upper Passaic are going to be somewhat similar to the problems of the Lower Passaic with one exception; we must maintain a water supply at Little Falls - that is the difference.

We need the controls, we need the particulars in this 817 bill; we need the pre-treatment standards; we need as much control as we can get but it has to be reasonable and it has to be administered.

SENATOR WALLWORK: Well, that's only because they are dumping right into the River.

MR. INHOFFER: Right, in many cases.

SENATOR WALLWORK: Well, that's actually illegal, is it not?

MR. INHOFFER: Absolutely. It is illegal, but

they were told to do it by the municipality in many cases because the municipality didn't want them in the sewer system. I can give you a very prime example of something which is happening right now. We have a regional - semi-regional - sewer system in our water shed. We have one industrial waste which has been a headache to the Passaic Valley Water Commission for ten years. We have been fighting this problem for ten years and really got on it three years ago. We forced a regional sewer system to build a trunk sewer up to the site, which was done, and now they are not allowed into that trunk sewer because they don't meet the standards of the regional sewer system. So, the only alternate is the continued dumping into the River. Now, this is just an ironic situation but that's where we are today. We have a trunk sewer, we have regulations, but we can't get into the trunk sewer.

SENATOR WALLWORK: All right, would you do similar to what I requested from the Passaic Valley Sewerage Commission people - give the committee a memo, or letter, stating what your problems are? I would like to know specifics as to your findings on specific firms or industries that are polluting the Passaic River and, in effect, bypassing the sewerage system program because, in my mind, that is strictly illegal and this committee wants to look into that.

MR. INHOFFER: Very good.

SENATOR WALLWORK: And I would like the particular instance of the one firm who, after the suggestion was made to build this interceptor and trunk line, couldn't use it.

SENATOR ITALIANO: In other words, they went and had them build this trunk and then did not permit them to tie into the municipal--

MR. INHOFFER: Essentially this is the way it worked out, right.

SENATOR ITALIANO: Because it overloaded the ---

MR. INHOFFER: No, not because it overloaded the treatment plant but because it didn't meet the standards of the agency that was running the treatment plant.

SENATOR ITALIANO: In what way, its waste material?

MR. INHOFFER: Yes. Even with pre-treatment, this particular industry could not meet the standards of 300 parts per 1,000,000 of B.O.D., for instance, which seems to be a standard. He was double that, so he was not allowed-- At this point, now, the State Department of Environmental Protection and the Passaic Valley and a number of other interested bodies are now getting together to work this out. So, this is the kind of situation we are going to face and we may face it more if we do get involved in pre-treatment standards, as such - but it has got to be done.

SENATOR WALLWORK: Do you know, offhand, what the percentage, in New Jersey, is of drinking water being taken out of our rivers?

MR. INHOFFER: Drinking water being taken out of our rivers?

SENATOR WALLWORK: In other words, as opposed to a reservoir system - is it 20%, 40% of the drinking water?

MR. INHOFFER: Well, I can only tell you that 60% of our water is taken from the Passaic River, which is unprotected. All of our water, of course, comes from the Passaic River Water Shed but some of it is a reservoir system.

SENATOR WALLWORK: 60% comes from--

MR. INHOFFER: 60% comes from the River, which is unprotected.

SENATOR ITALIANO: Unprotected?

MR. INHOFFER: Unprotected. There are no reservoirs on that particular river to store water.

SENATOR ITALIANO: You take it right out of the

River, process it--

MR. INHOFFER: Right, we get what comes to us.

SENATOR WALLWORK: And how many populated communities do you service?

MR. INHOFFER: We service about 15 communities with a population of 700,000 and with an industrial equivalent of about a million people, a total of one million people. In other words, we have a tremendous industrial usage.

SENATOR WALLWORK: So in other words, you are servicing a million people then?

MR. INHOFFER: Essentially, yes.

SENATOR WALLWORK: That's not a very tasty picture,, is it?

MR. INHOFFER: The water meets the standards.

SENATOR WALLWORK: All right, thank you very much, Mr. Inhoffer.

Senator Italiano and I want to thank you for your kind attention and your good testimony this morning. I would like to underscore the point that Senator Italiano brought out, that any of you who heard all of the testimony and who testified - or anyone else - who would have additional thoughts or supplementary information, please write a letter to us and give us your additional thoughts so we can have the benefit of your impressions. It would almost seem to me, listening to the testimony today, that we have a wealth of material, we have a wealth of information and we have a wealth of talent here in the State, but unfortunately there is no real focal point in translating this talent and ability into a swifter action in cleaning up the water pollution problems that New Jersey has. This committee, with the efforts of the Department of Environmental Protection and the Governor's office, I think, could very well be that focal point, with your help.

We have one late starter. Would give us your name and your organization, please?

L O U I S G O L D S H O R E: Yes, I am Louis Goldshore; I work for the State Department of Environmental Protection; I am a member of Commissioner Sullivan's staff, Senator.

In reviewing the six bills that the Committee has had before them today, I'd like to say that we find them to be thoughtful concepts incorporated in prospective in the proposed legislation. We are generally in favor of the policy incorporated in the bills and as soon as these bills were introduced, we were aware of the problems that we heard explored today. There are legal problems, particularly with reference to equitable rates, and we are aware of them. We don't have all the answers and I think, perhaps, the hearing today has provided a forum, a forum in which we could explore and examine these issues and these problems. I was instructed to come here and listen and learn and that's exactly what I did. The Department will have more specific comments with particular relevancy to each proposal and they will be forwarded in the near future.

I am here for any questions and I am accompanied by Mr. Segesser and Mr. Ricigliano of the Water Pollution Control Department. I want to thank you for the opportunity to speak.

SENATOR WALLWORK: I want to thank you, Mr. Goldshore.

When you say in the near future, about how long are you-- what is your target on that?

MR. GOLDSHORE: Well, I think some of the proposals that are before you are on-going projects. There are problem areas and we hope that when the Commissioner returns, we will have something for him and, at the same time, pass them along to the Governor's office. So, I would say in about a week or ten days we will have a more thorough examination of some of these bills. In some of them there are a lot of unanswered questions.

SENATOR WALLWORK: All right, we know of some

of the things that are in the works such as a development of a regionalization program and legislation, etc., so we will look forward to working with you and Commissioner Sullivan and the other people in the Department, in this field, and I would like to also ask you at this time to give the Committee your recommendations on the problem of wet waste ~~for~~ chemical waste disposal, more specifically relative to, perhaps, amendments of chapters 39 and 40 - the new laws that were just passed last year on solid waste disposal, so that we can have a better method of disposal of chemical wastes in sanitary landfill or in dumping.

Particularly of concern to me is the wastes that are being generated in various chemical plants - not only in this State but in surrounding states - which certain companies truck over New Jersey roads and dump in catch basins or retainer basins, etc. From there they either barge them out to sea or detoxify them, if necessary, and dump them in landfill. This is a big area that we haven't even started on but which bears in on the problem. So, in addition, if you would look into that I would appreciate it.

MR. GOLDSHORE: Certainly.

SENATOR WALLWORK: Is there anyone else who cares to testify?

If there are no other people, Senator Italinao and I appreciate your kind attention and your information.

This hearing is adjourned.

(Hearing Concluded)

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COPY OF LETTER

November 13, 1970

U. S. Department of the Interior
Federal Water Quality Administration
Northeast Region
Boston, Massachusetts 02203

Attn: Lester Sutton, Director of Facilities Program Office

Dear Mr. Sutton:

The Passaic Valley Sewerage Commissioners, a body politic, was formed by a special act of legislation in 1902. The Commissioners were created for the purpose of relieving the streams and the rivers, between the Great Falls in Paterson and the mouth at Newark Bay, from pollution, and to provide a plan for the prevention thereof, and providing for the raising, expenditure and payments of monies necessary for this purpose, (58:14-2). In addition, the act was an enabling act, which gave the Commissioners the right to build, operate, maintain a sewer and treatment plant, if so requested by the municipalities within the district. If this was done, the payment was established by law and repeated several times in the act (58:14-15, 31, 34.4, 34.20). The Commissioners were to bill every municipality, which municipality was to pay annually to the Commissioners, on demand, "its proportion of the cost of maintenance and operation thereof, as the same may be certified to it from time to time by the Commissioners, pursuant to the terms of said contract, which cost of maintenance and operation shall be raised and provided for by said municipalities by taxation, or by the issuance of temporary loan bonds in anticipation of taxation". Also, 58:14-15 stated that, "The cost of maintenance, repair and operation of said sewer, plants and works, shall, by the terms of the contract, be apportioned annually to the respective municipalities entering into the contract, according to the amount of sewage delivered or discharged by them respectively into any sewer or other receptacle provided or constructed by the Commissioners for the reception of the same."

The contract referred to is the contract between the Commissioners and the owner municipalities, that is, the municipalities that contributed to the original cost of construction of the sewer and treatment plant. There are 15 original contractors, and 7 additional, which signed subsequently, making a total of 22 owner municipalities. There is a contract dated May 15, 1911, a

revised original contract dated September 29, 1911, and 8 supplemental contracts going up to October 21, 1942. The original contracts stated that payment shall be made by municipalities, parties to the contract, in proportion to the amount of sewage respectively delivered and discharged into the sewers by them. On January 13, 1925, the 6th supplemental contract modified the dates of payments and modified the wording of the basis of payments which "shall be upon the basis of and in proportion to the actual use of and discharge to the main sewers, its branches and appurtenances, by each of the parties constituting the party of the first party hereto during the year", therefore, charges were to be made by "actual use of and discharge into the said sewer". In addition, the Commissioners issued bonds in 1954 for some major repair work. The legislation which allowed the Commissioners to issue the bond, specifically stated that the bond should be paid from funds received from the user municipality in proportion to the volume of discharge to the Commissioners' sewer. This became part of the bonds and part of the bond resolution, stating that the funds for the payment of the bonds were made in proportion to the flow submitted by each municipality. The official statement, issued respecting those bonds, also states that the money to pay the bonds would be received from the user municipalities in proportion to their respective flows of sewage during the year from each municipality. The last of the present bonds outstanding will have been redeemed by the end of 1974. Since the Commissioners' system to date has been a primary treatment plant, this method of billing is equitable to all concerned, as the actual costs of operation is definitely in proportion to the volume of flow. The previous history and facts concerning the Commissioners' present billing system is given to explain why it would be difficult to make any immediate changes in this system. However, the Commissioners' realize that it is possible as they go into a secondary treatment process, that other methods of billing may be required to make this system equitable to all users, and the method of billing would be dependent on the secondary treatment method.

The Commissioners assure the Federal Water Quality Administration that before the project of secondary treatment is put into operation (1976), they will have an equitable system of cost recovery as per paragraph 601.34 of the July 2, 1970, Federal Register, and consistent with the authority possessed by the Commissioners under New Jersey Statutes. However, details of this type of billing would have to wait for an engineering study which would depend upon the type of treatment actually selected by the Commissioners to meet the requirements of the Federal Water Quality Administration. Furthermore, a legal study would have to be made to determine the exact method of accomplishing this.

The present system of billing the municipalities is deemed equitable as each municipality receives its funds from ad valorem tax ratables of industry in their area. In some cases, individual municipalities within the district system may assess large users of the sewer system a surcharge; however, this is a matter within

the discretion of the individual municipality. The municipality views a given industry with its overall tax assets, remembering that the industry pay a proportion of its taxes to school and other uses which do not directly benefit that industry.

Individual municipalities are not required to assess individual industries on the use of other public services. They do not pay more if they are located in a high fire hazard area, nor is there a special assessment for police protection. Each municipality considers the advantages a particular industry gives to that municipality as far as tax ratables, employment given, et cetera, and against that, assesses any disadvantage such as costs of services, police, fire and sewage treatment costs. If an industry doesn't measure up, then special assessments, such as sewer surcharges, can be assigned to that industry. The Commissioners would like to be in a position of charging each user an amount so as to reflect not only volume but strength of waste, but in order to make this practical, make the billing on a municipal-wide basis rather than on an industrial basis, and allow each municipality to use any method it determines best to collect revenues to pay the Commissioners' charges.

When all things are considered, it has been deemed equitable by most municipalities to receive payments by the industries in proportion to the industry's tax assessment. The municipalities then pay to the Commissioners in proportion to volume of flow from the municipality.

From the practical side, it is to be pointed out that there are between 1,000 and 1,700 industries (depending upon the definition of an industry), within the Commissioners' area, and the cost of individually metering such a vast number of sources of sewage would be such, as to impose an additional financial cost to the individual tax payer, to a much greater extent than they could ever hope to recoup in any other method of payment. Even measuring sewage from complete municipalities, the Commissioners have approximately 90 different meters and metering points.

However, despite the above, as soon as the Commissioners have established the exact method of accomplishing the treatment required, they will then establish the proper parameters and determine the necessary metering equipment available within the present day technology, so that necessary data is available to physically implement a billing which would reflect the actual cost, taking into account, not only volume but strength of waste, as required by the Federal Water Quality Administration's ruling. This will all be completed and put into operation before the project goes into operation. The project being defined was submitted by the Commissioners to the State of New Jersey, and is scheduled to be completed by the end of 1976. However, as soon as the interim details of an equitable system of cost recovery can be established, the Commissioners shall submit resumes of the method to be used, together with a summary of the reasons justifying

the Commissioners' position.

The Commissioners wish to point out that their existing schedule is extremely tight and any delay on the approval on the first step will adversely effect the Commissioners' ability to meet this schedule. The present application for a Federal Grant was submitted to the State of New Jersey in July, and we understand that as of November, it has not been approved. If this type of delay is met on all of the Commissioners' projects, then there will be no hope of meeting the 1976 deadline, this despite the fact that the Commissioners are earnest in their desire to do this work.

The Commissioners therefore request, since their present system is definitely equitable for the present system of treatment, that the Federal Water Quality Administration act on the Commissioners' application, so as not to detrimentally delay this much needed project.

As to the other federal requirements, the Commissioners repeat that they will digest their sludge or meet any requirements that are made part of the Federal Water Quality Administrations' regulations, as to the disposal of sludge. The Commissioners are having their Consultant study this problem, and it appears (with present day knowledge) that incineration with no ocean disposal leads the list of potential solutions (this, despite the fact that the Commissioners do not think, this is a good alternate with the knowledge we have today).

In answer to other questions posed, the Commissioners feel they have the right to require pre-treatment where necessary and to prohibit deleterious substances from entering the sewers, but to satisfy the Federal Water Quality Administration, the Commissioners will have introduced more specific legislation along these lines.

Very truly yours,

PASSAIC VALLEY SEWERAGE COMMISSIONERS

S. A. Lubetkin
Chief Engineer

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JUN 27 1985



