

PUBLIC HEARING
before
SENATE ENERGY AND ENVIRONMENT COMMITTEE
and
ASSEMBLY ENERGY AND NATURAL RESOURCES COMMITTEE
on
S-1610 through S-1614
(Water Supply Legislation)

Held:
February 10, 1981
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF SENATE COMMITTEE PRESENT:

Senator Frank J. Dodd, Chairman
Senator John P. Caulfield
Senator Barry T. Parker

MEMBERS OF ASSEMBLY COMMITTEE PRESENT:

Assemblyman Robert P. Hollenbeck, Chairman
Assemblyman Gerald R. Stockman
Assemblyman Elliott F. Smith

ALSO:

Algis P. Matioska, Research Associate
Office of Legislative Services
Aide, Assembly Energy and Natural Resources Committee

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PUBLIC HEARING

before

SENATE FOREST AND ENVIRONMENT COMMITTEE

and

HOUSE FOREST AND NATURAL RESOURCES COMMITTEE

on

Public Hearing 2-15-81

(Re: Forest Land Use)

held:

February 10, 1981

Senate Chamber

State House

Trenton, New Jersey

MEMBERS OF SENATE COMMITTEE PRESENT:

Senator Frank J. Lautenberg, Chairman

Senator John F. Gendron

Senator Robert J. Meyner

MEMBERS OF HOUSE COMMITTEE PRESENT:

Representative Robert F. Rothman, Chairman

Representative Gerald A. Berman

Representative William F. Smith

Also:

Philip F. Rothman, Research Associate

Office of Legislative Services

and, Assembly Energy and Natural Resources Committee

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SENATOR FRANK J. DODD (Chairman): Ladies and gentlemen, we will get started now.

This is a Joint Committee - Senate Energy and Environment and Assembly Energy and Natural Resources Committees. The hearings are on a package of bills, the centerpiece being the \$345 million bond issue. What we are looking for is input as to what the future package should be. The bills as written are not necessarily written in stone in any way, shape or form. We are looking for input on how to deal with our future needs, and unfortunately none of the package of bills that we are dealing with will add a single drop of water to our current supply.

We would be more than happy to take suggestions on our current crisis. We will use the Joint Committee as a sounding board for that.

Assemblyman Hollenbeck is the Chairman of the Assembly Committee. I will ask him to introduce his group.

ASSEMBLYMAN HOLLENBECK: We have our aide to the Assembly Committee, Algis Matioska, with us. We also have the following members of our Committee: Assemblyman Stockman and Assemblyman Elliott Smith.

As the Senator said, this package of bills will not add one drop of water to our reservoirs to help the immediate situation. This is more long range, probably something that should have been done 20 years ago because the projected shortfalls were known 20 years ago. Hopefully, if we come up with a decent package of bills and have a bond issue that is responsive to the future demands of the State passed, we will have attained our goal.

SENATOR DODD: With us is Kathy Crotty from the Senate staff.

Yesterday, we passed a series of bills dealing with emergency transfer of existing water supplies. I won't go into the details. I am sure that most of you here are aware of them. We will accept any comments on them as well.

The Governor is in Washington today speaking with our new President and it will be his charge to bring the drought situation to his attention and possibly declare New Jersey as a disaster area, as far as the Northeast is concerned, with regard to water.

I would ask Arnold Schiffman, Head of Water Resources for the Department of Environmental Protection, if he would, to give us an update of where we are today and just some general knowledge about the areas that we are talking about.

A R N O L D S C H I F F M A N: Senator Dodd, Assemblyman Hollenbeck, and members of the Committee, I will give you a brief rundown on our present situation.

First of all, rainfall is the key here. This affects the whole State. This is the long-term normal of what rainfall would like look (indicating on chart). This is cumulative. If every month that it rains you add it to the previous month, you would get cumulative precipitation. This is what our long-term normal looks like.

This dashed line represents the worst year of the drought in the mid '60's. That is the worst year.

This red line is where we are now, going from last May to where we are at present. This chart ends in the beginning of February. We had a little bit of rain, so we are about here (indicating). We have a deficit from normal of over a foot of rain. This affects the whole State, not just any one particular part. It affects it to various degrees from inconvenience to the potential of system

failure, the real potential.

Let me discuss the situation statewide a little bit right now. I will start with the Delaware River and that problem because this drought doesn't affect any one area; it affects all of the areas of the State. The flow in the Delaware River is low. Most of the water when it doesn't rain is provided by reservoirs up in New York, New York City reservoirs. They release water into the Delaware. The reason that is important is that we have the Delaware Bay out here with salt water. The only thing that keeps the salt water down in the Bay is the fresh water flow in the river. That salt front is moving up to the Camden area. Camden has wells. There is an aquifer called the Magothy-Raritan Aquifer that crops out where Camden is; it crops out in the river; it is connected to the river. Over half of the water that supplies that aquifer comes from the river. If there is salt water in the river, there is going to be salt water in the aquifer. Because of this problem, we are managing to keep the salt-front back. We have made arrangements with the Governors of the various states in the Delaware Basin and they have agreed to certain cutbacks to manage the salt front. New York is now taking much less than they are entitled to. They are entitled to 800 million gallons a day; they are taking 520. In New Jersey, the D & R Canal is entitled to 100 million gallons a day; we are taking 62. It is approximately a third cutback for each.

Now, the Delaware situation doesn't just affect Southern New Jersey and the area around Camden, the Camden Metropolitan Area. It affects Central New Jersey. Why? Because we have the D & R Canal that comes down and comes up and provides water to this area of the State (indicating). Since our flows have been reduced, we must take less water now.

There is a constraint in this area of the State at the present time (indicating). The Governor has put certain parts of this area of the State under the rationing plan. There is more to it than that. If the water flow is reduced in the canal, the amount that we can take - and it could go lower, which I will get into a little bit later - has to be made up from somewhere because there are still demands there. The water is then made up from the State reservoirs: Spruce Run and Round Valley. Both systems are now under increasing stress. We are putting out a lot more water from those reservoirs than has ever been put out before.

That leads us to Northeast New Jersey. The best way to describe the situation in Northeast New Jersey is to look at reservoir levels. And that is where the real problem is - the most serious problem - where the spectre of system failure is the greatest because it is basically an inadequate system. The water systems, themselves, are basically inadequate. They are dependent on above average rainfall every year in order to get by.

This green line represents the drought of the '60's. The black line represents kind of a mini-drought in '77 and '79. In the drought of the '60's, we went down to a certain level. Then it dipped up and went down again. Then we got a lot of rain. We are below the level of the drought of the '60's in total reservoir storage. This represents the total combined storage of all the major reservoirs in the Northeast. This is a bit optimistic in a sense because it is an average. It combines all of them. Some are worse. Some are a little better. So you have to be careful when you look at this graph because there are some systems that are much worse. This is the best illustration I can give of the problem.

If you want to look at days of supply left keep in mind we have consumption. I would just like to briefly show you consumption and then get back to this.

This chart represents consumption. This is the hundreds of millions of gallons a day in the drought of the '60's. This red line is what we are doing now. Consumption has gone up. We have new modern facilities - dishwashers, washing machines - and some population growth. But consumption is up. Look at these levels during last year, some of the highest records of consumption ever recorded, compared to the '60's. We have dropped them down, but it is not enough.

Here is what the situation is: We have maybe 38 days supply with no rain. But that is only part of the problem. That is a frightening statistic. But the problem has been here for quite a long time. Maybe I should give you a quote. I like sometimes to look at history. Here is a report called, "Water Supply Management in New Jersey." It was prepared by the County and Municipal Government Study Commission. It talked about the drought of the mid '60's. It was done in '75 and it says, "Only ten years ago, the New York-New Jersey Metropolitan Area experienced its most severe drought, one that lasted five years and severely tested the State's health conditions for four months. While there are any number of ways to characterize the severity of that drought, perhaps it can be summarized best in a single quote from the late George Shanklin, then in charge of New Jersey's water supply program." Actually, he was one of my predecessors. "We were four to six weeks away from pumping mud out of the reservoirs instead of water." And I think that is the situation we are in now.

There are other things the reports says. "The New Jersey water supply system was in better shape going into the '60's than the present system would be in the event of a similar drought." That was in 1975.

Deficits - it talks about deficits. "Deficits result because water demand is presently met by drying up streams and overdrafting reservoirs every summer, and then relying on the late autumn and winter rains to refill them once again. While this has worked recently and may work generally, there surely will be the year or years when the winter rains will not be as heavy as anticipated. The summer will be dryer than expected. The reservoirs will not fill. Water demands will not be met. And the State's population and economy will be threatened."

Those words are true right at this moment.

There are perhaps misconceptions about rainfall. We may get an inch or two of rain tomorrow. What does that mean? That just buys us some additional days of supply. How much rainfall do we need to get back to the serious situation we were in last year when we started off with the reservoirs brim-full? We need better than 50 percent above average. Counting from December, say 25 inches or so. We have had a couple of inches. So we need close to 2 feet of rain to fill these reservoirs up. That is if it is evenly distributed.

What about the other side? What is the down side of the picture? If we only get about 12 or 13 inches of rain with the present consumption levels, the systems will fail anyway. That is what the situation is. Even if we get decent rainfall, it is very unlikely that the reservoirs will fill up by June 1st, highly unlikely. That means we are going to go into a very, very tough summer. So nobody should be deceived if it rains this day or that day because unless these reservoirs are full - and I am telling everyone now that that is extremely unlikely -

going into June 1st, we are going to be in for a very, very tough summer.

That is where we stand. We really are in a most extreme state of emergency, especially in the Northeast. And, as I said, it ranges from inconvenience to system failure. The people in the central part of New Jersey are going to have rationing to preserve water in the State reservoirs. That is a substantial inconvenience. There are even some economic losses involved because much of the State is under bans on nonessential water use.

In the area around Camden, New Jersey, the aquifers could be severely damaged. They are not going to run out of water. But that is still a calamity to have a major water supply damaged by salt water intrusion. It will cost a lot of money to fix it. And that is likely to happen.

In the Northeast, there could be a system failure and all the horrors that go with that, loss of sanitary facilities, fire protection, and even difficulties in obtaining drinking water - a very, very serious problem.

That is the overview. Do you want any brief overview of the bills?

SENATOR DODD: Why don't you just touch on the bills as presented?

MR. SCHIFFMAN: All right, I will touch on them very lightly. There are five bills. I am not going to speak about them in exact order. I will refer to them by Senate numbers because they are the ones I have handy.

1611 is the Water Supply Management Act. That is the name of that bill. What it does is revamp existing laws. Right now, we have allocation programs that require permits to take water. But we have some strange things in the laws. We have old legislative grants that basically have given away whole streams. We have grandfather rights for groundwater where if somebody had a pump that was capable of pumping a million gallons a day and they only pumped 100 thousand gallons a day, they would get a grandfather right for 100 thousand or something called an unallocated grandfather right for the remaining 900 thousand. In some cases these unallocated rights may exceed the available supply. There is this type of problem.

There are some questions about the State's authority and ability to act in an emergency. There is a definite need to upgrade the State's water supply program. The resources of water supply are very small compared to the resources of water pollution.

So this bill would basically upgrade the existing regulatory program. It would change the way in which the State manages its water supply in terms of the regulatory program. It is really a regulatory reform bill. Right now, we have something called the Water Policy Supply Council, which is over 70 years old. Although it has done yeoman's work in the past, it is not quite the proper entity to manage the complicated water problems that we have now. It is basically an appointed lay body. That is a brief overview of that bill.

Senate Bill 1612 is called the State Water Supply Utility Act. The main purpose of this bill is to establish an entity that can act, so to speak, as the court of last resort, to do things that we have not been able to do in the past, for whatever reason, that the public and private water systems have not been able to take care of, the deficiencies in their systems. We have in New Jersey more water companies than we have towns and municipalities - approximately 618 the last time I counted. Most of these are very small. About 60 percent of them serve less than 1,000 customers. Some of them are so small that their financial integrity is in question. They cannot comply with orders that the Department

gives them to improve. We have had cases where we have issued boiled water orders to the systems. It has been like that for two years. The public is naturally outraged as to why these things can't be fixed sooner. So the State Utility would be the court of last resort, so to speak.

I would note on these bills in general before I go any further that in some ways people might think that we are reacting to a crisis now. I would like to simply point out that one of the reasons is that we haven't dealt with these problems in the past and we have to deal with them now because we may not get a second chance.

The next bill, 1613, deals with the issue of having all water systems function as utilities. In other words, having them financially capable, having dollars put aside for new equipment for the equipment that breaks, so they operate on a sound financial basis. A lot of the things that I am talking about are recommended by the consultants that the State hired to prepare a water plan for the State. We have received the consultants' report on that plan. There is going to be a lot more discussion on it. But this is one of the issues that was raised by the consultants, that many of this large number of water companies we have in the State do not function properly as utilities. Now, we have some fine systems in the State. There are some very fine water companies in the State, both in the private and public sector. But there are many of them who are not in that situation.

This bill would put the public systems under the Board of Public Utilities so all water systems in the State will be regulated from their rate-setting basis in a similar manner.

1614 deals with the small water companies that I made reference to, the ones that are inadequate and that are failing. It would basically provide a mechanism where a capable water company could take over the small water company and provide proper service.

The last bill, 1610, is the Water Supply Bond Act of 1981. This bill has a number of projects in it to deal with the defined deficits in water supply in the State. A lot of these projects are controversial. They were not pulled out of the air. They were based on the State's own expertise and its consultants that spent several years providing a water supply plan. None of them, as the Senator mentioned, is fixed in concrete. Some of them are pipeline projects - no routes have been picked. A lot of the details have yet to be established. And, as we go through this process of these hearings that the Committee is holding throughout the State in an attempt to insure that we take the right steps for the future, I think it is safe for me to say there will be changes. But, as I said, if we don't act now, we may not get a second chance.

That, very briefly, is the summary of the bills.

SENATOR DODD: Mr. Schiffman, could you explain briefly the request from DEP that was granted by the Legislature yesterday? What actions will be impacted by those? The shifting of the ---

MR. SCHIFFMAN: That's right. That shifts money to take emergency action. As I pointed out, in the Northeast we are facing a horror of water systems failing and that must be stopped. What has to be done is two things. One, we have to do better on conservation. Two, there is no alternative but to bring additional water into that area.

Let me go over some of the things that will be done. I will refer to

our map. There is one proposal to take water over the George Washington Bridge into the Hackensack system. That water will come from the Delaware River. Instead of having the water come down here (indicating) and picking it up in the D & R Canal, with the cooperation of New York City, we will take it down the New York Aquaduct on this side of the Hudson River. There is a cap near the George Washington Bridge. If we build a pipeline, a temporary line across the bridge, there is a handy cap on the other side into the Hackensack system to deliver water. We anticipate getting maybe 20 million gallons a day. What that means is that the water coming through the canal will be reduced by that amount. The number I gave you of 62 million gallons a day includes water that is being pumped from Lake Hopatcong, which is in the Delaware Basin. So that takes it down to 37 million that are actually going to serve this area of the State, Central New Jersey.

SENATOR DODD: I understand that pipeline over the bridge can be begun next week.

MR. SCHIFFMAN: Yes, rapidly. We have no choice but to get these projects in within 30 to 60 days. We should be able to do that. That will provide much needed water.

There are other things that are proposed. One deals with the Passaic Valley Water Commission. Their treatment plant treats water from the Passaic River. The water in the Passaic River now is mostly sewage. Because the waste has gotten so strong, they cannot treat their full capacity. They can take perhaps approximately 75 million gallons a day of that water which is mostly sewage, treat it, work their wonders, make it drinkable and distribute it. They have only been able to treat --- in some cases, they have been treating 40 to 45 million gallons a day. A lot of that has to be blended. They have to take water from reservoirs and blend it even to do that much. So it is really less than that. What that means is that that is a loss of supply of 35 to 45 million gallons a day of what we are counting on. So one plan is to upgrade the treatment in that plant somehow, using whatever techniques are available, such as activated carbon, so they can take more water and decrease the draw on the reservoirs, because they make up that difference by pulling stronger on the reservoirs.

Another project is something called Fairlawn Avenue. That would put a pipeline that would take water or sewage that we are letting escape, pump; it into the Saddle Brook River, and it would be picked up by a pumping station and pumped into our reservoir. That project has some water quality problems because you would be putting poor quality water into the reservoir, which would probably cause the reservoir to what we call eutrophy and algae would grow and everything that is alive in the reservoir would die. We may even have to treat that water somehow before it is put in there. That is a problem. But I think that really points out how desperate the situation is that we would be considering projects such as that.

There are other projects that will not cost very much money. Greenwood Lake which sits above the Wanaque Reservoir has water that could be utilized. It is in storage. The catch with that is that it is in the same watershed as the Wanaque. That means that if we use it and it rains, we don't really get the benefit of that rain because it will fill up Greenwood Lake again. It is also an interstate lake and we have deliberations with New York State on this matter. I simply point out that everybody is working in a cooperative manner.

Remember New York City is helping us out by allowing water to come down their aquaduct to come into New Jersey. These are some of the key emergency measures.

We also have another very important one which would increase the capacity of Elizabethtown Water Company to move water into Newark. The Elizabethtown Water Company is already moving water, most of which comes from the State reservoirs into the Northeast. They are moving some. By increasing the ability of the pumping capacity - these are complicated plumbing systems - the Elizabethtown Water system will once more come to the rescue and put additional water into the Northeast. We might be able to get a substantial amount. In the short term, not that much. In the long term, perhaps as much as 30 million gallons a day additional. This also could be done in a relatively short period of time. But that is a key thing. That is one way of getting the water from the State reservoirs. It comes down into the Elizabethtown system. Elizabethtown then pushes it into the Northwest. They are doing some of that now. We are looking to increase that even more.

Those are the major projects that that money will be utilized for. But I would emphasize that that is not enough. Major conservation efforts are needed. We are only getting about 10 percent from our base. There is a catch to that. We calculated the base by taking out what we consider the nonessential uses - irrigation and lawn watering - and that is really a substantial reduction in use by itself. So when we say 10 or 11 percent, it is really after you have taken away the nonessential water use. We are already down in demand. We need to do more. We think we can get 25 percent, another 15 percent. That would represent roughly another 60 million gallons a day. That is the same as having 60 million gallons a day of new water brought in. The conservation effort really has the potential of exceeding what we can do in bringing in new water. What I am saying is that we need both. We need to both bring in additional supplies and conserve. Otherwise, in my opinion, it is very, very probable that the systems will fail without those actions. And you need both. Let nobody be misled. Spending \$18 million and bringing in additional water doesn't solve the problem. Conservation alone doesn't solve it. We have to do both. That is what the money is for. We are on an emergency footing right now.

SENATOR DODD: I would like to introduce Senator John Caufield and Senator Barry Parker who have joined us.

Any questions?

SENATOR CAUFIELD: I have just one question. You mentioned that with the interconnections between Elizabethtown and Newark, eventually that could go up to as much as 30 million gallons a day.

MR. SCHIFFMAN: Additional.

SENATOR CAUFIELD: How far down the line is that?

MR. SCHIFFMAN: Some of the things could be done very rapidly, getting a certain amount in very soon by increasing the pumping capacity. There is a consultant who is already working on the exact details of the plumbing. The systems are very complicated because of the different pressures in Newark and Elizabethtown. The engineers are working out those details now. Certain things can be done very rapidly within probably weeks. We have no choice but to do them rapidly. I would not want to make any misleading statements as to what the consultants and engineering evaluation will finally show, but we should have the results soon.

SENATOR CAUFIELD: But there would be some resultant increase almost

immediately.

MR. SCHIFFMAN: Yes, almost immediately. We have talented people. We have Newark and Elizabethtown working together. We have competent people on both ends. I assure you they are doing everything in their power to do as much as they can in the shortest period of time. But there are no fast fixes for this problem.

SENATOR CAUFIELD: I heard a statement yesterday that the water Paterson is using right now is about 75 percent sewage.

MR. SCHIFFMAN: It varies between, say, 60 and 100 percent, depending on the rainfall.

SENATOR CAUFIELD: Between 60 and 100 percent?

MR. SCHIFFMAN: That's right. That is the problem there. It has gotten so bad that they can't treat all of it.

SENATOR CAUFIELD: We do treat it though to make it potable.

MR. SCHIFFMAN: Yes. The problem is that they can treat 75 percent, but it has gotten so bad that they are treating much less. The difference puts an additional strain on the reservoirs, especially Wanaque, and it just aggravates the situation. The State consultants in their master plan estimated the deficit in the Northeast to be about 63 million gallons a day. If you take the water quality situation in the Passaic, in my opinion you should add that number onto the deficit. It is really closer to 100 million gallons a day, a horrible figure, which I hope explains why the systems in the Northeast are likely to fail and why we must make every effort to see that that doesn't happen, because the economic loss to the State would be incalculable.

SENATOR CAUFIELD: When you say "fail," are you talking about salt water intrusion or a whole series of other things?

MR. SCHIFFMAN: No. I am talking about turning the faucet and having nothing come out. That is fail.

SENATOR CAUFIELD: It sure is.

MR. SCHIFFMAN: There is nothing that can be worse than that. It would affect fire protection, sanitary facilities, etc. We could probably bring in drinking water in tank trucks. But that is only a small part of the water use. I don't think a person uses for drinking or cooking very much more than a gallon a day.

SENATOR CAUFIELD: I have more than a passing concern about what happens when you turn a hydrant on also?

MR. SCHIFFMAN: I can imagine.

SENATOR DODD: John is the Fire Director for the City of Newark.

SENATOR CAUFIELD: We have been known to have fires.

MR. SCHIFFMAN: This is not even to speak of the potential for closing businesses and industry. The situation is very critical. The Governor has taken some very unusual actions in giving unusual powers to the Drought Coordinator, Paul Arbesman - very unusual powers - to act in this emergency. That is the situation we are in.

ASSEMBLYMAN SMITH: Mr. Chairman, I have a question.

Arnold, on the reallocation of funds - I am a firm supporter of this and I voted for it yesterday - but what is that going to do? Will there be a shortfall in the funds for the sewer projects on the bottom line? We are going to reallocate out of the eighty for the seventy-six and push it around. But

will there be a shortfall? Will there be projects that are now approved to be funded that will not be funded when we come down to that point? That is my other concern. We have to keep in mind water quality all the way through on this thing.

MR. SCHIFFMAN: Absolutely. First of all, there will be no shortfall at all. When the voters passed the eighty Natural Resources Bond Issue, the sixty million dollars was to carry us for several years, based on anticipated federal funding and based on the 8 percent formula. There is no problem with that at all. There is nothing that is going to suffer, even for several years, frankly. There is no problem. We don't just go from hand to mouth in that program.

As far as the water quality issue, I am glad you mentioned that because although we are fighting what I might call the water supply dragon now, after we slay that dragon - and we had better because I have to be an optimist about this - there is the water quality dragon lurking in the background. Keep in mind, I didn't want to slight other parts of the State in terms of their share of the problem. But in Southern New Jersey where people are dependent on groundwater, there are a lot of pollution problems, a lot of serious problems. We are just in such trouble --- I sometimes run out of modifiers. There is a difference between losing a supply because of pollution and physically losing it. When you lose it because of pollution, you can still flush your toilets and you can still fight fires. You just may not be able to drink it. That is horrible in itself. I don't want to minimize the problems in other parts of the State. But the loss of supply is even more horrendous. And, yes, lurking in the background is that other problem. That has been with us for a long time and until the water supply crisis hit, that was getting a lot of attention. Now, the water supply situation has kind of pushed it into the background. But it is still there.

ASSEMBLYMAN SMITH: The reason I brought that up is because I have had many comments from people who have sewer projects under the funding mechanism now that have not received the funds and have not started. But they just want to make sure that these projects are going to be able to continue and be funded because the water quality is their concern and the health problem.

MR. SCHIFFMAN: Absolutely. Look at the Passaic River. We have to operate the sewage treatment plants there for obvious reasons. I can assure you of the State end of it. I would be less than honest if I didn't say I had some concerns about the federal end. But the State has done its job well in this area.

SENATOR DODD: Plant closings - we have a list in Environmental Protection of the water-intense industries. I would assume at some point the task force that has been working with the Governor --- We were going to initiate the task force with this Committee, but it more properly belongs in the Executive for expeditious reasons. When would you look to implement actual water-intense industries that would be closed down?

MR. SCHIFFMAN: I can't give you a precise answer because that is the function of the new Drought Coordinator, Paul Arbesman. They are working on those issues right now. All I can say is that, as you start getting closer and closer to running out --- Keep in mind something I can't emphasize enough that we are talking about an unthinkable situation, because we are talking about not making it to the summer. In my optimistic viewpoint, I am hoping we make it through the summer. The fact that we really may not make it to the summer is almost inconceivable, unprecedented in history. If what we have continues to happen and we continue to

approach June with inadequate rainfall - inadequate is the wrong term - with less than abundant rainfall, because with inadequate rainfall the systems will almost certainly fail, you are going to get closer and closer, like so many days left. After a while, you may not be able to fight fires and you may not be able to keep our industrial production going. I wouldn't want to pick a day, but I would say it would make me nervous when we start getting down to - and I hope this doesn't happen - say, ten days' supply or something like that. Even sooner than that, even now, you are seeing the effects on industry. There are industries that are affected by this. Anybody who is in the nursery business, the swimming pool business, or similar businesses, is affected right now - much less, other industries. Some industries are attempting to get off the public systems and go on groundwater. We have suggested this in several cases to keep our industrial production going as long as possible. But there is no question if this continues, something is going to have to give.

I wouldn't want to mislead anyone. The closing of industries isn't even enough under the worst situation. You still need the conservation. Better than 60 percent of the demand is residential. People are just going to have to stop using water. There is no alternative. Save water and save your job I guess is one way to look at it. I hate to put it in such gross terms, but that is what it is coming down to. I'll change that. That is what it has come down to.

SENATOR DODD: There is the economic ripple effect that goes through our entire State's economy. I think that is fairly dramatic.

Barry.

SENATOR BARRY: We asked the Department for information on desalinization. Newark, which is connected or tied in with the Wanaque Reservoir, Jersey City and some other areas in the Northeast can take salt water and convert it. Why hasn't anybody looked at that in this immediate drought? It seems to have been dismissed as too expensive. We haven't seen any figures here in the Committee.

MR. SCHIFFMAN: We have figures that show the cost. That is one thing. It is also the timeframe. You just don't build a desalinization plant quickly, the same way, which was already pointed out, that you can't run a 20- or 30-mile pipeline instantly. We may have to look to perhaps some navy vessels that have desalinization equipment on them.

SENATOR PARKER: I understand there are some available.

MR. SCHIFFMAN: We may have to bring those in. But those cannot supply very much water. We are looking at needing tens of millions of gallons.

SENATOR PARKER: If you don't have any water, any water is better than none.

MR. SCHIFFMAN: Assuming the systems go down, I would like to assure everybody there will be water for drinking if it has to be brought in by tank cars. Keep in mind we have the State reservoirs. We can turn to the Elizabethtown Water Company which is nearby and even to the Passaic Valley Water Commissioners. The Passaic River isn't going to dry up. It is pretty bad stuff. But they can treat it and make it drinkable. That will still be there in the quantities that are needed. Your real problem is firefighting and sanitary facilities. And, yes, we may have to bring in some desalinization just for distribution purposes. It may be easier to have them in the docks around Newark, for example, to desalinize some salt water for drinking purposes, instead of the logistics of bringing in tank cars. But any large amounts -- and desalinization plants are generally small.

As a matter of fact, I don't know of any that would be in the order of magnitude that we need, which is tens of millions. Even if there were, you couldn't build them in a short period of time, in addition to the cost.

SENATOR PARKER: We still haven't seen any figures. All your communities down in the Islands and on the West Coast of South America, in addition to Salinas, which is not a small town in Equador, are all desalinized.

MR. SCHIFFMAN: There is no question but that you can desalinize salt water. It is a question of the time required to build the facilities, the power requirements and the cost. Those are the only issues. In the same time that you could build a desalinization plant, we could bring water from the State reservoirs.

SENATOR PARKER: Fine.

MR. SCHIFFMAN: But we may have to do some of that.

SENATOR PARKER: We asked you for that information a couple of weeks ago. To my knowledge, we haven't received any of it. We asked the Department for that. Will you please see that somebody makes that information available to us so the Legislature can make that judgment. We made a judgment for \$28 million, or whatever, yesterday - \$26 million - and nobody had any figures on desalinization, what effect, what time it would take, or anything else. It should be something that we should be able to consider. If you are right, then we should dismiss it, but we should have that information.

MR. SCHIFFMAN: We will try to get you the information. But I hope you appreciate the fact that we have to make certain judgments on where we put our limited engineering resources.

SENATOR PARKER: I understand that.

MR. SCHIFFMAN: We will get it to you as soon as we can.

ASSEMBLYMAN SMITH: Just for clarification, there was an amendment added to the \$8 million bill yesterday to look into the possibility of using some ships as a recommendation from the Department.

MR. SCHIFFMAN: I would make another recommendation - perhaps it has been missed - of things we are doing. I don't have too much on it. But keep in mind we have groundwater resources. We are looking to tap additional groundwater supplies. We think we can get substantial amounts that way.

SENATOR DODD: If you could explain also that the groundwater, which we think of in terms of being able to go out and tap some wells, does go down - the ground table - proportionately to its use.

MR. SCHIFFMAN: Again everything is relative, but there are hundreds of individual wells that are failing. The well drillers are busy deepening those wells. That causes a substantial hardship to individuals. Under other times, that would be making the headlines. I am glad you mentioned that because it was a slight on my part. Sometimes I overlook that in comparison to the other problems. But, yes, individual wells are going dry. However, there is still substantial groundwater available and we are looking for additional supplies. Industries are looking to go back on wells. In the Newark area, before 1955, industry was using 7 million gallons a day from an aquifer in that area. They can start using that again. There are others that we may be able to tap, but on a temporary basis, pumping additional waters in the reservoirs. We are looking at that.

SENATOR DODD: I believe Ballentine had their own well.

MR. SCHIFFMAN: Sure.

SENATOR DODD: Could we use this forum for you to recommend to industry, especially the water-intense industries, to start looking at engineering to tap wells to keep themselves going?

MR. SCHIFFMAN: There is no question. In addition, the State is doing things and we may likely be coming to you for some dollars to actually do some physical construction of high-yield wells. See, the problem is we are doing the exploration now with our own resources - our own geologists and hydrologists - and we have some promising results. We think we can get substantial water. Plus, the industries can do their own thing.

But keep in mind that there are quality problems with the groundwater. There was a reason that some of those supplies were abandoned in 1955. They had problems of pulling in poor quality water. Again, the quality problem will come back to haunt them.

SENATOR DODD: We ran into this quite dramatically during our deliberations on the Toxic Waste Siting Bill. I believe the Atlantic City water system is being threatened right now by toxic wastes?

MR. SCHIFFMAN: A lot of our groundwater supplies are. It has been an area that has been ignored. Again, we have so many problems; we are juggling them at the same time. But I think we will make it if we keep the effort going forward.

ASSEMBLYMAN STOCKMAN: Mr. Chairman, I don't want to disrupt the order of speakers. But there is one question that has been coming to my mind that perhaps you could comment on; and, that is, the role of the federal government and federal legislation in this area. We are talking about a group of State bills. Can you comment on what help, if any, we need from the federal government in dealing with this problem and what steps we are taking in that direction?

SENATOR DODD: An addendum to that: If Governor Byrne is successful today or, whenever he declares a drought emergency, if indeed the President does, what does that mean to us?

MR. SCHIFFMAN: We did receive last year emergency assistance of approximately \$6 million to build some emergency projects for the Lake Hopatcong line, Lake Wawayanda, and to pump out some lines. I wouldn't want to hazard a guess on how much we can expect to receive. I would hope it would be a lot because it has to be in the millions to do us any good. I think we are in a strong position. The action you took yesterday puts the Governor in a very strong position because under the Federal Emergency Management Assistance Agency, FEMA, you have to show that you have done all that you can. I think the Legislature has shown that and the Governor is in a very strong position to ask for additional dollars. I don't know how much he can get. I don't know how much the federal government will give. But my feeling is that anything we can use because we are probably going to have to be coming back to you for more money.

ASSEMBLYMAN STOCKMAN: What about further federal legislation? How will the federal legislation impact on water? Is it a regional thing that goes beyond state lines?

MR. SCHIFFMAN: As far as water supply, the Northeast doesn't do too well in terms of water supply projects. Most of the money goes out West. There is legislation proposed, something called the Minshall-Moynihan Bill, that the Northeast governors, bi-partisan, are supporting - a similar concept to develop federal dollars for major water supply projects in the Northeast. For example, for the

repair of failing system, the State's consultants on the master plan estimate three to four hundred million dollars are needed to fix systems that are out of repair or leaking or whatever. There are really no federal dollars that go into the Northeast for that type of project, such as goes into the West. We could use changes at the federal level to redistribute that money a little more equitably. That would be a help. Other than that, there really isn't anything. In my opinion, I have all the federal legislation I want in the water pollution area. Some people would say maybe we have too much.

SENATOR DODD: Thank you, Mr. Schiffman.

I would like to start with the witnesses, calling on Alfred Harding, Township Manager of Moorestown Township.

A L F R E D S. H A R D I N G: Good morning. My name is Alfred S. Harding. I am the Township Manager of Moorestown, New Jersey. I would like to submit this to the Committee.

The Township Council of the Township of Moorestown has reviewed Senate Bill 1613, and wishes to advise the Senate and Assembly Committees the township is vehemently opposed to this bill.

In the case of Moorestown, the elected representatives of the citizens of Moorestown establish the rates to be paid by the township's residents for water service. Before the Council members may change the rates, it is necessary that a public hearing be conducted concerning the changes. In addition, twice each month, Council meetings provide an opportunity where any citizen may appear before the Council concerning water rates, or any other subject of concern to the citizenry of the township.

Under these circumstances, where a democratic process has been established for changing rates, there is no need to superimpose a bureaucratic process, operated by the State from Trenton and Newark, to determine the rates that will be charged the citizens of Moorestown for water service. To transfer the rate-making authority from the elected representatives of the citizens of Moorestown to State employees, remote from Moorestown, will simply add unnecessarily to the work and expense of the State and the township. Additionally, it will frustrate the democratic process and make the citizens feel they are pawns in the hands of a State bureaucracy.

Attached is a certified copy of a resolution adopted by the Township Council on February 9 opposing the enactment of Senate Bill 1613.

I would like to read just two of the "whereases" from that resolution.

"WHEREAS, it is clear, from the Statement of Intent of the Bill, which reads as follows: 'This bill authorizes the Board of Public Utilities to manage all State and local government water suppliers as self-sustaining utilities over the long run,' that it is the intent of the bill to take away from the township the authority to manage its own water system; and

"WHEREAS, the Council believes the citizens of Moorestown, through their elected representatives, are capable of determining how their water utilities system should be operated,"

Therefore, the Council goes on record as opposed to the adoption of Senate Bill 1613. The resolution proceeds to authorize staff and others to take such action, carrying out that feeling of opposition to the bill.

(Resolution of the Township Council submitted by Mr. Harding appears in the appendix.)

ASSEMBLYMAN HOLLENBECK: I have one or two questions to ask you.
Does your utility operate on ad valorem taxes or on user charges?

MR. HARDING: User charges.

ASSEMBLYMAN HOLLENBECK: In your financial setup, is your use charge ever supplemented by general taxation?

MR. HARDING: No.

ASSEMBLYMAN HOLLENBECK: Does your use charge carry the bonded indebtedness of the utility?

MR. HARDING: It carries the bonded indebtedness of the utility.

ASSEMBLYMAN HOLLENBECK: And the interest?

MR. HARDING: And the interest.

ASSEMBLYMAN HOLLENBECK: Does it have a sinking fund?

MR. HARDING: No, it does not.

ASSEMBLYMAN HOLLENBECK: Are you developing any kind of funds within your budgeting procedure for necessary repairs to the system or for future demands of the system?

MR. HARDING: We are carrying a capital budgeting program anticipating ---

ASSEMBLYMAN HOLLENBECK: That is the municipality. What about the utility?

MR. HARDING: No, the water utility. We carry a capital budget for the water utility.

ASSEMBLYMAN HOLLENBECK: And how is that funded? Is it prefunded?

MR. HARDING: That is funded from the sewer use charges.

ASSEMBLYMAN HOLLENBECK: From sewer use?

MR. HARDING: I'm sorry - water use.

ASSEMBLYMAN HOLLENBECK: From water use charges. Thank you.

SENATOR DODD: Anything else?

MR. HARDING: Going to the point that I think the questions are leading to as to the financial stability of our system, I think you would find any bonds issued by the township with regard to the water system carry a very good rating and meet all financial tests.

ASSEMBLYMAN HOLLENBECK: The basic questions I asked, of course, are some of the areas of concern where a lot of utilities are not operating as yours is.

SENATOR DODD: Mr. Harding, what kind of shape is your system in right now?

MR. HARDING: Do you mean with regard to the supply issue?

SENATOR DODD: Yes.

MR. HARDING: We are on wells and so we have no problem meeting our load for supply purposes. We are under the ban placed by the Governor, restricting use. So far as the ability to generate water, that we can do, drawing on an aquifer.

SENATOR DODD: Thank you very much.

I would like to call Chester Ring, Elizabethtown Water Company.

C H E S T E R A . R I N G , III: Good morning, gentlemen.

The Elizabethtown Water Company is an investor-owned water company that provides more than one million New Jerseyans with their drinking, household, fire-fighting, commercial and industrial water needs. Elizabethtown is the direct supplier

of water to more than 143,000 homes and industries in the municipalities located in portions of Burlington, Hunterdon, Mercer, Middlesex, Somerset and Union Counties. Additionally, sales of water for resale are made to nine municipalities and two other investor-owned water utilities. Elizabethtown has been in the business of providing water to New Jersey customers for more than 125 years.

The problems associated with supplying water in adequate quantities and of high quality have become more complex. The changing environmental factors that affect New Jersey and the region, as well as shifts in demand and the increased cost of meeting that demand, make it appropriate that the Legislature consider measures to insure that the residents of New Jersey continue to be adequately supplied with potable water. The package of bills presently before this Committee is an excellent first step in addressing the future needs of water supply in New Jersey.

The proposed bills recognize the need for water supply to be viewed as a statewide and regional problem encompassing not just New Jersey's water resources, but also those water resources that are in common with our neighboring states. In adopting this view, these bills recognize that certain projects must be undertaken by the State to insure that there will be adequate supplies of water in the future. The need for a fund to provide low cost and adequate financing for needed water purveyor projects along with the need to remedy systems that are unable to provide suitable water to their customers are also given consideration. Finally, there is addressed the issues associated with the identification of water diversion rights and the interrelationship between water quality as set by the Department of Environmental Protection and financial capability as determined by the rates set by the Board of Public Utilities.

I am well aware of the drought that is presently affecting New Jersey and the sense of urgency that it imparts. I would like to make two points with respect to the problems caused by the drought. First, while the drought has shown that we must modify the way the present system of water supply functions, there is nothing in the proposed package of bills that will do anything to correct or relieve the effects of the present drought. Even if implemented today, the bills contained in this legislative package would not add to the State's water supply during the current crisis.

As to the present problem, the State already has the statutory powers to combat it. There presently is the power to order the interconnection of water systems and the power to limit consumption. The ability to address the short-run problems exists. It is the long-run problems that these bills must address. Therefore, while the drought has highlighted the need to act, the time frame within which action must be taken is not so narrow as to preclude conscientious study of the problem.

The second point that I would make is that legislation enacted that fails to consider all of the intricacies present could retard a solution to a problem rather than hasten it. These bills require that State, county and municipal organizations interact along with investor-owned entities. Two agencies of State government - the Department of Environmental Protection and the Board of Public Utilities - are also expected to operate with a high degree of synchronization. This cannot occur without careful and deliberate planning.

Further, in planning to meet the water supply needs, the contributing problem of outdated economic assumptions cannot be ignored. When water was

plentiful and priced low, there was little incentive to conserve. Today, the supply and demand for water have altered greatly. Not only has the supply of water decreased relative to demands, but delivery costs have increased dramatically. However, the water price structure still reflects bygone days of boundless supply. As a result, many consumers fail to take seriously the calls for conservation of this resource.

The need for a comprehensive study of the problems of water supply today and in the future has been acted upon by the Department of Environmental Protection. Nearly four years ago it commissioned the preparation of a Statewide Water Supply Master Plan. This plan which has cost over a million dollars to prepare, has utilized experts, has had input from all water purveyors, and has had the cooperation of state and local government, and is in its final stages of preparation. The Final Report is due to be released very soon. It would seem less than prudent for the State to have dedicated so much time, effort and money on a comprehensive study and then to pass legislation on the same subject as the study without the benefit of the study's results. This is particularly true where it appears that several of the study's conclusions differ significantly from what would be achieved by the legislation that is being put forward here. It would seem that at a minimum, the Legislature should have the opportunity to review this study and to compare its recommendations with those set forth in these bills. Where the results do differ, testimony should be solicited from the consultants who prepared the study and from others who had input into the preparation of either the bills or the study.

Some examples of areas that appear to be in conflict would include:

1. The role that the State would play in the supply of water: Is the State to be a wholesale supplier of water undertaking only those projects that are beyond the reach of single purveyors or is the State's role to be broader?
2. Is there an inherent conflict of multi-roles where the Department of Environmental Protection is an allocator and regulator of public waters, an operator of State-owned facilities and an agency empowered to sell water on just, reasonable and equitable terms?
3. What is the role to be between the Department of Environmental Protection, the Board of Public Utilities and the small water companies that operate subject to a new municipal franchise?
4. Will it be State Policy to bail out antiquated water systems by operating them? Will the State require all systems to be self-sustaining?
5. Will the Department of Environmental Protection and the Board of Public Utilities act as joint regulators or as separate agencies where water supply questions are concerned?

It is respectfully suggested that the practical impact of the proposed bills and the Interim Output of the Master Plan could resolve each of these questions and others, quite differently. Differences on questions as fundamental as these should be the source of grave concern and the Legislature should demand an explanation as to why they exist.

Given the importance of the issues that must be addressed by this legislation and the long-term effects that it will have, we would urge that time be taken to obtain and carefully review copies of the Final Report of the Statewide Water Supply Master Plan. The implications of this package of bills is far-reaching

as they are constituted, but also as they will relate to present statutory provisions and to budgetary appropriations for various agencies. Therefore, we urge the Legislature to act only after it has fully considered all available options and weighed the eventual results of its decided course of action.

I would now like to address our concerns with the individual bills.

Senate Bill 1610 and Assembly Bill 2345 authorize the creation of \$345,000,000 in debt for the purpose of improvement and construction of water facilities in the State. Of the \$345,000,000 authorized, \$65,000,000 would be for the repair, consolidation and improvement of damaged or inadequately operating water systems. The remaining amount authorized would be used to fund specific projects.

We recommend that it be made clear in this bill that the \$65,000,000 for improvements to existing water entities is made available in the form of loans for both public and investor-owned water purveyors. This would assure that citizens served by a private water company are not discriminated against in comparison with customers of publicly operated systems. The standards for the receipt of these funds should be further enunciated and should be expanded so as to encompass not only deficient water systems, but also to sustain the viability of systems that are not deficient. Such a funding concept is in accord with the recommendations in the Statewide Water Supply Master Plan.

We are also opposed to funding in the form of grants. Consistent with our comments above and with the Statewide Water Supply Master Plan, we contend that any funding should be as loans and should be required to be self-sustaining.

This bill would also create the authorization of debt to fund several specific projects. We are concerned that these projects differ significantly in their cost estimates from projects described in the Statewide Water Supply Master Plan.

While most of the projects do not affect Elizabethtown Water Company directly, we are concerned with the project in the bill that would divert water from the Raritan River Watershed to the Passaic River Watershed. In the interim reports of the Statewide Water Supply Master Plan study, a project for the diversion of water from the Raritan to the Passaic was recommended. The project recommended in the study was estimated to cost \$14.4 million. The funding requested in the bill before this Committee is \$85 million. Certainly, a \$70 million cost difference must represent a radically different project from what the Master Plan study contemplated. The bill does not provide details as to what the \$85 million project would entail, but recently, the Department of Environmental Protection did describe a project that would require the construction of 32 miles of 108-inch pipeline to augment the flows of the Passaic River at an estimated cost of \$85 million. While we are uncertain whether this is the same project, we do want to make comments on any project of this magnitude.

The proposed pipeline would not alleviate the drought. The pipeline would stretch for 32 miles and it would require an absolutely extraordinary effort for it to be completed in less than a year and, therefore, is not likely to be any help in the present emergency.

The investment required for the new pipeline should be put to better use. The Master Plan study clearly indicates that the Two Bridges/Oradell project is of higher priority, could be built more quickly and would provide

more substantial relief to the Passaic than could a project diverting water from the Raritan to the Passaic. Your committee should solicit testimony from all interested water purveyors and the authors of the Master Plan study before any action is taken with respect to the pending bills.

Don't rob Peter to pay Paul. The Raritan Round Valley/Spruce Run complex meets the water supply needs of the Raritan Watershed, including Middlesex, Somerset, Mercer, Union, Warren and Hunterdon Counties. It also augments the Passaic Watershed supply through a pipeline connection between Elizabethtown and the City of Newark that was completed during the last drought in 1965.

The Raritan Watershed, however, cannot meet all the future water needs of the Bergen-Passaic areas without endangering the supply of Central New Jersey. Construction and full utilization of the proposed 108-inch Raritan-Passaic pipeline would mean that there will be insufficient water available for the people who live and work in the Raritan Watershed. It will rob Peter to pay Paul.

Senate Bill 1613 and Assembly Bill 2346 would subject State, municipal, and county water supply operations to the jurisdiction, control and regulation of the Board of Public Utilities.

We think this bill should be modified to provide for the funding of additional resources for the Board of Public Utilities, the Office of Administrative Law and the Public Advocate to accommodate the increase in entities - subject to regulation as a result of this bill. We would make the new entities subject to the public utility assessment as provided in Title 48 and would authorize the BPU, the OAL and the Public Advocate to add staff and facilities upon enactment.

Senate Bill 1611 and Assembly Bill 2347 address the management of water and the diversion of any surface or groundwater in the State.

The modifications that we proposed would articulate the circumstances under which the Department of Environmental Protection could alter existing diversion rights. In order for investor-owned companies to attract investment, whether it be in the form of debt or equity, it is essential that the company possess actual water rights. Water rights that could be taken from a company would seriously jeopardize its ability to attract continued investment. Further, if New Jersey's water needs are to be met in the future, water purveyors must be able to plan for the long run. The bill as it is presently drafted would encourage short-run rather than long-term planning.

Senate Bill 1614 and Assembly Bill 2348 provide for the acquisition of small water companies where they are found to have failed to comply with the Department of Environmental Protection requirements.

The modifications to this bill that we propose would avoid forcing the acquired entity to bear the burden of acquisition and improvement of a small water company without adequate and swift financial considerations from the Board of Public Utilities. We believe that the requirement that acquisition by agreement or by eminent domain is essential to prevent arbitrary takeovers of small companies.

Senate Bill 1612 and Assembly Bill 2349 would establish a State Water Utility which would have the power, among other things, to issue its own debt obligations.

Our amendments are designated to make it clear that the new utility created by this bill would be created solely for the purpose of constructing

facilities for the sale of water to water purveyors. Further, any debt obligations to be issued by the utility should be approved by the Legislature. In general, the bill provides far more than is required to meet the needs of water supply, while it fails to adequately consider the power of existing water commissions and agencies.

We have prepared for your consideration an appendix to this statement that proposes specific amendments to these bills, which I will not read. Thank you.

(The specific amendments submitted by Mr. Ring can be found in the appendix.)

SENATOR DODD: Mr. Ring, the discrepancy that you spoke of between the \$85 million project where your cost estimates were ---

MR. RING: They are not my cost estimates. Those are the cost estimates in the Interim Report of the Water Supply Master Plan.

SENATOR DODD: We have just received the formal plan today.

MR. RING: That is awfully small. It is awfully thin.

SENATOR DODD: It is a summary.

Why would there be such a discrepancy?

MR. RING: The Raritan-Passaic Pipeline, as recommended by the consultants, and what was referred to as the Raritan-Passaic Pipeline, was not to commence until 1985, at an estimated cost of \$14.4 million. Some people, I guess, refer to the Raritan-Passaic Pipeline as the new 108-inch line.

SENATOR DODD: Perhaps I could call on Mr. Schiffman for an explanation.

MR. SCHIFFMAN: There are two different projects. It is the project that the consultants were speaking about, not the project that the State is speaking about. The consultants were speaking about a project that would supply water to Western Morris County, a much smaller project. The State is speaking about a project that would provide very large quantities of water for drought insurance, not really for water supply for Western Morris County, although there would be water available for that. The differences in yields are substantial. The State project would provide 60 to 90 million gallons a day in peaks that are much higher. The consultants' project would provide a fraction of that. So there are two different projects. They are not really the same. You can look at the State project as a drought insurance project. It really wouldn't be operated all of the time. As a matter of fact, our estimates show that it probably wouldn't be needed more than half of the time for operation. It is a more expensive project both in capital cost and in operation because it is a greater distance and more energy costs are involved. But it is for a totally different purpose. One of the reasons is because of the water quality issue in the Passaic River. That is one of the major issues here. The consultants' project was for a totally different project. And, yes, there is a difference.

ASSEMBLYMAN HOLLENBECK: The Twin Bridges project is proceeding, isn't it?

MR. RING: No, it is not. They are having hearings.

ASSEMBLYMAN HOLLENBECK: But isn't it only a question dealing with the method of financing it and it was agreed upon that it proceed? It is a question of when the investor-owned utility can recoup its cost, whether at the start of construction or after completion.

MR. RING: I believe it is proceeding in regard to surveying, drawing

plans, etc., but I don't believe there is any pipe being installed.

ASSEMBLYMAN HOLLENBECK: But it is proceeding as far as approvals, etc., isn't it? The only question now before the BPU has to do with the rate scheduling, as to when the charges should start to be applied? Isn't that what the question is before the BPU?

MR. RING: Yes, although it is a little more than that. I think the company has indicated that they won't be able to actually start digging until they get an answer.

ASSEMBLYMAN HOLLENBECK: It is a question of whether the stability of the company is such that it can afford to do it on that basis.

MR. RING: Yes.

ASSEMBLYMAN HOLLENBECK: The other question I have dealing with your particular water company is: Do you have large quantities of unallocated grandfather rights on any of your wells?

MR. RING: I would say no. We may have one or two. We have 30 million gallons a day in wells, but they are not all in one place. They are made up of 4 million here, 1 million here, 1 million there; and there might be one place where we have a grant for a million a day. And in periods of low rainfall and the water table going down, we might only be able to take out 800,000.

ASSEMBLYMAN HOLLENBECK: Do you have any grandfather rights for surface water?

MR. RING: No, we do not. We have grants from the canal and from the Spruce Run/Round Valley.

ASSEMBLYMAN HOLLENBECK: But is it a grandfather right?

MR. RING: No, they are grants in contracts from the State.

ASSEMBLYMAN HOLLENBECK: Legislative grants?

MR. RING: They are through the department, the Department of Environmental Protection.

ASSEMBLYMAN SMITH: I think one of those is mandated - that we reduced from 90 million to 70 millions gallons of water.

ASSEMBLYMAN HOLLENBECK: We are specifically looking at the area of unallocated grandfather rights where we have passed legislative grants for the rights for surface and subsurface water and they are not being used. That is what I am searching for.

MR. RING: No, we do not have anything that is not being used. We are watching it very closely. As our needs increase, then we request increased grants from the State.

SENATOR DODD: The reduction on the Round Valley/Spruce Run - I believe that is the only statutory grant in the State for whatever reason.

That was reduced from 90 million to 70 million gallons a day. It gives the DEP discretion on that.

MR. RING: That is correct.

SENATOR DODD: Any further questions?

SENATOR CAUFIELD: I would make one observation. I think Senator Dodd made very clear at our first meeting up in Lyndhurst that this entire Committee understands that this will not give us immediate water. We understand that. But it is a very necessary step to be taken as soon as possible. I agree it should not be rushed. It has to be deliberate and it ought to be a very well defined

study. However we do know and it has been stated very clearly that it would not give us any immediate water. Those are some of the things we dealt with yesterday with the \$26 million.

SENATOR DODD: Mr. Ring, thank you very much.

I would like to call William Singer, Jim Gaffney and Dar Caputo, representing the New Jersey Water Supply Coalition.

J A M E S T. G A F F N E Y: Senator Dodd, Assemblyman Hollenbeck and other members of the respective Senate and Assembly Committees, my name is Jim Gaffney. I am here today to represent the fourteen organizations who are members of the New Jersey Water Supply Coalition, a group which formed last fall to address all aspects of water supply planning, including pending legislation. I am also Executive Director of the Stony Brook-Millstone Watersheds Association.

With each passing day, New Jersey is edging closer to the brink, as dwindling supplies of water pass through our pipelines, treatment plants, industries and households on its inevitable course to the ocean. Although it was not the purpose of the proposed legislation or this joint committee to focus on emergency remedial measures, the very severity of the current drought dictates that all of us give thought to possible measures to avoid a catastrophe. I am therefore going to depart from my planned testimony on the legislation to comment briefly on short-term measures which might be considered to deliver water to the areas of greatest need. At the outset, however, I would like to emphasize a point made by Coalition members in previous testimony, as well as in letters, that legislation which addresses long-term solutions to the chronic problem of water supply mismanagement and anticipated regional supply deficits should be based on a comprehensive water resources master plan that has been formally adopted by the Department of Environmental Protection and that refinements of legislation derived from the water resources master plan be worked out in a process similar to that which took place last fall to produce the current version of the Major Hazardous Waste Facilities Siting Act, known as Senate Bill 1300.

Most emergency measures have thus far been conceived to make use of the State's largest remaining surface water storage area: the Spruce Run and Round Valley Reservoir complex. The Coalition supports efforts to bring the stored water to the water starved communities in the northeastern part of the State.

We believe that pumps necessary to boost the pumping capacity of the Elizabethtown Water Company should be ordered now to expand its capability of delivering treated water to the Newark area itself. A more controversial proposal involves the interbasin transfer of untreated water directly from the reservoirs themselves or from a point further downstream into the Passaic River watershed. As with all emergency projects, these options should be viewed on the basis of their ability to:

- (1) make optimum efficient use of water by maximizing the potential for reuse;
- (2) be phased in according to a timetable which optimizes the effectiveness in alleviating the deficit;
- (3) avoid precipitating a water supply crisis elsewhere in the State in the process of alleviating any crisis in the Northeast;
- (4) overcome physical design constraints at the point of storage and along the transmission network.

In a few minutes, Darryl Caputo will discuss one alternative for transferring water out of the Raritan River basin into the Passaic River watershed. It should be noted at this point that the Coalition, while supporting emergency water supply measures, feels strongly that the measures should be temporary in nature and reviewed periodically by an oversight committee having an adequate balance of relevant public interests. In the case of emergency withdrawals of Raritan River water, care should be taken to insure that measures which are undertaken concurrently do not precipitate a crisis in the downstream areas which have in the past been threatened by salt water intrusion. The amount withdrawn should be based on a determination of how all possible courses of action which could affect the Raritan River - and I include here the possible stoppage of flow on the Delaware and Raritan Canal at some point in the future - would affect the instream flows.

The relative quantity of Raritan River water should not obscure other surface water options available in the affected counties in the north. Greenwood Lake, which is shared both by New York and New Jersey, has been considered by some within the Department of Environmental Protection as the "ace in the hole," a supply which should be considered only when no alternative options remain. The Coalition believes that negotiations should start now with New York State to pave the way for withdrawals of water when needed. A study should be undertaken now to determine whether gradual withdrawals of the water might be more feasible and make better use of the water than a sudden last ditch effort release of the water. Lakes in the Rockaway River basin are known to have a storage capacity estimated in the one- to two-billion gallon range.

The Coalition recognizes that the time is past when we should be relying on our treated water to serve both our drinking water needs and needs that may require water of lower water quality standards. The Port Authority of New York and New Jersey has already reflected this type of thinking in its plan to use water from drainage ditches to wash down the runways at Newark Airport. Ground water systems that have been thought unsuitable for drinking water needs should be reexamined according to their potential to be used by industry in its operations. One potential source of such water underlies the City of Newark. If this and other groundwater sources can be used for cooling water purposes, thereby reducing reliance on treated water, we may be able to postpone plant closings to a later time or possibly prevent their closing at all.

Finally, a program to encourage the collection and storage of rain water by individuals and industry should be set in place as soon as possible. Within a few weeks we will enter the "rainy season." Each rain shower, however infrequent or frequent, will represent an opportunity lost, unless we are prepared to collect and store as much water as possible at the point where it strikes the land surface. Runoff of rain water from homes and apartments that would otherwise be lost down storm drains, sewers or the like, could be collected and used to flush toilets, wash dishes, or perform household cleaning chores, such as window washing, floor washing, etc. Widespread compliance is needed to make this program work. A public information campaign should be launched now. While the program by itself will not alleviate the water shortage, it will move us one step away from the brink. We are at a point where all reasonable options must be considered, including an abundance of conservation options that will be mentioned by the members of the Coalition later on today. When the alternative is to run dry and to rely

on water transported from great distances at great cost in trucks or railroad cars, these prior options may prove to be the most cost-effective options we have available.

At this point, I can turn the microphone over to the two other speakers, or answer questions.

SENATOR DODD: Just one comment - you hit on a point that we have been discussing and that is: Greenwood Lake and Lake Hopatcong. Now Lake Hopatcong seems to be regenerating quicker than we anticipated. I believe it is down only a foot. We had anticipated it would be down, what - nine feet?

MR. SCHIFFMAN: Maybe I could clarify the Lake Hopatcong situation.

SENATOR DODD: Twenty-five million gallons a day?

MR. SCHIFFMAN: We made our estimates and possibly got in a little more trouble than we should have because of this. We always are very conservative. We assumed when we would take 25 million gallons a day from Lake Hopatcong that there was no inflow, that we were taking from a sealed bathtub. Obviously, that is not the case. There is inflow. Therefore, instead of dropping five feet, as we projected, it has dropped about a foot or so, because there is inflow. But we felt it was prudent to protect everyone's interest and take the most conservative approach. Some of the inflow is a little puzzling, if you are interested in these little side things. There must be some heavy spring flow that we can't see coming into Lake Hopatcong because the river flow that we can see can't account for all the water that we are taking out. But, yes, it has only dropped a little over a foot.

SENATOR DODD: We now have started negotiations with the State of New York for Greenwood Lake. If you can picture this, ladies and gentlemen, with the possibility of tens of thousands of people being out of work, we are not going to have people water skiing on recreational lakes. Those waters will be used in any way, shape or form, to maintain supplies for John Caufield's fire department and to keep as many industries open as possible. There will be no such thing as recreational lakes this summer. And I don't think anyone could fault that logic.

We have initiated an education program sponsored jointly by the members of this Committee, which will reach a million and a half school children in the State. We have received the recent package from California where droughts are a way of life; and we find that 75 percent of all water use occurs in the bathroom, 5 percent in the kitchen, and 20 percent in the laundry room. So, naturally, the place to attack this is the bathroom. There are the shower-reduction discs and the dams that are put in the toilet tanks. Whether we should expand the package to the children is something to consider. And we can reach approximately 3 million New Jerseyans through this process. I think we should look to spend those few dollars, whatever that may cost. They are relatively inexpensive. Or perhaps we could do it through the water companies with their cooperation and some State funds because when we talk about funding for these projects, it becomes rather insignificant when we are talking about massive unemployment, loss of taxes, loss of jobs and the emotional impact.

We will now hear your next speaker.

D A R R Y L C A P U T O: Is it all right if I stand here and make reference to the map? I will try to speak as loud as I can.

I would like to start out by saying a few words about the proposed

Raritan-Passaic transfer and the question that was brought up: Why does the State's \$85 million proposal seem to conflict with the consultants' recommendations as part of the statewide water supply master plan? Just let me try to set this matter straight. The consultants last summer recommended a couple of things. They recommended a pipeline from the Burnt Mill area to take Round Valley water up along the North Branch River to serve future development needs of Morris County, northern Hunterdon County and northwestern Somerset County. The consultants said that the Two Bridges project ought to be put on line immediately. That would provide 79 MGD in the lower Passaic Basin to meet the needs until the year 2005, at which time the consultants recommended the construction of a pipeline, in essence, from Elizabethtown's intake, that general area in Bound Brook, over into the Newark area, to meet the water needs after the year 2005. The consultants had documentation on this.

Along comes November and the State Department of Environmental Protection completely changed the whole ballgame. They recommended 85 million dollars for the construction of a pipeline and they gave us a written description: the pipeline would begin at the Millstone and the Raritan River in Franklin Township, follow the Raritan River up along the North Branch up into the same general area where the consultants recommended the pipeline end. The purpose of this pipeline now is completely different. The purpose is to deliver 140 MGD through a 9-foot diameter pipe to augment the low flows in the Passaic River basin, to accomplish two things: to reduce the treatment costs and to increase the supply. We have seen no documentation on that scheme from the Department of Environmental Protection whatsoever.

The reason I mention this is simply because we believe that the State Department of Environmental Protection ought to be given the planning monies that they have requested from various sources, but not be given the construction monies for this project, simply because they haven't documented the need. They haven't looked at all of the issues and the issues are tremendously complex. We will be presenting at the Chester meeting, in some detail, what those issues are, which ought to be evaluated before any construction monies are really given. I emphasize that this project, as you are well aware, will not meet the existing need at all. It is a project which couldn't be built at least for a couple of years, perhaps as long as five years. So we have time to give adequate consideration to the evaluation of all of the impacts associated with the line.

What I would like to do is just briefly go over a proposal that we have to deliver water into the Passaic Basin via a pipeline which could be built in 30 to 60 days and provide a significant amount of water to the Lower Passaic Basin. Senator Dodd, at previous hearings, you challenged the audience. You said, "Fine, if you don't like what is in the bond issue, come forth with alternatives, but come forth with alternatives that will meet the existing crisis." We have a countdown. The Army has told us we have 39 days until we run out of water. We ought to be doing something to deal with that situation.

Our proposal is the following: This is the Spruce Run Reservoir, Round Valley Reservoir, Interstate 78, Interstate 287, Somerville, Morristown (indicating). This point is the confluence of the Lamington River and the North Branch River. The waters from Round Valley are presently released into the Rockaway Creek that flows into the Lamington, which flows to meet the North Branch River at Burnt Mills in Bedminster Township. We are proposing the construction of a temporary, above-ground

pipeline at whatever capacity is determined to be needed, up along the 78 right-of-way, to the headwaters of the Dead River in Southern Burns Township. This pipeline could be put in similar to the Lake Hopatcong pipeline, which was put in in four weeks, in the same order of magnitude of a construction project. The elevational difference is something in the order of 120 feet. It poses no great problem. The distance we are talking about from here to here (indicating) is six miles. Notice that the Dead River flows down into the Passaic River at this point (indicating), not very far away. If the Dead River grading at this point is not adequate to accommodate the flows, we have the option of extending it a little bit further to pick up lower reaches of the Dead River; or, if it is determined that even those points along the stream are not adequate to accommodate the discharge which is needed, we are saying you can go a little bit further and you run smack-dab into the Passaic River. This addition - and this map is not drawn to scale - would be about three more miles and the whole pipeline would conceivably be less than ten miles. It is something that you could do quickly. It is something that could be done to release surplus water from the Round Valley system into the Passaic Basin, perhaps for dilution purposes, so that we can begin to take advantage of the 35 to 40 million gallons a day treatment capacity that the Passaic Valley Water Commission is not able to use because of diluted water in the Passaic presently. If you expand the treatment capabilities of that system, then you could even treat more water, discharge more water, and get it to the people in Newark in 30 to 60 days so that when we finish - when we finish with Arnie's countdown, - the people in the Newark and Paterson area won't be carrying around pails.

We think that it is a proposal that merits deep consideration by the Department of Environmental Protection and their engineers. It is obvious that we cannot do the engineering for them. We would like to see a report given to this Committee from DEP evaluating the merits of it because it appears on the surface to be something which could be done in the kind of timeframes that we are talking about, in terms of alleviating the existing problem.

SENATOR DODD: I believe we have several proposals on the table using the rights-of-way of Route 287 and Route 78. Is that one of our emergency proposals, Mr. Schiffman?

MR. SCHIFFMAN: First of all, as was pointed out, the project in the bond issue would take a certain amount of time to build. Even if it was built, it would offer no immediate relief. I would say the same for this proposal. It is basically a different route from the consultants' proposal. The quantity of water is still limited. It is not as great as taking the water from lower down on the river.

The main issue would be getting the water to where you could use it. What appears to be the most cost effective solution is increasing the ability of the Passaic Valley Water Commission to treat the Passaic River. That is one of the items that you voted on yesterday. That is a million - two million dollars - or whatever. The exact cost is hard to come by right now. But it is within that order of magnitude.

We count on the Passaic River, the full 75 million gallons, as one of our supplies in this situation. The fact that we don't have that right now just makes it worse. So the objective is to enable them to treat that water to

get the 75. We believe that could be done in the treatment process itself.

So any proposal to get water into the Passaic River doesn't do that much good right now. What you really have to do is get water into the distribution systems. And some of the emergency projects that are considered, not ones that you voted on because you, I think, properly said for whatever reasons, planning and design right now for that would be to take water in the greatest quantity, which is lower down on the Raritan River by Bound Brook, and bring it into the distribution systems through the shortest route --- That possibly could involve 287. But you have to get it somehow in the Boonton Reservoir or use some other method of getting it into the distribution systems. That would have to be done if there was any --- As a matter of fact, that might have to be done in any case because of the risks involved. But that is what we are going to plan and design for.

As far as other routes, possibly you could put water into the Dead River. But, as I said, that doesn't increase the water supply. If you are going to have to run it up to Boonton, the planning and design will have to look at that issue about 287. That might be the most cost-effective solution: a permanent line to the Passaic and then a temporary line up to Boonton. You could accomplish both at the same time. But there is not going to be any easy quick fix that is not going to bother anybody. Maybe the highway route would cause the least problem. I don't know. I don't know of any easy fast fix of getting water in any shorter route because, as I said, just getting it into the Passaic River doesn't add to the supply. It would be nice to have that dilution water. But that is just one way of getting us back to where we were in terms of the amount we are taking from the Passaic. It doesn't add any water. What we really have to do is add it into the distribution systems, such as in the Boonton Reservoir, which is a possibility. But, again, time would be a factor.

MR. CAPUTO: Could I say a few words? The 287 alignment, the emergency pipeline up into the Boonton Reservoir, is approximately 57 miles long, with 9-foot diameter pipes. It is going to take some time to build that. You are not going to build that in the next 39 days. That is not going to do anything to meet the existing crisis that is coming down upon us. What we are talking about is a pipeline, not in terms of being an alternate to what the State wants. We are talking about a pipeline to assist in alleviating the crisis which is going to befall us in 39 days. It is not a competing pipeline. It is not an alternate route. It is a short pipeline, temporary, above ground. You can take it out after the summer. You can take it out after this thing is built. What this does is allow us, as Arnie says, in terms of diluting the Passaic River, to utilize the presently nonutilized treatment capacity of the Passaic system. It returns to us some or all of the portion of that 35 million gallons a day that we are not using. I don't know how much. I am not prepared to say how much.

If this thing can be built, it buys us time. It buys us time to think about what the long-term impacts are of any transfer of water from the Raritan to the Passaic. And there are many, many issues which have to be investigated. The Elizabethtown Company representative this morning identified what some of those issues are. There are more issues. There are real questions as to what that amount of withdrawal is going to do to the economic growth of lower Middlesex County. For example, they say that by the year 1990 they are going to need over and above what they are using now, 49 MGD. If you take it out of the river, it

won't be available to them. There are many questions. And I hope once again to raise some of these other issues in terms of the long-term impacts of any scheme taking water from the Raritan to the Passaic at the Chester meeting.

The point once again is: this could be done quickly. It would seem to help alleviate the crisis which is going to occur in 39 days and I think it ought to be given very serious consideration.

ASSEMBLYMAN HOLLENBECK: I think at the beginning of the hearing we mentioned that the five bills do not address the immediate situation. That is what we tried to address yesterday by making some funds available for the immediate situation.

The question comes up, of course, dealing with the permanent pipeline, the 108-inch pipeline, the cost of such a line, where is the proper outflow of that, and whether it is being used as a permanent supply or it is going to be there for a limited supply for some on the basis of need, which is my interpretation of what it is to be used for. The construction and the alignment has not been designed, although we did yesterday provide some finances to come up with the design of that particular system. So, the route, itself, has not been planned. We have been talking about poor planning in the past - somebody used the word mismanagement. Now I think we are taking the proper steps by trying to plan something for the long range.

The immediate situation only proves that there has to be something done for the future, doesn't it?

MR. CAPUTO: I agree. Senator Dodd asked for ideas of what could be done to meet the existing crisis. We are responding to that. We will talk in terms of the proposed \$85 million transfer in detail in Chester.

Now I must add that the Department of Environmental Protection wants planning money and also wants construction money, without even knowing several things: what, where, when, and how they want to build something. Is it good policy for you gentlemen to allow public funds to be given to the Department of Environmental Protection for the construction of a pipeline when you haven't justified really the need for it and you haven't seen anything documented regarding the need? We have a consultant's recommendation which is 360 degrees the opposite of what the Department is saying now. It doesn't appear to be good public policy. We don't even now yet if there are non-pipeline solutions. There are people presenting the fact that there are non-pipeline solutions: the development of more reservoirs for long-term needs in the Passaic River basin. Why give construction monies now for the construction of a pipeline, regardless of the questions of route, whether or not you know you need it, what you are going to build and how much it is going to cost?

ASSEMBLYMAN HOLLENBECK: Isn't that the question we have? And we are not immediately giving construction money, obviously. I don't think we are giving construction money with these.

MR. CAPUTO: In the bond issue, you are.

ASSEMBLYMAN HOLLENBECK: By that time, of course, we would have some engineering data. One of the questions I asked in Lyndhurst after the fact was brought up about the lack of the final stamp on a statewide master plan - although we have a summary now of the findings - was whether any of the proposed projects that we see in the bond issue do violence to that master plan. We were assured they do not. Are you saying that they do?

MR. CAPUTO: Yes, I am.

ASSEMBLYMAN HOLLENBECK: You said it was 360° opposite of what was proposed in the master plan?

MR. CAPUTO: That's correct.

ASSEMBLYMAN HOLLENBECK: Can you cite specific areas?

MR. CAPUTO: I did earlier and I will again. The master plan recommended a pipeline along this green route, the north branch. The sole purpose of this was to provide 20 million gallons a day for future development in this area. Number two, they recommended that Two Bridges be put on line and everyone agrees. That will provide 79 million gallons a day to meet the demands of that area until the year 2005, at which time, the consultants said, that won't be enough; they will need more water; they ought to take Raritan-Spruce Run water out. But, the consultants recommended construction of a pipeline from the vicinity of Bound Brook along the Route 22-78 corridor into Newark at a cost of \$20 million.

ASSEMBLYMAN HOLLENBECK: When you bring the line directly up from Bound Brook to Newark, does it get it into the Boonton Reservoir?

MR. CAPUTO: No, but it may not have to.

ASSEMBLYMAN HOLLENBECK: Then, when we have the interconnections at Great Notch, will we have the ability to move it to the New Jersey citizens?

MR. CAPUTO: With the interconnection at Great Notch, you will have the ability--

ASSEMBLYMAN HOLLENBECK: Won't there be questions dealing with the difference in pressures, the differences in the system?

MR. CAPUTO: I think those kinds of questions are engineering kinds of questions which have to be investigated, yes.

ASSEMBLYMAN HOLLENBECK: Wasn't that a major consideration in Newark, two different systems and two different pressures?

SENATOR DODD: Or modifications.

MR. CAPUTO: Yes, but how does that relate to the fact that--

ASSEMBLYMAN HOLLENBECK: Well, unfortunately, when you bring things in through interconnections and you bring it back to sewers, there's a difference.

MR. CAPUTO: The point that I'm trying to make is that the consultants recommended, based upon their studies of three and a half years, one scenario and they have the facts and the figures to back it up. We can argue with those facts and figures, but at least they are there. The Department is proposing a transfer of 140 million gallons per day for completely different purposes without any documentation whatsoever.

ASSEMBLYMAN HOLLENBECK: Within the statewide master plan, then, you are saying that the proposed line from Round Valley-Spruce Run does violence, then, to the master plan?

MR. CAPUTO: Yes. It was not an idea conceived in the master plan.

SENATOR DODD: That's why we're having the hearings.

MR. SCHIFFMAN: There's one issue that the Committee should be aware of. All the calculations, whether it be the master plan consultants with the Department or the Department by itself, were previously based on the drought of the mid-sixties. It appears that we may be entering a worse type of rainfall condition. From a hydrolics standpoint, what you do is you design your systems for what you know from the past and we're rewriting the book right now. That's one reason for our desire to increase the yield of the systems. There really is a question mark as to what we're dealing with right now. It looks like it is worse. Right this second, it

is worse, but you don't make a drought record on the basis of eight months, frankly, or whatever. I hope that we're not into a long-term period, but it looks like we might be. It depends on whose predictions you believe. So, that's a very critical factor because the Newark line, for example, recommended by the consultants, we will, in essence, probably be constructing that or something similar to it by increasing the pumping capacity and making necessary improvements. That doesn't substitute for anything. Maybe it would have substituted for a certain amount of need in the past, but in my opinion, since there is the uncertain future, I don't think it substitutes for anything.

The other thing is that there is excess capacity in the state reservoirs. True, we have to look at the future. The bond issue talks about another project which has been ignored, which is called the confluence project, \$55 million, that is the confluence of the North and South Branches of the Raritan River. This would substantially increase the yield to the state reservoir system. So, you would not necessarily have a negative impact on the Raritan Basin.

The other key thing is that I would again reiterate that you have approved dollars to operate the Passaic Valley Water Commission's plant and you should only look at options if that were to fail. Then, we may have to run in dilution water. We are fairly confident that that will exceed a reasonable cost. But, I think the main issue here is that we are entering an unknown area in terms of drought record. It looks like we're worse. We're worse right now, as I showed you, with record lows and our objective would be, for drought insurance, to move the maximum amount of water that we can. That's moving it from Bound Brook, where you have the maximum quantity. The other location does not provide the yield and I think that this is what the debate will focus on.

SENATOR DODD: We're talking two-tiered. We're talking long-term/short-term, which we appreciate, and I'm sure that we will take all the advice that we can get, certainly, on the short-term. The differences seem to be from the diversion from the master plan, using the day to day experience that we're going through and if we can funnel this information and this Joint Committee can be convinced that that is the way we should go and we have general acknowledgement from the people that have studied this and are professionals in this, then that may well be the way that we will go. We will be following this as we go along. We don't throw that kind of oney around without absolute documentation.

MR. CAPUTO: That's the point I'm trying to make. It is a considerable amount of money.

SENATOR DODD: Yes. You know, you have \$100 million here and \$100 million there and the next thing, you're talking about some big money.

ASSEMBLYMAN HOLLENBECK: Mr. Caputo, have you changed your mind since your December letter about, there is no drought?

MR. CAPUTO: Let me respond to that. The annual rainfall for the year 1980 was 38 inches. 45 inches is the average. That's not much below average and when I wrote that letter, we had 110% of annual rainfall and that letter was actually based on October data. The problem is that the low precipitation came at a time of high demand, which threw the whole system into chaos. The point was not whether we have a drought or not, sir. The point was that the state's water supply system is so fragile that if you have one year where it is slightly less than normal, the whole water supply system goes to chaos.

ASSEMBLYMAN HOLLENBECK: I don't disagree with you. We don't have enough reserve capacity and we don't have the ability to move water from areas of surplus to areas of need.

MR. CAPUTO: I think we have to evaluate what the ramifications are of doing this.

SENATOR PARKER: In Mr. Quick's statement, he indicated that the cost of running that system up there on a master plan was only \$13 million or something and the state has asked for \$85 million--it was \$14.4 million. Do you have any response to that?

MR. CAPUTO: The way I read the master plan is that they were asking or they said a line ought to be built which would cost about \$20 million from Bound Brook into the Newark area to the year 2005. Another line ought to be built from Burnt Mills up into Western Morris County for \$40 million. That line ought to be in place by 1985.

SENATOR PARKER: I'm sorry, in his statement, on page 8, he said that the Raritan River Watershed and the Passaic Watershed--not the one from Bound Brook to Newark--the estimated cost was \$14.4 million. The funding requested in this bill before the Committee was \$85 million.

MR. CAPUTO: I think he was mixing up projects.

W I L L I A M S. S I N G E R: I am William S. Singer, Legislative Agent for the League for Conservation Legislation, a New Jersey environmental lobby. The Water Supply Coalition strongly feels that action on regulatory reform of the management of water in the state should not be done in a hurried manner as a reaction to the drought situation. The problems and solutions are meant to be long-term.

Many of the proposals contained in S-1611, 1612, 1613 and 1614 and the complimentary bills in the Assembly may be worthwhile. However, adopting any of these propositions without the benefit of the Statewide Water Supply Master Plan makes no sense. Although preparation of this comprehensive plan has been under way for some time, there are still several steps in the process to be completed. To rush ahead without the benefit of the work that has been done would be inappropriate and a disregard of good government planning.

It is true that you are faced with a drought situation today. However, the regulatory reform concepts in these bills will do little to alleviate the potential drought. Therefore, the Water Supply Coalition recommends that only certain passages of S-1611 or A-2346 be adopted. The rest of the proposals should await scrutiny by the Legislature after adoption of the Statewide Master Plan.

The Water Supply Coalition supports passage of section 12 of S-1611 and A-2346. This section authorizes and directs the Department of Environmental Protection to maintain a water resources management plan. This section, however, should be expanded to include a time frame for when such plans should be adopted and set time periods for when revisions should be made. This document should be dynamic. A generalized survey is not what is needed. The master plan should provide DEP with with a clear policy to follow in its decision making process. In addition, the Legislature should direct that there be a meaningful public participation process in the adoption of such a plan.

We also believe that the plan should include techniques for protection of watershed areas. We must begin to recognize that these critical areas should be protected in order to maintain a proper supply of water in this state.

We also support adoption of section 13 of S-1611 and A-2346. This section will give DEP the power to promulgate and maintain a plan for the conservation and allocation of water resources under emergency circumstances. Again, we feel this section could be expanded to include criteria for what constitutes an emergency and to provide some type of hearing schedule. Although the Department may need authorization to act quickly and without notice, an affected individual should be allowed a hearing, even after the Department has taken its action.

Other than these two provisions, the rest of the regulatory reform package presented in these bills can await adoption of the Statewide Master Plan. Then, this Legislature and these committees should give careful consideration to the proposals made here.

The Water Supply Coalition would be happy to supply additional comments to the Committee in the near future on the substance of the other bills if this Committee feels it would be necessary to consider the legislation immediately. However, we wish to stress that although there is a crisis facing the State, the Legislature should act in a cautious manner. Any steps taken will have long-term effects. At this point, we urge you to consider only legislation which is needed to alleviate the present crisis. Foremost, concentration should be spent also on urging public conservation of this vital resource. Thank you.

ASSEMBLYMAN HOLLENBECK: The question that I have in my mind is that you didn't recommend anything in areas of the past legislative grants for ground water, unallocated, unused. What is your position on that? In other words, where they have given grants outright for the water from various surface supplies that are not used or past legislative grants--some dating back many years--for ground water supplies that they are not using or is not needed. I don't know the sections that you recommended.

MR. SINGER: Those are part of the bills and we believe there should be a revamp of that system and a redefinition, but we also believe that that should come after the master plan is in place. You're talking about long-term changes. I don't think that we know, until that master plan is in place, how we want to revamp that system, but definately, there should be a revamping. I am only recommending here today things you could do because of the drought situation, if you wanted to pass some legislation immediately. The rest of this is long-term. If they say the master plan will be ready in six months, then let's go back and look at these bills in six months.

ASSEMBLYMAN HOLLENBECK: We're not looking at any of these bills in light of the present situation. They are being done rather piecemeal, by the way, and I question some of it. I think most of us would have to question the amount of detail that goes into some of this piecemeal stuff. I would rather see more diligent planning, even on the short-term stuff. But, these bills are not addressing that at all and I agree with you that we have to look at it very carefully. We don't want it to happen again.

MR. SINGER: Do you consider that you are going to act before the master plan is in place?

SENATOR DODD: Not necessarily. We have the luxury, if you will, and as has been stated a hundred times, none of these bills will add a drop of water and none of the package, especially the bond issue portion, can go on the ballot before November. So, that is really our deadline for the actual passage. Some of the others, certainly, we can address in a more expeditious manner such as utilizing

or reutilizing or reallocating existing systems. Now, this, perhaps, we can move, but it is not something that we're going to be rushed on because, again, the huge amounts of money, the long-term effects that these will have on the state will have to be studied. These bills are 14 years old. These are the result of the last drought and when the reservoirs filled up the last time, out of sight, out of mind. You couldn't have passed a \$10.00 bond issue after the last drought was finished. We didn't have any water problems. The reservoirs were full. What did we need a bond issue for? But, in the best case, if we had torrential rains between now and the Spring, we can't forget what we're going through today. So, we do have time.

MR. SINGER: We agree that this whole system has to be revamped and there has been potential mismanagement and poor planning in the past. We just think that it should be done in an orderly process and I think you agree to that.

SENATOR DODD: Again, we can't ignore Mr. Schiffman's point of view either. We are learning, on a daily basis, the severity of this and perhaps we will have to rethink parts of the master plan, based on what we have now.

MR. SINGER: As he said, they're rewriting the book right now.

SENATOR DODD: Okay, thank you very much. Mr. William Cobb?

W I L L I A M C. D A V I S: Senator Dodd, Assemblyman Hollenbeck and other Senate and Assembly members of the Committee, my name is William Davis. I appear here today on behalf of Mr. Cobb, who is President of Commonwealth Water Company, Monmouth Consolidated Water Company and New Jersey Water Company. Mr. Cobb apologizes because he cannot be here because of a prior business commitment which involved a great number of people. He asked me to appear to present his statement to the Committee.

We have reviewed Senate Bills 1610, 1611, 1612, 1613, and 1614 and their companion package of Assembly bills introduced by Senator Dodd and Assemblymen Hollenbeck and Jackman respectively. Our three water companies in New Jersey, all subsidiaries of American Water Works Company, Inc., serve approximately one million residents on 100 communities. Therefore, we are vitally interested in any legislation that affects the way that we provide safe, adequate and proper water service to our customers. Of course, that is the charge that we have from the BPU, to provide safe, adequate and proper water service to our customers.

The proposed legislation addresses a variety of future potential solutions to the problems associated with supplying water of high quality in sufficient quantities. There is no doubt that it is an appropriate legislative function to consider measures that will insure that sufficient quantities of high quality water are available to New Jersey. It is also clear, however, that in these days of high inflation and considering the additional cost of water service due to recent environmental legislation, it is essential that when any large scale commitment to particular remedies is being considered, an important part of that review process must include a judgement that we have made the most efficient use of the limited resources available. A program of this magnitude must be viewed in terms not only of its initial cost (\$345 million), but also of the continuing cost once the various programs contemplated by the legislation are in place. We must protect our environment and we must serve the citizens of the State of New Jersey, but we must also insure that the legislative scheme adopted to accomplish those ends is most efficient operationally and financially. It is essential, therefore, that in studying the scope and impact of this legislation the Legislature should not only solicit public comment, but should consider whether alternatives are available to accomplish the end results sought to be achieved by

the proposed legislation.

While we agree that the package of legislation addresses problems that need to be dealt with, we are concerned that this very substantial legislation be carefully reviewed and considered. We are aware that the present drought is foremost in the minds of legislators and residents alike. It is clear, however--and the Committee has mentioned this on several occasions today--and it must be emphasized to the citizenry of New Jersey, that the proposed legislation cannot be seen as a solution to the drought that faces us at present. It cannot be disputed that even if these bills were enacted today, there would be no impact on the State's water supply in the immediate future. In fact, the citizenry of New Jersey should not be led to believe that any meaningful improvement in water supply could occur for at least a period of three years.

With respect to the present situation, we suggest that statutory and regulatory mechanisms are in place giving the State the power to act to combat the present dilemma. Although the drought has focused attention on the need to address the water supply situation on a long-term basis, the fact of the drought should not preclude allowance of sufficient time to conscientiously study whether this legislation presents the most efficient and feasible solution to the long-term problem.

We submit that the citizens of New Jersey should have before them the Statewide Water Supply Master Plan as this legislation is considered. In view of the importance of this plan, it would be imprudent to fail to include public consideration of the plan as the legislation is reviewed. I know, Senator, you have mentioned today that you have already received a summary of that particular plan and other gentlemen that have gone before me have addressed that specific problem. We, again, just add our comments to them.

We would like now to address specifically each of the bills under consideration by this joint committee.

We commend the thrust of the Water Supply Bond Act in that it speaks to the need to develop sources of supply that cannot or would not be developed by either public or private water purveyors. Of the total amount of \$345 million in bonds, some \$65 million is to be allocated for grants or loans to public or private water purveyors for the rehabilitation or repair of antiquated or damaged water supply systems and to assist in regionalizing troubled or inadequately operated systems. The problem we see with the utilization of the \$65 million is that these water supply systems that presently need rehabilitation have the power and ability to finance the improvements contemplated by the Act. Rehabilitation and repair of distribution systems is an ongoing process that cannot be rectified by a one time infusion of large amounts of capital. The grants and loans appear to be in the nature of an "award" for the failure of a few to systematically repair or replace mains or other components of their water supply systems. It goes without saying that water supply systems in dire need of rehabilitation are probably those where inadequate water rates have been the rule for too long a period of time. The grant and loan scheme places the burden on the general taxpayers rather than the individual water consumers of those systems that are to be the beneficiaries of the grants or loans. For these reasons, we oppose this section of the Water Supply Bond Act.

The remaining projects specified in Section 4 of the Water Supply Bond Act all would improve the American Water Works System Companies' sources of supply. To the extent that the projects do not contemplate the construction and operation of state-owned treatment and distribution systems, we feel the projects

are worthy of consideration. For example, there is a need for the construction of the reservoirs planned in the Manasquan Reservoir project. However, we are concerned that the entire "project" includes construction of treatment and distribution facilities to be operated by the State. We feel that this will be an unnecessary duplication of existing organizations in that a state purveyor of water would be superimposed on another purveyor, namely the Monmouth Consolidated Water Company. This discussion highlights our concern over a very serious issue presented by this legislation, that is, whether the State of New Jersey should be in the business of distributing water for retail purposes and not simply for raw water wholesale to the purveyors.

We note that the tremendous land acquisition cost associated with construction of the Hackettstown Reservoir and note also that the Delanco Intake is designed to alleviate well drawdown in those communities along the Delaware River. In this connection, it should be pointed out that Delanco would require a treatment plant since it would be taking water from the Delaware River. We must point out that an alternative apparently not considered in this legislation is the use of water contained in the Wharton Tract. It seems to us that in view of the substantial quantity of good water in the Wharton Tract, it appears senseless to continue long term reliance on the Delaware River as an additional source of supply.

We have not commented specifically concerning the other major projects. However, we feel there is felt need for them and are in favor of them.

We urge that consideration be given to prioritizing these projects and that sufficient analysis of the long term costs of each be made in connection with establishment of priorities. The State Water Supply Master Plan ought to be the "foundation" for whatever package of bills ultimately becomes the law of this State. The present legislative package should not override the recommendations contained in the State Water Supply Master Plan.

Section 20 of the Water Supply Bond Act provides for the recovery of funds necessary to meet the interest and principal requirements for the bonds issued under the Act. Subsection A provides that "net revenues, if any, with respect to water supply facilities funded in whole or part by the bonds" would be appropriated first to meet this requirement. Will this provision be utilized to appropriate revenues from the private and public purveyors of water that are the recipients of loans or grants under Section 4a of the Act? If this scheme is not to be utilized to repay Section 4a loans, just how is it contemplated that these loans would be repaid?

The Water Supply Management Act is an attempt to rectify existing inequities in the diversion and allocation system pursuant to which we are operating at the present time. It is true that present procedures do not permit the State to properly manage the use of water in New Jersey. For example, many divertors are charged different rates, report differently or not at all and are not presently controlled by the State. Most water purveyors, on the other hand, particularly those that are investor owned, are required to stringently report and support their permits for surface and ground water use. Section 5 of the Act attempts to bring some equity and rationale to the diversion permit system. We have some difficulty, however, with the methodology established in Section 5. It is clear that under this section any existing diversion privilege is subject to being modified by the Department. The ramifications of this grant of power are far reaching, particularly for the investor owned water purveyor. Not only does this section render the future of present water diversion rights uncertain, it also fails to establish standards by which the Department

is to review and act upon existing diversions. In the absence of clearly delineated standards in accordance with which the Department must act, no investor owned water purveyor would plan to construct facilities for future expansion and bond financings would be extremely improbable.

In the absence of clearly delineated standards governing the exercise of the Department's power, we suggest modification of the Section 5 scheme to that of a requirement for registration of all existing diversions within a period of one year. Those diversions not registered within the one year period would automatically be void regardless of the nature or source of their issuance. Additionally, a uniform reporting system for all diversions should be required from the end of the period of one year and this reporting should be without regard to prior practice or permits.

We note that inclusion of all diversions over 1,000 gallons of water per day will require an enormous amount of data accumulation and handling which is far beyond the existing capabilities of the Department of Environmental Protection. We agree that as a goal for the future it may make a great deal of sense. However, to require registration within a period of twelve months is probably unrealistic. We suggest that the requirement be changed to mandate new permits for diversions in excess of 1,000 gallons per day and suggest that the implementation of this requirement not be at the state level, but at the County Planning Board level with the DEP acting as supervisor of the county agency.

Subparagraph J of Paragraph 7 of the Act creates concern for us insofar as the DEP could "modify, suspend or terminate the permit when it deems it necessary for the public interest." Certainly the legislative scheme cannot be read to grant such power to the Department absent the opportunity for an adversarial hearing where the burden of proving "cause" rests upon the DEP.

We understand the necessity for the establishment of an administrative fee schedule as provided in Section 10 of the Act. We are concerned, however, for the administrative establishment of any fee schedule absent legislative review of the same. The fee schedule would constitute an indirect tax on the citizenry of the State and would not encourage efficiency of operation absent legislative oversight.

Section 13b of the Act grants certain emergency powers to the Department. However, there is no definition of what circumstances would constitute the emergency situation. This section states that orders of the Department shall be upon fair compensation. However, such fair compensation "may take place subsequent to the order." If provision for compensation is not made prior to or contemporaneous with the issuance of the order, substantial difficulty may be encountered by the purveyor in complying with the order, due to lack of capital on hand. For the same reason, we urge that the powers delegated in Section 15e, regarding inter-connections, be exercised only after the costs of the improvement has been passed upon and approved by the Board of Public Utilities.

Within Section 15f, the power to issue orders to improve or repair water supply facilities is granted. This power is granted to insure that safe yield is maintained. However, no statutory definition of safe yield is contained in the section. Absent a specific definition of this term in the Act, we feel that the Act should incorporate a method to determine what safe yield is to be so that this definition is not left to a case by case determination by the DEP staff.

Section 17 of the Act transfers all the powers, duties, and functions of the Water Policy and Supply Council to the DEP. However, the section is silent as to how the Council's functions will be administered. We have additional concern

that abolition of this independent body will result in a shift of extensive powers to those without experience in directing the operations of water supply and distribution systems.

The State Water Supply Utility Act meets the need for a specific element of the State to acquire, finance, construct and operate water systems. What is of serious concern to us is how one defines "water systems." As we have noted earlier in this statement, only the State can develop certain major water supply projects that will be of benefit to the entire state and that will be unable of themselves to provide sufficient revenue to develop and construct these facilities. We agree that the state should provide raw water. The treatment and distribution of the same should remain with the existing system of water purveyors. It cannot be disputed that over the past 40 or 50 years existing water purveyor have performed admirably. Mechanisms are already in place pursuant to which the State can require the upgrading of existing plant without having the State in the business of distributing water to individual homes and businesses.

Section 4 of the Act establishes the membership of the State Utility. We urge the inclusion of at least one commissioner from the Board of Public Utilities and a specific member from the investor owned water purveyors in the State of New Jersey. Of course, both of these specifically designated members would have full voting power. These members would be in addition to the two members from the public at large appointed by the Governor.

Furthermore, we oppose the provision contained in Section 4d that effectively grants the Commissioner of DEP a veto power. At lines 34 through 38 the Act provides that the Commissioner's vote must be in the affirmative if action is to be taken. This provision nullifies the existence of the utility's directors and vests all power in the Commissioner.

We have read Section 6a of the State Water Supply Utility Act and the first two lines of that section appear to be confusing. Is Section 6a to be read as a grant of power separate and distinct from the power conferred in Section 5 or is Section 6a only to be read in conformity with Section 5? In other words, does 6a grant to the Department the power to direct the utility to construct water supply and distribution projects in the absence of and without regard to exhaustion of the procedures called for by Section 5? We feel Section 6a needs clarification.

Senate bill 1613 and its accompanying Assembly bill 2346 place all owners or operators of water supply systems under the jurisdiction and regulatory control of the Board of Public Utilities. Although this additional jurisdictional grant of authority will require augmentation of the Board of Public Utility staff, the staff of the Office of Administrative Law and the staff of the Office of Rate Counsel of the Department of the Public Advocate, we feel that this legislation is long overdue. We feel that this legislation should be taken one step further and subject all owners or operators of waste water treatment systems to the jurisdiction of the Board of Public Utilities. The Board already has jurisdiction over private investor owned waste water treatment facilities and there is no reason, in our opinion, why this jurisdiction should not be extended to county or municipal facilities as well.

Senate bill 1614 and accompanying Assembly bill 2348 addresses the continuing dilemma of what to do with the small water purveyor which is not capable of providing safe, adequate and proper water service. As long as adequate and timely rate relief is permitted by the Board of Public Utilities, this Act would appear

to provide a remedy to insure that consumers are provided safe, adequate and proper service. We feel we would not be responsible if we did not point out that the powers contemplated by this Act may face constitutional challenge.

SENATOR DODD: Mr. Hollenbeck and I were just discussing that you indeed have done your homework. You made an excellent presentation.

MR. DAVIS: Thank you, Senator.

ASSEMBLYMAN HOLLENBECK: Mr. Davis, I realize that you are presenting this for Mr. Cobb and somebody has done a lot of homework to provide us with decent information. Recent, environmental legislation, the additional costs of water service due to recent environmental legislation, specifically, name it.

MR. DAVIS: Yes, sir. Over the past several years our system companies have had to spend hundreds of thousands of dollars in eliminating point sources of discharge in our water treatment plants, things of that nature and we have modified our plants and we now comply completely with all EPA and DEP regulations.

ASSEMBLYMAN HOLLENBECK: In other words, you were referring to federal changes and not state?

MR. DAVIS: That's correct, sir, generally federal changes. Of course, they are implemented by the DEP.

ASSEMBLYMAN HOLLENBECK: Well, I don't know if they have any option. But, they were federal changes?

MR. DAVIS: Yes, sir.

SENATOR DODD: And you have problems with the veto power of the Commissioner of the Department of Environmental Protection?

MR. DAVIS: Yes, sir.

SENATOR DODD: They've introduced a bill to take over the Department of Community Affairs and the Department of Education as part of an ongoing expansion program. They found 17 acres in Sussex County that wasn't regulated by DEP. (Laughter)

MR. DAVIS: Could I address just for a moment--I kind of slowed up the presentation in the end when I was talking about the jurisdiction of the Board of Public Utilities over municipally operated systems and specifically we wanted to carry it one step further and talk about waste water treatment facilities and systems. This is a problem as far as companies which are regulated by the BPU, particularly in the waste water area, and I refer specifically to county authorities. County authorities are not now under BPU regulation and when you have a county authority that is going to be in the treatment business, and have a BPU regulated company that is in the collection business, you have a very unhappy situation. True, under the statutes and under most of the operating acts, the county authority has to hold hearings and things of that nature before it increases its rates, but the BPU has no direct input at all into that and then the operating collection company has to go back to the BPU and, in effect, justify that increase in rate to the BPU before we can raise the rate to our customers because we're the people who collect the money. So, it is a very serious problem. The American Water Works System has two operating waste water treatment companies, one in Lakewood, New Jersey and one in Ocean City.

ASSEMBLYMAN HOLLENBECK: Isn't there a difference though in that one is privately owned and profit oriented and the other is governmentally owned and not profit oriented and they can only use the rate schedules to meet varying things and to earn extra funds would this be surpluses?

MR. DAVIS: Well, you still have the same kind of considerations, Assemblyman. They fund themselves. You have funding problems. You have operating

and maintenance problems.

ASSEMBLYMAN HOLLENBECK: But, there are no stockholders that they have to meet a profit for?

MR. DAVIS: That is true, sir. That's a public agency; there's no question about that. We just don't understand why they shouldn't be subject to the same review by BPU, the same as we are.

ASSEMBLYMAN HOLLENBECK: There's a very vast difference as far as that particular subject of rate setting, what the rates will do. While an investor owned utility would have, of course, to meet the stockholders, the other utility only has to meet its bond holders.

MR. DAVIS: Well, that's a consideration. There's no question about that. Of course, as you probably well know, there are municipally operated companies that are subject to BPU regulation because they serve outside of the geographical limits of their municipality.

ASSEMBLYMAN HOLLENBECK: Thank you.

ASSEMBLYMAN SMITH: You were alluding to the inter-action of the two bodies. In other words, you have an authority and you have a private entity and the inter-action and the rate settings, one is dependant on the other. You feel that they should all be under the BPU so you have a smooth flow rather than the inter-action.

MR. DAVIS: Yes, sir, that's my point.

ASSEMBLYMAN SMITH: Thank you very much.

SENATOR DODD: Bill, thank you very much. We will hear from one more witness and then we will break for lunch. I would like to call Kirk Conover, Freeholder of Atlantic County.

K I R K C O N O V E R: Good morning. I wear two hats sitting here today. First, I am the Project Consultant to the Smithville Water Company, which is a proposed water company in South Jersey. I am also an Atlantic County Freeholder. So, my comments will be of two natures, one as a businessman, trying to put together a small water company and two, from a political standpoint as a Freeholder, representing only my personal opinions. The Atlantic County Board of Freeholders hasn't taken a formal position.

We all agree that this is far reaching regulatory change. So, I will get right to the bills and the issues without any social responsibility statements. Bill S-1610 is a bond issue which affects North Jersey which I'm not really qualified to comment on. Bill S-1611 is my major objection. The first objection is to the introductory language. It establishes water resources as an asset of the state and the ownership lying within the state. Now, my objection here is the fact that this is a broad, dangerous statement and it is typical of the language which has been used by the regulatory agencies to cause all kinds of regulatory mischief. I call your attention to Section 2, lines 17 through 11, which designates water as a common resource from which needs of several regions are to be met. Now, as a political representative from South Jersey, I immediately raise a red flag and say, what's going to happen to the Pinelands water. Section 4 of the Act, lines 7 through 12, sets the stage very clearly for a transfer or reallocation of water and I think it is a unique coincidence that these bills were introduced right after the Pinelands plan is in its final form. I cite the Pinelands law which states, "Nothing in this Act shall be construed to authorize or permit the exportation of any ground or surface

waters from the Pinelands area." I also bring your attention to the Sunday New York Times, a front page article, which says that Colonel Pagano is considering and drawing up plans which would ship water from the New Jersey Pinelands. It is interesting to me that we've put building controls on South Jersey to limit its growth when the water problem is in North Jersey and there is no consideration given to limiting the growth of North Jersey. For these reasons, I ask you to examine very carefully the various features of the broad language in this bill.

My most important reason for objection is the abolition of the Water Policy and Supply Council. This bill puts the diversion permit process within the Division of Water Resources. I, personally, went through a six hour horror show in front of the Water Policy and Supply Council, which was orchestrated by the Division of Water Resources. I'm trying to put together a small water company, which is a reaction to a much larger housing development which obtained DEP approval through the Division of Coastal Resources on September 8. In the approval process, the Division of Water Resources objected to the granting of the approval to the town of Smithville and in so doing, they reopened the Smithville Water Company diversion permit hearing and paraded 8 witnesses in front of the Water Policy Supply Council, which talked about everything from mosquitoes to increased boat traffic to increased boat toilet disposal in the bay and none of the witness talked about the effect, the environmental effect of ground water withdrawal, which is the primary responsibility and charge of the Water Policy Supply Council. It is obvious to me that the Division of Water Resources was trying to, if you may, hit the jugular of a housing project, which the water company had nothing to do with. I ask you to imagine the scenario that if this bill is passed, the Division of Coastal Resources could approve a housing project in which the input of the Division of Water Resources is taken into consideration, the water supply system is taken into consideration and yet, if the permit process remains in the Division of Water Resources and they object to the housing project, they can scuttle the whole project through the permit process. It is important to remind everybody that a water company does not cause housing development. In my case, the water company was a reaction to supply development which obtained all the appropriate approvals from the Division of Coastal Resources. So, you have a scenario where you could have one division fighting the other division and an overlap of responsibilities.

Now, I think the Water Policy and Supply Council is very important because it is concerned strictly with the effect of ground water and surface water withdrawal and not the secondary impacts of housing projects, which the water company has no control over.

From a personal standpoint, I think this bill is the embodiment of over-regulation and it seems, to me, typical of New Jersey these days, as the rest of the country is going towards reducing regulations, we're going in just the opposite direction. So much for S-1611.

S-1612 creates the State Water Utility and I would like to call it like it is. This bill smacks of socialism. With the rising cost of government and the realization that the state has reached the limit of squeezing more money out of people, it seems incredible to me that this is even being considered, especially when the rest of the country is looking for creative, free enterprise solutions, which will encourage the private sector.

Some specifically objectionable features of this bill are on page 4,

Section 5a, where it states, "The DEP can issue orders affecting water companies." I believe the wording here is too vague. Directives from the DEP could become so ridiculous as to precipitate a takeover. My main objection is that the language is too broad and it has to be much more well defined and it has to be a better regulation of what kinds of orders can be issued.

Page 14 of this bill, Section 23b, states that the state utility is exempt from compliance with local zoning regulations. Now, I have to question what happened to home rule in this state.

On bill S-1613, I will make a couple of comments. This bill represents a dilution of home rule, which is negative. It also represents the concept of removing the rates of municipal systems from the political arena and putting them on an economic level, which is a positive aspect. Further, I think the purpose of this bill can only be accomplished if the staff of the Board of Public Utilities is vastly increased. So, in my opinion, if the staff were increased, I would favor this bill so that the public and private water companies are all on an economic basis that is comparable. If the staff is not increased, I would oppose this bill because it takes too long to get actions on rate changes now.

Finally, I think rather than be a blanket piece of legislation it should be flexible, recognizing those municipal systems that are economically sound.

Bill S-1614--this provides for a takeover of small water companies by existing, capable and proximate water companies. Section 1, lines 7 through 15-- I think this is rather discretionary and, again, represents too broad a language. Suppose my water company, the Smithville Water Company, does a good job and the adjoining small water company for another proposed development does a bad job. We will then be forced to take over that system and our customers will be forced to pay for a bad job. I don't think this is fair. This bill, again, relies on an order of the DEP, which may be arbitrary and I just find it incredible that it would even be considered, a bill which would order a water company to buy another system, just as I would find it incredible for the government to order me as an individual to buy my neighbors house and renovate it. My final comment, as a businessman, is that this throws logical business planning out the window when you may be ordered at any time to purchase somebody else's mistake.

So, for the record, I have no position on 1610; I'm opposed to 1611, 1612; 1613 needs some work; and 1614 should be scrapped. My suggestion is that we get away from rules and regulations and install incentives for the private sector to accomplish the objectives envisioned here. I think we have to look at the Board of Public Utilities for a way to expedite rates or rehabilitation projects for existing systems. We have to look at tax credits for private companies to supply the inter-connects and in the long range, we have to look at desalinization and another thing we have to look at is recharging waste waters to the aquifers which is now currently pumped out into the ocean and lost. My charge to the committee here is that we take the positive approach and not the regulatory approach. Thank you.

ASSEMBLYMAN HOLLENBECK: I have some specific questions. Freeholder, 1612, dealing with the water utility, dealing with state financing, one of the provisions in the State Constitution would allow the State to float revenue bonds. How would the State float revenue bonds without a separate utility?

MR. CONOVER: I question the need.

ASSEMBLYMAN HOLLENBECK: You see my understanding is that we would have to have a state utility or some other mechanism to float revenue bonds because

we're talking revenue bonds. The State itself could not float revenue bonds, could it?

MR. CONOVER: Then, I would alter my position and say if we can restrict the state water utility to something that would create a financing vehicle for the private sector--

ASSEMBLYMAN HOLLENBECK: Well, actually, when you look at it on that basis, the utility is the financing mechanism for revenue bonds to be floated rather than general obligation bonds, which would require the people of Atlantic County, who are receiving no benefits of the \$345 million proposed in the bond issue, they would be paying it through general obligations through the State and all the benefits would go into another area, wouldn't it?

MR. CONOVER: I understand.

ASSEMBLYMAN HOLLENBECK: So, the water utility is a good mechanism. In fact, it may be the whole mechanism.

MR. CONOVER: My concern on this whole bill--I understand what you are saying and I appreciate that. I just hope that it is restricted to being a financing vehicle.

ASSEMBLYMAN HOLLENBECK: Another question that I have is in this other area dealing with the grandfather rights, where we have them, on diversions, where past legislative grants, etc., for 1 million gallons per day and they're only using 100,000 gallons a day and yet we have no chance for this other 900,000 gallons a day that is just being held on an old grandfather right. Do you think that that should be looked into in the new permit process so that we know, then, say, if we're having a drain on the ground water resources, that we know that we have 900,000 gallons here? It's not being used. It is only on paper.

MR. CONOVER: I agree.

ASSEMBLYMAN HOLLENBECK: So, we should have some type of mechanism for the state to be looking into this and saying, "You're not using that water, you don't need it and we want to have it." So, really, when we talk about that particular bill, you agree. When we have areas of the other bills, and there are a lot of good, locally run utilities. There are also a lot of very small systems around who are very insecure financially. What do you do with a system where forty homes were developed and it has its own water company which is now almost defunct. It drilled one well and was supplying forty homes with it. It is not self-sustaining, it has no sinking funds, etc., for any rehabilitation. How do we handle that? How do we handle it for those people.

MR. CONOVER: I would suggest a system of tax incentives for an existing private company to handle that problem.

ASSEMBLYMAN HOLLENBECK: What do you do in the case of that particular water utility that was set up by the developer and it is only a little paper company that they make up there to supply a water system and they almost abandon it? What do we do in that case? How do we take that and get it into a system to guarantee those forty homes that had that system that they could have potable water?

MR. CONOVER: I agree that that is a problem. Again, I get back to the fact that I think it can be solved with a positive approach, through the private sector, without iron hand coming down and saying, "Do this and do that." We can set up an incentive system.

ASSEMBLYMAN HOLLENBECK: In other words, if you had a system there where it was guaranteed that that system was not going to be a detriment to your

previous customers--in other words, if you had a good operating system and we said, "We would like you to absorb this system that is losing money and we will provide a mechanism, then, for you to make money on that system, make it self-sufficient, give you the sinking funds, etc., for the financing of it." Would that be a bad operation? Actually, it would be expanding your franchise, wouldn't it?

MR. CONOVER: Exactly, but the financial incentives should be there.

ASSEMBLYMAN HOLLENBECK: So, really, some of the ideas aren't so far, when we get some more understanding of them.

MR. CONOVER: Right.

ASSEMBLYMAN HOLLENBECK: I don't agree that deregulation is the right way to go. I can't think that deregulation of gas and oil was good for me.

MR. CONOVER: Well, that's a philosophical question.

ASSEMBLYMAN HOLLENBECK: So, I don't know that some regulation isn't needed. I don't think that we can leave the private water companies without oversight on their operations because I think they have some pressures from stockholders too. So, I think we have to have some regulations in some areas, but I agree that in a lot of areas we shouldn't have unnecessary regulations. I think we should simplify the permit process if it is possible, etc. So, I think that is what we are looking at in this whole thing. I agree with you that I don't think we should have a lot of people looking into something and making recommendations and then have a commissioner possibly doing an outright veto over everything that everybody else looks into. I don't know that that is a very good system either. So, there are some problems with the bills, but there is common agreement. There are a lot of little problems out there that we have to look at and we have to try to address them. Is that correct?

MR. CONOVER: That's correct. My major objection was to some of the broad language.

ASSEMBLYMAN HOLLENBECK: Of course, language gets tightened up before it gets passed and if we don't catch it the first time, we sure catch it later on.

SENATOR DODD: Mr. Conover, thank you very much. We're going to break for lunch now. If anyone has written testimony which they would like to submit to be included in the record, you can give that to us. If not, we will try to get to everyone this afternoon. Again, we have the additional hearings as well.

(At which time a luncheon recess was taken)

SENATOR DODD: Ladies and gentlemen, we will reconvene for the afternoon session of the hearing. The next witness is Mr. Richard Tompkins of the Middlesex Water Company.

J. R I C H A R D T O M P K I N S: Senator Dodd, Assemblyman Hollenbeck and members of the Committee, my name is J. Richard Tompkins, President of the Middlesex Water Company. I have with me today, Mr. Edward Bastion, Senior Vice-President and Chief Engineer of Middlesex Water Company.

I would like to present the following statement concerning the proposed water supply bills before your joint committee on behalf of Middlesex Water Company.

Middlesex is an investor owned company that provides water for more than 184,000 residents of New Jersey to meet their domestic, commercial, industrial and fire protection requirements. Middlesex Water Company provides water service

to the townships of Edison, Clark and the Boroughs of South Plainfield, Metuchen and Cartaret. The company obtains water from its own wells and by purchase from the state operated Delaware and Raritan Canal and Spruce Run-Round Valley systems and the Elizabethtown Water Company. The developed supplies of Middlesex Water Company are adequate to supply the water requirements of its customers.

We have had the opportunity to review the water supply bills presently before your committees and are pleased to have this opportunity to express our comments to the joint committee. Senate bills 1610 through 1614 and Assembly bills 2345 through 2349 demonstrate the Legislature's concern with New Jersey's supply of water and its desire to institute and maintain a thorough and well balanced program of water management and development throughout the state.

Such a program was initiated in 1975 when the State commissioned several prominent consultants to prepare a comprehensive, statewide Water Supply Master Plan. The summary of findings in this study, submitted in June of 1980, makes specific recommendations for the future development and management of the water supply in the State of New Jersey. The findings of this report provide a detailed analysis of the complex technical, institutional and financial issues concerning the management of the future water resources of the state. Each of the committee members have been provided with a copy of this report. It is suggested that the specific recommendations of this report be reviewed carefully with respect to the provisions and objectives included in the proposed Water Supply legislation.

Specifically, the Report indicates that immediate action is required to implement certain water supply projects by 1985 and that, in limited situations, the Water Facilities Operating Element (WFOE) is the ideal state agency to sponsor certain multiple-use projects of a regional nature. In addition, the Report recommends that the initial funding of these projects be provided through the State and that each project be operated on a self-supporting basis with costs allocated to the participating utilities. Middlesex Water Company fully supports these concepts which will insure that each user pays only his fair share. The use of statewide taxation to finance these projects would place an unfair burden on our customers and others who do not benefit directly from these projects.

The existing state-sponsored Spruce Run/Round Valley and Delaware and Raritan Canal Supply projects are working examples of this type of development. Middlesex Water Company has been a participant in these projects for over ten years and annually pays more than \$400,000 to the state for water allocated to our customers from these developments. The existing Agency management system, however, does not provide these revenues directly to the operating agency. Changes in existing statutes are recommended to provide for the utilization of these revenues by the WFOE and for the future financial management of the WFOE on a self-supporting basis.

In addition, the Report recommends that municipal water utility systems be operated on a self-supporting basis. Existing statutes and procedures should be modified to require adherence to operation of these systems on a businesslike, self-supporting basis. Specific recommendations for the improvement of antiquated, damaged or inadequately operated water systems preclude state grants or subsidy programs. A program of loans tied to specific pay-back arrangements for purveyors accepting the commitment to create a self-sustaining system backed by sound technical and financial action is proposed.

The complex problems and issues involved in the allocation of water diversion rights are addressed in detail. The Report recommends legislative and judicial procedures for the review and confirmation of existing water diversions, together with modifications for the allocation of water resources in a reasonable and equitable manner.

With respect to the state's role in water supply, the Report states, "although there are many roles that the state can and should play in the water supply management field, it is important that the state limit its direct participation in areas where, more appropriately, purveyors and municipalities should fulfill the responsibility. Basically, it is the primary responsibility of the purveyor and municipality to provide an adequate supply of potable water and it is the state's responsibility to see to it that this is attained in a coordinated and planned manner."

The Report also contains additional detailed and specific technical and governmental recommendations, which must be considered for the future management of the water resources of the state.

A long history of water regulation has produced today's system for regulating the water industry. Although the present regulatory system may have flaws, it also has standards and legal precedents that allow it to function. The package of proposed legislation under consideration by your committee would drastically alter the present system of regulation. While much of the proposed legislation is intended to "get things going" and to remove obstacles that would impede the development of needed water resources, there is also contained in these bills a whole new system of regulation that lacks standards and legal precedent. Much of the detail in these bills is difficult to understand and until such detail is understood, long term planning will likely be delayed.

Having made these general comments, we would like to discuss briefly the individual bills.

Senate bill 1610 and Assembly bill 2345 authorize the creation of \$345 million in debt for various water supply and improvement projects. These bills cause several concerns. First, the bill would spread across the entire state the cost of five specific projects to be funded. We believe, as recommended in the State-wide Water Supply Plan (SWSP), that the cost of these projects should be repaid from revenues allocated among the beneficiaries to insure a self-sustaining operation.

Secondly, it appears that the projects included in the bills are different from those recommended in the SWSP and that their estimated costs are widely divergent from the costs indicated in the study. The SWSP findings indicate that immediate action must be taken to implement seven projects by 1985 at a total cost of approximately \$200 million. I have provided a listing of these projects together with their costs for comparison with the projects that are included in the bond issue. A comparison of these projects and costs with those included in Bill 1610/2345 clearly indicate that while many of the projects recommended by the study and those contemplated in these bills bear the same name, they are not necessarily the same projects. For example, the Spruce Run/Round Valley/North Branch Pumping Station and Pipeline System is included in the proposed bills at \$85 million, an increase of more than \$70 million over that recommended by the SWSP. As pointed out by others before me, the Legislature should demand that the necessary studies and cost/benefit analyses to support and document these changes be reviewed and evaluated by all concerned parties.

In addition to these specific projects, this bill provides an additional \$65 million for grants and loans to repair and consolidate antiquated water systems. As stated in the SWSP, the use of grants is inconsistent with self-sustaining water utility practice. Water made available at less than actual cost promotes waste and discourages conservation. Further, the appropriation of loan funds should be conditioned on a commitment by the purveyor to self-sustaining operations backed by appropriate technical and financial action.

Senate bill 1613 and Assembly bill 2346 would subject state, municipal and county water systems to the jurisdiction, control and regulation of the Board of Public Utility Commissioners. If passed, this bill would double the number of entities subject to the Board of Public Utilities' regulation. This represents a tremendous increase in workload, not only for the BPUC, but also for the Office of Administrative Law and the Department of Public Advocacy. Such an influx of added responsibility, if not accompanied by additional staffing and facilities for all three agencies, will surely bring utility regulation in New Jersey to a standstill.

These bills do not provide any standards as to how the Board of Public Utilities will regulate the governmental agencies placed under its jurisdiction. If the intent of the bill is to cause utilities operated by government agencies to conduct themselves in a businesslike manner, then the bill should define what this encompasses. At a minimum, such definition should require that a revenue requirement include sufficient funds to meet all operation and maintenance expenses, debt service, costs and an allowance for renewal and replacement of capital facilities and for extensions and improvements to the system.

Senate bill 1611 and Assembly bill 2347 concern the management of water and the diversion of any surface or ground water in the state. This bill, while appearing to be reasonable and well-intended, is, in fact, counter-productive. There presently exists within the state a method for regulating the use of water and for determining allocation rights. This bill would establish a whole new regulatory system; a system that will be lacking in standards and precedents to be drawn upon in establishing regulations. The state agency would be given broad powers by this bill without guidance as to how that power should be used. For example, Section 5 of each bill provides that a permit shall be issued to existing holders of diversion rights until or unless those rights are modified. There is no standard set forth as to when or for what reasons a diversion right should be modified. It would be extraordinary to think that capital could be raised or improvements made where the diversion rights necessary to support such efforts were in doubt.

This bill provides that any diversion which is not presently used can be reallocated. Such a provision is clearly detrimental to any long term planning and, in fact, promotes short run maximization of resource utilization. Thus, long term planning and conservation efforts are harmed, rather than benefited.

Further, it would be naive to think that long standing water rights could be taken away and redistributed without substantial litigation and controversy. This would be true both of any regulations promulgated under this bill and of any effort to act based upon those regulations or the powers granted in this bill.

The state has existing powers with respect to water rights. Before any wholesale revamping of those powers is undertaken, an effort should be made to determine whether existing powers can be modified to meet the state's needs without provoking the chaos and delay that the implementation of a completely new set of regulations would necessarily entail.

Should this proposal for the examination and supplementation of existing regulations be rejected, then an additional consideration should be taken into account. The development of the existing water resources has been paid for by the customers of the holders of existing diversion rights. The customers have financed the development of water systems with the expectation that those systems would be available to meet their future needs. If not in a legal sense, then certainly in a real sense, these rate payers have a pecuniary interest in the system and their diversion rights. If those rights are to be modified, then the entities holding those diversion rights should be compensated for the investment that they have made, based upon their reliance of the state's grant of those rights. If not as a matter of law, then certainly as a matter of equity, any bill that failed to provide for compensation for the loss or modification of rights would have to be considered confiscatory.

Senate bill 1614 and Assembly bill 2348 provide for the acquisition of small water companies, where they have failed to comply with the Department of Environmental Protection requirements. This bill, as presently written, appears unconstitutional. Even if it could be modified to survive constitutional questions, as a matter of policy, it is deficient. As with the other bills being considered, it is lacking in discernible standards to guide its implementation. For example, there are gradations in the seriousness of possible violations of regulations. The bill provides no guidance as to the magnitude of the violation that would activate the need for the take-over of the small water company, nor does it consider possible interim steps that may be taken to alleviate the violation prior to mandating the drastic step of acquiring the small water company. It does not consider the fact that these small water companies often operate subject to municipal franchises. Does the bill intend to override the municipality's right to determine who should be the recipient of its grant or franchise?

The acquisition of a small water company could require a large capital expenditure for compensation and the repairs necessary for compliance with regulations. The proper treatment for such an expenditure for rate making purposes requires the coordination of several state regulatory agencies. In addition, some assurance must be provided to preclude an unfair imposition of these costs on the existing customers of each system. The acquisition of the small water company is not something that is used and useful to the rate payers of the acquiring company and so, under present law and much legal precedent, they cannot be compelled to make payments towards the acquisition and repairs. Constitutionally, the shareholders of the acquiring company cannot be compelled to make such payments. And, as a practical matter, the cost of acquisition and repair of a defunct system may require the imposition of rates on the customers of the acquired system that might only be described as exorbitant. A possible solution might be developed based upon tax credits to the acquiring utility. These questions of compensation, constitutionality, and ratemaking cannot be brushed aside. They must be addressed if this bill is to be functional.

Senate bill 1612 and Assembly bill 2349 would establish a State Water Utility which would have the power, among other things, to issue its own debt obligations.

The SWSP recommendations and findings with respect to these bills are clearly opposed to this concept as indicated by the following statement from page 3 of the Report.

"In those limited situations, where the State must be the sponsor and developer of a water supply project, the Water Facilities Operating Element, with appropriate modifications,

is the ideal implementing agent. A State Authority could not advance the front end monies needed at a governmental cost comparable to State General Obligation Bonds. Moreover, even with the creation of an Authority to provide the basis for developing capital, it would be inefficient to create a second statewide water utility operations unit. There is little reason to consider a State Authority for sponsoring and developing water supply projects."

In conclusion, our review of this proposed legislation together with the Summary and Findings of the SWSP has indicated that legislation is not the solution to the water supply problem; legislation is the problem. Improved communication and coordination of water supply planning between the responsible state agencies and the operating water utilities is required. The increased restrictions and controls included in the proposed legislation will only serve to widen the communication gap and further impair the coordination of water supply development.

Thank you very much for this opportunity to present our comments.

SENATOR DODD: Mr. Tompkins, thank you for your presentation. Would it be possible, feasible, would it make sense that as our supplies become more scarce to increase charge, not necessarily for the company's benefit, but to be offset into a pool for future water projects for the good of all? Would that force conservation?

MR. TOMPKINS: I think that it has been proven in other states that raising the price of water is one of the most beneficial methods of conserving water, forcing conservation. It is through pricing that you will obtain conservation.

SENATOR DODD: Yesterday, we reallocated \$26 million. One of the bills in our package is talking about \$325 million. Now, certainly, if we're talking a 39 day supply or so left, if some device could be made that would go uniformly across the state to water users, other than for their wells, people that have their wells, an escalator clause that as the supply dwindled, the surcharge that you and other utility companies would impose on your water bills and whether the bills could be speeded up--what is it a monthly charge now or quarterly or what?

MR. TOMPKINS: Residential are quarterly and industrial and large users are sent monthly.

SENATOR DODD: So, even if a small portion of that went to you to increase that to a monthly billing so people could dramatically see what it is costing them, the very visual kind of thing, did your people ever talk of this?

MR. SCHIFFMAN: According to consultants, you would have to increase the cost dramatically before you would have an effect on conservation. As a matter of fact, the surcharges that we have now in the areas that are subject to rationing may be beginning to have an effect. The increases in charges are major. They're ten to fifteen to twenty times what people would normally be expecting on these bills. They probably are having an effect, judging from the number of phone calls that the water purveyors are receiving across the state. However, I would point out that I have noticed no increase in the rate of conservation, significant, that we can detect.

SENATOR DODD: In those areas?

MR. SCHIFFMAN: That's right. Water is very underpriced in general. You would have to increase it substantially. The surcharges are substantial increases and they should be enough to force conservation, but they are not little increases. People who were getting bills of \$30.00 for a quarter are getting bills for \$300.00 in some cases. There is a multiplier effect in the rationing plan that is quite severe.

SENATOR DODD: What is it going to cost all of us when there is no water?

MR. SCHIFFMAN: There is no price put on that.

MR. TOMPKINS: In response to your question, I would like to state that across the board increases throughout the state would create many inequities on existing systems. For example, on our system, if we were to impose surcharges on our customers who have paid for the water that they have and they have been assured supply, we would be asking them to pay more to make their water free from deficient systems, which is what we're facing now in New Jersey.

SENATOR DODD: Which is part of the inequities.

MR. TOMPKINS: We have developed these supplies prudently over the past 15 years and the customers have paid because of state developments. So, they have a vested interest in this water.

SENATOR DODD: As you pointed out, part of the bond money that we're talking about--someone mentioned that it would almost be a reward for the inefficient companies who didn't reinvest to upgrade their systems and maintain them, but either took it as profits or paid dividends or whatever. There are a great many inequities.

ASSEMBLYMAN HOLLENBECK: Somewhere in your testimony, sir, I found a completely opposite opinion. You said, dealing with the bond issues, you said something in opposition to grants. Did you say something in opposition to grants?

MR. TOMPKINS: That is correct.

ASSEMBLYMAN HOLLENBECK: I think that's recommended, too, that you don't issue grants, isn't it?

MR. TOMPKINS: In the Report, it is recommended that grants are not an incentive to proper water management.

ASSEMBLYMAN HOLLENBECK: They have a tendency to erode the local responsibility and their effort. But, didn't you say also that the bond should be self-sustaining?

MR. TOMPKINS: That is correct.

ASSEMBLYMAN HOLLENBECK: In other words, we're talking about revenue bonds?

MR. TOMPKINS: Revenue bonds, basically.

ASSEMBLYMAN HOLLENBECK: In the end you read something from the Report dealing with the utility concept and it sounded like you said it should be done by general obligation bonds.

MR. TOMPKINS: The initial funding is recommended in the Report to be financed through general obligation bonds.

ASSEMBLYMAN HOLLENBECK: I was just scanning through the Report and I read this before, but not the finished version, and I don't find that. I don't find where they say that. They say that the utility concept should not be eroded and then they say, "as a matter of policy, the financial opportunities are available and the public purveyor must not undermine self-reliance or the eventual repayment by user charges." What we're talking about, again, are revenue bonds, not general obligation bonds.

MR. TOMPKINS: They're talking about establishing a fund through general obligation bonds, which would be repaid through user charges to the participating utilities.

ASSEMBLYMAN HOLLENBECK: Isn't that the same thing as when you issue revenue bonds based upon construction projects and have repayments based upon that.

MR. TOMPKINS: That is similar, except that the cost of those bonds is based on your history of revenues and your projected revenues.

ASSEMBLYMAN HOLLENBECK: How are the equities involved in something such as the Great Notch Interconnection, one of the proposals, have funded and have the people from Camden County, who are not affected whatsoever, why should they pay for general obligation bonds?

MR. TOMPKINS: That's a good point. The initial funding would come from general obligation bonds, but the allocation of the capabilities for the Great Notch Inter-connection can be assigned to each of the participating utilities, very similar to the capabilities adjustment that the power companies use to assign their power capabilities among the pool users.

ASSEMBLYMAN HOLLENBECK: You know, I think we're probably talking on the same wavelength. However, I think the problem is what the definition of what the revenue bonds are and what is the basis of the utility so that revenue bonds can be floated and provide the projects, provide a method of paying them back without placing the obligation on persons who have benefit whatsoever. I just want to make sure we're on the same wavelength.

MR. TOMPKINS: We're on the same wavelength. The only thing the Report recommends general obligation bonds for is the initial funding.

ASSEMBLYMAN HOLLENBECK: Well, I can't say I have the same concept and the same thoughts. It just seems that the Report says one thing and the back of the Report says another. So, there seems to be a little difference in the report.

MR. TOMPKINS: Well, I don't think we have the same copy of the Report. I have the draft copy here, but I wouldn't think that what is in here has changed.

ASSEMBLYMAN HOLLENBECK: Well, I was reading back from where the State capital was involved and they don't recommend general obligation bonds. One of the other questions I had was dealing with this diversion, people who have legislative grants or permits for diversion and they're not using all of the amount. That should be reviewed and, if they not using all of that, do you think that allocation should be made available then?

MR. TOMPKINS: I think the Report sets out in detail the procedure by which to review and confirm the existing rights with consideration to future use, because every water supplier in this state should have additional grants for future use.

ASSEMBLYMAN HOLLENBECK: I can see that. I'm just referring to somebody that for the last thirty years has had a million gallon a day grant and he's only using 100,000 gallons a day. Should he be allowed to keep that 900,000 gallons of allocation that we can't count for another purpose, unless he can show a reason that he's going to use it?

MR. TOMPKINS: Well, I think that should be the basis for a judicial review and if his allocation is going to be reallocated to someone else, then appropriate compensation for having developed that should be considered.

ASSEMBLYMAN HOLLENBECK: What happens if it is a legislative grant 150 years old?

MR. TOMPKINS: He has certain rights and that has certain compensation involved in it.

ASSEMBLYMAN HOLLENBECK: In other words, he should receive financial compensation for something that he doesn't use, that was given to him?

MR. TOMPKINS: That was acquired 150 years ago.

ASSEMBLYMAN HOLLENBECK: Thank you very much, sir.

SENATOR DODD: Thank you, sir. Mr. Carl Hintz, New Jersey Planners' Association.

C A R L H I N T Z: Mr. Chairman, my name is Carl Hintz and I am Chairman of the Legislative Committee of the New Jersey Chapter of the American Planning Association. Due to the time constraints of our committee, we haven't had time to prepare written copies for your review, but if you will bear with me, my presentation is short and we will supply copies to your committee.

Our Legislative Committee has reviewed the proposed set of bills and their accompanying Assembly bills on these related water issues. We feel that legislation in this area is very needed and, of course, vital to the welfare and the future of this state. However, there are several concerns that we have with these bills and we would like to present them to you in a positive and helpful fashion. I realize that some of our comments may be repetitious in some of the areas that have been expressed earlier today, but I hope that they are worthwhile and I will reemphasize some of those.

On S-1610, in the preamble to this legislation, there are several points that are raised. The bill mentions the importance of the Statewide Water Master Plan and while supply plan has been known to be completed, the final draft of that document has not been printed nor widely distributed. It has, in fact, not yet gone to public hearings. Therefore, it does raise many concerns that this state legislation cannot be confirmed with the Statewide Water Supply Master Plan.

Secondly, it is noted that the rehabilitation and repair of antiquated water supply systems should be carried out, which we totally support.

The other projects are not confirmed, since we are not in receipt of the Statewide Water Supply Plan.

The one project that raises some skepticism is the proposed diversion from the Raritan Basin to the Passaic of waters from the Round Valley and Spruce Run Reservoirs. It is our understanding that this water will be used to supplement the low flows in the Passaic River due to the high pollution levels during dry seasons, as well as to provide water to service some of the older, urbanized areas. We have several concerns with this. First, it is a fact that a diversion from any major drainage basin to another raises potentially damaging environmental impacts. We recommend that there be adequate studies by consultants to the Department of Environmental Protection conducted on this diversion and be reviewed from an environmental impact standpoint. Parenthetically, we know that such water diversions from one river basin to another have resulted in water wars in the Western United States.

Secondly, the polluters of the Passaic River are the problem with the Passaic low flow periods. Rather than sending good water into the Passaic River to make it less unsafe and unhealthy during those periods of time, it would seem to us to be better to attack the pollutants from the point sources along the Passaic River at the outset. Good potable water is too precious to be used to wash down these pollutants.

Third, the water systems of the older urban areas have been known to have leakages upwards of 70% of their total intake into their system. If these leakages were repaired immediately--and I noted earlier that we strongly emphasize that particular part of that in this proposed bonding--that would not only be found

water, but would result in having to divert less water into the Passaic system and much less into those older urban systems.

Therefore, it appears that it would be much better to make the repairs to those leakages in those older urban systems.

One of the projects in the bill is that of providing for the re-habilitation of the antiquated and damaged supply systems. The funding for this should begin immediately and if those repairs were made, they would thus have an immediate effect on the water prices. We might note that money has been allocated to the northern urban areas, yet no money is allocated towards the older urban areas of Central and Southern New Jersey, such as New Brunswick, which has problems with its water supply system, Atlantic City, Camden, Trenton, just to name a few. These urban areas have similar leakage problems and, in some cases, water shortage problems.

With regard to S-1611, the greatest concern with this particular bill is Paragraph 12, where the bill talks about the Statewide Water Supply Master Plan. It is not clear to the New Jersey American Planning Association that the Water Master Plan has been clearly coordinated with the New Jersey State Development Guide Plan, which was prepared by the New Jersey Department of Community Affairs. The State Development Guide Plan, which was prepared a couple of years ago, needs to be strengthened. We recognize that and one way to accomplish that is to coordinate the Plan with the Water Supply Master Plan and decision making. The net effect of this proposed legislation would be to control land uses, their distribution, and their densities in the state, which may or may not conform to the State Development Guide Plan. Water is just one consideration in comprehensive state planning.

A second major concern with S-1611 is the work capacity and past track record of the Department of Environmental Protection. We are, quite frankly, concerned about the use of this agency to implement and enforce an undertaking of this magnitude. Rather than a state agency, we would suggest examining the role of the 208 water planning programs that have been established in the state. These regional groups, some of which are at the county level, such as the Water Resources Association, which involves the Lower Raritan 208, have proposed mechanisms for administration of both water supply and water quality. We think that they're worth exploring further in the context of better water management.

On S-1612, we have mixed feelings about this particular Act. While it is recognized that there needs to be better coordination of water, which could be undertaken by the formation of separate water supply utilities, it does create the potential for another layer of government with semi-autonomous powers. The questions that we have, we would ask, how does the proposed Act provide for local accountability and how is the utility subsidized?

With regard to S-1613, we again have reservations about the formation of a separate water supply utility. At this point, we have no specifics, but we would recommend further study.

On S-1614, we have no comment. To conclude, generally, it is recognized and it has been stated here by both members of the committee, as well as some of the speakers here, that these bills do not address the immediate water crisis. In fact, they don't solve some of the short-term problems. Since they do not, as others have stated, perhaps they shouldn't be proceeding at the speed that they are without further deliberation. The State Water Supply Master Plan should be released for review so that all the interested parties can be certain that our long-term problems are answered.

The plan still needs to go through the public hearing process. We cannot emphasize enough that the Water Master Plan must fit into the overall State Development Guide Plan. One of the things that we noted is that New York is considering the use of the Hudson River and we were wondering whether the draft of the New Jersey Water Supply Master Plan has also considered the use of the Hudson River and, in fact, what are New Jersey's rights to that particular water?

Finally, conservation measures, if widely disseminated, enacted and enforced, will have a substantial effect on the current crisis. Further attention, we feel, should be given to legislation of this kind. Thank you.

ASSEMBLYMAN HOLLENBECK: Thank you. There was a question that arose, Mr. Schiffman, in reference to the State of New Jersey's right to water in the Hudson River.

MR. SCHIFFMAN: The Hudson River is salty and New Jersey is riparian. If you go upstream, there are studies underway for something called the Hudson Pact. What New York City is proposing is an existing system that would be on an emergency basis since there are some severe water quality questions about that supply. But, anything like that is extremely long-range and it is being studied and evaluated. We have a joint study going with New York State on this.

SENATOR DODD: I don't know of any hurry on legislation. This legislation has been around since November and I don't know that it is being hurried. I think we're taking a very slow and deliberative process because we knew there would be some real concerns. It is not hard for the Legislature to realize that these bills have been around for a long time and it is sometimes politically expedient to use an occasion to try to run things through. However, they are coming through a very deliberative process.

ASSEMBLYMAN HOLLENBECK: The other thing, you did mention, in reference to the dilution in the Passaic River, the clean-up, I do believe that we had testimony last week as to the quality of the Passaic River. Although it is sewage effluent, it is treated sewage effluent, and I think that the testimony was that it does meet stream quality standards on effluent. So, as far as the sewage treatment plants up there, I'm sure there are some problems, but, in general, the quality of the water does meet water stream quality standards. It is not what we normally think of as sewage effluent. It is treated effluent and it does meet stream quality standards.

ASSEMBLYMAN SMITH: Just another comment on that, I think the problem we've had, in the extremely cold weather that we've had, the plants are not running as efficiently as they will when the weather warms up. So, you do have an ammonia buildup and this is the thing that is creating the problem and then you have part of the water supply taken out of the Passaic. That's why this proposal for additional fresh water up there would lower that concentration. Basically, as the weather gets warmer, those plants will run more efficiently and, consequently, it won't be as much of a job to take the ammonia out and get the water to an acceptable level.

ASSEMBLYMAN HOLLENBECK: I guess that it is fairly common knowledge that sewage plants are operating the way they were intended 200 years ago. They are all biological plants. Thank you very much. A very good planner always asks for more studies. We now have Thomas Corcoran, Director of Utilities, City of Camden.

M I C H A E L V E N A: Mr. Corcoran could not make it this morning, so as his assistant and Chief Engineer of the Water Utility for the City, I am here this afternoon.

ASSEMBLYMAN HOLLENBECK: May we have your name, sir?

MR. VENA: Sure. My name is Michael Vena, and I am Chief Engineer for the City of Camden's Water Utility, and I am providing testimony on behalf of the City of Camden, regarding the various water related bills currently before the Legislature.

Senator Bill 1610, the water Supply Bond Act -- the appropriation of \$65 million for the rehabilitation of antiquated or damaged water systems in the form of grants and loans is a positive step towards insuring a dependable water supply for the residents of the State. We feel that an explicit allocation formula for these funds should be incorporated into this bill, including significant grants for rehabilitating municipal water systems in blighted urban areas, in conjunction with the Governor's urban policy.

One of the water supply projects authorized in this bill is the construction of a surface water intake at Delanco. Although the City of Camden is not unalterably opposed to this concept, it does have serious reservations about the project as currently proposed.

In the 1970's, the City experienced serious problems with groundwater contamination resulting in the closing of many wells located in the City and a serious decrease in water supply. Reports of these well closings might have been one of the initial reasons for proposing the Delanco project.

Since 1977, however, the City has been moving steadily to expand its water supply by drilling additional wells along the Delaware River in its Morris-Delair well fields located in Pennsauken, where recharge from the Delaware is high and where there is little groundwater contamination. By 1983, the City plans to have a safe yield supply of 33 MGD which should be adequate until the year 2000. The critical factor in our plans is the ability of the Delaware River Basin Commission and the State of New Jersey to provide low flow augmentation of the Delaware River during drought conditions in order to keep the salt line below the Benjamin Franklin Bridge, to prevent salt water contamination of these well fields. But, this low flow augmentation could be accomplished without the Delanco intake. That has no effect on low flow augmentation.

Another reason set forth for justifying the Delanco intake is that water levels in the Raritan-Magothy aquifer are dropping in the "Camden Area." This area is actually Haddonfield, Haddon Heights, Cherry Hill, and the like. Presumably, if Camden stopped its pumpage of the ground water near the river, the water levels in the adjacent inland communities would stop declining. Thus, there might be a regional benefit for the intake. But, in that case, the City of Camden and its water customers would have to be compensated for giving up its well fields and treatment plants to accomplish a regional purpose, and the cost of receiving water from Delanco would have to be equal to or less than the present water supply system, otherwise the City of Camden is prepared to guarantee its own water supply independently of the Delanco project.

The City of Camden therefore strongly urges that the following questions be answered before this project is authorized:

1. How many gallons per minute would the Delanco intake provide?

2. Who would be the customers of the water from the Delanco intake?
3. What would be the cost of providing water to the customer and how would the water rates compare to the existing rates?
4. Would the project supply water 12 months a year or only seasonally; and, if seasonally, what is the cost for the various purveyors to maintain and operate their existing systems on a seasonal basis?
5. How would the complete cost of the project be allocated on a regional basis to correspond to the regional benefits of the project?
6. When would the project be completed?

The answers to these questions should be provided and discussed in public hearings to be located in each municipality affected by this project before it is authorized, and if after a vigorous public participation process the project is approved, there should be a final requirement that service agreements be negotiated and signed with all users before construction is begun.

Senate Bill 1611, the Water Supply Management Act -- In view of the gravity of the current drought, there should be heightened awareness that water resources in the State of New Jersey must be carefully managed in future years for the benefit of all residents of the State. A reorganization of NJDEP monitoring procedures and a new permitting process can surely help this effort. However, the City feels that the purpose of establishing permit fees, fines, etc., should not be to make the water Resources Division of NJDEP self-funding. Rather, we feel that sufficient funds for properly staffing and operating this Division should be made available from the general tax revenues of the State. The Legislature should continue to exercise oversight of NJDEP's policies and practices through the appropriations process. The creation of a self-funded bureaucracy which could operate independently of legislative control would not be in the best interests of the citizens and water users of New Jersey.

The permit fees established under this bill should be modest and should not impose additional financial burdens on water users, especially in poor urban areas. Fines for violation of permit conditions and for excess diversion should bear a reasonable relation to the damages done, and all funds from permits and fines should go into the general revenue of the State.

The City of Camden is also concerned with the possible loss of non-utilized diversion rights, which could occur under this bill, as written. Camden City and Camden County must be in a position to acquire additional diversion rights as needed, especially since the proposed Pinelands development constraints should have the effect of halting urban sprawl in South Jersey and relocating people and industry back to the more densely populated urban areas. If this occurs, additional water diversion rights will be needed to serve this population.

Senate Bill 1612, State Water Supply Utility -- The City agrees with the need for a state water supply utility to operate State-owned water supply facilities, with several important reservations.

In the bill, as currently written, the SWSU would be in our opinion too integrated with the Department of Environmental Protection. We believe that the duties of a line agency, such as the proposed Water Supply Utility, should be totally separated from the duties of a regulatory agency, such as NJDEP. The activities of the Water Supply Utility should be regulated by

NJDEP, just as any other publicly owned utility.

We would recommend that the board of the Water Supply Utility should be as follows: The Director of Water Resources; a representative of the State Treasurer; a representative chosen by water purveyors; and two appointments by the Governor. The Director of Water Resources should not necessarily be the chairperson nor should he or she have any veto power over the other commissioners.

Also, the bill, as currently written, would give NJDEP the power to order the Water Supply Utility to undertake projects to effectuate the terms of administrative orders directed to any water utility. NJDEP currently has the regulatory power to enforce its administrative orders with local water utilities. This additional power again confuses the regulatory function with the line function and could easily be abused by NJDEP officials. Thus, we recommend that paragraphs 5a and b should not be included in this bill.

Finally, the bill in its present form would eliminate any legislative input into the future undertakings of the Water Supply Utility. Again, we think that this elimination of legislative oversight would be wrong and injurious. We would propose an alternate process. The initial charter of the Water Supply Utility should explicitly state all the state owned water supply facilities, both those in existence and those authorized by the new bond ordinance, for which the State Water Utility would be responsible. If at some future date, the Water Supply Utility wishes to undertake additional projects beyond those set forth in the charter, they should have to formally receive legislative approval in the form of charter amendments. This process may entail additional planning and analysis, and some timed delays, but ultimately will insure that only necessary projects are undertaken and that the public interest is safeguarded from arbitrary decisions, either by the Utility or DEP.

Senate Bill 1613, Regulation and Control of Water Suppliers by the Board of Public Utilities -- The City of Camden realizes the need for some state agency to monitor the revenues and expenditures of municipally owned water utilities. However, regulation by the BPU is an extreme measure. The additional cost for a municipal utility to apply for a rate increase from the BPU would be excessive, especially for the residents in poor urban areas who are least able to pay these additional costs. Also, regulation of rates by BPU would further erode the concept of home rule and would not allow the use of the water rate structure to balance economic development and social priorities at the local level.

We would propose that the Division of Local Government Services of the Department of Community Affairs, which already does provide some monitoring, be assigned the task of more intensely reviewing the revenues and expenditures of local water utilities. The Division of Local Government Services could insure that water rates are set high enough so that water utilities can operate without a municipal subsidy but low enough to preclude the local government from using water generated surplus to balance the general budget of the municipality.

Senate Bill 1614, Improvements to Small Water Companies -- Our only comment on this bill is that the Board of Public Utilities should not be involved in any actions regarding municipally owned water utilities.

Thank you for the opportunity you have given me to present the City of Camden's input in these five important bills.

ASSEMBLYMAN HOLLENBECK: Thank you very much for presenting the testimony of Mr. Corcoran. You had some interesting comments, but you said something there in reference to the municipal water utility. I have been questioning various utilities. Obviously, you are on a separate water utility. Do you use rates to cover all charges?

MR. VENA: Yes.

ASSEMBLYMAN HOLLENBECK: Debt services, interest, operating costs, sinking funds?

MR. VENA: Yes. We do not have sinking funds, however,

ASSEMBLYMAN HOLLENBECK: Capital reserve fund?

MR. VENA: We have a capital fund and we do issue bonds for necessary improvements.

ASSEMBLYMAN HOLLENBECK: Revenue bonds?

MR. VENA: Revenue bonds, yes.

ASSEMBLYMAN HOLLENBECK: Do you receive any type of funding through municipal government whatsoever?

MR. VENA: No.

ASSEMBLYMAN HOLLENBECK: There are varying thoughts with reference to using user charges, and whether you should use any of the ad valorem taxes. Ad Valorem taxes are federally decuctible, user charges are not. Thank you very much.

MR. VENA: Thank you.

ASSEMBLYMAN HOLLENBECK: Mrs. Ann Van Middlesworth, Hillsborough Township Board of Health.

Ladies and gentlemen what we are trying to do here is to stop the hearing somewhere between 4:00 and 4:15. We have quite a list of speakers yet, but we do have other hearings which have been announced. I suggest that you put your name down so that we can get you on early at one of the next hearings.

A N N V A N M I D D L E S W O R T H: You will be happy to hear that I am going to be very short.

ASSEMBLYMAN HOLLENBECK: Very good.

MRS. VAN MIDDLESWORTH: My name is Ann Van Middlesworth. I am from Somerset County, Hillsborough Township. I am on the Board of Health of the Hillsborough Township Historic Commission, and past Trustee of the Southbranch Watershed. I live in and represent the residents of Southbranch Village, located on the banks of the Raritan River, an area on the National Register of Historic Sites. We have been going to meetings on the Confluents Reservoir for 15 years. I couldn't begin to tell you how many. We have many concerns.

We do not want our basements filled in. We have been told that they will be. The recreation plans for the area, we do not want a repetition of Spruce Run and Round Valley recreation. We are concerned about our wells, our septic, the depth of the reservoir, the traffic, the berm height around the reservoir, and the potential mosquito problems.

We were promised - I know it doesn't mean very much, but we were promised in the past that our houses would be raised or moved by past Commissioner Roe, Donald Crek, the engineer, and Mr. Shankman. We hope that these promises will be honored.

ASSEMBLYMAN HOLLENBECK: Thank you very much. I would say,

in reference to the Confluence Reservoir Project, that the impact upon the local people is one that has to be reported, environmentally. It has to have an impact statement -- and I think also it should show the impact upon the residents in the area. Of course, if that reservoir creates problems to the residents, there has to be some type of arrangement made. I would think that would be a normal procedure that would have to occur.

MRS. VAN MIDDLESWORTH: We have been harassed and threatened and told that we would be condemned. The State really does own most of the land in the area, with the exception of a few historic houses in the village.

ASSEMBLYMAN HOLLENBECK: I don't think the state has the right to ruin your property.

MRS. VAN MIDDLESWORTH: Aren't you nice.

ASSEMBLYMAN HOLLENBECK: I don't think any judge would say that also.

MRS. VAN MIDDLESWORTH: Thank you.

ASSEMBLYMAN HOLLENBECK: Thank you very much.

Thomas Peterson, Hillsborough Township, Town Planner.

T H O M A S P E T E R S O N: Senator Dodd, Chairman Hollenbeck, Assemblyman Smith, I am Thomas Peterson. I am the Planning Director of Hillsborough Township, and I am representing the township of Hillsborough today.

The Township has a number of concerns about the Confluence Reservoir which we haven't had a chance yet to address with the State. The Confluence Reservoir Project has been an active state proposal since the mid 1960's. Its impacts have been a constant concern to the township, as well as to the residents of the historic village of South Branch. The proposal to have a compacted, filled dike, or berm, at an elevation eight of ten feet above the existing village will have a substantial impact on the area. The prospect of such an embankment towering over the existing houses along the river would substantially alter the character of the South Branch National Historic District.

The DEP's conclusion, as set forth in their Draft EIS, is that the affected houses could be moved to higher ground. This is an option which the state has heretofore not explored in any detail with the township or with the residents of the area. The prospect of the Village looking out at an unsightly embankment is not one that is relished by the town.

The conclusion of DEP that the embankment will have a minimum impact upon the Village of South Branch and the character of the National Historic District is much overstated.

The State DEP also concludes in their environmental impact statement that the construction of the reservoir will result in small impacts on existing wells, cellars, and septic systems in the area. What the State DEP manages to gloss over is that many of the cellars in the Village flood constantly now. The existence of the reservoir will probably increase the duration and the frequency of the flooding. The State's cursory examination of well records in the area, and interviews with the residents, is not a very good program to determine whether or not problems exist. Certainly, the sampling of existing wells and a review of local Board of Health records would have been a step in the right direction. It wasn't done.

The same criticism holds for the State's review of the septic systems in the Village of South Branch. There are problems with the existing systems,

brought upon by the character of the lots in the area. The lots are very small. The Village was built a number of years ago. If the reservoir is built in its present form, the problems will probably get worse.

Also, the problem of increased nitrate loading in the ground water has not been explored in detail. In short, the state has done a very superficial examination of the problems of wells and septic systems in the South Branch area.

One of the more massive impacts that construction of the Confluence Reservoir will have - and this is suggested by DEP - is that because of the shallow nature of the reservoir, the reservoir in its maximum depth will only be about six feet, and there will be massive vegetative growth. The prospect of massive growth of plankton, algae blooms, and duck weed, can be expected during the warmer months of the year. Plant growth cannot be controlled with herbicide use since the purpose of the Confluence Reservoir is to provide for drinking water. Consequently, the weeds, algae, and plankton are expected to become an ever-increasing problem. The large nuisance communities of weeds will be of special aesthetic value because of their green color to the residents of South Branch, overlooking the new reservoir. On a warm summer's day, the legions of hikers, boaters, fishermen, and swimmers, who may be using the shallow reservoir for those purposes, as long as they can avoid the fish carcasses caused by the reservoir's shallowness and its dissolved oxygen problems, seems to be a very real prospect to the township. It would seem that perhaps to avoid some of these problems that are set forth in the impact statement, that the State DEP could explore making the reservoir somewhat deeper during its construction. The deeper the reservoir, the higher volume of storage available, the greater room for siltation to settle out, the better habitat for fish, and the lessening of the aquatic vegetation problems.

Another impact that the state glosses over is the transportation disruptions and the construction disruptions on both the transportation plans of Somerset County and Hillsborough Township. They are completely ignored in the environmental impact assessment.

Finally, another portion of the environmental assessment by the DEP suggests that several houses in the historic village of South Branch will be inundated by the reservoir. The most important of these houses is the Governor Vroom House, which is both on the State Register and the National Register of Historic places. The Governor Vroom House is the house of the only governor that ever came out of Somerset County in the 1830's. In the past, the township has been assured by the State DEP that this would not happen, but in their most recent proposal, this is exactly what is going to happen. The state should immediately clarify its intentions concerning the South Branch National Historic district.

Finally, on a more whimsical note, it appears that there will be a constant discharge from the Confluence down. It is possible for a low head, hydro-electric generating station to be located with the facility? It would certainly help to run the new Confluence pumping station, and perhaps save the taxpayers some money on the electric bill.

In summary, the massive volumes which comprise the environmental impact statement for the Confluence Reservoir represent an enormous effort on the part of the New Jersey DEP to quantify the impact of the project. Unfortunately, Hillsborough Township feels that a number of the impacts have been ignored.

The Seriousness of some of the impacts suggest that additional research is necessary to examine the problems associated with well contamination, ground water contamination, nitrate loading, aesthetic considerations, the flooding of the National Historic District of South Branch, the algae bloom situation, and the lack of a well-thought-out construction and transportation plan are only a few. A number of issues raised in this commentary need to be answered much more specifically than is done in the present impact statement. This should be done before construction planning proceeds any further. A large construction project, like the Confluence Reservoir, will create major impacts upon the residents of the Townships of Hillsborough, Branchburg, and Bridgewater, and upon the Somerset County Park Commission lands in Dukes Park. Unless the state does an adequate job of its homework, and it hasn't to this point, the communities are going to suffer irreparable damage to their lands, neighborhoods, and infrastructure. It is imperative that the State DEP address the problems during the analysis stage, and not when construction is started. Thank you.

ASSEMBLYMAN HOLLENBECK: Thank you very much, Mr. Peterson. Yours and the previous speaker's are the first time we have heard comments in reference to the Confluence Reservoir. We are well aware that everytime something like that is constructed there is an impact. Yours is the type of testimony we are looking for. The Legislature, of course, is acutely aware of the problems. What we are doing here is, we are talking about a bond issue and providing funds - what it is projected to be - it does not authorize the project, by no means, and I don't think it would. There have to be some further statements, especially addressing concerns such as you have. We want to address them also.

MR. PETERSON: Well, the thing that worries us is that the Confluence is, indeed, contained in the proposed bond issue.

ASSEMBLYMAN HOLLENBECK: Oh, yes. In other words, we are preparing the funds for it, but there are always other things that are involved before it is actually authorized. There are other steps. It just doesn't go that easy.

MR. PETERSON: I understand that, Mr. Chairman.

ASSEMBLYMAN HOLLENBECK: We don't pass \$345 million and say, "Do with it what you want." We have a little bit more control. We are acutely aware of the fact that there are impacts when you construct reservoirs. We know that there is always a degree of environmental change, and we have to assess that change and any dangers that may arise from it. We have to take care of the eutrophication of lakes always. We have to be careful of the existing facilities. There are other areas too -- the economic impact statements also. So, there are varying things that we have to have. But, we are glad to hear it.

There is another project down at the shoreline, the Manasquan Reservoir, and that has to have some kind of impact also. So, that's why we want to hear about these things. We thank you very much for your testimony.

ASSEMBLYMAN SMITH: I just want to comment that in talking with the DEP on the environmental impact statement, there will be a public hearing held in the Somerset County area sometime between now and June. Because of the process they are in now with this water supply crisis, they have been forced to change their schedule a little bit, but it certainly should be coming

up between now and June.

ASSEMBLYMAN HOLLENBECK: Thank you very much.

MR. PETERSON: Thank you.

ASSEMBLYMAN HOLLENBECK: Glen Belnay, Hillsborough Township Health Officer.

G L E N B E L N A Y: Gentlemen, I will be very brief here, because I think Mr. Peterson and Mrs. Van Middlesworth have essentially expressed our concerns at this point. I don't have any written material prepared to present today, other than comments on the environmental impact statement, which Mr. Smith has indicated I will have an opportunity to do at another hearing. The only comment I would like to make is that you have allocated \$55 million for the Confluence Reservoir construction. I wonder if it wouldn't be prudent for you to increase that amount sufficiently to provide a guarantee to the people in the Village of South Branch that their homes will be adequately protected; that is, they will be moved, if needed, and that a sanitary sewer system will be provided should their septic systems prove inadequate once this Confluence Reservoir is built. So, I wonder if it might not be in order for you to either at this point designate a certain portion of the money of that \$55 million for that purpose, or possibly add to it?

ASSEMBLYMAN HOLLENBECK: I don't think at this point we are going to do it, or anything like that. But, I think we are well aware of your concerns now. Assemblyman Smith does, I guess, represent some of that area and he sits on the Committee. He will keep us well aware of your concerns about that. I wouldn't say we could do that, but obviously an impact statement must show if it is going to cause any kind of damage to existing sanitary sewers or septic systems or water supply. It has to show these types of things, the things that a health officer would be concerned with. Thank you.

John Traino, who has been patiently sitting by.

J O H N T R A I N O: Assemblyman Hollenbeck, and members of the Committee, my name is John Traino. I am here as a concerned citizen, but my testimony relates to the interests of the soil and water conservation program in the state. I serve as Chairman of the Burlington County Soil Conservation Districts and I am a member of the State Soil Conservation Committee. I also represent some of the concerns of the agricultural industry, being a member of a family of active farmers from Burlington County.

I would like to congratulate the sponsors of these bills and the involved administration officials for their concern for improved conservation and management of our water resources. Our soil and water conservation program, which has been in operation in New Jersey for 44 years, since 1937, has always had as it's basic premise the conservation and development of the soil and its associated water resources.

Long ago, we realized that it made sense to control water runoff, not only to prevent soil erosion but to also maintain our water supplies. Our programs were concerned primarily with farmers in the early years. We have for the last fifteen years or so directed our assistance and controls to all persons who use the land and water resources throughout the state.

Our basic principle has been to address the problems at their most basic level. We have controlled the raindrop where it falls, thereby enhancing infiltration and ground water supplies, controlling soil erosion and sedimentation

and impounding water from peak flows for use in periods of short supply. This principle has served us well over the years and thousands of conservation plans have been implemented on our cooperators lands, resulting in substantial benefit to all of our citizens.

The package of bills being considered at this hearing today is proposing a means to conserve and manage our water resources for the benefit of all of our citizens. While this goal is certainly shared by all, there are some of us who would prefer a somewhat different approach, an approach which encompasses some of the basic principles of our soil conservation programs -- an approach which recognizes and builds on the rights and responsibilities of land ownership and stewardship. We believe that those landowners and land users who, because of good planning and management, have developed their water supplies should have a greater right to their use than those who may not have planned and managed as well. We believe that impoundment of peak runoff flows is a practical solution to many of our water supply problems, and we encourage the development of needed reservoirs. We support in principle the goals of the Water Supply Bond Act, but feel strongly that further serious consideration should be given to the development of water sources, such as the Tocks Island dam and reservoir. This potential impoundment which, if after additional study, is shown to be economically, geologically, and otherwise feasible, could be structured with substantial federal funding and would certainly help to resolve many of the Delaware River Basin water supply problems.

We also recognize the need for better management of inefficient public water supply systems, but caution that adequate safeguards must be provided to ensure retention of local leadership, local incentives, and local control.

Our primary concerns are with the Water Supply Management Act, which would vest great authority with the Department of Environmental Protection, with no apparent recourse or appeal by those affected. At present, it is our understanding that the Water Policy and Supply Council is responsible for issuance of water use permits and that membership of this group includes representatives of the public. Several representatives of agriculture now serve on this Council which provides for some measure of understanding of the needs of that sector of our society. Other sectors are similarly represented. We understand the problems which this bill addresses, but we strongly urge that provisions be included for greater public representation and participation and that greater recognition be given to the rights and responsibilities of private landowners.

We are also concerned with the relationship these proposed water supply measures may have to the still uncompleted State Water Supply Master Plan. Actions of the magnitude proposed in these bills should certainly follow the recommendations of that plan.

In summary, I urge: 1, that greater consideration be given to the proven principles of upstream watershed management to maximize the conservation of water at the point of rainfall; 2, that the inherent and constitutional rights of our landowners be protected through adequate representation in any regulatory process; and, 3, that the potential for excessive bureaucratic growth and over-centralization of authority be restrained through retention of citizen involvement through the Water Policy and Supply Council.

One additional point may be of interest. I have been asked to serve as a member of a special subcommittee to evaluate the water needs of agriculture. This group, just established by the State Soil Conservation Committee, may be able to provide assistance with regard to agricultural water supply problems. Additional information about this study group can be obtained from the State Department of Agriculture. Thank you for the opportunity to present comments at this hearing.

ASSEMBLYMAN HOLLENBECK: MR. Traino, thank you very much. Your testimony indicates a lot of things that a lot of us have known. Of course, the farmers are the original conservationists. They have worked very long at soil conservation and they are well aware of the value of water. They need it. We have some problems with some of these bills, and some of the language, and some of the concepts; that is why we are having the hearings in order to try and settle them. Hopefully, when we are finished with them, everybody will feel like you do.

Assemblyman Smith would you like to say something?

ASSEMBLYMAN SMITH: I would just like to make one comment. You mentioned the water control runoff, and this to me is a very, very important factor, and a very important source of water supply. I have been suggesting this to the Department of Environmental Protection, as well as to the local county planning boards, and the local planning boards, particularly in Somerset County, who I represent. They are looking now to regional storm water runoff retention basins of a large enough size to be of some value in this type of situation that we find ourselves in now. I think if we do this throughout the State - and your point is well taken - we can retain at the source and you can use it as a runoff.

MR. TRAINO: I am sure the State Soil Conservation Districts could be of great assistance in this respect.

ASSEMBLYMAN SMITH: They are and they have been.

ASSEMBLYMAN HOLLENBECK: Thank you very much, Mr. Traino.

Bernard Cedar.

B E R N A R D C E D A R: Assemblyman Hollenbeck, members of the Committee, my name is Bernard Cedar. I am a Planning Director for Burlington County and I am here representing the Burlington County Planning Board.

The State of New Jersey, including portions of southern New Jersey is in a water crisis situation. We recognize that this is not a temporary situation. It has occurred frequently in recent history. The concerns expressed and the solutions proposed in these five pieces of legislation might seem, on the surface, to have merit. However, after reviewing and evaluating the legislation and judging its impact on local situations, both from a water quantity and water management aspect, the Burlington County Planning Board feels that S-1611, 1612, 1613, and 1614 should be opposed. It has concerns regarding S-1610, but has not at this time taken a stand on this bill. The Planning Board does not take this viewpoint lightly, since they realize that the water emergency is real and could be of very long duration. Much should be done to provide for an assured level of water quantity at high quality at reasonable costs. To facilitate these objectives, consideration should be given to providing for interconnections between water systems, making possible transfers between water surplus and water deficit areas.

New major surface water storage and transfer facilities must be built in New Jersey, including those to provide adequate supplies for the South Jersey area.

We are aware, through a number of studies, that the water table in the Raritan-Magothy aquifer has declined to an unsafe level in many areas of South Jersey and a new charge is primarily coming from the Delaware River. There is evidence that this untreated water is polluting well fields which tap this aquifer. However, we feel that before support of the Hackettstown Reservoir-Delanco Intake System, proposed in S-1610, should be considered, more information is needed to determine whether this would provide sufficient water quantity of good quality for South Jersey, and particularly for Burlington County.

This package of legislation, 1611 through 1614, which deal with managing the state's water resources, provides for an extremely high degree of concentration of power at the state level with little recourse on the part of municipal officials, local citizens, and private water companies from rulings of the Commissioner of Environmental Protection.

A great deal of financial control is also placed in the hands of the State, particularly the proposed state water supply utility to be chaired by the Commissioner of Environmental Protection. This utility, in effect, would have control over all water purveyors, both privately and publicly owned. Rates would be set by the Board of Public Utilities, both on private and public water facilities.

In regard to private well permits, we do not know what the effect of requiring permits for wells which use 1,000 a day or more, and agricultural wells using 100,000 gallons or more per day will be. Metering and charging for water, particularly for agricultural use could have a significant effect on the cost of doing business. It might affect the survival of agriculture in New Jersey.

For these reasons, the Burlington County Planning Board urges that 1611 through 1614 not be approved. Though the water crisis is here, passage of these bills would not alleviate the present situation. Precipitous action could place us in the hands of an unresponsive state bureaucracy.

New Jersey is a small state with a highly dense population, the highest in the nation. However, its physiography is diverse, mountains in the northwest and plains in the south, and the population is unevenly distributed, with very high concentrations in the northeast and central portions of the state. Sources of water supply are similarly diverse. Much of the northern part of the state uses surface sources. Those of us in the south use sub-surface waters. These differences in physiography, population distribution, and water sources indicate the need to consider differing approaches to water supply in the state.

This could also be true in approaches to management and finances as well. Recognizing that most of the population and the effect of the present crisis is in the northeast portion of the state, we still feel that the approaches proposed in these bills are too overbearing. They provide little in the way of local control, nor do they direct themselves in any significant way to concerns in South Jersey. They also seem to take away any oversight control of financial and management activities on the part of the Legislature. They

provide for a statewide approach, with no differentiation to meet local or sub-state needs.

We suggest that these bills be given a very hard look and that changes be made before they go to the Legislature for adoption. Thank you, sir.

ASSEMBLYMAN HOLLENBECK: Thank you very much. Obviously, your concerns are why we are having hearings on these bills -- to get public input. The problems isn't in North Jersey alone.

MR. CEDAR: No, we recognize that.

ASSEMBLYMAN HOLLENBECK: There are some very big problems in South Jersey, particularly with the salt water intrusions in the shore areas, and the heavy pumping of the aquifers. That is an area that has to be addressed also. So, long-range, we can't talk on a regional basis. It happens to be a statewide problem. It is long-range problem.

MR. CEDAR: Assemblyman, we recognize that this is a statewide problem, but we are concerned about the fact that solutions for this problem, both from a technical and management area might differ from place to place, and the legislature ought to consider that there is a difference from a technical standpoint and possibly from a management standpoint as to what can be done. If we hand this problem over to the state completely, without some local input, these differences might be clouded, and we might end up having more of a jungle in terms of water supply than we presently have. There is no question in my mind, and I think this is true for most of us who are in planning or who have been around some of these environmental concerns, that 600 some odd water companies in New Jersey are ludicrous; but, on the other hand, trying to orient everything to one large agency based in Trenton could possibly be just as ludicrous as well.

ASSEMBLYMAN HOLLENBECK: Thank you very much.

Ella Filippone, Passaic River Coalition. You didn't think you would make it today, did you?

E L L A F. F I L I P P O N E: Not today.

ASSEMBLYMAN HOLLENBECK: We will give you just about 10 minutes.

MS. FILIPPONE: Oh, you're kidding.

ASSEMBLYMAN HOLLENBECK: I see you have a prepared statement. You are not going to read this whole thing, are you Ella?

MS. FILIPPONE: Every word.

ASSEMBLYMAN HOLLENBECK: No, you're not. Synopsise.

MS. FILIPPONE: Mr. Chairman, Assemblyman, Assemblyman Hollenbeck, I am Ella Filippone, the Executive Administrator of the Passaic River Coalition. There are attachments to this, Assemblyman, so I am not going to read all of this. I would be here all night.

The Passaic River Coalition is an urban watershed association, located in northeastern New Jersey and has been involved with water resources management for the past eleven years, concentrating on the Passaic River Basin. We served in leadership capacities in the Northeast Wastewater Policy Advisory Committee, and attended almost every meeting of the Agenda Committee for the Water Supply Master Plan, missing only one because of the gasoline crisis and we have read all of the consultants' outputs.

Having been an active member of the Agenda Committee, we are anxious to have an opportunity to review the final summary of recommendations, as

we submitted extensive commentary, not only during the public meetings, but also in writing to the state on the outputs presented by the consultants. Those components taken from the consultants' reports which are found in the legislation we are discussing today have not been properly evaluated by the public. You have heard that many, many times. Perhaps those consultants, although world renowned, did not obtain the proper directives so that a total plan could be developed.

A particular aggravation to us is that the bond issue will do nothing to aid the drought stricken areas now or in the immediate future. Elements of the master plan, which were well received, such as the conservation output and the groundwater output, received little, if any, recognition in these bills.

As a watershed association, we have constantly supported a water conservation program and an advance-survey of how conservation could be implemented on a long-term basis or on short notice. In 1980, during the deliberations on the New Jersey DEP/EPA agreement, we were extremely critical that the State was not allocated any monies they were to receive from the U. S. Environmental Agency on Water Conservation until 1983. During this planning process, symptoms of the drought were already beginning.

We need contingency plans within the DEP. Last summer we witnessed the dumping of raw sewage and industrial wastes into the Passaic River and no alternative plans. Now we hear reports of a straight line drop in water supply with no contingency plans. Droughts run in cycles, and our professional staffs should have known one was coming. A program should be established which initiates action when the water supply begins to drop so that we don't have a straight line drop, but a demonstration of supply curves, changing as conditions continue to get worse. If we had a water supply master plan, we would be able to project capital needs into the future. We cannot do this kind of planning now, and, therefore, we suggest that these two committees of the New Jersey legislature direct the New Jersey Department of Environmental Protection to do whatever is necessary to get the summary to all of us so that we are no longer in the dark regarding the final revision of the recommendations of the consultants and the DEP staff on the Master Plan.

Regarding S-1610, the bond issue, the Passaic River Coalition supports the Great Notch interconnection; it should be constructed as soon as possible.

With regard to the rehabilitation or repair of antiquated or damaged water systems, we have recommended to the Capital Budget and Planning Commission some changes: That \$65 million be made available for a revolving loan program at low interest rates for private purveyors. That \$100 million be made available to aid public purveyors through a grant program, which would be administered through the DEP with substantial review by an oversight committee, composed of private citizens, environmentalists, water purveyors who are not applying for funds, representatives of the legislature, and a representative of the Governor's office.

I don't think that enough has been said here about our leaky pipes, gentlemen. We are talking a great deal about other capitally intensive projects and we are just feeding the leaky pipes. We would like to see more money allocated to correcting the leaks because the consultants' found that we had over \$300 million worth of leaky pipes and \$65 becomes rather like nickle and dimes, in our opinion. We have seen some of the leaks and they are

substantial. They are not just little pinpricks.

Furthermore, the DEP should begin now to provide us with engineering data on exactly what percentage of leakage occurs throughout the various systems and how much water is lost in million gallons per day. It seems somewhat ludicrous to discuss providing more water to the urban areas, when we really don't know how much is being lost via leakage. Our discussions with water purveyors began at 30% and ended with 70%.

We have submitted two letters and an exhibit to the New Jersey Commission on Capital Budgeting and Planning. They are attached hereto for your information. Basically, we have addressed matters raised by the Commission, which we will briefly review at this time.

Regarding the Raritan-Passaic Pipeline, we question the economic justification for the construction of this pipeline. The State of New Jersey has already contributed substantial funds to upgrade sewage treatment plants in the Upper Passaic area -- Parsippany-Troy Hills, Morristown, Two Bridges, Berkeley Heights, Hanover Township. Several others are now at Step II and III; however, a review of the projects, attached as an exhibit, shows that most have been assigned low priorities. If 60 is the cut-off point, then major facilities, such as Rockaway Valley, Florham Park, Madison-Chatham, New Providence, Morris Township, Chatham, Montville, and Roxbury may not see the light of day. If all projects on the priority list today are funded, the State of New Jersey will be contributing during 1982-84 over \$28 million; local government over \$59 million; and the federal government over \$264 million, bringing the grand total to over \$352 million. The attachment at the end of this statement breaks it all down for you.

Dilution is no solution to pollution. The State has done little to move forward the cause for advanced treatment under certain circumstances, and we believe several of the plants in the Upper Passaic, which impact sensitive ecological areas and our potable water supply should be required to proceed to advanced wastewater treatment.

The statement made that we need this water for pollution abatement, thus, could be considerably altered within a few years time if New Jersey moves forward on its construction grants program.

In addition, Osborne Pond, a small reservoir in the high headwaters of the Passaic River in Bernards Township could be utilized for flow augmentation. It has been abandoned for water supply so that it should be utilized for other worthwhile purposes.

Since the pipeline under discussion would be a substantial undertaking, we must further question its usefulness. At first glance, other routes might sound desirable; however, we must again refer to our discussions with our water purveyors and emphasize a fact brought out at the Lyndhurst hearing. We have been told that the Raritan-Passaic pipeline would be used only for drought conditions and to dilute the pollution, which is not all the time. However, when water distribution pipes do not transport water, infiltration occurs and the system cannot be used until extensive flushing occurs. Therefore, we must seriously question whether the proposed pipeline is only for drought and/or pollution abatement, but rather for continued usage. Since we have such apprehensions, we have gone further in our investigation on alternatives, and, thus, recommend no Raritan-Passaic pipeline.

First of all, it seems that the counties and municipalities in the lower Raritan Basin desire this water for their economic growth and wellbeing, an appropriate use.

Second, countless studies have demonstrated that large interbasin transfers are economically and ecologically not sound.

Third, the Passaic River Basin should be managed so that it provides adequate water supply to its citizens without taking from another watershed. We, therefore, have recommended to the Commission on Capital Budgeting and Planning that the following three projects be re-evaluated and that plans be developed:

1. In the Newark system: Dunker Pond, with a holding capacity of 9.6 billion gallons.
2. In the Jersey City system: Longwood Valley, 6 to 10 billion gallons.
3. In the North Jersey Water District: Monksville at 9 billion gallons.

Fourth, we recommend that the state be directed to initiate a strong ground water protection program so that the extensive ground water resources in the Passaic River Basin are protected. At the present time, this ground water is being recycled after first usage and being treated by purveyors who withdraw from the mainstem Passaic and is being distributed throughout Northern New Jersey. Were it not for the Buried Valley Aquifer, a federally designated "sole source" aquifer under the Safe Drinking Water Act, the crisis today would be much more severe. The tragic part of this chapter is that we don't even know how extensive the aquifer really is, since the USGS study, published in 1976, stopped with the Millburn-Chatham channel. It recommended further study, but nothing has come of this recommendation.

Fifth, if we can initiate the development of additional reservoirs in the high headwaters of the Passaic River Watershed, the state should also develop a headwaters land management program so that the watersheds for those reservoirs continue to produce high yields with good quality. The courts, which are mandating six and one-half units per acre in environmentally sensitive headwaters municipalities, must be made to recognize the higher priority of a high quality and adequate quantity potable water supply within watershed boundaries.

Sixth, for the immediate, an emergency pipeline should be constructed from Dundee Dam to the Hackensack service area. Last year when the pollution was at its worse, we in a limited fashion tested the water and found that the water quality improved by the time it got to Dundee. In addition, by taking the water at Dundee, the flow at the stretch between the Great Falls and Dundee would not be impaired, and the recharge necessary to the ground water supplies of several of the municipalities in that area would not be threatened, an issue never discussed during the Two Bridges hearings.

Seventh, a pipeline should be constructed to tie in Elizabethtown with Newark so that supplies can be delivered through that system.

Eighth, since we cannot predict how long the drought will last and how extensive it will be, additional measures should be taken, especially at this hour. Every municipality should have inspectors investigate leaks in its housing stock, especially abandoned buildings, and take corrective measures.

Ninth, a program for retrofitting plumbing fixtures with water saving devices should be undertaken, not only by DEP, but through all agencies of the State. Studies show that a household of four could save as much as 124 gallons a day.

Tenth, a comprehensive water conservation program should be initiated throughout New Jersey industry. Many corporations do not require potable water for certain purposes; however, it takes time to install the capital equipment for recycling. Thus, if we are initiate a comprehensive program for industry, we must give them the time to undertake the in-plant changes. If done on a comprehensive basis, all citizens, industrial and private, will benefit.

Eleventh, a maintenance program with proper funding should be adopted in New Jersey. National studies have shown that reservoirs silt-up after years of usage. Dredging out the silts is a necessary part of water management, and is an element which should be under the regulation and enforcement of the State.

Finally, twelve, the State must initiate investigations to other methods of providing water to our citizens. Many years ago, a desalinization plant was developed on a pilot basis in the Hackensack Meadowlands, but failed. Perhaps new technology can be more successful. The State should not consider technologically innovative methods as kooks, but should establish an evaluation program to determine whether such efforts could be adapted in New Jersey.

With regard to other projects found in S-1610, as an agency working in the Passaic River Valley, we will not attempt to comment on the remaining projects, as we firmly believe in watershed management, and those projects we have addressed are the only ones which, in our opinion, impact the Passaic.

Regarding S-1611, we question whether the revision of the permit system has any great value since the state is already aware of grandfather rights, and the purveyors who hold them are most aware. The revision seems to be more of a make-work project than anything else.

Assemblyman Hollenbeck, I would like to interject one comment here: During the agenda committee meetings, I frequently ask the state for a listing of these grandfather rights holders, and I have gotten the impression from the state that this mechanism was used to try and kind of ferret them out. The large purveyors knew what they had. It is the unknowns - and I don't think we are ever going to find those people--

ASSEMBLYMAN HOLLENBECK: We have some 200 year old legislative grants of whole stream beds.

MS. FILIPPONE: I know that, and we tried to find out from the state if they knew where they were. I never got an answer; I hope you do.

On Section 12 (a) in this bill, we support the maintenance of a water supply master plan and strongly suggest that added to this clause be the phrase, "in accordance with appropriate environmental safeguards."

We cannot support Section 17 of this bill, which abolishes the Water Policy and Supply Council. The Council has never had sufficient staff to service its needs. It has, however, provided an impartial group of citizens to evaluate projects presented to it. If anything, the council should be provided the kinds of in-house services any good committee needs to function properly. In addition, the review process should be totally open so that

it is not necessary to have counsel present if issues should be raised when of reasonable nature. Democracy would be taking a step backwards of the Water Policy and Supply Council were abolished and all powers were given to the New Jersey Department of Environmental Protection with only the courts to turn to. That would be a great disservice to the less affluent applicant or advocate in particular.

This bill should also parallel components of the federal statutes. For example, there is no public participation component outlined in this legislation. However, the DEP would be permitted to apply for and receive funds from the federal government. Yes, then the state would be required to institute a public participation program, but it should have one anyway because such a forum provides a review and an airing of discontent. It provides for the resolution of conflict, and if undertaken ethically saves time and money.

S-1612, the State Water Supply Utility Act -- Every so often, a bill is presented recommending the establishment of another authority or another level of government. In previous years, a flood control authority was evaluated by the New Jersey Legislature, as well as several other projects involving authoritarian institutions. Always, the people have rejected such a method. For years, we have tried to obtain information from such agencies regarding future plans, financial data, operations and maintenance proceedings, and a dearth of other subjects. It is impossible. These agencies are only responsible to their bondholders, or in this case to the state, and would only become a super agency, with few, if any, of the checks and balances found within the Executive branch of State government, good or poor as it sometimes is.

Since the state is already in the water business, it should attempt to continue to manage the Delaware and Raritan Canal, Spruce Run-Round Valley under the present system, and not undertake programs in the water business in the future. The state should be the regulator and the enforcer, but not the purveyor; otherwise, we are sure to run into conflicts of interest.

S-1613, PUC jurisdiction -- Since several of the large publicly-owned purveyors are not subject to PUC rate review, but must submit requests to their municipal constituents, we favor keeping the status quo. Bringing all these purveyors under the PUC will only add to the cost of operating, which will be borne by the consumer.

Instead, a mechanism might be developed whereby a majority of citizens in such a service area might appeal to have such water purveyor brought under the jurisdiction of the PUC for compelling reasons. However, we view an across-the-board regulation as unnecessary at this time.

S-1614 -- Small water companies -- There is something wrong when the state directs the takeover of small poorly run water companies by some other company. We recognize the many problems these small water companies present to the state; however, this issue requires additional evaluation so that such an undertaking does not become counterproductive. Perhaps the first step would be not to permit franchise areas smaller than 1,000 customer connections, or whatever figure is determined to be fair.

In conclusion, we are disappointed with the lack of thoroughness in the water supply legislative package. Had the so-called water supply master plan been thoroughly evaluated, perhaps we would be farther along than we

are today. Questions would have been raised regarding the price tag on the Raritan-Passaic Pipeline. Why hasn't the price gone up since 1965? That is another figure we have to pull out of our hat that we haven't discussed today. All plans have used 1970 population figures with projections extrapolated therefrom. Don't we know that northeastern New Jersey is losing population and shouldn't adjustments be made accordingly?

We respectfully request that these committees direct that the Water Supply Master Plan hold its public hearings, and that a comprehensive report with minority views from members of the Agenda Committee be submitted to these two committees, so that as we continue to plan for water supply in New Jersey, the best possible legislation can be developed.

ASSEMBLYMAN HOLLENBECK: Thank you very much, Ella. As usual, you have a very thorough presentation. I have some questions, all right?

MS. FILIPPONE: Fine.

ASSEMBLYMAN HOLLENBECK: We know we have a projected deficit of 63 million gallons a day of water supply to the northeast. You are proposing plans for three ponds and reservoirs to the tune of 28 million gallons per day.

MS. FILIPPONE: Yes.

ASSEMBLYMAN HOLLENBECK: Where do we get the other 45 million?

MS. FILIPPONE: Well, that's why we have to get some answers from the DEP. I have polled the water purveyors in the northeast, and I have gotten 30%, 50%, and 70% leakage. If it is 70% leakage of 7 million gallons per day, that's a lot of water.

The recommendation with regard to these three reservoirs are not mine alone. I think you are going to hear some support for these.

ASSEMBLYMAN HOLLENBECK: I don't disagree with you. However, I am asking--

MS. FILIPPONE: I think if we fix these pipes - if we stop feeding these pipes, as we are saying and putting good water in them just to have it leak out, and then we say, "How much do we need after that?" and we upgrade these sewage treatment plants so that the water quality in the Passaic is considerably better and has not as much trouble at treating, I think then you will be picking that up, incrementally.

ASSEMBLYMAN HOLLENBECK: How do we upgrade the water at Dundee Dam?

MS. FILIPPONE: Well, we have all of these treatment plants. They should be going on line this year or next year. Then the water quality will improve.

ASSEMBLYMAN HOLLENBECK: Further upstream, as I said before, the report was that it meets standards, but isn't it true that at the Dundee Dam untreated sewerage will enter?

MS. FILIPPONE: You have the same water going over the falls at Two Bridges.

ASSEMBLYMAN HOLLENBECK: No you don't. When you have rain, don't you have a combination sewerage system in Paterson? It has a combination storm sewer and storm drain that bypasses the sanitary system and goes directly into all the water falls?

MS. FILIPPONE: In Paterson?

ASSEMBLYMAN HOLLENBECK: Paterson has a combination system.

MS. FILIPPONE: Yes, but they also have a large interceptor sewer that is supposed to be better regulated now.

ASSEMBLYMAN HOLLENBECK: But, what happens is, the large sewer can't take storm water runoff and they divert it. There is automatic diversion directly into the river without treatment.

MS. FILIPPONE: That is supposed to be stopping now, Assemblyman. We worked on that all last summer.

ASSEMBLYMAN HOLLENBECK: But, I happen to know they will never change it until, of course, there is a change of systems in Paterson.

MS. FILIPPONE: Well, it is my understanding that with regard to the Passaic Valley Sewerage Commission, they are also beginning their plans for a new, larger interceptor line to go down to their Newark plant. There is a lot of work to be done in the Passaic.

ASSEMBLYMAN HOLLENBECK: We do know there are effects on the Passaic River, don't we?

MS. FILIPPONE: Yes, we do. But, at the same time, you have to remember that as the sewerage treatment plants in the Upper Valley get to be upgraded, it has to impact even that stretch between Paterson and Dondee. It was quite a surprise to me that when the Fish and Wild Life began to evaluate the water quality between the Great Falls and Dondee, you had much more life in it prior to the great dumping of last summer than anybody even anticipated. We have better water quality in the lower Passaic than I ever would have thought we do now. It is very encouraging and it is because the real bad plants we had in the Upper Valley, like Moristown and Parsippany have been brought on line. They are putting out good effluent now, and if we can move these others forward--

I told Mr. Schiffman before that I would like to know what the State of New Jersey's 1990 construction grant program is. We are going to have hearings next month in New York and I think New Jersey ought to tell the feds what we need here in the form of money and upgrading. Right now, because of our crisis there is nobody to work on this project in New Jersey. So, we are going to have an opportunity in March, and it is going to be lost. We have to tell them what we need. We need advance waste treatment in the Upper Valley of the Passaic so that we can take this effluent and utilize it without all kinds of problems, amonia and otherwise. You have a growing population up there in Somerset and Morris Counties, so they are going to be sending more water down to Little Falls. It is a terrific opportunity and we are losing it, and we are losing the Federal bucks too because we are not there asking for them.

ASSEMBLYMAN HOLLENBECK: Of course, that is another problem.

MS. FILIPPONE: I think this committee has to be aware of this.

ASSEMBLYMAN HOLLENBECK: Some of the things you have said, I have some problems with -- the opposition to the utility, which of course is only a financing method of the state so that revenue bonds can be issued. Of course, the alternative is that without a utility, we must issue general obligation bonds, and that puts the impact upon the whole state, and there are only a few people benefiting.

MS. FILIPPONE: Three million people is not a small part of the state. That is what we have in the northeast.

ASSEMBLYMAN HOLLENBECK: I don't know but that the questions we deal with, even grants, are also in the statewide plan, at least in the summary dealing with whether there should be outright grants for repairing the sewers and municipal systems, because they haven't maintained their systems. At the same time, the person who in the private system and who is paying the rate for a private system is subsidizing the repair of the municipal system.

MS. FILIPPONE: I think you have to look at it in a different perspective. I can see what you are saying, but you have to also remember that we are talking about systems that were installed back in the 19th century, and we have situations there where you have not had that private enterprise incentive.

ASSEMBLYMAN HOLLENBECK: Where I live, I have a sewer that has been in since 1909, and we had water before that. So, there are a lot of old private systems also involved. But, it seems to me that the basic question of the utility is dealing with the financing method, or issuance of revenue bonds, which we can't do on a general obligation bond.

MS. FILIPPONE: I realize that. If the intent of the utility is only financial and if there are safeguards attached to it to insure that the planning process is such that you do have the safeguards that are necessary, then I would have no objection to it. But, I think the bill then has to be so written, that when you expend a certain amount of money in the State of New Jersey, appropriate reviews, planning procedures, environmental safeguards are attached thereto, so that we don't all of a sudden find ourselves planning a reservoir over a prime groundwater resource. This is something that I have great fear of, because the State has not done its homework on its groundwater programs.

ASSEMBLYMAN HOLLENBECK: Isn't that part of the Water Policy Council's job?

MS. FILIPPONE: No, it is not a part of the Water Policy Council's job. It has only been the state that has been reviewing it. The state has only been working in the planning in some of these programs. This is where the Water Policy and Supply Council has not looked at the Water Supply Master Plan yet in a comprehensive fashion, except through individual interests.

ASSEMBLYMAN HOLLENBECK: We keep hearing about that Council. Of course, it has done a yeoman's job. It is 70 years old. That doesn't mean it is bad.

MS. FILIPPONE: I think it is a good council.

ASSEMBLYMAN HOLLENBECK: My father is 70 and he is not too bad yet.

MS. FILIPPONE: The Council is a very fine council. There are people who have been very dedicated over the years and who have been very knowledgeable. It would be a terrible resource for the state government. At the same time, power in one entity has always been recognized in a democratic form of government not to be the most advisable.

ASSEMBLYMAN HOLLENBECK: I'm going to fish a little bit, all right?

MS. FILIPPONE: Okay, sure -- for trout, I hope.

ASSEMBLYMAN HOLLENBECK: If you had policy-making that was placed in a council made up of citizen involvement, etc., and water supply questions were being handled by that council, where it would then deal with the necessary funding if it was felt the project had to be built for water supply, do you think that would be a proper method for a council?

MS. FILIPPONE: If you had a council that was open, that would hear what the people had to say, and where you had recourse and proper procedures, I think then you would have a very good sounding board.

We, in the northeast, when we had our 208 Wastewater Management Program, took well over one year to get ourselves organized because it was a very difficult group of citizens, professionals, politicians -- everybody. But, when we finally got settled, we had ourselves a very fine group of people together. One of the amazing parts of that was that we all knew each other but we had never taken the time to sit down and talk about our common problems and our own opinions. We got started really nicely; we were beginning to plan. And, I think if that group were still functioning today, the problems of Northern New Jersey, although acute, would be getting a great deal more input. It was the state that cut the funds. I think that sometimes we, in our enthusiasm to be cost effective, especially when it comes to public participation and the citizen element, slit our own throats. I would love to sometime spend some time, other than this hearing, to discuss that experience because we had in that group the engineer for the City of Newark, the various water purveyors, the sewerage treatment plant operators -- the whole group -- and it worked, and it worked in northeastern New Jersey, and if it can work there it can -- you know, that is almost anywhere. So, I would support it, very strongly.

ASSEMBLYMAN HOLLENBECK: Thank you very much, Ella.

Assemblyman Smith, do you want to add something?

ASSEMBLYMAN SMITH: Just a comment. Water quality is a very important factor, as you well know; you mentioned this.

MS. FILIPPONE: Yes.

ASSEMBLYMAN SMITH: That is why I asked the questions yesterday when we took this \$26 million away from sewer plant and sewerage upgrading and grants of that type and put it into water supply. I wanted to make sure that that money was going to be put back, and it has been indicated to me that it will be put back. So, we hope it will.

MS. FILIPPONE: Assemblyman Smith, I am very concerned about that because in my discussions with the Division, there have been some discussions of lowering the priorities in the Passaic. I would hope that this would not happen; that we keep our priorities; and, if anything, some of them will move up higher. There are treatment facilities, big ones like the Rockaway Valley Regional Sewer Authority, that shouldn't go on line. I spoke with the operator yesterday. He is holding things together with spit and glue. We need it. We need that project and that will then considerably aid the Rockaway River Basin, which flows into the Passaic. We have so many of them that are that close, yet we are low on the priority list and I have been told that 60 is the cutoff.

ASSEMBLYMAN SMITH: The other thing is the leaky pipes. I know there was a report this morning that Mayor Koch indicated they were going to go through every building in New York City that was abandoned and actually cut off the water services, because they think they are losing somewhere in the neighborhood of 20 million gallons per day.

MS. FILIPPONE: I know that this is--

ASSEMBLYMAN SMITH: That must be true in Newark.

MS. FILIPPONE: It is true in Newark and in cities like East Orange, and in Paterson. I have seen it.

ASSEMBLYMAN SMITH: Yes.

ASSEMBLYMAN HOLLENBECK: Thank you very much, Ella. I hope that we will be contacted later on this legislation.

MS. FILIPPONE: Well, I hope that we get those reports from the DEP. I think we are going to get them.

ASSEMBLYMAN HOLLENBECK: A funny thing: I think we are going to hurry up the statewide master plan. If we accomplish that, that is more than has been done in 20 years.

We have one more, our last person to testify today. E. Owen Pool, the New Jersey Farm Bureau, who sat very patiently over here.

E. O W E N P O O L: Assemblyman Hollenbeck--

ASSEMBLYMAN HOLLENBECK: Mr. Pool, is it possible to have a synopsis?

MR. POOL: It will take me about eight minutes.

ASSEMBLYMAN HOLLENBECK: That's what I was afraid of. Let's go fast.

MR. POOL: All right. I will cut where I can. My name is Owen Pool. I am the Treasurer of the New Jersey Farm Bureau, a volunteer organization of more than 4100 members. I am also Chairman of the Natural Environmental Resources Committee of the New Jersey Farm Bureau.

I am here today to express some of the concerns we have as farmers and taxpaying citizens of New Jersey about your proposed legislation concerning water, Senate Bills 1610 through 1614.

S-1610 provides for a bond issue to be placed on the ballot in November. We fully realize the need for additional storage reservoirs and the upgrading of present facilities. Farm Bureau has long been a supporter of the construction of Tocks Island Reservoir.

Due to environmental pressures, however, this project was never constructed. I am sure that had this project been completed as scheduled, many of today's problems would have been taken care of. We call for the construction of the Tocks Island Reservoir as soon as possible.

S-1612 would establish a state water supply utility that would be made up of the Commissioner of the Department of Environmental Protection as chairman, the State Treasurer, the Commissioner of Labor and Industry, and two members appointed by the Governor with Senate approval. This is a stacked deck if I have ever seen one. We believe that because the Commissioner of DEP has both policy development responsibility and the responsibility for actually directing operational activity and water management, someone who can provide another perspective should chair the utility.

S-1614 would give the Department of Environmental Protection the power to order a public, private, or municipal utility authority to purchase a small water company, under 1000 customers, regardless of whether or not they want to, if the small water company failed to meet DEP rules and regulations with a specific time. We would hope such authority would be used only under the gravest circumstances.

S-1611 - this bill would create many problems throughout the State if it is enacted into law in its present form. It states that the waters of the State of New Jersey are public assets and that ownership of these assets

as a trustee of the people.

The farmers of New Jersey have very strong feelings about the State being able to "declare" itself the owner of any resource. If it can be done for water, what are the limits to such declarations?

The farmers of the state have spent millions of dollars to build terraces, diversions, lakes, ponds, and reservoirs to conserve the water that falls on, or passes through their property for future use. We pay one of the highest tax rates per acre of farmland in the nation, even with farmland assessment. We produce a substantial portion of the fresh fruits, vegetables, meat and milk consumed in New Jersey. While we are doing this, we also are providing the State of New Jersey and its citizens with another service free of charge, by allowing the rainwater to percolate back into the soil to recharge the groundwater supplies. The average rainfall of 40 inches annually amounts to about one million gallons per acre. The taxpaying open space of agriculture provides far more water to our state underground water supply than the farmers use. It is in this respect that we feel the one hundred thousand gallon figure for agriculture is thoroughly unworkable and unrealistic.

This bill will allow a person in Trenton who knows little about farming to tell us how much of this water we can use, and when we can use, and how much they are going to charge us for it. If agriculture is to be subjected to even more regulations as proposed, we would prefer to retain the Water Policy and Supply Council where agriculture has at least some representation.

DEP would have the authority to establish the maximum daily and monthly diversions, whether or not it meets our needs. What happens if a farmer's permitted diversions does not meet the needs of his crops or his livestock?

The fact that a person now has a diversion permit does not mean he would automatically receive another one or continue to have one in the future. Farmers who now have diversion permits have gone to great expense and built their farming business with the assurance of certain water supplies. To now say that they no longer have first call on those supplies is unconscionable. In many cases, these farmers were irrigating crops before there was a DEP.

We fear rules and regulations that mandate types of equipment and water practices that are dictated by considerations other than good horticultural practices. Water quality standards can be imposed that are impossible for agriculture users to meet.

Farmers are spending thousands of dollars on new methods of irrigation that conserve water. Let's not penalize them for trying new techniques by imposing more restrictions.

It declares in this bill that the state will protect the natural environment of the the waterways. This is a broad statement with no clear definition. If past DEP performance is an indication of what lies ahead, look at the problems landowners in the Wetlands have with DEP in taking care of the ditches and sluices in that area. Much good farmland has been lost to production as a result.

We feel that these five pieces of proposed legislation would create the fourth of five cornerstones of a statewide land use plan created by environmental regulations rather than by legislation.

1. The Pinelands National Reserve Management Plan.

2. The 208 Water Quality Management Plans, which establish limitations on the amount of sewage that can be accepted and treated by treatment plants.

3. Regulations that mandate the disposal of septic waste into treatment facilities that have definite capacities, thus limiting the amount of unsewered growth in an area.

4. These bills.

5. The proposed policy and procedures concerning the extension or erection of sewage treatment facilities on prime farmland or other environmentally sensitive areas.

For years the state has done nothing about capital expenditures to help the water situation. Now, with a shortage facing us, the answer proposed is "regulation." The study ordered by Governor Byrne on how to preserve agriculture in New Jersey calls for the unrestricted use of water as a "must." Agriculture is the second largest industry in the state. Let's not endanger it by adding more restrictions and regulations by DEP or any other state agency.

Some specific suggestions in regard to improving water management policies are:

1. We would urge that the expertise of the New Jersey Department of Agriculture, the New Jersey Agriculture experiment Station and others knowledgeable in agricultural matters, be used when drafting water regulations.

2. Additional fees for permits and water use should not be imposed on Agriculture since we provide more water recharge than we use.

3. Salt water intrusion into ground water should be monitored and a system of alerting users set up.

4. Regulations, reports, and the forms required by them should be written for agriculture when addressing agricultural uses. Combining forms and reports when possible to reduce the load of paperwork for farmers.

We, the farmers of New Jersey, support a state plan to conserve water. We feel we have done and will continue to do our share as new technology is made available.

We thank you for the opportunity to present our views.

ASSEMBLYMAN HOLLENBECK: Thank you very much, Mr. Pool. Your comments, of course, on behalf of the Farm Bureau are valid. Your concerns are very valid. Some of your suggestions are very good ones. There is general concern with the-- Something went wrong somewhere in the State over the last 20 years. And, somebody wasn't watching the store, or watching out for the future of our State. We can't sit back though, now that we know what has occurred, and hide our heads in the sand. We have to do something. What we have to do, of course, is something that is right for the state and for the future of the state, yet we have to be careful not to hurt any industry, primarily the farm industry which is a very important part of our state. It is the modes we have come up with that are the ones you have disagreements with -- how it is going to be done. That is what we are getting information on. So, thank you very much.

Ladies and gentlemen, as you know, we are going to have another hearing on these bills next week in Chester at the West Morris High School. There will be another hearing after that in Vineland, on the 24th. So, there will be two more hearings before the committee even begins to sit down together to start talking about the testimony. Thank you very much.

(Hearing Concluded)



OFFICE OF THE MAYOR
CITY OF TRENTON, NEW JERSEY 08608

ARTHUR J. HOLLAND
MAYOR

February 17, 1981

Honorable Frank J. Dodd, Chairman
Senate Energy & Environment Committee
State House, Room 303
Trenton, New Jersey 08625

Dear Senator Dodd:

Enclosed please find our comments on Senate bills 1610 through 1614.

S-1610

We are concerned that the \$65,000,000 allocated for regionalization of failing water systems would be insufficient. The Department of Environmental Protection could force the Trenton Water Works to take over small systems in need of extensive repairs. The owners of such systems could, upon State mandate, demand inordinate payment for assets. We believe that responsibility for small, failing water systems should remain with the owners and the municipalities within which they operate.

Further, the \$90,000,000 allocated for construction of the Hackettstown Reservoir could result in increased costs for excess diversion and reduced diversion allotment for the Trenton Water Works. Accordingly, we oppose S-1610.

S-1611

If passed in its present form, this bill would permit DEP to cut Trenton's diversion allocation by thirty percent. Then, if usage increases as anticipated, DEP would probably but not necessarily allow an increased diversion. The extra water would be more expensive, however, as Trenton would have to pay a share of the \$90,000,000 construction costs of the Hackettstown Reservoir project. We cannot support S-1611 unless all present diversion allocations are held harmless.

S-1612

We agree that DEP should develop water supplies throughout the State,

especially where public or private water purveyors cannot, given project magnitude and complexity. This bill would thrust DEP into the retail side of the water supply industry, permitting DEP to condemn systems deemed inadequately operated or financed. Such actions would establish a "super utility" in DEP, with resulting increases in employees and costs to the public. We therefore oppose S-1612.

S-1613

We understand that DEP wants the practice discontinued whereby municipally owned and operated utilities that are sorely in need of repair transmit substantial utility revenues to general funds, with insufficient returns; this should be prohibited but we question whether requiring all water utilities to be subject to BPU is necessary to accomplish this goal. Trenton Water Works is already regulated and thus would not be affected by this bill, but many small water utilities cannot afford to petition BPU for rate increases, given additional expenses for lawyers, engineers and accountants.

S-1614

Our reasons for opposing this bill parallel those expressed relative to S-1610; i.e. takeovers would mean substantial transfer payments.

Should you or any member of the Committee have any questions on the above, please contact me at 989-3030, or Mr. Richard Russo, P.E., General Superintendent of the Trenton Water Works at 989-3210.

Sincerely yours,

Anthony J. Holland

AJH:hd

NEW JERSEY CONSERVATION FOUNDATION
300 Mendham Road, Morristown, New Jersey 07960
(201-539-7540)

Statement on S-1610-1614 before the Senate Energy and Environment
Committee, Feb. 10, Assembly Chambers, Trenton

Dear Senator Dodd:

The New Jersey Conservation Foundation is a private, nonprofit, statewide membership organization concerned with open space acquisition and environmental quality throughout New Jersey.

Water is a problem - it's a problem in terms of supply, in terms of use and in terms of waste. NJCF, along with the New Jersey Water Supply Coalition, urges your committee to recommend the completion of a water resources master plan that recognizes the interrelationships and connections among rainfall, surface water, groundwater, sewage treatment, storm drainage and flood control. So far the only program that has attempted to grapple with this complex set of issues is the 208 program of the federal Water Pollution Control Act now given short shrift at both the state and federal levels.

For all too long we have, in our migration from city to suburbs and rural lands, tried to get water off the land as quickly as possible. We've dredged, drained, channelled and piped. The result is that streams are flooded when it rains and dry when it's not raining, all of which means less water for human use.

Others have made suggestions for emergency procedures. Philosophically, we are opposed to interbasin transfers, but it's clear that some transfers already in existence will remain, and others will be made. We hope those interconnections remain a minor part of any water supply plan. The impact of major interbasin diversions can be heavy indeed.

We have two suggestions that might help.

1) When water supplies are low, the rate people pay should go up. Conservation then becomes a matter of economic practicality. Rather than institute fines for misuse or overuse, a higher rate seems much more practical.

2) When a private (or public) water company cannot meet demands within its franchise area, that company should be forced to sell a portion of its franchise to a water company that can meet demands. In the case of the Hackensack Water Company, the sale of some of its franchise area might well yield sufficient capital to obtain additional supplies for the area remaining under its control. This system would reward companies with advanced planning and programming and reward conservation efforts as well.

I thank you for the opportunity to present our views.

David F. Moore
Executive Director

The Township of MOORESTOWN

IN THE COUNTY OF BURLINGTON • MOORESTOWN • NEW JERSEY 08057

WHEREAS, the Township Council of The Township of Moorestown has reviewed Senate Bill 1613, an act which would subject the township, as the owner and operator of a water supply system, to the jurisdiction and control of the Board of Public Utilities; and

WHEREAS, this act would take away from the citizens of Moorestown, through their elected representatives, the power to establish rates charged by the township for use of the water system; and

WHEREAS, this bill would require the township to spend money in a needless and useless manner to comply with the regulations of the Board of Public Utilities, adding to the financial burden not only of the citizens of Moorestown, but of the citizens of the state; and


WHEREAS, it is clear, from the Statement of Intent of the Bill, which reads as follows: "This bill authorizes the Board of Public Utilities to manage all State and local government water suppliers as self-sustaining utilities over the long run," that it is the intent of the bill to take away from the township the authority to manage its own water system; and

WHEREAS, the Council believes the citizens of Moorestown, through their elected representatives, are capable of determining how their water utilities system should be operated; now, therefore

BE IT RESOLVED by the Township Council of The Township of Moorestown in the County of Burlington as follows:

1. The Township of Moorestown is opposed to the adoption of Senate Bill 1613, and urges the Senate to reject said bill;
2. The Township Council hereby urges that representatives to the state legislature; Senator Charles B. Yates, Assemblyman Herman T. Costello; and Assemblywoman Barbara F. Kalik oppose the adoption of Senate Bill 1316;
3. The Township Council hereby requests the Governor use all of the powers of his office, including the power of veto, that Senate Bill 1613 not be enacted into law;
4. All members of the Township Council of The Township of Moorestown, and the Township Manager are hereby authorized and directed to take such action as they deem appropriate in the best interest of the township to help insure that Senate Bill 1613 will not be enacted into law.

Certified to be a true and correct copy of a resolution adopted by the Township Council of The Township of Moorestown at a regular meeting on February 9, 1981


Patricia J. King
Deputy Township Clerk

New Jersey Section, American Society of Civil Engineers

A People-Serving Profession

PLEASE REPLY TO:
Gerald E. Speitel Associates
Route 73 & Ramblewood Parkway
Mount Laurel, NJ 08054
609-235-7493

February 13, 1981

Senator Frank J. Dodd, Chairman
Senate Committee on Energy & Environment
300 Main Street
Orange, New Jersey 07050

Reference: Senate Bills No. 1610, 1611, 1612, 1613 and 1614

Dear Senator Dodd:

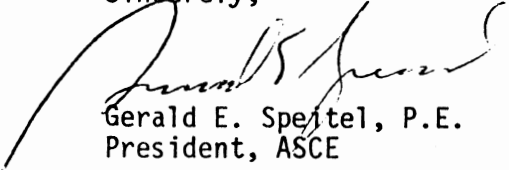
The New Jersey Section of the American Society of Civil Engineers would like to offer our comments on the above Senate Bills. Our membership is 2,500 in New Jersey. Many of the members are involved with New Jersey water resources including every aspect of planning, regulating, engineering and operating public and privately owned water facilities.

We are pleased to see that the New Jersey Legislative is addressing water supply problems. Our profession has been concerned about a drought possibility for many years and we are hopeful steps will soon be taken to prevent further deterioration of water facilities and to provide adequate facilities for the future.

The New Jersey Section of ASCE generally supports these bills, but we feel further review, evaluation and modifications are necessary before enactment. Particular attention should be given to issues of alternative projects, the powers granted the NJDEP and impacts on existing private and public water utilities. Our detailed comments on Senate bills 1610, 1611, 1612, 1613 and 1614 are attached.

Please contact us if we can be of any further service. We would welcome an opportunity to talk with you or other members of the Senate Committee and will be anxiously following the progress of your legislation.

Sincerely,



Gerald E. Speitel, P.E.
President, ASCE

GES/kk

cc: Senate Committee on Energy and the Environment
Senator J. P. Caufield
Senator L. B. Laskin
Senator B. T. Parker
Senator J. M. Skevin
Michael F. Catania ✓

February 13, 1981

NEW JERSEY SECTION OF THE
AMERICAN SOCIETY OF CIVIL ENGINEERS

New Jersey Water Supply Legislation

The American Society of Civil Engineers recognizes the basic economic and health related necessity of a fiscally sound and adequately supplied water industry. The current drought and its impact on personal and public life proves that a great deal of effort must be expended to improve the water supplies of New Jersey.

Senate Bills No. 1610, 1611, 1612, 1613 and 1614 recently introduced by Senator Dodd will have significant and far-reaching consequences on all water utilities in the State of New Jersey. Hasty enactment of this legislation to capitalize on current sentiment will not effectively solve the current drought problems experienced in certain areas of the State.

Specific provisions and requirements contained in each bill must be carefully reviewed and evaluated in order to insure coordination and consistency with the goals and objectives of existing water utilities and the New Jersey Statewide Water Supply Plan. Necessary changes in staff levels and appropriations to the NJDEP Division of Water Resources also should be considered (the bills cannot be implemented without this).

We therefore urge the respective Committees to move cautiously on these Bills, carefully weigh the impact of these proposals on the water utilities throughout the State and allow time to fully study these measures.

We offer the following general questions and comments which we feel you should consider among others in evaluating these bills: (see attached)

Senate Bill No. 1610

1. General. The New Jersey Statewide Water Supply Master Plan was just recently completed by the engineering consultants retained to do this. The final printed summary has not yet been released and the NJDEP has not yet itself issued a position on it. The expenditure of \$345,000,000 for projects from a master plan not yet finalized warrants at least some further evaluation.

New Jersey water supply problems, now brought to light by the drought, have been long predicted by knowledgeable professionals including those in State agencies. The WSMP and other studies proposed various solutions to New Jersey's water supply problems. Some of these other projects were more cost-effective and offered greater benefits.

The legislature should consider the whole picture of water resources projects and not be panicked into rash decisions.

2. Section 2.i. and 4.f. Hackettstown Reservoir and Delanco surface water intake projects are controversial. Additional public discussion is warranted as to their merits, demerits, environmental impacts, costs and alternatives before spending \$90,000,000. How are they going to "reverse the deteriorating water quality of the Delaware River caused by the increasing depletive uses of water"? Would other projects such as Tocks Island Dam be more cost-effective? These projects need more consideration.

3. Section 4. It is not clear who will receive the bond monies or who will design, own, operate and maintain the facilities proposed. It is also not clear who will be responsible for getting the projects done and by when. There is little or no information describing the projects. Where did the cost estimates included in the bond issue come from, are they accurate and projected to the period of construction.

4. Section 22. The bill provides for voting on the bond issue in total. That means all or nothing. One or two projects could drag down the whole lot. Should some division in voter approval be made in order to be facilitate the publics best interest.

Senate Bill No. 1611

1. General. The NJDEP and other departments of the Executive Branch have long been promulgating regulations and issuing and denying permits in an attempt to usurp local municipal planning and zoning powers and desires. This has been done under the guise of protecting the public interest, assets, welfare, health and other similiar concerns. This bill may provide another avenue for burecrats to involve themselves beyond the concerns for which the legislation was intended.

We suggest that the NJDEP be specifically prohibited from using the legislation to interfere with local planning and zoning issues and limited to the sole issue of the fair, equitable and adequate diversion of the states water resources.

2. Section 2.b. Division permits have been granted by the WPSC for existing diversions and reasonable future periods. The act does not require the NJDEP to provide for reasonable future diversions granted by the WPSC.

3. Section 10. This section provides for a fee schedule established by NJDEP. There are no requirements for legislative review. This grants the NJDEP taxing powers with no voice by the people. The fees may become a crutch if they are not reviewed or controlled in some way.

4. Section 13.b and 13.c. The cost to purveyors for interconnections, water transfers, collecting penalties and surcharges and the lost revenues from water rationing is signifigant. The mechanism for revenue relief is not defined. The decline in income from rationing could actually result in bankrupcy.

5. Section 17. The Water Policy and Supply Council provides a mechanism for the public to decide on how it wants its water used. It is made up of

concerned and informed citizens. The Commissioner of the NJDEP provides no such mechanism and in fact the bill places all power in his sole hands. The NJDEP would become judge, jury, manager and purveyor and is in conflicting roles.

Although the WPSC has been at times cumbersome and overburdened the dramatic shift of power to one individual is not in the best interest of the public and our water resources.

6. Section 18. This Section provides for a water tax without legislative control or representation by the people. The rate can be varied by the NJDEP by a factor of ten times.

The portion of this Section dealing with excess charges and flow rates per square mile of unappropriated watershed is extremely confusing. What about interbasin transfers of wastewater discharged into streams as a result of state approved plans?

This whole section appears to need some additional thinking.

Senate Bill No. 1612

1. Section 2. The bill provides for a state utility to acquire finance, construct and operate water systems. This be restricted to raw water supply and not include transmission, distribution, storage and etc or threaten independent investor owned water utilities.

2. Section 4.b. The bill provides for a utility with both ex-officio and Governor appointed members. There appears to be no requirements for persons with practical experience operating a utility.

3. Section 4.d. and 5.A. The Commissioner of the Department of Environmental Protection appears to have substantial power. He is Commissioner of the Utility and NJDEP and as such is regulator, purveyor, acquirer, operator, judge and jury. Too much power appears to be placed with one individual and Department. There are no checks and balances.

4. Section 23.b. Should the state utility be exempt from local zoning regulations?

5. General. It is unclear how the water utility will be funded. Will funds come from general obligation or utility revenues. In order to be consistent with other water systems in the state the utility should be funded from revenues. This would also protect against inadequate general obligation funding and poor operations and maintenance of expensive facilities.

COMMENTS OF THE
DEPARTMENT OF THE PUBLIC ADVOCATE
ON
S-1610 THROUGH S-1614
(A-2345 through A-2349)
FEBRUARY 10, 1981

General

The Department of the Public Advocate, in general, supports the water supply regulatory scheme reflected in the above-referenced package of legislation.* Such changes in our antiquated water laws are long overdue. We also recognize the need for additional, and emergency, powers in the Department of Environmental Protection (DEP) to forestall and deal with water supply crises. However, such powers will obviously have far-reaching economic and environmental impacts. Therefore, it is imperative that they be accompanied by appropriate procedural safeguards. This is our primary concern, and criticism of the bills. The comments below for the most part address procedural inadequacies. We've recommended specific changes which we view as necessary to insure the legitimate influence of the Board of Public Utilities (BPU) on financial and rate issues, and realistic opportunity for public input on all issues affecting their interests.

Water Supply Bond Act of 1981 -- S-1610 (A-2345)

Paragraph 26:

This section requires that DEP notice the legislature 30 days prior to entering into various agreements concerning water supply. Some of these agreements will of necessity impact on areas regulated by the BPU. Therefore, that agency should

*We express no view on the specific projects set forth in S-1610, preferring instead to leave their discussion to the various watershed associations who at this point may be more familiar with their feasibility.

also be noticed, and given an opportunity to express its views to the DEP and legislature within the same 30 day period.

Water Supply Management Act -- S-1611 (A-2347)

Paragraph 2:

This section needs to be strengthened in two important respects. For one, conservation of existing resources should be specifically included as a primary goal. Secondly, there should be an express commitment to protect and preserve existing water quality, i.e., a nondegradation policy.

Paragraph 5(a)(2):

The blanket exemption from regulation for diversions of less than 100,000 gallons a day is problematic. In the aggregate such diversions could be a significant loophole in water supply and quality control. Therefore, even if permits are not required, the diverter should nonetheless be required to monitor and report to the DEP the amount of water diverted, according to a fixed time schedule.

Paragraph 7(h):

Because the BPU has the responsibility for monitoring the adequacy and quality of service by individual utilities, this section should be amended to read as follows:

Allowing the transfer of a permit with the consent of the department [,] and the Board of Public Utilities, but only for the identical use of the waters by the transferee;

Paragraph 7(j):

This paragraph should be amended to read:

Permitting the department, after notice and public hearing, to modify, suspend or terminate the permit when it deems it necessary for the public interest, or for violations of its

conditions, this act, regulations adopted or orders issued by the department. The department shall supply a statement of the factual and/or policy reasons and findings which for the basis of its decision to modify, suspend or terminate the permit.

The rationale for these changes is straightforward. It is to insure that DEP's powers are exercised responsibly. The modifications would not add any measurable delay, but would assure appropriate input and reasoned decision-making.

Paragraph 8:

BPU rate-setting should promote conservation and, thus, tend to decrease the need for expansion of water supply. Toward this end, the BPU should, for one, be directed to use nondeclining block rates.

Paragraph 12(a):

This paragraph should be amended to read as follows:

The department is authorized and directed to maintain current, a State-wide water supply master plan which will accurately reflect the quantity and quality of the waters of the State, the quantity and quality of the waters being used, the measures needed to protect the water supply and insure an efficient distribution of the water supply, and the State's future water needs and the measures, including conservation, needed to meet those needs.

Thus, State policy would, as it should, expressly encourage conservation as a source of water supply and appropriate alternative to new diversions.

Paragraphs 12(a) and (b):

The water supply master plan is going to be extremely important to the future development of this State. Its preparation and revisions should, therefore, be accomplished with ample opportunity for public participation. Accordingly, this section should be rewritten to essentially follow the attached N.J.S.A. 52:27F-14, which deals with the Energy Master Plan. The major features which would thereby be added are: (1) public hearings; (2) a definite planning horizon for plan coverage (e.g., ten years); (3) periodic updating (e.g., three years); (4) cooperation with other State and federal agencies; and (5) widespread dissemination and public hearings.

Paragraph 13(a):

Similarly, because of its importance, DEP's emergency plan should also be developed with widespread public participation, and this section too should be amended accordingly.

Paragraph 13(b):

This paragraph should be amended to read as follows:

In emergency circumstances, either throughout the State or in certain areas of the State, the department is authorized to monitor diversions, impose conditions on existing permits, refrain from granting any new permits, mandate the interconnections of water supplies and water supply systems and order the transfer of water from system to system, whether in public or private ownership, if necessary without notice or hearing, notwithstanding the provisions of section 15 of this act, issue orders and take other action which it deems necessary to protect the public health and welfare.

In addition, a provision should be added to the effect that the DEP, if it does not hold a public hearing, must provide an explanation for why it considered such procedures impossible.

Paragraph 13(c):

This section needs substantial revision to overcome the overly broad discretion afforded the DEP and BPU concerning the imposition of surcharges and penalties for excess water usage and their disposition. For one, the legislature should direct that the DEP establish usage levels and decide imposts only after public hearings. Similarly, public hearings should be held by the BPU on its disposition of such revenues. Most importantly, there should be an amendment to insure that the purveyors do not use such revenues except upon and as directed in an order of the BPU.

Paragraph 14:

This section should be amended to read as follows:

When the department determines that the developed water supply available to a water purveyor is inadequate to service its users with an adequate supply of water under a variety of conditions, the department may, after notice and public hearing, and only upon the agreement of the Board of Public Utilities, order the water purveyor to develop or acquire, within a reasonable period of time, additional water supplies sufficient to provide that service.

The point here is that BPU and public input is important in two areas which are beyond DEP's expertise; that is, quality of service and ability to finance. To use an extreme example of potential conflicts, Berkeley Water Company could be ordered by the DEP to expand at the same time BPU is trying to take away its franchise. Or, a nearly bankrupt utility could be ordered to make a capital expenditure at a time when it cannot access the capital market. To alleviate such conflicts, a public hearing should be held, conducted jointly by the BPU and DEP, and BPU's accord with the final decision should be required.

Paragraph 15(e):

This section should be amended to read in pertinent part:

Rules, regulations and orders issued pursuant to this act have the force and effect of law. If any person violates any of the provisions of this act or any rule, regulation or order promulgated or issued pursuant to the provisions of this act, the department, or any citizen after 60 days notice to the Department of Environmental Protection and the Board of Public Utilities, may institute a civil action in a court of competent jurisdiction for injunctive relief to enforce said provisions and to prohibit and prevent that violation

This parallels salutary citizen suit provisions in federal environmental laws. See e.g., 33 U.S.C. §1365.

Paragraph 23:

This section repeals N.J.S.A. 58:1-39 which had been interpreted by the Courts as requiring a plenary hearing on water diversion applications. Continuation of this practice, which subjects the proposal to cross-examination, is necessary to insure judicious decision-making reasoned decisions. It best protects and preserves our precious water resources. Therefore, we urge that an emendment be written defining permit applications as contested cases for the purposes of N.J.S.A. 52:14F-1 et seq.

State Water Supply Utility Act -- S-1612 (A-2349)

We are opposed to DEP being in control of the State Water Supply Utility. The potential for conflict is substantial. The DEP's role should remain solely that of regulator. In fact, we would recommend that no State official be a member of

the Utility. Rather, its members should be appointed by the Governor with the advice and consent of the Senate. If, however, this recommendation is not adopted, clearly the Board of Public Utilities should be represented on the Utility's Board.

Paragraph 5(a):

Again, to insure that the public's interest is fully understood and protected, this section should be amended as follows:

If the department has issued an order to a water supply entity to construct or upgrade a water system and the recipient of the order has not taken the action required by the order within the time specified, the department [may] shall hold a public hearing in the area affected to elicit testimony as to the proper future course of action.

Again, too, these hearings probably should be held jointly with the BPU.

Board of Public Utilities Jurisdiction -- S-1613 (A-2346)

Paragraph 2:

This section should be amended to read as follows:

Nothing in this act shall be construed as declaring or defining the State, or any county or municipality, or any agency thereof, to be a public utility or subjecting it to the provisions of Title 48 of the Revised Statutes[.], provided, however, that the standards and procedures which the Board of Public Utilities shall use in determining just and reasonable rates or charges shall be the same as those used in the case of public utilities subject to the provisions of Title 48 of the Revised Statutes.

As written, this section provides no standards for BPU rate-setting or procedural safeguards. We assume its intent is to insure that public water utilities do not become subject to BPU's umbrella-like supervision of other public utilities. With the above amendment, this intent is maintained yet rate-payers are fully protected by BPU standards and procedures.

Paragraph 6:

This section should be amended in pertinent part as follows:

The board may [either] during the pendency of any rate proceeding, whether instituted by the board or other party, [or at any time, even though no such proceeding is pending or proposed,] negotiate and agree with the State, any county or municipality or agency thereof for the adjustment or fixing of individual rates, joint rates, special rates, charges or schedules thereof. The adjustment may be [without limit of time or] for a temporary period specified by the board[.], which shall not extend longer than 8 months, at which time the temporary rate should either be refunded, rolled back, discontinued, or made permanent in whole or in part pursuant to sections 4 and 5 of this act.

Otherwise, paragraph 4 and 5 proceedings would be effectively nullified. In short, the exception would swallow the rule.

New Paragraph:

In order to insure Rate Counsel's participation on behalf of rate-payers, the following should be added to this bill:

All proceedings under this act, by whomever commenced, regarding any increase in the rate, toll, fare, or charge shall be considered a filing pursuant to N.J.S.A. 52:27E-18 and 19.

Small Water Company Act -- S-1614 (A-2348)

Paragraph 1:

This section should be amended to read as follows:

Whenever any small water company fails to comply with an order of the Department of Environmental Protection to comply, within a specified period of time, with any law, rule or regulation concerning the availability of water, the potability of water at adequate volume and pressure, which the department is authorized to enforce pursuant to Title 58 of the Revised Statutes, the department, after consultation with the Board of Public Utilities as to the financial implications of the order, and after holding a joint public hearing with the Board, may, with the agreement of the Board, order a capable proximate public or private water company, or a municipal utilities authority formed pursuant to P.L. 1957, c. 183 (C. 40: 14B-1 et seq.) or the municipality or any other suitable governmental entity within which the small water company provides service, to acquire the small water company and to make all improvements necessary to assure the availability of water, the potability of the water and the provision thereof at adequate volume and pressure.

The decisions reflected in this section have financial implications of sufficiently significant dimension to warrant the requirement of Board approval.

Paragraph 2(b):

Finally, this paragraph should be amended as follows:

Compensation for this acquisition shall be determined: a. by agreement between the parties subject to the approval of the Board of Public Utilities; b. if the parties refuse,

or fail, to agree, by the Board of Public Utilities in consultation with the Department of Environmental Protection and after holding a public hearing, by considering, among other factors, the original cost of the physical property [and] less the cost of contributed property of the small water company and less depreciation and without considering the good will or franchise value of the small water company; and c. through use of the power of eminent domain.

Since by definition contributed property was not paid for by investors, and, therefore, does not earn a return, its valuation should be deducted in order to properly reflect investment.

New Paragraph:

The following section should be added to this act:

As used in this act, all hearings shall be contested cases pursuant to N.J.S.A. 52:14F-1 et seq.

This is added to insure an adequate record and participation by all interested parties. Such hearings are particularly critical with regard to appropriate compensation because any decision on value will directly impact the rates to consumers.

52:27F-12. Advisory council on energy planning and conservation. members; term of office; compensation; meetings

There is created in the Division of Energy Planning and Conservation an Advisory Council on Energy Planning and Conservation which shall consist of 15 members representing the following: the natural gas industry, the oil and gas industry, the home heating oil and coal industry, terminal operators, oil refiners, gasoline refiners, electrical utilities, nuclear fuel suppliers, environmental organizations, the solar energy industry, manufacturing, industrial consumers, commercial consumers, residential consumers, the transportation industry and the academic community. Members shall be appointed by the Governor, with the advice and consent of the Senate, and as practically as possible represent the several geographical areas of the State.

The Council shall elect a chairman, vice chairman and secretary from its membership. Of the members first appointed five shall serve for terms of 2 years, five for terms of 3 years and five for terms of 4 years. Thereafter all appointments shall be made for terms of 4 years. Members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the membership of the council by expiration of term or otherwise shall be filled in the same manner as the original appointment for the unexpired term only.

Members of the council shall serve without compensation but shall be reimbursed for expenses actually incurred in attending meetings of the council and in performance of their duties as members thereof. The council shall meet at least four times each year, at the call of its chairman, and at such other times at the call of the commissioner as he deems necessary. L.1977, c. 146, § 10, eff. July 11, 1977.

52:27F-13. Powers

The Advisory Council on Energy Planning and Conservation is empowered to:

- a. Request from the commissioner and from the Director of the Division of Energy Planning and Conservation such energy information as it may deem necessary;
- b. Consider any matter relating to the production, distribution, consumption or conservation of energy;
- c. From time to time submit to the commissioner any recommendations which it deems necessary for the long-term planning and management of energy;
- d. Study energy programs and make its recommendations thereon to the commissioner;
- e. Review, prior to their promulgation, proposed rules and regulations of the department, and make its recommendations thereon, except such rules and regulations determined by the commissioner to be emergency measures essential to preserve the public health, safety, or welfare;
- f. Hold public hearings in regard to existing statutes and regulations governing the production, distribution, consumption or conservation of energy. L.1977, c. 146, § 11, eff. July 11, 1977.

52:27F-14. Energy master plan

- a. The department, through the Division of Energy Planning and Conservation, within 1 year of the effective date of this act, shall prepare or cause to be prepared, and, after public hearings as hereinafter provided, adopt a master plan for a period of 10 years on the production, distribution, consumption and conservation of energy in this State. Such plan shall be revised and updated at least once every 3 years. The plan shall include long-term objectives but shall provide for the interim implementation of measures consistent with said objectives. The department may from time to time and after public hearings amend the master plan. In preparing the master plan or any portion thereof or amendment thereto the department shall give due consideration to the energy needs and supplies in the several

geographic areas of the State, and shall consult and cooperate with any Federal or State agency having an interest in the production, distribution, consumption or conservation of energy.

b. Upon preparation of such master plan, and each revision thereof, the department shall cause copies thereof to be printed, shall transmit sufficient copies thereof to the Governor and the Legislature, for the use of the members thereof, and shall advertise, in such newspapers as the commissioner determines appropriate to reach the greatest possible number of citizens of New Jersey, the existence and availability of such draft plan from the offices of the department for the use of such citizens as may request same. In addition, the department shall:

(1) Fix dates for the commencement of a series of public hearings, at least one of which shall be held in each geographical area delineated in the master plan. Each such public hearing shall concern the overall content of the plan and those aspects thereof that have relevance to the specific geographical area in which each such public hearing is being held;

(2) At least 60 days prior to each public hearing held pursuant to this section, notify each energy industry and each State department, commission, authority, council, agency, or board charged with the regulation, supervision or control of any business, industry or utility engaged in the production, processing, distribution, transmission, or storage of energy in any form of the time and place for the hearing and shall publish such notice in a newspaper of general circulation in the region where the hearing is to be held, and in such newspapers of general circulation in the State as the commissioner determines appropriate to reach the greatest possible number of citizens of New Jersey.

c. Upon the completion of the requirements of subsection b. of this section, the department shall consider the testimony presented at all such public hearings and adopt the energy master plan, together with any additions, deletions, or revisions it shall deem appropriate.

d. Upon the adoption of the energy master plan, and upon each revision thereof, the department shall cause copies thereof to be printed and shall transmit sufficient copies thereof to the Governor and the Legislature, for the use of the members thereof, and to each State department, commission, authority, council, agency, or board charged with the regulation, supervision or control of any business, industry or utility engaged in the production, processing, distribution, transmission, or storage of energy in any form. In addition, the department shall advertise in the manner provided in subsection b. of this section the existence and availability of the energy master plan from the offices of the department for the use of such citizens of New Jersey as may request same; provided, however, that the department may charge a fee for such copies of the energy master plan sufficient to cover the costs of printing and distributing same.

L.1977, c. 146, § 12, eff. July 11, 1977.

~~5-15. Intervention in proceedings of state instrumentalities which regulate energy production or distribution; rules; guidelines for energy master plan; siting of energy facilities; jurisdiction; fees.~~

~~The Division of Energy Planning and Conservation is empowered and directed to intervene in any proceedings before, and appeals from, any State department, commission, authority, council, agency or board (hereinafter referred to as "State instrumentalities") including the Board of Public Utilities charged with the regulation, supervision or control of any business, industry or utility engaged in the production, processing, distribution, transmission or storage of energy in any form when, in the discretion of the commissioner, such intervention is necessary to insure the proper consideration by such State instrumentalities of the State energy master plan, or any part or aspect thereof, adopted by the department pursuant to section 12 of this act, or any rule or regulation promulgated by the de-~~

partment pursuant to the provisions of this section the department a party thereto with respect to any matter as is given to every meeting, public hearing, planning its regulations and duties with respect to

b. It being the intent of the Legislature to terminate and rulings to the maximum extent of the master plan adopted by the department shall prepare instrumentality charged with business, industry or utility, transmission or storage of energy the department determines conforming with said supervisory or control of businesses, industries or

c. With respect to New Jersey, the department, notwithstanding, have jurisdiction, instrumentality, and to the grant or deny any permit, the department shall exercise its Planning and Conservation application and all paid by the applicant and final decision with respect to power of approval of the department thereupon. instrumentality with the of a report describing the application. Such report of Energy Planning and by the commissioner transmitted to the State application within 90 days of the filing of such application, such State instrumentality shall provide the law providing its power of the department, as a condition differ from the approval over such application Review Board which shall Planning and Conservation instrumentality with the designee of the Governor created with respect to with respect to such fact instrumentality with the

In implementing its requirements the department shall have the power of reviewing applications for provided, however, that it shall not construct or locate energy and extent of the proposed employment of consultants or other personnel before the department any such application, and amount necessary to perform this section.

[illegible]

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