
Committee Meeting

of

SENATE ENVIRONMENT COMMITTEE

SENATE BILL Nos. 138 and 2645

*(Senate Bill No. 138 establishes the Hooked on Fishing-Not on Drugs Program;
Senate Bill No. 2645 establishes the NJ Coastal and Ocean Protection Council)*

LOCATION: Wilson Auditorium
Monmouth University
West Long Branch, New Jersey

DATE: September 17, 2007
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Bob Smith, Chair
Senator John H. Adler
Senator Andrew R. Ciesla

ALSO PRESENT:

Judith L. Horowitz
Algis P. Matisoska
*Office of Legislative Services
Committee Aides*



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SENATOR BOB SMITH (Chair): We will call the meeting of the Senate Environment Committee to order, and we are just so happy to be hosted here at Monmouth University.

I'd ask the President, Admiral Paul Gaffney, to say hello. We're just thrilled to be your invited guests.

PAUL G. GAFFNEY II: Thank you, Mr. Chairman, Senators.

It is great to have you here. We are very honored to have this Committee, especially because if you'll note your geography, this University -- public or private or community college -- I think is the closest to the open Atlantic Ocean of any in the state, although we might quibble about a few hundred yards here or there. But we're very proud that at the end of Cedar Avenue you can get onto the beach, actually, for free today.

SENATOR SMITH: Do you have any position on global warming? (laughter)

MR. GAFFNEY: I do, indeed. Yes, I do. You'll hear about that in a minute.

We are very interested in this, and I think you know from my background that I was actually trained by the Navy to be an oceanographer, starting in 1964, before the entire panel in front of me was born (laughter). And I've practiced, pretty much, that my entire career, including being one of the two-- There were 16 commissioners on the U.S. Commission on Ocean Policy, which was in existence for four years and created this monster of recommendations (indicating manual), and two of them are from New Jersey. Two of those 16 were from New Jersey -- myself and Lillian Borrone, who is from Avon and the former port director for the Port Authority in New York and New Jersey. So this has been my business and

my life, but it's also something that's incredibly interesting to me and, I think, to this University.

We've been trying at the University now, for some time -- a number of years -- obviously to do well inside the fence. But we also think that we have a responsibility to understand what goes on outside the fence, and when we understand it to try to influence it. In that regard, we've started a polling institute. The Director of our Polling Institute is in the room here today -- Patrick Murray. We have a rapid response institute that deals with homeland security and homeland defense issues. And we have an Urban Coast Institute that's headed by Tony MacDonald, who is seated right next to me here, who is a national leader on coastal issues and was the Executive Director of the Coastal States Organization in Washington for many years, until we convinced him to come up here to New Jersey to help us with this Urban Coast Institute, which is trying to examine coastal issues in an urban setting. And of course, New Jersey has the lock on that. We are the best model in the globe for the collision of conservation and development in an urban setting. And we think this is something that we can study here. Certainly we collaborate with our fellow universities in the state, but it's a niche that we have and Tony is a real expert on this.

We also have a marine biology and environmental policy undergraduate program here which attempts to teach students the science that is the basis for good decision making, but then rolls over in their later years into the more applied -- the applications of that, they have to do with policy and economics. So that when they leave, they can work in places like -- for developers, for NGOs, and for government, with a good understanding of ocean policy, but well-grounded in the science.

There are many things that one could say about the ocean, and the prosperity it brings and the danger that we bring to it. But let me -- if I can cover three things rather quickly: I would like to talk about New Jersey's need to improve its governance over its coastal and ocean resources; about enhanced support for understanding the ocean processes, both the science and the monitoring of those; and support for community resilience in the face of potential storms and, Mr. Chairman, global climate change, at some point in time.

So, first, currently, there is no overarching New Jersey policy to address coastal issues. There are a wide range of issues: wind farms and off-shore energy, development, nonpoint source pollution, recreational and commercial fisheries, transportation, and on and on.

S-2645, that Senator Karcher has introduced -- the New Jersey Coastal and Ocean Protection Act -- is, I think, quite encouraging. We can't stop there. It's a strike in the right direction. And I would tell you that the Joint Ocean Commission Initiative -- and I'm a member of that, as is Commissioner Lillian Borrone, from Avon -- has written specifically on that to you, and we've asked that it be included in the record here for your consideration.

The U.S. Commission on Ocean Policy, on which I served, now for four years, was very strong about state and Federal entities working together to develop coastal policy for this country. In fact, they went beyond that and said certainly states and the Federal Government should work together, but across regions there should be cooperation; and even with local governance and, if appropriate, tribal governance, so that everyone can come together. That's, of course, important in certain parts of

the country. It recognizes what most geophysicists recognize: is that political boundaries drawn on maps have really not much to do with the ecosystem, where land and water and air and people and the coast all intersect, and they cannot really be separated and governed by artificial political boundaries.

We've seen great progress -- the nation's seen great progress in the Great Lakes and in the Gulf of Mexico, where states have sort of come together to work on these problems. Cooperatively, they'll lobby together to do joint research, and that's been terrific.

And so has our neighbor in New York and our neighbor all the way across the country, California -- have done great jobs in trying to develop these kinds of policies which I do think would be good for New Jersey. So we hope that New Jersey will continue in the spirit of 2645, and move on and develop other broad-ranging, overarching policies that will help the state. Secondly, we believe that the State should invest in understanding. That is funding, at the level that it can fund, universities and others to understand what is really going on on our coastline and how that coastline interacts with those particular kinds of water bodies that characterize New Jersey -- the inland estuaries, just in this case, west of the coast itself. And that can be done through the New Jersey Marine Sciences Consortium, all the public schools, and certain discrete independent schools that have these research capabilities.

Moreover, just like one must monitor the weather everyday to plan your day or to plan your events, one must monitor what's going on in the ocean and those inland bodies that connect to it, through some kind of a comprehensive monitoring system. There we are now cooperating. We

have a joint cooperative agreement with Rutgers, Stevens, and ourself to lobby in Washington for more Federal funds for this area, to work cooperatively on various projects, to back each other up so that we get more Federal funds. And also, I think we would work together to get additional State funds.

We are very lucky, just recently, to get a grant from a private institution, from the Dickinson Foundation, which gave us \$350,000 to monitor certain waterways in this area, inland waterways -- Shark River Basin and the Navasink River -- to put in long-term monitors that monitor many of the principal characteristics of ocean dynamics over long periods of time. This money is good for 10 years. And there are other organizations in the State of New Jersey that have funded similar capabilities. So there's a whole network up and down the coast. It's something that you should know about, and we should all have that kind of data so that we can make very good decisions about our coast.

Finally, let me just briefly mention coastal resilience. There are two issues with coastal resilience: One is the classic storm that could come at any time -- the nor'easter that may affect your home down at the beach, or a hurricane. And as you know, we are statistically overdue for one here -- had quite a few in the '40s and '50s, but we've had sort of a dry period, thank God. But one must get prepared for that.

Our Urban Coast Institute has some money from NOAA, the National Oceanic and Atmospheric Administration, to bring local communities together to coordinate, and cooperate, and share best practices on being prepared for such acute issues that come up as a result of storms. But also, I think we have to think in the long-term about what could

happen with global climate change. Whether you agree with who started -- who is causing climate change or not, no one disagrees that there's a trajectory of warming that's going on on our planet right now. And whether it's manmade or not really doesn't make any difference. We're on a trajectory and certain things can happen if that trajectory continues. Sea level can rise, and of course that could be a big issue for New Jersey, from Cape May all the way to Sandy Hook, for sure -- any maybe even on the Raritan and New York Harbor.

But another issue is, if the ice pack does continue to recede, as we see reports from Denmark just yesterday in the newspaper, it may not cool down the Gulf Stream enough that the Gulf Stream sinks and completes its conveyer-belt loop. And if the Gulf Stream were to shut off -- and it's happened 10 or 15 times in geologic history -- if it were to shut off, we wouldn't be worried about heat here. We'd be worried about it being very, very cold. In fact, New York Harbor perhaps freezing over completely all year around. It could be that dramatic, and that's happened over geologic time. So that's something that one has to watch and people have to be prepared and understand what's going on. We are the most adaptable country in the world, but we have to study this to be prepared.

Those are my remarks. We have a formal statement to offer for the record, if you are interested.

And again, we thank you very much for being at Monmouth University today.

SENATOR SMITH: We can't tell you how much we appreciate your kind invitation today. This is a great place to hold a

committee meeting about coastal issues, and hopefully some day we will be able to return as well.

MR. GAFFNEY: Thank you.

SENATOR SMITH: Thank you.

Before we begin our business today, let me get the calendar out so we can get on everybody's calendar. We're looking at Thursday, October 4, for an additional meeting of the Environment Committee in Trenton. And at that time, we will be taking up the issue of fishing at our reefs in New Jersey. So we've had that -- it's Senate Bill 2635, Senator McCullough and Senator Asselta -- we've had that on and off for this Committee meeting. We're continuing to gather information, but I think we will be ready to consider that legislation on Thursday, October the 4th, and that will be in Trenton.

Senator Ciesla is noting for the record that he's legitimately out of town that day. (laughter)

And by the way, that's subject to, of course, being able to get a quorum on that date.

Senator Adler, do you know if that's good for you?

SENATOR ADLER: I'm in, for the people and the fish.

SENATOR SMITH: Okay.

Our first item of business is Senator Ellen Karcher's bill, S-2645, which I believe to be an extremely important bill, for many of the reasons expressed by Admiral/President Gaffney. Namely that -- gives us a whole new perspective on the way in which we do coastal management in this state. I think up until now we've been considering what happens in the ocean -- that's one approach -- and then what happens on the coastal end is

a separate approach. The wonderful thing about Senator Karcher's bill is she's now saying to us we really have to look at the whole picture -- an ecosystem-based management approach.

And with that, Senator Karcher, if you'd introduce your bill to the Committee, we'd appreciate it.

SENATOR ELLEN KARCHER: Good morning.

SENATOR SMITH: Good morning.

SENATOR KARCHER: Chairman Smith, Vice Chairman Sweeney, members of the Committee, President/Admiral Gaffney, thank you for having me here today to speak to you regarding Senate Bill 2645. I want to urge this Committee to take positive action on this bill, which would help find solutions to improve the quality of our coastal region. We are truly fortunate to live in a state that is home to 127 miles of beautiful shoreline, where you can tour historic lighthouses, relax on the beach, swim and surf in the ocean, walk the boardwalk, or catch a record-size fluke on a fishing outing.

In addition to the many recreational opportunities available to us down at the shore, coastal tourism is New Jersey's second biggest economic engine, providing thousands of jobs and generating billions of dollars annually. From Memorial Day to Labor Day, the Jersey shore communities thrive when the weather is hot and the sun is shining. Even on gloomy days, you can always find people swimming in the ocean or fishing boats filled with eager anglers.

While we have no control over Mother Nature, we do have control over how much pollution is expelled into our environment. Each time one of our beaches has to close or certain restrictions on fishing are

imposed due to high levels of pollution, it has a direct impact on the surrounding communities and our economy. That is why I am sponsoring Senate Bill 2645, that would create in the Department of Environmental Protection the New Jersey Coastal and Ocean Protection Council. The nine-member council would advise the Commissioner of Environmental Protection on coastal ecosystem-based management. They will consider any matter relating to the protection, maintenance, and restoration of coastal and ocean resources; submit to the Commissioner any recommendations which the council deems necessary that will protect, maintain, and restore coastal and ocean resources; study ecosystem-based management approaches; study any policies, plans, and rules and regulations adopted by the Department that will impact coastal and ocean resources; study and investigate coastal and habitat protection; coordinate and develop plans for a research agenda on ecosystem-based management; consider data and any other relevant information on the overall health of New Jersey's coastal and ocean resources in order to document how the State is meeting the goal of protecting, maintaining, and restoring healthy coastal and ocean ecosystems; and finally, hold a public hearing once a year to take testimony from the public.

The creation of the New Jersey Coastal and Ocean Protection Council will truly help sustain and improve our coastal region's ecosystem and economy. You may hear testimony today in opposition to this bill, but the facts speak for themselves. Studies from two prominent Blue Ribbon panels -- the Pew Oceans Commission and the U.S. Commission on Ocean Policy -- conducted a national review of the state of our oceans and found our oceans are in trouble. According to the Pew report -- "America's Living

Oceans: Charting a Course for Sea Change” -- “Our very dependence on and use of ocean resources are exposing limits in natural systems once viewed as too vast and inexhaustible to be harmed by human activity. Without reform, our daily actions will increasingly jeopardize a valuable natural resource and an invaluable aspect of our national heritage.”

Last year, an international group of ecologists and economists warned that the world will run out of seafood by 2048 if steep declines in marine species continue at current rates. And a report by the Natural Resources Defense Council, which included data on beach closings from Federal Environmental Protection Agency and the Department of Environmental Protection, found that the State’s beaches in 2006 were closed or had posted warnings for 134 days -- a 70 percent increase from the 79 days in the year 2005.

We cannot sit back and watch as our marine ecosystem dies. Too much is at stake, and we need to take action now. I am proud to stand with the Coastal Ocean Coalition, the Audubon Society, the Sierra Club, the New Jersey Environmental Lobby, and the Surfrider Foundation, and the Public Employees for Environmental Responsibility. They all understand the catastrophic effects that can occur if we continue to pollute our ocean waters. Protecting our beaches and marine ecosystem is extremely vital to our economy and quality of life. The creation of the New Jersey Coastal and Ocean Protection Council will allow us to examine every possible idea and solution that will help improve our ocean water and continue recreational opportunities that are essential to sustaining coastal tourism.

What we do today will keep us moving in the right direction to ensure that New Jersey residents will enjoy all of New Jersey's natural resources now and well into the future.

I thank you for your consideration of this bill.

SENATOR SMITH: Thank you, Senator Karcher, for this very important legislation.

We now have about a dozen witnesses who have signed up to talk about the bill.

Are there any questions for the Senator? (no response)

If not, I'd ask that Mr. Benson Chiles come forward to testify.

BENSON CHILES: Good morning.

SENATOR SMITH: Good morning.

MR. CHILES: My name is Benson Chiles. I'm here representing the Coastal Ocean Coalition and Environmental Defense. And one thing that came to mind, as I was hearing testimony earlier and with some of the events this Summer, is that the movie *Jaws* has been an important part of the discussion. And I think with the problems that we face on the Jersey shore, it's almost as if we need to follow the advise of the -- why we need a bigger boat. And I think this is an important step toward getting us the sort of resources and the commitment we need to protect the Jersey shore and the ocean.

And I want to thank Senator Smith for hosting this hearing. Your engagement in this process has been crucial, Senator. Thank you.

I also want to thank Senator Karcher for sponsoring this bill. Senator Karcher, your constituents should take pride in knowing that

you're doing a good job of protecting the shore, and I tip my hat to you and everyone involved with this effort.

I want to thank Tony MacDonald, President Gaffney, and the other folks at Monmouth University for hosting this hearing today. The Urban Coast Institute has become an important part of the policy landscape in New Jersey, and I look forward to future years of collaboration.

This legislation, S-2645, represents an important step in the move toward protecting coastal and ocean ecosystems. The policy itself is a culmination of a process that has been underway since 2005. Following on the heels of the two national ocean commission reports mentioned today that found that our oceans are in trouble, a dozen environmental organizations released a state-level report entitled, "Ocean Protection in New Jersey: A Blueprint for State-Level Action." And these organizations hosted a series of roundtable discussions to form a consensus action agenda for protecting the Jersey shore.

Ecosystem-based management was determined to be the top policy priority of the coalition, because the need was seen at the State to deal with some of the concerns that relate to departments and divisions operating in silos, cumulative environmental impacts not being considered, and the coast and the ocean not being given the attention that they deserve. This bill empowers the New Jersey DEP to manage coastal and ocean resources using an ecosystem-based management approach. It also creates an institutional body focused on the environment of the coast and ocean.

And as was mentioned earlier, there are 10 organizations -- many of the leading environmental organizations in the state, including New Jersey Sierra Club, New Jersey Environmental Lobby, Environment

New Jersey, New Jersey Audubon Society, New Jersey PEER, Environmental Defense, NRDC, the Bayshore Regional Watershed Council, and the Surfrider Foundation. Other organizations, like the New Jersey Environmental Federation have played an important role on an issue-by-issue basis.

As the Committee members know, this version of the legislation passed out of the Assembly Environment and Solid Waste Committee 7-0, thanks to the leadership from Assemblyman McKeon and his staff. The only objection raised at that time was that the council would be duplicative of other bodies, presumably various fisheries management bodies. However, no explicit overlap exists in the mission, membership, or duties and responsibilities of those bodies. And in fact, this council is designed to serve a complementary role and -- by providing information, recommendations to the New Jersey DEP that would enhance the work of the three councils to manage fish sustainably.

I have a fact sheet here which talks about some of the other issues related to the comment about a duplicative nature of the council, if anyone is interested in seeing that.

Another concern expressed more recently is that this council would serve as a bureaucratic excuse by the State to avoid addressing important coastal and ocean issues in a timely way. Well, notwithstanding members of this Committee and other officials in attendance, government seldom, if ever, has a shortage of bureaucratic excuses for inaction.

The Coastal Ocean Coalition has a glass-half-full view of the benefits of this council. With sound appointments to the council membership, continued engagement by the environmental community and

the DEP, and leadership from the Governor, this council may well represent a turning point in the way we manage our ocean and coast. A management paradigm shift like this does not happen often, and this council can serve as a catalyst for this change.

In conclusion, I want to commemorate the life of Peter Benchley. As most of you know, Peter Benchley was the author of the book *Jaws*. And he was also an advocate for the ocean, and he was a New Jersey resident. And he participated in Coastal Ocean Coalition activities, and in fact came to Trenton on one occasion to talk with folks about legislation. And of course, he passed away last year. I think he would have been proud of this initiative. And in his honor, I always think of this bill as the Peter Benchley Ocean Protection Act.

SENATOR SMITH: Did you ever see his swimming pool?

MR. CHILES: No, I never have seen his swimming pool.

SENATOR SMITH: When you would dive off the diving board, you were diving-- It was tiled on the bottom so that you were diving into the mouth of a shark. (laughter)

MR. CHILES: Apropos.

SENATOR SMITH: Thank you for your testimony.

MR. CHILES: Thank you.

SENATOR SMITH: Any questions for Mr. Chiles?

SENATOR ADLER: I do.

SENATOR SMITH: Yes, sir.

Senator Adler.

SENATOR ADLER: I think we've seen the report before, and it's a very good report. And I should have asked you the last time I saw you

-- on Page 5 of your report there are two figures, one that describes the number of ocean beach closings year-by-year, from '92 through 2004; one that describes bay beach closings during that same period of years. It looks like it's pretty high in the early '90s, then all through the mid-'90s it's very, very low, and then it sort of jumps up again as we come to the new millennium. Do you know why that is? Was DEP, like, not working then or were the oceans just cleaner and the bays cleaner in the mid- and late 1990s, or was it an enforcement function, or was it a public awareness function that made it better for a while and now worse more recently?

MR. CHILES: There are probably people here better suited to answer that question, including Sarah Stuart who helped to write this report. So if you don't mind, what I'd like to do is ask Sarah to comment on that. And there may even be others in the audience who would know -- have a--

SENATOR SMITH: We'll leave that as an open question when people come up to testify.

MR. CHILES: Okay, thank you.

SENATOR ADLER: That's fine.

Thank you. Thank you.

SENATOR SMITH: Our second witness if Mr. Tom Fote, *Mr. Fisherman* for the New Jersey shore.

Mr. Fote.

T O M F O T E: It's a pleasure to be back in this room. The last time, I was in this room with the Admiral and Lillian Borrone, basically holding a hearing on the President's Ocean Commission, and we were discussing the facts.

I find it very difficult here to be testifying in opposition to this bill. I agree with everything that Senator Karcher said about what we need to do. But the problem is, how do we do it and what do we do? That's enlisted a lot of environmental groups that are supporting this. You noticed those fishing groups were basically absent from here. We've been working with these issues on ecosystem management. I've been pushing, with Senator Ciesla, now with Senator Smith, since 1990. I mean, we realized that everything flows downstream and everything affects what is being produced in the bays and estuaries. The problem is inaction. And we don't see this council basically doing what we need to be doing.

I sit on the Policy Committee of the Barnegat Bay Estuary Program. Ecosystem management is very difficult to implement. It costs a lot of money. We did one on a fisheries management plan when I was the Governor's appointee to the Atlantic States Marine and Fisheries Commission, on Menhaden. Try to just integrate prey/predator relationship -- we're not talking about the power plants, not talking about habitat destruction, or anything else -- just looking at those factors. And by the time you looked into the cost, it was about a million dollars just to do the modeling and the information that needed to go into the modeling.

I served on the Governor's Task Force on Mercury, and that was a Task Force that basically had a lot of people, a lot of scientists involved. Yes, there was a fisherman, both commercial and recreational, there was some environmental group; but we had the scientists that could make the recommendations, how you implement ecosystem management. It's a nice term. There's about four different definitions ascending. We might discuss MPAs, which is one of the things that people are afraid to

when you talk about a bill. I support MPAs, but MPAs in a special management zone, they don't mean no fishing. But that's how the definitions get twisted.

Ecosystem management, basically-- If you want to look at Delaware Bay, we're not only looking at the water, but the flow of water, the contaminants in the water. There's one power plant that kills 50,000 striped bass -- enough eggs and embryos to produce 50,000 striped bass. The fishermen of New Jersey only harvest about 375,000, so this power plant is killing one-seventh of that which all the fishermen in New Jersey are killing. Yet when we do a reduction, we do it on the reduction on the fisherman side. We don't tell the power plant that you have to reduce your killing by 20 percent or 30 percent. So the consequences of most of these actions are on the commercial and recreational fishing industry.

If we're going to do ecosystem management, we need a body together to basically say how we're going to do it. It is not just for a seven-people council. You need a task force to bring the scientist, to map out how we would do it in New Jersey. DEP already has the responsibility of doing this. Under the Coastal Zone Management Act, the Governor has the responsibility to do this. So does the Legislature, because they signed onto the Coastal Zone Management Act. We see this as a buffer between-- I always look at councils and commissions as a buffer between the legislators, the Governor, and the public. They said, "Well, we'll turn it over to the council instead of really doing something here." That's my concern here.

The other problem I have: You were just talking about a bill you're going to hear in two weeks. That bill should have been addressed at the New Jersey Marine Fisheries Council, except they've been waiting two

years to get two appointments. I mean, everybody who is serving on that council is serving almost an expired term, because appointments have been running so slowly -- the basic newer appointments or reappointments -- and there just seems to be a drag. I mean, there's two members of the Marine Fisheries Council that have not been appointed -- two at-large members. So I don't need another council that just basically will sit there; people will just get appointed, terms will expire, same people sit there because nobody does an action on those appointments.

What I'm looking at is action -- the fishermen, the environmentalists, the people of New Jersey can no longer wait for another commission or council. We need to start protecting the bays and estuaries.

One of the things that -- I'm talking to Congress right now. They're looking at a hearing on endocrine disruptors and how it's affecting fish populations and your own populations. It's a scary topic. I mean, we have fish now, like in Jamaica Bay, where the ratio is 8-to-1 females to male, and the males have female organs. I mean, the same thing happens on the Potomac River with smallmouth bass, white suckers in the Colorado River. An Indian population on a reservation up in Canada that eats contaminated PCBs, the female population is seven females to three males. That's not natural. All that is the drugs that are going through the system.

If we take water into a system that basically has sewer outflows upstream, we're going to be drinking those chemicals that are coming out there. If you're at the bottom of the list or the bottom of the intake valve after all those sewer plants, you really don't need your heart medication, you don't need your cholesterol medication, or anything else, because

you're getting everybody's upstream medication because it's basically coming back into the system.

I ran into one of the Assemblymen the other day and I talked to him -- basically put a bill in because they found Prozac in a fish. Well, that sounds funny and everybody laughs over it, but do you realize that if you introduce -- and scientists can tell you -- if you introduce Prozac into the water with oysters they go into spawning phase when they're not supposed to. That's how you're affecting fish populations.

Again, the idea and the concepts are laudable, and we support those ideas and concepts. We are just afraid if the council is created that it gives a buffer from actually doing something. We would sooner see a task force with scientists to basically come up with a definition of how we implement this in New Jersey.

And thank you very much for your time and patience for this Committee. And thank you for holding this hearing today.

SENATOR SMITH: Thank you, Tom.

Our next speaker will be Jeff Tittel, the New Jersey Sierra Club.

J E F F T I T T E L: Thank you, Mr. Chairman.

And I'd like to thank Ellen Karcher for her work on this issue and her leadership on so many environmental issues for the people of New Jersey.

I just wanted to start out and just say that we all know and love the shore. I think everybody here spends as much time as they can down the shore, and some people in this room are lucky to have places down there, to live down there. And so they know how great it is, and how much it means to all of us. But on another side of it, we're also loving it to death.

Every year millions of people go down the shore on a very busy holiday weekend. You could have close to a million people in and around Barnegat Bay. We see a big rise in development where we're seeing, in the last 20 years, Ocean County's population alone going up by 50 percent -- almost 200,000 people. And we're seeing projections along the coast for another 200,000 people for Ocean County and 100,000 people for Cape May County. And when you look at the potential for the shore, it's more than 600,000 or 700,000 people over the next 30 years potentially living down there, let alone second homes.

We have more than 20,000 boat slips on Barnegat Bay alone. And so you realize that, because it's such an integral part of our state and of us, that it's also creating a whole series of problems. We see Barnegat Bay turning into New Jersey's biggest stormwater detention basin because of all that's happening around it. Even though this State has spent billions of dollars trying to clean up and protect the water along the coast, we're seeing secondary impacts from development and other things impacting the coast. We see the saltwater line moving up Cape May faster than the traffic on the Parkway on a Sunday afternoon. And so because of that, we really need to start thinking outside the box, start looking at how we manage our oceans and resources differently. You know, you can throw the threat of sea level rise and global warming on top of it, where so much of New Jersey -- 9 percent of our land area -- could be, according to a study from Princeton University, a threat to be flooded constantly because of sea level rise. In fact, you know, the joke is when the Giants go play the Dolphins in the Meadowlands, it could be the real dolphins at some point in the future.

And so our concern is that we have to change what we're doing. It's not just managing our fisheries too, because so many species have declined, and it's also, "Can we even eat the species that are there?" After what we've seen this Summer with brown tides, and garbage, and fish kills, and everything else, it's the canary in the coal mine. And that canary is in a coma, and we need to take action.

I believe that one of the problems that we have is that when you look at all the different programs that there are out there, there are more than two dozen State programs with five different State agencies, and then different Committees here and there. It's not coordinated. I can call it the compartment of environmental protection, because everybody's got their little box -- water allocation is here, land use is here, sewers is here, endangered species is here. And part of that problem is, we have to bring it together. We have to take a holistic approach. We have to take a coordinated approach. We need to start looking at the shore as how it relates to everywhere else in the state, but also how the coastline relates with the ocean, relates with the bays and estuaries, and bring it together. And I think that's what's important about this bill -- that this bill is the first important step that we're taking in trying to bring everybody together; not only environmentalists and fishermen and land-use experts, and scientists, but also so the State itself can focus, as the ocean is one thing, not in all these different pieces that we're doing now. And I think that's really what's critical.

You know, we do have other bodies within State Government that form similar functions. The Clean Water Council is something that -- I see this as a model. The Clean Water Council has monthly meetings. They

are one of the bodies that have discussed how to protect their drinking water, how to protect their reservoirs, the water supply master plan. It's a place where citizens, scientists can go and give impact to a group of people who are dedicated to protecting water in New Jersey, and they make recommendations every year to the DEP Commissioner. And that's where we see many new initiatives come from, such as upgrading steams to CI and looking at our water supply. A management plan is supposed to come out as well. So for us, we think that this is an important first step. And if we can't take this first step, how are we going to tackle the really tough issues that are facing us when it comes to protecting our oceans and our resources in New Jersey? And that's why we are here to strongly support the bill.

I also want to ask -- to answer your question before. I think part of the problem is the oceans weren't too crazy about Christie Whitman -- but I'm only kidding. (laughter) A lot of it has to do with weather and development patterns. And one of the reasons why you see a beach closing is, sort of, when it rains, it pours pollution. So the rainier the Summer, the more nonpoint pollution comes in off of the land, closing beaches. And also, as you get -- years that have a lot (*sic*) of development, where the economy is slower, you seem to have less pollution running in. And years where there's a lot of building permits, it adds to it too. So it's the factor of weather and the amount of construction activity going on. I think that makes a big impact.

SENATOR SMITH: Yes, but I would add to that, there was also a decline, if you remember, for a number of years.

MR. TITTEL: Yes.

SENATOR SMITH: And I think that may have been attributed to New Jersey's \$7 billion of investment into secondary sewage treatment plants.

MR. TITTEL: Absolutely. And then we've seen the secondary impact from that, which is all the additional development, because many of those plants got expanded. It's, you know -- there's no free lunch in this world. As we do one good thing, sometimes there's other consequences that come from it. And cleaning up the sewer plants created -- was a big bonus environmentally, but then a lot of those plants had a lot of capacity. They sold for new development, so we started seeing nonpoint taking their place. And we also see stream flows dropping, where there used to be more fresh water coming in from the mainland. But because the sewer plants go off coast, we see the water levels dropping as well.

But anyway, just to finish, you know, there's serious problems down the shore. We see dissolved oxygen levels dropping. We see salt water going up in our bays. We need this bill, and we need to get everybody behind this so that we can make those tough choices, do that science and that research, and come up with those policies and program changes that we need to make to make sure that the New Jersey shore is there for all of us to love for future generations.

SENATOR SMITH: Any questions for Jeff? (no response)

All right. If not, our next witness is Cindy Zipf or Mary Beth Thompson, or both, representing Clean Ocean Action.

CINDY ZIPF: Right.

Good morning, Mr. Chairman. Good morning, everybody. Thank you so much for coming to the Jersey shore. It is just a thrill to have

such an important, esteemed body come actually out of Trenton and actually come to the shoreline to see some of the progress that we've made, but some of the challenges that we still face. We are just really thrilled also to be here at Monmouth University. President Gaffney, under his leadership, has really put Monmouth University on the map for ocean leadership. And we are really fortunate here to have him and his new team of folks that he's been bringing on board.

The members of the Committee and Senator Karcher here today have worked very hard over the years to improve the ocean environment. We have a lot of success since the '80s. And I think that is a testimony to how dedicated we were to finding solutions. And we've got a lot of programs in place to address many of the problems that we are facing today.

And as I was talking to the staff about the hearing today, we thought it would be very timely to discuss how some of those edges are getting frayed on some of these programs that we have developed at the shore, and that they're on the books. We have these programs, but-- For example, we had a major accident at Asbury Park, at the sewage treatment plant, which belched raw sewage into the ocean at the beginning of the year. We had a massive brown tide -- one that the local officials had never seen before -- massive brown algae tide in the Raritan Bay that moved out into the ocean over Memorial Day weekend, starting off our season. We've had fish kills all Summer long and very bad water quality, because we've had a lot of rain this season. And one example is the massive floatables incident that we had over -- at the close of our Summer season on Memorial Day (*sic*).

And here to speak directly to that is Mary Beth Thompson, who was on the scene there at Normandy Beach. But before I begin with that, it started the week before. It started in the end of August with a citizen calling up -- and I do have a sample bag of material for your consideration, if you're so desiring. But it was a massive wash-up of raw sewage indicator waste: plastic tampon applicators, sewage cakes -- which are this cakey white grease balls that get coagulated at a wastewater treatment plant -- syringes, the very typical combined sewer overflow wash-up. That was happening in the northern bayshore area. And then for the next 14 days, it hopscotched along the Jersey shore, washing up thickest on Normandy Beach.

And without further ado, I'd like to turn it over to Mary Beth Thompson, if you would.

MARY BETH THOMPSON: Thank you for your time this morning, as well as throughout the years.

I have, literally, a lifetime of wonderful Summer experiences in Normandy Beach. My parents are 50-year seasonal homeowners. I grew up there enjoying swimming as a child, lifeguarding as the first female guard, building strong friendships, and now as an adult spending as much time as possible in Normandy with my husband and children. So perhaps you can understand why I was so dismayed with the garbage that occurred on Sunday, September 2. The quantity of floatables, as well as the level of danger of much of it, was the worst I have ever seen, including from the 1980s.

Picture this if you will: A beautiful Summer day. Around noon, surfers and swimmers of all ages and abilities were enjoying the clear,

clean ocean. The tide was going out, the water was getting more shallow, and suddenly a few pieces of trash appeared in the water. Shortly thereafter, more and more floatables appeared -- pieces of lumber, plastics -- more and more. People pointed to the water, people pulled their children out. The lifeguards pulled everybody out. As the tide ebbed, the garbage was more apparent and remained on the beach. By approximately 1:00 p.m., the Normandy lifeguards closed the beaches.

We have photos that we have enlarged. We took these that day on the beach. This is a photo of the garbage coming in, in the tide. You can see the variety.

This is as the tide was ebbing and you can see how the garbage was then remaining on the beach.

This is the scene, a little more panoramic, looking down the beach, and imagine this for as far as you could see within focus. Normandy Beach is a small beachtown community, and it did affect all eight avenues of our beach. We understand it did range from Deauville Beach down to Ocean Beach Unit III, which is just north of Lavallette.

MS. ZIPF: And you see the lumber.

MS. THOMPSON: You can see -- here's some lumber. There were huge pieces of lumber floating in the water, as well as coming up on the beach. You can see the different types of plastics. There's a tampon applicator. There's a variety, if you want to look at it close-up.

This is a sewage cake. This is an adult footprint -- it's a 10-inch adult footprint. You can see the sewage cake is -- I would venture a guess, I don't want to exaggerate -- 16, 18 inches long.

This is a plastic water bottle that we put syringes that we collected inside the water bottle. It's a little out of focus, but there's probably eight to 12 syringes that we collected in a very short area.

This is a close-up of a urine sample tube, and this is, of course, a syringe. There were many of all of that.

This is the scene for the afternoon at the Normandy Beach lifeguards, created -- closing the beach with a State Trooper who was very helpful and on the scene the entire afternoon making phone calls.

MS. ZIPF: The sign reads--

MS. THOMPSON: Oh, the sign reads, if you can't read-- The sign reads, "Red flags, no swimming, medical waste washing up."

People could not walk along the beach for fear of stepping on a needle. I personally saw dozens of needles, plastic tampon applicators, many sewage cakes -- or grease balls, as they're referred to. I saw what I believe was a sharps container, a golf ball from Bayonne Golf Club, a pen from Jamaica Bay, medicine containers, countless pieces of plastic, a car bumper, large plastic crates, a plastic chair, strapping material, numerous large pieces of lumber. Citizens couldn't walk the beach for fear of stepping on a needle or some other garbage. Lifeguards risked getting injured by dealing with this public health risk. As people tried to walk along the ocean, lifeguards and others had to get them to safety away from the garbage. All the garbage was floating in the shore-break traveling south, as well as remaining on the beach as the tide abated.

Low tide was approximately at 6:30 p.m. It was only the result of local citizens and the NBIA officials -- that's the Normandy Beach Improvement Association -- that no one was physically injured. The DEP

did little to prevent injury or to protect the health of the public or the ocean. Representatives of the NBIA were summoned around noon or so. They gathered at 4th Avenue beach to survey the situation and discuss the next steps. I called the DEP emergency hotline -- the 1-800-WARN-DEP -- which resulted in a recorded message saying, "All circuits are currently busy, please call back." I located another emergency DEP number. The women who answered told me they were aware of the problem, and they were calling investigators at their homes. I assumed that meant that they would be coming to the site.

As I got to the beach, there was an officer with the New Jersey State Police, Marine police division -- Rich Caputo, by name. He was already there and making phone calls. He and his boss were very helpful in contacting the DEP, and they remained there throughout the afternoon. He told me he spoke with Virginia Loftin a few times over the course of the afternoon, and she apparently assessed the situation over the phone, as no representative from the DEP came to Normandy Beach that day. Officer Caputo should be commended for trying to help, but he couldn't do much more than contact his boss, who tried to apply pressure to get somebody to help.

Finally, and not until about 6:00 p.m., a representative from the Ocean County Health Department arrived on the scene. He walked the beach, agreed that the correct decision had been made to close the beach earlier that day, and he officially closed it. He stated that he would contact his boss, he'd be back in the morning about 7:00 a.m. -- he said between 7:00 and 8:00 a.m. -- to reassess the beach for reopening. He did make a comment to me that the beach was much worse than anyone had assumed.

By the time the DEP representatives came to the beach the next morning, there had been four tidal changes since the garbage was first observed and much of it had already gone out to sea. The Dover and Brick Township Department of Public Works did arrive early Monday morning and raked the beaches. The representative from the Ocean County Health Department could not be found, could not be contacted, did not show up until about 8:00 a.m. -- at which time he officially opened the beaches.

In summary, communication with the DEP was difficult at best. And the lack of response from the DEP was inexcusable. A DEP representative should have done an on-site assessment that very afternoon and should have arranged for immediate cleanup. It is no wonder there were reports of the same garbage all along the coast. It could have been stopped in Normandy -- it should have been stopped in the New York/New Jersey Harbor. In my opinion, the response from the DEP seemed to be predetermined. The response seemed to say there was no crisis, there was no urgency.

I think if caring people were not on the scene to make the calls and document the event, it may have disappeared or never happened. We have had many good years at the shore. We have worked hard and have strong programs existing now. However, as with all programs, maintenance and vigilance are required, and it should not take ghosts from the past, like the Summers of '87 and '89, to come back and haunt us. I think this State needs to dust off existing programs and reinvigorate the team. We all know that a healthy ocean is healthy for both New Jersey's economy and for its citizens.

MS. ZIPF: Thank you, Mary Beth.

I want to thank the Committee for hearing that story, because I think it's really relevant to our discussion today. One of the programs that was initiated back during those horrible Summers of '88 and '89 was the Floatables Action Plan -- the New York/New Jersey Harbor Floatables Action Plan. It was a multiagency, Federal and State, local team put together to hunt down garbage slicks in the harbor before they escape and go out into the ocean where they can harm our beaches. In fact, Mary Beth is absolutely accurate. These same exact examples of the material that were found in this wash-up in Normandy were also found by Clean Ocean Action folks down in Avalon and Stone Harbor later that following week. So, in fact, I think it happened the day the State closed the investigation.

But there is this Floatables Action Plan, and we do have it on the books. And we called up the Department, and in no uncertain terms made it clear -- and on intense conversations on Friday with Jay Watson, Assistant Commissioner, you know, calling for the State of New Jersey to take the leadership to call the Floatables Action Plan into action. Reconvene the Floatables Action Plan, have a meeting and say "What happened here?" That a 25-mile slick containing the kinds of debris that Mary Beth just discussed and the photos that you saw was able to escape, something went awry. And so my understanding, from Mr. Watson later on that day, is that the Commissioner is going to call the Floatables Action team together, and she's going to hold a hearing or a meeting down here at the Jersey Shore to try to assess what happened, what failed, how can we fix it so that next Summer we don't have these problems.

And I guess it's in that context that we discuss the bill which -- the Senate bill that is being discussed on the council today. There are many

programs in effect. There are robust action plans both on the shelves and ready to be utilized, and are being implemented. And our focus, of course, is on ocean pollution. We don't focus on some of the many, many issues. But on the ocean pollution issues, we have a lot of action plans. And one of our concerns about the bill is that it's so broad in its scope that it could include some of these instances as --floatables pollution instances for consideration. And we feel that ocean pollution issues, there are many action plans that are in effect right now. And the second aspect of that concern is related to the fact that the New Jersey DEP is not accountable to the council. The council can request information from the New Jersey DEP, but there's no explicit requirement that they respond. Moreover, the council is only required to make recommendations to the New Jersey DEP from time to time, and that there's not requirement for the Commissioner to respond. Furthermore, the Commissioner of the New Jersey DEP actually sits on the council, which could create, at best, some awkward moments.

And finally, there's only one meeting and there's only one public hearing once a year that could be held. There could be more, but we like to -- tend to see what's the worst-case scenario, or how could this potentially cause some inadvertent consequences. So again, using the floatables example, perhaps the council, perhaps the DEP could have deferred, or some -- the Legislature could defer action to the council for consideration. They could take a month or two to meet. And rather than just literally having that action agenda implemented -- calling a Floatables Action Plan could take some time. And we feel that, from an ocean pollution standpoint, we have existing programs in effect, that there are

many advocacy groups with local knowledge and clear plans of action, and we would rather see more-- We cannot speak to the other issues, but we would urge that there -- we would just urge that this Committee, or this council perhaps, consider not including ocean pollution as one of the many issues that it's going to be addressing.

SENATOR SMITH: Appreciate your comments.

MS. ZIPF: Thank you for your time.

SENATOR SMITH: Mr. Hazen is here representing the DEP.

John, I'd appreciate it if you would take a copy of Ms. Zipf's and Ms. Thompson's remarks to the Commissioner. We'd appreciate it if she'd draft a response. I think specifically we, as the Senate Environment Committee, would like to know if additional action is required in terms of either the Floatable Action Plan, or whatever, to prevent the type of incident that occurred on September 2 from reoccurring in New Jersey.

J O H N H A Z E N: (speaking from audience) I'll be glad to look into it and get back to the Committee members.

SENATOR SMITH: We all remember the 1980s, and we don't want to see that reoccur. We've also made a significant investment in the shore, and we want to do whatever is necessary to keep that investment at the best quality it can be. So if you'd have the Commissioner respond -- the remarks are word for word in the record, so we'd appreciate that.

I have to, respectfully, disagree with what I think was -- which was one comment, which was somehow the council that we're hopefully going to be creating through this legislation will in some way deter action or delay action. That's really not the function. The function actually is to be advisory to the DEP so that we can get ecosystem-based management

programs, as opposed to what Jeff Tittel described as the compartmentalization of environmental functions. We need that bigger view. So it is advisory, and it's not supposed to be the implementer of the Floatables Action Plan. If they have some additional advice about preventing pollution at the shore, that's an extra benefit. But they're not going to get in the way of the other programs that are in existence, they're only going to assist in making sure we have the best possible management philosophy that we can have.

MS. ZIPF: Well, that's encouraging. And I think, as you mentioned, if the council is going to focus on that concept -- ecosystem-based management focus.

SENATOR SMITH: Right.

MS. ZIPF: I mean, that's something that would be focused, as opposed to giving such a broad, broad focus, as mentioned in several of the sections, to address any manner of ocean and coastal-related issues. So I think from that standpoint we would absolutely agree.

SENATOR SMITH: Thank you.

MS. ZIPF: Thank you.

SENATOR SMITH: Our next witness is John Weber, from the Surfrider Foundation.

J O H N W E B E R: Thank you, Mr. Chairman.

My name is John Weber, with the Surfrider Foundation. It's an international organization dedicated to protecting the world's oceans, waves, and beaches.

I have to start out by saying that this Committee has a great track record when you come out on the road and you come to the coast.

Last year you came to Toms River, and one of the results of that was a bill that was going to require public hearings before beach replenishment projects. A great piece of legislation. Thank you for your leadership on that, Senator Smith and Senator Ciesla. The Assembly has to take it up, but you guys have a good track record when you come out here, so thank you.

On this bill, S-2645, I just want to reiterate that the Summer of 2006 was bookended by an algae bloom on Memorial Day and this garbage/medical waste wash-up on Labor Day weekend. The State's response to the former was, "Oh, well, that's normal for this time of year," and the State's response to the latter was, "We looked but we can't find where the stuff came from." Both incidents show that something is wrong in the ecosystem and something needs to change in the way the State manages our coasts and oceans. And that is why I would urge you to pass this bill today.

You just heard a great characterization of what happened with the slick -- I'm not going to go into that -- but I'll take you back to Memorial Day and before the season even started. The State DEP held a press conference where they declared that water quality is expected to be good this year. Now, with that kind of forecasting ability and that kind of predictive power, the DEP should just go to Atlantic City and then they'll never have to ask you all for money again. The truth is, you can't make such predictions that water quality is going to be good in any given season. And the one parameter that the State measures our ocean water quality for, which is enterococcus bacteria, it's not a comprehensive assessment of our coast and ocean's health. The Cooperative Coastal Monitoring Program,

that was the cutting edge 20 years ago, measuring ocean water quality at hundreds of different stations up and down the coast 20 years ago. That was cutting edge, it was the best in the nation. That's no longer the case. Times have changed. We know so much more now.

Ecosystem-based management is to protecting our coast and ocean today what monitoring for bacteria was 20 years ago -- it's cutting edge. This bill is going to put New Jersey on the path toward ecosystem-based management and help give us back that cutting edge of coastal and ocean management.

Let me be clear that's it's just a step towards ecosystem-based management. This bill is not going to institute a sea change in sweeping changes in the DEP overnight, but it's going to point the DEP in the right direction and give them a better tool to accomplish their charge.

And I just want to take a moment and respond to the question that Senator Adler had. I don't have that report in front of me, but I think other people also mentioned that the beach closures-- In effect, they're a function of rain. I don't know how to compare from the '90s to today, but just going back a few years, 2005 I believe, we had a really, really dry year and there were very few beach closures. So if you compared it to 2006, it didn't look so good. It looks like we had a lot more beach closures. It's just a function of rain. And I'm not here to give you all the shortcomings and misgivings of that Cooperative Coastal Monitoring Program. I will mention that, the fact is that they go out and monitor once a week, and they monitor on Mondays. And if the water quality is bad, they'll go back and monitor on Tuesday. And if it's bad again, they'll close the beach on

Wednesday. So the beaches are safe on Wednesday. So just remember that when you go to the beach -- Wednesday is the good day.

All the evidence points to the fact that they should be monitoring after rain events. Instead of once a week, they should really get out there whenever there's a significant rainfall. I'll add one other comment: that the State, through a system of semantics, actually makes it sound better than it is. They've been quoted in papers this year saying that we haven't had any beach closures for high levels of bacteria. And when you pick that apart, you realize that they weren't counting closures. For example, whenever it rains -- what, a tenth of an inch -- they close Wreck Pond in Spring Lake and Sea Girt. That's a preemptive closing. They don't count that when they're talking about closures due to high bacteria levels. That's just a preemptive closing because of rainfall. And that sewage spill that was mentioned -- the June 4 sewage spill in Asbury Park -- if you ask how many beaches were closed as a result of that sewage spill, unbelievably the answer is zero. And again, this is a semantics game, but I had to get clarification from the DEP. The reason that no beaches were closed as a result of the sewage spill is because no beaches were open. And *open* means a beach with a lifeguard. So on June 4, a lot of beaches -- they haven't opened yet officially and they don't have lifeguards, therefore they can't be closed because they're not open. And this is the little games that are being played to make the numbers look better than they are.

You've got a very quizzical look, Senator Adler, and as well you should. There could be improvements just in that program. But again, as I said in my testimony, that program where they're just monitoring for that one bacterial level, that's not the total picture. That's why we need

ecosystem-based management. So I hope I helped rather than confused in that last description.

So thanks very much. Thank you, Mr. Chairman.

SENATOR SMITH: Thank you, Mr. Weber.

Tim Dillingham, American Littoral Society.

T I M O T H Y P. D I L L I N G H A M: Good morning, Mr. Chairman, members of the Committee. It's nice to see you down here. Thank you. This is, I think, becoming an important annual event to have the Committee come down to the shore and talk about issues here.

Senator Karcher is not in the room -- I wanted to thank her for her effort on this bill. I'm going to lay out some concerns we have with it, but I think it's important to be clear that there is not a disagreement in terms of our assessment that there's a crisis on the coast. The litany of problems and wash-ups and closures, and early and intense algae blooms, loss of fisheries, loss of recreational opportunities are all very, very real. And they are problems which, unfortunately, have gone unaddressed in many ways, despite the millions of dollars, perhaps billions of dollars that we've invested along the coast.

The question that we would raise is, are we at a point in this crisis that we're now -- need to take action, as opposed to create another forum; and whether that forum, as it's designed in this bill, will effectively move us forward in answering the problems. And we have concerns that it won't do that. We agree that something has to change, both in the way the DEP and the State of New Jersey more broadly manages the coastline and addresses these problems. But I would argue that the authority for ecosystem-based management already exists in many of the State's statutes

that deal with the coast, whether you look at CAFRA, whether you look at Water Quality Management planning rules, you look at the Sewer (*sic*) Infrastructure Improvement Act.

The problems that we're facing now don't arise out of a failure of authority regarding ecosystem-based management, they're a result of a failure of leadership in action. And my concern is that we go down a path that does not focus on those underlying sources of our failure, to move forward in reframing new approaches to how we deal with these problems. There are many forums throughout the state -- whether it's the Barnegat Bay Estuary Program, the Harbor Estuary Program, the Hackensack/Meadowlands Commission, all the DEP's programs -- which are considering these issues, which are investing much time and money in the science. But overall, most of them are currently underfunded and unempowered. They've -- many of them have created management plans which remain unimplemented, unfunded, and unsupported by the State's decision makers. And those are all accompanied by a host of studies that have been done by universities and by nonprofits, like the Littoral Society and others.

So my first concern that I bring to you is that, is this the policy response that we need to have from the State of New Jersey to the issues that we're seeing today? I've heard several times, "This is the first step." And the question becomes, "Does it set us on the right path as the first step, or are there steps we can take, actions we can take that are already outlined that will deal more immediately with these very, very real problems?"

The second idea is this concept of the council as the bully pulpit to advise the DEP, and I think, rightfully, shine the light on the issues and the failures of leadership that I described. But if we envision that role for it, there are issues in terms of its composition -- it lacks important players. The Department of Community Affairs, the Office of Smart Growth set most of the growth designations for land use within the coastal area, and we have been involved in ongoing battles with them to get them to accept and recognize that those land-use decisions ought to reflect the impacts on the estuaries and the coast -- to date, with very, very limited success. The Department of Transportation, obviously -- things like the expansion of the Garden State Parkway, where roads go -- but also the Maritime Administration, which deal with the management of contaminated sediments throughout the state, needs to be included in here.

I think the promise of this council really lies in the degree to which its charges examine the true underlying problems and establish accountability for its results and its recommendations -- you know, who the recommendation is to, who must respond, who will the report -- require accountability in front of the Legislature. As they issue this annual report, will this Committee take up its recommendations? And I have great faith in your leadership that you would do that, but it would help and I think strengthen this idea if there's that accountability established there. To that end, the Committee should -- the council should include legislators, and some of them from the shore district, as well as the other relevant agencies that I talked about.

And then lastly, I guess I would offer that the focuses of the charge, in terms of the study work that the council does -- I would

recommend that it complete a comprehensive study of all the State agency budgets for ocean and coastal protection activities that would look at the laws and identify the gaps, and where the jurisdictions are affecting priority ocean issues. And look at enforcement, and the authorities, the programs, the budgets that are going in there. Those are the real underlying issues, I think, to our lack of progress in moving forward in dealing with these -- some long-term issues and some emergent issues.

So we look forward to continuing this conversation. I hope -- and I guess I do have a fair degree of confidence -- this is not the last word. I think we are in a very dangerous position of not taking the steps we need to take and taking false steps towards paths that won't solve our problems.

Thank you.

SENATOR SMITH: Thank you, Tim.

Our next witness is Sarah Clark Stuart, from the Coastal Ocean Coalition.

SARAH CLARK STUART: Good morning, Mr. Chairman and members of the Committee. Thank you for allowing me to testify here today.

I'll make my comments very brief. I have written testimony that I will submit to the clerk. I want to just try to summarize that, as you heard before, the two ocean commissions made many recommendations that I'd hope that both the Federal Government and State government would take to more proactively protect the ocean. And this topic of ecosystem-based management system protection was one of the most important recommendations that it made.

And as we outlined in our 2005 report, that was mentioned as one of the steps that we urged the State to take -- was to embrace ecosystem-based management as a policy and create a council to help advise the DEP on carrying it out. So we thank Senator Karcher for her leadership in sponsoring this bill and for this Committee in taking it up. We think it's a very important, as said before, first step.

I do just want to remark that since the commission has made those reports in 2003 and 2004, many other states have taken the ball and run with it. They've advanced ecosystem-based management in several arenas. They've passed laws. They've created councils. They've taken important steps. And the Joint Ocean Commission Initiative has, in 2006, last year, commended 10 different states for taking these kinds of steps. We really hope that New Jersey will become one of those states that gets cited by the Joint Ocean Commission, and we think that this bill will put it in that kind of position where it could be commended for being more proactive.

In my testimony, I outlined the other states who have taken that kind of direction.

A few just comments that were raised earlier. Senator Adler asked about why beach closings have risen since '99 and 2000, and to reiterate, the main reason is because of the increase in precautionary closings. That's what has caused the closings to go up. The public health agencies have closed beaches in anticipation because of rain events, with a concern that they might become problematic. And in fact, DEP has said that in 2004 the main reason for most of those precautionary closings were because of Wreck Pond. So the combination of wetter years and a change

in policy to close beaches preemptively is the reason why the bars have been going up since 2000, 2001.

Secondly, in terms of the concern about both the broad scope of the council and the potential that it might deter action being taken by DEP. On the broad scope of the council, the idea of this was to look at all kinds of aspects of the ecosystems -- everything from benthic critters to grasses to turtles to siltations to fish. And so, for that reason, it has to have that latitude to be able to look at how -- and how different kinds of problems, not just air pollution, not just CSO events -- how are all those problems compounding and cumulatively impacting the entire ecosystem. And secondly, as pointed out earlier, the legislation doesn't take away from the Department's enforcement or actions, or its responsibilities or its implementation responsibilities. So it should function like the Clean Air Council, the Clean Water Council that deliberate -- advise, hear, listen -- and bring ideas and recommendations to the Department.

Ecosystem-based management is new. It is something that this council can help bring forward, inform and make recommendations.

So with that, I'll end and take any other questions.

SENATOR SMITH: Are there any questions for Ms. Clark Stuart? (no response)

Thank you very much for your testimony.

MS. CLARK STUART: Thank you very much.

SENATOR SMITH: Lori Hofstetter. It says "Commodore" afterwards, Normandy Beach Yacht Club.

L O R I H O F S T E T T E R: Yes. Thank you for allowing us the opportunity to meet with you today and express some of our concerns. I'm

a lifelong seasonal resident of Normandy Beach, and I happen to be the Commodore of the Yacht Club, so I'm a community leader and that's why I'm here today.

And I was there on this fateful day, Sunday, September 2. I would like to just give you a little bit-- Mary Beth went through all the floatables that were there and catalogued them very well. What I'd like to let you know is that the beach was also full of people. That day was the most spectacular day -- one of the most spectacular days that we've had at the shore.

SENATOR SMITH: I was in Lavallette, it was gorgeous.

MS. HOFSTETTER: It was gorgeous. Blue sky, turquoise water -- and that allowed us to see the floatables coming in, because it was absolutely clear turquoise water. The entire beach was people, wherever you can see, from the dune grass to the garbage line. And if -- you know, we pay a lot of taxes to the State. We all do. We pay very, very high taxes at the shore, and a lot of us pay taxes also up north because we have two homes. We were appalled at the lack of response by the DEP to that day. Tempers were very, very short. It was warm. The kids couldn't go in the water. None of us could cool off, and there was this horrible line of garbage that was there the entire day and into the next day until local leaders took the initiative and cleaned up.

Thank goodness we had Clean Ocean Action there. They were our DEP. They actually functioned as our mouthpiece and action organization in the absence of the State taking action. And there are a lot of people -- there were a lot of short tempers there that day. We had a meeting the following week with the Normandy Beach Improvement

Association and there were a lot of concerns raised. Where was the DEP? So that is one huge concern.

We hope this bill doesn't get in the way of the DEP coming and taking immediate action. We don't really understand why the garbage got to our beach to begin with. Isn't the DEP supposed to contain it at the harbor?

SENATOR SMITH: My guess -- and it's a guess -- is that we have a very long and continuing problem in New Jersey, and they're called *combined sewer overflows*.

MS. HOFSTETTER: Okay.

SENATOR SMITH: Back in the Depression, the Federal Government thought that by putting sanitary sewers and storm sewers in the same sewer that they were doing a big favor to the taxpayers. In effect, you're getting the two-for-one special.

MS. HOFSTETTER: Right.

SENATOR SMITH: You're getting two sewers versus one. What we've found out now, 90 years later, or 80 years later, is that every time we have any kind of a serious storm event all of the crapola that's in the sanitary sewers is now washing out in one massive explosion of waste.

MS. HOFSTETTER: I understand. Right.

SENATOR SMITH: So we're living with the mistakes of the 1930s.

MS. HOFSTETTER: Right.

SENATOR SMITH: We did, in the '80s, put together a \$50 million bond issue to start to uncombine some of the combined sewers, but

we really scratched the surface. And that's why when Mary Beth said that she saw something from Bayonne--

MS. HOFSTETTER: Right.

SENATOR SMITH: --there are many combined sewers in the Hudson County area. So that was like the tip-off in my head that it was probably a combined sewer overflow. The solution to combined sewers is to invest hundreds of millions of dollars in trying to uncombine the sewers.

MS. HOFSTETTER: Right.

Well, when there is a spill, is there not a program in place to contain this? And where did that fail?

SENATOR SMITH: My belief is that there is. And if you heard the earlier testimony, I asked Mr. Hazen to bring back the concerns of the Normandy Beach residents and to get a response. Because I'd like to hear what happened or didn't happen that day so that we can see if there's a need for additional action.

MS. HOFSTETTER: Well, that would be greatly appreciated. I certainly appreciate that.

I'd also like to say that without Clean Ocean Action we would have been nowhere that day. So I hope this bill -- and if you can try to ensure that this bill does not get in the way of Clean Ocean Action and community organizations. We should have a direct connection to DEP to be able to respond immediately when something like this happens. As you were in Lavallette that day, I'm sure your family was not too happy not to be able to go in the water that day and then the following day. So I would like to have the assurance that if Clean Ocean Action is going to be the group responding in our behalf, is there some way that we could give them a

direct line of communication to DEP, not a hotline that everybody uses?
Can they have some kind of a--

SENATOR SMITH: They should talk to Mr. Hazen.

MS. HOFSTETTER: Okay.

SENATOR SMITH: But the one guarantee I can give you is that this bill in no way inhibits Clean Ocean Action.

MS. HOFSTETTER: Okay.

SENATOR SMITH: They're a wonderful community organization. We want to see them continue and prosper.

MS. HOFSTETTER: Okay. Well, I certainly--

SENATOR SMITH: We just hope there's a need for less of their action, because hopefully our oceans are going to get better.

MS. HOFSTETTER: Okay. And it's not going to dilute their ability to get immediate response from DEP?

SENATOR SMITH: Not in the least.

MS. HOFSTETTER: That's very assuring.

One other thing I would like to mention, from a Normandy Beach perspective, is that we have sea nettles in the bay; that I believe that it's a salinization problem, as someone mentioned -- the salt water rising up the coast. So that's another concern that--

SENATOR SMITH: I think the problem they were mentioning was the contamination of groundwater, fresh water, that's used for drinking water purposes. We now have what's called *saltwater intrusion*, where the salt water is going into that groundwater and now making it undrinkable -- and that's going up the coast.

MS. HOFSTETTER: Oh, I see. Okay, okay.

So you all know; and we have a problem with sea nettles in the bay.

SENATOR SMITH: What are they?

MS. HOFSTETTER: They're sea nettles. They are jellyfish that sting.

SENATOR SMITH: I'm on the bay side. My grandson was stung this Summer.

MS. HOFSTETTER: Okay. We've had to actually not use our bay beach area for swimming for most of the season because there's no way to control these sea nettles. I'm hoping that this bill may be able to address that. That's more of an eco-management situation.

And the other thing that I'd like to let you know is that we have a problem, I think, already with rising tides in Normandy Beach. Like I said, I'm a lifelong resident there, and I live on the bay too. And we have unexplained flooding. Not when it rains. The water just comes up through the storm sewers and you can see the bay rising. We have that problem now. We've had water, when there is a rain, where the water will overflow the bay -- there's no place for it to go -- and it will come up to the middle of the block going up. People lose landscaping. People have lost cars, actually, because the flooding has gotten so bad. So my only guess is that's global warming. And I'm worried about that, and I would like to see some kind of immediate action taken on -- besides the studies and everything. We're suffering the consequences now.

SENATOR SMITH: Another Committee in the Senate may have jurisdiction over it. Senator Lesniak's -- he has energy as his portfolio.

MS. HOFSTETTER: Okay.

SENATOR SMITH: But we actually have a whole package of legislation to try and deal with the global warming situation, reduce our carbon emissions, and so on.

MS. HOFSTETTER: Right, right. I am aware of that.

SENATOR SMITH: We're trying to work on it, but it's a monster problem, as you can imagine.

MS. HOFSTETTER: Okay. And so it's not in the purview of the Environment Committee?

SENATOR SMITH: Only a small piece of it.

MS. HOFSTETTER: I see.

SENATOR SMITH: Energy is the basic source of the carbon dioxide problem. So that's in another committee.

MS. HOFSTETTER: Thank you very much, Senator. I appreciate it.

SENATOR SMITH: Thank you very much.

Margo Pellegrino, from Medford Lakes, speaking on behalf of herself.

M A R G O P E L L E G R I N O: Hi. I'm Margo Pellegrino. I'm a Medford Lakes resident. It's funny -- all this talk of action and weather and stuff. In 2004, Medford Lakes lost their dams. We had the thousand-year storm. So consequently, I started paddling a kayak and a canoe out in the ocean. This led to larger things and planning, and I decided I would try to do what I could do to make a difference for the ocean and for my kids' future. Because as you know, the future of the ocean is directly tied to our future. So I paddled in that rigger canoe from Miami to Maine.

I had all these things I wanted to say, but I keep going back to the inaction versus action. Before you can really take an action, you have to study it, and you have to study it a lot, as you know. Because you don't want to take the wrong action, because then it will cost you. And as far as cost goes, you can either pay now, or you can pay big-time later, as in the case of the sewers that have been combined. That's just one tiny example.

I planned a lot before I decided to paddle up the coast. I couldn't have done it without all the planning. If I had just done it willy-nilly and tried to do it, I would be no better off than the guy who tried to willy-nilly paddle across the Atlantic -- or rather row -- and got picked up 50 miles off of Cape Cod.

I am really-- Of course I'm here in support of S-2645. Because I do think it's going to help a lot. We have so many issues that are confronting the ocean. It's not something you can easily segregate and put into a box, as I discovered as I was paddling up the coast. Basically, you can go, though, with 1,939 -- no, 69,000 miles -- close to 2,000 miles, I'm sorry. It's a good thing I'm-- Obviously, I'm not a biologist, because I really stink at math and chemistry. (laughter)

So, anyway, one thing that kept on -- that I saw all along the coast was the problem of overdevelopment. And as you know, New Jersey is an extremely overdeveloped state. In North Carolina, if they get two inches of rain, they have to close the shellfish industry further out. They can't even harvest the shellfish that are near shore areas -- they go further out. But two inches of rain closes down the whole industry.

You know, we have tons of run-off issues. In fact -- this is kind of funny -- in the Sunday paper of the *Burlington County Times*, they -- and

it's not really funny. I mean, it's funny in a very sad way. Apparently, the DEP wants to buy properties along the north branch of the Rancocas because of the polluted water. If they have a flood, it rises and it contaminates their wells. This water, which is a tributary to the Rancocas and goes out into the Delaware, also goes out to the ocean. These are all things that so need to be studied, because we can't just look at the simple -- at the ocean and the coastal areas, and negate what happens on land. Nor can we negate the effects of different species in the ocean and on water quality.

In North Carolina, the coast keepers are seeding the near shore areas with oysters -- not to be eaten, but to clear the water, because they have water quality issues there. I would love it if we could do that here, but who knows if they would survive. Because, like in the Barnegat, it's so ungodly warm and the oxygen is down low. I mean, I'm not a scientist, but you can see where all the fishermen go to fish. Correct? They're fishing by the inlets where the water is colder.

I paddled barefoot in April, prior to leaving from Miami -- barefoot 50 miles. You sit in a boat and paddle with your feet wet for 50 miles. And to have them not be frozen solid in April -- I mean, it's a bathtub in Barnegat.

These are all things we need to study, because we need to see how it works. We need to figure out the puzzle before we can make recommendations.

Thank you very much for listening to me ramble.

SENATOR SMITH: It's okay.

Thank you, Ms. Pellegrino.

Joe Ferris, New Jersey Business and Industry Association. (*sic*)

J O S E P H M. F E R R I S: Good morning, Chairman.

SENATOR SMITH: Good morning.

MR. FERRIS: Good morning, Committee.

I'm also from Normandy Beach Improvement Association, and I'm a resident of Normandy Beach, and I was on the beach at the time of the closing on Labor Day, Sunday. And as you heard from Lori Hofstetter, it was an absolutely gorgeous day. And, quite frankly, I had gotten there Thursday, and the water was warm, crystal clear. It was more like an island water than anything else. It was probably the best water we've seen in a long time.

I've been in Normandy Beach for 60 years. I own two homes there, and I'm a Summer resident. I'm also a member of the Normandy Beach Improvement Association Board. I've been involved with them for five years. And I'm very, very concerned in regards to how we're going to investigate this incident and how it happened within Normandy Beach on that day.

So I wanted to make sure that we are going forward with that. Because I'm not all too sure and convinced -- and I may not know it all, for sure, but I have, as I said, been involved on the ocean for 60 years, as a swimmer, as a surfer, as a lifeguard, and now as a concerned citizen and a member of the Normandy Beach Improvement Association -- that comes from a sewer. And I'll just explain, simply, why. And there are a lot more experts, I'm sure, that are sitting in this room. But when I sit there-- And I happened to sit right next to the lifeguard stand on 6th Avenue of Normandy Beach. We only have eight avenues, so it's a small beach

community. But when I sit there and I see, all of a sudden, syringes washing up, and they're between all of our eight blocks, I find it hard to believe that that was all in one sewer containment, to be honest with you.

So I'm wondering where that would have come from. Again, I'm kind of questioning the reasoning behind why we think it's a sewer. I also saw where -- if you go into a doctor's office, or you go into a hospital, there's a box of -- where they dump their used syringes. And I personally picked that up and gave it to the State Police. I would also tell you this, the State Police were great. We were there at 1:00. They probably showed up within 45 minutes, and they worked with us. He didn't leave until the DEP showed up. And he made -- as Lori pointed out -- made numerous calls.

I'd also tell you that the Clean Ocean Coalition -- Mary Beth and her boss who spoke earlier -- were fantastic. But I will tell you what. I think we're lucky that Mary Beth's parents live in Normandy Beach. Because we would have been, kind of, "What do we do next?" Because we called the Coast Guard. That's the first thing we did. They told us to call the State Police. We called the State Police. And we were kind of in their hands until Mary Beth and her members of her company -- organization, I should say, came and helped us through this, got the right phone numbers for us, got the right people to come.

I think another issue with me was the fact that they did not bring out the tractors that clean up the beach. Now, we put up -- and I think you saw a picture of it -- we put up the lifeguard's red flags that tells everybody the beach is closed. We put up signs at each one of our beaches to let people know why it's closed. I put the lifeguards on duty -- two of them -- all night. And then they came -- they ended at midnight, and then

we brought the lifeguards back at 6:00 a.m. We don't have a whole lot of money in Normandy Beach, in terms of the Association. But we took that expense on to make sure our membership -- or our people in the community were protected from this.

When we got there, quite frankly, at 6:00 a.m., the tractors, both from Dover and Brick -- because Normandy Beach is split. Half of it's in Brick, and half of it's in Dover. They did a great job, fantastic job. But we still couldn't get the beach opened. And they were done probably by 8:00 a.m. And I went down personally with a rake. I had our maintenance people come down. They raked up where they had done the cleanup to make sure that we didn't miss anything and that the job was done correctly. Fantastic job. They really did a good job. The bad part about it: they should have been there on Sunday, not Monday morning. Because a lot of it went right back into the ocean and wound up in Stone Harbor or wound up in LBI.

So I just really wanted the Committee to understand that and know about it. I'd really like to know where we go from here, in terms of investigating where that came from. And from the bill's standpoint -- that I've -- brand new to me. I just read it when I walked into the door today -- that's 2645. I've listened to people testify on the positive side and on the negative side to it. I just want to make sure, just as a citizen -- and love the ocean -- that we do the right thing, that we put the right committee with the right focus in place.

Okay. Thank you.

SENATOR SMITH: Great. We appreciate your comments.

And I'm corrected. I identified you as the New Jersey Business and Industry Association, because you have NBIA. But you're actually the Normandy Beach Improvement Association. (laughter)

MR. FERRIS: Correct.

SENATOR SMITH: Thank you.

UNIDENTIFIED SPEAKER FROM AUDIENCE: You got our hopes up there, Senator. (laughter)

SENATOR SMITH: What can I say.

Mike Pisauero, New Jersey Environmental Lobby.

Thank you, sir.

MR. FERRIS: Okay. Thank you.

SENATOR SMITH: Mr. Pisauero.

MICHAEL L. PISAURO JR., ESQ.: Thank you, Senator.

I want to thank the Chairman and Senator Karcher for this bill and this opportunity.

You've heard a lot today. And I have lots of comments prepared. I'm going to try to pare it down.

We're in a crisis mode. The problem is, the 2003 Pew's report and the Ocean Commission's report of 2004 have been out for several years now. New Jersey has done little to act on those. But the crisis is actually much older than that. The problems are much older than that. In 1973 we passed the Coastal Area Facility Review Act, which acknowledged our coastal areas have problems. We have to do something about that. In 34 years we're back here still saying we have problems.

The CAFRA bill -- wonderful bill. We all know there are problems with it. It has not done the job. We have other laws that have

not done the job. This council will help figure out why there are still holes, there are still problems. There is nothing in this bill that would impede DEP, there is nothing in this bill which would remove authority from DEP. This is merely to figure out what is wrong. After 34 years, why are we still having problems? Where do we need to address those problems?

I want to talk specifically about two problems: fish and land. They're actually somewhat interrelated. Between 20 to 30 percent of our commercial fishing stock are overexploited. And that's not to say the other 70 percent is in good health, because most of those we don't know enough about. Ninety-five percent of our commercial fish and 85 percent of our sport fish spend a portion of their lives in the coastal wetlands in estuarian habitats. And this is important on the land-use part. These fish come from nurseries to grow, to develop. We have 14 fish that are important to New Jersey fisherman. Seven of those have been overfished or are experiencing overfishing. You know, 50 percent right there are in trouble.

And while we're working on solving that problem, we have not. In fact, as had been noted earlier, scientists in the *Journal of Science* have predicted that the world's seafood industry -- the seafood supply will collapse, disappear by 1948 -- I mean 2048. That is not only a huge loss to us as a state, that is not only a huge loss to our children who won't have the joys of going out fishing and seeing fish, that's a huge economic problem. There was an article several months ago in *USA Today* talking about restaurants who cannot find the size fish they had historically found, could not find certain species that they had historically offered in their restaurant, because they are disappearing. And they have to find substitutes. That is an economic problem. It's not just an environmental problem.

So not only are we overfishing, we are poisoning our fish. I printed out last night -- and I apologize for not printing out enough -- from DEP's Web site-- There is a chart discussing fish you can eat, how often you can eat it, depending on what group you are in. If you are a woman of childbearing age, you're a child, you're a pregnant woman, maybe -- according to DEP's Web site -- you shouldn't eat striped bass at all. You shouldn't eat bluefish. Now, if you're just in the regular population, you should have no more than four bluefish per year. And that's along the Delaware Estuarian Bay. Again, no bluefish, no weak fish.

Look, medical science is telling us you should have two to three servings of fish a week. Do you have to go to the supermarket and whip out your little chart here? "Okay, what is this? What have I -- ate recently? Because I don't want to have mercury, I don't want to have dioxin, I don't want to have PCBs." I mean, if you had that on steaks and chicken, I don't know what would happen.

Just as an example, DEP notes that low amounts of mercury may cause subtle effects on central nervous systems in both children and adults. Long-term consumption of fish with elevated levels of mercury by adults or older children may result in adverse health affects, including neurological damage. That, to me, is a sad state of affairs. We've been working at protecting our environment since at least the 1970s, and we're not quite there yet.

Going to our land use: From 1986 to 1995, over 16,000 acres of new development occurred every year. Recent reports show that trend, from 1995 to 2002, has continued. In 2002, as we all know, is probably toward the beginning of the real estate boom. So I wonder -- even though

their data is five years old -- maybe this situation is much worse than we think it is.

And it's important to note -- Monmouth and Ocean being some of the fastest growing counties in this state -- that as we get to 10 percent of our watershed being covered by impervious cover, that watershed is impaired. It can no longer function the way it's supposed to do. It can no longer provide a healthy habitat for those fish that come in -- that 95 and 85 percent of the fish that come to our estuarian areas to grow. They are now being polluted with dioxin and poisons; medicines, as Mr. Fote noted. That is having an astronomical effect on us.

In the Pew's report, it noted that every eight months, 11 million gallons of oil run off into our ocean. Since the Pew's report has been out, that's the equivalent of six-and-a-third Exxon Valdez's -- have sort of run off. Not only is it oil, but everything else that is on our streets and on our lawns is running straight into our oceans. That is an astronomical thing to think about. Think of the damage the Valdez did in Alaska. They're still fighting over that. They're still trying to recover from that. And that has happened six times along our coast in this country.

It is my sincere hope that with the passage of 2645 that we're going to start to take those steps, start having those very hard conversations that we need to have to address the myriad of problems. Who would have thought someone's house may be affecting what's going on your dinner plate? Those are the things that are happening.

And, again, I'd like to thank Senator Karcher, and I'd like to thank the Chairman, and this Committee. And I strongly urge you to approve this legislation. And let us move forward to start having those hard

conversations and stop saying, “Well, we have things on the plate, but they’re not working.” We need to do it.

And I want to leave with one last example. In 1973, as I said, we passed CAFRA. And in that, there is Section 11 which says, “Even though maybe this permit should be issued, because of cumulative impacts we are not going to issue this permit.” And DEP has that power to look at cumulative impacts. I’ve done Lexis searches. I have not found a single case in which DEP has denied a permit under Section 11. And DEP has admitted, “It’s too hard. We can’t figure out how to do it.” Well, that’s a law that’s been on the books for 34 years. Maybe it’s time to have a council in place to bring together resources and start asking those hard questions of how to do what is right -- so we can have beaches we can enjoy, so we can bring our children and our grandchildren there, and they can enjoy what we have.

So thank you.

SENATOR SMITH: Thank you, Mr. Pisauero.

John -- and I’m not quite sure how to pronounce your last name -- from the Recreational Fishing Alliance. John, are you here? It looks like D-E-P-E-I-S-E.

UNIDENTIFIED SPEAKER FROM AUDIENCE: He was here.

SENATOR SMITH: If he comes back, ask him to raise his hand.

Bill Wolfe, from New Jersey PEER.

Mr. Wolfe.

BILL WOLFE: Good afternoon, Mr. Chairman and members of the Committee.

My name is Bill Wolfe. I'm Director of a group known as Public Employees for Environmental Responsibility. We're a nationally based advocacy group for the professionals in state and Federal environmental agencies. We bring science and enforcement to the public arena and seek enforcement of environmental laws.

I had hoped -- and had written testimony I'll submit for the record -- to talk about some historic examples, whereby -- primarily based upon the Clean Water Council, upon which this bill is modeled -- had effectively contributed to public policy development and improved management, both in terms of identifying issues and priorities, bringing in outside expertise, and resources, and data; and bringing in the public and informing the policy makers in Trenton -- primarily in DEP, and at the same time having the DEP providing a forum for the agency to inform, and educate, and involve the public and local officials in policy development at the agency.

So the council mechanism is a two-way street. It's not just the bully pulpit that Tim referred to. But it is an effective vehicle for two-way policy dialogue. And frankly, I've spent 13 years at DEP, 10 years outside DEP as an advocate. And I joined during the Kean administration in 1985. I've worked at the policy level, through Democratic and Republican administrations, in legislative debates, in regulatory policy development debates, and in planning. And I'm trained as a planner. And I can tell you, categorically, that DEP lacks the broader view and ability to develop policy and planning along the coast. And this bill not only tries to deal with that

issue, but expands the scope to the ocean, which is an orphan, in terms of the policy agenda, and in terms of planning and management that we heard some early, strong testimony on. And I wish we were not diverted by emergency response issues and could get back to where we started with the testimony from Monmouth on the bigger picture and why this is such a dramatic step forward.

And we thank the Senator for having that kind of vision for what the priorities in New Jersey should be. And that's what this discussion is about. And I'd like to bring it back to that.

The other examples I wanted to focus on were to not only describe the functions and values of a council, but I will lay out the specific policy areas and program areas where DEP has scientific protocols and a scientific paradigm to address ecosystem-based management, but lacks the two other essential elements to actually implement -- implementing a scientific paradigm, which is legal authority. And I disagree strongly with my colleague Tim on this. There is not a statutory authority in place that authorizes the Department to base decisions on the ecosystem-based model. And the other area is -- and this is where it's important -- is public opinion and political support. Because, again, having been with the agency, the Department cannot step outside of where there is consensus. And that's where they get in trouble, where either they lack the political and public support for moving forward, or they lack the science and the scientific basis to develop an initiative. And, again, this bill would bring both those critical precursors to effective policy development to the table.

And it breaks my heart, frankly -- and I'm going to be blunt, because I'm a blunt critic of the Department of Environmental Protection.

And I don't think anybody here would say that I would ever stand in their corner, in terms of not criticizing them. But by the same token, the environmental community suffers from some of the same flaws that the Department does, in terms of narrow vision, lack of vision, compartmentalization, being funding-driven in terms of where your advocacy agenda is targeted. And it breaks my heart that the good will of the people of New Jersey, and the people along the coast who care about water quality, and ocean and coastal resources are being-- We have an obligation in our community to educate, inform, and lead as well. And when that -- public support for doing the right thing is misled, that, to me, needs to be challenged. And I think that's happening here.

Let me be very specific. Because in the '80s we had similar garbage wash-ups, and the public outrage and disgust with that was not channeled -- was not misdirected; it was brought to where it should be, to the Legislature and to the Governor. As a result, the Comprehensive Medical Waste Management Act -- I think Algis probably wrote that bill -- was enacted. There was a lawsuit filed against the city of New York for the Fresh Kills garbage marine transfer station. And there were additional resources brought to bear on the CSO problem. So you had everything working in sync there. You had the science, you had the public support and public opinion, and you had the law and public policy all moving in the same direction -- with the backing and stoking of the environmental community.

Now, I wish that were the case today. Because what is happening here is, we've got an enormous moment for consensus building, and it's being diverted on issues that are nonissues. And, frankly, the

linkage of the two, in my mind, is no different than the way we handled the response to -- and I'm not trying to bluster here -- the way we handled the response to 9/11. We had a terrorist attack that was done by a terrorist organization, and we invaded a country that had nothing to do with it.

So what I'm trying to tell you today is that the garbage slick has causes. Those causes are known. There are laws, policies, and programs in place. And the lack of leadership and inaction that some have spoken to, which I agree with, is not a function of law. And this bill would-- And it has nothing to do with the bill. And yet it's being created to -- as a critique of what this bill could accomplish. And I think that's misdirected and wrong.

And lastly, to just -- I'd just like to get to a technical level to respond to Senator Adler's question. I looked at the data in the comprehensive -- or the Cooperative Coastal Monitoring Report. The Department has a report. As indicated, they are primarily related to rain events. And there is a precautionary policy whereby beaches are closed due to a certain amount of rainfall. And it's largely associated with Wreck Pond, but there are some bay closures as well.

But the issue here is: Let's not blame it on the rain. Because when we have bad air days in New Jersey, when we have ground-level ozone exceedences, we do not blame the problem and target solutions on hot weather and sunny days. We say that there are emissions of ozone precursors, and let's regulate those emissions of ozone precursors and move forward, as based upon science and good public policy.

So when I repeatedly hear this story about when it rains the beaches close, there is an intermediating -- there are intermediating

mechanisms there. There are sources of the pollutants, which are largely development. And there are means to abate those sources of pollution, which is the stormwater management and CSO problem. So going to the endgame that it's rainfall related is really just totally misleading the public and policy makers as to how to deal with that issue.

And I'm glad, Mr. Chairman, you mentioned the Combined Sewer Overflow and Stormwater Abatement Act (*sic*). There was the Sewage Infrastructure Improvement authority act. That program was funded, phase one was implemented, the outfalls were inventoried, and the money was diverted by Governor Whitman to pay for her tax cuts. So we need to know that these are the things that are going on. And citizens and local officials need to know that, as well, to be effective advocates, in terms of highlighting the pressure where it needs to be targeted and not having it diverted into-- And that is our job as advocates. And I will take ownership -- and our community should take ownership -- on that issue, as well.

In sum, thank you very much for the bill. It's a good bill. There are-- I think it will move us in the proper direction. And I would urge your attention to the first testimony we heard today from Monmouth University.

Thank you.

SENATOR SMITH: Thank you, Mr. Wolfe.

Mr. Jack Fullmer, New Jersey Council of Diving Clubs.

Mr. Fullmer.

J A C K F U L L M E R: I'm Jack Fullmer, Legislative Committee Chairman of the New Jersey Council of Diving Clubs. It's an organization of 19 sport diving clubs.

Sport divers play an important role in monitoring our ocean resources, because we are the only major group that actually sees what's happening on the bottom of the ocean and can observe the interaction between fishery stock and the underwater habitat. We've seen things like trollers have torn apart some of our shipwrecks and destroyed some of the habitat that way. We've seen -- like, presently, on the north -- one of the northwest barges -- there's a gill net that's hanging there. It's still catching fish. And it's-- In certain situations, we've tried to cut some of these nets out. But with gill nets that are made of monofilament line, it's a little dangerous to do that. We've seen situations where there are sand replenishment projects that destroy the underwater habitat of our jetties and our inshore shipwrecks, and kill all the fish on it. We've seen situations, like in 1976, where there was a huge plankton bloom that -- and it was the sport divers that first noticed that all the lobsters on the shipwrecks were migrating up to the top, as high up as they could get on the shipwreck. And that was-- And on the bottom was this dark, muddy layer. And there was no oxygen in that layer, and that's why they were there. Presently, we're observing a large infestation of dogfish. And they seem to be eating up a lot of things. We can see a lot of lobster traps that are ghost traps that continue to catch -- on our shipwrecks -- that continue to catch lobsters and so on.

The New Jersey Council of Diving Clubs has some mixed feelings about this bill. What's good about it is, it's putting more of an emphasis on the ocean and its underwater habitat, which I think really deserves to have more attention. A large part of this bills seems to be pushing what is referred to as an *ecosystem approach to fisheries management*.

Basically, an ecosystem approach to fisheries management, as defined by the Mid-Atlantic Fishery Management Council, would require managers to consider all the interactions that a target fish stock has with predators, competitors, and prey species; the effect of weather and climate on fisheries, biology, and ecology; and the complex interactions between fish and their habitat; and the effects of fishing on fish stocks and their habitat.

Needless to say, as you might suspect, predicting all those interactions that a fish stock has with predators and competitors, the effects of weather and climate on fisheries, ecology, and the complex interactions between fish and their habitat is next to impossible, because the manager really does not have all that data. It's like trying to predict the future based on very sketchy data. So I would be a little hesitant, as far as this ecosystem management, of what it's going to accomplish. Because there aren't enough studies out there on all the things that would be involved.

Another problem in ecosystem management is: How do you involve the public in the management of fishery resources in a fair way? This bill appoints six public members out of, I think, nine members. Recreational fishermen represent about 95 percent of the actual users of our fisheries in number, but only have one public seat in the Ocean Protection Council. Commercial fishermen are rather few in number; they also have a seat. But they take a large part of the fishery resource. One is a member of the academic community, with expertise in coastal habitat. One is a member of an environmental organization with expertise in coastal ecosystems, with no further explanation. What environmental organization would be involved? Because some of them have some strange views. Another is referred to as a public interest group, with similar credentials.

And who do you have in mind for that? I'd sort of like to know that. How does that differ from an environmental group? Another public member is defined as a member of a nonprofit group with similar credentials. How does that differ from the previous two?

What I see here is a potential packing of this council with environmental groups, some of which are armchair environmental groups that don't get -- that don't do -- really get their feet wet.

Also, the-- I'm not sure why these have to be appointed by the Governor. I would think maybe the Commissioner of DEP may be--

Regarding the purposes of the organizations -- the duties and responsibility -- it appears that the purpose is to primarily do research and give advice to the Commissioner regarding ecosystems and habitat protection. If the primary purpose is research and advice, maybe it shouldn't be a political thing.

I have some reservations about an overemphasis on protection that could deter innovative projects to improve our fisheries. I'd like to see some more innovative projects to improve our fisheries.

Perhaps you should mention in your purpose that fisheries should be managed for sustainability and productivity, which is what the Mid-Atlantic Fishery Management Council stated.

I'd also like to see the full utilization of our ocean resources on a sustainable basis in this bill. I would like to see the word *partnership* used more in this proposal. And I'd like to see more emphasis on mechanisms for considering activities that really aren't fishery related -- things that affect our environment that aren't fisheries-related; things like sand replenishment projects, possibly the creation of windmill farms, and so on.

Finally, I'd like to see some coordination for the Marine Fishery Council (*sic*), if that's possible.

Finally, if this council has the purpose, as outlined in its powers, and duties, and responsibilities, then I don't see why it should be in existence permanently. It seems to be primarily there for the purpose of instituting an ecosystem management system. I would think that after three or four years, you may not need that council anymore.

But, anyway, these are the things that did occur to me when I read through this bill.

And I want to thank you very much for your listening.

SENATOR SMITH: Thank you, Mr. Fullmer.

Mr. Scot Mackey, Garden State Seafood Association.

S C O T C. M A C K E Y: Chairman Smith, I appreciate this opportunity to come speak to you today about this bill.

I, like many who have testified before me, do have some concerns. I think Senator Karcher and those who are supporting the bill have all the best intentions in the world in trying to get something to improve the environment and improve our oceans.

But as Mr. Fote mentioned from the recreational side, as I will mention from the commercial side, as Cindy Zipf mentioned, and the Littoral Society also mentioned, we have some concerns as this moves forward. One, as I think I've stated some already-- I do believe this is a duplicative organization. I believe that there are numerous New Jersey and regional-based bodies that are out there looking at marine ecosystems and looking at it broader than just a single species, looking at ecosystem-based approach.

Are they pulling in all the land-use issues? I don't think so at this point in time. But I'm not certain that DEP can't do that working with the organizations that are there already, like the Smart Growth Commission and others.

Just to mention, the New Jersey Marine Fisheries Commission is already in existence. It has members of both the recreational, commercial, and public sector to look at all New Jersey marine fisheries issues. There's the Atlantic States, and the Mid-Atlantic, Marine Fisheries Commission, both of which are regional organizations again looking at managing resources in the marine ecosystem. A good example of some of the issues that come up that go beyond just marine-specific issues is the red knot bird. There's been an ongoing issue in this state with red knots, and that ties directly to horseshoe crabs. And New Jersey has proposed a ban of horseshoe crab catches to protect the red knot. Again, we're looking at a broader base than just a single species.

Additionally, with the help of Senator Ciesla, and I know the support of Senator Adler and others, back in 2001 the Fisheries Information Development Council was put together. And this was an organization that was supposed to look at science-based spending on marine systems. Unfortunately, New Jersey ranks dead last on the East Coast when it comes to State dollars spent on marine science. The commercial sector has been pushing for marine dollars for a long time. In 2001, there was \$500,000 that was set aside. Working again with the DEP, the recreational sectors, the commercial sectors, that money went to direct scientific research. I would love to see this type of program-- This \$75,000 -- instead of being spent on putting together a commission -- to go directly to

scientists, to go directly to supporting research and science to fix the problems that everyone seems to be able to identify. We need-- These are very complex issues. We need the money going toward science to try to work and develop the solutions to these problems. And, again, I think those structures are already there.

Unfortunately, FIDC got that funding that one time -- \$500,000 for one year. And it hasn't been funded since. The Commission is still in existence. In fact, there are still sitting members. And as Mr. Fote mentioned before, there are numerous commissions where there is a backlog, that we need to get more people onto these committees so we can get more things done. And I'm not sure setting up another commission is going to be the solution to that problem.

If you all feel it's appropriate to set up this commission, then I do, as the previous speaker mentioned-- I do also have some concerns with the makeup of the six public members. And I also think that when it comes to marine systems here in the State of New Jersey, we've also left out the Department of Agriculture. They currently have oversight when it comes to shellfish species here in the state. So that's another group where I think Secretary Kuperus might be a reasonable addition to the commission.

But I do think it would be appropriate, potentially, to have someone from the business community -- either a representative from the South Jersey Chamber, BIA, or the Chamber of Commerce -- included as well. I think, as Mr. Tittle said as he ended his testimony, we want to get everyone involved and everyone working on this. I think we need to expand it beyond commercial, recreational, academic, and three -- what I would consider -- somewhat environmentally based organizations, and try

to include more from the business community -- maybe someone from the development community, since land use seems to be an issue of concern for previous testimony. Maybe we need to get somebody from the development commission. Maybe we need to get somebody from Smart Growth, maybe we need to get some other people with different vantage points involved in this process if it were to move forward.

I'd be happy to answer any questions you may have.

SENATOR SMITH: Thank you, Mr. Mackey.

MR. MACKEY: Thank you.

SENATOR SMITH: Our anchor witness is Dave Pringle, New Jersey Environmental Federation, who knows the value of brevity.
(laughter)

UNIDENTIFIED SPEAKER FROM AUDIENCE: Plus, he's hungry.

DAVID PRINGLE: Extra incentive.

Good morning -- or afternoon.

My name is David Pringle. I'm the Campaign Director for the New Jersey Environmental Federation, here in support of the bill.

I'd like to thank the Senator and the Committee for calling attention to this issue and moving forward.

Our state office is on Ocean Avenue and 10th in Belmar, directly across from the boardwalk and the beach. We have 70,000 individual members, and an additional 100 member groups. So we feel this very closely.

I will be brief. We, generally, support the comments of those folks who are testifying in favor of the bill. And I will do my best not to be repetitive.

Notwithstanding the environmental economic jewel that is the Jersey Shore, ocean policy in New Jersey -- to the degree we even have policy -- is too often forgotten, not holistic, sporadic, and taken for granted. And this legislation will help correct that. This problem didn't start with this administration, but it can certainly end with it.

For those of you who know me and the Environmental Federation, I think it's fair to say we're generally not fans of commissions, councils, and task forces. That said, something is better than nothing. And, right now, we have nothing. I was actually just-- As I was listening to the testimony, I was kind of going through my head. I don't think there's any other issue in this state, that's environmentally related, that doesn't have some kind of bully pulpit. I sit on the Drinking Water Quality Institute, and my boss sits on the Clean Water Council. There's the Pinelands Council. Tim is on the Highlands Council. There's the Wetlands Mitigation Council, the Tidelands Council, Garden State Preservation Trust, the Natural Lands Trust, State Planning Council -- Commission, excuse me -- Environment (*sic*) and Nongame Species Council, the Clean Energy Council that Jeff sits on, the Fish and Game Council, the Brownfields Task Force. Nothing on the ocean. Maybe there's an issue which I missed, but you understand the point.

And it can work. We know that. Many of us in this room are members of the Highlands council -- or Highlands Coalition. Tim used to direct it. A task force was created, and Senator Smith took -- championed

legislation. We now have legislation. There's a council implementing the law. Tim sits on that. It can work.

We heard about flooding. Certainly global warming is happening, erosion is happening, sea level rise is happening. We need bully pulpits to take this stuff on.

We talk about sketchy data. Sketchy data is better than being in a fog and our head under the ground -- in the sand. And that's where we're at now. We're talking about garbage washing up on shore. We don't want this legislation to get in the way of DEP taking action. Well, DEP hasn't taken action. Again, we need the bully pulpit. There's nothing in this legislation that will undermine the implementation of existing laws, rules, and regs that need to be-- And we'll create a very important vehicle, and time and attention, to an issue that has been surely lacking, notwithstanding how great the Jersey Shore is.

Thank you.

SENATOR SMITH: Thank you, Mr. Pringle.

And that concludes our--

MR. PRINGLE: See, I was pretty brief. (laughter)

SENATOR SMITH: That was great. That was really great.

That concludes our witnesses.

Are there any questions from any of the Senators? (no response)

If not, can I have a-- We're releasing the Senate Committee Substitute, which conforms the bill to the Assembly side. And at this point, we'll have a bill that's -- if we get it out today -- a bill that's ready for a vote on the floor and for enactment into law.

Is there a motion to release?

SENATOR ADLER: Move the bill.

SENATOR CIESLA: Second.

SENATOR SMITH: Can we take a vote, please?

MS. HOROWITZ: On Senate Bill 2645, with Senate Committee substitute, Senator Ciesla.

SENATOR CIESLA: Yes.

MS. HOROWITZ: Senator Adler.

SENATOR ADLER: I like the fact that there were people who are committed to the environment on both sides of this issue. The fact is, we have to talk about this issue more, in a lot of different ways -- in the enforcement manner that some of the people were talking about, specifically about Normandy Beach, and more broadly, whenever there is an incident. Enforcement has to come first.

I liked when Tom Fote talked about "we need action." We need action on a lot of different issues, it seems to me, including reform of CAFRA. And maybe this commission will be one vehicle for us to have a serious discussion about CAFRA reform to slow the overdevelopment and maybe to reverse it over time.

But I think the proponents of this bill have made their case effectively, that we need to think more broadly and help DEP have a vehicle to think more broadly about ecosystem management. I think this is terrific.

I congratulate Senator Karcher for sponsoring it, along with the Assembly sponsors. And I congratulate Senator Smith for bringing it to our attention for a vote today.

I vote yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: An enthusiastic yes.

And my congratulations to Senator Karcher for bringing this very important issue to the forefront in our Legislature.

Our second bill today is Senate Bill 138, by Senator Connors. It establishes the Hooked on Fishing-Not on Drugs program in the DEP. It appropriates \$200,000.

We have two witnesses signed up to speak on it. Brevity is the soul of wit.

Tom Fote.

MR. FOTE: This bill would help create the next Tom Fote and the next advocates like Cindy Zipf and Tim Dillingham, because what it does is teach not only how to fish, but the stewardship for the ocean.

We at Jersey Coast have been running this type of program for 20 years. What we need is a coordinator at the State level to help get those funds generated. We do it with volunteers. And this is all it would do. This money is not being used. It's been sitting in the drug enforcement budget for years.

And I'll be quick and just thank you for your support, and thank you for passing this bill.

SENATOR SMITH: Thank you, Mr. Fote.

Mr. Richard Seitz, from the Ocean County Youth Services Commission.

Mr. Seitz.

R I C H A R D S E I T Z: Good morning -- or good afternoon -- and thank you.

I'm here not only on behalf of the Youth Services Commission, but I'm also here on behalf of my wife, who's taught HOFNOD for the past three years. And I see you are all supporters of HOFNOD, because you've all got your HOFNOD fishing/casting reels in front of you, and that's your water bottle. If you wrap it with fishing line and put a lure at the end of it, you use it for practicing and casting. That's what my wife did the first year of the program. The second year Wal-Mart, and Kmart, and Tony's Bait and Tackle Shop all came on board, and the kids now have real fishing poles to use.

Why is this program important? It's important because of Casey Stengel. Casey Stengel, a few years ago, went out to the mound when he was managing the Mets. The bases were loaded. And he went out, and he told his pitcher, "No matter what you do, don't throw this guy a high fast ball." And he went back to the dugout. And the first pitch was a high fast ball. The guy hit it out of the park. That's using the power of positive thinking--

We want to be positive; we don't want to be negative. So all of our programs that we have for kids -- anti-gang, anti-drug, anti-this, anti-that -- we don't have the positives. We have some. We have mentoring and various other things.

This program is-- Every kid can do it. It doesn't take a whole lot.

Think about the positives. Thank God for sports. It helps if you're big, and tall, and can beat somebody up on the basketball court, football, whatever. But it's all competitive. In order to be a winner, there's got to be a loser. And we've gotten to the point where we're not even

settling for ties anymore. You've got to have a winner, and you've got to have a loser.

Think about fishing. Where else-- What sport teaches patience, caring for the environment, sitting there and talking instead of playing Nintendo? So, yes, I'm hoping that you create a lot more fishermen in the future. It's such a positive aspect. It needs a Johnny Chapman -- a Johnny Appleseed. It needs to come from the DEP. It can be-- I've often heard part of this as an Ocean County or Monmouth County issue. New Jersey is surrounded by water. There's lakes, and parks, and reservoirs. In Newark, you can walk to the Passaic River. In Paterson you could walk across the Passaic River, I understand. Hopefully it will get cleaner. So I urge you to please pass this bill. It's been floating around a few years. And Hooked on Fishing-Not on Drugs is a great thing.

If you open your minds and think outside of the box a little bit more, we have a program in Ocean County for a school-based mentoring program, bringing adults -- a lot of times, senior citizens -- into the schools and working with the kids. One of the things that HOFNOD did was, in the second and third years, the fishing clubs on Long Beach Island became involved with it. And in doing so, they wanted to be a little more involved in schools. And we actually recruited mentors from the fishing clubs to come into the schools and work with the kids who needed it the most.

Other programs all have a negative side to them. If you're in that program because you're a bad kid-- You're not in the fishing program because you're a bad kid, you're in the fishing program because you're a kid. You don't need special equipment, you don't need special tools. You can do it out of a wheelchair. All you need is one arm, and that's about it.

It's a great program. And please pass it this year.

Thank you.

SENATOR SMITH: Thank you, Mr. Seitz.

That concludes our witnesses on S-138.

Can I have a motion to release the bill?

SENATOR CIESLA: So moved.

SENATOR ADLER: Second.

SENATOR SMITH: Please take a vote.

MS. HOROWITZ: On Senate Bill 138 -- and there are some technical amendments.

SENATOR SMITH: With the technical amendments.

MS. HOROWITZ: With the amendments, Senator Ciesla.

SENATOR CIESLA: Yes.

MS. HOROWITZ: Senator Adler.

SENATOR ADLER: Yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes.

And let me announce, again, that we're tentatively scheduling another meeting of the Senate Environment Committee for October 4, 10:00 a.m., Trenton, on the Reef Fishing bill.

That being said, the meeting is adjourned.

(MEETING CONCLUDED)