

APPENDIX

Testimony for Public Hearing
Senate Environment and Energy Committee
November 21st, 2016

Ed Potosnak, New Jersey LCV
P.O. Box 1237
Trenton, NJ 08607

Chairman Smith and the Senate Environment and Energy Committee:

The New Jersey League of Conservation Voters (New Jersey LCV), which represents Republican, Democratic and unaffiliated voters committed to preserving our natural resources for future generations, respectfully submits the following testimony in support of SCR-39, which will give voters the opportunity to amend the constitution to ensure natural resource damage settlements are used for environmental purposes and are prioritized for use in the communities affected by the original damage.

First, New Jersey LCV would like to thank the sponsors for their hard work and determination in advancing this continuing resolution in a deliberative manner while also working with advocacy organizations on important language changes that ensured broad-based support from the environmental community. The ballot question being considered today is badly needed, and New Jersey LCV is strongly in favor of this continuing resolution being brought up for a full vote in the Legislature and put on the ballot in 2017.

In an ideal world, this constitutional amendment would not be needed, and 100% of the money from natural resource damage settlements would go to environmental restoration in the communities affected, as had been the legal precedent. Unfortunately, language inserted into the most recent two state budgets has aimed to divert portions of the largest settlements into the general fund. As we have seen from both Republican and Democratic administrations, once a diversion is common practice, preventing future money grabs is almost impossible.

Taking rightfully awarded money from the communities that have been affected by polluters, sometimes permanently, is completely unacceptable. Natural resource damage settlements are a onetime opportunity for these communities to be made whole for any lost revenue and potential that could have been derived from damaged natural resources. Diverting this money to fill budget holes does not do these communities or the environment justice.

Additionally, diverting natural resource damage settlement funds could produce negative, long-term unintended consequences for the state. Polluters could point to such diversions to reduce future settlement amounts by arguing: why should I pay to restore a community if the damaged community won't see all of the money? Using diversions from these settlements to plug budget holes is fiscally irresponsible and could lead to long term budgeting problems. Relying on an inconsistent funding source that can vary enormously from year to year is not a basis from which to fulfill budget needs and will continue the state down the irresponsible fiscal path that has led

to multiple credit downgrades over the past few years.

New Jersey LCV supports a three tier priority system as the fairest method of dispensing natural resource damages settlement funds. Money should always first go to the communities directly affected. Additional funds, when a settlement is extremely large, should be used within the water region to have a positive environmental impact on a larger area that still includes the affected community. Finally, in the case of only the largest settlements, money would be available to be used throughout the state on environmental projects, indirectly enhancing the quality of life of all families in New Jersey. The three-tier system ensures money will never be diverted to the general fund and used for non-environmental purposes.

Furthermore, New Jersey LCV supports the added provision of being able to use settlement money for legal and consulting fees. Without this ability, many cases may not be brought against polluters and communities will never see any money. As we have seen under the Christie administration, which has not brought a single NRD lawsuit, a thinly staffed department and an Attorney General with a full case load cannot be expected to try these cases without outside council. Allowing for legal costs does reduce the money communities see out of any settlement, but when the choice is a slightly reduced settlement that still forces polluters to pay back communities for the damage they've created or leaving communities to fend for themselves because no case was brought, the answer is clear.

We are confident that once this ballot measure is presented to voters, they will overwhelmingly support dedicating all natural resource damage settlements to environmental purposes. The environment has always been a winning cause in our state. Making sure settlement money is directed to the purpose for which it was collected makes for good, common sense government.

On behalf on NJ League of Conservation Voters, thank you once again for the opportunity to work with all of you to toward the goal of getting SCR-39 on the ballot in 2017 and for your time and thoughtful consideration of this testimony.

Sincerely,

Ed Potosnak, New Jersey League of Conservation Voters

BAMBOO BROOK
170 LONGVIEW ROAD
FAR HILLS, NJ 07931
908-234-1225
908-234-1189 (FAX)
info@njconservation.org
www.njconservation.org



New Jersey Conservation F O U N D A T I O N

**Senate Environment and Energy Committee
Testimony from Amy Hansen, Policy Analyst, New Jersey Conservation Foundation
in support of SCR39
November 21, 2016**

New Jersey Conservation Foundation supports SCR39 which would amend the Constitution to dedicate all State moneys received from settlements and awards in cases of environmental contamination for certain environmental purposes. Natural resource damages moneys must be restricted for environmental restoration purposes.

In 2009, New Jersey Conservation Foundation was able to permanently preserve 617 acres of woods and swamp in 2009 using NRD funds as well as contributions from the state Green Acres program and the Pinelands Commission conservation fund. This helped expand the Forked River Mountain Preserve, which is part of the largest unfragmented forest in the Pine Barrens.

The purchase was partly funded by \$1,000,000 from a natural resource damage settlement that the state Department of Environmental Protection obtained from the chemical company Rohn and Haas over contamination at two 1950s dump sites off Route 72 near Chatsworth.

Another NRD project near Forked Rover Mountain involved the preservation of 195 acres of forest as a groundwater recharge area. That was part of a consent decree addressing groundwater contamination by a landfill. The wooded area is adjacent to the landfill, which is located in Ocean Township, near Greenwood Forest.

In the 1960s, planners imagined building pedestrian malls, a shopping district and high-rise apartments in that area. Even after the 1979 Pinelands Protection Act, the region was not included in the most strictly regulated preservation area because there was little data on its wildlife habitat and rare and endangered species.

Named for low gravel hills that reach elevations nearly 200 feet above sea level, the Forked River Mountains received help from the late historian Elizabeth Morgan of Lacey who encouraged conservation groups to preserve the region.

New Jersey Conservation Foundation is now in the process of coordinating a \$7.2 million preservation effort to turn 160 acres on Hill & Dale Road in Tewksbury Township into a nature and agriculture preserve. Another 150 acres of Hill & Dale Farm is the subject of a state farmland preservation application.

Travelers in the area have long enjoyed the farm's spectacular tapestry of fields, woodlands, historic structures and hillsides dotted with grazing horses, all connected by the sparkling Rockaway Creek and its tributaries.

Along with the Tewksbury Land Trust, Upper Raritan Watershed Association and Lamington Conservancy, New Jersey Conservation Foundation has secured nearly \$5.5 million in financial commitments and is awaiting another \$1 million in pending approvals, for a total of almost \$6.5 million.

Since 2011, Camden County College has been a protection partner of the US Fish and Wildlife Service, having implemented a restoration project for the federally endangered Swamp Pink using NRD funds. The college is also in the process of buying a tract of land in Gloucester Township to permanently protect another healthy Swamp Pink population. The Swamp pink is a wetlands-dwelling member of the lily family that once covered areas from New York to Georgia, but now is mostly found in New Jersey.

We strongly encourage the passage of SCR39 which will benefit future generations of New Jerseyans in the years to come. We appreciate the opportunity to submit testimony today.