
Committee Meeting

of

SENATE ENVIRONMENT AND ENERGY COMMITTEE

ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE

“The committees will hear testimony from Dr. Michael J. Kennish, Professor of Estuarine and Marine Ecology at Rutgers, The State University of New Jersey, who will provide an update on the health of the Barnegat Bay”

LOCATION: Toms River Municipal Building
Toms River, New Jersey

DATE: July 21, 2014
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Bob Smith, Chair
Senator Linda R. Greenstein, Vice Chair
Senator Christopher "Kip" Bateman
Senator Samuel D. Thompson

Assemblyman John F. McKeon, Vice Chair
Assemblyman Raj Mukherji
Assemblyman John S. Wisniewski
Assemblyman David W. Wolfe



ALSO PRESENT:

Judith L. Horowitz
Carrie Anne Calvo-Hahn
Office of Legislative Services
Committee Aides

Kevil Duhon
Senate Majority
Christopher Pierre
Assembly Majority
Committee Aides

Carlos Cruz
Senate Republican
Thea M. Sheridan
Assembly Republican
Committee Aides

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey



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Chairman

LINDA R. GREENSTEIN
Vice-Chairwoman

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New Jersey State Legislature
**SENATE ENVIRONMENT
AND ENERGY COMMITTEE**
STATE HOUSE ANNEX
PO BOX 068
TRENTON NJ 08625-0068

COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE ENVIRONMENT AND ENERGY COMMITTEE
FROM: SENATOR BOB SMITH, CHAIRMAN
SUBJECT: COMMITTEE MEETING - JULY 21, 2014

The public may address comments and questions to Judith L. Horowitz or Michael R. Molimock, Committee Aides, or make bill status and scheduling inquiries to Shirley Link, Secretary, at (609)847-3855, fax (609)292-0561, or e-mail: OLSAideSEN@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The Senate Environment and Energy Committee will meet on Monday, July 21, 2014 at 10:00 AM in the LSM Room in the Toms River Municipal Building, 33 Washington Street, Toms River, New Jersey.

The committee will hear testimony from Dr. Michael J. Kennish, Professor of Estuarine and Marine Ecology at Rutgers, The State University of New Jersey, who will provide an update on the health of the Barnegat Bay.

The following bills will be considered:

S-579 Smith, B	Authorizes creation of stormwater utilities for certain local government entities.
S-2142 Singer/Greenstein A-1007 (1R) Benson/Riley/Wimberly/ Garcia	Requires DCA to establish procedures for inspection and abatement of mold hazards in residential buildings and school facilities, and certification programs for mold inspectors and mold hazard abatement workers.

(OVER)

Senate Environment and Energy Committee

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July 21, 2014

S-2171 Permits fifth and sixth class counties to assume control and
Smith, B/Bateman responsibility for operation and maintenance of beaches bordering
Atlantic Ocean unless control and responsibility are reserved by a
municipality.

FOR DISCUSSION ONLY:

S-575 Concerns combined sewer overflows; exempts improvements thereto
Smith, B/Bateman from 2% property tax cap; requires certain permit holders address such
overflows in capital improvement plans; and appropriates \$5 million.

Issued 7/11/14

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For changes in schedule due to snow or other emergencies, call 800-792-8630 (toll-free in NJ) or 609-292-4840.



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New Jersey State Legislature
ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE
STATE HOUSE ANNEX
PO BOX 068
TRENTON NJ 08625-0068

COMMITTEE NOTICE

TO: MEMBERS OF THE ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE

FROM: ASSEMBLYWOMAN L. GRACE SPENCER, CHAIRWOMAN

SUBJECT: COMMITTEE MEETING - JULY 21, 2014

The public may address comments and questions to Carrie Anne Calvo-Hahn, Committee Aide, or make bill status and scheduling inquiries to Sherri Hanlon, Secretary, at (609)847-3855, fax (609)292-0561, or e-mail: OLSAideAEN@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The Assembly Environment and Solid Waste Committee will meet on Monday, July 21, 2014 at 10:00 AM in the LMH Room, Toms River Municipal Building, 33 Washington Street, Toms River, New Jersey.

The committee will hear testimony from Dr. Michael J. Kennish, Professor of Estuarine and Marine Ecology at Rutgers, The State University of New Jersey, who will provide an update on the health of the Barnegat Bay.

FOR DISCUSSION ONLY:

A-1582 Spencer/Prieto	Concerns combined sewer overflows; exempts improvements thereto from 2% property tax cap; requires certain permit holders address such overflows in capital improvement plans; and appropriates \$5 million.
A-1583 Spencer/Wimberly	Authorizes creation of stormwater utilities for certain local government entities.

(OVER)

A-1596
Spencer

Permits fifth and sixth class counties to assume control and responsibility for operation and maintenance of beaches bordering Atlantic Ocean unless control and responsibility are reserved by a municipality.

Issued 7/14/14

For reasonable accommodation of a disability call the telephone number or fax number above, or TTY for persons with hearing loss 609-777-2744 (toll free in NJ) 800-257-7490. The provision of assistive listening devices requires 24 hours' notice. Real time reporter or sign language interpretation requires 5 days' notice.

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SENATOR BOB SMITH (Chair): Would everybody take a seat?

Welcome to the two most interesting Committees in the Legislature: Assembly Environment and Solid Waste, and Senate Environment and Energy. We're thrilled to be back at the Jersey Shore today. We try to make sure we have at least one meeting on the road, down the Shore, every year because you are the jewel of New Jersey; we love you dearly. Whether we live here or have friends here, we know what you do for our State.

And I'm proud today to be co-chairing this meeting with Assemblyman John McKeon, who is the Vice Chair of the Assembly Environment Committee. Assemblywoman Grace Spencer, who is the Chair, had another commitment this morning, but we're hoping to maybe catch up with her later this afternoon.

Let me introduce the members on my side, and then I'll turn it over to Assemblyman McKeon to introduce his members on his side.

To my left is Senator Linda Greenstein; to her left Senator Kip Bateman; and to his left is Senator Sam Thompson. And we have Middlesex County, Somerset County -- Middlesex, and a whole bunch of shore counties, too, I think?

SENATOR BATEMAN: Hunterdon, and Mercer, and Middlesex.

SENATOR SMITH: Yes, yes. I think we have a pretty good geographic representation on the Senate side.

Let me now turn it over to my good colleague, Assemblyman John McKeon.

ASSEMBLYMAN JOHN F. McKEON (Vice Chair): Thank you, Senator.

To the good folks here in Toms River, thank you for being wonderful hosts, as you already are and always are.

It's a pleasure to be here. Again, Assemblywoman Spencer is on her way, so it's my privilege to kind of help gavel us on a going-forward basis.

I know we look forward to discussions, particularly on nonpoint source pollution and some of the potential solutions to that issue. It goes without saying that Senator Bob Smith has been my role model in the Legislature for many, many years now, and is an esteemed and incredible legislator -- particular as it relates to issues involving the environment.

With me today -- this young man didn't sneak out from junior high school (laughter), but rather he actually is an Assemblyman -- Raj Mukherji from Hudson County. And Raj, thank you for being here.

And to his right -- or to your left -- is someone who I know is well known to many of you. David Wolfe has been a wonderful person for me to work with for the last dozen years, and I appreciate him. Obviously, he represents your home County here, in Ocean.

And, as we speak, having a little bit of a flair for the dramatic (laughter) would be Assemblyman Wisniewski, who is here from Middlesex County and who will be joining us on the panel today.

Again, my name is John McKeon, so, obviously, we have Middlesex, we have Hudson, we have Ocean, and I represent Essex as well as Morris. So we have a great compilation of people from all over the state in order to listen to these important pieces of legislation.

Senator.

SENATOR SMITH: And with that, our first item of business -- because we do love the Barnegat Bay so much -- is to hear about its health. You may remember that just before Sandy, when we had our hearing here, we had Dr. Michael Kennish from Rutgers talk about the health of the Bay. And at that time he said it wasn't so good. So we'd like to see what has happened in the interim. And with that, Dr. Kennish, if you would come forward and tell us what you understand to be the health of the Bay, we'd very much appreciate it.

MICHAEL J. KENNISH, Ph.D.: First off, I'd like to thank Senator--

SENATOR SMITH: Let's see if we can get the microphones on for you. (referring to PA microphones)

DR. KENNISH: First off, I'd like to thank Chairman Bob Smith, Assemblyman McKeon and the other members -- other Assemblymen present -- to hear about the testimony on Barnegat Bay and Little Egg Harbor.

I want to mention that the condition of Barnegat Bay-Little Egg Harbor is well chronicled in both the popular press as well as the scientific peer-reviewed literature. The condition is basically the-- This is a coastal lagoon which is susceptible to development and human impacts. It's a highly eutrophic estuary that's ecologically impacted and also impaired.

The ecological health of the estuary has deteriorated, though, in the past few decades. It was originally classified as a *moderately eutrophic system* by Dr. Sybil Seitzinger, a former Rutgers professor, and then later reclassified between 1997 and 2007 as a *highly eutrophic system*. That was

confirmed by Rutgers' investigations and research over the last seven or eight years regarding the condition of the system.

Since the last meeting we had on this two years ago, we have completed, formally, a four-year project, with the submission of a final report on the overall condition of Barnegat Bay-Little Egg Harbor with respect to eutrophication. Eutrophication is a complex problem; it involves a process of nutrient enrichment -- nitrogen and phosphorous -- and an increase in the rate of organic matter input into those systems as a result of the, essentially, fertilization of the waters. That results in a cascading effect on the ecosystem structure and function, with an array of negative effects such as depleted dissolved oxygen, harmful algal blooms, toxic blooms, essential habitat loss like seagrass and shellfish beds, declining fisheries such as clams and other components, reduced biodiversity, altered food webs, changes in biogeochemistry, and diminished ecosystem services, as well as the effect on the impacted human use as a result of these.

The major findings of the report essentially is that the estuary has undergone significant ecological decline since at least the early 1990s, and that the condition has progressively worsened with respect to nitrogen and phosphorous. The nitrogen and phosphorous loading scores that we develop-- We developed a mathematical or numeric evaluation scoring system for the estuaries -- a complex quantitative evaluation of the estuary.

And it's beyond the scope of the hearing here to get into that, because it is very complex. But the simple fact is that when you apply that -- What we dealt with there was to draw the connection between watershed inputs of nitrogen and phosphorous, and the responses in the estuary to that. Looking at multiple indicators, from water quality, to organisms, to

physical chemical factors -- that's what we did; we actually did a numeric quantification of all of that: what is going on, what's being delivered in a way of loading from the watershed. The watershed basically is the Ocean County land area, and we were looking at the response of all of these factors to that. And we went and did this over a four-year period with collaboration of the U.S. Geological Survey, which did all of the loading work from Ocean County related to this. So I'm talking about the calculations of nitrogen and phosphorous that was originating on the land surface. Rutgers did all of the calculations on the estuary work -- on what's going on in the water.

Essentially, that's what was done. And what we found in the scoring categories is that the nitrogen and phosphorous loading scores were more degraded in the period that's more recent. So if you go to 2003 to 2010, the condition is worse than it was back in 1990 to 2003.

So basically the situation has not gotten better; it's probably gotten worse with respect to nutrient inputs. We're talking about a watershed that delivers about 1 million to 1.9 million pounds of nitrogen a year; the highest amount -- this is, again, calculations done by U.S. Geological Survey -- 1,900,000 pounds, that occurred, was in 2010. This study went from 1989 to 2010. We actually had a validation year of 2011. Rutgers has done additional work since that time on the biotic part, in 2012.

But the situation is that in addition to what we found-- Okay, now that was a total loading for nitrogen. The phosphorous is a much lower amount, but it's still damaging to the system -- that's about 37,000 pounds to about 70,000 pounds of phosphorous per year, that range. The

highest amount was found in 2010 along with the nitrogen. The lowest amount was found in 1995 -- the year-end 1995.

So generally the loading has sort of increased as well with time. There's a variation involved from year to year, of course, depending on the amount of precipitation, for example, because that's a delivery mechanism for bringing nutrients in.

What does this-- What we had done in this investigation was to also develop an index -- a mathematical model or index that could be used by the Coastal Management community in terms of setting numeric standards for water quality. So we not only did all the things I just mentioned, but we also produced a product -- an analytical approach that could be used to determine how much nitrogen you need to control from the watershed to the water body. And what we found in this process was that it's probably something that needs to be addressed. Because the condition in the lower two-thirds of the estuary that is from Toms River south -- that area in the central and southern segments of the estuary -- it's now undergoing eutrophication. That is actively undergoing eutrophication. That was not the case, probably, before 1990 -- or before early 1990. Now, the case in the northern part -- I'm talking about Toms River north, where we have developed land areas heavily -- that has been severely damaged and, in terms of overall eutrophication, it was entrenched in eutrophication back in the 1990s, the early part; it's gone -- it's modestly increased. It has rebounded somewhat, but the last measurement indicated it was a poor condition. It's tantamount, to me, to someone who has emphysema -- I'm giving an analogy now -- someone who has tragic health and they drag along in a situation where their health is very poor from one

year, they improve a little bit, and they drag along. And this is not a healthy situation. Basically, that's my analogy of what we can see in terms of how you can put an analogy to what's going on in terms of the estuary.

So we have a condition again of increasing eutrophication -- a problematic situation in the lower two-thirds of the estuary; an even worse eutrophic condition in the north segment. And there's also the likelihood of -- if you continue to do what's being done in terms of the amount of alteration of land surface, and in terms of the impervious situation when you develop -- if that continues without remediation in some way, it's likely that the loading will continue to increase with development, if you continue to develop. I don't know what the exact plan is, but the situation is if you can do it in the southern part of the county, as well as the central part, that will lead to increased loading as well and the prognosis for that would mean ongoing eutrophication in those areas.

One of the most important things was to determine what the tipping point, or threshold, is in terms of nitrogen and phosphorous for Ocean County to the Bay. And what we found in a graphic and plot -- which I can actually submit to you today, in terms of a graph or a figure on -- that shows clearly that the loading and response to the estuary is not linear like in a Chesapeake Bay or Delaware Bay; it's actually logarithmic or nonlinear. That means that even if you put a relatively small amount of nitrogen and phosphorous in the water -- in loading -- the response on many of these factors that have been in the water, that I was mentioning, respond negatively to that. And we found that the tipping point of threshold was at a 2,000 kilograms of total nitrogen per square kilometer per year; for nitrogen and phosphorous it was 100 kilograms total phosphorus per square

kilometer per year. Now, those numbers, maybe, don't mean a whole lot. What I'm saying is, you convert that to pounds, there's a number-- The reason why we see this threshold -- this point in time in the curve -- is because when you go beyond those numbers, the estuary remains in a very status quo condition of impaired or very poor condition. And those numbers are-- You can see it distinctly -- that the estuary, when it curves in this nonlinear curve-- Again, I have and I can distribute them to you after I finish here; and it shows clearly where that point is.

So we have these numbers that can be used to develop numeric criteria for water quality for nitrogen and phosphorus. It's been an elusive thing that we've been-- It's been elusive. It's very difficult to calculate these numbers in a specific way like this. And we think we have it correctly; we have a lot of confidence in what we've done here. The numbers are clear; those numbers can be used as, well, not just to set numeric standards, but also to develop TMDLs to limit the amount of nitrogen that would be coming in.

The northern part of Barnegat Bay is already impaired, based on dissolved oxygen, for the Clean Water Act. It's likely that it's-- We see it as impaired clearly for nutrients, because the amount of nitrogen alone-- I gave you a limit of 2,000 kilograms total nitrogen. In the northern sector it's over -- we see numbers over 5,000. So we have a situation where we're well beyond that threshold in the northern sector, meaning that we need to do something about that to limit it in the north sector.

SENATOR SMITH: All right. So let's ask the tough question.

DR. KENNISH: Excuse me?

SENATOR SMITH: If you were king, (laughter) what's the best single thing that either the State of New Jersey or the Ocean County government, or the local governments, or the people of Ocean County could do to reduce this nitrogen and phosphorous input into the Bay?

DR. KENNISH: Well, I think the 10-point plan of the Governor, administratively, is a good plan. What needs to be done, in my view, is it needs to fill the gaps in there -- that you need to ramp it up, as I mentioned two years ago, and address some of the things that haven't been achieved yet. One of them -- I think item number 7 -- is what I've just been talking about: developing new standards -- numeric criteria -- for water quality; in this case, nutrients. I'm talking about, specifically, nitrogen and phosphorous, since those are the causes of the problem. Nitrogen, I want to emphasize-- Of the two, nitrogen is by far the more serious in an estuary. It's not like in the costal land areas where we're talking about phosphorous being more important -- get it out of fertilizers. The reverse is the problem in our estuaries. Nitrogen is more important than phosphorous, but prosperous can be a limiting problem -- it can be a problem in the fall. But nitrogen is the big problem here, and it's not being removed from fertilizers totally, as you know.

So I mean, they're definitely on the right track about addressing these things. But when you're doing more studies and so on, you really need to implement those things into the--

SENATOR SMITH: And getting back to that: So what is the implementation that is needed? If you are correct that your model is in pretty good shape, you know what the numbers should be, once you know what the numbers are, what happens next?

DR. KENNISH: Well, we've recommend in this study that -- because the threshold numbers are 2,000 and 100, we've recommended that they should start at numbers of 1,500 and 75 as starting points. And they should be the target points to addressing some type of -- a TMDL that would limit it to those numbers.

SENATOR SMITH: TMDL.

DR. KENNISH: And start at that point. If it doesn't work there, lower it at some point in the future. That's our recommendation, because we see that threshold number at 2,000 and 100. I can convert them into pounds, if you want. But that's where we're going. We also think it should be extended to the rest of the estuary, because the other parts of the Bay are undergoing eutrophication as well. Even though those numbers may be under that number of 2,000 and 100, because it's going into a danger zone it's probably prudent to include the numeric criteria and TMDLs that would be estuary-wide for the protection of the system. That's our recommendation.

That doesn't preclude other things that are being done. I think their targets are important, in terms of open space preservation-- Stormwater upgrades are very important to this, because if we don't get a handle on the situation with the runoff it's going to be really difficult to get this under control. I mean, I'm talking that they have to go in there-- Some places like Philadelphia have done a good job at restoring things, and so on. It's not just going into studying plans for future development; I'm talking about the system can't handle what's going on and what's already happened. So even if you are going to worry about putting the best systems in on new development, you still don't have enough good control on what's

there now. So the only way you can do that is, you have to go in there and you have to take the bull by the horns in terms of restructuring the stormwater systems or some structural change in there.

The problem also goes into impervious cover, and I want to point out the severity of the problem. In the northern part of the County or in developed areas of the County, the turf -- how much nitrogen is coming from turf? How much is coming from non-turf? Actually, twice as much nitrogen is coming from turf; 28,000 acres -- this is part of the analysis that was done by Rutgers -- 28,000 acres -- more than that -- of turf in developed areas. Twice as much nitrogen is coming from turf than non-turf; eight times more phosphorous is coming from the turf than the non-turf. So we know that the land alteration is the bottom of the problem here; it's clear.

The one thing this study has absolutely nailed down is the link between the developed areas and the source of this problem. It's absolutely case closed, it's slammed, it's over, it's clear, and the numbers are there. USGS did a great job, and we're seeing the responses, as a result, in the system. So if you went looking for long-term planning and what we need to do to be protective of that -- it is a nonpoint source problem; there's no question about it. We have more than two-thirds of the input of nitrogen coming from the northern part of the system -- more than two-thirds is coming from the north of Toms River -- Toms River north -- and the rest is coming from, less than 20 percent each, the south of Toms River. And so we have a target we can go to in terms of really delivering focused resolution in the northern part in terms of structural improvement. This is a lot better than Chesapeake Bay. I mean, Chesapeake Bay has many multiple-- They

have many, many watersheds that they have to deal with. And they had a problem when they instituted a TMDL, but they had, like, more than 25 watersheds; we have one for this estuary. So it actually allows us the ability to devise some methods to fix it.

Again, the Governor's 10-point plan, I think, is a very positive thing, but there are elements in there that we have to do more with.

SENATOR SMITH: Implement.

DR. KENNISH: The soil restoration -- my final point. Soil restoration is in there, but they haven't even set standards yet for the soil restoration. This is since the two years we have spoken.

SENATOR SMITH: Yes.

DR. KENNISH: So there are elements that need to-- That's why I keep mentioning about ramping these things up. It's not that I'm just picking these things apart. It's a matter of finding out where the problems are and what we need to do to fix them.

ASSEMBLYMAN McKEON: Dr. Kennish, thank you for your passion and for your knowledge. We all really appreciate it.

I guess, through the years now -- it's been a dozen years and this is your life's work -- but we've heard a lot about eutrophication and a whole variety of factors, including Oyster Creek and the warming of the water by a couple of degrees. But I guess nonpoint source pollution, of course, is the biggest contributor.

One of the solutions that was discussed -- even though it wasn't all that practical -- was a water exchange; almost like another inlet that would allow the free flow of water to kind of have the Bay reconstitute itself. And people, God forbid, before Hurricane Sandy said, "What's really

going to happen is there's going to be a hurricane and nature is going to take care of this issue."

I know that there were all kinds of oil, and cars, and terrible things that ended up in that Bay. But was there any improvement? Do you have data to the extent that the ocean water literally washed into the Bay?

DR. KENNISH: Well, when that occurred, that occurred in late October. That is time when eutrophication -- the immediate impacts are sort of already subsiding. It's really mainly a warm water period, although it gets in the sediments and so on and the following year can be a problem.

It was only open for maybe a week or so, in my recollection. And I don't think the analysis of that was sufficient to be able to get a handle on whether that would improve it.

Theoretically, to me, that would be -- from the physical, chemical standpoint -- I think it would be an option to look at. It would create other problems, though, because it would change the structure of the estuary in terms of the organisms, their distribution--

ASSEMBLYMAN McKEON: I understand that it's not very practical to have another inlet. But I guess I was asking: Has there been chemical studies since Sandy as it relates to current levels of nitrogen and otherwise-- Or are the studies that we're talking about pre-Sandy?

DR. KENNISH: Well, there has been data collected by the State DEP on a regular basis. They do those collections every-- I know they have, I believe, more than 50 stations; they collect every three months, I believe, from these sites. And also--

ASSEMBLYMAN McKEON: Any change or impact as a base to what we saw pre-, versus what we see now?

DR. KENNISH: Again, I hadn't really analyzed the data for nutrients since 2012, in terms of right before the storm. Because the problem is, my focus is just generally looking at the condition of the estuary pre-Sandy, because the event was so devastating it altered the benthic environment -- or the bottom environment. It caused a lot of change in the habitats of the system. So I knew I had to separate out a pre-Sandy from post-Sandy. And I'm still working on the pre-Sandy, in terms of getting it through to-- We got 2012 -- up to 2012. Again, the DEP would probably be able to provide a better assessment of that water quality in the last year or so of the system.

ASSEMBLYMAN McKEON: All right. I appreciate it; thank you.

SENATOR SMITH: We appreciate all your efforts on behalf of not only Rutgers and the Bay, but the people of the State. You help us with that, in trying to focus on what we need to do to try and make our system better.

And what I understand from your testimony is we really should be working harder on the TMDL issue, and on the stormwater basins, and a number of others. But those seem to be the top two that you were the referring to? And land use policies, I would think, as well.

DR. KENNISH: Yes, I would say they're the most important, in my perspective; others may see it differently. But that's the way we see it from our analysis.

SENATOR SMITH: Great. We appreciate all your efforts on behalf of everyone.

Thank you for participating.

ASSEMBLYMAN WOLFE: Mr. Chairman? I have a question.

SENATOR SMITH: Yes, sir.

ASSEMBLYMAN WOLFE: Thank you very much. Very interesting. It's technical, but understandable. Thank you.

I have a question. Primarily, most of the focus has been on the communities adjacent to the Bay, because that's where everything comes out -- into the Bay. I don't know about the other counties, but I know in Ocean County there are several inland communities -- way far away from the Bay -- that are going to have burgeoning populations in the next 15, 20 years. So what should or could be done to prepare to mitigate against an onslaught from those communities?

DR. KENNISH: I'd say it's the same situation, but basically in terms of being concerned about stormwater systems; and, you know, there's going to need to be an effort for restoring soil profiles and those elements that we just mentioned.

It's a really difficult task when the communities are already structured and the impervious cover is already there. When you have an acre-- I'll give you an example. You have an acre of pavement -- 1 acre -- and it rains for 1 inch on that pavement; that 1 acre pavement -- 1 inch. It will have 27,000 gallons of runoff off of that. Now, that may not seem-- Someone says, "Well, so? Big deal." The problem is, is that there's nitrogen in the rainwater. It's not just-- We have a problem -- it's not just what people are doing in Ocean County; we have an atmospheric fallout

problem, just due to combustion of fossil fuels and so on, that contributes 22 percent of the nitrogen, for example, to the system.

Again, I guess I'm getting technical. The situation is that there is not a whole lot of remedy, other than the points that we're talking about. We're aware that you have to attack the area where the ground has been altered by people. And when they alter the ground it's either a hard structure like a macadam or cement, or the ground is hardened when they built and they put lawn -- turf -- in there and so on. And the reason why you have so much of the nutrients coming off is because they've compacted the soil under the turf, and this stuff is running off -- and they think it infiltrates and everything's fine.

So anyway, these are ways you have to deal with them. You have to fix those things, or certainly upgrade the stormwater basins and things that would intercept the runoff. That is a good point, I mean, you're raising about those kinds of structures or engineering structures that go into it, all right?

ASSEMBLYMAN WOLFE: Thank you.

SENATOR SMITH: Great. Thank you, Doctor. We appreciate your work. (applause)

Our first bill--

UNIDENTIFIED MEMBER OF AUDIENCE: (Indiscernible).

SENATOR SMITH: But we love him too. (laughter)

Why don't we take a roll on both sides?

MS. HOROWITZ (Committee Aide): Senator Smith.

SENATOR SMITH: Present.

MS. HOROWITZ: Senator Greenstein.

SENATOR GREENSTEIN: Present.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Here.

MS. HOROWITZ: Senator Thompson.

SENATOR THOMPSON: Here.

MS. CALVO-HAHN (Committee Aide): For the Assembly Environment and Solid Waste Committee, Assemblyman Wolfe.

ASSEMBLYMAN WOLFE: Present.

MS. CALVO-HAHN: Assemblyman Mukherji.

ASSEMBLYMAN MUKHERJI: Present.

MS. CALVO-HAHN: Assemblyman Wisniewski.

ASSEMBLYMAN WISNIEWSKI: Here.

MS. CALVO-HAHN: Assemblyman McKeon.

ASSEMBLYMAN McKEON: Present.

MS. CALVO-HAHN: Thank you.

SENATOR SMITH: Okay, with John's concurrence, our first bill will be S-2142, which has an Assembly companion, A-1007, requiring the Department of Community Affairs to establish procedures for the inspection and abatement of mold hazards from residential buildings and school facilities, and certification programs for mold inspectors and mold hazard abatement workers.

It's already passed the Assembly; it's over here on the Senate side. Senator Greenstein and Senator Singer are sponsors. Senator Greenstein, maybe you can tell me why this Bill is important.

SENATOR GREENSTEIN: Well, this Bill is very important because right now we really don't have procedures in the State to deal with

the issue of mold identification and abatement. So what this Bill would do is require the Department of Community Affairs to establish procedures for the inspection, identification, evaluation, and abatement of the interior of residential buildings and school facilities for mold. And what this Bill did not do -- it did in an earlier version, but not in this version -- we didn't ask the DCA to come up with the actual standards. It is going to be based upon, but not limited to, industry standards and standards and guidelines developed by the U.S. Environmental Protection Agency.

So those already exist and we're essentially adopting that as an approach to make the identification for mold.

It's also going to establish a certification program for mold inspectors and mold hazard abatement workers. Right now, any number of people come into the state, saying, "I'm a mold inspector." They won't be able to do that anymore. They will have to be part of this program.

A residential property owner -- not certified under the Bill -- can perform mold inspection, mold abatement work on their own property and would not have to go under this program.

Under the Bill, no person shall present himself to the public as an expert in mold inspection or abatement work unless certified by the DCA. We all know the dangers of mold -- people with asthma, other sensitive populations -- so it's extremely important that we do something about this. And there literally are no current rules and regulations.

Lots of groups are on aboard with this, including the New Jersey Laborers Union; the NJEA, the teachers' union -- because of the schools; the New Jersey School Boards Association; the New Jersey

Apartment Association; the New Jersey Association of Realtors, and several others.

And the Bill was changed in the Assembly, so what we're asking today is to have the changes made to conform with the Assembly Bill. And I believe there might still be some work going on in the Assembly to try to make sure that the Governor's Office is onboard, because he did veto it the last time.

SENATOR SMITH: Okay.

SENATOR GREENSTEIN: But right now we think we have a good Bill that everyone can accept.

Thanks.

SENATOR SMITH: And we do have a couple of amendments. What do the amendments do, Ms. Horowitz?

MS. HOROWITZ: The amendments just amend the Senate Bill to make it identical to the Assembly Bill.

SENATOR SMITH: Great. And we have a number of witnesses who signed up: Stacy McCormack, Littoral Society, in favor, no need to testify; Brett Schroeder, NJEA, in favor, no need to testify; Kate Millsaps, New Jersey Sierra Club, in favor, no need to testify; Bruce Shapiro, New Jersey Realtors, in favor, no need to testify; Nicholas Kikis, New Jersey Apartment Association, no need to testify. And we do have a position statement from NJEA in support.

There are no other witnesses signed up.

Can we have a motion to release the Bill from the Senate side?

SENATOR GREENSTEIN: Moved.

SENATOR BATEMAN: Second.

SENATOR SMITH: Moved by Senator Greenstein; seconded by Senator Bateman. And there is no action required on the Assembly side because--

ASSEMBLYMAN McKEON: No, it's already passed.

SENATOR SMITH: --you guys have already acted on it.

ASSEMBLYMAN McKEON: We have.

SENATOR SMITH: So if we could take a roll call vote on the release of that Bill.

MS. HOROWITZ: On Assembly Bill 1007, and Senate Bill 2142, with Senate Committee amendments; Senator Thompson.

SENATOR THOMPSON: Yes.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Yes.

MS. HOROWITZ: Senator Greenstein.

SENATOR GREENSTEIN: Yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes.

The Bill is released.

Our next Bill is Senate 579, and the companion Assembly Bill is A-1583. And this Bill authorizes the creation of stormwater utilities for certain local government entities.

And let me say the word *permissive*, all right? Nobody has to do anything; it's permissive. This is stormwater utility, not beaches. That's a different group of people.

In New Jersey -- a little history -- during the Depression, when the WPA was set up -- the Works Progress Administration, very similar to

the Carter years with countercyclical aid -- a lot of Federal money was put into capital construction. In the 1930s it was thought to be a brilliant idea to build what are called *combined sewers* -- putting sanitary sewers and stormsewers in the same pipe. It was thought to be brilliant -- you get the two-for-one special.

After zillions of dollars of combined sewers were built, we then found out later on: not such a great idea, because every time it rains heavily it doesn't rain pennies from heaven, it rains pathogens into our nearest water body.

So combined sewers are an anathema today; in fact, we are trying to find money to uncombine the combined sewers. And, unfortunately, in New Jersey, in many, many urban areas like New Brunswick and Perth Amboy; in my County; and I think, Assemblyman Mukherji, I think Jersey City has some combined sewers--

ASSEMBLYMAN WOLFE: Perth Amboy.

SENATOR SMITH: Perth Amboy. There are combined sewers in a lot of places that continue to be problematic for the environment and for public health.

So what this Bill does is to try and use a mechanism that's used in 15 other states of the United States of America. And that mechanism is a stormwater utility. Which means that the stormwater utility -- and it doesn't have to be a new entity, it can be existing county authorities, it can be the local authorities -- can collect a small vig -- vigorish -- I don't want to use the word *tax* -- but a small amount of money every year from those entities that have large impervious surfaces and which contribute to the stormwater problem.

So in 15 states this has been found the way to do it; every year the stormwater utility cleans up a couple of problems and then moves on to the next problem -- theoretically starting with the worst problems first and going from there.

So this Bill would permissively -- permissively allow towns with combined sewers to adopt stormwater utilities. And did I say the word permissively?

SENATOR BATEMAN: You did. (laughter)

ASSEMBLYMAN McKEON: We can't hear you on the Assembly side. Is it permissive, Senator? (laughter) I think it might be permissive.

SENATOR SMITH: Senator Bateman, do you think it's permissive?

SENATOR BATEMAN: I think it's permissive, Senator.

SENATOR SMITH: All right.

ASSEMBLYMAN WOLFE: Wow, it's permissive. I heard that it was permissive.

SENATOR SMITH: So we have witnesses. Stacy McCormack, Littoral Society, in favor, no need to testify; Mike -- let me hold Mike; let me see if there are any other "no need to testify." We actually have a whole bunch of witnesses. I'm sorry, we have Nick Kikis from the New Jersey Apartment Association, opposed, no need to testify. And then we have six witnesses who have all indicated in favor. Let me give you the admonition: Let us not snatch defeat from the jaws of victory. And then Shakespeare's admonition, "Brevity is the soul of wit."

So let's start with Doug O'Malley, in favor, from Environment New Jersey.

Doug.

D O U G O ' M A L L E Y: Thank you so much, Mr. Chairman and other members of both joint committees.

As you all know, this always, of course, feels a little bit like Groundhog Day -- coming back and listening to the Chairman talk about the importance of a stormwater utility, and listening to Dr. Kennish talk about the Barnegat Bay and the progress that we need to make, and the lack of progress thereof.

And I did just want to make a couple comments. We heard two years ago from Dr. Kennish on the exact same issue with the Bay. We heard close to three years ago from Commissioner Martin, in this very room, on the six-month update on the 10-point plan. And I think, across the board, the 10-point plan fails to address the single greatest solution to clean up the Bay, which Dr. Kennish talked about -- which is an actual clean-up plan through the Clean Water Act to reduce stormwater pollution going into the Bay. And I think that will be echoed through my colleagues.

I did just want to make a couple comments regarding the legislation at hand. But before I do that, I do just want to say that the Governor has clearly stated that he wants to get Barnegat Bay back to a place where it should be. And the Governor's 10-point plan needs to acknowledge the lack of a clean-up plan; and, honestly, without doing that it won't succeed.

Just to move on briefly to this legislation at hand. Obviously, there are a ton of CSO, which the Chairman talked about, built many,

many moons ago. The idea of allowing our counties and municipalities to actually address stormwater, in a way that it doesn't just stick our head in the ground, is what we need. And the lack of action at the State level has honestly been very alarming. New York/New Jersey Baykeeper, as you know, championed and -- with your support, Senator -- helped to pass the notification of CSOs; that legislation was vetoed by the Governor. Really, if we can't even know what the problem is, it's not going to go away.

And I just want to, again, thank your leadership, Mr. Chairman, for working to roll this boulder back up the hill; and knowing that, obviously, like our city across the Delaware in Philadelphia -- they are acting under a consent decree. So if we fail to act, the EPA will be, ideally, following closely with legal repercussions.

Thank you.

ASSEMBLYMAN McKEON: Thank you very much.

Any questions? (no response)

Cindy Zipf of Clean Ocean Action. Where are you, Cindy?

Hi.

CINDY ZIPF: Hi. I'll be very brief.

I don't want to snatch victory from the jaws of--

Cindy Zipf, Executive Director of Clean Ocean Action. Thank you so much for coming out to the Shore again for these opportunities. It's very important for citizens to have.

We view the stormwater utility Bill as important, and very important good first step. I would just recommend or urge that perhaps some language in the -- subsequent to the passage of the bill, that it be clear to the DEP that they involve citizens in developing the guidance manual,

rather than putting the guidance manual together and then asking for public comment. I mean, I think the State of New Jersey has a lot of experts, and that they should be involved in actually preparing the guidance document, rather than providing comment just at the end.

So just to clarify that.

I would also just like to say that, Senator Smith, your efforts to get stormwater utilities in other areas of the state are also greatly appreciated. And as I emphasized in the beginning, it is an important good first step; and we would stand very strongly with all the members of the Committee as we move forward to get other areas of the state to adopt stormwater utilities.

They are not unique; there are many states around the country doing them, and we have to come up with the funding to implement the solutions that Dr. Kennish talked about.

Thank you.

SENATOR SMITH: Thank you.

Freeholder John Bartlett from the Ocean County Board of Freeholders.

Freeholder, come on up.

FREEHOLDER JOHN C. BARTLETT Jr.: (off mike)
Senator, I wanted to address my comments also to what was spoken by Dr. Kennish, if that would be appropriate.

SENATOR SMITH: Sure, go right ahead.

UNIDENTIFIED MEMBER OF STAFF: You want to take that mobile and just-- (referring to PA microphone)?

FREEHOLDER BARTLETT: No, I won't be able to see it then.

Let's see if my engineering background (indiscernible).

Thank you.

First of all, as the Freeholder Deputy Director, let me again welcome you to Ocean County. You gave us the opportunity to meet with you in your office, which we deeply appreciated. And I told you then we were going to adopt you as our fifth Senator, so welcome home, Senator.

The Bill under consideration -- to my understanding and to my knowledge -- deals with combined sewer stormwater discharges. And I'm very happy to tell this Committee that that does not occur in Ocean County, okay? The entire County is sewered by the Ocean County Utilities Authority, which engages in secondary treatment. There are three sewage treatment plants; all the collection eventually finds its way to one of those three plants where the treatment takes place. So there is no sewage discharge. And let me repeat: no sewage discharge that enters Barnegat Bay.

I think it's also important to note that there are no industrial effluents reaching the Bay, with the exception of warm water from Oyster Creek nuclear power plant. And that, of course, is scheduled to close within the next decade, between eight or nine years. So again, there is no industrial effluent going into the Bay.

So that the only-- Currently, there are practically, essentially no farm inputs into our Bay waters. Now, as we all know, farms are immense polluters in terms of nitrogen and other materials, from manures and other things to do with farming. And, again, that does not occur in Ocean County because we don't have any farms -- or practically no farms.

So the only inputs into the Bay are those that are from stormwater runoff which occurs from the rain.

I brought a map; I had the Planning Department put together for us for this meeting, I think, a map that is very impressive. Everything that you see in green on that map is preserved land. Roughly 57 percent of Ocean County is preserved land. When I say *preserved* I mean it is State Forest, it is National Forest, and the Forsythe Reserve along the Bay. There are County natural space open lands that we've purchased through a program -- which I will get to in a moment -- and, again, County Parks and municipal parks. I'm not so sure that that map is absolutely, positively complete, but it does show, I think, an impressive public input into maintaining good water flows into the Bay.

Now, what do we do with stormwater? And, again, this Bill has to do with combined stormwater flows, so I'm not directly on point. But I do think it's important to the Committee, if you'll permit me, to explain to you what we are doing.

First of all, in our Natural Lands Trust program, it is a 1.2 cents per \$100 of equalized value that was voted on by the taxpayers in 1998 or so; it went into operation in 1998. And that produces, roughly, \$10 million a year. And that money is dedicated solely to purchasing land through our Natural Lands Trust Advisory Council for natural spaces. In other words, we do not use that money for parks acquisitions, or for active recreation, but for the preservation of land and the Farmland Preservation program; which, again, there is some in the far western part of the County. All told, through this program, we have spent \$83 million worth of County-raised tax funds on it. And we always like partners, and so that anyone who

comes by with some money is welcome. And we have been able to have partners to the tune of \$70 million, so that the 19,000 acres that we have preserved represents \$154 million worth of investment in buying lands and preserving them in Ocean County. We are very proud of that figure and the fact that, again, our total preservation -- along with the Lakehurst Joint Base, and State, Federal, and other lands -- now constitutes about 57 percent of the total acreage of Ocean County.

But what about stormwater? Now, this is a complicated subject. I have some notes, and I'll probably, may well get them wrong. But we have been upgrading to the tune of about \$3 million a year -- our current stormwater system. That is to say, when water is caught along the sides of roadways and catch basins, what happens to it then?

Now, the oldest systems along the Toms River probably are direct discharges into the Bay. It would certainly be helpful if it were easier for municipalities and the County to clean out those catch basins, because whatever goes into those catch basins in a heavy rain is being flushed directly into the Bay. The problem is that when the material is removed it must be, by current regulation, dewatered and then tested; and then if it doesn't meet certain tests, then it must go into a landfill and that costs over \$100 (*sic*) in time. Many municipalities just throw their hands up and say, "We won't worry about it." I think we could do better in that situation.

The County, by the way, monitors its, I believe, 850 -- roundabout -- catch basins and puts them on a regular maintenance schedule; but I'm not so sure that that's done by municipalities. I don't believe it's being done by the State Department of Transportation -- along

Route 9, Route 70, and the other State highways in the County; and that would be, certainly, appropriate.

All new development, I'm told, must, by regulation, contain its own water on its site. So that it must build infiltration systems and retention ponds, etc., so that the rainwater falling on those new developments is internally handled and does not add to the surface flow into streams or our rivers.

Now, what about the detention basins that we see? There are many different kinds -- and I may get this a little confused -- but the fanciest of those are called a *subsurface gravel wetland basins*. And what that means is, it's an engineered basin which is gravel-based, which will hold water and hold plants -- that live, obviously, in wetlands -- that will soak up or take up the nitrogen in the water, before that water is released either through groundwater or an outlet going somewhere else. So they're the fanciest things that we've built. I think we have two or three out of Ocean County College, and we're very proud of those. The Commissioner came down to help dedicate those.

There are detention and retention basins, and infiltration basins that are all somewhat different, but also intertwined. Basically, an infiltration basin means that you drain the stormwater from the roads or whatever into that basin and it slowly percolates through the subsoils -- which is basically sand and gravel in Ocean County -- to reach groundwater. It is not, therefore, runoff. There are detention basins whose purpose is to restrain the flow of runoff; in other words, yes, there is probably some infiltration of them, but the idea there is to allow the sediment to settle, and then a clear water off the top would run off through a flue, or whatever

it's called, toward a water course. And that, again, if it's running through wetlands, those wetlands are presumably soaking up some of the nitrogen that is being produced in those as well.

On our older systems the County is now using MTDs. I never know what these things stand for, but it's a *manufactured treatment device*. And the idea here is, where you really can't do very much in the way of a basin because you have old systems that run directly, let's say, into the Toms River-- At the foot of those, at the end of those outfall lines, we're installing mechanical treatment devices which remove floatables and other junk which would have found its way into the water course. So they are mechanically filtering in a sense -- or straining may be a better word -- the water that's going in.

I don't want you to think, Senator and members of this Joint Committee, that Ocean County is sitting here doing nothing. We are committed to our work on Barnegat Bay within our financial resources. We certainly appreciate your help, and your interest, and your concern. We have been the beneficiaries, in 2011 and 2012, of the Governor's Clean Water Barnegat Bay Program, and that brought \$8 million to the table, and we always like someone bringing money to the table. And we invested those monies again into this stormwater treatment possibility.

So I hope that, perhaps, my comments have been somewhat helpful to you. We are not sitting still; we are working to the best of our ability on this problem. We love our Bay.

SENATOR SMITH: Freeholder, I just want to say that's the most impressive statistic I've heard almost from any County: 57 percent

preserved for Open Space. That's fabulous; that is really just a wonderful example for every other county in the State. That's a great thing.

With that being said, and even listening to-- One of the reasons we like to hold these hearings is that we learn from everybody who comes before us. And I thought your discussion of the various types of basins and how you're trying to deal with the stormwater issue was also very impressive.

That being said, Dr. Kennish, when he said what's the best thing we can do -- and he actually gave us three -- three things that we can do. And he also said that, unfortunately, the levels of phosphorous and nitrogen seem to be increasing. Whatever we're doing, we need to do more.

So his comment is three -- his three top things, I thought, were we need to find a way to deal with the increasing nitrogen and phosphorous loads coming in. And he suggested that maybe TMDLs -- total maximum daily loads, which is a legal system that's imposed by the EPA under certain conditions, under the Clean Water Act -- which would give a greater control over the materials going into the Bay; that more investment in the infrastructure, namely the stormwater basins, that may or may not be malfunctioning, or may need maintenance, or may need to be revised; and then finally the land use issues -- that land use was an awful lot of the key to the nitrogen and the phosphorous going into the Bay. And I'm not going to put you on the spot, but I would appreciate if you would bring that back to the Freeholders and maybe we can continue the dialogue. Maybe you could take a look at those three suggestions and see if there's something that the Freeholders can do, and maybe something in partnership with the State, because we want to be your partners in making the Bay cleaner.

FREEHOLDER BARTLETT: We appreciate your help, Senator. Thank you.

SENATOR SMITH: Thank you, Freeholder.

SENATOR THOMPSON: Freeholder? Freeholder?

SENATOR BATEMAN: Over here. (laughter)

SENATOR SMITH: Yes, I'm sorry; we have a question.

SENATOR BATEMAN: He has a question, I think; or a comment.

Senator Thompson.

SENATOR THOMPSON: I, too, commend you on the 57 percent land preservation that you've done. Based on the testimony of our first witness today, his testimony, that seems to be a major source of the problem here related to the pollution, thus he indicates that you get more pollution from preserved land than from the developed land. So if that hadn't been so successful -- it may be part of your problem. (laughter)

FREEHOLDER BARTLETT: Well, perhaps I shouldn't say this, but just before we came over here the County Engineer and I were talking. And it appeared that the nitrogen load coming out of Cedar Creek -- which is pristine--

SENATOR SMITH: Actually, just to clarify. I think what Senator Thompson is referring to is the comment from Dr. Kennish about the large quantity of nitrogen and phosphorous coming from "turf."

SENATOR BATEMAN: Forests.

SENATOR SMITH: No, turf.

SENATOR THOMPSON: Right, as opposed to developed--

SENATOR SMITH: He's talking about lawns. That's not necessarily--

SENATOR THOMPSON: --comes from undeveloped property than developed property.

SENATOR SMITH: No, no, no, no. He's talking about lawns, as I understand it.

UNIDENTIFIED MEMBER OF COMMITTEE: Turf.

SENATOR SMITH: The problem is we love our green lawns. And actually the reason I have a place down the shore is I don't have to cut a lawn.

SENATOR THOMPSON: And, of course, you mentioned farms too, but there's not many farms.

SENATOR SMITH: Right. No, it's actually the lawns that I thought he was talking about.

Dr. Kennish, am I right or wrong about that?

DR. KENNISH: (off mike) You are correct.

SENATOR SMITH: Yes, it's lawns.

SENATOR THOMPSON: Oh, okay. So in other words, the development brings lawns, as opposed to forest and so on, which does not--

FREEHOLDER BARTLETT: But not all lawns have runoff, and I can attest to that under oath. (laughter)

SENATOR THOMPSON: Don't go away yet; that was only the beginning. No, no--

FREEHOLDER BARTLETT: Oh, gee. (laughter)

SENATOR THOMPSON: Listening to what you say you're doing in the County and so on, the proposal is before us in this Bill right

here. Thus, how would Ocean County view the proposal here to create a County water runoff target and so on?

FREEHOLDER BARTLETT: Again, it does not affect Ocean County because we do not have that particular problem and, therefore, it would be inappropriate, I think, for me to suggest that some other county -- what they ought to be doing.

SENATOR THOMPSON: Well, that's what I'm saying. Relative to Ocean County -- not the rest of the State, just speaking from Ocean County's perspective.

FREEHOLDER BARTLETT: Well, we don't have combined sewer discharges -- none.

SENATOR BATEMAN: It doesn't impact Ocean--

SENATOR THOMPSON: Well, you know, initially last year when the Bill was up, it was proposing a panel in Ocean County. Now, it's expanded to make it statewide instead.

FREEHOLDER BARTLETT: But it was different. That was for all stormwater. That was a stormwater-related bill. This one is a combined sewer stormwater bill, I believe. That's my understanding.

SENATOR SMITH: Yes, it's combined sewer-- Towns with combined sewers can take advantage of it.

FREEHOLDER BARTLETT: Right.

SENATOR THOMPSON: Thank you.

SENATOR SMITH: All right.

FREEHOLDER BARTLETT: One, two, three.

SENATOR BATEMAN: You're out of here. (laughter)

SENATOR SMITH: Thank you.

All right. Peggy Gallos, from the Association of Environmental Authorities, in favor, no need to testify; Kate Millsaps, New Jersey Sierra Club, in favor.

Kate.

K A T E M I L L S A P S: Good morning. I'm Kate Millsaps, the Conservation Program Coordinator for the New Jersey Sierra Club.

And I want to thank the Joint Committee today for considering these two important Bills addressing combined sewer overflows in our state. Funding these infrastructure improvements is critical to not just our environment, but the economic future of our cities and our suburbs.

Recent studies have estimated it will cost up to \$14 billion to address the CSO problems we have in New Jersey. And the two Bills today are a move in the right direction to start providing the needed funding to make these changes happen.

New Jersey sees 23 billion gallons of sewage enter our waterways every year, and the EPA rates New Jersey as one of the worst states for addressing these problems.

Senator Smith, you noted before that we do not currently have a State funding mechanism to fund the prevention of combined sewer overflows, so that is why we need this Bill to pass the Committee today.

Dilapidated stormwater systems increase the water in combined sewers, which results in more CSOs during major storms. This is a voluntary program, and it will help prevent the discharges in the future. We urge you to pass it today.

Thank you.

ASSEMBLYMAN McKEON: Okay, thank you very much.

Chris Len of New Jersey Baykeeper.

C H R I S T O P H E R L E N, Esq.: Hello, everyone. Thanks for having this hearing today. I am glad to be here to testify.

I don't know too much about Barnegat Bay; I know more about the Hudson-Raritan Estuary -- which is where, probably, three-quarters of the combined sewer outfalls in the state are located. We have them in the Passaic River, the Hackensack, the Hudson River, Arthur Kill, Newark Bay, and Perth Amboy, and then there's a couple in the Delaware River in Trenton and Camden.

In the Hudson-Raritan Estuary we have three different problems with our water quality: there are pathogens, which largely come from combined sewer overflows, though also from stormwater; we have nutrient pollution that comes largely from stormwater, but also from combined sewer overflows; then we have toxic chemicals in the sediments that primarily are, like I say, from the industrial past, but also come from stormwater and from combined sewer overflows. And so each of those problems is a very serious one that needs to be dealt with in a very serious way.

So pursuant to that, working first with the combined sewer overflows, we sued the Department a couple of years ago about their general permits. And the DEP is in the process of issuing new individual permits that they expect to be out at the end of this year or early next year.

Among other things, the new permits will require CSO permittees to have long-term control plans, which would require the permittees to meet water quality standards in a period of 20 or 25 years -- something along those lines.

The thing of it is, is the water quality standards are affected not just be combined sewer overflows, but also from stormwater and other sources of pollution. So there's a question about fairness. If you are, say, Elizabeth, and you have combined sewer overflows, you're going to have to meet water quality standards that are already violated by upstream communities which have separate stormwater sewers. And so those guys are in kind of a tough spot.

That's why S-579 is a very good start, but maybe not quite the finish, because it only applies to combined sewer communities. And as you have all stated -- and we believe -- it's a permissive bill; why not let everyone who thinks it's a good idea take that step?

I think it might be helpful to think about it in this way: Pollution is going to need to be cleaned up; the law requires it. And the two choices that you have, is that you make everyone pay -- which is our current model -- or you make the polluters pay. And I think that everyone who is not a polluter would probably take the second option.

And when you talk about polluters, you're talking about really big parking lots, by and large. And you're not asking these people to pay forever, because why would you continue to pay a utility when you can reduce your discharges at a relatively low price, largely through the use of green infrastructure -- which is a great reason to adopt S-575.

In particular about S-579, it has a technical problem in it, which I think will make it not work if you don't fix it. It refers to communities that have general permits for combined sewer overflows. The general permits, by the DEP's calendar, are only going to last through about the end of the year, and then have the municipalities -- will have individual

permits. So I think that you should change that language to say “permit,” reflecting CSOs.

And it would be, I think, of course, great if it applied to non-CSO communities as well, because as the Freeholder said, there are no CSOs in Ocean County, and I think we all share everyone’s concern in the State about the health of Barnegat Bay and other waters that are not impacted by CSOs. And stormwater utilities are really the best mechanism -- a market mechanism, far from a tax -- to come up with a way to solve this problem in a market-driven way. If you have to pay a water bill, you’ll turn your faucet off after you’re done brushing your teeth; you don’t let it run all night. But if you don’t have to pay a stormwater bill, then you just let your parking lot sit out there and not make the relatively simple changes to fix it.

So for Barnegat Bay, with no CSOs, the other thing you can consider, I think, is that you need to come up with better rules for development. And so in particular our organizations -- both New York/New Jersey Baykeeper and Hackensack Riverkeeper, for which I am the staff attorney -- would oppose the new DEP rules regarding coastal development. We should not be making it easier to develop the coast by thinking about things less; we should think about things more carefully and develop the coast more carefully, where it’s appropriate.

SENATOR SMITH: Separate hearing.

MR. LEN: Yes -- just throwing that out there. If we’re talking about Barnegat Bay, those are the questions.

So we are both in favor of S-579 and S-575, and thank you for having the hearing today.

SENATOR SMITH: We appreciate it. We'll take a look at the glitch that you referred to.

MR. LEN: Terrific.

SENATOR SMITH: Ed Potosnak, from the New Jersey Environmental -- fill in the blank.

E D P O T O S N A K III: (off mike) Federation.

ASSEMBLYMAN McKEON: Federation.

SENATOR SMITH: Federation.

MR. POTOSNAK: New Jersey League of Conservation Voters.

SENATOR SMITH: League of Conservation Voters.

MR. POTOSNAK: We support it; no need to testify.

SENATOR SMITH: In favor, no need to testify.

Mike Pisauro, New Jersey Environmental Lobby, in favor.

M I C H A E L L. P I S A U R O, Esq.: Good morning. My name is Mike Pisauro, and I represent the New Jersey Environmental Lobby.

I want to thank you again for holding these hearings and dealing with stormwater. As you said, there are multiple states that have stormwater utilities. There are over 500 of those currently throughout the country in states like California, that is a leader, but also Colorado, Florida, North Carolina, Ohio, Texas, Virginia. These states have done it because, under the Clean Water Act, there's a requirement to address stormwater pollution. Stormwater pollution is probably the majority -- over 60 percent of the cause of the degradation of our waterways. New Jersey has serious degraded waters. For example, less than 0.4 percent of the waters that have been tested in New Jersey met the criteria for fish consumption; 41 percent of the waters that were designated for drinking water met that requirement;

and only 22 percent of New Jersey waters that were assessed met the aquatic life standards. So we have a serious problem. As Dr. Kennish indicated, not only is it addressing development going forward, but sort of going back and addressing the sins of the past. Stormwater utility creates a system by which there is a funding mechanism to go back and start to undo the problems.

So as it is permissive -- I would like to see that requirement -- but as it is permissive, it gives tools to municipalities to address it.

New Jersey, in 1977, made it a goal to restore, enhance, and maintain our waterways. As Dr. Kennish indicated, in the Barnegat Bay we have failed that task that we set out for ourselves in 1977. Hopefully, with this Bill and others, we will move forward.

And just to address a couple of other things. Back in the early 2000s there were two big reports -- Pew Oceans report and the U.S. Ocean Commission. And both of those reports looked at the science. And one of the things they indicated is that once a watershed has more than 10 percent impervious cover -- lawns, roads, etc. -- that watershed is impaired. Well, in this area, the Barnegat Bay watershed, we have 42 percent impervious cover in one of the sub-basins; 25 percent in the Toms River sub-basin; and the Mill Creek sub-basin is 23 percent. And we're going to show we have a problem even though Ocean County may have done a great job in preserving spaces. The impervious cover is an issue, and there are ways to address it -- stormwater utilities and the funding mechanism -- to help that.

And as Chris Len just said, DEP has coastal rules that will not only not make this problem any better, but will make it worse. For example, reclassifying lawns as pervious -- porous -- and we all know they're

not. And as you said, Senator, it is a problem for another day, but I wanted to tee that up.

So again, the New Jersey Environmental Lobby greatly supports this Bill; hopefully we can get this through to the finish line this time.

And thank you very much.

ASSEMBLYMAN McKEON: Thanks, Mike.

Dave Pringle, Clean Water Action, New Jersey Environmental Federation.

DAVE PRINGLE: Thank you, Mr. Chairman and Chairman-for-the-day.

Again, my name is David Pringle; I'm the Campaign Director for Clean Water Action in New Jersey. We formerly went by the name in New Jersey as the New Jersey Environmental Federation, but we're all the one same organization; a State chapter of a national group.

I want to join the sentiment in thanking you very much for this hearing and the continuing attention to these issues.

I will be brief, and I am confident I'm not running the risk of hurting the chances of the Bills today. But I think unless the Governor changes his mind, it's not about getting the Bill passed today; it's about getting the Bill signed into law, and taking the appropriate actions to preserve water quality overall in this state, and especially in the Barnegat Bay.

Barnegat Bay is dying. The Governor knows that, and has accepted it, and has stated that. Dr. Kennish documented it terrifically; we all know that. And the reason it is, is because we're the most densely

populated state, and with people comes pollution. That's a fact; there's nothing we can do about that general fact. It's unavoidable.

But what is avoidable is how bad it is and how we respond to it. And it is awesome that Ocean County has preserved over 50 percent of its land. But as Mike Pisauro pointed out, in terms of water quality, what matters most isn't how much preserved land there is, it is how much impervious cover you have. And a modern-day typical suburban lawn is the same as concrete from a water quality perspective. You might think it's not, but the way it actually works hydrologically, it's the same thing. Water doesn't get into the ground, and it picks up pollutants, gets (indiscernible) in the water, creates more droughts, creates more floods, increases pollution.

And, in particular, another problem that we really haven't talked about today in Ocean County is the way we addressed one problem -- which was back bay bacteria problems because of sewage discharges -- by changing our sewer outfalls to be out in the ocean. That has done a lot to reduce the bacteria problem in our bays, but it also has drastically decreased the amount of freshwater flow into our bays -- because it's being withdrawn upstream and discharged out in the ocean, so it never even sees the lower streams and the bays. So we're getting-- At the same time we're increasing the pollutant loadings in the bays, we're decreasing the amount of freshwater -- so it's a double whammy.

The Governor knows all this, and he deserves tremendous credit for having a 10-point plan and bringing a lot of attention to Barnegat Bay. However, his actions in implementing that regulation is really an *F*. Litter cleanups and some funding for a few detention basins is great as far as it goes; but at the end of the day, it's a drop in the bucket if it's not part

of a comprehensive plan. And 10 points might sound comprehensive -- 10 is a lot more than 2 or 3 -- but the quality of those points matter as much as the quantity of the points. And there, he is failing.

And that's why these Bills before you today -- and I won't need to testify on the other one in terms of combined sewer overflows, because it's all the same issue -- are very important pieces to the puzzle. They are not the complete puzzle; and the complete puzzle, in terms of how we clean up our waterways, is a TMDL. It's a mandatory cleanup plan that we've already talked about. The Governor says he will do it at some point in time, but we're still waiting.

And I guess my final point is -- and it has been briefly mentioned, and I want to just go into it a little bit more -- I would be remiss if we didn't also talk about the greater context. At the same time the Governor says we need to be doing more -- and we have this 10-point plan -- saying it and doing it are another matter. And the proposed coastal rules -- 1,000 pages proposed last month -- do not make things better, and they will make things worse. We can all agree that overdevelopment is part of the problem. We may not be able to agree what to do about it, but I would hope we could at least agree to not make it worse. And these proposed rules will make it worse.

And if that's not bad enough, in terms of water quality, what makes it especially disturbing is it's been couched by the DEP as lessons learned from Sandy. Nothing could be further from the truth, unless the lessons you want to learn from Sandy is not enough people have been put in harm's way. Because these rules will allow more people in harm's way, moving forward.

So I thank the Committee for continuing holding -- having these issues in the limelight, and I urge you to move the Bills and hold the Governor's feet to the fire on seeing these things through. And I hope there's some conversation about having some hearings on these coastal rules before they go into effect, because they certainly go against legislative intent.

Thank you very much.

SENATOR SMITH: Thank you for your comments.

SENATOR THOMPSON: Mr. Pringle.

SENATOR SMITH: Senator, did you have a comment?

SENATOR THOMPSON: I appreciate comments in support, or in opposition to proposals before us. Address those when you come. If you want to make your testimony versus the Governor, I support the Governor. If you want to talk science versus science, I'll listen and I'll make decisions. So don't make your arguments "me versus the Governor." Make them on the facts of the case. That's my recommendation to you, sir.

MR. PRINGLE: I respectfully disagree that I did that. Thank you.

SENATOR SMITH: Well, you know what? We're not going to play Jane Curtain and-- (laughter)

MR. PRINGLE: I'll play Dan Aykroyd or Jane Curtain; I don't care. (laughter) Do you have a wig?

SENATOR SMITH: We're not doing that.

So thank you for your comments.

We've received an in favor from Britta Forsberg Wenzel from Save Barnegat Bay, no need to testify. She did also put a package together

for the Senators and Assemblypeople to look at, and that was a list of Save Barnegat Bay bills -- which I believe Save Barnegat Bay supports; there is also an editorial from the *Asbury Park Press* entitled "Apathy killing Barnegat Bay;" there's an evaluation of the Barnegat Bay 10-point plan; and then there's an article in the *Asbury Park Press* authored by William deCamp, President of Save Barnegat Bay, entitled "Despite spin, bay ailing." So we will take a look at all of those materials, and we do appreciate you submitting them.

Our last witness on this Bill, from the Rutgers Co-operative Extension Service -- who should be a doctor, because I can't read his printing-- Is it--

G E F F L I M L I N: Yes, the nuns told me that too. (laughter)

SENATOR SMITH: How do you say your name, sir?

MR. FLIMLIN: I say my name Gef Flimlin (indicating pronunciation).

SENATOR SMITH: Okay, thank you, Gef.

MR. FLIMLIN: I'm a Professor and Marine Extension Agent with Rutgers Co-operative Extension.

SENATOR SMITH: Great.

MR. FLIMLIN: I have been working in Monmouth, Ocean, and Atlantic counties for over 35 years with commercial fisheries and aquaculture.

I'd like to make a comment on this CSO Bill, which comes at it from a slightly different angle. Everyone before me has talked about this as a pollution and water quality issue, and it certainly is. What people fail to realize is that when you have a CSO in some places it impacts the public

access to renewable natural resources. And I say this specifically in the case of Raritan Bay. The Middlesex County combined sewer outfall continues to spew out when there are heavy rainstorms, and so you have pollution in the western end of Raritan Bay -- which closes down a good portion of the Bay itself, probably a quarter to a third of the Bay, to access for commercial clammers. Now, the commercial clammers who work in that area, those clams have to go through a thing called a *depuration process*. And because of the depuration process, they are paid less money than someone who digs a clam in approved waters. So someone who digs that littleneck in approved waters gets 16 cents for his clam; someone who digs a clam in Raritan or Sandy Hook bays -- not just because of the CSO, but because of other issues of nonpoint source pollution in the northern Monmouth County area -- gets 11 cents or 12 cents. Now, the average annual value of the hard clam resource coming out of Sandy Hook and Raritan bays is about \$6 million to \$7 million. Using the normal economic multiplier of 5, that is an economic benefit, even at 11 cents or 12 cents, of \$35 million of brand new money -- brand new money, this money never existed -- into the economy of the State of New Jersey.

Now, the clammers lose money. So let's make sure that we understand that there are victims to the CSO. The clammers are the ones who pay, day in and day out, for the CSO and for the nonpoint source pollution that comes from northern Monmouth County. These guys are the lower end of the economic scale; the least who can afford to have this problem.

I have, for the past two years, been working on a paper which looks at how impaired water quality impacts the access for natural resources

-- can lead to theft, fraud, and racketeering, and may be a violation of a commerce clause of the Constitution. This paper is at the Governor's Office; been there for a month, and we've had no response.

But I just want to make sure that everybody understands. I'm in favor of doing something with the CSOs because, what it does is, it impacts the economy, not just the pollution.

SENATOR SMITH: Yes; point made.

MR. FLIMLIN: Thank you very much.

ASSEMBLYMAN McKEON: Can I ask a quick question, Professor?

MR. FLIMLIN: Yes, sir.

ASSEMBLYMAN McKEON: And it probably has nothing to do with the CSOs. But the local commercial fisher, relative to the crabs, has said he's off by, like, 80 percent for the last two years.

MR. FLIMLIN: That's correct.

ASSEMBLYMAN McKEON: What's the reason?

MR. FLIMLIN: Good question; I don't know.

ASSEMBLYMAN McKEON: If you don't know, who knows?
(laughter)

MR. FLIMLIN: Well, you know, I don't monitor -- the State does not monitor the crab stock. And I think we're still in recovery mode from Sandy. The bluefish did not show up last summer; they've not shown up this summer. I know that the clams are down in Raritan Bay -- they're not getting a harvest up there; and the crab populations down here are just not responding.

Thank you.

ASSEMBLYMAN McKEON: Thank you.

SENATOR SMITH: Okay, that concludes all our witnesses on that Bill. This is S-579. And I'm looking for a co-prime sponsor; anybody out there?

SENATOR BATEMAN: Yes, I think I'll go on this.

SENATOR SMITH: All right. So we will ask the Senate President to put him on as a co-prime. And we're also going to take the comment of Baykeeper: We're going to delete the word *general*. So it will be "or any other permit," not just referring to general. That should cover that issue, all right?

Are there any other amendments to the Bill?

MS. HOROWITZ: No.

SENATOR SMITH: Okay. So Senator Bateman moves to release.

SENATOR BATEMAN: Moves the Bill.

SENATOR SMITH: I move -- I'm seconding it.

And let's take a roll call vote on the Senate side.

MS. HOROWITZ: On Senate Bill 579, with that one Senate Committee amendment,

Senator Thompson.

SENATOR THOMPSON: Yes.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Yes.

MS. HOROWITZ: Senator Greenstein left a yes vote.
Senator Smith.

SENATOR SMITH: Yes. And the Bill is released.

And on the Assembly side--

ASSEMBLYMAN McKEON: Yes.

SENATOR SMITH: But they're not up for release today, right?

ASSEMBLYMAN McKEON: No, it's not, Senator. It is actually in Telecommunications and Utilities; but Assemblyman Chivukula, Chairman, said that he would be moving this Bill in September.

SENATOR SMITH: Great, thank you sir.

All right. The related Bill, for discussion only, not released today, is S-575; A-1582 is the related Assembly Bill. And I saw it probably is in his Committee too, right?

ASSEMBLYMAN McKEON: Yes, it is.

SENATOR SMITH: All right. This concerns combined sewer overflows, exempts improvements from the 2 percent cap--

UNIDENTIFIED MEMBER OF AUDIENCE: Can't hear you.

SENATOR SMITH: Sorry about that.

We're talking about S-575 -- which is for discussion only -- concerns combined sewer overflows, exempts improvements from the 2 percent property tax cap, requires certain permit holders to address such overflows in capital improvement plans, and appropriates \$5 million.

This is statewide; it's not just CSO towns. And what we were trying to do here -- Senator Bateman and I were trying to do -- was to provide a little -- if not an incentive, at least not a disincentive to deal with the combined sewer overflows. All the towns in the state, all the counties in the state are subject to a 2 percent cap law. We're trying to take those expenditures or any interests from those expenditures out of the cap. We'd

also like to appropriate some money to provide an actual positive incentive, rather than remove a disincentive.

So we don't need any discussion about, "Combined sewers are a bad thing and we should do something about them." This is really about being exempt from the 2 percent cap. So if you have an issue on the-- We heard a lot about combined sewers. If you have an issue on the 2 percent cap portion of it, let us know.

So Margo Pellegrino, New Jersey Family and Friends, in favor. Anything on the 2 percent cap?

MARGO PELLEGRINO: (off mike) No.

SENATOR SMITH: Peggy Nolting Gallos, from the Association of Environmental Authorities, in favor, no need to testify; Mike Pisauero, New Jersey Environmental Lobby, in favor, no need to testify; Cindy Zipf, Clean Ocean Action, in favor. Anything you want to say, Cindy, on the 2 percent cap portion of this?

MS. ZIPF: (off mike) No, thank you.

SENATOR SMITH: Okay. Kate Millsaps, in favor, from New Jersey Sierra Club. Any need to testify about the financial side of this, Kate?

MS. MILLSAPS: (off mike) No.

SENATOR SMITH: Okay. Chris Len, New Jersey/New York Baykeeper, in favor, no need to testify; Dave Pringle, Clean Water Action, in favor. Dave, anything you have to say about the 2 percent cap side of it? He's fine. Margo Pellegrino, in favor, and "I wish to testify."

So Margo--

MS. PELLEGRINO: (off mike) No, that's okay. (laughter)

SENATOR SMITH: No longer applicable.

All right. So it's an all -- everybody happy bill, moved by Senator --

MS. HOROWITZ: This was just for discussion.

SENATOR SMITH: Oh, it was just for discussion, okay. We're good.

All right. The last item of the day -- the main event (laughter).

Did I say this Bill was permissive? (laughter)

UNIDENTIFIED MEMBER OF AUDIENCE: Yes, seven times. (laughter)

SENATOR SMITH: Okay. So we have 130 miles of coastline. And the way it's done in New Jersey today is that every town does its own thing. Senator Bateman and I had the temerity -- the temerity to suggest that maybe we should think about, maybe, doing it differently. And the gold standard -- the gold standard in New Jersey is shared services, and consolidation, and doing things more efficiently. But since Senator Bateman put forward this permissive Bill (laughter)--

SENATOR BATEMAN: Yeah, right. No thanks, Senator. I'm number 2 prime. (laughter)

SENATOR SMITH: --you would think we were saying, "Get rid of Democracy, and the country's going to be a Communist country."

Don't you dare even discuss this permissive Bill.

SENATOR BATEMAN: I will though, Mr. Chairman. Thank you very much.

Obviously, since we've introduced legislation, there have been several meetings with stakeholders in particular -- Freeholders from around the State -- and I hear some of their concerns.

I think our intentions were good on this, Mr. Chairman, but I also, as a former Mayor, I understand the whole issue of Home Rule in New Jersey; right or wrong, I understand that many of the beaches here in New Jersey have been governed very well. And from a biased point, I go to Manasquan every year, and I see the great job that they do. So I'm here to-- Obviously, hearing from you folks -- the Freeholders and the Mayors who are here -- because obviously, this is part of the process. I mean, good intentions and, I think, in the right situation could help towns that really need money. But I am also here to hear the concerns from others.

SENATOR SMITH: Right.

SENATOR BATEMAN: We're open-minded.

SENATOR SMITH: And just in case there's someone in the room who doesn't understand what's in this permissive Bill -- is that if a town and a county want to work together and have the county provide some of the services associated with beach maintenance -- maybe even beach security, maybe beach infrastructure -- they would be permissively -- did I say the word *permissively*?

SENATOR BATEMAN: You did say it. (laughter)

SENATOR SMITH: Permissively able to work in cooperation.

Senator, does anybody have to do anything?

SENATOR BATEMAN: Absolutely not, Mr. Chairman. As you said, it's permissive.

But I also heard one concern. They said, “Oh, they can slip something in later on.” We can’t slip anything into the legislation. You would have to do another bill to change it if it wasn’t-- To change it from permissive to a mandate you would have to do legislation. So we can’t slip something in later on to change it. It’s--

SENATOR SMITH: Because this Bill is--

SENATOR BATEMAN: Permissive.

SENATOR SMITH: Permissive. (laughter), all right? Nobody has to do anything. But having a discussion about the way we deliver beach services is a good thing.

And by the way, we hope to have a call in from a person who is in charge of beaches in the state of California, for their spin on it. We’re going to try to get some input, too, from Florida and some of the other states because, you know, there’s not just one way to do something. Every once in a while, somebody else has a good idea. Having the discussion is not a bad idea, all right?

So that being said, if anybody would like to get up and start the abuse. Do we have slips? We do have slips. Who plans to be the most critical? Raise your hand, please.

SENATOR BATEMAN: But you should start with the Freeholders, Mr. Chairman.

SENATOR SMITH: All right, we should start with the Freeholders.

All right, why don’t we give Freeholder Bartlett, since he’s the hometown Freeholder, a chance to get up and skewer us.

FREEHOLDER BARTLETT: Well, the only problem is, you said the most credible, and that may have precluded me.

Senator, thank you.

I well understand and appreciate the permissive nature of this Bill, and it does not require counties or municipalities to do anything, and we certainly appreciate that.

SENATOR SMITH: You mean the Bill is permissive?

FREEHOLDER BARTLETT: That's what I understand.

SENATOR SMITH: Okay, all right.

FREEHOLDER BARTLETT: It's a little thick, but--

SENATOR SMITH: Bring the mike close to your face.

M I C H A E L L A F F E Y: I'm Mike Laffey; I'm the County Administration for Cape May County. And I am joining the Freeholder up here right now as well.

FREEHOLDER BARTLETT: Very quickly, there isn't one oceanfront municipality in Ocean County that wants the County of Ocean to take over its beaches, okay? Number two, the County--

SENATOR SMITH: By the way, did I mention that it was permissive?

FREEHOLDER BARTLETT: Yes, but I'm just-- And I've tried to relate facts as to what happens on the ground.

So that -- the municipalities in our County do not want the County to take over. And as a Freeholder of some long-standing, I certainly don't want that responsibility. Senator, we wouldn't know where to begin. We have approximately 44 miles of oceanfront beach in Ocean County. Those municipalities have done an excellent job. Lifeguarding on an ocean

beach is not like at a lake, it's not like a swimming pool. This is serious business, and it requires intense professionalism on the part of the training of those lifeguards, the superintending, the supervising of those lifeguards, and it's a fulltime job in many of our larger municipalities. The fact of the matter is, they know what they're doing.

Number two, there is a very different degree of maintenance on different municipal beaches. Some municipalities spend a great deal of time, effort, and money to keep their beaches clean; others spend less so. A one-size-fits-all from the County I don't think would work very well.

And lastly, there are some things that are better done locally than they are on a regional basis. There are many things that the County does well that cannot be done well by municipalities. And conversely, there are things that municipalities do well, because they've done them -- that they do well and would not work very well on a regionalized basis centered here in Toms River and extending all along our coast.

So with all respect -- even though we understand completely that it is permissive -- we don't believe that it is a good idea for Ocean County. And I can respectfully tell you that it wouldn't work here because the municipalities don't particularly want it, I don't want it, and the County doesn't want to do that, either.

But we appreciate the opportunity to tell you so.

Thank you, Senator.

SENATOR SMITH: Thank you for your help.

MR. LAFFEY: And again, I would have to agree with the Freeholder.

I'm Mike Laffey with Cape May County.

Out of the nine beaches that we have on the Atlantic Coast, they operate very differently. We have a Wildwood Beach that does it much different than Cape May; they have more of an ecotourism base in Cape May, where Wildwood has beach concerts and probably the largest beach soccer tournament on the East Coast. So they do more special events, and just the liability of running those events could be cumbersome for our County as well.

And because we're a peninsula, it's a little bit different. We have beaches on the bay side as well, that are frequented by visitors as well, so in that Bill that's not part of it. I know that could be problematic with the environmental concerns that we have with the estuary and the horseshoe crab phenomena that happens there as well.

So again, our municipalities aren't for it, either. You might-- Out of the beachfronts that we have, there are eight; five of them charge beach fees, and there are three that do not charge beach fees. And I think that in itself would be difficult for the County to assume that responsibility with no return.

So again, I would agree with the Freeholder. Most of our municipalities are not in favor of this Bill as well.

But thank you, again, for giving us a chance to talk about that. And it was a pleasure meeting with you last week, Senator.

ASSEMBLYMAN McKEON: Good, great. Thank you both very, very much. We appreciate it.

It's our privilege, and they've been kind to give a lot of time this morning to sit here through the hearing as four members of the

Monmouth County Freeholder Board, who would like to be heard collaboratively.

So please come up Freeholder Arnone, Freeholder DiMaso, Freeholder Rich, and Freeholder O'Connor.

F R E E H O L D E R G A R Y J . R I C H Sr.: O'Connor is our Administrator; and it's Freeholder Arnone.

ASSEMBLYMAN McKEON: Sorry.

SENATOR BATEMAN: Any relation to Mike Arnone?

F R E E H O L D E R T H O M A S A . A R N O N E: Yes, a little bit.
(laughter)

FREEHOLDER RICH: They're all related.

FREEHOLDER ARNONE: Thank you. Well, thank you, Senator. We're here as a Board, as Deputy Director Rich -- and I guess we'll all go in our turn. Freeholder Rich actually lives on the shore, so he'll give his feeling about that.

Do you want to start off?

FREEHOLDER RICH: Yes, sure. Thank you.

Good morning, everyone.

Senator Smith, good to see you again. I understand this is a permissive Bill, but I think we wanted to just come down and show support that we don't support this as it stands today.

I just wanted to-- I think I come from a unique perspective, having served three terms in Spring Lake -- beachfront community that has done an extremely good job of running our beach. There is a uniqueness to it, as Freeholder Bartlett said before. And to be honest with you, until I heard about this Bill, for the 9 years that I sat on the Board we never really

had any discussions with the State or with the County about coming in and running our beaches. We've done a great job; the Mayor is here today with the Borough Administrator from Spring Lake. I'm sure she's going to get up here and speak with you. But we feel very confident that they can continue to operate.

From a County perspective, one of the things that we're really looking to do as a County is, we're not looking for more work. We're really looking to streamline the County, as we move forward. And I look at this as the potential to add more to what we're currently doing. Anytime there are some new-- If we have retirements that head up particular organizations, we are always looking to see how we can do a better job of streamlining that. And our taxpayers have been-- Well, we've done a good job -- as the Freeholder sitting here for four years, we've brought our budget in at zero percent.

So we're really working hard to shrink our government, and we really believe that our local municipalities do a great job as far as the beaches go.

I know, Senator, you had asked, when we were there, was there anything in the Bill -- because we talked about anything that we could change, if you're going to go ahead with this. But I would put a sunset provision in the Bill that says after a particular period of time, if no one uses this Bill, no matter what happens with this Bill, that this Bill, sort of, just kind of dies. I know that you had mentioned to us that there's a lot of-

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SENATOR BATEMAN: How about an hour? (laughter) You think if we put an hour sunset in there--

SENATOR SMITH: Did we mention that this Bill is permissive?

FREEHOLDER RICH: Yes, you did.

SENATOR SMITH: Okay.

FREEHOLDER RICH: And you did mention, too, that there was potential paranoia about bills, and I would tell you that the way that I look at this is: we go from a permissive bill, to a mandatory bill, to free beaches.

SENATOR BATEMAN: That can't happen under this Bill.

FREEHOLDER RICH: Now, maybe I -- I don't mean to sound like a conspiracy theorist, but those are some of the thoughts in the back of the mind.

SENATOR SMITH: By the way, there are some people in New Jersey who would say, "Why not free beaches?"

FREEHOLDER RICH: I'm sure that they would.

But I just wanted to come here to give you my thoughts on this, and I'm sure that you'll hear from the other Freeholders.

So thank you very much. I appreciate the opportunity.

FREEHOLDER ARNONE: Thank you, Freeholder.

Well, I guess Freeholder Rich is the kind one of the group. I will give my opinion on the Bill. And I respect what you said before, Senator, about looking at things that are not working and addressing them and opening them up. This is not one of those.

And I'm fortunate enough -- I've sat as a Mayor for eight years of a municipality, and then I was fortunate enough to be President of the Conference of Mayors. So I had an engagement with all the mayors

around, and I know how they work operationally, and how they work unique -- especially in Monmouth County; and that, quite frankly, my focus right now is Monmouth County.

And we have many representatives right here, right now. And I can tell you they're unique, from Brielle to Sandy Hook; they all operate what's in the best interest for their town. Spring Lake, a very quiet, quaint town, and they keep that; they run their beach that way. Belmar is a little bit flamboyant; Long Branch is a little bit flamboyant. So they run their beaches their way. Asbury runs their beach their way, okay? And it goes all the way up to Sandy Hook. And they all run in a different scope.

But I think what we should focus on here, more importantly, is what you have done by giving us the tools with your legislation for shared services. Because Monmouth County is doing one heck of a job in their shared service program. If you look to see what we've created this past year in shared service: in revenue, what we've given back to the municipalities; and more importantly, when we came across with Storm Sandy -- with each and every one of the local beaches -- all they have to do is call us.

So you have already put into play the legislation to say, "If you want" -- the permissive way -- "If you want to do it, call us." Because they do that. And we have a beach here right now that's here to testify -- Monmouth Beach, About three weeks ago -- no, actually, it was on Memorial Weekend -- they ran into a snag on their beach, where they were partners with a neighboring town to rake their beaches. Because of Storm Sandy, initiatives happened where they could not do it in a timely fashion. What did they do? They reached out to the County; we now rake their beaches. So we're only a phone call away.

And we talk about the permissive part. This is potentially-- Each and every one of you are sitting up there now, and all of us are not going to be sitting here forever. And this could be a springboard to something else -- that maybe something that's working in one little municipality across the state with this beach legislation will be an eye-opening experience to a legislator to say, "You know what? This could work across the state." And we might not have that input then that we have now. So I think this is the time right now -- even though I know your initiatives, and your thoughts, and the vision are in the right place -- just sitting back here and being, maybe, a little bit closer to our beach municipalities gives us the advantage -- just gives us the advantage of being able to see how they're working operationally.

And I have to tell you, each and every one are working great. And then you look at the cost. As Freeholder Rich said, we came in at a zero-percent tax increase in the last four years. We came in there because of the help of the municipalities. We took revenue that we created through shared services -- probably close to \$10 million last year -- and we gave it back to the taxpayers, because that's what we were supposed to do with the money that we received from them.

Then you look at the operations of the beaches -- and I think we might only be looking at the 8-5 -- the beach, the lifeguards, the cleaning, the special police officers are all there. But what happens on a beach -- you have tourists there. The tourists come there during the day, they stay there at night. So now if those expenses are put on the County -- okay, all fine and good. But at night, where now they don't have a revenue

base coming to them to offset those added services that occurred during the night, that increases their taxes.

So really, there's really a no-win to this Bill. And I understand it's permissive, okay? But I just hate to see us put something-- We're their partners, and we hope that you're our partners, and I know you are. But I think what we should be focusing on is a lot of things that are not working in the State, County, and municipalities, than focusing on things that are working right now.

So I appreciate you having us. I know this is something that we feel very strongly about at Monmouth County and the surrounding counties -- from Ocean to Cape May and Atlantic County. So I appreciate you having us here. But please rethink this, because I have to tell you I stand behind my municipalities because they do a fine job.

Thank you.

ASSEMBLYMAN McKEON: Thank you very much.

F R E E H O L D E R S E R E N A D i M A S O, E s q .: Thank you. I'm Freeholder Serena DiMaso, and I just want to, first, take the moment to thank you all for having us here today, and listening to us and allowing all the municipalities to speak to you.

And I do agree with you that your -- I get your message, it is permissive; we get it. But when, as Freeholder Arnone has stated -- today it's permissive; we're all not going to be here in another few years. You don't know if somebody else will take this ball and run with it in a different direction than your intention.

I do appreciate very much that you're reaching out to California and Florida. I have family in Florida. They run things by countywide

already. Their police departments, their fire services already run countywide. So they have-- Well, they might have a different perspective; they also run many different things in that same way.

I am someone who, as the Mayor of Holmdel, always hated that, "Well, this is the way it's always been done," response. So I get where you're coming from by saying we should look at things a little differently, and just because this is the way it's always been done, we should not continue to do it that way. But in this particular case, because the municipalities are so different, because they each run their beaches in different ways and with different input, it is almost impossible for any county to take it over. You've heard Ocean County and Cape May County already speak. I understand that Atlantic County has also sent you some resolutions and some letters.

SENATOR BATEMAN: We've heard from all the counties.

FREEHOLDER DiMASO: Yes. So, for us, from where Sandy Hook starts, all the way down to Manasquan and Sea Girt -- all those communities -- they run their beaches each differently. Some charge fees, some don't charge fees. They're here today; they'll testify for themselves. But we're asking you to please give good consideration to this by not passing this one -- not sending it on, because right now your intentions are all well and good, but we never know what's going to happen in the future.

So again, thank you very much for having us here today, and we appreciate you listening.

ASSEMBLYMAN McKEON: Thank you for all your thoughtful comments.

We mentioned mayors; we have Mayor Howard from--

SENATOR THOMPSON: Freeholders.

ASSEMBLYMAN McKEON: Oh, I'm sorry.

Senator Thompson.

SENATOR THOMPSON: Thank you.

I'd just like to comment.

As I look at this Bill, I think the impetus is less about improving what's being done there at the present time, as opposed to serving the interest of folks who don't live in those shore community towns and the shore counties.

So some would say, "Well, you know if it was countywide, then there would be only one beach fee for every beach in the county." If it was countywide, you would have the same rules and regulations for all beaches. So for those coming to the shore from somewhere else, that might be advantageous for them. But as you say, the system -- as far as taking care of what needs to be done there at the shore, and so on -- is working very well as it is right now. And it is clear that none of the four counties involved here would really like this opportunity to take over.

And while the Bill is permissive -- as emphasized -- it is really permissive for the counties, i.e., the counties can pass a bill to take over control. And the amendments here will permit -- answering one previous criticism why some town doesn't want you to take over -- it gives them an option to be able to regain control. However, it says they can only pass a resolution to regain control three years after the county has taken over. And when they pass the resolution, they can't take it over for another two years. So therefore, while it is permissive for the county, the municipality would, if the county decides to, lose control for a minimum of five years --

they would have to cease their lifeguard, cease everything else; and then try to start it back up five years from now if they want to continue.

So I don't think that really addresses the concerns of the municipalities, should such a thing take place.

SENATOR SMITH: Yes, Sam, I think you may be misreading the Bill.

The Bill says that if a county decided to go forward with this--

SENATOR THOMPSON: Yes.

SENATOR SMITH: --the towns, at that moment can opt out. They don't have to wait any period of time.

SENATOR THOMPSON: The comments I have here says that they can pass a resolution three years later--

SENATOR SMITH: If they opt in. If they decide to be part of the shared services--

SENATOR THOMPSON: Oh, so they have to opt in before the county can pass the resolution. Is that what you're saying?

SENATOR SMITH: No, no, no. Let me explain it one more time.

If the county decided that they wanted to go forward with this program, every town, at that moment in time, would be able to say, "We're not interested. We don't want any part of it." Not waiting three years, not waiting a month--

SENATOR THOMPSON: So they would not be in it if they said right then--

SENATOR SMITH: They would not be in it *ab initio* -- from the start.

SENATOR THOMPSON: Oh, okay.

SENATOR SMITH: If, on the other hand, they decided they wanted to be part of it, and they passed resolutions to be part of it, and they became part of it, and then said, "You know, maybe on reconsideration we don't want to do this," they would have to wait three years to get out. That's what you're talking about.

SENATOR THOMPSON: Thank you for the clarification. That's better.

SENATOR SMITH: Okay.

FREEHOLDER ANONE: But Senator, could I just add one last comment?

Besides the municipalities that we have here representing us, we do have resolutions from each and every municipality in support of what we're objecting to. But you know, we keep focusing on that word (*sic*), of *shared services*. And what is shared services? The initiative of shared service is to save money. So two entities could merge, share, and have a savings. There is no way it can be proven that sharing beach services with the County -- with the responsibility that we'll have to take, and the responsibilities that they'll have to take with less revenue -- that that will be achieved. It's absolutely impossible.

And that's why I think we shouldn't be focusing on and comparing it to shared services, because, quite frankly, there's not going to be a cost savings.

Thank you.

ASSEMBLYMAN McKEON: Thank you, again, for your thoughtful testimony.

Everybody good?

We have several mayors here to testify: Mayor Susan Howard of Monmouth Beach; is it Mayor Mangan -- Mike Mangan, of Manasquan?

COUNCIL PRES. MICHAEL W. MANGAN: Council President.

ASSEMBLYMAN McKEON: Council President; Council President, please join us. And Jennifer Naughton, the Mayor of Spring Lake.

Now, I was Mayor of West Orange for 12 years, but many years before that I was known as the Mayor of the Parker House. (laughter)

MAYOR SUSAN HOWARD: That's only good depending on the night.

COUNCIL PRESIDENT MANGAN: You know, I was the manager there for five years, Assemblyman. It's a good place.

MAYOR HOWARD: Good morning. I'm Susan Howard, the Mayor of Monmouth Beach, and I appreciate the opportunity to speak with you all today.

For those of you who might be unfamiliar with Monmouth Beach, we are a very small town north of Long Branch, and our eastern border is 1.6 miles on the ocean. And we're very proud of that ocean and, in fact, our Borough motto is, "Seaside Living Since 1906," and that embodies our ties to that ocean.

We're also proud of the fact that we provide a great amount of beach access along our entire 1.6 miles. And we have been able to preserve a large amount of free beach; of that 1.6 miles, only 400 feet require a beach badge. So we're very proud of our free beaches.

Also, our beaches are often used by certain endangered species that annually nest along our beach. We also provide free parking and, again, we have a paid beach that has very nice amenities that I'll get into in a minute.

But after Superstorm Sandy we very quickly restored each of our access points, so our beaches again are as accessible as they were before Superstorm Sandy.

Complementing our beaches, the Borough has a Borough Bathing Pavilion. It currently serves 4,000 members, and one-third of those members are nonresidents. So we are providing the beach with a nice beach-going experience -- with a beautiful Bathing Pavilion, and bathrooms, and lockers, and bathhouses, refreshment stands -- to not just the residents of Monmouth Beach, but to people in the surrounding -- throughout Monmouth County. We have people coming all the way from Freehold to come to our Bathing Pavilion.

We believe that creating a countywide beach management bureaucracy will adversely impact what we believe is great about the State of New Jersey shore. We manage locally; we're tuned into our local needs, and we hire experienced staff that is familiar with the uniqueness of Monmouth Beach, and we provide a source of local employment for our young men and women in the area.

Our needs in Monmouth Beach are vastly different from even our closest neighbors -- Sea Bright to the north and Long Branch to the south; which again, that's what's so great about the Jersey Shore -- we're all different.

The summer season brings large crowds to the Jersey Shore in a very compressed timeframe. And with that large bureaucracy that we see happening out of this legislation, we fear that the local boots-on-the-ground ability that we have to react to scenarios that may occur will be lost. For example, crowd control, safe crossing of Route 35 (*sic*). Our people-- We only have 200 parking spaces right at the beach, but we have an overflow parking lot, and all of our streets have, again, free parking. And you have to cross Route 36 to get over to the beach. So that's a big concern to us. We've actually had, unfortunately, several deaths a decade or so ago.

We believe that the beachfront communities throughout this state have generally established a feeling of trust between their residents and those closest to the beach. In Monmouth Beach's case, we obtained easements for Federal beach fill projects, with public access negotiated locally, without incident; we had no problem at all.

This feeling has fostered a mutual trust between the governing body and our beachfront owners that their concerns that are going to arise because of their proximity to the beach -- will be addressed with a minimum of difficulty and a minimum encroachment on their privacy. Installing an additional government agency, proposed with this legislation, will certainly cause concern to those residents.

Lastly, our history of successful beach management by our Borough, through effective communication with the Department of Environmental Protection, we feel would be seriously interrupted if we had an additional agency that we had to work through for management of beach projects and proposals. Our daily communication, after Sandy, with members of the NJDEP has been a monumental success to our ability to

have our beach rebuilt, our Pavilion, our seawall, and our public access. We don't want to see that lost.

We are all about shared services in Monmouth Beach. Our court is in Tinton Falls, and we believe that the legislation that we already have is enough to accomplish the cost savings that we want to achieve by these economies of scale. And as Freeholder Arnone already stated, Monmouth Beach knocked on the door of our Freeholders when we ran into a problem with renewing our shared service agreement with Long Branch, and the County was able to take care of the raking of our beaches for us, and they were immediately responsive.

We believe that we and our neighbors have always been there for each other, and the Freeholders have been there for us and they know we're there for them. And we want to keep that relationship going in that way.

I'm requesting that the Borough of Monmouth Beach be allowed to continue in this capacity of managing our most valuable asset in the responsible way in which we've done all these years. And I request that the Committee consider not releasing this Bill.

Thank you.

SENATOR SMITH: Mayor, if I might ask. What is the cost of delivering beach services to your community?

MAYOR HOWARD: The direct cost of beach services, I would say, are upwards of \$400,000 -- around \$400,000.

SENATOR SMITH: And did I hear you say your beaches are free; there are no badges?

MAYOR HOWARD: Only 400 feet of the beach, directly in front of the Bathing Pavilion, we have a badge. And that is-- We have-- The way it works is we have a pool there, and that's where we do make a lot of revenue because of our pool, and our bathhouses, and our lockers. You can get a beach badge for the season and use that facility for \$75 if you're from Oshkosh, Michigan, (*sic*) because we have taken Federal dollars for our beach replenishment. So it's a very--

SENATOR SMITH: That's why the 400 feet is public, because you took beach replenishment money?

MAYOR HOWARD: No. The entire-- We took beach replenishment-- It's always been-- Monmouth Beach has always had about one-third nonresidents and two-thirds residents; however, we also sell about 700 beach-only badges. And we do that, again, yes, because we are meeting our obligation, because we took Federal funds, of allowing anyone who wants to belong to the -- use the beach in front of the Bathing Pavilion to use it. That's where our lifeguards are; we do not patrol, we do not have lifeguards on the entire 1.6.

SENATOR SMITH: Got it. What are your beach costs per year? I'm sorry -- your beach revenues?

MAYOR HOWARD: I'd have to get that out separately. I can tell you what our revenues are for the Pavilion, but that's because of the pool and the-- Every year we do an analysis that demonstrates that we're not charging more than we are spending to operate the beach.

SENATOR SMITH: If you'd send in an analysis, it would be helpful.

MAYOR HOWARD: We absolutely could do that.

SENATOR SMITH: Great. Thank you, Mayor.

MAYOR JENNIFER NAUGHTON: Good morning, Assemblymen, Senators. Thank you very much for allowing me to testify here this morning.

My name is Jennifer Naughton; I'm the Mayor of the Borough of Spring Lake. I have never spent any time supporting or opposing statewide legislation before, so I'm a newbie at this. I basically stick to running a small shore town because that's what I do best, and that's what my team has been doing best for many years.

And Senator Smith, in particular, when you were talking about some previous legislation, I really appreciated when you said you hold these hearings to learn -- because you don't hear that very often. So I appreciate that, and it's in that spirit that I come and testify this morning.

For decades Spring Lake has welcomed hundreds of thousands of families to our beach. Our two miles of beachfront and boardwalk remain popular because they are accessible, they're safe, and they're very well maintained. And this smooth operation of our beachfront is possible because we have extensive experience in the planning, and the staffing, and the operations of a busy beachfront, as well as a clear understanding of the costs associated with this maintenance.

We developed the expertise over years of pre- and post-season work; we commit to overseeing, every year, two miles of guarded beachfront for swimmers, for surfers, for boaters. And, in turn, our residents and our visitors can expect trash-free beaches, clean bathrooms, experienced lifeguards, readily available first aid, and two miles of boardwalk and free public parking.

The fees collected from beach badge sales go directly to our beach utility, which is separate than our Borough's current fund. The utility pays the expenses associated with operating and maintaining the beachfront.

Those fees have to cover operations during the season, and long after the visitors leave when there are no fees to collect. Off season we undertake and we pay for a beach management plan that's designed to minimize any sand loss, and maintain the designated sand profile and elevation. And anybody who has lived through Sandy knows how important that is.

We have built and maintain a very successful dune system that provides strong protection against storm surges and flooding. The dune system is specific to our beach profile and our boardwalk. Right now we're increasing the height of our dunes, and building smarter and stronger beach walkovers for anybody who wants access to our beach or our boardwalk.

We are a very small but highly efficient municipal operation, with extensive knowledge of how to maintain and run a terrific beach -- not just any beach, but our municipal beach, with its unique set of demands and requirements. We're good at it because we live next to it. We use it and manage it; and we manage that balance, as the Mayor spoke of, of our residents and our hundreds of thousands of visitors on a daily basis.

We know what the management costs are in real dollars, public works resources, and staff time -- and that cost is directly reflected in our beach fees.

That said, the beach management plan that works well for Spring Lake might not be a good fit for Monmouth Beach, or for Sea Girt,

or for Asbury Park, or Belmar. All of the beaches along the shore, as you've heard everybody testify, have their own unique attractions and requirements. Trying to manage them from a one-size-fits-all blueprint doesn't seem to make sense to me.

This one-size-fits-all approach is the ongoing complaint that we hear all the time about so many Federal and State programs. We hear they don't work well because they're not close enough to the programs they oversee to administer them effectively.

To be very clear, Spring Lake is not opposed to shared services. Over the years we have developed many interlocal agreements, including shared dispatching, municipal court, our construction office, our zoning office, and our emergency services. We have specifically partnered with the Freeholders in the County of Monmouth on projects including dredging, paving, and recycling. These agreements work well because the parties involved have expressed a desire to work with one another to improve services and streamline costs. The opposite appears to be true here. As I understand it, you're proposing legislation -- I know it's permissive--

SENATOR SMITH: Did we say permissive? (laughter)

MAYOR HOWARD: --that all four affected municipalities and counties, and the majority of all of us, are strongly opposed to. If Spring Lake wanted to partner with Monmouth County for beach operations, we could do it today without this legislation. If the Monmouth County Freeholders had even a remote interest in Spring Lake's beachfront management, they could approach us tomorrow, again, without this legislation. We have not, and they have not, because we know it's not practical. We believe that a remote governmental body is not the best daily

manager of a busy beach operation, especially one that does not end when the sun goes down or the tourists go home.

Lastly, I'm not aware of any significant complaints regarding our stewardship of the beach. What we see instead is a Bill that seems to be a solution in need of a problem. In my community, at least, we are mystified by the motivation behind it, and cannot see that it passes even the most basic shared services test of improved services, either to the County, municipality, or to the users.

In closing, I reiterate, on behalf of the residents of Spring Lake, our firm opposition to this Bill, and respectfully request that you withdraw it from consideration.

Thank you for hearing me out.

ASSEMBLYMAN McKEON: Thank you very, very much.
Council President.

COUNCIL PRESIDENT MANGAN: Thank you, sir.

My name is Michael Mangan; I come from the Borough of Manasquan. I am glad to see that some of you have enjoyed our beaches, our neighboring municipalities, and their bars. (laughter)

Who have testified before me have mentioned, every town brings its unique flavor to the way that they present the beachfront -- whether it's a family beach or whether it's a fun beach, everybody finds their spot.

And that's beneficial, not just to the residents of each of the communities, but it's beneficial to all the residents who come to visit our beaches no matter where they're from -- because choice is good.

In addition to the numerous things that local municipalities do better, there are a lot of things-- There are two main reasons I'd like to talk about today, why I don't think it's in the interest of the State in general to pursue this path.

The first has to do with competition, as I spoke about. It's good for everyone. Residents and visitors pay the same amount in our municipality; I think that's what the Mayor was referring to, about taking Federal dollars. We don't have a special rate for residents versus nonresidents. So everybody pays the same amount to use the beach, whether daily, seasonal, weekly.

That's important to know, because it levels the play field. And what that means is everyone has to compete for guests; that means you have to try and offer the best services at the lowest price. That model works very well in business; it also works to a certain extent in government, and a beach is a marrying of those two operations. It's a business run by a government.

The same way in Manasquan as done in Spring Lake -- we must run ours as a utility, which means that it neither makes nor loses money each year, but it does cover its costs.

To have municipalities competing for tourists is the best way to ensure that they are on their A-game when it comes to providing services and attractions. It also means better guards and better employees, who compete against not only themselves within the departments, but amongst departments. Our head guards know each other very well; they work together, they share services already. The head guard in Spring Lake and the head guard in Manasquan meet on a, I believe, monthly basis during

the season, and every other month after the season or outside of the season to talk about -- with all the other head guards -- to talk about what services can be shared, where the best price to get wristbands or beach badges is, and those sorts of things. So we're already doing that to the extent that we can.

And with respect to our fantastic Freeholders, they do not, as they mentioned, have experience in this. So we rely on each other to find the best price and offer the best services.

The second reason I think this is good for everyone in the state is because local representation is the best way to run any form of government, as everybody knows. Citizens are best served by the local governments; they're more transparent and more accountable because citizens have the greatest access to them.

Out-of-town visitors benefit from a transparent process without having to even be a part of it. It serves their interests, as well as my town residents, because the level of direct accountability that they have over us is something that could not be mimicked if it were moved to Freehold or Trenton.

Simply put, if my beach was consistently dirty, the Beach Chairman would not win reelection. That cannot be said if that were moved to a County or State operation.

Both residents and nonresidents would be worse off if issues were left to County or State employees who, while they may be good intentioned, would be less directly accessible and therefore less directly accountable.

Lastly, I'd like to close by saying what a number of us have echoed, is that there is local passion for beach management.

SENATOR SMITH: Didn't notice. (laughter)

COUNCIL PRESIDENT MANGAN: Access has not been and never will be restricted, at least in my town and our neighboring towns, because we want visitors in our town, we want people to enjoy our summers. And it's at the heart of our community not just because we like and grew up near the beach, but because our local economy depends on it, our Main Streets depend on it. So it's absolutely at our core to make sure that that's running as efficiently and as best as possible.

So I thank you again for everyone's open-minded nature. I appreciate the opportunity to testify.

And thank you, Senator.

SENATOR SMITH: Council President, two questions: What was the cost to deliver beach services last year in Manasquan?

COUNCIL PRESIDENT MANGAN: Last year? So that was our immediate, Post-Sandy year; we were looking at -- we were down--

SENATOR SMITH: Well, in this--

COUNCIL PRESIDENT MANGAN: We were down significantly. That's the only reason I mention it.

SENATOR SMITH: Whatever the average is.

COUNCIL PRESIDENT MANGAN: The average is about \$1.5 million.

SENATOR SMITH: About \$1.5 million.

COUNCIL PRESIDENT MANGAN: Yes, sir.

SENATOR SMITH: What's your revenue?

COUNCIL PRESIDENT MANGAN: About exactly the same.
I'd be happy to present our budgets.

SENATOR SMITH: I'd like to see a copy.

COUNCIL PRESIDENT MANGAN: Absolutely.

ASSEMBLYMAN McKEON: Seems fair.

SENATOR SMITH: How wide is your beach?

COUNCIL PRESIDENT MANGAN: It's over a mile; it's
about a mile-- It's just over a mile.

SENATOR SMITH: Thank you.

ASSEMBLYMAN McKEON: Senators, question?

SENATOR THOMPSON: No.

SENATOR BATEMAN: I'm good; just observations.

ASSEMBLYMAN McKEON: Everybody's good?

Mayors, Council President, thank you for your thoughtful--

Please, if you have something--

MAYOR HOWARD: If I may add, the reason there is such a
difference between what Manasquan is saying their costs would be and
ours, is that I'm only having to staff 400 feet.

COUNCIL PRESIDENT MANGAN: Right.

MAYOR HOWARD: He's staffing--

COUNCIL PRESIDENT MANGAN: That's all public.

MAYOR HOWARD: We clean the entire beach, but we don't
have to staff--

COUNCIL PRESIDENT MANGAN: They don't have to put
guard stands out; we--

MAYOR HOWARD: I'm only staffing 400 feet.

COUNCIL PRESIDENT MANGAN: Exactly.

SENATOR BATEMAN: Well, I suspect that, if I may, every beach is different, depending on the size, obviously, and--

COUNCIL PRESIDENT MANGAN: Well, and the amenities. Spring Lake has two pools, which we don't have, that has a different package that they can charge for, and vice versa. So again, though, beach utilities have to operate that way.

SENATOR BATEMAN: It all goes into a utility, and it balances out.

Thank you.

ASSEMBLYMAN McKEON: Thank you all, again, very, very much.

There are two individuals well-known to the Committee -- Kate Millsaps of New Jersey Sierra Club, in favor, no need to testify; Stacy McCormack of the Littoral Society, in favor, no need to testify.

We're down to the final three witnesses. We have John Weber of the Surfrider Foundation, and I'm going to call Margot Walsh of the Jersey Shore Partnership. John is in favor, and Margot is opposed.

And the Chair -- Senator Smith had tried to say we were going to get out of here by 12:30, so we're going to ask you both to--

J O H N W E B E R: I am going to give my parking ticket to Senator Smith.

ASSEMBLYMAN McKEON: Yes.

UNIDENTIFIED MEMBERS OF AUDIENCE: We all are.
(laughter)

ASSEMBLYMAN McKEON: That's going to make some great picture out there -- all of us with parking tickets.

SENATOR SMITH: We're putting it into the beach fee cost.

MR. WEBER: Then I will get going.

Thank you, Mr. Chairman and Mr. Chairman, again, for a day. Thanks for the opportunity to speak on this permissive Bill masquerading as a Communist plot to take over the world. (laughter)

So the Surfrider Foundation is greatly concerned with our oceans, waves, and beaches; and beach access, in particular. We've consistently commented on rule changes with respect to beach access, and we see this as an issue partially of beach access.

Back in 2007 there were rule changes proposed. We favored them, but in our comments we mentioned that it would be good if the State would study, or at least explore, the idea of a regional or statewide beach badge that was good anywhere in the state. And we pointed out that there are recreational user groups like anglers, and surfers, and other recreational users -- that they'll go all over the county looking for the ideal conditions, you know. Surfers want to go here because the wind is coming from the south today, or the waves are better here and the fish are biting over here. And I know these people -- they go all over the county in search of that. But when it comes to going to the beach for the day, they're only buying a beach badge in one town.

So my testimony consists of an *if* and a *but*. *If* the goal here is to share services and to reduce the cost of operating a beach, and that results in lower beach fees for users, this is a good idea. This is a step in the right direction. And, of course, it's permissive.

So this Bill doesn't specifically say that there would be a countywide beach badge, for example. If that were the end goal, I think that would be a good thing.

The *but* -- and there are a couple of *buts* -- of course if only a handful of towns in a given county did this -- and, right now, it looks like maybe zero are interested in doing this -- it's not much use. And if it was a patchwork, and you had a countywide badge and it was good in this town, and that town, and there's 10 miles in between them -- it's not very useful; the same thing with a statewide badge.

And it does, to me, raise questions of jurisdiction: things that are not *on* the beach but maybe *of* the beach. Just, for example, in my town of Bradley Beach, let's just say the County was doing the lifeguard services and the garbage collection, which is *on* the beach. Well, the bathrooms, they are up on the boardwalk, and the bathrooms are part of the services that are provided which enables a beach fee to be charged in the first place. Well, if the town's dealing with and cleaning the bathrooms, I would see some need for an agreement between the town and the County, "Well, we want some of that beach fee now because we're doing one thing and you're doing the other thing." So I think it could get complicated, so that needs to be thought through.

I need to address some of the other things that were said here, and it will just take a minute.

I don't think this Bill is saying that anyone is doing a bad job of running their beaches. That's not the intent, and people shouldn't take it like that. It was said that New Jersey's known for its unique beaches. Yes, we're unique, because we charge fees. And with the exception of a couple of

places in New York and Rhode Island, there's nowhere else in the country where you need to pay a fee to walk onto a beach. So when you hear from California, whoever runs their beaches, ask them about that, because I want to know how they do it without charging fees. They charge for parking, but not just to walk on the beach.

Some towns mentioned that they pay the state -- they charge people the same rate no matter where they're from. Well, that's not because of the generosity of the town; that's because of a New Jersey Supreme Court ruling that outlawed that. So let's just be clear on that.

And one final thing: people say access isn't restricted. I would argue it is restricted. It's restricted by beach fees. And, again, if we can bring those down, I think that's going to be a good thing on a lot of levels. But on one really important level, every year people drown at the Jersey Shore -- just a couple; it never happens when there are lifeguards on duty because these towns do a good job with their lifeguards, okay? But it happens every year, it happens in my town sometimes, and I always think that those people, those kids -- they're drowning over 7 bucks, because they couldn't go to the beach when you needed to pay for a beach badge -- because that's when the lifeguards are there. So if there's a town that's just providing -- they only need a beach badge for 400 feet of their mile-long town, well, there's only a lifeguard for 400 feet. So we have all this oceanfront that's not being used; people in New Jersey can't get there or can't swim near a lifeguard in that town except for in this 400-foot beach where they have to pay. So that's just a thought.

I really think it would expand beaches. I think a lot of people, they're very provincial. They only go here because they buy a beach badge,

and that beach badge isn't good 100 yards over or half-a-mile over in the next town. So they kind of stay where they are. Well, imagine if people were going to other beaches because they had a badge that was good in a bunch of places. And then, my goodness, they may actually patronize a business in that town -- just things like that. I think it would really expand things; it could be good for towns, especially if it allowed them to share services and to reduce their costs.

So thanks for your time.

ASSEMBLYMAN McKEON: Thanks you very much, John.

Ms. Walsh.

MARGOT WALSH: It is afternoon, so good afternoon, and thank you for creating the opportunity for us to talk about this Bill today.

I'm Margot Walsh, and I'm Executive Director of the Jersey Shore Partnership. We are advocates for New Jersey's coastal communities -- the 130-mile stretch from Sandy Hook to Cape May Point.

I'm here today to join the Freeholders from the four shore counties of Monmouth, Ocean, Cape May, and Atlantic, and our more than 75 shore and bay communities in opposing Senate Bill 2171. It is not animosity that brings the Freeholders and shore communities together to oppose this Bill, but a shared recognition that it would not be in the best interest of either to transfer the operation of bay and oceanfront beaches to the four coastal counties, based on sound operational and financial facts.

Our county governments care about their beach communities and their safety. They also have confidence in the elected leadership in the shore communities to do their jobs.

So, too, do the shore communities recognize how important the county is to them in promoting shore tourism and economic development.

As we speak today, the four county Freeholders have joined shore mayors in submitting resolutions to the Legislature requesting an increase in the Shore Protection Fund to ensure that when the next storm hits our beaches we will be financially prepared to meet the costs.

There is good reason that the Freeholders oppose this legislation. The Freeholders' extensive and diverse responsibilities already challenge their budgets and manpower. Taking on the beach towns would be unrealistic, inefficient, fiscally unmanageable, and a potential threat to the safety of our beach communities. They do not have the resources to pay the costs or to accept the liability that shore towns must incur during the summer season: liability insurance, trained lifeguards and lifesaving equipment, EMS onsite services, extra police patrols, administrative services, beach maintenance crews, safety lighting, parking facilities, and the strain on the infrastructure.

According to Monmouth County, their summer population swells by as much as 73 percent on summertime beach going. And on a holiday weekend, that population can increase more than 100 percent.

There is good reason why--

ASSEMBLYMAN McKEON: Ma'am I'm going to ask you to-- I don't want to throw you off, but if you can summarize, because it seems kind of--

MS. WALSH: Yes, okay, I will.

We believe that each of our beach communities, as has been said before, has its own unique identity. And we believe that each shore

municipality is best equipped to operate its beaches. A generic county-controlled beachfront will lose the uniqueness that makes the Jersey Shore a very special destination.

We also believe that our beach towns have done a really good job in shared services. Sandy really inspired cost sharing, and we believe that that process will not only continue but will expand. We don't need the Freeholders to manage a shared service project across more than 75 towns.

If the Bill, which we might believe is a guise for eliminating beach badge user fees-- We believe it is ill-conceived and an ill-advised mechanism for achieving that objective. We take satisfaction in the fact that our shore communities provide \$19 billion annually -- one-half the State's total tourism revenue -- and that millions of visitors flock to our beaches during the summer months because they know that they are safe, attractive, and well-managed by our shore towns.

We stand with the County Freeholders and shore municipalities in our opposition to Senate Bill 2171 and Assembly Bill 1596.

And thank you for allowing me to speak today.

ASSEMBLYMAN McKEON: Thank you for your thoughtful testimony.

Thanks to both of you.

We have one last assigned witness: Marianne Clemente noted to be here on behalf of fiscally concerned citizens. So therefore, you represent 9 million people. (laughter)

MARIANNE CLEMENTE: I represent myself.

I'm a fiscally concerned citizen. I had no intention of speaking here, because I didn't know this Bill was on the docket. I came as a supporter of saving our wonderful Barnegat Bay.

But I go back to 2006, 2007 when Governor Corzine was going around with his town hall meetings on his budget. And I had the opportunity to get up and speak, offering a suggestion on the budget in terms of why doesn't he mandate the consolidation of towns at the county level. We have 566 municipalities, costing us a tremendous amount of money. If we consolidated, we would save so much money that we would have been out of the red a long time ago.

So he suggested I would be crucified if he were to mandate that. And he said what has to happen, it has to happen at your level, go to your town, your county. And that's what I did. I brought it back to Barnegat, and I have been raising it at every opportunity I could raise it at -- starting with shared services. This is going back to 2006 and 2007. And I also brought it up-- I see that Freeholder Bartlett has left; it's unfortunate -- a lot of people have left and they don't get to listen to the public speak about their areas.

I brought it up at Freeholder meetings. So I'm a long proponent of shared services and consolidating. I'm from New York; I know it works well at the county level. Most of New York is governed at the county level, except where there are cities and other--

So the three mayors that graciously came up to testify here today, just from those three towns, we're talking about several million dollars in costs. Senator Smith, I'm so happy you asked to see their budgets and the costs of these, and I'm sure it would come out right away -- it would

be a very glaring statistic that there are costs to be saved. I'm sure that if someone would do a cost-benefit analysis it would pop right away.

So I am absolutely in favor of consolidation of these beach services. I think the shared service -- especially in Monmouth and Ocean counties, which are very Republican counties -- started to pick up when Governor Christie came onboard and started speaking about that as well. So it was all of a sudden -- it was all of a sudden a good idea.

Great -- I'm happy to hear we're saving a little bit of money by consolidating some of our services, but all of the-- This Margot person who got up to speak, all of the litany of items that she listed from how important that would be to keep separate -- that's exactly the reason why we should be consolidating, because you have-- And Freeholder Bartlett talking about the special training of lifeguards, and one of the mayors who spoke about-- Oh, sorry--

ASSEMBLYMAN McKEON: Ma'am, we're happy to indulge you--

MS. CLEMENTE: But, anyway--

ASSEMBLYMAN McKEON: --but this isn't closing arguments.

MS. CLEMENTE: I know. All I'm saying is that there are costs -- tremendous costs to be served (*sic*) by consolidation of these services. And what everybody is afraid of, are those four horrible words: *dissolution of home rule*. We have no business governing at 566 municipalities.

Thank you.

ASSEMBLYMAN McKEON: Thank you very, very much.

SENATOR SMITH: We appreciate your comments, and everybody's comments. I thought it was a very educational hearing. And I think what we're going to do -- Senator Bateman and I are going to hold the Bill until the August meeting of the Environment Committee. And at that meeting we're going to have the representatives from California and Florida talking about how they do -- and maybe other states, if you think we should do other states -- on how they manage their beaches, all right? Because there may be a better way, and this is a great discussion to have.

So we're going to hold the Bill until the next meeting.

The very last thing that we have on our agenda, at the request of Assemblyman Wolfe -- special dispensation through Chairman McKeon, Acting Chairman McKeon -- we have Matthew Gregg, Forty North Oyster Farms, who is doing three minutes on oysters.

But the rest of the hearing is pretty much over.

MATTHEW GREGG: I want to thank the Committee and Assemblyman Wolfe's office for having me here.

I'm actually going to be quicker than three minutes.

I'm not here to convince anybody of anything. I'm just here to share some data, a couple of diagrams that we've been collecting on my farm for the past two or three years.

ASSEMBLYMAN McKEON: Where is it?

MR. GREGG: It's in between Mantoloking and Brick, in the northern part of the Barnegat Bay.

So really, my point today is I just want to show what one oyster on my farm does for the economy, what one oyster on my farm does for the environment.

Now, it has a very, very limited role in changing the environment or changing the economy. But I just want to show that if we were to extrapolate the amount of oysters that we had in our waterways, that there's the potential to make an impact. Now, we've talked all day about nitrogen and how farms create nitrogen. Our farm is a little different: it actually removes nitrogen.

SENATOR SMITH: It also makes a great appetizer. (laughter)

MR. GREGG: A great appetizer, yes.

So that's pretty much it. I'll leave these diagrams with everybody.

SENATOR SMITH: I want you to know I'm supporting your farm.

MR. GREGG: Thanks.

SENATOR SMITH: And thank you for coming in. We will pass the materials around, and we will read it.

Thank you so much.

Assemblyman Wolfe, anything you wanted to say?

ASSEMBLYMAN WOLFE: I want to thank both Chairmen for giving Matt an opportunity. Actually, Matt had a lot more information. And I just really wanted to let the public know, the thing that concerns me most in talking to Matt -- he didn't have time to go into it today -- there's probably 12 agencies he has to deal with to have a successful operation. He has to get approvals from each of them, to be monitored; and hopefully that's something in the future that our Committees can look at -- to try to cut through the red tape so that he and other entrepreneurs can really get

into the aquaculture of our communities -- especially on the Barnegat Bay -- to help clean it up.

So thank you to the Chairmen; thank you.

SENATOR SMITH: Thanks everybody for coming.

(MEETING CONCLUDED)

ADDITIONAL APPENDIX MATERIALS
SUBMITTED TO THE
SENATE ENVIRONMENT COMMITTEE *and*
ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE
for the
JULY 21, 2014 MEETING

Britta Forsberg Wenzel, representing Save Barnegat Bay:

Editorial: “Apathy Killing Barnegat Bay,” *Asbury Park Press*, July 18, 2014, [app.com](#).

William deCamp Jr., Commentary: “Despite spin, bay ailing: Believe science, not DEP, about Barnegat Bay’s health,” *Asbury Park Press*, April 3, 2014, [app.com](#).