

Committee Meeting

of

SENATE ENVIRONMENT AND ENERGY COMMITTEE

Senate Bill No. 1410, Senate Bill No. 1411,
Senate Bill No. 1815, and Senate Bill No. 1856

ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE

Assembly Bill No. 2290, Assembly Bill No. 2577, and Assembly Bill No. 2606

LOCATION: Toms River Town Hall
Toms River, New Jersey

DATE: August 12, 2010
10:00 a.m.

MEMBERS OF COMMITTEES PRESENT:

Senator Bob Smith, Chair
Assemblyman John F. McKeon, Chair
Senator Robert M. Gordon, Vice Chair
Assemblyman Reed Gusciora, Vice Chair
Senator James Beach
Senator Christopher "Kip" Bateman
Senator Jennifer Beck
Assemblyman Peter J. Barnes III
Assemblywoman Pamela R. Lampitt
Assemblyman Charles S. Mainor
Assemblywoman Denise M. Coyle
Assemblyman Scott Rudder



ALSO PRESENT:

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

Kevil Duhon
Senate Majority
Mishaal Azam
Assembly Majority
Committee Aides

Christina Gordillo
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

TABLE OF CONTENTS

	<u>Page</u>
Thomas F. Kelaher Mayor Township of Toms River	1
Senator Christopher J. Connors District 9	2
Assemblyman David W. Wolfe District 10	4
Louise Davis President New Jersey Association of Conservation Districts, and Member State Soil Conservation Committee New Jersey Department of Agriculture	11
Jeff Tittel Director New Jersey Chapter Sierra Club	12
Stefanie Riehl Representing New Jersey Builders Association	14
Suzanne Patnaude Director Mid-Atlantic Region The Solar Alliance	14
Carleton Montgomery Executive Director Pinelands Preservation Alliance	15
David B. Friedman District Director Ocean County Soil Conservation District	17
Peter Ferwerda III Private Citizen	19

TABLE OF CONTENTS (continued)

	<u>Page</u>
Ed Wengryn Representing New Jersey Farm Bureau	21
Bill Wolfe Director New Jersey Public Employees for Environmental Responsibility	22
Emile D. DeVito, Ph.D. Manager Science and Stewardship New Jersey Conservation Foundation	22
Tom Fote Chair Legislative Committee Jersey Coast Anglers Association	24
Gail M. Saxer Member League of Women Voters of Ocean County	25
Doug O'Malley Field Director Environment New Jersey	26
Edith Gbur Representing Jersey Shore Nuclear Watch	26
William R. Hannemann Representing Engineering Management and Logistics	29
Cindy Zipf Executive Director Clean Ocean Action	30

TABLE OF CONTENTS (continued)

	<u>Page</u>
Gerry P. Little Freeholder Ocean County	30
David Brogan Vice President Environmental Policy New Jersey Business and Industry Association	43
Michael Egenton Senior Vice President Environment and Transportation New Jersey Chamber of Commerce	45
David Pringle Campaign Director New Jersey Environmental Federation	50
Michael L. Pisauro Jr., Esq. Legislative Director/Registered Agent New Jersey Environmental Lobby	51
John Weber Northeast Regional Manager Surfrider Foundation	51
Sal Sorce Private Citizen	53
Kathleen Gasienica Representing American Littoral Society	54
Tom Mahedy Member Pax Christie New Jersey	56
Delegate David L. Bulova District 37 Virginia House of Delegates	60

TABLE OF CONTENTS (continued)

	<u>Page</u>
John C. Bartlett Jr. Freeholder Ocean County	69
Conor G. Fennessy Vice President Government Affairs New Jersey Apartment Association	76
Tony DiLodovico Vice President Birdsall Services Group	77
Judy Shaw, Ph.D. Senior Research Associate National Center for Neighborhood and Brownfields Redevelopment Edward J. Bloustein School of Planning and Public Policy Rutgers, The State University of New Jersey	78
Gerry Pizzi Private Citizen	78
Steve Kirby Private Citizen	79
Larry Reid Private Citizen	79
Anthony Bucci Private Citizen	82
Mary A. Bageac, M.D. Private Citizen	84
Ronald W. Jones Mayor Borough of Beachwood	86
George Nebel Mayor Borough of Mantoloking	94

TABLE OF CONTENTS (continued)

	<u>Page</u>
George Wittmann Councilman-at-Large Toms River Township	100
Bradley I. Hillman, Ph.D. Director New Jersey Agricultural Experiment Station Rutgers, The State University of New Jersey	102
James A. Murphy, Ph.D. Center for Turfgrass Science New Jersey Agricultural Experiment Station Rutgers, The State University of New Jersey	103
L. Stanton Hales Jr., Ph.D. Representing Barnegat Bay Partnership	116
Tim Dillingham Executive Director American Littoral Society	117
Stephen J. Souza, Ph.D. President Princeton Hydro, LLC	118
Stephanie Pizzoferrato Manager Government Affairs The Scotts Miracle-Gro Company	126
John Holub President New Jersey Retail Merchants Association	127
Josh Willey Branch Manager Scotts LawnService	128

TABLE OF CONTENTS (continued)

	<u>Page</u>
Bill Murray President Golf Course Superintendents Association of New Jersey	130
Keith Kubik President New Jersey Turfgrass Association	131
Michael J. Kennish, Ph.D. Research Professor Institute of Marine and Coastal Sciences Rutgers, The State University of New Jersey	142
Jennifer Buck Representing Mantoloking Environmental Commission	143
Jennifer Coffey Policy Director Stony Brook-Millstone Watershed Association	145
William deCamp Jr. Chair Save Barnegat Bay	146
Nancy Sadlon Executive Director New Jersey Green Industry Council	154
Chris Wible Director Environmental Stewardship The Scotts Company	156
John Pope Technical Representative and Territory Manager Eastern Region Andersons Turf and Specialty Group	160

TABLE OF CONTENTS (continued)

	<u>Page</u>
Keith Haines Representing Reed and Perrine, Inc.	163
Dan Becker Private Citizen	164
David R. Pease General Manager and Director of Agronomy Monmouth County Parks	171
Bill Lafield Representing Consumer Specialty Products Association	173
Ewald Altstadt Vice President Operations and Support Services Lawn Doctor, Inc.	178
Michael Stachowski Member Government Relations Committee Golf Course Superintendents Association of New Jersey	179
David T. Crow Representing Responsible Industry for a Sound Environment	180
Dominick Mondi Senior Director South Central Chapter New Jersey Nursery and Landscape Association	181
Jack Casey Private Citizen	182

TABLE OF CONTENTS (continued)

	<u>Page</u>
Jeff Coley Private Citizen	185
Sean T. Dixon, Esq. Coastal Policy Attorney Clean Ocean Action	187
Heather Saffert, Ph.D. Staff Scientist Clean Ocean Action	188
APPENDIX:	
Testimony, plus attachments submitted by David B. Friedman	1x
Letter addressed to Senator Bob Smith from Peter Ferwerda III	166x
Testimony submitted by Doug O'Malley	173x
Testimony, plus attachments submitted by Edith Gbur	174x
Flyer submitted by William R. Hannemann	187x
Testimony, plus attachments submitted by Cindy Zipf	188x
Statement submitted by John Weber	194x

TABLE OF CONTENTS (continued)

APPENDIX (continued):

	<u>Page</u>
Memorandum submitted by Conor G. Fennessy	196x
Statement submitted by Stephen J. Souza, Ph.D.	200x
Testimony, plus attachments submitted by William deCamp Jr.	202x
Letter addressed to Senator Bob Smith, and Assemblyman John F. McKeon from John H. Adler Congressman House of Representatives Congress of the United States	217x
Letter addressed to Heather Saffert, Ph.D. from Kent Mountford, Ph.D. Private Citizen	218x
Resolution submitted by John McHugh Council Member, and Christopher Leitner Council Member Borough of Point Pleasant	220x

TABLE OF CONTENTS (continued)

APPENDIX (continued):

	<u>Page</u>
Memorandum submitted by Scot Mackey Partner MBI GluckShaw	221x
Testimony submitted by Kelly Mooij Director Government Relations New Jersey Audubon Society	222x
Statement submitted by David J. McKeon Planning Director Ocean County	225x
Statement submitted by Barry Levitt Representing Levitt's Wholesale Landscape Supplies	229x
Letters addressed to Senate Environment and Energy Committee, and Assembly Environment and Solid Waste Committee from Thomas Critelli President New Jersey Builders Association	230x

TABLE OF CONTENTS (continued)

APPENDIX (continued):

	<u>Page</u>
Testimony submitted by Daniel Tews Citizen Outreach Advocate and Canvasser Environment New Jersey	232x
Emails addressed to Office of Legislative Services Committee Aide Assembly Environment and Solid Waste Committee from Stephen P. Atzert Private Citizen	233x

rs: 1-100

pnf: 101-199

SENATOR BOB SMITH (Co-Chair): We're going to have a very long and very interesting day today here in Toms River, the capitol of the Jersey Shore.

We have Mayor Tom Kelaher, here present, to welcome.

Mayor, if you'd come over and say a few words, we'd appreciate it.

M A Y O R T H O M A S F. K E L A H E R: (speaking from audience) I can do it right here.

SENATOR SMITH: Sure.

MAYOR KELAHER: Good morning, everybody. I just want to welcome everybody. We thank you for coming.

It's obvious that the condition of Barnegat Bay affects everybody, and everybody's interested in it.

Senator, I'm grateful to you and your Committee, and the Assembly Committee, for being here and taking an interest in it. The Bay of the River -- particularly surrounding Toms River and all the other communities in the county -- (indiscernible) recreation, quality of life, (indiscernible) economy. And so (indiscernible) both sides of your story -- (indiscernible).

SENATOR SMITH: Thank you, Mayor.

And we have the legislative delegations that represent the areas around the Barnegat Bay present.

Senator Connors, if you'd come forward-- I understand you'd like to say hello and welcome us. And bring your delegation with you and maybe introduce them.

S E N A T O R C H R I S T O P H E R J. C O N N O R S: Good morning.

I have with me Assemblyman Brian Rumpf and Assemblywoman DiAnne Gove from the 9th Legislative District.

Good morning Chairmen and members of the Committee. On behalf of the people of the 9th Legislative District, we want to thank Chairman Smith and Chairman McKeon for holding today's hearing in Ocean County. We also want to take this opportunity to commend the stakeholders and citizen activists who are participating in today's meeting in support of the Barnegat Bay.

Barnegat Bay plays a significant role in the local area, both in environmental and economic terms. Therefore, protecting the integrity of the Bay is of paramount concern not only to our delegation, but also to a large segment of our constituency, many of whom are here today.

Last year, our delegation respectfully requested a legislative hearing on the Barnegat Bay, which the Chairmen were kind enough to hold in Ocean County, in Lacey Township. Today's hearing will only build upon the progress made last year as more interested parties from the public and government work together in common cause. Working collectively with our legislative colleagues, as well as actively engaged citizen groups, we want to protect the Bay's unique and diverse wildlife. Equally important, protecting the Barnegat Bay is crucial from an economic standpoint, given its importance to tourism and the recreational fishing industry, as well as to the hardworking bay men, including the commercial hard clam and crabbing industry.

We would be remiss if we did not mention the tremendous efforts of the Barnegat Bay Partnership, under the leadership of Dr. Stanton Hales. For years, our delegation has relied on the expertise and research provided by him and his extremely capable staff. We are extremely pleased that the Committee--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Louder, please. We can't hear a word.

SENATOR SMITH: Try the other mike. (referring to PA microphone)

SENATOR CONNORS: I'm going to pick up where I left off because I'm not going to inundate you with too much verbiage.

We would be remiss if we did not mention the tremendous efforts of the Barnegat Bay Partnership. Under the leadership of Dr. Stanton Hales, for years, our delegation has relied on the expertise and research provided by him and his extremely capable staff. We are extremely pleased that the Committee has provided the Barnegat Bay Partnership a significant role in these hearings. It is essential that the recommendations and position of the Partnership be strongly considered in any policies instituted to protect the Bay.

Again, we want to thank Chairman Smith and Chairman McKeon for holding today's hearing in Ocean County. Your continued efforts have afforded the Bay's supporters the opportunity to play a critical role by contributing to the public dialogue on the State's efforts to protect this national treasure.

Again, Mr. Chairmen and members of the Committee, we thank you very, very much for being in Ocean County. And we look

forward to the recommendations that will be forthcoming from all the stakeholders who are here today, the recommendations of this Committee, and the transcript that will follow this proceeding.

Thank you.

SENATOR SMITH: Senator, I'm not sure -- did you introduce your two Assembly colleagues?

SENATOR CONNORS: Yes, I did, but no one could hear.

SENATOR SMITH: Right.

SENATOR CONNORS: This is Assemblyman Brian Rumpf and Assemblywoman DiAnne Cove from the 9th Legislative District.
(applause)

SENATOR SMITH: Thank you.

SENATOR CONNORS: Thank you, Mr. Chairman.

ASSEMBLYMAN JOHN F. McKEON (Co-Chair): Senator, Assemblyman, thank you very much.

And, Senator Connors, I'd be remiss if I didn't note a lot of us worked in a bipartisan way toward open space, and we all very much appreciated that leadership that you showed during that period of time.

SENATOR CONNORS: Thank you.

ASSEMBLYMAN McKEON: And with that, I'd like to introduce another of my colleagues, Assemblyman Tom (*sic*) Wolfe, from the 10th District.

ASSEMBLYMAN DAVID W. WOLFE: David.

SENATOR SMITH: I think it's David.

SENATOR GORDON: That's *Bonfire of the Vanities*.

ASSEMBLYMAN McKEON: That's *Bonfire of the Vanities*.

Thank you, Senator. I'm losing my mind.

Assemblyman Wolfe, would you come up -- step up and say a few words?

ASSEMBLYMAN WOLFE: I have my latest book with me.

(laughter)

Thank you very much.

ASSEMBLYMAN McKEON: That won't be the first or last mistake I make today. There's no question.

ASSEMBLYMAN WOLFE: Thank you, Chairmen and Committee folks from the Assembly and also the Senate. On behalf of Senator Andy Ciesla and Assemblyman Jim Holzapfel, I want to welcome you also to the 10th Legislative District, in which Toms River is one of the -- the home and the center for our district.

I usually don't have prepared remarks. I'm used to speaking off the cuff. But I really wanted to say thank you for being here. The audience here represents a lot of different entities and factions involved with the environment and the pristine place where we live -- to preserve it and make it a little bit better.

And I know that your hearing today is really a culmination of a great effort that has been really seized on by the media. It's very important not only that we have the hearing, but that we move forward with action legislatively and politically.

I have a few words which I would like to say, and I will be very brief.

Our Legislative District recently signed on as co-sponsors of Senate Bill 1411 and Assembly Bill 2290. And as you're aware, lawn

fertilizers contain extremely high concentrations of nutrients such as nitrogen and phosphorous, which pollute our Bay. This legislation will reduce the amount of those fertilizers and restrict the most harmful forms that are being used at all.

The waterways such as Barnegat suffer from the effects of the fertilizers. We feel that the labeling and regulation of the amounts that are used of these chemicals could be better used to protect the Bay and other local waterways. The Bay is enjoyed not only by Ocean County residents, but also residents from all over the state. And I know both Chairmen are summer residents. Welcome again.

The pollution is detrimental to not only our economic, but our aesthetic and recreational value. By educating the public as well as professional landscapers on the effects of the harmful chemicals and their detrimental effect on rivers, bays, and oceans, we hope to prevent further damage to our precious waterways and improve them for years to come.

We also live-- We're going to leave you copies of a letter which our delegation recently sent to Agriculture Secretary Douglas Fisher. In fact, it was recently -- it was back in January -- where we wrote to him in support of the State's Soil Conservation Committee's request to consider amendments to their standards for soil erosion and sediment control. The amendments they requested will continue to maintain healthy soil for the Barnegat Bay watershed and throughout the State of New Jersey.

These amendments to a bill that was passed in 1975 would help sustain essential physical, chemical, and biological functions for the distribution of soils. These amendments would also provide for further conservation districts with extreme guidance, tools, and restoration

standards to ensure that falling -- any disturbances of the soil in the area -- they could properly be restored. By ensuring healthy soils, we can ensure healthy watersheds. New Jersey has potentially become the conservation leader on this ecological and economic issue.

Again, I want to thank you for being here. The shore is very important. We look forward to working with you.

I might add that I know some legislation we're going to be looking at today is modeled after legislation that has been successfully implemented in other states. And I think not only could we implement what they've done, but also make it a lot better.

So thanks for being here, good luck. You're going to hear some good people today. They care a lot.

Thank you very much. (applause)

SENATOR SMITH: Thank you, Assemblyman. And thanks to your entire delegation for your support of these efforts.

Just to put things in a little context, we were here in Lacey Township a year ago. And at that hearing, scientists, various groups, citizens came forward and said the truth, which is that our Bay is dying. And in the year since the Lacey Township hearing, Assemblyman McKeon, in his Committee; I, in my Committee, have been working on a package of bills which we think address the major issues concerning the Barnegat Bay. And they are soil standards so that we reduce runoff into the Bay; the contribution of people who develop around the Bay toward the solution of those problems; stormwater utilities which are being used around the country in exactly the same kinds of situations to clean up water bodies;

and then finally, regulation of fertilizer. You have before you the strongest fertilizer regulation bill in the United States of America. (applause)

And let me ask that everybody withhold their enthusiasm because we have a really long day, and we have a lot of people to hear from, and we want to do this right.

Assemblyman McKeon and I have agreed to a batting order. And the batting order is as follows: We're first going to do the soil standards restoration bill. We're secondly going to do the contribution of developers toward the solution of the problem with stormwater basins. Thirdly we're going to do the stormwater utility bill. And then finally we're going to do the main event, which is the fertilizer bill.

I ask everybody to be courteous to each other. This is America. The greatest thing about our country is we don't all have to agree on everything. This is a democracy. And hopefully 50 percent plus one will ultimately decide the right thing.

Assemblyman McKeon, would you like to make any opening remarks?

ASSEMBLYMAN McKEON: Thank you, Senator.

Just very briefly. This is the kind of topic -- as much as when you usually see a crowd like this, there's going to be a lot of dichotomy of opinion. But I can't imagine one of you out there who doesn't believe that the Bay is in trouble and, secondly, that something needs to be done about it. We might have different approaches, and there may be some nuances to the way that happens. What's difficult -- and getting to the end of it on the fertilizer bill -- is that we have such an ecologically diverse state. It's hard

to come up with one size that fits all. But certainly it's untenable to have different standards for fertilizer application in different parts of the state.

So with Senator Smith, and with our respective hardworking committees, we really tried to be open-minded to all of the stakeholders, take everything into account, and come up with something that is reasonable and, most importantly, would be effective in the long run. We're going to get into a lot of detail about a lot of things today. But one of the great things about living in New Jersey is Barnegat Bay. And that is a real jewel that leads to the extenuation of the quality of life for all of us. And shame on all of us if we don't do anything we can to protect it, so that generations yet unborn and those who are still young can enjoy the same wonderful quality that all of us continue to enjoy and those who came before us--

So with that, Senator Smith, I think the first bill you're going to move on the Assembly Committee has already passed. So we can take a break.

SENATOR SMITH: Okay.

All right, our first bill is Senate Bill 1410, which is analogous to Assembly Bill 2501.

Let me just ask, would it be a good idea to call the roll so that we have an official record of who is present?

If you'd do that first--

MS. HOROWITZ (Committee Aide): (speaking away from microphone) First, the roll for the Senate Environment and Energy Committee; Senator Smith.

SENATOR SMITH: Present.

MS. HOROWITZ: Senator Gordon.

SENATOR GORDON: Here.

MS. HOROWITZ: Senator Beach.

SENATOR BEACH: Here.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Here.

MS. HOROWITZ: Senator Beck.

SENATOR BECK: Here.

MS. HOROWITZ: And then the roll for the Assembly Environment and Solid Waste Committee, Senator (*sic*) McKeon -- I mean Assemblyman McKeon.

ASSEMBLYMAN McKEON: I was just demoted. (laughter)

MS. HOROWITZ: Sorry.

Assemblyman Gusciora.

ASSEMBLYMAN GUSCIORA: Aye.

MS. HOROWITZ: Assemblyman Barnes.

ASSEMBLYMAN BARNES: Here.

MS. HOROWITZ: Assemblywoman Lampitt.

ASSEMBLYWOMAN LAMPITT: Here.

MS. HOROWITZ: Assemblyman Mainor.

ASSEMBLYMAN MAINOR: Here.

MS. HOROWITZ: Assemblywoman Coyle.

ASSEMBLYWOMAN COYLE: Here.

MS. HOROWITZ: Assemblyman Rudder.

ASSEMBLYMAN RUDDER: Here.

SENATOR SMITH: Thank you, Judy.

Our first bill is S-1410. This is the bill that requires post-construction restoration of optimal soil conditions under the Soil Erosion and Sediment Control Act. And the issue here is that whenever construction activities occur, soil is compacted, and it then acts as though it's asphalt or concrete. It increases runoff not just into the Barnegat Bay, but into all the lakes, rivers, and streams of New Jersey.

Let me first ask if there is the soil conservation district present. Louise Davis, are you here?

L O U I S E D A V I S: I am.

SENATOR SMITH: Would you like to say a few words?

MS. DAVIS: (indiscernible) (speaking from audience)

SENATOR SMITH: Please come to the microphone.

MS. DAVIS: Thank you.

I'm Louise Davis. I'm representing both the State Soil Conservation Committee and the Association of Conservation Districts.

I applaud the focus and recognition on the importance of soil and the focus of a legislation supporting healthy soil.

The amendments to the -- that you have made, from the version into your Senate version -- we very much applaud that you recognized and designate the local soil districts as the approved inspection -- *sic*) of the plan and the site. They are the local authorities. They are well-trained, and they are the right people to guide and oversee this process.

We support the recognition that practical and cost-effective methods be used, and that you tie into the soil erosion and sedimentation standards which we regularly update as science and technology changes.

Thank you.

SENATOR SMITH: Great. So you believe we are--

MS. DAVIS: I was going to say I think we're on the right track. We really appreciate the fact that you're looking at soil and recognizing it for the importance that it is.

SENATOR SMITH: Okay. We appreciate that comment.

Deirdre -- I can't read your handwriting, Deirdre -- from the Township of Toms River -- in favor. Do you just want to be recorded in favor? (affirmative response)

I also note the presence of Mayor Ron Jones, from Beachwood, who is in favor of the entire package.

Mayor Jones, give us a wave.

Jeff Tittel, in favor.

Did you want to say a few words?

J E F F T I T T E L: Yes.

Thank you.

Jeff Tittel, Director, New Jersey Sierra Club.

I just want to thank you for this legislation and the opportunity to speak very briefly on it.

One of the problems we face, not just here in Barnegat Bay but around the state, is soil compaction. When soils get run over by bulldozers, they basically turn into concrete. And what happens is, when it rains, instead of that water seeping into the ground and recharging our aquifers, it runs off as stormwater, picking up nutrients and soil with it and polluting our waterways. But what's even more critical is when those aquifers get depleted because the water is not recharging. In the summertime, especially a hot summer like this, the aquifers have less water that goes out through

springs, and fissures in rocks, and places to keep our streams flowing. And the reason that you saw the stream levels drop so bad this summer, besides the hot weather, is that our aquifers are losing water. And one of the reasons is that we're putting this concrete shroud over the land. And that concrete is not just (indiscernible) of buildings, but it's also compaction soil and putting lawns on top of it, which act just like concrete.

So we think this is an important bill, not only for Barnegat Bay but statewide, to help recharge our aquifers and also deal with nonpoint pollution.

Thank you.

SENATOR SMITH: Thank you, Mr. Tittel.

I have a ripped up slip from David Pringle saying the New Jersey Environmental Federation supports. So I assume that we're just going to record that rather than speak. I see a thumb up.

Stefanie Riehl, from the New Jersey Builders Association, wanting to talk about the amendments.

Stefanie, if you'd come forward.

STEFANIE RIEHL: Good morning.

Stefanie Riehl, New Jersey Builders Association.

We just wanted to go on record thanking the Committee and the sponsors for the amendments to the bill. And we believe that these amendments will go a long way toward protecting the health of Barnegat Bay and also keeping the health of our economy in mind.

Thank you.

SENATOR SMITH: By the way, just so the world knows what the amendments are, they were amendments suggested by the New Jersey

Builders Association, and I thought they were extremely responsible amendments -- one being that whatever the standards done by the Soil Conservation Service, under the Soil Erosion and Sediment Control Act, that they be cost-effective. And that's not a bad thing. They say that what you should do should have some consideration of the cost of doing it. And number two, we have a terrific second amendment. It's a terrific amendment.

MS. RIEHL: There was--

SENATOR SMITH: It's terrible to get old.

MS. RIEHL: There was some--

SENATOR SMITH: Oh, public process. The standards that are developed will go through a public process, and there will be an opportunity for everyone to get their input on those standards, which is the right way to do something like this. Because it will have a dramatic impact on the way in which construction occurs in New Jersey. They're both good ideas. Thanks to the New Jersey Builders for coming up with them.

Thank you.

Cindy Zipf, Clean Ocean Action, in favor. And brevity is even better. (laughter)

Suzanne, from the Solar Alliance.

S U Z A N N E P A T N A U D E: I just saw the amendments. We're in favor.

We just wanted to go on the record and thank you for the amendments. Thumbs up on the bill.

SENATOR SMITH: Thumbs up.

Louise Davis, New Jersey Association of Conservation Districts, in favor.

MS. DAVIS: I already spoke.

SENATOR SMITH: You've already spoken.

Carleton Montgomery, Pinelands Preservation Alliance.

Carleton.

C A R L E T O N M O N T G O M E R Y: Hello. I'm Carleton Montgomery, Executive Director of the Pinelands Preservation Alliance.

Thank you for holding this hearing and for bringing this bill forward.

The bill reflects the growing recognition that soil health is critical to stormwater control, flood control, the health of natural communities -- the plants and animals -- and to restoring Barnegat Bay. And the bill also recognizes a key truth: that a healthy soil is a natural soil, that the soil that retains the structure and chemistry occurring naturally in each part of the state--

The Pinelands, like other parts of the state, bears witness to countless instances in which harm is done by construction that needlessly strips vegetation and leaves disturbed soils without their natural structure. Such soils, even with turf grass laid over them and maintained with intensive watering and fertilizer, can become as hard as concrete, concentrating stormwater and contaminants which flow ultimately to Barnegat Bay, out of the Pinelands and other coastal estuaries.

In contrast, the soils with natural structure and vegetation cover bring irreplaceable benefits: better flood control, better stormwater control, dilution of contaminants and excessive nutrients from human

activities, the avoidance of evasive species -- and all at no cost. The natural stormwater system is already in place, and it requires no engineering or maintenance.

It's also excellent that this bill recognizes soil types, because there is no one answer to all soil types in the state. Pine Barrens soils are different from soils in North Jersey. And the bill directs the Committee clearly to provide standards applicable to each soil type. In the Pinelands, where the soils are very acidic, low in nutrients, and highly porous, it's a different condition from elsewhere. And where those conditions apply, natural vegetation is very healthy, the aquifers are healthy. But when we begin to engineer around those natural soil types, when we begin to add foreign soil for fill, or to bring in fertilizers and liming in order to change the nature of the soil, or compact the soil through construction, we lose all the benefits that that structure provides in a natural Pine Barrens setting.

I do want to suggest one amendment, a very small amendment. Among the agencies that you direct the Soil Conservation Committee to consider -- to consult with, we'd ask that you add the Pinelands Commission science program. The Pinelands Commission has a team of Ph.D. scientists who all have unique expertise in Pinelands conditions and Pinelands soils -- basically the soils of the entire outer coastal plain. They have worked from time to time with the Soil Conservation Committee on issues relating to the restoration of soils after construction work. And I think it would be a terrific way to make sure that about a quarter of the state gets the right treatment in these regulations that are ultimately adopted.

SENATOR SMITH: Carleton, thank you for your comments.

I think there are at least another two witnesses who are going to suggest amendments. The sponsor's plan on the Assembly side and the sponsor on the Senate side-- We're going to take under advisement any suggested amendments. Today we're not really going to do amendments because, quite frankly, as you can see we really don't have an opportunity to evaluate them on the spot, especially with about 400 people in the room. So we're going to take those back to the drawing board. Staff in both committees is making note of your suggestions, as they will with the two other speakers, and then we'll consider them separately. We can always do floor amendments.

Thank you for your comments in support.

David Friedman, Ocean County Soil Conservation, in favor.

Mr. Friedman.

DAVID B. FRIEDMAN: Good morning.

I'm going to try to be very brief.

We have packets over there on the side for all the legislative Committee to take a look at. Our testimony is in there, and we'd like to leave that with you this morning.

We like to use the example that soils are very much like a sponge in a sense that they're a mixture of large, medium, and small pores. And all the important functions in a soil take place in these pores in the exchange of gases, in storage of water and nutrients, all the micro and macro organisms live in the pores of the soil. And most people don't realize that the roots of the plants don't just grow in the soil, they grow in the pores of the soil. In a typical soil, you will see about 50 percent storage space in any

soil that's undisturbed in the woods. (witness stands away from microphone)

If both of these jars had geometrically sized (indiscernible) particles that go all around -- and this one is very large. I will pass this around to you. And if you look at the jar with the smaller stones in it, simulating soil particles, you might say they don't weigh the same, but they weigh exactly the same, because there's 50 percent storage space in the soil.

SENATOR SMITH: If you'd stand next to one of the recording mikes-- See, the mike you have in your hand amplifies sound in the room, but the mikes that are on the table are for the transcript.

MR. FRIEDMAN: I'm sorry.

SENATOR SMITH: That's okay.

MR. FRIEDMAN: What I'd like to do is just show you this very brief demonstration to depict why healthy soils are important in every watershed throughout the state.

This is an example of a soil that has organic matter in it, and it also has a sugar-based protein named globulin. It actually holds the soil particles in place because it lives in the organic matter of the soil. Watch what happens when I put it in this jar. You'll notice it doesn't break up because it has soil aggregates. Take that same soil that's been run over by heavy equipment and watch what happens to the jar. It begins to disintegrate and fall apart immediately. The whole point is just to show you that healthy soils are very important in all the functions that we talked about.

I just want to close by mentioning one thing. We've been working very closely with the Ocean County Board of Freeholders. They

have done a number of stormwater basin restorations to date where they've gone in and restored the vital soil functions in the basins, and it does work.

I thank you for all your support.

SENATOR SMITH: Thank you, Mr. Friedman.

Peter Ferwerda, representing himself, in opposition.

Mr. Ferwerda, I don't know if I'm saying your name properly, sir.

P E T E R F E R W E R D A III: Thank you.

Good morning.

SENATOR SMITH: Good morning.

MR. FERWERDA: I have to apologize up front that I'm not experienced in addressing your panel about these types of issues.

However, the bill related to the Soil Erosion and Sediment Control causes me a great problem. It talks about water, but it forgets about the air we breathe and the air that our plants take in as well, to remove -- through the process of photosynthesis, and then purify it, and then release it back into our atmosphere.

The solution to pollution is dilution. People later on will be talking about the Bay, the quantities of water -- some water -- that they're moving towards it. I don't wish to, at this time, go any further on this (indiscernible) other than to mention that that is also true with the air.

As we saw with the early years of the development of our state, we concentrated our factories in small, urban areas. The pollution -- deterioration of buildings -- is part of the problem, or toxic assets, that we have today in our state.

What I'd like to talk about is the problem with the resource extraction industry. The resource extraction industry operates under, in most cases, a municipal license but never receives a certificate of occupancy. So the problem is that when the industry is done with a site -- and there are many places within Ocean County that remain without a vegetative cover or any other form of restoration.

I, unfortunately, several months ago found out, to my dismay, that my wife has spots on her lung. I have been involved with various different practitioners, and they're talking about cancer and they're talking about causation. She and I were informed that the contributor is silica dust. Silica dust is, as Mr. Friedman indicated earlier, soils that have been disturbed, soils that have been run over by construction equipment, areas that have remained unrestored for greater than 30 days, areas that are greater than 5,000 square feet.

In my situation -- I live in the village of Warren Grove, which has a large resource extraction industry and operation. They have a large area -- super large -- possibly maybe 200 acres without any vegetative cover. Now, if this industry follows the best practices of other miners in our community -- and presently there is a controversy relative to Wal-Mart placing a store on what had been a municipal toxic asset, because it wasn't restored. It serves as a wonderful playground for children, but at the same time there are injuries that result.

So I'm here -- and I wrote you, Senator Smith, a letter that I was going to give you today explaining my views, explaining what I would like to see in terms of massaging the bill that is in front of you. But what I want to have eliminated is the buck passing. This is a State law, so the

State should enforce it. Well, they got a municipal permit, and our plant is part of their permit, so maybe municipalities should enforce it. My wife's lungs don't care, because it probably would not have occurred if there had been proper soil management practices being enforced.

And with that, sir, I hope you will take my comments. I wish to deliver to you this letter.

SENATOR SMITH: Sure. Give it to the staff over here, and they'll make copies for members of the Committee. Actually, our Sergeant at Arms will take care of it.

MR. FERWERDA: Okay.

SENATOR SMITH: Thank you for your comments today.

MR. FERWERDA: Have a nice day.

SENATOR SMITH: You too.

Mr. Ed Wengryn, New Jersey Farm Bureau.

Actually, why don't we bring up Ed Wengryn, New Jersey Farm Bureau, with amendments; Bill Wolfe, in favor with amendments; and Emile DeVito, in favor, but with amendments. This is the amendments panel.

Staff is taking good notes.

E D W E N G R Y N: No, my comment on the sheet was the amended version of the bill that you have -- I'm in favor of. So I'm good to go.

SENATOR SMITH: Oh, the New Jersey Farm Bureau supports it.

MR. WENGRYN: Yes.

SENATOR SMITH: Thank you, sir.

Mr. Wolfe.

B I L L W O L F E: Thank you for taking on this topic. It's very important.

I would just like to make two recommended amendments, and both of them grow out of a prior Ocean County Soil Conservation Service report on soil compaction that is probably part of the -- I'm assuming it's part of their testimony.

One would be to explicitly have the bill apply to site preparation, construction, and demobilization activities, because that's where the compaction occurs. And the way the bill is drafted right now, it's not clear that it applies to those activities.

The second issue is with respect to the DEP's water quality standards for total dissolved solids and total suspended solids, and their monitoring network that monitors the stream network to see whether or not there is a healthy condition and whether or not the standards can ultimately be enforced.

The bill should just generally direct the Department to remedy the flaws that have been identified in those standards, pursuant to the Ocean County study. And that would greatly improve the implementation of the program.

SENATOR SMITH: Thank you for your comments.

Mr. Emile DeVito, New Jersey--

And I didn't identify him. Mr. Wolfe is from New Jersey PEER. Emile DeVito, from the New Jersey Conservation Foundation.

Emile.

E M I L E D. D e V I T O, Ph.D.: Senator Smith and other members of the committees, thank you very much for allowing us to speak.

I want to thank you for specifically referring to solar facilities in the legislation. Earlier in the year solar panels were exempted from impervious cover regulations. And, Senator Smith and others, you said you would deal with solar facilities with this bill. And I want to thank you for that.

I just want to make one point, and that is: The damage to soil doesn't only occur during construction. We had folks testify along the way that when the soils are wet after heavy rains -- even driving over them with small equipment causes compaction.

So regarding the solar facilities, I sent you a suggested amendment a couple days ago regarding long-term maintenance of all the roadways within the solar facilities, so that in between all the rows of solar panels -- as all the maintenance trucks drive back and forth over the years during rainstorms -- the solar facilities won't become compacted; so that we can maintain the interstices between the solar arrays. So we have given you that suggested amendment. We hope you can include it for the long-term maintenance.

Thank you.

SENATOR SMITH: Emile, I don't want to be disingenuous. The solar impervious coverage bill, as you know, was my bill. And we're the Energy and Environment Committee. We're actually the Environment and Energy Committee. In New Jersey, we're doing everything we can to spur on solar and alternative, carbonless forms of energy. The amount of soil to be impacted by solar facilities in New Jersey will be less than a thousandth of a percent of the land in New Jersey. So we put that in a separate

category. We're trying to do everything we can do to that. I don't want to give you a lot of hope that that amendment will occur. Okay?

DR. DeVITO: Okay. Thank you.

SENATOR SMITH: But we appreciate your comments.

Thank you both.

We have a whole bunch of people who have given a single slip for all four bills generally in favor. I would suggest that you not snatch defeat from the jaws of victory. (laughter) Let me just mention that you're in favor. If you absolutely, positively have to come up, come up. But otherwise, I'm just going to record you in favor.

William deCamp, from Save Barnegat Bay, in favor of all four bills; Stephen Atzert, A-T-Z-E-R-T, citizen representing himself, in favor of all four; Tom Fote, in favor of all, Jersey Coast Anglers.

T O M F O T E: I would like to speak.

SENATOR SMITH: All right, Tom. Come on up.

MR. FOTE: Usually I would just pass.

Thank you for having this hearing in Toms River.

But when it comes to soil compaction, that is one of my areas of expertise. Most of you know me (indiscernible). But my career before that was an Army Corps of Engineers Officer, and I looked at building roads and everything else. And this is where I feel strongly that we need to do what we do. When you visit Vietnam, that was my area of building. What we did over there was left a lot of atrocious things that are basically being done to this day.

One of the things I want to talk about -- and nobody else mentioned it -- if you go up to Manasquan and you go up to Lightening

Jack's -- that marina there -- and you look at the bottom -- that bottom used to be all gravel. It had a certain kind of ecology because that was there -- gravel. It basically created certain types of life forms, certain types of marine organisms.

Because of construction in Manasquan -- reservoir and other road construction -- there is now an inch of soil on all that gravel. It has changed the whole ecology of that upper end of the Bay. So whether we have more weakfish, whether we have more striped bass, whether we have more winter flounder, they're not seeing the food they should see because of that soil. And that's why I felt it was important just to say a few words on that.

Thank you for your indulgence.

SENATOR SMITH: Thank you, Tom.

Gail M. Sixer, S-A-X-E-R, from the League of Women Voters, in favor of all bills.

G A I L M. S A X E R: Sir, I'd just like the record to reflect that that includes the League of Women Voters of Ocean County, New Jersey, and the United States. (applause)

SENATOR SMITH: Wow.

I'm sorry, I'm violating my own rule. Let's curb our enthusiasm. (laughter)

Dr. Michael Kennish, Rutgers, in favor of all bills; Fred Akers, Great Egg Harbor Watershed Association, in favor of all bills; Tim Dillingham, Dr. Steve Souza, Helen Henderson, from the American Littoral Society, in favor of all bills; Greg A-U-R-I-E-M-M-A, Esq., from the Sierra

Club, in favor of all bills. And I think that's our whole list for the-- Mike Pisauro, from the New Jersey Environmental Lobby is in favor of all bills.

Yes, sir, mister--

D O U G O' M A L L E Y: Doug O'Malley, Environment New Jersey, in favor of all bills.

SENATOR SMITH: Terrific.

E D I T H G B U R: Edith Gbur, Jersey Shore Nuclear Watch, in favor of all the bills.

SENATOR SMITH: Okay.

The slip that I was just given is Carol E. Gay, New Jersey Industrial Union Council, New Jersey Ocean County Progressive Democrats of America, in favor of all bills.

I think that's all the slips on this bill.

The Assembly is already ahead of us.

Clarissa Green, citizen, in favor of all bills; Calvin Chamberlin, homeowner, in favor.

I assume, Mr. Chamberlin, that's in favor of all bills.
(affirmative response)

Elaine Chamberlin, homeowner, in favor of all bills; Patricia Barndt, Vice Chair of the Shade Tree Commission in Beachwood township, in favor of all bills. Marianne P. Clemente, League of Women Voters, Chair; Barnegat Climate Action Commission, in favor of the total package. Philip Bartlett, from Save Barnegat Bay, in favor of all bills; Vic Palmieri, representing himself, from Toms River, New Jersey, in favor of the total package.

Do we have everybody recorded who wants to be recorded?
(affirmative responses)

The Assembly, being the progressive leadership team that they are, have already released this bill. And I think we're, like, a tweak away from being exactly the same, which we'll confirm on the floor. We'll get them consistent.

Any member of the Senate panel who wishes to speak?

SENATOR BATEMAN: No, Mr. Chairman. Just as co-prime on the legislation with you, I appreciate the sponsorship.

I move the amendments and the bill.

SENATOR SMITH: Great.

SENATOR GORDON: Second.

SENATOR SMITH: Second by Senator Gordon.

Ms. Horowitz -- oh, are you okay? (Ms. Horowitz falls)

MS. HOROWITZ: I'm fine. (laughter)

SENATOR SMITH: Can you take the roll, please, on the motion to release with amendments?

MS. HOROWITZ: On Senate Bill 1410 with Senate Committee amendments, Senator Beck.

SENATOR BECK: Yes.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Yes.

MS. HOROWITZ: Senator Beach.

SENATOR GORDON: Senator Beach left his vote in the affirmative.

MS. HOROWITZ: Senator Beach left an affirmative vote.

Senator Gordon.

SENATOR GORDON: Yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes. And the bill is released. (applause)

Our next bill is Senate 1856.

ASSEMBLYMAN McKEON: As your lawyer, by the way, I did -- just lay down. We'll get EMTs to come. (laughter)

I just want to acknowledge several public officials and several representatives of public officials before we move forward.

Ben Giovine is here from Congressman John Adler's office. Congressman Adler has recently introduced a piece of legislation relative to not only Barnegat Bay, but all estuaries throughout our great nation, dealing with stormwater management plans hoping to get this issue -- that's a nationwide issue -- to bring focus to it. So we appreciate Congressman Adler's leadership and Ben's presence here today.

We also have several additional local officials beyond those acknowledged before. From Point Pleasant Borough, we have Councilman Jack McHugh and Councilman Chris Leitner who are going to leave a resolution for the community.

Councilmen, welcome to both of you.

And we also have Mayor Jason Varano, from Berkeley.

Mayor, I don't know if you want to give us a wave if you're still here. Mayor, thank you for being here. We appreciate it.

And are the two Councilmen here -- McHugh and Leitner? If you want to be acknowledged. (no response) They may be out with the overflow crowd, but we wanted to acknowledge their presence here today.

I think we're going to go with 2606, yes, authorizing the Ocean County Planning Board for control of stormwater runoff.

I'm going to go right to the witnesses. But, in effect, there's somewhere -- around the Barnegat Bay area -- of 2,700 storm basins. And we really have no collective idea which ones are working, what's in disrepair. And ultimately what becomes at stake is that those basins, which are suppose to keep nonpoint source pollution from getting its way to the Bay aren't operating in a functional way. And that just accentuates the great problem of runoff of things that shouldn't be there that are resulting in the continued environmental degradation of that great body of water.

I'm going to call as the first witness, really, a national expert.

SENATOR SMITH: You have that guy from Virginia?

ASSEMBLYMAN McKEON: Yes. I don't know if he's from Virginia, but Mr. William Hannemann, on storm drain technology.

Is Bill here?

WILLIAM R. HANNEMANN: Good morning.

My name is William Hannemann. I'm from the storm drain technology-- I just wanted to introduce or state to this, the governing body, that there is technology available. It's patented technology that can actually stop and recycle the petroleum products that go into the storm drains, remove the silt and sand, stop the floating debris from going into the estuaries, and also stop and prevent the downflow of heavy metals.

This is a patent that has actually been around for a while, but it hasn't really gotten any recognition. I was down in the Gulf of Mexico working on the oil crisis there. I came back. I read in the *Asbury Park Press* about how my own Barnegat Bay is just as distressed as the Gulf of Mexico.

The only difference being: instead of the oil spewing out at thousands of gallons a day out of a pipe, it's being slowly leaked into our estuaries and into our Bay. And I think-- And I just want to recommend to the governing council here to consider using some of the patented technologies available.

For instance, with the 2,700 storm drains-- When the storm drains will be retrofitted or when new construction takes place, if the storm drain technology can be put in place, I think it would help a great deal.

That's all. I'll be brief.

Thank you very much.

ASSEMBLYMAN McKEON: Thank you, sir.

Cindy Zipf, Clean Ocean Action.

Would you like to testify, Cindy?

C I N D Y Z I P F: (speaking from audience) We're in favor of the bill. No need to testify.

Thank you.

ASSEMBLYMAN McKEON: Okay. Freeholder John Bartlett.

Freeholder, I know that you signed up on both bills. This is the one--

F R E E H O L D E R G E R R Y P. L I T T L E: I'm not Freeholder Bartlett. That's Freeholder Bartlett. Who would you like to hear first -- on your bill or the bill that he's going to focus on -- the authorities bill?

ASSEMBLYMAN McKEON: Not the authorities bill.

FREEHOLDER LITTLE: Okay. Then you want me, Mr. Chairman.

ASSEMBLYMAN McKEON: Okay. He signed up for both. That's why I was confused.

FREEHOLDER LITTLE: Yes.

ASSEMBLYMAN McKEON: And I apologize. Since I called the Freeholder, I'm going to ask you to identify yourself.

FREEHOLDER LITTLE: I will.

Thank you, Mr. Chairman.

Members of the Senate and Assembly Environment Committee, I am Freeholder Gerry Little. That's Freeholder Bartlett. We appreciate very much the opportunity to be here to comment on the proposed legislation for the planning board bills, which I believe are S-1856 and A-2606, and the other bill that would create an authority.

I am the Freeholder Liaison to the Ocean County Planning Department and the Ocean County Planning Board. And I will be focusing my comments on this particular bill, and Freeholder Bartlett will comment on the authorities bill.

ASSEMBLYMAN McKEON: Thank you, Freeholder, for clarifying that. Please feel free.

FREEHOLDER LITTLE: I'd like to comment briefly. I raised my family in Surf City on the Bay. We moved here 35 years ago. My kids have grown up on the beaches and bays of Ocean County. And my son is now a college student. So we know Ocean County very well.

Freeholder Bartlett was born in Ocean County, has served as a Freeholder for 33 years, and is one of the longest -- is the longest-serving Freeholder in Ocean County and one of the longest-serving Freeholders in the state.

The other members of our Board have similar experiences in our love for Ocean County and raising our families here. And we would like to assure the Committee that we share very much the sponsors' commitment in protecting Barnegat Bay.

We on the Board of Freeholders consider our stewardship with Barnegat Bay and our marine environment as a foremost responsibility. Our county taxpayers have invested \$800 million to construct a state-of-the-art Ocean County Utilities Authority infrastructure system to keep our coastal waters clean and safe.

I think I'm going to reveal to you something which the Committee is unaware of, and as are many of the residents of our county. Since the creation of the Ocean County Natural Lands Trust Program in 1997, our taxpayers have invested about \$100 million to preserve open space, coastal marshlands, and forest. More than 12,000 acres have been protected from development and the impact of stormwater runoff.

Ocean County is the second largest land-sized county in the state. We have 408,000 acres. Only Burlington County is larger. The Committee will be interested to learn that in conjunction with the Forsythe Refuge, State Parks and Forests, our County open space program and municipal open space programs, over 43 percent of our land is permanently protected in public ownership. An additional 14 percent of privately owned land is within the Pinelands Preservation Forest Area. That means 57 percent of those 408,000 acres are permanently protected, and the number is growing each year because of our Open Space Preservation Program.

Ocean County works closely with many partners. You heard the Ocean County Soil Conservation District -- Mr. Friedman was talking a

few minutes ago about our rain garden program. We work with Trust for Public Lands to acquire critical watershed lands in the Barnegat Bay, as identified by TPL's century plan. Recently we worked with TPL in the development of the Barnegat Bay 2020 report that identifies additional preservation priorities. Our Ocean County Health Department works closely with the educational community to promote best management practices for the watershed region, including brochures, Web announcements, PSAs on watershed and fertilizer use. I, in fact, have participated in some of those PSAs. Our educational community and Ocean County College, with the support and encouragement of funding of the Board of Freeholders, is expanding their curriculum to include new science programs, many of which are targeted for our coastal estuary.

Our taxpayers have invested \$12 million to create the Ocean County Marine Academy of Technology and Environmental Sciences in Manahawkin, which we believe is one of the finest high school institutions of that kind in the nation.

Ocean County worked cooperatively with the leaders of the Clean Vessel Act in the 1990s to facilitate the installation of more than 65 pump-out units in our marine facilities. With CDA grants and a partnership with OCUA, Ocean County purchased five mobile pump-out boats. And we continue, each year, to fund the annual appropriations for the operations of these vessels to reduce marine discharge into our bays and estuaries. As a result of that work, a no-discharge zone was established for Barnegat Bay.

Recently, Ocean County -- our Board of Freeholders -- lent our support to the DEP's regulatory effort that led to the C1 protection

designation for the Metedeconk River and the Toms River. Our Health Department maintains a coastal water testing program for a hundred bay and ocean beaches, which many of you, we hope, are here today and enjoying. We welcome all of you to Ocean County.

I want you to know that Ocean County is implementing and meeting all of the requirements of the DEP stormwater regulations. And we have spent millions of tax dollars on that effort. We've been assisting our towns in regional shared services, spending millions to construct vehicle wash pads and truck washes to implement storm drain cleaning programs and street sweeping programs.

Ocean County has -- I heard some numbers thrown around. Ocean County has 10,000 County-owned storm inlets -- 10,000 -- and about 800 county-owned water management basins. Our Ocean County Road Department maintains two specific road crew teams, each with six workers, which are dedicated to stormwater management only. These 12 stormwater management employees tag, inspect, and clean our 10,000 stormwater inlets every year; and they inspect, mow, clean, and excavate, as necessary, over 800 water management basins to make sure they are functioning properly to protect our water quality.

Parenthetically, since we have our State legislators here today, we would ask you to check in to see if the New Jersey Department of Transportation annually inspects, cleans, and tags its State-owned inlets and water management basins along Route 9, Route 37, Route 70, Route 35, Route 88, and Route 72. Those inlets and stormwater basins, as you well know, are maintained and owned by the State of New Jersey, not by

Ocean County. Those are major roadways. They have thousands of inlets and/or basins.

Further, there are thousands of municipal-owned stormwater inlets -- I repeat, municipally owned -- storm inlets and stormwater management basins that are all under the jurisdiction of the Department of Environmental Protection, State of New Jersey, and their requirements.

Finally, there are untold thousands-- And by the way, this is the same in all statewide-- But we're here today focusing, I guess, on Ocean County. Finally, there are untold thousands of privately owned stormwater management basins and inlets in commercial property, in private homeowners associations, etc. These, too, are under the direct and full jurisdiction of the New Jersey Department of Environmental Protection, as well as their enforcement, not Ocean County.

Mr. Friedman mentioned here, as representative of the Ocean County Soil Conservation District, that Ocean County is working on a rain garden program. In the last several years, we have -- our Board of Freeholders has earmarked over \$2 million of our tax dollars to restore and reconstruct state-of-the-art rain garden stormwater management basins, completing that work in-house, with our own employees, getting more work done at a reduced cost.

Additionally, we have included 20 new rain garden projects in the designed engineering specifications for various highway projects that we are -- that we have put out to bid. That program will continue well into the future.

Ocean County has developed equipment washing facilities that treat and recycle wash water. And we support, financially, the Barnegat Bay

Estuary program. We have established hazardous waste collection and safe disposal programs for our residents. Our recycling program has been recognized worldwide as one of the finest. All of these commitments are done in the spirit of protecting our marine and coastal waters for our children and generations to come.

Ocean County is regulated by the Pinelands Protection Act, the Waterfront Development Act, CAFRI, CAFR2, NJPDES, DEP riparian laws, NJDEP stormwater regulations, NJDEP C1 protection zone designation, soil conservation district, State development and redevelopment plan, COAH, municipal development guidelines, and many other regulatory protections, including Federal.

Again, Ocean County is in full compliance with the DEP's stormwater regulations. Ocean County and each municipality are already required, by State law, to have stormwater pollution prevention plans by the DEP. These cover the development of pollution-control ordinances and practices. Ocean County and its municipalities are all in compliance with these DEP regulations. In fact, in 2004, the Board of Freeholders provided \$187,000 in funding for the pollution prevention plans for 31 of our 33 municipalities. Stormwater management plans are also required for every municipality in the watershed. These plans and ordinances ensure that development applications are compliant with the New Jersey stormwater regulations.

The State of New Jersey, under its numerous DEP regulatory auspices, can mandate any necessary changes or improvements for stormwater management and nonpoint source pollution.

ASSEMBLYMAN McKEON: Freeholder, I'm sorry. I'm just going to ask you-- You know how many people are here to--

FREEHOLDER LITTLE: I will.

Let us be clear that under the 1999 constitutional amendment, the State of New Jersey would be required to fully fund those improvements. One of the parts -- one of the components of your bill would allow us to have a mapping system for all of our storm drains and inlets in Ocean County. We had our Engineering Department bring these to present to your Committee today. One of the provisions would be that the DEP would present to Ocean County a stormwater and estuary map within 90 days after enactment. I have brought such a map along. We have had it for 15 years.

So we're here today to explain to the Committee that we have concerns with this legislation. We cut \$11 million from our County budget. We have frozen all new programs and services. We are not in any financial position to accept new responsibilities and new programs. So we wanted the Committee to know this, and that's why we appear today.

ASSEMBLYMAN McKEON: Thank you, Freeholder.

FREEHOLDER LITTLE: I would be happy to give -- any questions that you like. (applause)

ASSEMBLYMAN McKEON: Just a couple -- and we appreciate that. Just a couple of thoughts. Number one is that I'm glad we gave you the latitude to accentuate all of the wonderful things that the Freeholders and the taxpayers of this county have been doing to be proper stewards of the Bay.

That having been said--

FREEHOLDER LITTLE: You're welcome, Mr. Chairman. Thank you.

ASSEMBLYMAN McKEON: You don't want to be disrespectful to me, nor different than anyone else.

FREEHOLDER LITTLE: I'm not. Not at all, sir.

ASSEMBLYMAN McKEON: I was actually complimenting you for your efforts.

FREEHOLDER LITTLE: Thank you. And I appreciate that.

ASSEMBLYMAN McKEON: That having been said--

FREEHOLDER LITTLE: I do.

ASSEMBLYMAN McKEON: Those efforts having been made are clearly not working as it relates to-- (applause)

Please don't--

SENATOR SMITH: Curb your enthusiasm.

ASSEMBLYMAN McKEON: Yes, I didn't do it to invoke that response.

But as I started to say, I think we can collectively agree, regardless of everybody's best efforts -- not the least of which have been the Freeholder Boards for many years. And I respect the number of years of service that you and your colleagues have put in.

We need to all focus on this together as a state. As you talked about the taxpayer-funding -- much of that in Ocean County -- this particular piece of legislation allows for a collection of funds from developers as they continue to develop new land. You know, as you've experienced it as a resident here, that the amount of development that has

taken place in Ocean County has far outpaced much of the development in the rest of the state.

So with that--

FREEHOLDER LITTLE: Mr. Chairman, I need to respond to that.

ASSEMBLYMAN McKEON: All right. I'm going to allow you to respond, and this is no longer going to be a debate as I call the next--

FREEHOLDER LITTLE: No, no. I just want you to know that Ocean County does, indeed, charge a fee for every developer for stormwater management, and has for as long as anybody can remember. All stormwater improvements are required to be paid for by the developer, as well as all transportation improvements: traffic signals, expansions of roadways, upon every application.

ASSEMBLYMAN McKEON: Of course.

FREEHOLDER LITTLE: So we do do that. We want you to know that.

SENATOR SMITH: This bill is a little different. You are allowed, under the Municipal Land Use Law, to require onsite improvements.

FREEHOLDER LITTLE: Absolutely.

SENATOR SMITH: And every planning board--

FREEHOLDER LITTLE: And we do.

SENATOR SMITH: --local and county do that. This bill expands that. This bill says that if your county planning board has a master plan for the repair of your malfunctioning basins, you can collect an appropriate amount from developers for off-site contributions. Under the

current law, that's not Kosher. You've had New Jersey Supreme Court cases saying that it is -- that unless there is a specific statute authorizing it, you can't collect for off-site improvements. And the problem with development around the Bay is that it's not just what's happening on that particular 4-lot subdivision, or 10-lot subdivision, or commercial parking lot. They have an impact on the entire Bay. And the new development should have a responsibility toward helping to repair that.

Your comments said there's not enough money, that our taxpayers are taxed. We're not necessarily disagreeing. But we're saying, "Here you have a chance to collect it from the development community because they do have an impact on your Bay." And you're saying you don't want to accept it. What's wrong with that?

FREEHOLDER LITTLE: Well, as you know, there have been bills in for a number of years to allow off-site improvements to be paid for by developers, including schools and other roadwork, statewide. So if that is a statewide legislation--

SENATOR SMITH: That's what this bill says.

FREEHOLDER LITTLE: --we have--

SENATOR SMITH: That's what this bill says. You have-- The Barnegat Bay is dying. This is your opportunity to collect some money to help correct the malfunctioning stormwater basins in your county. Barnegat Bay is basically all contained in Ocean County -- or almost all contained. You are the stewards of Barnegat Bay. We're trying to give you an additional tool. It's not coming out of your taxpayers' hide. That one is coming out of the developers' hide because they're impacting your Bay. What's wrong with that?

FREEHOLDER LITTLE: Would you like me to respond?

SENATOR SMITH: Sure.

FREEHOLDER LITTLE: Senator, as we said, we charge for off-site stormwater and traffic improvements, and we will continue to do that. We would accept any funding that we could have to improve stormwater runoff control. What we're really talking about--

SENATOR SMITH: So you're in favor of this bill.

FREEHOLDER LITTLE: No, sir. I didn't say that. What we're really talking about is the authority bill. This is just a first step. They're both linked together.

SENATOR SMITH: That's true.

ASSEMBLYMAN McKEON: Thank you Freeholder Little.

FREEHOLDER LITTLE: And thank you for the opportunity, Mr. Chairman.

ASSEMBLYMAN McKEON: It's a pleasure.

Gerald LaCrosse. I don't see a particular organization. It notes that you're in favor.

Gerald, would you like to testify or just go on the record.

UNIDENTIFIED SPEAKER FROM AUDIENCE:
(indiscernible)

ASSEMBLYMAN McKEON: Gerald W. LaCrosse, of Beachwood. It says in favor.

Jeff Tittel, Sierra Club.

Jeff.

MR. TITTEL: I wasn't going to, but I feel I need to. (laughter)
Thank you very much, and I will try to be brief.

I think we all know the reason that we're here is that the current system we have dealing with stormwater in New Jersey is broken. Many of the towns have not come in and done their job and developed plans. We've also seen problems that it's created with nonpoint pollution destroying bays and estuaries, watching dissolved oxygen levels drop all across our shores, and seeing fish kills like we saw in Cape May.

We think that this legislation is important for two reasons. We go after new developments and try to have them do the right thing. But at the same time we're doing that -- and we always hear this from the builders: "You're going after the new stuff. What about the old stuff?" What's important about this bill, and what's important about the other bill coming up after it, is that it's the only way we get to retrofit the problems we already have. If we stop all development coming into, and all stormwater from new development coming into Barnegat Bay, the Bay would still have a problem and would still be threatening to die. And that's why we need this bill and why we need to put together a program with the County, like the 10-town system that was put together in Morris County over a decade ago. And that's why this is important -- because it let's us go after existing problems and try to fix them. And it let's us work together with our towns to develop a plan that's going to look at the entire basin, not just one development at a time, one outfall structure at a time.

And the other reason that I wanted to -- I think that this bill is important, is that there are things happening at the State level that we're very concerned about. There's a new guidance document out on stormwater that's weakening the rules that were put in place back by the McGreevey administration. We see an administrative order holding up the

water quality planning rule changes that would pull back areas that are environmentally sensitive out of sewer service areas around this Bay. And that's on hold right now. And if that doesn't happen, we're going to see a lot more nonpoint pollution coming into Barnegat Bay, destroying the Bay, because we're not going to be protecting those environmentally sensitive areas.

So this bill is important because of what's happening at the local level, what's happening at the County level, and the threats at the State level of stormwater. So I hope this bill gets out of Committee today.

Thank you very much. (applause)

ASSEMBLYMAN McKEON: Thank you, Jeff.

Please, everyone.

Jeff, thank you.

I've got two other individuals who'd like to testify in opposition to the bill and about 50 in favor. Let's pull the two up against it who both said they'd be brief.

Either Dave Brogan or Mike Egenton, from the NJBIA and the Chamber.

You guys can go "boo" and "hiss" as the two of them come up.
(laughter) I'm just kidding.

These two gentlemen are professional and always have learned--
I'm teasing them both.

D A V I D B R O G A N: Thank you very much, Mr. Chairman.

My name is David Brogan. I'm Vice President of Environmental Policy at the New Jersey Business and Industry Association.

NJBLA represents about 22,000 companies statewide in New Jersey, from Fortune 100 companies all the way down to mom and pop shops.

First of all, I just want to recognize and acknowledge the issues that you're trying to face are difficult, and I do understand that. I also respect those who make their livelihoods off the Bay and who want to use the Bay for recreation.

Our concern really is about the fees in both bills. And I'd just like to take the liberty of addressing both bills. I'll be brief. Right now, companies already pay corporate business taxes, they pay property taxes, they pay fees, DEP fees, they have to have mandates and regulatory requirements that are very costly. The gentleman just mentioned other impact fees.

Now, on top of that, we would have this new assessment. From our perspective, it's just adding another unnecessary burden to the difficulties facing businesses in the State of New Jersey.

SENATOR SMITH: Are you on the stormwater utility bill?

MR. BROGAN: I'm on both bills. Both bills-- I just wanted to very briefly -- that way I'll--

ASSEMBLYMAN McKEON: It's fine. Thank you.

MR. BROGAN: Basically, that, again, is an added burden.

The other thing I'd just like to mention is, many companies already have stormwater permits, whether it be a general permit or an individual permit. If it's an individual permit, it gets renewed every five years. They have to do mitigation. There is oversight and the oversight

fees associated with that. So this is an ongoing payment that they're making to the State.

From our perspective, it's -- if you want to call it *double fees* or *double taxation*. Again, it places what we feel is a difficult burden on companies that are facing a very difficult fiscal environment.

So, in short, our concern really focuses on the fees. And we would ask you to reconsider allowing a fee if you're going to move either pieces of legislation forward.

Thank you.

ASSEMBLYMAN McKEON: David, thank you.

Mike.

And I know that Senator Beck has a question that she wanted to ask. But please, go ahead.

M I C H A E L E G E N T O N: Sure.

I would just echo and bring a little fiscal reality to our current economic climate. And I would add to -- for the Committee -- the Joint Committee to look at all the policy decisions that we're making on the State level.

For instance, Senator Lesniak spent a lot of time trying to resolve the fees that developers pay with regard to COAH, Council on Affordable Housing, and that hasn't been resolved yet. So we have the same concerns -- what kind of fiscal impact, what kind of message does that send?

And, obviously, as I've said before this Committee many, many times, all things drive to the State budget. I'm sure you all know that we have a structural deficit going into the next budget cycle. So that's our

concern when we assess a fee like that -- what kind of impact will it have on the economic development community?

Thank you, Chairman.

ASSEMBLYMAN McKEON: We appreciate it from both of you.

Senator Beck has a question.

I just note, if it hasn't already been said, Barnegat Bay, on an annual basis, is worth \$3.3 billion to the local economy, to the State's economy. That's what we're looking to protect here.

Senator.

SENATOR BECK: Two things: First, to Jeff Tittel's comments before-- I live in the Borough of Red Bank, on the Navesink River, which faces many of the same challenges -- certainly not as severe as Barnegat Bay, but certainly we have a lot of environmental challenges there too. So I appreciate the actions we're taking today. I think they're very important.

The question I had for the folks from the business community-- And we do hear from small business, certainly at this point in time, with the number of private sector bankruptcies growing -- our foreclosure rates are going up 40 percent a year in Monmouth County alone since 2006. But if it was not--

You're trying to suggest that it's a duplicative fee, that they already pay a fee. So is it your suggestion to amend it so there is only one versus two?

MR. BROGAN: I would suggest that there-- Honestly, we cannot support a fee, from our perspective. If you're paying property taxes, if you're paying corporate business taxes, or if you're a sole proprietorship,

or paying income taxes, if you're paying fees right now-- There are companies that are getting letters from the DEP regarding their general stormwater permits -- having to pay a fee on that.

The other fear we have is -- and Mike mentioned the difficult fiscal times -- this money goes into an undedicated pot -- or--

MR. EGENTON: General fund.

MR. BROGAN: --or general fund. It could be taken for other purposes. I mean, in my town-- I live in Mount Laurel, and property taxes are going up significantly.

So now you have-- And I get calls a lot of times from smaller companies.

ASSEMBLYMAN McKEON: I'm sorry to interrupt you. You realize it's only Ocean County.

MR. BROGAN: I do understand that, Assemblyman, and I appreciate that.

From our perspective, we're very concerned that even a bill that deals with one county could be expanded. And as I said, I recognize the importance of the Bay and significance it has on both recreation and businesses. But, again, we're seeing significant property tax increases. The sole proprietorships -- a lot of people having small businesses. That's a big impact on their bottom line. And then to add an additional fee--

The other thing is -- and I didn't see any changes. But the way in which the fee would be created is of concern to us too, in terms of how the DEP would go about establishing a formula -- whether that would go through the Administrative Procedures Act. But I apologize. I don't want to give focus on that.

From our perspective, the fee is really-- We cannot support a fee.

SENATOR BECK: If I could just, through the Chair, follow up. The fee is intended to tie those who are damaging the environment to remediating. And that is a scheme that New Jersey uses often. And so I don't find that the fee is inappropriate. But I do raise a question. If there's already a fee being paid, and we're adding a second fee, I think that's something that we, as a Committee, may want to take a closer look at.

MR. BROGAN: Thank you, Senator.

If you're a manufacturing facility, many times -- or an industrial facility -- you will have individual stormwater permits. You're paying annual fees, you're paying for the DEP's oversight, you're paying for the mitigation.

SENATOR BECK: It's something we need to look at.

MR. BROGAN: It's something that we're very concerned about.

ASSEMBLYMAN McKEON: Thank you, both.

The last witness in opposition is Bill Wolfe.

I ask you to be brief, Bill.

MR. WOLFE: Thank you.

Bill Wolfe, Director of New Jersey PEER.

It's with great reluctance that I would oppose a bill like this, particularly with all the environmental support and all the public support that's here today. But in good conscience and in honesty-- Number one, I am not a lobbyist, and I'm not bound by any, what I would consider, lobbying antics. And I think accuracy, and truth, and advocacy is my

mission here. And I think the testimony of the Ocean County representative you just heard is the compelling evidence as to why the fundamental approach of the bill is unworkable, fatally flawed. Because it relies upon the good-faith efforts of a bill that enables and authorizes a county and a county planning board to proceed in good faith and aggressively implement the provisions of the bill.

And I think what you heard for quite some time was testimony that says, "Everything we're doing in Ocean County is wonderful. Everything is working appropriately. And thank you very much." So given that that is the attitude of the County, given that the bill relies upon the County to implement it -- that it's enabling -- it isn't going to work.

Furthermore, there are tools right now under the Clean Water Act that DEP has that this bill bypasses, and becomes an excuse and thereby undermines Clean Water Act requirements. And the bill itself uses terminology from the Clean Water Act: impairment of the aquatic life uses. That is a statutory and regulatory term of art. The Department is not enforcing existing standards, they're not enforcing existing requirements. (applause)

And you should use an approach that is demonstrated to work, and look to the experience-- If you want to get outside New Jersey, just look to the approach of the Chesapeake, where it was a coming to (indiscernible). There was no honesty -- where EPA finally had to acknowledge that they were misrepresenting the performance of the program, they were forced and dragged before Congress to acknowledge that. And growing out of that, the Obama administration -- Lisa Jackson -- designated--

ASSEMBLYMAN McKEON: Please, Bill, wrap up.

MR. WOLFE: Okay. If you want to make the Bay sustainable and healthy, use the tools that are already in law under the Clean Water Act. Direct the Department to proceed and enforce the current law.

This bill, as going forward, is unworkable.

Senator Smith, I worked with you on the Highlands Act. If there was a bill enabling the Morris County Planning Department to develop a regional management plan for the Highlands, you know it would not have been worked -- you know it would have been unworkable. And the Forest Service report found that the existing zoning scheme, and the build-out onto the existing municipal planning and zoning scheme, was monstrous and was not sustainable. And we have the same conditions here. The landuse pattern is not sustainable, and this bill does not address any of that.

Thank you.

ASSEMBLYMAN McKEON: Thank you, Bill.

We have, give or take, about 20 individuals signed up in support. I'm going to acknowledge you. And if you feel compelled to testify, please come up.

Dave Pringle.

Dave, are you good? I see you waving in the back. Are you good?

D A V I D P R I N G L E: (speaking from audience) We support the bill, although I think Bill raises a very good point that given today's testimony (indiscernible) question how well the movement--

ASSEMBLYMAN McKEON: Everybody is allowed to say what they want, but I have no question of the integrity of the Ocean County Freeholder Board and elected officials to comply with what will be the law. I think maybe there's just some frustration because, notwithstanding diligent efforts, the results haven't been what we all want to see. They recognize there's an issue. You have to be a fool not to. And I know they'll work within the confines of this additional tool to help.

Mike Pisauro, NJEL.

Mike, are you good?

M I C H A E L L. P I S A U R O J R., E S Q.: No need to testify.

ASSEMBLYMAN McKEON: Okay.

John Weber, Surfrider Foundation.

It's just such a cool name. (laughter)

J O H N W E B E R: Thanks, Assemblyman.

I will be brief. I'm just speaking because I think I probably have something to say that most other people aren't saying. And the point is that this is not just an environmental issue.

On both these stormwater bills -- putting them together -- it's not just about a nice environment, or healthy ecosystem, or fish and wildlife, it's also a public health issue. The Surfrider Foundation -- the members -- know about stormwater pollution all too well. It's manifesting itself as people are getting sick. Chapter volunteers noticed this, and they set up a Website with a simple survey to collect information on people who are getting sick from going in the ocean. It's found at njoceanillness.org. They launched this in April. They did a little bit of promotion and advertising on no budget -- all volunteer.

And just in the last four months, they've gotten surveys from 33 people who say they got sick from going in the ocean. Of those 33, 16 of those people said it's happened to them multiple times. So we've got scores of other incidences. And of those 33 people, 14 of them went to the doctor. And of those 14, four of them had MRSA infections. I hope some of you are on the Health Committee so I don't have to pronounce or explain what a MRSA infection is. But suffice it to say, it's a drug-resistant form of a staph infection. It's pretty nasty.

We were stunned by these findings. Admittedly, we're only collecting this on people who are going in the ocean. We are not looking at people going in Barnegat Bay. But I would be shocked if people are not getting sick from going in Barnegat Bay. And we're not collecting that information. We obviously don't have sewage treatment plants spewing raw sewage into the oceans and bays anymore. So this is clearly a function of stormwater.

We're going to continue to collect this information. And maybe we will look into getting this on -- going in Barnegat Bay. But I just wanted to impress upon you that this is -- you're taking some good, first baby steps here, but it's not just a matter of a clean environment. This is actually a public health issue. So I appreciate what you're doing. There are a lot of people in this room who care about Barnegat Bay. Surfrider has a great resource at a Website called knowyourh2o, which is K-N-O-Wyourh2o.org. There's a great little film there. If everybody in the room goes and shows that to a hundred of their friends, we'll be on our way to helping Barnegat Bay out.

I appreciate your time. Thanks very much.

ASSEMBLYMAN McKEON: Thank you very much.

Kelly Mooij, New Jersey Audubon, has submitted written testimony to the entire panel, no need to testify in favor.

Kelly, thank you.

Doug O'Malley, Environment New Jersey.

Doug, do you want to testify, or just--

MR. O'MALLEY: In support of the bill.

ASSEMBLYMAN McKEON: Thank you.

Sal -- and if I'm mispronouncing your name I'm sorry -- it looks like Sorce.

S A L S O R C E: Yes.

ASSEMBLYMAN McKEON: Sal, would you like to testify?

MR. SORCE: I'll just be very brief.

ASSEMBLYMAN McKEON: Please come up, Mr. Sorce.

MR. SORCE: It's good to see you, John. It's been eight years. West Orange resident.

ASSEMBLYMAN McKEON: Oh, it's nice to see you, Sal. I didn't recognize you with the--

MR. SORCE: I know. Everybody says that.

I'm here to speak briefly on both for and against. In fact, Mr. Wolfe stole a little bit of my wind.

Many people don't realize it, but Ocean County has been owned and operated by -- and I don't want to turn this into a political joust -- but it's been owned and operated by Republicans. The 3rd District was owned and operated by Republicans for 126 years. Congressman Adler won

that -- what an incredible win. And I'm proud of him, because I think he stepped up.

One thing that is very -- I've been very conscience of, having moved down to Stafford and also Surf City-- I own two homes, one of which, in Surf City, is strictly gravel -- a very small amount of gravel, all natural plants and trees -- incredible. Manahawkin -- I refuse to put in any lawn. I get notices to cut my noxious, natural weeds, etc.

But what I'm here to speak about specifically is-- Being 34 years in pharmaceutical, everything was based on performance. And what I would have to say-- If the Bay is in so much trouble, and it's been under the care and stewardship of several organizations, the last thing we need -- and I hate to be insulting, but I've always been against the Freeholder form of government, because I think the State does not need another form any more than we need this commission. But the authority that I'm looking for has to be strict. Because in Stafford -- while the developer did pay certain things in developing and remediating the Stafford landfill, he got 50 percent tax relief for upwards of 15 to 35 years. Many of the residents never even heard of that. I speak constantly to people in town, and they're unaware. You should make an amendment. Any charges toward the developer -- any builder -- it should be included that no waiver, no abatement in the form of taxes-- Because what you folks do at the State level to help us is taken away by the municipality.

Thank you. (applause)

ASSEMBLYMAN McKEON: Thank you, sir.

I'm just going to go, again, through the list. And if anyone feels compelled to testify they're welcome to, of course.

Kathleen Gasienica, American Littoral Society, in favor.

Kathleen, we're good?

KATHLEEN GASIENICA: No need to testify.

ASSEMBLYMAN McKEON: Thank you, Kathleen.

Christopher Leitner, Borough of Point Pleasant, no organization.

Chris, thank you for being here and supporting.

Tom Mahedy, of the genesisfarm.org.

Are you coming up to testify, Tom?

TONY MAHEDY: Yes, please.

ASSEMBLYMAN McKEON: I'm sorry I didn't recognize you.

MR. MAHEDY: Sit?

SENATOR SMITH: So they can get you on record with the other microphone.

MR. MAHEDY: It's a pleasure to be here today with all the great people here who are the prophets of our time, who are speaking for Earth and all her species.

I wanted to first point out the symbol of the Lenni Lenape here, who are up on the wall. And, of course, they're well known for trying to live in harmony with Earth.

The scientists have spoken very clearly. All scientists today know that all is interconnected. All species are needed for the health of Earth.

There's a movement called the Earth Charter, and there's also a thing called *Earth jurisprudence*, which says humans have rights, but also Earth has rights, mountains have rights, bays have rights to live. And

actually there is a movement called *Earth jurisprudence*, which is putting this into law. The country of Bolivia just put into their constitution that Earth has a right to live, as does every form of life within the country -- the waters, every species, every tree, every bird.

I thank you all for considering all the bills today.

I'm also a member of Pax Christi New Jersey, which is part of the International Catholic Movement. And we work a lot on environmental issues as well. And I also mention Genesis Farm. And I ask you to check out their Website because they are an example of a CSA, community supported agriculture, and they're a working model of what can be.

So we're actually in favor of all of the bills today, and we thank you for all your great work.

ASSEMBLYMAN McKEON: Tom, thank you for your testimony.

Christi Campbell showing favor of all four bills; Susan Gato, Nurse Gato, in favor of all four bills; Tom Fagan and family -- and it's nice to see the family here -- in favor of all four bills, from Manahawkin; Clare Fagan, of Manahawkin, in favor of all four bills; Cliff Lindholm, former mayor of Montclair -- Mayor, welcome -- in favor of all four bills.

I'm sure you found a gentler life somewhere down here in Ocean County, perhaps. It's nice to see you, Mayor.

Jayne Moormann, Chairperson of the Beachwood Environmental Commission. I know the Mayor was here earlier in favor. And Britta Wenzel, of Lavallette, in favor of all four bills.

Thank you, all. That's a compilation of all those who signed up to testify.

Senator Smith.

SENATOR SMITH: Just one quick comment. The bill that's before you is -- and sometimes the testimony was a little mixed. The bill that's before you is the bill that says that when there is new development around the Bay, the Ocean County Planning Board, developing a master plan of what needs to be fixed, is able to collect from a developer for off-site improvements. They're limited in what they can do now. This gives them a new tool to acquire funding for those repairs. Some of the other testimony was on a different bill.

So I hope we'll move forward with the bill as it's -- in terms of what it actually contains.

ASSEMBLYMAN McKEON: We will. And if we can, Senator Smith, we'll move it first on the Assembly side.

SENATOR SMITH: Go for it.

ASSEMBLYMAN McKEON: On the Assembly side, do we have a motion to accept the bill, 2606.

ASSEMBLYMAN GUSCIORA: So moved.

UNIDENTIFIED MEMBER OF COMMITTEE: Second.

ASSEMBLYMAN McKEON: Moved and seconded.

SENATOR SMITH: And that's with amendments or not? It's with amendments.

ASSEMBLYMAN McKEON: The amendments have been distributed, and I believe the members are familiar with them.

MS. HOROWITZ: On Assembly Bill 2606 with Assembly Committee amendments, Assemblyman Rudder.

ASSEMBLYMAN McKEON: I'm just going to stop for one second. All of my Assembly colleagues who represent incredibly hardworking individuals -- some of whom are on vacation and they're here to give their time today -- if you now want to speak on the merits of this particular bill, I want you all feel free to do so. You've all been incredibly patient throughout the process.

You can call it. I'm sorry. I just wanted to--

MS. HOROWITZ: Assemblyman Rudder.

ASSEMBLYMAN RUDDER: Yes.

MS. HOROWITZ: Assemblywoman Coyle.

ASSEMBLYWOMAN COYLE: Yes.

MS. HOROWITZ: Assemblyman Mainor.

ASSEMBLYMAN MAINOR: Yes.

MS. HOROWITZ: Assemblywoman Lampitt.

ASSEMBLYWOMAN LAMPITT: Yes.

MS. HOROWITZ: Assemblyman Barnes.

ASSEMBLYMAN BARNES: Yes.

MS. HOROWITZ: Assemblyman Gusciora.

ASSEMBLYMAN GUSCIORA: Yes.

MS. HOROWITZ: Assemblyman McKeon.

ASSEMBLYMAN McKEON: Yes.

MS. HOROWITZ: The bill is released.

SENATOR SMITH: Okay. And on the-- (applause) On the Senate side--

SENATOR BATEMAN: Mr. Chairman, I move it with the amendments.

SENATOR SMITH: Senator Bateman has moved the bill with amendments.

SENATOR GORDON: I'll second it.

SENATOR SMITH: Senator Gordon has seconded.

Take a roll call vote.

MS. HOROWITZ: On Senate Bill 1856 with Senate Committee amendments; Senator Beck.

SENATOR BECK: Yes.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Yes.

MS. HOROWITZ: Senator Beach.

SENATOR BEACH: Yes.

MS. HOROWITZ: Senator Gordon.

SENATOR GORDON: Yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes.

The bill is released unanimously.

Our next bill will be Senate 1815 and Assembly Bill--

ASSEMBLYMAN McKEON: It's 2257 (*sic*).

SENATOR SMITH: --2257 (*sic*) -- 2157 (*sic*)? It's the stormwater utility bill.

By way of background, the problem always in American government is having funding to make necessary improvements. In this case we're talking about the death of the Barnegat Bay and trying to turn that around. Many other states in the United States of America have chosen stormwater utilities as a way to do that.

Our first witness is an expert witness, and that's Mr. David Bulova from Virginia -- the state of Virginia. Mr. Bulova, in addition to being a nationally recognized expert on stormwater utilities, is also a member of the Virginia House of Delegates.

You've been pummeled by the political process. And as you can see, this is an exciting topic.

If you would, Mr. Bulova, just tell us a little bit about your background. And then we'd like to hear what you can tell us about stormwater utilities.

D E L E G A T E D A V I D L. B U L O V A: Thank you very much, Mr. Chairman and members of the Committee.

I appreciate the opportunity to come out here today, come up to New Jersey, to talk a little bit about our experiences with stormwater utilities.

Again, my name is David Bulova. I work for a company called AMEC Earth and Environmental, and I've worked with stormwater utilities primarily helping local governments to implement and put together stormwater utilities for about eight years, primarily in Maryland and Virginia, although AMEC itself has done this kind of work nationally, including assisting the county of New Castle, Delaware, with their stormwater utility.

As mentioned, I actually come from a background in Virginia with the Virginia House of Delegates. I've been in the House of Delegates since 2006, representing an area outside of Washington, D.C., the City of Fairfax and Fairfax County, that is going through the exact same kinds of issues that we're hearing here. And actually it's a little bit refreshing and

certainly nice to hear that other folks are going through these same kinds of pressures. The Chesapeake Bay was mentioned, but we're also dealing with the Potomac River as well.

Before I was in the House of Delegates, I was actually an elected member of the Northern Virginia Soil and Water Conservation District Board. And so it's great to see so many folks from the conservation districts out here.

Let me say that when staff first asked if I would come up here and talk, I was excited, number one, because I do have some roots in New Jersey. I lived up in Neptune Township for a couple of years growing up. But also staff went ahead and mentioned that this was a retreat.

And I will tell you, Mr. Chairman, that we have a little bit of a different idea of what a retreat is down in Virginia. (laughter)

Nonetheless, it's great to be here. I'm glad to be part of this. And it's nice to see such a big crowd here.

Since I have a relatively limited amount of time, what I'd like to do is talk just very briefly about our experiences with stormwater utilities in Maryland and Virginia, and why those have been such an absolutely critical part of our water quality protection efforts.

By way of comparison to your bill, Mr. Chairman, Maryland's authority is very broad. It's actually just one simple paragraph that says localities can go ahead and do this. Virginia's relatively prescriptive. However, I think although -- while they're set up differently, the thing I want to make sure I stress is that almost every other state in the United States gives this kind of authority to their local governments to set up a utility. And whether that is by enabling legislation or through home rule

authority, we've literally worked with hundreds of localities across Virginia who've gone ahead and used this as a way to go ahead and meet their stormwater management needs. Indeed, there are a thousand stormwater utilities nationwide on record and up to speed to date.

Virginia has 16 stormwater utility systems which came on line mostly in the early 1990s. And if I get too technical for you, please stop me. Because I have a habit of spouting off acronyms. But this is in response, in the early 1990s, to new stormwater management requirements that were mandated by the Federal Clean Water Act under the NPDES Phase 1 municipal separate storm sewer system program. And I believe most of New Jersey is either covered under Phase 1 or Phase 2 of that program. And so these localities realized that they needed to make sure that they kept ahead of the game in terms of being able to maintain and manage their stormwater system given these new requirements. And so Virginia has actually had an enabling authority since 1991.

Recently there's been renewed interest in stormwater utilities because of Chesapeake Bay restoration efforts. And it is very, very true that the EPA has basically come in and sat down with all the stakeholders -- Virginia, Maryland, Delaware, New York, Pennsylvania -- and said, "You know what? We know you've been working very hard, but it hasn't done what you needed to do in order to clean up the Chesapeake Bay." And so they've gone ahead, and sat down, and said, "We're going to give you some targets that you have to meet. By 2017 you have to get 60 percent of the way there. By 2025 we've got to get 100 percent of the way to cleaning up that Chesapeake Bay." And so we're very proud of what we've

accomplished, but in no means are we resting on our laurels in terms of where we need to go.

The EPA is even getting more aggressive than that. In my home locality, they've actually set up -- and if you don't know what this means, I'd be happy to explain it -- total maximum daily loads. And that is basically a process where you decide how much pollution a storm -- or a system -- a water quality body can go ahead and take. They've actually implemented the very first flow TMDL in the country in my backyard. And what that basically means is that the EPA has declared it's not sediment, it's not bacteria that is the problem, it is impervious cover that is the problem. And they've said that impervious cover is actually the pollutant that they're getting to.

The purpose -- the point of all this is that it's going to shift a focus from simply preventing pollution during new development, which is very, very important. And it's important to partner with the development community on this. But I think more importantly, it's going to require us actually going back into our communities and doing significant retrofit of places that have -- that were developed without the benefit of those practices. And there's going to be a significant cost to that.

EPA is now writing into it's permits language that says cost is no longer an excuse. And so it's very important that we go ahead and arm our localities, our municipalities, our counties with the ability to rise to that challenge.

Aside from the regulatory aspects of this, one of the things that we always hear during the processes that we put together isn't so much about the regulatory compliance. Most people's eyes glaze over on that,

quite frankly. But it has a lot more to do with the public health and safety issues that were mentioned a little bit earlier in terms of flood control, in terms of maintaining the system that you already have. And so when we look at these programs, you'll see just an enormous backlog of projects in terms of underfunded infrastructure and capital -- anything from undersized pipes to deteriorating infrastructure.

I don't know if you all have the problem of corrugated metal pipes like we do in Virginia. But they were very popular in the '50s, and '60s, and '70s. They're only designed to last for 30 years, and they're very dramatic when they decide to go ahead and collapse underneath a parking lot. Even concrete pipes, which are meant to last 75 to 100 years, still require that maintenance in order to go ahead and make sure that you're using that infrastructure efficiently.

And so I bring that up just to go ahead and say, the most important part of your utility, and I think the most important part about what you're doing here today, is getting a handle on what your program should look like. You've got an enormous challenge ahead of you. But the thing is, you've got to figure out what your program is going to go ahead and look like. And that said, once you've decided that it's important to protect the environment, it's important to go ahead and maintain what you already have, and it's important to put in new infrastructure -- those things aren't going to change. You're committed to those. The most important part of that stormwater utility is: How do you pay, and who pays?

When dealing with large capital costs and maintenance costs, you really have only two options. You have real property tax and you have a stormwater utility. With your existing utilities, it would be absolutely

unheard of if you were to charge water or sanitary sewer services based on a person's property value. We know that there is not a link between how much water someone uses or how much somebody flushes that toilet with how much their property is worth.

The same is true with stormwater management. Unlike other services that are provided generally, stormwater services -- in terms of the volume managed and the pollutants controlled -- are directly related to the amount of impervious surface on that person's property. And so if you had two neighboring properties worth just the same in every manner, but one had 100 percent impervious cover and one had 20 percent impervious cover, what's the more equitable way of charging for those services: the property value or basing it on the actual contributions to that system?

Three key areas that I just want to hit on really, really quick in terms of why Virginia localities and Maryland localities are turning more and more to the stormwater utility system: The first one is equitability. Your contribution is based on impervious cover. And so it's not just how much is paid, but also who pays. In Virginia -- and I imagine New Jersey is the same way -- there's a lot of property out there that is exempt from real property taxes. The Federal government is a great example of large amounts of property that is exempt. They place a burden on the stormwater management system, but they don't pay into that system. Under a utility, it is a fee for service. Everybody pays. The Clean Water Act supports that. And if you were listening in terms of President Obama's executive directive with regard to the Chesapeake Bay-- Obama and his administration also believe that. And so that is an untapped source of revenue that your communities can use.

Second: It provides a stable source of long-term planning. Let's face it-- And as an elected official, I know this just as much as you all. Stormwater doesn't compete as well with a lot of other services such as education and public safety. As a result, it becomes very, very difficult to do long-term planning for your system. And as a result of that, you wind up planning by emergency, or you put in just when you're able to go ahead and afford it. And what that does is it winds up costing your communities in the long-term.

The third and last point I want to go ahead and make is: It can be used to encourage the reduction of unnecessary impervious surfaces and encourage voluntary practices through market forces. Basically you're giving folks an incentive -- you're giving developers an incentive, you're giving property owners an incentive -- to take matters into their own hands and be able to reduce impervious surface and reduce their charge. Almost all states also allow for a credit. Actually, Virginia mandates that you get a credit for things that you do on site. So the gentleman beforehand who was talking about redundancy in terms of permit fees-- In Virginia, most localities actually give a credit to a permit holder -- an industrial permit holder for doing what they're doing. And so it becomes a way to go ahead and encourage folks to go ahead and do the right thing.

In fairness, there are some challenges with putting together a stormwater utility. There are going to be people who don't like it and people who wind up paying a little bit more. They're going to be a lot more vocal than those who are going to be paying less. But when it comes down to it, it's about a fairness, and it is an equity issue, and how are you going to go ahead and pay for it.

Public input is the critical component of this, and I can't stress that enough. And that's why I'm so glad there are so many people here today. Because if your leaders and your businesses don't understand a compelling case, and they don't understand why this is a more equitable way of funding stormwater -- things you're going to have to do anyway -- then ultimately the program will fail.

But 9 times out of 10, in dozens of processes that I've been involved in -- and no two are alike in terms of how they come out -- folks will come to the conclusion that if you want to be able to go ahead and make a difference in protecting water quality, this is the best way to go about doing that.

Like I said, no two processes are the same. But what I can say with absolute certainty is that having a utility available as a tool to localities -- giving those municipalities, your counties the option of being able to go ahead and use that -- is an absolutely vital component of water quality protection.

Anyway, I could go into much more detail about the ins and outs of stormwater utilities. I don't know that that's what you want to hear. But I'm certainly willing to go ahead and stick around for any questions you might have.

SENATOR SMITH: One question, sir: You kind of indicated in your remarks that we're behind the curve in New Jersey. How successful have these stormwater utilities been in cleaning up some of these problematic water bodies?

DELEGATE BULOVA: They've been essential in terms of providing the stability of funding necessary to go ahead and do what you

need to do. And that's exactly the problem we've had in the Chesapeake Bay watershed -- is that when times are good, we'll go ahead and put a couple million dollars into the bucket, we'll go ahead and do some great things. But I think we all have recognized, as stakeholders, that you need to consistently fund these programs in order to go ahead and make sure that you're using them efficiently and to effectuate change in the long-term.

SENATOR SMITH: Are there other questions for Mr. Bulova?
Senator Beck.

SENATOR BECK: Just simply, if we could get some more information about the credit system that's used for businesses that are acting with the right interest-- Because I think the Business and Industry Association-- If there is a fee that's duplicative, I don't think that's our intent. But we'd be curious to look at what Virginia is doing.

DELEGATE BULOVA: And I'd be happy to do that. I've written several local ordinances to implement those. And I can go ahead and pass those on so you can see what kind of credits are provided and to what extent those kinds of credits are provided.

SENATOR BECK: Great.

SENATOR SMITH: Mr. Bulova, did you prepare written remarks, or was it basically (indiscernible)?

DELEGATE BULOVA: Mr. Chairman, I do have written remarks. But in typical fashion, as I was listening, I scribbled all over them. (laughter) And I will be more than happy to go ahead and submit those for the record once I have a chance to clean those up.

SENATOR SMITH: That would be great. We'd appreciate it.
Any other questions on either side? (no response)

Thank you.

Freeholder John Bartlett, Ocean County Freeholder, in opposition.

F R E E H O L D E R J O H N C. B A R T L E T T J R.: Good afternoon.

SENATOR SMITH: Good afternoon.

FREEHOLDER BARTLETT: You've heard earlier from Freeholder Little, who outlined a number of the achievements of the County of Ocean over the last 30 years in the protection of our environment -- the stewardship that we take very importantly.

I would like to remind the Committee that in the year 2006, Governor Corzine awarded to me -- and I was happy to accept it -- the Governor's Environmental Excellence Award for land conservation, given the overwhelming success of our natural lands trust program. And two years later that was followed up with another award from the Governor. Again, the Governor's Environmental Excellence Award for our stormwater management practices in regard to storm drains and keeping materials out of those.

I am here, however, specifically to speak about Senate Bill 1815, which is titled "The Ocean County Stormwater Management System Demonstration Act." Now, I am the senior member of the Ocean County Board of Chosen Freeholders, and I would prefer really to not have to be here today, but it's my duty to be here to respond to some of the things in this "Demonstration Act."

Incredibly, no input has been asked for from the Board of Chosen Freeholders with regard to this bill -- no input whatsoever, at all.

In fact, Senator Smith--

SENATOR SMITH: Actually, Freeholder, that's incorrect.

FREEHOLDER BARTLETT: That is not incorrect.

SENATOR SMITH: Yes, it is. We met with your Business Administrator and your County Engineer, and they indicated the Ocean County Board of Freeholders wanted no part of it. (applause)

FREEHOLDER BARTLETT: I do believe, sir, that that meeting took place in the last session of the Legislature, and this is a new Bill 1815, which is not the one that was discussed before. You have never communicated directly with the Board of Freeholders. In fact, in January of this year I wrote you a letter inviting you to meet with us, and you have so far ignored that. So let the facts remain as they are. (applause)

Incredibly then--

SENATOR SMITH: Hold on, Mr. Freeholder. If you throw it out, you have to defend it. You have a whole series of correspondence from me to the Board of Freeholders, and your response and another Freeholder's response to the issues concerning the Barnegat Bay. And in all cases, those letters say, "We have it under control. Thank you, but no thank you for your help." And I'll be happy to share that correspondence with the press. In fact, if the Gannett papers--

FREEHOLDER BARTLETT: You already have.

SENATOR SMITH: Yes, if the Gannett papers are here, they already have copies of it.

Listen, we're not-- Just to put things in perspective, we're not here to be adversarial to the Ocean County Board of Freeholders. We think you have a tough job. We also think you have the second worst bay in

America in terms of eutrophication. And we're trying to give you tools. (applause) Honest to God, we're only here to give you tools to help clean up the Bay. We don't want to be adversarial to you. We want to be working with you to clean up our Bay.

FREEHOLDER BARTLETT: Well, I'm glad you have adopted the proper terminology with regard to the Bay, because you did call it the second worst polluted bay in the United States. And I would remind you that there is not one bay beach in Ocean County, from Memorial Day to this point in time, that has been closed due to pollution. It is rather our--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Beachwood.

FREEHOLDER BARTLETT: Beachwood is on the Toms River.

SENATOR SMITH: Curb your enthusiasm.

UNIDENTIFIED SPEAKER FROM AUDIENCE:
(indiscernible)

SENATOR SMITH: First of all, let's be fair.

FREEHOLDER BARTLETT: I'm trying to.

SENATOR SMITH: We want to be courteous to everybody. I would appreciate it if no one would show any enthusiasm one way or the other. Let's let our Freeholder get his comments on the record.

Sir, please continue.

FREEHOLDER BARTLETT: Thank you very much, sir.

Essentially, this bill labels Ocean County "a convenient laboratory," and authorizes Ocean County to test pilot a countywide stormwater management utility as a demonstration project so that the State could judge the statewide feasibility of such an activity. Astonishingly, not one dime of State support is proposed to support such a utility.

Instead, this utility -- the Ocean County Board of Freeholders is empowered to create such a utility that would have the power to collect fees and other charges on the owners or occupants, or both, of any real property in Ocean County. And to add insult to injury, you then want to take 5 percent of that take for yourselves back to Trenton. I think this is kind of an incredible way to do business. This is a brand new tax on the people -- or would be a brand new tax on the people of Ocean County.

Ladies and gentlemen of the Committee, as the senior Freeholder, and speaking for my colleagues, I can tell you in no uncertain terms that the Board of Chosen Freeholders is not in any position, and will not create a new tax or new fees on the people of Ocean County who are taxed enough. All we have to do is listen to what the general public is saying, "We've had enough." They don't want any more taxes. We are in the midst of a recession. I don't have to remind you of that. We have 10 percent unemployment in this area, and roughly in this state. Our seniors in Ocean County -- which are roughly one-quarter of the population of this county -- our seniors have lost \$1,002 in senior property tax rebates that are not forthcoming from the State. So on top of essentially a \$1,200 tax increase on our seniors, on top of 10 percent unemployment, we want to create another tax in these environments. And I can tell you point blank we are not going to do that.

UNIDENTIFIED SPEAKER FROM AUDIENCE: You may have to.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I'm a senior, I'm retired, and I will pay a tax for a utility. (applause)

SENATOR SMITH: Let me ask everybody again, please curb your enthusiasm. We want to have a frank exchange of views, and when you interrupt the speaker, that doesn't happen.

Freeholder, I apologize.

FREEHOLDER BARTLETT: No problem.

SENATOR SMITH: By the way, just one question. Do you understand the way this bill is structure? It's absolutely permissive. You don't have to adopt the utility.

FREEHOLDER BARTLETT: Yes, sir.

SENATOR SMITH: And the reason we do that is if you go forward with it, the Ocean County Board of Freeholders can structure it any way you want. So, for example, you could say homeowners -- unless they have impervious cover above a certain limit -- would be exempt. And you would then be going to the large office parks that have a lot of asphalt and the large shopping centers that have a lot of asphalt and asking them for assistance. You would also set the amounts. So it's totally in your control.

FREEHOLDER BARTLETT: Well, it is not.

SENATOR SMITH: You would have the help of the DEP. But it is permissive. This bill doesn't mandate that you do it.

FREEHOLDER BARTLETT: That's what I was getting to next, sir. Because as I recently-- As I just said, we're not going to create a new utility, we're not going to create a new bureaucracy, we are not going to create a new level of government to tax people more than they're already being taxed.

However, there is a solution to this problem, and that is the fact -- if this Committee and if this Legislature truly believes that this needs

to be done, mandate it. You pay for it. Barnegat Bay is a State resource. (applause) What you are asking us to do in Ocean County is to tax our people in huge amounts. We're not talking about a couple million dollars a year. We're talking about a program that would run into the tens if not hundreds of millions of dollars a year to finally effectuate.

So I'm saying to you: This is a State problem. Let's have a State fix of this problem. Mandate it. And why won't you mandate it? Because of State mandate, State pay? Let me tell you, if you mandate it, the Board of Freeholders will certainly, with your money, be happy to carry this out. But we will not tax Ocean County people who are already being taxed enough and who are telling us that every day. That is the way we're going to handle it.

I thank you very much for the pleasure of being able to address you and to address this very important issue for Ocean County.

SENATOR SMITH: Thank you, Freeholder.

Our next witness will be Jeff Tittel from the Sierra Club.

MR. TITTEL: Thank you.

I originally came up here to say I support the bill. But now, listening to Ocean County, maybe we need to set up a Barnegat Bay commission similar to what we've done in Lake George and other places. Because if the government of the area that's in charge of giving resources and protecting this Bay doesn't want to do it, we may have to look at another construct.

And the reason I say that is, quite frankly, this Bay is going to die. We all know that. And that's why we're here today. Between sea nettles, and nitrogen in the Bay, and so many other things, we need to do

these retrofits. Without it, this Bay is going to die. Stormwater utilities have worked around the country, not only in places like Virginia. I just came back from California. It is a critical way that they're protecting their beaches and their economy. In the city of Santa Monica, they take their stormwater, they clean it up, and they use it for irrigation in their parks and for people to use on their lawns. In other places, they're recharging it back into ground water to protect potable water sources from saltwater intrusion. This legislation is actually the most critical piece of legislation we have. Because if we don't go back and retrofit the problems of the past, whatever we do in the future, we're still going to lose the Bay, and we're going to lose other parts of the state as well. This bill is absolutely critical.

And I really believe that if we don't go forward and come up with a way of cleaning up this Bay by retrofitting areas where there are stormwater problems, we're going to lose the Bay. And so we support this bill. But we may also want to think about trying to maybe have a regional planning commission or some other construct if the County is that much of an obstructionist to something that's so important for their own vitality and their own life blood.

When I hear them talking about taxes, there's a hundred billion dollars worth of ratables on this Bay. If this Bay dies, people lose their investments, they lose their homes, they lose the hard work that they put into buying their homes, or their small businesses and their shops that depend on the \$4 billion a year tourism industry.

This bill is vital to protect the economy as well as the environment.

Thank you. (applause)

SENATOR SMITH: Thank you.

All right, I'm going to note for the record the positions of various parties. And unless they have a compelling need to get up--

Britta Forsberg Wenzel, in favor of all four bills; Jayne Moormann, Chairperson, Beachwood Environmental, in favor of all four bills; Clifford Lindholm, former Mayor of Montclair, in favor of all bills; Clare Fagan, from Manahawkin, citizen, in favor of all bills; Tom Fagan and family, Manahawkin, in favor of all bills; Susan P. Gato, registered nurse, Americans with Disabilities, in favor of all bills; Christi Campbell, citizen from Brick, in favor of all bills; Tom Mahedy, Pax Christi, Genesis Farm, in favor of all bills; Kelly Mooij, New Jersey Audubon, in favor of all bills, no need to testify; Doug O'Malley, Environment New Jersey, in favor of the bill; Kathleen Gasienica, American Littoral Society, in favor of all four bills; Christopher Leitner, Borough of Point Pleasant, in favor of all four bills; Sal Sorce, in favor of all four bills.

In opposition: Conor Fennessy, New Jersey Apartment Association -- actually not opposed, an amendment request.

Mr. Fennessy.

C O N O R G. F E N N E S S Y: Thank you, Mr. Chairman.

Hopefully, we'll be as colorful.

We appreciate the opportunity to testify this morning.

I'd like to thank staff for sharing the amendments with me.

We appreciate the fact that the sponsors are deleting sections 11 and 15. We also appreciate your changes to Section 4, and we certainly hope to have an opportunity to sit with you and the other stakeholders to perhaps tweak that section as well, moving forward.

It is an important issue. We'd like to be part of the process. I did not actually check off opposed. We are just simply seeking some amendments today.

Thank you, Chairman.

SENATOR SMITH: Thank you.

Stefanie Riehl, Tony DiLodovico, New Jersey Builders Association in support with additional amendments.

MS. RIEHL: Good afternoon, Mr. Chairman, members of the Committee.

Again, Stefanie Riehl, from the New Jersey Builders Association.

We have historically, as an Association, been supportive of the creation of stormwater utility systems.

And we've been working with you, Senator Smith, for probably close to three years on the creation of such systems.

But what we have to stress is that we really believe that if these systems are going to succeed through this legislation, through statewide legislation, there needs to be a provision in the legislation which provides that counties or authorities will accept and have the responsibility to accept the management of basins.

And with me today is Tony DiLodovico, Vice President of the Birdsall Services Group, which is an environmental engineering firm, to further discuss our position.

TONY DILODOVICO: I'd just like to emphasize -- and I know you had the expert from Virginia and Maryland talk about their experience with utilities. And if we're going to create either a county or separate utility

for the Barnegat Bay-- To require that they look at existing runoff, to require that new runoff pay for part of the past problems, but then to also require new development to build new facilities -- and then that not be part of this utility authority -- would just then lead to -- 20 years from now -- another authority would have to be created to manage those facilities that weren't properly maintained.

SENATOR SMITH: The two bills go in tandem.

MR. DiLODOVICO: Right. And you would need to have some way of -- any new facilities that get built would have to be part of the utility authority in order for it to properly work.

We would like to see some way the language makes sure that new facilities aren't mandated and then there's no operation and maintenance of those facilities.

SENATOR SMITH: Thank you.

Ralph Henninger, Fisher and Son Construction, in opposition.

Mr. Henninger, are you here? (no response)

Scot Mackey, Garden State Seafood Association, in favor, no need to testify; Dr. Judy Shaw, from Rutgers University, in favor.

Dr. Shaw, did you want to provide any testimony?

J U D Y S H A W, Ph.D.: Thank you. In support.

SENATOR SMITH: Okay.

Mike Pisauro, New Jersey Environmental Lobby, in favor.

MR. PISAURO: No need to testify.

SENATOR SMITH: Gerry Pizzi.

G E R R Y P I Z Z I: In favor.

SENATOR SMITH: Okay. And Gerry, you identify yourself as a citizen, senior, retired, from Toms River, New Jersey.

And I think you also jumped up a little earlier with your enthusiastic support. (laughter)

And finally -- I don't know if it's finally -- David Pringle, New Jersey Environmental Federation, recorded in the affirmative.

And we have a couple of notes here, and we're not quite sure where they stand: Steve Kirby, Brick Resident.

Mr. Kirby, are you here in favor, opposed?

S T E V E K I R B Y: I'm fine.

SENATOR SMITH: You're good.

He's an in-favor guy.

Larry Reid, Brick resident.

Mr. Reid, are you here? (affirmative response)

L A R R Y R E I D: Yes, thank you.

I hope I can have the same amount of time some of the other people have had who have testified to you.

First of all, I'm opposed to creating a new authority. I think we have enough.

SENATOR SMITH: By the way, just FYI, the bill allows you to use your existing. So if you have an existing sewer authority or water authority, you don't have to do a new bureaucracy -- just use the existing authorities that are in your county now.

MR. REID: Okay. Well that is the case here in Ocean County. I'm sure some of the people in the room know that there is the Ocean County Utilities Authority. And at the top of their Website, when

you go in, they have a logo, the name of the Authority, and then they have this line -- I'm quoting from it: Helping to preserve the water resources of Ocean and Southern Monmouth Counties. So that is their tag line.

And then in their mission statement -- I'll read the first line of the mission statement to you. "The Ocean County Utility Authority was founded for the purpose of protecting and preserving our area's vital environment for current and future generations and, by so doing, ensure a healthy ecology, a robust economy, and a high quality of life for our citizens." So obviously they've been working hard to protect the Bay. I say that sarcastically, because I don't know what they've done to protect the Bay other than create these sewer authorities which keeps the sewage out. But they've done nothing for stormwater.

So there is a Utility Authority already in existence. It has a \$74 million budget, 262 employees. And since most of Barnegat Bay is in Ocean County, there's one utility right there that should be tackling this problem of stormwater management.

The second group we have -- and I happen to agree and disagree with the Freeholders who have testified -- is we have Ocean County government. Ocean County government has a \$348 million budget, as you know. Everybody pays taxes for that who are homeowners here.

And since the other people have given you their background -- I've been coming down to Barnegat Bay since 1955, and have been here every summer, and have lived here full-time for the last three years. So I'm not unfamiliar with Barnegat Bay.

My problem with the County is that they need to reprioritize what they're spending \$348 million on. As Mr. Bartlett testified, they did

cut the budget, but they are -- Freeholder Bartlett testified -- they are cutting the budget, but they're not reprioritizing things. They're not spending enough on stormwater management on the Bay.

I'll give you a specific example. In the capital budget, on Page 38, B1, there's a line item for Project No. 2010-3, stormwater management. Out of their \$348 million budget, they've allocated \$500,000 for stormwater management. That's less than two-tenths of 1 percent of the budget. They indicate that the total amount they need to -- over five years -- to do this stormwater management is \$3 million. So they've set aside for future funding \$2.5 million. This is not a priority for the County. The County has not made stormwater management in Barnegat Bay a priority. And I wish more of the people in the room here from Ocean County would go to some of the Freeholder meetings and voice their opinion. Because without the input from the citizens of Ocean County, the priorities in funding go to other priorities, namely the employees of Ocean County. (laughter) (applause)

This current budget that was approved in March had a line item for insurance for employee health insurance, which was -- \$28 million was spent last year. This year, since health insurance costs went up to \$33 million (indiscernible), an additional \$5,465,123 was going to have to be raised to pay for 100 percent free health care for the employees. So this is what we're facing with all the authorities that are created. We're looking at 2,000 county employees, and the first priority is making sure they have free health care. Whereas cleaning up the Bay only got \$500,000. So what we have here is all these authorities that have salaries, benefits, pensions, all sorts of things that have been created, and nothing is getting done.

Here's another example of what our authorities are doing. The Ocean County Utility Authority proudly is serving the following participants -- and it lists 26 towns and 11 authorities, most of which are municipal utility authorities like Brick and Toms River and/or sewer authorities. So we have so many authorities, and so many employees, and so many benefits. But nobody is prioritizing stormwater management for the Bay. I don't know how we can accomplish that, but that's what needs to be done.

Thank you.

SENATOR SMITH: Senator Beck, did you have a question?

SENATOR BECK: No.

SENATOR SMITH: For the record, a number of individuals wanted to be listed in support: Lois Jacobson, Climate Action Committee of Point Pleasant -- and they're in favor of all bills; Anthony Bucci -- I hope I'm saying that properly -- a student from Stafford Township, in support of all bills.

Sir, do you want to come up? (affirmative response) Mr. Bucci.

A N T H O N Y B U C C I: Hello. I am a lifelong resident of Stafford Township, and I'm a rising senior at the Marine Academy of Technology and Environmental Science in Manahawkin.

I'm here to represent the, so far, unrepresented youth. And basically I appreciate everything that's been done. I'm in support of Barnegat Bay.

Everyone is bringing up money and stuff. Me, personally, I believe: What is the price on a life -- all of these lives that are being affected? It not only affects the environment and the species in the Bay,

but also us. I enjoy the Bay both recreationally and as a source of study. So it's very important to me.

I'm in support of the Bay. We can really do a lot here. It's an example-- Not only could we set the example for the state, but also for the nation.

Thank you for your support of the Bay and everything -- all of your efforts. (applause)

SENATOR BATEMAN: Well said.

SENATOR SMITH: Thank you, sir.

Kevin Knutsen, citizen from Pine Beach, in support of all four bills; Craig Mclean, President of Point Pleasant Rotary, in support of all four bills; Denni Logue, environmental educator, citizen of Brick Township, in support of all four bills; Ralph Coscia, Citizens' Right to Access Beaches - - the organization is called CRAB -- in support of all four bills; Linda Schumann, citizen, in favor of all four bills; Larry Reid -- Mr. Reid didn't indicate in favor or in opposition.

Mr. Reid, are you here?

MR. REID: I just testified.

SENATOR SMITH: Oh, you just testified. I'm sorry, Mr. Reid. Got it.

And then Bob Gordon -- not Bob Gordon the Senator, but Bob Gordon the Brick resident. It doesn't indicate whether you're in favor or opposed.

Mr. Gordon, are you here? (no response)

And then Mary A. -- and Mary, I can't read your handwriting -- is it B-A-G-E-A-C, citizen from Toms River, in favor, I think, with

reservations? And State DOT must meet correct regulatory obligations, which we agree -- and the issues are State issues, not just local issues, which we also agree.

Mary, do you feel the need to testify, or does that do the trick? Mary, did you want to testify? (affirmative response) Come on up.

M A R Y A. B A G E A C, M.D.: Thank you for the opportunity to address the Committee and for your effort at providing further legislation.

My concerns here -- and some of the frustration that you've heard on the part of many -- is that -- my sense is that there is plenty of legislation that's been enacted previously that's not been adequately upheld on the State level as well as locally. I think that the Freeholder's point was that the State DOT and DEP have not been maintaining the waterways that they are responsible for in the manner in which Ocean County Freeholders feel they have.

I'm not as well versed in their budgets as the previous speaker. I'm sure there are many areas of deficiency there, as there are many areas of deficiency in the State and Federal budgets.

Legislation, to me, means you're providing largely another means of funding work that 20 years of research tells us needs to be done. Providing funding on the basis of future development, as has been proposed, is really just aggravating a problem, in that overdevelopment is pointed as part of the problem. You want to fund the solution on the back of development when development and overdevelopment in the expansion of the townships is part of the problem -- part of that impervious soil. So you're asking us to fund something. And, in truth, the funding can't be

there, because the development can't really continue at the rate at which it's been going for the last 20 or 30 years. So it's a bit of a no-win.

SENATOR SMITH: Actually, Mary, this bill is to ask the corporate citizens and citizens of Ocean County to step up to the plate to restore the stormwater basins. The stormwater utility would be based on impervious coverage already existing.

The other bill about new construction -- that was the bill we did earlier -- is with regard to if there is any future development in the Ocean County area -- that the builders would have not just the responsibility for on-site but also for off-site improvements with regard to the Bay. So this bill is actually the reverse of what you're saying. This is the one bill that covers that difference.

DR. BAGEAC: In terms of going after current commercial ratables and whatnot to address the stormwater system repairs that are needed -- that is where I'm in full agreement with the Freeholders in so far as I do see this issue as largely a State issue. The Barnegat Bay, and the estuaries, and the watershed areas are State resources. This is not just an Ocean County issue. The Raritan Bay has been in similar straits, the Chesapeake Bay and those areas of the Chesapeake watershed that are part of New Jersey-- Those are State issues. It's not just Ocean County. And while I appreciate that you feel Ocean County can be a testing area and that we may lead the way, this is a relatively small state overall. We have a lot of watershed area in the State of New Jersey. It is the State of New Jersey that needs to be taking the lead and not put it strictly on the backs of the one segment of this state.

SENATOR SMITH: Mary, we appreciate your comments. And I think it's only fair to say the State of New Jersey does have a major role in this as well.

DR. BAGEAC: Absolutely.

SENATOR SMITH: I think the comments about the State DOT has truth in it. And one of the things that Chairman McKeon and I are planning to do at a subsequent meeting is to pass a resolution to our Department of Transportation to find out what outfalls they have in Barnegat Bay -- and that they should start taking responsibility for correcting those. There is none of us without sin in this. And we all have to be partners in cleaning up the Bay.

But thank you for your comments. Most appreciated.
(applause)

Our last witness is Mayor Ron Jones, from Beachwood, in favor.
Mayor Jones.

M A Y O R R O N A L D W. J O N E S: Thank you, Senator. It's nice to be in your presence.

Assemblyman McKeon, it's nice to see you again. It's an honor for me to appear here today.

I would just like to say that the comments of all the parties, pro and con, were done in a decent and respectful manner, and I think we all can appreciate that.

I'm the Mayor of Beachwood, New Jersey. When you come into Beachwood, there's a sign that says, "Welcome to Beachwood. Keep our community clean," and we try to do that. Unfortunately, our waterway is a questionable aspect of our community.

In 2007, the National Resource Defense Council came up with a report that Beachwood, New Jersey's beach was the dirtiest in the entire United States. You really think of that when you're going over the Verrazano Bridge -- that Beachwood has the worst waters. It's quite shameful. In 2008, we were the worst in New Jersey. And in 2009, again, the worst in New Jersey. That's a distinction that I do not want to be maintained for my community. I don't think any mayor, any legislator -- any legislator would require the same for themselves.

I do support the bill. I think it's a step in the right direction. Something has to be done. We've had stormwater management plans that we've submitted to the State. In fact, in Beachwood we have to submit it to the Pinelands Commission. But we still have polluted water. We know what the issues are. We know about overdevelopment, we know about fertilizers, we know these things are in existence. We now need to take the bull by the horn and do something.

The way that this will be successful -- and only will be successful on the County level -- is, in fact, if jurisdiction is given to the Ocean County Utilities Authority. We are not creating a utility. They have a mission. They just need to expand that mission in order to handle stormwater management.

Some people have said that they've seen little that the Ocean County Utilities Authority has done for the benefit of the public. That's not true. I was first elected 31 years ago. And at that time, we were just in the beginning of the Clean Water Act. And the Clean Water Act was proposed for safe drinking water and for safe water that we swim in.

That Act required that municipalities install potable water systems which would exceed their ability to bond. The statute put to limit of 3 percent of your assessed valuation in order to bond for the improvements. That would mean that if you wanted to build a school, you couldn't put in the water system. So that's why we created all these utilities -- so these utilities could have their own 3 percent bonding. On the local level, these utilities are no longer needed except in those communities where development is still an option. In Beachwood, we're not completely built out.

So what did the Ocean County Utilities Authority do? All those septic tanks -- in Beachwood, 3,500 septic tanks went away. If those septic tanks continued today -- we're now going into a sewer system -- you, in fact, would even have a worse situation in the Barnegat Bay and a serious public health hazard. You don't, because you have the Utilities Authority.

What I'm saying here today is that we do not need any new commission like the Pinelands Commission, the Highlands Commission. We have a commission for everything. And all that comes is restrictions on peoples' ability to use their properties.

Senator, you're going in the right direction. We do need control of the Bay. And saying -- because some people yelled out Beachwood when the Freeholder said that no bay and beach was closed. Saying that the Bay and the River are separate is like saying that your brain and your heart function separately. They don't. (applause)

The point is: Action has to be taken. I've lived here my entire life, and I've said at previous appearances that fish we were able to extract from the Bay in the 1960s -- blowfish, etc. -- no longer exist. All I know is

the statistics are there. Something has to be done. And I compliment the Committee for coming to Ocean County, which is the finest county in the State of New Jersey, to do the right thing. (applause)

SENATOR SMITH: Let me turn this over to Chairman McKeon for his side of the meeting today.

ASSEMBLYMAN McKEON: I think the testimony is now completed. We're going to be in a position -- presuming I have a motion to move and second it with amendments that have been distributed -- to move on this bill.

And, again, any member of the legislative panel who would like to comment before casting their vote -- of course it goes without saying, feel free to do so.

Do I have a motion to release as amended?

ASSEMBLYMAN MAINOR: I make a motion.

ASSEMBLYMAN GUSCIORA: Second.

ASSEMBLYMAN McKEON: Moved and seconded.

Roll call.

MS. HOROWITZ: On Assembly Bill No. 2577, with Assembly Committee amendments, Assemblyman Rudder.

ASSEMBLYMAN RUDDER: Yes.

MS. HOROWITZ: Assemblywoman Coyle.

ASSEMBLYWOMAN COYLE: Yes.

MS. HOROWITZ: Assemblyman Mainor.

ASSEMBLYMAN MAINOR: Yes.

MS. HOROWITZ: Assemblywoman Lampitt.

ASSEMBLYWOMAN LAMPITT: Yes.

MS. HOROWITZ: Assemblyman Barnes. (no response)
Assemblyman Gusciora.

ASSEMBLYMAN GUSCIORA: Yes.

MS. HOROWITZ: Assemblyman McKeon.

ASSEMBLYMAN McKEON: Yes.

SENATOR SMITH: Thank you, Chairman. (applause)

On the Senate side, can I have motion to release S-1815?

Well, first, is there any discussion?

SENATOR BATEMAN: We have a question, Mr. Chairman, from Senator Beck.

SENATOR SMITH: I'm sorry, go ahead.

SENATOR BECK: Just a quick comment, which is: I'm certainly supportive, as I think we're going to find most of the folks up here are. But I think from the testimony there are a couple of take-aways that I do think we should examine. I appreciate the point about the fact that the State of New Jersey is a contributor to the pollutants that are going into this Bay, and yet we are not putting any resources -- not a nickel -- toward the cleanup. And I think that's not fair to the residents of Ocean County. (applause)

And I think, secondarily, when you look at Section 5b, which talks about the 5 percent -- that 5 percent of the annual fees that are collected here in Ocean will be transferred to the Department of Environmental Protection to fund program planning implementation and coordination activities related to stormwater utilities and stormwater management systems. I assume that that perspective is a statewide perspective. So I think we need to narrow that a little bit, because Ocean

County shouldn't fund DEP's planning statewide. (applause) That's, obviously, something that's-- I don't think that's fair. And maybe I misunderstand it, and it just means that this language needs to be tightened up a little bit. But I think we have to be careful about that.

I have spent a lot of time in Ocean.

To the gentleman from the Surfrider Foundation, I have spent some time in Sea Bright. And when there's a lot of rain, and New York City's systems overflow, I've had to jump out of the water as well. So there is no question that we have a serious, pressing issue when it comes to contamination of our water, and certainly, to Bill's point, to our error.

So I am supporting this bill today, but I think we have some refinements here, that make a lot of sense, to make this a fair public policy as it relates to Ocean.

And with that, I move the bill.

SENATOR SMITH: I think that's a second, right -- second to the bill?

SENATOR BECK: Second.

SENATOR SMITH: And FYI, Senator Beck, I've just discussed that same point. You made a great point about the 5 percent. That will be-- We're going to amend it on the floor to narrow it Ocean County only.

SENATOR BECK: Okay.

SENATOR BATEMAN: Good.

SENATOR SMITH: Okay. We have a motion and second.

Ms. Horowitz, if you could call a vote on the bill as amended.

MS. HOROWITZ: On Senate Bill 1815, with Senate Committee amendments; Senator Beck.

SENATOR BECK: Yes.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Yes.

MS. HOROWITZ: Senator Beach.

SENATOR BEACH: Yes.

MS. HOROWITZ: Senator Gordon.

SENATOR GORDON: Yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes. The bill is released unanimously.

(applause)

The next item of business is the main event, the fertilizer bill.

And Chairman McKeon has graciously offered to handle all the various witnesses on this. I have to go out and put money in the meter. I will be right back.

ASSEMBLYMAN McKEON: Oh, that's a good point -- before the meter -- unless that's a euphemism to mean to go to the boy's room. (laughter) You just reminded me. The Mayor -- and thanks to the Mayor of Toms River -- has let us all know that if you're parked at a meter, don't worry about it. You won't get a ticket. (applause)

SENATOR SMITH: All right, then I'm going to leave for a different purpose.

ASSEMBLYMAN McKEON: All right. I will tell you what. My first order of business is to take a five-minute break so everybody can stretch. And then we're going to get going-- We will start it at five minutes to 1:00.

(RECESS)

AFTER RECESS:

ASSEMBLYMAN McKEON: I'm going to start by noting all of the incredibly hard work of the Committee; and beyond the Committee the staff members, both partisan and nonpartisan, many of whom are here today.

As you all know, Bob started off by saying we were here a year ago knowing that this particular issue -- as it relates to fertilizer, its application, and overall regulation, including composition and labeling -- was something that would be a big component of the solution in dealing with the Bay and the long-term health of that great body of water.

This is a culmination of a year's worth of work. Senator Smith and I sat just about two or three weeks ago with a room not quite this big -- but maybe about half its size -- that, once again, included all of the stakeholders as we tried to get to a point where everybody reasonably compromised.

The interesting thing about all of this -- again, that the state is so ecologically diverse that, at one end, the industry needs one standard for the State of New Jersey -- right? That only makes sense, that's fair, and that's business friendly. On the other end of it, what might work in the Highlands, where the soil is in one particular type of composition, might not work here around Barnegat Bay, where the soil is much more porous.

So, again, this represents a compilation of a lot of hard work by a lot of people, by a lot of varying views from the science of it -- both

political science as well as natural science. And while we think we're now at a point where we can move this through the process, I want everybody to remember this: This isn't the last day. The Governor, although he's here enjoying Island Beach State Park and this wonderful Bay, isn't going to be presented this tonight at a barbecue to sign it. There's a whole additional process that will go on. There will be continued meetings. We'll be working with our leadership as it relates to further tweaking, based on some of the things people will say today. And then, of course, hopefully we'll get it to the Governor's desk in the early fall.

So, again, understanding that today isn't the be all and end all, keep that in mind with your testimony. Also, understand that a lot of us have heard much of this already. Try not to read your testimony. Under any circumstances, please keep it under five minutes. And let's have respect for each other; and be pretty knowledgeable about these issues, up to this point, having worked something that's pretty close to getting us to the goal line.

So with that, I announced him before -- although another colleague has joined us, Mayor George Nebel-- Am I correct, Mayor Nebel?
M A Y O R G E O R G E N E B E L: I say Nebel. (indicating pronunciation)

ASSEMBLYMAN McKEON: Mayor Nebel, from Mantoloking. He promised me if I go more than 25 miles an hour on 35, I could use his name just once. (laughter) To wit, he said I will get a second ticket if I use his name. (laughter)

So from one mayor to the other, I understand that, Mayor. Thank you for being here.

We're going to call everybody again, asking you to limit your comments, as we suggested.

First is Mayor Jason Varano, of Berkeley, who is in favor.

Mayor, would you like to say a few words? You're very welcome to. (no response)

The Mayor has absented himself for his other responsibilities.

Council of Point Pleasant Borough, John McHugh. We acknowledged you before. Would you like to testify, John? (negative response) This is going well so far. (laughter)

Mayor James (*sic*), you testified earlier, and we all have great respect for you. Not Mayor James, Mayor Jones. Would you care to testify Ron? (affirmative response)

Welcome back.

MAYOR JONES: Assemblyman, asking Mayor Jones not to speak is like having a priest not pass the collection plate. (laughter)

I'm going to try to approach this from a lighter side.

As I mentioned in my previous testimony, Beachwood sadly has the distinction of being the most polluted beach in the State of New Jersey. In fact, the Ocean County Health Department just created a new program called Nettles Alert, and they actually-- It's like the warning after 9/11, where orange, red, and different colors-- We actually have that now so that people know not to jump in the water and get bitten.

And I believe, based on scientific evidence, there are several contributing factors. And one happens to be the infiltration of fertilizers into our waterways. But I think that may not be the case throughout the United States. I think we have quite different dynamics. In fact, what may

be a bay in New Jersey may not be the same bay in Maryland. I mean, it's almost like my mother and my aunt cooking Italian gravy and one puts meat in it, and one puts something else in. It's gravy, but it's different. And I think our dynamics are a little bit different.

I'm not here to pin the blame on anyone. But I believe the fact that we have discharge of elevated temperatures of water coming out of Oyster Creek -- a facility that functions without cooling towers -- adds to this mix and creates a greater effect of the fertilizers that are infiltrating into our waterways; which, as we know, affects algae, affects plant growth. The plants don't know whether it's-- I'm sorry, the fertilizers -- they affect grass the same way they affect the sea growth. So that, I think, is a contributing factor.

I believe some limitations on the type and use of fertilizers, pesticides, and chemicals is necessary near our waterways. In our own community -- when we apply any kind of chemical -- we notify the public so that they know. I believe that in our community -- and maybe the State should consider this, but I think on a local level we can address this -- that when commercial vendors do apply these products, they apply either for a permit -- a fee permit -- so that we have a handle on what's going into our waterways.

But the point is this, just to summarize here, fertilizers do contribute. I'm not a scientist, but I do read. We have the Internet. We can provide information on this that would substantiate this. But the point is, we need to change the composition of what's going into our waterways. And any regulations that could save the Barnegat Bay, our rivers, or any other waterway in New Jersey is necessary and should be looked at.

You're right, Assemblyman. This is only the beginning. And I'm sure this will be addressed in later meetings.

But again, when we get to the end of the tunnel and we see the light, the light should be public policy and public health first.

Thank you.

ASSEMBLYMAN McKEON: Mayor, thanks for your leadership as an environmentalist.

Senator Gordon had a comment to make.

SENATOR GORDON: Yes, thank you, Mr. Chairman.

The Mayor makes an important point about the Oyster Creek nuclear facility. When we were in Lacey Township a year ago, we heard about the impact of that plant.

I don't mean to be flip, but Oyster Creek sucks. (laughter) (applause) That's not a pejorative comments, it's descriptive. It sucks about a billion gallons of water a day for its cooling system. That is not the most up-to-date approach to cooling nuclear plants. There are things called *closed loop systems* that use cooling towers which have a much less adverse affect on the environment.

Senator Smith has introduced legislation requiring cooling towers for nuclear plants. I have introduced a separate bill -- somewhat more stringent -- S-630. I understand the issue is in litigation now. But I hope this Committee does not forget about the impact of Oyster Creek on Barnegat Bay. As I remember the testimony, this facility sucks approximately the whole water volume of Barnegat Bay during the course of 365 days. And that has a profound impact on the marine biology. So I

hope we will-- If the courts don't resolve this issue, I hope that we will do so legislatively.

ASSEMBLYMAN McKEON: Senator, thank you. I thought it was Jeff Tittel speaking when you made that sound bite there. (laughter)

I know, because I'm very proud of them, Assemblyman Gusciora and Assemblywoman Lampitt had cosponsored a similar bill to yours, and I believe it came out of our Committee. It's our understanding -- Senator Smith and I, having met with Commissioner Martin, who has taken a pretty strong stance on the cooling tower in the administration -- that there are ongoing discussions. So we purposely didn't deal with that component of part of the solution today, as it's been identified and is in the process of being worked through and, hopefully, will certainly be a big part of the solution that we'll hear about over the next number of months.

I should have done this before -- very briefly, if it will save some time -- in effect, as it relates to the bill, we all know the science of the phosphorous and nitrogen going into the Bay, and dealing with the algae blooms, and the fancy term *eutrophication*. What this does is deal with, number one, the composition of the fertilizer itself that runs off in the Bay, whether through stormwater or through leaching. And phosphorous is going to be prohibited, period. I congratulate the industry who is doing a lot of that around the country now, recognizing the problem. You should be proud of yourselves, and we are of you.

We have-- Right now, the bill sits with 30 percent slow-release component of nitrogen to go into the fertilizer. And there's also a limit per thousand square feet, I guess, currently, of .75 pounds. And that's one component of the bill.

Another component of it is how it gets applied. We've reached -- and it will be up to the members of the Legislature to vote today -- but Senator Smith, the sponsor, and I have reached what we think is a real good compromise on 10 feet from water if it's applied -- kind of where it gets spread out when you're applying fertilizer; or five feet from any water body if it's done with a pointed type of application. We've allowed municipalities, as part of the compromise, to go as high as 25 feet to 10 feet -- we want to do that on a local basis. And as much as we wanted to get continuity, that was of something that was acceptable to everyone.

The other component is when you can put fertilizer out. We know it shouldn't go out, and won't, when the ground is frozen. We know it shouldn't happen, and won't, when there's heavy rains. We're dealing with the dates. Right now, as far as we're going forward with today -- today's purposes -- we're dealing with March 1 and November 15 as the window within which you can continue to apply fertilizer. I know many in the application industry wish that that November 15 date was kicked a little further. We'll hear what you have to say and continue to take it under consideration. But for today, that's where we're at.

And I think that's the major components of the bill that we're going to go through with today.

SENATOR BATEMAN: Mr. Chairman, if I may, did you address the penalty provisions at all? I've had some--

ASSEMBLYMAN McKEON: Senator Bateman, I'm trying to remember off the top-- I think it's \$5,000--

SENATOR SMITH: And \$2,500.

ASSEMBLYMAN McKEON: --\$2,500 and \$5,000. I know there have been some issues about that being duly punitive. And, again, this being a work in progress -- something that we will consider to take on under consideration.

SENATOR BATEMAN: Thank you.

ASSEMBLYMAN McKEON: So with that, George Wittmann, of Toms River Township Council.

Try to show courtesy. (cell phone ringing)

George, if you'd like to-- Councilman Wittmann, thank you for your courtesies today in having us here as guests.

C O U N C I L M A N G E O R G E W I T T M A N N: You're welcome.

I'm in favor of the bill. I've lived in Toms River for about 20 years. My kids grew up in the Green Island section of town, and were able to swim in the bay. And it's deteriorated to the point now where you can't even jump into the water without getting stung by a sea nettle. So something has to be done, and I think this is a good first step.

Also, earlier when you had the stormwater regulations -- I'm in favor of establishing an authority, whether it's done by the Township or the County -- because I think it's important. The maintenance of some of these basins are really in bad shape. They really haven't been attended to, and I think this is a good way to go.

But in terms of this bill -- I'm in favor of it; I think it's something that needs to be done. We were going to try and do it on a local level, and it didn't really make any sense. I think the fact that the State is looking into it, and doing it across the board, I think will make it a lot more

simple to put in. Because if we try and do it locally or by the County, what you're going to have is, the labels are going to read as the price tag on the fertilizer, and you're not going to really encourage anyone to use the slow-release fertilizer. So I think this bill goes a long way towards evening the playing field and preventing folks from North Jersey bringing fertilizer from other areas down to Toms River or to Ocean County and applying it at a different rate. So I think this is a good bill, and I fully support it. Thank you.

ASSEMBLYMAN McKEON: Councilman, we won't bring our fertilizer, but as long as we keep coming down with our money, I know (indiscernible) not so bad. (laughter)

One other component -- and thank you, you reminded me that a bigger component of this is an education piece, where-- And I know a lot of local businesses and local advocacy groups are doing wonderfully. You can go into bakeries and wherever it might be and they have notes up reminding people of individual steps that they could take to keep run-off from non-point, going in and dealing with fertilizer. So education is going to be also a big part of it, and labeling part of that on the fertilizer product, in and of itself.

Part of the group, that's a very important group in New Jersey, that will be doing the education piece, as well as the certification of the industry applicators, are the New Jersey Agricultural Experiment Station -- Brad Hillman, Jim Murphy, and Stephanie Murphy are here. Are you prepared to testify?

B R A D L E Y I. H I L L M A N Ph.D.: Thank very much, Assemblyman and Committee. We really appreciate the opportunity to be here again.

My name is Brad Hillman, Director for the Agriculture Experiment Station at Rutgers, and we've had a lot to do with advising on the legislation as we've gone along. We're in general support of the legislation, with a few minor tweaks. I'm not going to get into details today, but we'll be glad to answer questions that you might have.

The thing that I want to speak to especially, I guess, is the training and certification aspect, which you mentioned. We're willing to do that. We do that in several areas as well, with noise pollution and air pollution -- we do both training and certification. With pesticides, we do training; we do not do certification in pesticides. The DEP does certification there.

The things I want to make sure to point out -- and, by the way, we will provide written comments, and we'll provide some written details on other aspects, as well as written comments about this -- is enforcement: we don't do enforcement. We're in no position to do enforcement at all, so however that goes, it will have to be separate from the training and certification. So we can do training; we can provide certification numbers that somebody has taken that training, but enforcement will have to be something else entirely.

That said -- we also note in the bill that we're allowed to recover reasonable costs for doing that training and certification; so under that model, we're willing to do it. We certainly cannot do it without that in

place. We have no funds to do a training and certification program that is not a self-sustaining program.

And finally, the way we probably envision that type of training and certification program -- whether we did a classroom-type training, followed by an online certification, or whether it was entirely online -- we haven't worked out details of that, specifically, because we don't know the final constitution of the bill. But we've looked at both models for doing that; we've done both of those things successfully in other areas, but at some level there will be an online component to the certification process.

So with that, I'll be glad to take any questions.

ASSEMBLYMAN McKEON: Ms. Murphy, or Mr. Murphy, do you have any--

J A M E S A. M U R P H Y, Ph.D.: I'm here strictly for answering questions.

ASSEMBLYMAN McKEON: Okay. And questions from the members?

SENATOR BECK: I do.

SENATOR GORDON: I do.

ASSEMBLYMAN McKEON: Who was first?

SENATOR GORDON: I defer to my colleague from Red Bank.

ASSEMBLYMAN McKEON: Senator Beck.

SENATOR BECK: Thank you, Chairman.

Just curious: Did you attend the Rutgers turf summit?

DR. HILLMAN: I did. We organized it. We organized it, essentially. It was organized from my office; Dr. Murphy is the one who put all the work into doing it.

SENATOR BECK: Great, thank you.

Could you clarify for me some information that we have received about the requirement that 30 percent of fertilizer is of a slow-release nitrogen content standard? Because we have some that assert that this concept was fully vetted over the last two years, including at your recent Rutgers turf summit, and they suggest that scientists from across the country unanimously stated that the percent slow-release concept is flawed. So you can tell me: Is that true? Did the summit address that issue and determine that is was flawed?

DR. HILLMAN: I'll let Jim speak to that a little bit more. My take on that was, that was not the take-away message. First of all, that was a-- I hate to put it this way, but I will: It was a bipartisan, a multi-partisan group that was there -- that was the whole idea. It was to get scientists from across the spectrum -- not just scientists -- from others from across the spectrum to speak at that summit. And so I would say that there was pretty much nothing that was unanimous there. And certainly the slow-release piece-- I think there's certainly arguments, both ways, for that. There are good arguments for slow-release nitrogen component; there are also good arguments for if you can deliver nitrogen in a very slow water soluble form, then in some circumstances there are arguments for doing it that way as well.

SENATOR BECK: Was there any analysis, through the Chair, about the percentage? Because the biggest issue seems to be that the 30 percent number is a number that people question -- whether or not they can meet. So did you actually take a look, at the summit, as to what is an appropriate percentage, or not appropriate percentage, doable, not doable?

MR. HILLMAN: I don't remember that piece -- I'll turn it over to Jim who can speak to that.

DR. MURPHY: The issue of the specific percentage is this: In terms of the scientific knowledge we have, if you use slow-release fertilizer, it's one tactic at trying to reduce nitrate leeching moving into the water. However, there aren't specific studies that look at exact numbers comparing 30 percent, to 40 percent, to 10 percent, and knowing which ones are actually better than another. So we don't know the information to that degree of resolution; we do know that it is an effective strategy of -- one strategy -- of trying to minimize the problem. So that's where I think the comment *flawed* may be originating from -- is to pick a number -- a specific number -- and say, "This is the magic number." We don't have that detail in our information.

SENATOR BECK: Okay. Well, that's, I think, helpful for the Committee, because sure, we've all heard a lot about the 30 percent number. And I appreciate your testimony. Thank you.

ASSEMBLYMAN McKEON: Thank you, Senator.

If I can, I think there's a fair way of putting it: The studies that I've read have gone up as high as 70 percent, I think -- maybe that was out of Maryland -- and as low as, maybe, 20 percent. There was a whole array, going as high as 70, and as low as, I think, as 20 from different states, with different recommendations.

Senator.

SENATOR GORDON: Great minds work alike -- I had the very same question. I think it's been addressed.

ASSEMBLYMAN McKEON: Assemblywoman.

ASSEMBLYWOMAN COYLE: Thank you.

On the 30 percent, Doctor, but perhaps from a little bit of a different angle. When we use 30 percent -- when it's a slow-release percent in the retail portion for consumers, will this be effective fertilizer? As someone who's a gardener, when they're using a 30 percent, will they get the result that they're accustomed to getting? Could you just comment on that?

DR. MUPRHY: That would be one of the concerns of a specific formulation. In many cases, that formulation will be adequate; but in some cases, it will not be adequate to supply for plant needs in a timely fashion. Over the long run, it may be sufficient if applied for many, many years in a row. But on a short-term basis, a matter of months, in some cases it may not be enough supply, fast enough for the plants. But there will be situations where it will be adequate. So it's one of these -- the answer is it depends on the circumstances: the soil conditions that it's applied to, and the plants that you're trying to manage.

ASSEMBLYWOMAN COYLE: When will it be adequate? Are there factual-- Or data, is there data around when it would be sufficient and when it wouldn't be sufficient?

DR. MURPHY: There would be some data that would give us indications. For example: The previous testimony on the previous bills talked a lot about soil conditions, soil compaction. Under ideal soil conditions, this formulation probably is going to be effective. Under non-ideal soil conditions it will, at some point, become ineffective or less effective as a fertilizer.

ASSEMBLYWOMAN COYLE: And then if it's ineffective, what do you see consumers doing?

DR. MUPRHY: Well, one of the unintended consequences is, a savvy lawn and garden person will recognize that the fertilizer product may not be giving them the response that they expect and see, and they may decide to apply more fertilizer than what is stated on the bag to apply, to compensate for it; or more frequently than maybe what we currently recommend be applied.

ASSEMBLYWOMAN COYLE: Right. So then the consumer, when they're not getting the results as you were saying, they'll either use more fertilizer right then, or they'll do another application at some other point.

DR MURPHY: That is a possibility.

ASSEMBLYWOMAN COYLE: Thank you.

DR. MUPRHY: That's one of our concerns.

UNIDENTIFIED MEMBER OF COMMITTEE: Or probably go to Pennsylvania (indiscernible).

ASSEMBLYMAN McKEON: The industry might be in favor of this now. It's a good thing. (laughter) If they use more, the industry might go with this -- you'll be to 50 if they know you can double it.

ASSEMBLYWOMAN COYLE: Well, that kind of defeats the purpose of the bill.

ASSEMBLYMAN McKEON: Assemblyman Rudder.

ASSEMBLYMAN RUDDER: Thank you, Mr. Chairman.

With regard to the provisions in the bill -- there's one standard that's for general consumers, and there's one for professional applicators of

fertilizer. And there are different standards different levels, of the nitrogen that would be applied. What are your thoughts on that, having two different standards?

DR. MURPHY: In terms of two different standards: Both of the standards comply with our best management practices. One is more restrictive than the other standard, and that presents a difficulty from an education standpoint, to get across to people and try to rationalize why there are two different standards. So from our perspective as people who are going to be doing certification, training, education to the general public, there is a bit of conflict there with having two different standards -- to try to get across to people.

ASSEMBLYMAN RUDDER: Okay, that's fine.

ASSEMBLYMAN McKEON: Any other questions?

ASSEMBLYWOMAN COYLE: I have another one, if I may, Mr. Chairman.

I'd just like to talk to you about the dates. Right now we're looking at an end-date for applications as November 15. We've received significant correspondence from the manufacturers of fertilizer, and, quite frankly, from many lawn care companies -- medium, small, large -- that this date is early, especially in some parts of the state. Perhaps this date is adequate in the northernmost parts of the state -- Sussex, Warren County -- but in the central part of the state, and in the other parts of the state, often lawn applications are after November 15, or have been. Could you comment on whether there could be some more flexibility of the date? Should we look at the dates differently in the northern part of the state

than the southern part of the state? Should they be more weather-based? Could you comment on that?

DR. MURPHY: In terms of the date, the model that was selected, based on some of the DEP stakeholder work with the early phosphorous model ordinance regulations -- or the model ordinance, it wasn't actually a regulation -- the approach there was to divide the state up based into three distinct regions, and pick the date based on the plant hardiness zone across the state. So that's why some of the original approach was to try to recognize that there could be some variations across the state.

When it came, though-- When it moved out of the phosphorous aspect and into the nitrogen aspect, we tried to go into the research literature to find out what we should be recommending from a best-management standpoint, trying to balance both the agronomics, horticultural aspects, as well as the environmental aspects. There is some limited data, and that's one of the criticisms of this information -- is that's limited. It suggests that the later we put down nitrogen fertilizers, the more risk there is for nitrogen to get into the water. And leaching really from lawns, landscapes, is largely a wintertime issue. So because of that, since our charge was to try to come up with balance, we have suggested mid-November as being a good date to balance the agronomics and the horticultural aspects with the environmental aspects. Now, that doesn't mean that there aren't some problems with that. One example that's recently been brought to light is there's a bit of a conflict with the Soil Erosion and Sediment Control Act, which requires new development to stabilize the soil with vegetation.

ASSEMBLYWOMAN COYLE: Right.

DR. MURPHY: And we all know that certain projects get extended well beyond mid-November, and there would be a conflict with what is being proposed in this legislation with that legislation. They should be trying to stabilize that soil, which often involves applying fertilizer. And if a contractor is finishing a project in December, January, or February, and they to stabilize that soil, there would be this potential conflict. So that's just one example where we think, as a general rule, this is a best-management practice, but we also recognize there will be some pragmatic conflicts with that -- people trying to get jobs done or the jobs gets extended for a period of time and they need to finish it up.

ASSEMBLYWOMAN COYLE: Right. And I think we all, when we're drafting legislation -- and I know Chairman McKeon certainly is this way -- and I certainly appreciate the amendment for the new construction that we received yesterday. I think what we try to avoid is unintended consequences. I want someone whose project ran late -- for whatever reasons they happen to be -- I want them to stabilize the ground around that building. I don't want it left all through a winter and into a spring season until they can to get that. And I would encourage the Chairman -- I know I was very encouraged to hear your early comments that you'll have some flexibility on this. Maybe it's something that we should look at doing.

ASSEMBLYMAN McKEON: I appreciate your thoughts on that regard and, at the end of the day, failure isn't an option. So whatever we have to do to get the majority of us on board, we'll make happen.

Are you finished, Assemblywoman?

ASSEMBLYWOMAN COYLE: Yes, thank you. And thank you, Dr. Murphy.

ASSEMBLYMAN McKEON: Assemblywoman.

ASSEMBLYWOMAN LAMPITT: I just have a quick question.

Given the fact that New Jersey is surrounded -- the waterways, specifically -- we border other states that also contribute: What are the neighboring states doing in terms of fertilizer control? Have they done more, have they done less? Where are we in comparison?

DR. MURPHY: This is a topic that's being hotly debated in other areas. Currently only a few states have legislation on the books regulating fertilizers. As I interpret what I know of across the country, compared to what I've seen in the bill, this bill would reflect the most restrictive rules of anywhere in the country. But other states, our neighboring states, are discussing this -- where they're going to go, exactly, is a little unclear. I know that New York just has moved some legislation forward; Pennsylvania-- I just got a call from my colleague in Pennsylvania. They're talking about it, and likely to pursue it as well.

ASSEMBLYWOMAN LAMPITT: So unless the tri-state area and northeast corridor sort of buy into making these changes to their laws, we, New Jersey, could still be impacted, regardless of our continued efforts to be on the forefront of this particular issue, correct?

DR. MURPHY: Right.

ASSEMBLYWOMAN LAMPITT: Right.

DR. MUPRHY: Yes.

ASSEMBLYWOMAN LAMPITT: In conjunction with that, given the fact that we're talking about close to the waterways, specifically--

You know, we know that there are different types of grass seeds that can be placed now. Is there one particular type of grass that requires less fertilization, where we should be focusing on talking to some of our neighboring communities that border some of these waterways -- you know, being more suggestive about different types of grasses that are being applied, as opposed to just arbitrary?

DR. MURPHY: That is part of our best-management practices, to try to encourage people to consider lawn grasses that will require less inputs. A little bit of that, though, is predicated on if the soil conditions that they're growing in would be adequate for their growth. So, as I mentioned earlier, I think that these other bill issues that have been discussed today are certainly very much related to the ability of people to use some of these grasses. Because some of them are very effective, but they have to have reasonably good conditions of soil to grow in for them to be useful on lawns.

ASSEMBLYWOMAN LAMPITT: And just to follow up on Assemblywoman Coyle's comment about the reapplication if somebody is not getting success on the application: Truth be told, if I don't like how paper towels absorb the water off my counter, I'll go and find another paper towel company to see whether or not it absorbs better. Wouldn't this be the same sort of thought -- that if somebody doesn't get the right results from their fertilizer, they'll just move from one company to another company to another company, to try and see if they get better results?

DR. MURPHY: That's certainly a possible consequence.

ASSEMBLYWOMAN LAMPITT: In which case, they could be doing a reapplication, but they could also be thinking that it could be

another chemical. In which case, is there a problem when you talk about different chemical companies out there, and their makeup of their fertilizer -- is there going to be a problem when an application, or reapplication, or multiple applications are being done by a different company? I'm just--

DR. MURPHY: I guess I'm not exactly following the question; if you could restate it.

ASSEMBLYWOMAN LAMPITT: My comment is that even though we're structuring what the fertilizer makeup is -- okay? -- you choose to go to a fertilizer company because you feel like this particular one performs better, so each one might be slightly different in its composition. My concern is that when you take a composition of one company's fertilizer, and now because somebody's not getting the results, they're going to a different company's fertilizer -- do you think we'll have a different compounding problem when they're now taking-- It's like putting ammonia on bleach, is what my question is.

DR. MUPRHY: Right. It's certainly feasible that some kind of behavior like that would result -- especially if people realize that, or they have expectation of a product working a certain way and now it's changed; and they're very much into lawn and gardens -- and a lot of people are enthusiasts -- and they'll figure out quickly that something's different and want to react to it.

ASSEMBLYWOMAN LAMPITT: Thank you.

ASSEMBLYMAN McKEON: Thank you, Assemblywoman.

Senator Beach.

SENATOR BEACH: Through the Chair, just a question: I'm interested in your comments on the potential for exemptions to this bill.

And what I'm thinking about is, for example, golf courses. A golf course owner-- Is there much in the way of difference between a golf course and some of the other fertilizing opportunities that are out there, and is November 15 a realistic date for someone whose livelihood depends on the turf?

DR. MURPHY: Golf courses are going to be much different in the way fertilizers are applied and managed than a lawn situation. And golf courses have highly skilled professionals who are well-trained in how to apply fertilizers, and they understand how to correctly use both from an agronomic, horticultural standpoint, as well as an environmental standpoint -- how to use water soluble materials. And one of the best environmentally correct ways, as well as agronomically correct ways, to use those materials is in very light, frequent applications. And there's research that shows if you apply it that way, you actually have to use less total product. So that's a big difference between golf courses and home lawns. Homeowners are not going to adopt that strategy as a general rule to maintain their landscapes -- it's too much time and energy, too much work to do it. However, at the professional level, I get a golf course-- They will adopt those types of practices, and have. And this has been occurring quite significantly over the last 10 to 20 years, to move to that kind of approach.

SENATOR BEACH: Well, I would say then: Is November 15 so restrictive because they would not be permitted for three-and-a-half months to fertilize?

DR. MURPHY: The majority of cases, the 15th of November will not be too restrictive. However, there will be situations where it will cause certain golf courses to have a problem with that. And as one example

-- I'm not going to bore you with numerous examples -- but as one example, if you have a public golf course that has tremendous amount of use and play, especially if the use goes late into the season they may have similar to what I mentioned about the closure of a construction project -- they may have to deal with some turf issues late in the season because of the extended play of that year, that they have to address to try to get the turf to recover and ready for next year. Now, that won't be every golf course that has that problem, but there will be a certain number that have that issue.

SENATOR BEACH: Thank you.

ASSEMBLYMAN McKEON: Thank you, Senator.

Any other questions for this learned group? And I'm sorry I said *Mr.* Murphy -- I meant to say *Doctor* before. You were unpretentious in the way you signed up. (laughter)

Okay, thank you all very much. I know-- I think that Brad has a need to get out of here by 2 p.m., but I don't know if Dr. Murphy, Mrs. Murphy, if you--

DR. MURPHY: We'll hang around.

ASSEMBLYMAN McKEON: If you're going to hang around, that would be great.

MR. MILLMAN: Thanks again for the time.

ASSEMBLYMAN McKEON: Thank you very much.

Stan Hales of Barnegat Bay Partnership.

The Mayor just slipped me a note, from Toms River, and he said if we don't get out of here by 3 p.m., he's going to start giving out parking tickets again. (laughter)

SENATOR GORDON: We may have to cut some more aid.
(laughter)

L. STANTON HALE S Jr., Ph.D.: Thank you for the opportunity to speak.

I'm Dr. Stan Hales with Barnegat Bay Partnership, which is a partnership of Federal, State, local agencies, academic institutions, non-governmental organizations, businesses, and the public.

I think we're seeing the complexity of dealing with this issue. There is one additional provision that the Partnership would like to see in the bill, and that is an iterative requirement that we're doing this to protect quality. And no matter what the starting point is on this bill, we need to review impairments to the state's coastal waters, look at the impairments, and if we're not doing a good enough job, if water quality is not getting better, that we tighten up or consider tightening up various provisions.

Now, I know everybody's concerned about the cost these days. Right now, the New Jersey Department of Environmental Protection is required to generate what is called a 303(d) list -- the list of the state's impaired water -- every other year. So if we had an iterative requirement every four years, they could simply look at the list, see if the impairments are improving, and if there's a need then further tighten up whatever restrictions are in place.

ASSEMBLYMAN McKEON: Dr. Hales, thank you very much. I appreciate that suggestion.

Any questions? (no response)

Seeing none, I will thank you, and ask Tim Dillingham with American Littoral Society to please come up.

T I M D I L L I N G H A M: Mr. Chairman, thank you very much. Members of the Committee -- first, really, thank you for spending so much time this morning, and mostly for providing this opportunity. I think the members of the public you see turning out here is pent-up demand to see the leadership in this State take action to help save this Bay. And it's been a long time coming. And I didn't testify on any of the other bills this morning, but I really do appreciate the fact that you have moved those. They are all interrelated elements of what we need to do to restore this Bay.

I will be fairly short. With me is Dr. Stephen Souza from Princeton Hydro, who is one of the state's leading experts on nonpoint source pollution. He can speak much more credibly than I can to the technical aspects of this bill.

But I think, fundamentally, what you have before you is a piece of legislation that moves us away from the status quo. We know that what we're doing now, particularly as it pertains to lawn fertilizers in this day and in this state, is causing unacceptable water quality. And so, the provisions that are in there -- what I heard Dr. Murphy and others say, is that they are reasonably grounded in science, to the extent that we know that science. On the slow-release proportions, on the application timing -- I can tell you that we did survey other agriculture schools, the literature that's out there. There is a range, and there clearly is a debate, about how aggressive to be. We're urging you to be aggressive to clean up Barnegat Bay. And I think that the compromises that have been shaped through this bill represent that. I think that they respond to the realistic expectations about what might happen when this all goes into effect. And we hope that it will make a difference for Barnegat Bay. But clearly, continuing to fertilize our lawn

in the way we do now, the products that we use now, is not acceptable because you only have to look out at the Bay, to look at the algae that's growing there, to look at the loss of the environmental resources, to understand what those consequences are.

So I urge you all to move this bill today, and obviously we're in this for the long haul and we'll keep engaged.

I'd like to ask Dr. Souza if he could just speak to the bill itself.

S T E P H E N J. S O U Z A, Ph.D.: Again, thank you for having us here this afternoon, and I'll try to be brief as possible.

As you're all aware, Barnegat Bay is in trouble. And the problems with the water quality and ecological issues that are brought up time and time again are definitely the negative consequences of the eutrophication. And call it what you want, eutrophication is a form of pollution. It's clearly established in the scientific literature that, whether you're discussing Barnegat Bay or any other coastal embayment or estuary, that eutrophication and the negative consequences that result from eutrophication are directly linked and are accelerated by land development activities. So as you get an increase in land development, you get an increase in the generation of pollutants in the form of nitrogen, phosphorus, sediment -- that all leads to an accelerated rate of eutrophication, and that, in turn, has led to the algae blooms, the intensity of those algae blooms, loss of submerged aquatic vegetation, impacts to fish and shellfish, etc., and a decrease in the recreational attributes and the esthetics of the Bay.

For coastal systems, when we talk about controlling eutrophication what it really boils down to is controlling the amount of nitrogen that is entering those systems. Nitrogen is recognized to be the

limiting nutrient in estuarine environments, so if you're going to control eutrophication, you need to control the amount of nitrogen that is entering those systems. And this is why we're fully in support of this bill, as well as the other environmental bills that have been discussed here this morning.

Instituting regulatory control over the amount of nitrogen applied and the formulation of nitrogen in lawn fertilizers is perhaps -- it's not obviously popular with everyone, particularly the fertilizer manufacturers, but it's especially meaningful to everyone who is involved in the care, the restoration, and the management of Barnegat Bay. This is why we're supporting the slow-release requirement of 30 percent and the total application limit of 0.75 pounds per thousand square feet, as currently specified in the legislation before you.

So why do we fixate on fertilizer controls? Well, first off, at the most basic level we can agree that nitrogen enters Barnegat Bay as a result of a variety of different sources: We have groundwater sources, we have atmospheric deposition, we have stormwater. And if you look at these various sources, stormwater run-off and the run-off that's generated from urban and suburban land development were among the most significant; and also they tend to be what perhaps could be called the most feasibly managed sources of nitrogen loading into the Bay.

So we have that basic concept in hand -- that a lot of this nitrogen loading that we're looking to control is coming in with stormwater. And the majority of that is associated with urban and suburban development.

Then we need to look for ways to reduce that loading. And although we do have on the books provisions in place -- rules that manage

stormwater, and there are performance scales that are associated with how BMPs need to be constructed-- As you all know, that applies to new development -- things that have gone before. However, if you even look at those provisions, right now the way the State rules are written for stormwater management, the only performance standard deals with total suspended solids, not with nutrients. Furthermore, if you go into the New Jersey BMP Manual, the stormwater best management practices Manual, you'll see that even if there were provisions in place for nutrient controls, about the best that you can do with BMPs -- stormwater BMPs -- is going to be about 30 percent nitrogen reduction, and that only applies to new developments.

So now we have new development that we can only limit at about 30 percent with our best BMPs. But what happens to all the remaining development -- urban, suburban development -- where we're having nitrogen loading coming in? We have no means of really controlling that. So we have to-- Although we want to promote sound and the best type of standards and provisions to reduce nitrogen loading via these BMPs, we also have to have in place measures that really get to the source, and source control measures that actually limit the amount of nitrogen that's entering the Bay. And this is where this provision -- this fertilizer bill -- plays so much into the overall protection of the Bay over time.

We also recognize that along with controlling nitrogen loading, we also have to have good soil health. It's another one of the bills that's before you that we're also supporting. Those two things go hand-in-hand. But the root cause of the problem is nitrogen loading, and we have to do something to correct that.

So there are definitely positive benefits. And all you have to do is step back from coastal environments -- go into the freshwater environments and you can see where nutrient controls, fertilizer ordinances that have been put in place, in those cases dealing with phosphorous limitations, have had positive benefits. The lake communities have recognized for a number of years that there is a direct linkage between lake eutrophication and phosphorous loading, because in a freshwater environment, it's phosphorous that drives all the algae blooms, etc. In those cases, they've actually passed ordinances that ban phosphorous for use in many communities in New Jersey. And there is a positive benefit. Research that we just completed in the Lake Hopatcong watershed showed that lawns that were treated with non-phosphorous containing fertilizers versus phosphorous-containing fertilizers -- there was a one-hundred-fold difference in the amount of nutrients running off of those lawns. We can do the same thing with these provisions in the coastal environment through the passage of this bill.

So what I'm asking to do is, take a look at this from a standpoint -- as a very serious and profoundly positive measure that could be put into place in terms of source control: actually going in and reducing the amount of nitrogen entering the Bay not only from future development or from existing development. And, again, plenty of research has been done. We know from modeling the Bay ecosystem that a lot of the problems are not associated with new development, but with existing development. And those are the sources that we really need to be clamping down on.

So in closing, I just want to, again, emphasize the need for this fertilizer bill, and that it works hand-in-hand with the other bills that you are considering. Thank you very much. (applause)

ASSEMBLYMAN McKEON: Senator Beck, a question?

Doctor, thank you.

Senator Beck.

SENATOR BECK: Doctor, thank you. Your testimony was excellent. And as a co-prime sponsor on this legislation I, of course, agree wholeheartedly with you, and with the steps we're taking today.

There are some questions raised about some of the details of the bill -- and it's not the effort, and I'm not interested in doing what's popular, I'm interested in doing what's effective.

And so my question is back to the 30 percent requirement for the slow-release. And I think Assemblywoman Coyle had sort of hit on, I think, the concern that I have as well, which is: I don't care if we require 70 percent, but if 70 percent means that someone is just going put it on their lawn five times, then we really haven't fixed it -- we really haven't got into all the issues you just outlined. And so I guess I just feel like I need more information: Why is it 30? Why isn't it 15? Why isn't it 20? What is the logic to 30? And do you have any concern, as I think I have, that if 30 isn't -- it ends up not really fertilizing someone's lawn, and they go back and apply it two more times, that we've actually added to the problem and not resolved the issue. And I have that fear.

DR. SOUZA: I think it's a very good fear to have -- I think it's a reasonable fear. And as Dr. Murphy pointed out, the scientific literature on slow-release nitrogen components in fertilizers does cover a wide gambit.

I mean, you're talking about some studies are showing 15 percent is acceptable, in other cases 70 percent. And, as Dr. Murphy pointed out, there are a lot of other factors that go into how much of that nitrogen is being taken up, (indiscernible) soil health, the type of turf cultivar -- there's a variety of different issues, even the slope of the land, etc. The 30 percent seems to be, I would say, sort of like the middle of the road, but yet on the lower end of that middle of the road in value. And so from the standpoint of reducing nitrogen loading, we feel that the 30 percent is a viable value to have in this legislation. Your concerns about over-application-- Again, I've dealt with lake communities going back into the 1970s, when I was doing my research at Rutgers as a Master's degree student. Yes, that is human nature, and that happens right now -- regardless of how much a product contains nitrogen or phosphorous, if somebody doesn't see enough greening of their lawn they're going to add a little bit more, a little bit more. So that happens right now, even with the type of formulations that we have in play.

This is why, hand-in-hand with the restrictions on the amount of phosphorous, comes the education component. DEP has been doing a lot through their various programs, trying to educate people in terms of how to properly apply fertilizer in general, what not to do, what to do. But I think you're always going to have, probably, let's call it the bad apple segment that's going to say, "Well, I'm not really seeing what I want to see, and I'm going to apply more." But on the flip-side of the coin, you're going to have the far majority of the people who are taking care of the lawns -- who are using professional services or doing it on their own -- that with this legislation in place, we are going to see a decrease in nitrogen loading.

So though you may still have a few of the bad actors out there, for the most part you're going to have the majority of the populous that is going to be doing the right thing. And having the right type of product at hand is going to make that that much easier for them to do.

SENATOR BECK: If I could, through the Chair: One of the things that occurred to me, but may be too complicated to be doable is: Since you need less nitrogen with soil that's more receptive, if the percentage should be tied to that. In other words, if you have soil that is impacted, maybe you can use 15 percent. But maybe if you have soil that's very receptive, you have to use 70 percent, rather than sort of the hammer that applies to all. It may just be simply too complicated to actually implement something like that. But it seems to me that what I've heard you say is there's different kinds of soil.

DR. SOUZA: Right.

SENATOR BECK: And sometimes it works; and I think Dr. Murphy said, sometimes it works, sometimes it doesn't.

DR. SOUZA: You're absolutely correct. And I think right now, Rutgers does have processes in place, programs in place where something as simple as soil testing to evaluate the acidity and whether a lawn needs to be limed -- because that increases how receptive that soil is going to be for those nutrients to remain. Those programs are in place. Some people take advantage of that, some people don't. It's something that we promote, because it's a simple thing to do. But again it gets back to, I think, with the legislation and having the 30 percent limitation. For the most part, the general populace is going to be satisfied with what they're seeing, and

they're going to follow those application rates and do the right thing for the Bay, as well as for the lawn.

ASSEMBLYMAN McKEON: Any further questions for the Doctor? (no response)

Doctor, again, you've been very helpful. If you're being mindful of your time, if you're around, there might be additional questions--

DR. SOUZA: Certainly.

ASSEMBLYMAN McKEON: --that come up that you might be uniquely fitted to answer.

DR. SOUZA: Thank you, Mr. Chairman.

ASSEMBLYMAN McKEON: The next panel to come up is a whole array of individuals from New Jersey landscape contractors -- Stephanie Pizzoferrato with Scotts, Keith Kubik from New Jersey Turfgrass, John Holub from Retail Merchants, Mark Borst from New Jersey Landscape Contractors, and finally Bill Murray from GCSANJ. You guys are all signed up together, so I didn't-- I'm calling you collectively.

I just note -- as you take your places here and then we'll take your testimony -- you know we should all keep in mind: the law is the law. If people don't comply with it and decide to dump double the amount of fertilizer-- People don't recycle, people take motor oil and dump it in the storm sewer. You can't always deal with people who aren't going to obey the law as the reason not to go forward with reasonable regulation.

Whenever you'd like to start off.

S T E P H A N I E P I Z Z O F E R R A T O: I'll start off. Good afternoon, Chairman Smith, Chairman McKeon, members of the Assembly and of the Senate.

My name is Stephanie Pizzoferrato. I'm Manager of Government Affairs at The Scotts Miracle-Gro Company. I'll keep this brief.

We're supportive of efforts to protect and enhance water quality. The legislation you're considering is important to the entire fertilizer industry, and will have significant impact on Scotts and other companies. The bill includes strong regulations -- the strongest in the United States, as others have spoken. (applause) This will protect all of New Jersey's waterways. New Jersey will be the first state in the region to implement legislation limiting nitrogen in lawn fertilizer. The only other state to take this action to set both phosphorous and nitrogen limits has been Florida.

Although we are supportive of efforts to protect water quality, because of the unreasonable amendment setting 30 percent slow-release standards and the application dates, we have to oppose the legislation.

Chairman, The Scotts Miracle-Gro Company has a long history of working with stakeholders across the country on water quality issues, from our partnerships with the Chesapeake Bay Foundation to our work with the Alliance for the Great Lakes. Our company is committed to doing our part to protect these important resources. Participating in these efforts in New Jersey is another piece of these efforts across the country.

In closing, our industry is science-based. We have invested decades in the promotion of science, agronomic and environmental

technologies. We have expansive research and development programs that span facilities across the world and have developed new technologies over the years that reduce use rates, improve efficiency, and protect our resources.

Members of the Committee, Chairmen -- we urge you not to abandon the science. Please listen to the experts in academia, research, industry, and the state. The legislation will be strong and defensible only if it's on facts and science. It will serve as a model for the Eastern region of the United States.

Thank you for your time. And with that, I'm going to pass the microphone over to John Holub of the Research -- Retail Merchants Association.

J O H N H O L U B: Thank you, Chairman Smith, Chairman McKeon, and members of the Committees

I'm John Holub, President of the New Jersey Retail Merchants Association. I'll be very brief in my comments.

Our main concern with this issue is with regard to the burden that we've placed on retailers. If you read the legislation you'll see that there is a prohibition on the sale of fertilizer unless you know the intended use of that product. Obviously this places a significant administrative burden on retailers for us to have to police this. Does that mean, when somebody comes up to purchase one of these products, that we're going to need to have a list of questions to ask them -- are they starting a new lawn, or are they repairing their lawn -- things of that nature? So obviously it's very difficult for us to police this situation.

Also to further complicate it: As probably many of you are aware, several of my members have self-checkout. So are we going to have to put a point-of-sale prompt in there to stop the sale for this product, and then somebody's going to have to come over and then read that list of questions? So obviously this raises many concerns for us, not to mention with, too, you're going to have several grades of fertilizer. So again, this is further complicated. You're going to have a professional and a residential. Are we going to have to quiz the person on who they are and how they're going to use it?

So again, we're very concerned with this legislation, and we just ask that you please consider the burden that will be placed on the retailers, and reconsider how this initiative is policed. Thank you very much.

J O S H W I L L E Y: Good morning, Chairman Smith, Chairman McKeon, and members of the Senate and Assembly Committees. My name is Josh Willey, I'm the general manager for Scotts LawnService here in New Jersey.

I've been in the industry most of my adult life, know what's best for turfgrass very well. This legislation is creating strong regulatory requirements in our entire industry. We're not opposing this -- in fact, we're supportive of regulations that establish specific standards, product content, requirements, and fertilizer use restrictions and mandates. Please remember our industry is a very minor contributor to the water quality issues in the Bay, but we are committed to doing our part and have proactively started to do this.

First, the application dates in this legislation are of great concern to our professional business. In the State of New Jersey, the

growing season -- the agronomic growing season -- has been nine-and-half months -- from March through December. The provision that limits the application of fertilizer from November 15 to March 1 will remove four weeks from the typical growing season, and this represents 10 percent of our business, of our year -- 10 percent of the taxable revenues that are gone, as well as the revenues to our business. On top of that, specifically in my business, we've been able to keep full-time, year-round employees -- 60 in the State of New Jersey. This bill make that impossible for us, because 30 percent of the year we will not be able to work. So that will put that burden on unemployment and will also change the lives of those families that work for us in the state.

The cut-off date, we believe, should be December 15; we're willing to compromise on December 1. New York passed its own fertilizer regulations earlier this year, and, like New Jersey, they've eliminated the phosphorous from lawn maintenance products. They established December 1 as the last date for fertilizer application. Why would we, as a more southern state, go two weeks earlier than them?

And our decisions need to be science-based and realistic. In creating legislation just for the sake of change -- it's not appropriate in this case.

Second, a standard of 0.75 of percent total nitrogen for consumer products is extreme, and not backed by any research on turfgrass in the United States. Two different product standards would also create a huge amount of confusion for retailers, professionals, and consumers. A lot of professionals buy product in local retail stores, and like was mentioned earlier, how would we know the difference? How would we

tell the difference between someone applying it for consumer, or professionally?

The nitrogen range should be set at 0.7 pounds per thousand square feet, with a one-pound application limit for both consumers and professionals.

Thank you for your time. I'd be happy to answer any questions you might have.

SENATOR SMITH: Just one comment for John from the Retail Merchants: I think you're misreading the bill. Retailers don't have the responsibility that you believe they have. I'd appreciate it if you'd sit with Kevil when the panel is finished -- they'll show the specific language. I think your issue is not an issue -- okay?

MR. HOLUB: I mean the language-- I apologize if we misread it, but the language was--

SENATOR SMITH: It's okay.

MR. HOLUB: It prohibits the sale unless the intended use -- and left the open question of, how to do you determine the intended use?

SENATOR SMITH: You're not going to be the police officer on this.

MR. HOLUB: Okay, great.

SENATOR SMITH: Take a look with Kevil.

MR. HOLUB: Okay, great. We appreciate that.

B I L L M U R R A Y: Good afternoon. My name is Bill Murray, and I'm here representing, as their President, the Golf Course Superintendents Association of New Jersey.

I have been in the golf course business for over 25 years, and I think of our members as stewards of their land, which is their golf courses. Everyone of our members is very well-trained in turf management, including fertilizer and pesticide use. For those who are applying pesticides, all individuals have taken State exams and have been certified to apply these products.

As golf course superintendents, we follow the best management practices defined by our State University guidelines, but they are not etched in stone. The slow-release nitrogen and the soluble nitrogen with a one-pound limit makes no sense because it is not supported by University research. The 4.25 (*sic*) pounds of nitrogen per thousand square feet is just an arbitrary number that does not consider specific needs for all our areas of high maintenance.

As for the application dates, this State is so diverse from North to South, I do not see why November 15 was picked as the cut-off date. These requirements will handicap golf course superintendents in being able to provide quality golf course playing conditions, which impact golf tourism in the state.

Thank you for your time, but the Golf Course Superintendents Association of New Jersey opposes the amendments of S-1411 and A-2290.

K E I T H K U B I K: Thank you, Committee members. My name is Keith Kubik; I'm the President of the New Jersey Turfgrass Association.

At the NJTA, we strongly urge you to use sound science as the basis for your legislation. As part of that sound science, the NJTA is in support of the Rutgers' BMPs, and we make a strong effort to make them available to our members already.

In addition to the agronomic impact, we are concerned about the economic impact that this legislation, as it is written, may have. I would encourage you to consider the economic impact study that I believe you all received in your packets, detailing the turf industry -- valued at \$3.2 billion -- and providing over 54,000 jobs to this state.

The NJTA is prepared to support a fertilizer preemption bill that is based on science, considering some of the amendments that were recently made. We feel that that's not the case and, at this point, the New Jersey Turfgrass Association opposes the bills. Thank you.

ASSEMBLYMAN McKEON: Any questions? I'm sorry, did you want to finish up?

MS. PIZZOFERRATO: No, that's what I was going to ask you. Thank you for your time. Do you have any questions for any of us on the panel?

ASSEMBLYMAN McKEON: Thank you all; we appreciate your advocacy for your respective points.

Please-- Yes.

ASSEMBLYMAN RUDDER: Okay, thank you, Mr. Chairman.

I didn't know what that meant -- so, yes. (laughter)

ASSEMBLYMAN McKEON: I didn't know which of the two of you wanted to speak, so -- you were both kind of waving.

ASSEMBLYMAN RUDDER: All right.

ASSEMBLYWOMAN COYLE: Okay.

ASSEMBLYMAN RUDDER: Would you--

ASSEMBLYWOMAN COYLE: No, you go ahead.

ASSEMBLYMAN RUDDER: Well, I did look at the economic impact and I have-- That's a big concern. And one of the issues that we try and face -- particularly on this Committee, but there's a host of others -- where you have well-intended ideas that look towards solving a particular problem -- the unintended consequences.

So we discussed what the 30 percent might be with additional application. The concern that I have -- and I have talked to folks in the industry and I've talked to folks in the environmental sector, and I've talked to the folks at Rutgers, and I still don't have a clear picture. And I'd like for you to expand a little bit: Sir, you mentioned, very briefly, the economic impact -- and we have it in our packets -- but if you could just share just more in detail. We're talking about you shortening by almost a month-- What kind of jobs are we talking about? John, with regards to retail-- I mean, if we are getting into the position where we have a supply that doesn't work; we have all these restrictions associated with it; we have two different types of standards, one for the professional, and one for the homeowner -- what kind of impact is that going to have on retail sales? Is that significant? And I'd like to hear a little bit more about that.

Because at the end of the day -- and I've talked to the Chairman about it -- we want to have balance, we want to make sure that we're doing the right thing for the environment, and we also don't want to have a negative impact with regard to jobs or retail sales.

MR. KUBIK: Sure. I don't know that I can speak fully on the question that you've asked, and I would encourage you to, perhaps, ask it again to some lawn care operators who are coming up to speak following me. But in general, the time in a year to get everything done that's needed

to keep a lawn healthy is short. And that if it is allowed to interfere with things such as leaf drop and leaf cleanup, and getting that last application out, and how many full-time employees you employ as a land care operator, specifically -- because of a cut-off date, if you're forced to pull your spreaders in on November 15 it may cause some hardship on that matter. But, more specifically, I would encourage you to perhaps ask that to some land care operators.

ASSEMBLYMAN RUDDER: And I guess, John, if this product does not exist, and although the implementation dates are a year-plus from now, what do we see? I know that you're talking retail, but maybe it's more of a manufacturer question. What kind of challenges--

MR. HOLUB: It probably isn't. And I apologize -- we don't have any facts and figures of the immediate impact it would have on retail. But I think it's a very safe assumption that if you're shortening the window of when you can apply the products, most likely you'll be selling less of it. Now, there were comments made earlier, too, about these products may be inferior, and they may be selling more of it -- that's not a concern of ours. Ours actually would be, with an inferior product, guess who the consumer is going to complain to first? And that's going to be the retailer. The manufacturer might get some phone calls, but I would bet that most folks, if they place a product on their lawn and it doesn't work, they're going to come back to us and complain about the product that we sold them. And that could be a loss of a potential sale down the road, as well. So there are several different aspects of this where I think it could impact, have a direct impact on sales.

MS. PIZZOFERRATO: I'm going to add to that, on the retail side, a lot of retail stores also sell professional products and consumer products. So when someone comes in the store, how is a salesperson at Lowe's, or Wal-Mart, or one of the smaller stores going to know if that person is buying a professional product or a consumer product -- if you have two different standards?

Are there any other questions for us?

ASSEMBLYMAN McKEON: Assemblywoman, I think you were first. And then Senator Beach, and then Assemblywoman--

ASSEMBLYWOMAN COYLE: First, you have made comments that Florida has enacted -- is it similar legislation, or really close?

MS. PIZZOFERRATO: I've got another colleague who is coming up behind me who has worked very hard in Florida on the legislation, so I'm going to leave that for Mr. Wible when he comes up.

ASSEMBLYWOMAN COYLE: Mr. who?

MS. PIZZOFERRATO: His name is Chris Wible.

ASSEMBLYWOMAN COYLE: Chris Wible. That would be great.

MS. PIZZOFERRATO: Florida's legislation is similar in what you've done for the professional standards.

ASSEMBLYWOMAN COYLE: Okay.

MS. PIZZOFERRATO: In the 0.7 pounds per thousand square feet, limiting the total application rate to one pound per thousand square feet.

ASSEMBLYWOMAN COYLE: (Indiscernible) I will save my question for Mr. Wible.

And then, just to ask one of you: With the additional burden on the manufacturer, and since we'll be the only state that will require this, due to the manufacturing burden and distribution channel burdens you're going to have to produce a product differently -- will the cost of fertilizer increase in New Jersey?

MS. PIZZOFERRATO: Most likely, yes. You're going to be producing a bag of fertilizer for one state, when no other states have imposed legislation like this.

ASSEMBLYWOMAN COYLE: Have you looked at any estimates of how much it will increase?

MS. PIZZOFERRATO: Tens of millions of dollars for the slow-release side of it.

ASSEMBLYWOMAN COYLE: And that translate to what? Ten percent on a bag of fertilizer -- 25 percent? What does that translate to? Could you break it down to a consumer?

MS. PIZZOFERRATO: I'd have to do more research on that and get back to you.

ASSEMBLYWOMAN COYLE: Thank you.

ASSEMBLYMAN McKEON: Senator Beach, and then Assemblywoman Lampitt.

SENATOR BEACH: Sir, I apologize, I didn't catch your name, but I would hope-- Maybe you could explain to us what your typical fertilizing season looks like on a golf course. And I'm a former high school golf coach, so I have some real interest in this. (laughter)

MR. MURRAY: Well, my name is Bill Murray.

SENATOR BEACH: Thank you, Mr. Murray.

MR. MURRAY: Not the actor, (indiscernible) (laughter)

ASSEMBLYMAN McKEON: Assistant greenskeeper -- very nice. (laughter)

SENATOR BEACH: How do you handle gophers? (laughter)

MR. MURRAY: Well, in this state the fertilizing window differs a bit, because you have up north where it will stay cooler much later into the spring; where down in the south, near Cape May area, which is actually pretty close to Baltimore, Maryland -- so you'd be pretty early season.

SENATOR BEACH: Cape May National.

MR. MURRAY: Yes. So it could go anywhere from, well, it will go from March 1 until whenever you say we're going to have--

SENATOR BEACH: I guess my question is: What do you do now, prior to this potential legislation?

MR. MURRAY: I'm in the middle of the state, in central, and we probably go out with our first fertilizer, probably sometime in -- it could be late March, early April; and our last one will probably be sometime-- Well, this year, who knows? The weather is staying hot and hot. We could probably go to sometime in late November, depending on the weather.

SENATOR BEACH: But you don't close the course for three and a half months?

MR. MURRAY: No, the course is open year-round.

SENATOR BEACH: Thank God. (laughter)

MR. MURRAY: Not all of (indiscernible).

SENATOR BEACH: Thank you, Mr. Murray.

MR. MURRAY: You're welcome.

MR. KUBIK: Could I just add to that, real quickly?

Sorry, in my professional life I do a lot of consulting at golf courses, and the other thing that I think has to be emphasized is that--

SENATOR BEACH: I'm envious. (laughter) A golf course consultant.

MR. KUBIK: The golf course construction which occurs -- not only brand-new golf courses being built, but also in redesigned holes to make the club more attractive to a future membership -- that goes on year-round. And for that purpose, much to Dr. Murphy's comments about erosion control -- same premise -- to try to get that turf cover, you are typically forced to fertilizer outside of the proposed windows.

SENATOR BEACH: Thank you.

ASSEMBLYMAN McKEON: Thank you, Senator.

Assemblywoman.

ASSEMBLYWOMAN LAMPITT: I just have two points, actually. If phosphorous and nitrogen are in fertilizer for the benefit of fertilizing, but we're saying that it could be removed -- why then is there phosphorous and nitrogen in fertilizer? If not phosphorous and nitrogen, then what? The reason why I bring this up is because obviously -- and my friends at the Chemistry Council know this-- Bisphenol A and hard plastic -- we have found that BPA does not need to be in hard plastic, but yet it continues to be in hard plastic. So I ask that sort of "what if" question, and why.

My second question is this -- is that I work at a very large institution that determines whether or not the heat is turned on or the air conditioning is turned on based upon consecutive days of above-average or

below-average heat or frigidness. Wouldn't that be the same sort of consideration that we would want to apply here? That consecutive days of low temperatures would freeze the ground -- that could happen in November, it can happen December, it can happen in January. With the way that we're facing the worst winter last year with 50 inches of snow, this summer with excessive amount of heat -- wouldn't we want to use a different type of -- not the Farmer's Almanac; I don't think that they're 100 percent accurate either -- but wouldn't we want to use a different level of consecutive days below a temperature range to stop the application dates? Those are my two points.

MR. WILLEY: I think as far as the date side of it, I think it makes a lot of sense. Because we talk about frozen ground, don't want to be applying fertilizer on that. We wouldn't go out and apply fertilizer on frozen ground if it was October 15.

ASSEMBLYWOMAN LAMPITT: Because it doesn't benefit you.

MR. WILLEY: Right, but whereas last year it was warm all the way up until Christmas, and this year may be completely different. For instance, there was snow on the ground until the 20th of March this year as well. So I think looking at it that way makes a lot of sense, from a professional perspective of lawn care applicators, versus setting a date parameter that one year may be way too late, but revenue pressures pushing and encouraging, maybe, businesses to go that way, even though the ground is frozen. And then the other way just makes more sense.

MR. KUBIK: You'd asked the question about fertilizer components and-- Much of the industry has already taken the phosphorous

out of the fertilizer, and that is because in New Jersey we do have a good amount of fertilizer tied up in soils. The trick is to release them through manipulating pHs. A soil test can tell you how to do that. But that's something that we're able to withdraw, perhaps, from the soils that are already there. Nitrogen is something that -- unfortunately, it is fleeting: It either gets taken up by the plant or it goes away. So that if it's not tied up in, say, an organic form of a material that can break down over time, perhaps that's not something that's so readily available. So the plant does need constant applications of nitrogen to keep it growing healthy.

ASSEMBLYMAN McKEON: Any other questions for this learned panel?

SENATOR BECK: Chairman, if you would indulge me one last time.

ASSEMBLYMAN McKEON: Assemblywoman.

SENATOR BECK: Or at least one more time.

In each of your testimonies, almost to a *T*, you referenced that the amendments are not based on science. And I assume you're talking about the 30 percent -- I'm making that assumption. So does that mean that you have science? I think Dr. Murphy and the other Doctor came up and said, "Well, you know, there's really just not a lot of data out there. We're kind of guessing." So do you have anything you can share with the Committee that's a recommendation -- either based on science, or knowledge, or experience -- that we should be aware of? Because I do think that 30 percent is kind of what the Doctor from Princeton said: We're sort of at the lower end of the scale, and we figured that that's a reasonable standard. But if I'm hearing you say it's not based on science, and it's not a

reasonable standard, then can you speak to that a little bit, about what is a reasonable standard and why is it? Do you have data?

MR. KUBIK: Well, I would refer back to that nutrient summit that was held back in Bordentown, and one of the themes that came up again and again is how much research gaps there are. And there is a fear at my Association -- New Jersey Turfgrass Association -- that we might legislate before we understand the truth about those gaps; and that we would encourage that perhaps there is the ability to make changes to this as we learn through science. And if given time, I think that science would be able to fill in the gaps, specifically.

Fertilizer is a food, and it's no different than you and I eating food; and perhaps for somebody who has high metabolism, eating a lot of carbohydrates doesn't hurt them. But for somebody who might specifically have issues-- Perhaps they have to have a high protein diet. It's just something that is too complicated to put neatly into one sentence, one line in the bill.

SENATOR BECK: So what is your recommendation: That we ask the DEP to research it over a series of months and make a recommendation? Or that we leave it open-ended -- that the percentage changes as we have more scientific evidence? How do you suggest we address it?

MR. KUBIK: Ideally what I would like to see would be the opportunity for science to fill in those gaps, and then replicate them again, and then come up with, perhaps, changes to the Rutgers BMPs. Again, that's something that we use as our guide, as professionals, and would

encourage that opportunity for it to grow and develop and fill in where we need to fill in answers.

ASSEMBLYMAN McKEON: Any other questions? I'm sorry--
(no response)

Seeing none, thank you very much.

The next panel-- People didn't sign up this way, but I'm going to have you come up -- Dr. Michael Kennish of Rutgers, Jennifer Buck of the University of Pennsylvania Engineering faculty and Mantoloking Environmental Commission, Jennifer Coffey of the Stony Brook-Millstone Watershed Association, and perhaps Peter Weeks of Save Barnegat Bay. And that should kind of fill up the table for now.

And just state your name before speaking, because we have an audio record. And I'm going to ask everyone again -- it's been us with the very good questions that have been posed, but try to expedite your testimony. We have at least 100 people left to testify.

M I C H A E L J. K E N N I S H, Ph.D.: Mike Kennish. I'm a research professor at Rutgers University, and I'm coming in from a different angle. My expertise is to assess conditions in the estuary and responses of aquatic biomes to nutrient inputs. And I just want to add that over the course of time the estuary has responded in a generally declining ecological -- essentially insidious ecological decline to increasing nutrient inputs through time. We now have two-thirds of the total nitrogen load coming from surface run-off. And someone had mentioned earlier that the nitrogen inputs really come in during wintertime. But our data indicates that total nitrogen load is twice as great in the summer months than it is during the winter months, which makes a lot of sense because we have 1.4 million

people living in Ocean County during the summer months, as opposed to about 575,000 people year-round. So there's more human activity at that time.

I don't want to belabor that point. The point is that nutrients are coming in, and nitrogen's coming in. And a significant component -- the dissolved inorganic nitrogen that is part of the fertilizer component -- that's the component that we're mainly concerned about, because the algae pick that up and assimilate that much more quickly than dissolved organic nitrogen, which comprises about 10 times more of the nutrient of total nitrogen in the estuary during the summer months. But really, it's the dissolved inorganic nitrogen which the algae picks up much more rapidly than the organic nitrogen. So we have to target that.

And so I'm really in complete agreement with Dr. Souza that the prudent thing to do is to get at least 30 percent slow-release nitrogen into the composition of the fertilizer use, because the algae in this system responds so quickly to the inorganic form that comes in. And if we're going to be taking a conservative route and the prudent route here, we have to be really targeting that rapid-release nitrogen that's coming in.

ASSEMBLYMAN McKEON: Thank you.

J E N N I F E R B U C K: My name is Jennie Buck. I would like to outline a little bit differently who I am here representing.

I am a member of the Mantoloking Environmental Commission. And for the sake of full disclosure, which I think is very important in academia, I did teach until just this past spring -- I taught for four years at the University of Pennsylvania. I teach problem solving to

graduate students in integrated product design and engineering. But I am on my way out into industry now -- just so that everyone is aware of that.

The main reason that I'm here is that-- First of all, I want to say that I have an awful lot of respect for fertilizer companies. I'm a gardener myself; I know that there is a business need out there. I know that there is a need on the part of homeowners. What I want to express here, though, is that we have an emergency, locally. And that at the point where you have an emergency, you do have to pull back a couple of places, okay?

I am not convinced that 30 percent is enough slow-release -- hey, if I had my choice, I'd like to see 70 percent -- fast and easy. Go ahead and try something extreme. But you know what? I can live with the 30 percent because I know something needs to be done now. We can't sit here and argue over the little pieces -- back and forth -- for another six months, and get nothing done on this. (applause)

I know this is a tiny piece, and I know that this isn't going to fix what is going on in that Bay. But we have to find every single, tiny piece we can, and attempt to do something about this at the moment. I don't want to see this bill any more watered down, but you know what? I can live with it just for the sake of some movement forward here. I have lived 45 years on the Bay, much of it full-time. I come from a family that had a number of pretty serious swimmers. My father swam every single day for the majority of his life. I have not swum for the last eight or nine years -- is it eight or nine? How many years have we had jellyfish? (laughter) It's recent that we've had those sea nettles. It's not something that we've had long-term. I really haven't swum because of the sea nettles, but you know what? I finally gave up and I started swimming again this year. Okay, so

you get stung -- big deal. The piece that bothers me more is each time that I've swum in that Bay -- and I've gotten stung every single time -- I wind up with eye infections. And I don't understand what's going on there. And nobody's giving me a clear answer on it.

I do hope-- I understand your position; I know you guys have to go through a lot of other things that we can't see here. But I do hope that you will consider going over to Island Beach State Park and talking to the Governor on our behalf. This is something we do need now -- we don't need later on.

Thank you all for all of your help on this. (applause)

ASSEMBLYMAN McKEON: Thank you very much.

J E N N I F E R C O F F E Y: Chairman, Committee members -- thank you for holding this hearing today. My name is Jennifer Coffey; I'm the Policy Director for the Stony Brook-Millstone Watershed Association.

The Watershed Association is in central New Jersey, and we are looking to protect and restore 265-square-miles of freshwater systems. So we're not a coastal group -- there are five countries in our Watershed: Monmouth, Middlesex, Mercer, Hunterdon, and Somerset. So you might ask yourself: Why is someone who spends her time trying to protect and restore freshwater systems here at this hearing today on the coast? Because I wanted to let you know how critically important this bill is for all of New Jersey's waterways.

Our freshwater systems are choking on the nutrients. We produced a report earlier this year called *The State of the Watersheds*, so it's the state of our watershed in central New Jersey. And we used DEP's data as well as our StreamWatch data. We've got our StreamWatch monitoring

program that we've had in place for more than 16 years now, and all of our policies and procedures have been reviewed and accepted by the DEP, and we submit our data to the DEP. Twenty-nine out of 31 sites that we monitor for nutrients violate New Jersey's water quality standards for phosphorous -- that's 29 out of 31 sites. Using just the DEP data alone, 3 out of the 4 sites that they monitor in our watershed violate water quality standards for phosphorous. So the phosphorous component of this bill is incredibly important to freshwater systems. And I want to say that we support that enthusiastically and wholeheartedly.

We are big supporters of this bill. Is it as strong as I would like to see? Probably not; there's one specific section on the buffers -- applying fertilizer to the edge of streams and buffer (indiscernible). And I think there's a 10-foot buffer now. All the existing science shows that you really need a good, strong, 100-foot buffer to protect streams from nutrients and total suspended solids. So ultimately I would love to see a 100-foot buffer rather than a 10-foot buffer. At a minimum, I think it would be great to make this bill match the DEP riparian buffer stream regulations and look to a 50-foot buffer.

But, except for that, we wholeheartedly support the 30 percent slow-release nitrogen and the no-phosphorous components of this bill, and we are due to vote on it and move forward with this.

So thank you.

ASSEMBLYMAN McKEON: Thank you very, very much.

Peter Weeks -- I called earlier.

W I L L I A M D e C A M P Jr.: Mr. Chairman, I'm with Save Barnegat Bay. Peter Weeks is not here. I could speak now--

ASSEMBLYMAN McKEON: You're welcome to come up now. I have you on the list, too, but that's okay.

MR. DeCAMP: Okay, thank you.

UNIDENTIFIED MEMBER OF AUDIENCE: Go, Willie!
(laughter) (applause)

ASSEMBLYMAN McKEON: I was going to save it for the end, Willie.

MR. DeCAMP: Well, we might all be asleep at the end, Assemblyman. (laughter)

Thank you very much, Assemblyman McKeon and Senator Smith, and Senator Beck for sponsoring this bill, and thank you to the Committee for hearing it. We are extremely pleased. Save Barnegat Bay is a not-for-profit organization based in Lavallette.

This is a proud day for us because most of the basic concepts mentioned in the bills started -- I think I can honestly say, without too much of conceit -- in our office. The 30 percent started in our office; the idea of another standard, a more lenient standard for industry and professional applicators started in our office; the idea of banning for sale what is banned for use started in our office.

The things that I have to say have become less and less, because I'm not going to repeat. I'm going to try very hard not to repeat what others have said. So brevity just becomes easier and easier as the day goes by.

I would like to call your attention, though, to my testimony and the attachments, which you either have or have the opportunity to have. I wrote it carefully; it's five pages, and it's really what I think you

need to know. The first page is just usual bloviation, but as soon as you start page 2, this really is a succinct discussion of where this fits in an overview of things, and then what's going on with the essential issues.

Just one quick little note: This does not apply to gardens -- this applies to lawns only.

The 30 percent figure -- the much-talked about 30 percent figure -- we came up with, and we came up with it because we looked at what was happening elsewhere. And at that time, Florida was the place. So Florida's at 30 percent, or at least if you looked at the volumes they were recommending in their labeling law, it was 30 percent slow-release. Maybe that's just for the *de facto* -- I can't remember whether they legislated 30 percent. And what's interesting to me about that is: When they were achieving 30 percent slow-release by means of a labeling law, you did not hear the current chorus of, "no science, no science." It was general silence on that subject. It's only when it became a content requirement for sale that the allegation that "there's no science" started to arise. And I think, as Senator Beck elicited in one of her questions earlier, if there's -- maybe there's limited science for the 30 percent, that there's limited science for any alternative that they may come up with.

Why else did we choose 30 percent? Because we went on the Internet. And one of the attachments to my testimony is just one Web page each from five agricultural schools. And I very much call your attention to that, because just in going through them in the order in which you have them, the first -- Penn State University, which is an eminent agricultural school. And they say a guarantee that 30 percent or more of the total nitrogen is water insoluble, or controlled-release nitrogen, indicates

a quality turfgrass fertilizer. So if we're to take that, then we're not doing anything Draconian; we're saying it's got to be quality. Then the University of Maryland -- if you flip the page -- their standard is at least 40 percent recommended -- not required -- this is to the homeowner. And, I grant you, there are-- Everything is an individual case. You can go down any street -- every home is another individual case. And that might frustrate agronomists, but we're not trying to turn the people of New Jersey into 8 million agronomists.

Then Cornell-- In one of their places, says a 50-50 or a 70-30 mix of slow-release to quick-release is less risky to the environment. So Cornell is going as high as 70 percent.

The University of Florida is interesting. They recommend 30 percent -- that's the lowest one, the one we took -- and when the University-- But in what the University of Florida has written, this is the most environmentally safe and cost-effective method and requires fewer applications. And I'm not trying to impute any motives, but I've often wondered: Is the interest, maybe-- It would be human nature if the industry's reservation is that one nickel comes out of their pocket because slow-release costs a little more, and another nickel comes out of their pocket because people are going to have to fertilize less. It's that water soluble that gives the green pop; it's the slow-release that keeps things green over the long term. And I'm starting to sound like a scientist, so I should say right now: I am not one. And I should also say I do have a lawn.

And the last page is Virginia Tech, and they divide things up into above and below 50 percent slow-release.

So basically, if you're going to say that there's no science for 30 percent slow-release, the way I see it, you've got to say one of two things: either all five of these great agricultural schools are blowing smoke and that they've got it wrong, or you've got to say that our rivers, our lakes, our estuaries are not fed by groundwater -- which is a thought that no one is introducing. And so I think this is a sort of forest for the trees situation here, because I'm no scientist, that's just how I break it down. And I think it's an accessible way that we non-scientists can approach the situation in our effort to create sound public policy.

And I think that's just-- Every other thing I've heard I think will come out in the wash if those main points are grasped. And so I think I'll stop there, and I just beseech you again to read our testimony which we worked on very hard, and very late. (laughter) (applause)

ASSEMBLYMAN McKEON: Thank you for your hard work.

SENATOR BECK: Chairman, could I just say a thank you for that, through you, for that clarification. That really is very helpful. I don't know-- We have so much paper up here right now, I didn't find your copy, but I certainly would like to get a copy of that, and I do appreciate that clarification. That makes a big difference. Thank you.

MR. DeCAMP: Thank you.

ASSEMBLYMAN McKEON: Thank you very much.

I have two larger panels signed up, relative to in opposition--

ASSEMBLYWOMAN COYLE: Whoa.

ASSEMBLYMAN McKEON: Were there more questions?

ASSEMBLYWOMAN COYLE: Can I just have one quick question?

ASSEMBLYMAN McKEON: Of course you can.

ASSEMBLYWOMAN COYLE: Your testimony was really, basically, regarding the 30 percent release and (indiscernible) about the multiple application or less application, really in direct conflict with Dr. Murphy's testimony, who is a scientist. So could you just explain it to me, what you said, that actually--

ASSEMBLYMAN McKEON: I'm sorry; let's make it easy. I don't want to interrupt you.

ASSEMBLYMAN COYLE: --why is fine?

ASSEMBLYMAN McKEON: Is Dr. Murphy still here?

Come on up, because I didn't think that was in direct conflict with your testimony.

ASSEMBLYWOMAN COYLE: So maybe you could explain that? Well, not direct conflict -- maybe that was too much of a legal term, on my part.

ASSEMBLYMAN McKEON: I just-- You know, if he's here--

ASSEMBLYWOMAN COYLE: I just need to understand this. Thank you.

Dr. Murphy, when you were testifying, and I was asking if any individual did not get the response that they were accustomed to, what do you think they would do-- And one of the things that I think is human nature is they'll apply more -- they'll either apply more of the fertilizer, or they'll apply more right down, or they'll apply it more frequently -- they'll apply more applications.

And if I understood your testimony correctly, you're saying that isn't what's going to happen. You're saying that the slow-release is actually more effective and you get that -- you used the term -- *green pop*.

MR. DeCAMP: When I speak about this whole subject, I give (indiscernible) general impressions. One of my general impressions is that I didn't think I heard a contradiction between the testimony of Dr. Murphy and myself. I think I'd rather have Jim speak first, and then--

ASSEMBLYWOMAN COYLE: That would be great.

MR. DeCAMP: And then perhaps I will, or perhaps I won't.

ASSEMBLYWOMAN COYLE: Thank you.

DR. MURPHY: There's a little confusion here. I think there's a lot more similarities between what we're saying; it's just the perspective that we're bringing. We do recommend slow-release fertilizers. The comment that we discussed when I was up here was, is it possible that this is too restrictive? And my general answer is that, in many cases, it won't be, but in some cases it will be. And so Willie's correct: If these products that he summarized are used correctly -- they're used at the right rates, the soil conditions are good -- these products will behave well, both from an agronomic and environmental standpoint. However, as written in the bill, the restrictions are pretty stringent, and I wouldn't deny that -- and for obvious reasons: to protect environmental water quality issues. However, there is some data that suggests with the rates that are capped at 0.75 of a pound, and 30 percent of that being slow-release, there will be some situations where that product won't behave in the way that the customer who buys it wants it to behave. And so I don't know this for sure, but it's just sort of human nature that people will say. "Hey, that didn't work the

way I wanted it to." They'll either go get another product or apply more of it -- that's a potential consequence to it.

We recommend slow-release materials, and, basically, a lot of what Willie summarized in his statements fall within our BMPs. And the issue really comes down to: Do we know -- what we commented earlier, I think Jennifer Beck asked me the question: Do we know what percentage will give us the best protection of water quality? And the general answer is, no we don't know a specific percentage. But we do know that slow-release, when used correctly both from an agronomic and an environmental standpoint, will be effective as a strategy -- or tactic.

ASSEMBLYWOMAN COYLE: Thank you, and thank you for waiting -- for staying here.

ASSEMBLYMAN McKEON: Okay. I think we're good.

Here's what I've decided -- what we're going to do: I have two full panels against. I have, again, 75 people, literally, sitting here to testify for it. I'm going to try, when I say limit it, I'm just going to call up about an equal number also for it, to come up and say a few words. After that, I'm just going to call out every name in a row, and I'm going to leave it to those names I call to say, "I have something to say that no one has said already." And if you have something, then come up and say it. If not, being differential to all of us, everybody here, let's try to get through this as quickly as we can.

So the next panel I'm going to call up against or opposing, is Dom Mondi of NJNLA; John Pope, Anderson's; Keith Haines of Reed and Perrine; Ed Waters from SSA; Bill Maer; and David Pease from the Golf Course Superintendents.

UNIDENTIFIED MEMBER OF AUDIENCE: Mr. Chairman.

ASSEMBLYMAN McKEON: Yes.

UNIDENTIFIED MEMBER OF AUDIENCE: If you're only calling one panel up., would you send the Nancy Sadlon panel up? They've more information that's (indiscernible).

ASSEMBLYMAN McKEON: The next panel I have has Nancy Sadlon; Chris Wible, Scotts; Mickey Stachowski; Dan Becker, and--

UNIDENTIFIED MEMBER OF COMMITTEE: We suggest you bring both panels and you can ask questions. We'll just do a couple of presenters to save you time.

ASSEMBLYMAN McKEON: Yes, listen: I'm trying to give you deference. So if you want to self-limit, then--

UNIDENTIFIED MEMBER OF COMMITTEE: We'll just stand here and we'll be available for questions, or we'll just have--

ASSEMBLYMAN McKEON: Okay, that would be fine. We all appreciate that. But please, if there is something in addition you want us to hear, I don't want to limit it.

UNIDENTIFIED MEMBER OF AUDIENCE: Okay, I'll start.

Thank you.

ASSEMBLYMAN McKEON: And I hate to be a pain in the neck, because the logistics here are such that you do have to sit--

UNIDENTIFIED MEMBER OF AUDIENCE: --when you're speaking.

N A N C Y S A D L O N: My name is Nancy Sadlon, the Executive Director of the New Jersey Green Industry Council. I have surrounding me experts and representatives from various sectors of the Green Industry. I

have Chris Wible from Scotts, who is really here to address any content issues and talk about the impact to manufacturers and products. I have with me John Pope from Anderson's, who is a New Jersey businessman who can talk about the impact to his company. I have with me Keith Hanes from Reed and Perrine, another important business in this state that will be impacted by this 30 percent and a number of the amendments. I have with me, from the golf industry, Dave Pease, who is from this County, in terms of the Golf Course Superintendents. I also have David Crow, representing RISE -- Responsible Industry for a Sound Environment; Mickey Stachowski, Golf Course Superintendents legislative affairs person -- from the Golf Course Superintendents Association of New Jersey; Dan Becker from Becker Hardware; and Bill Lafield from Consumer Specialty Products; and Ewald Altstadt from the Lawn Doctor franchises.

I will just say, very briefly: I really wanted to point out, or remind some of you who already know, about the large amount of proactive efforts that this industry has already done to protect water quality in the State of New Jersey. I think that that's lost -- we get looked at as the bad guys with the big arrow, and we have done a lot already to protect water quality. I appreciate Assemblyman McKeon's recognizing that in the beginning, so I won't belabor the point. But I will reference to all of our buttons -- the Healthy Lawn, Healthy Environment initiative that many of the players standing here before you were part of. That initiative, which was voluntary -- which many people in the audience don't recognize -- resulted in the reduction of 70 percent of phosphorous in products already. We should be applauded for the efforts that have already been accomplished by this industry.

I also just want to note that we received the Governor's Award for that -- we were recognized by DEP at the last stakeholder meeting for all of the positive efforts that we have done. And we are really the people here driving hard for real solutions, and we mean it when we say we need the science base. It's a very confusing subject, and we have spent a lot of time -- thank you, Senator Smith, for all the stakeholder meetings that have allowed us to sit and educate DEP, educate Barnegat Bay people about what we do, how we do it, and how we are stewards of the environment.

With that, I'd like to turn the microphone over to Chris Wible.
(applause)

C H R I S W I B L E : Thank you, Chairman Smith and Chairman McKeon.

You were correct, at the beginning, when you said that this will be the most stringent regulation in the United States. And that is without the current amendment added -- this will be the most stringent regulation in the United States. We've heard it -- there are other states that have passed phosphorous legislation. New Jersey's accomplished that without legislation -- we are over 80 percent phosphorous reduction at this point.

In regards to nitrogen, the only other state that has regulated nitrogen has been Florida. And they did not set a 30 percent standard in Florida. The state of Florida summarily rejected a fixed, arbitrary percent, as well as did the Tampa Bay Estuary Program. The state of Florida limited the amount of soluble nitrogen to 0.7 pounds, and then limited the total nitrogen to 1.0 pounds. So if you're at the maximum rate, you would be at a 30 percent product.

In the state of Florida, they approached it the same way that this legislation is doing it. It's not a labeling law, it's content. Florida regulated the content in the bag. You could only have so much soluble nitrogen in the bag; you could only have so much total nitrogen in the bag. So the consumer, when they use that product, they're using less nitrogen. The state of Florida, by enacting that legislation, anticipated a 30 percent reduction in nitrogen across the state. They've surpassed that. We've shared our sales data with the work group that's been a multi-stakeholder work group -- the Littoral Society, Barnegat Bay Estuary Program, DEP, Department of Agriculture, the list goes on -- they're all named in the Governor's Award. But we've reduced nitrogen in the State of New Jersey by over 21 percent already, because some of those products that are sold in Florida are also sold in New Jersey. When this legislation passes-- In the current form, without this last amendment, we would see additional reductions in nitrogen in the State of New Jersey. So the total-- By limiting that total amount of nitrogen, you're going to reduce the amount of nitrogen, and by setting a soluble limit, you'll also change the mix.

So what we-- This amendment created a number of problems. One: the way that slow-release nitrogen is defined, it ignored the national standards, and the national standards-setting board, which members from every state sit on, including the State of New Jersey. There's not a single technology out there today that meets the definition of slow-release that's in this legislation.

There's a-- The standard for 30 percent slow-release--

ASSEMBLYMAN McKEON: Move the microphone closer to your mouth so you can be heard.

MR. WIBLE: Yes, I'm sorry.

The definition of slow-release in the legislation -- no technology on the market meets that. The requirement for 30 percent slow-release and a 0.75 limit? There is almost zero products on the market that meet that. There may be more like a chicken litter product -- may meet that standard -- but it wouldn't meet the phosphorous standard.

What that standard does is, it creates an inferior, substandard product that is not going to function when used as directed. And that's the last thing we want to do -- is encourage and design a product that will not work whenever it's used as directed.

The issue-- I think what was missing here when we talked about the 30 percent concept, and the reason Florida rejected the 30 percent concept -- and Senator Beck, I'm the one who sent you the letter that said at the Turf Summit that was unanimously determined to be an invalid concept -- it's because 30 percent of what? It depends on the rate, and that's what everyone here, when they talk, that's what they fail to say -- it's the application rate. Thirty percent of what? The Rutgers BMP that says you should use 50 percent slow-release -- that's if you're putting down a pound-and-a-half of nitrogen. When Florida says you should use 30 percent slow-release, that's when you're putting down a pound of nitrogen. So if you're only putting down half a pound or three-quarters of a pound, that changes. So it's a sliding scale. As your nitrogen rate goes up, the amount of slow-release nitrogen goes up. So what matters is how much soluble nitrogen is on the ground -- that which can leech. So you limit how much can leech, and everything above that you say that has to be slow-release.

We offered an alternate proposal that did just that. And it agrees-- It's based largely, or very much based on the arguments provided to you in that April document by the Clean Ocean Action. And you'll see in there -- there's a chart that shows a zero percent slow-release and a 15 percent slow-release product. And whenever--

UNIDENTIFIED MEMBER OF AUDIENCE: (Indiscernible) screwed up.

MR. WIBLE: In the arguments that they--

ASSEMBLYMAN McKEON: I'm sorry, let me just get control here.

What's the issue? Is it-- We're okay?

UNIDENTIFIED MEMBER OF AUDIENCE: (Indiscernible)

ASSEMBLYMAN McKEON: Just do your best to keep that close to you--

MR. WIBLE: Okay.

ASSEMBLYMAN McKEON: --and everybody -- I know it's late. Everybody conduct themselves the right way, please.

MR. WIBLE: We put forth a proposal that is in-line with the arguments and the data cited by Clean Ocean Action. And this proposal, per their data which has been shared with the members, would result in a 90 percent reduction in leaching potential. We think that's a reasonable position. And what it does is, it says all products will have some slow-release in them. And as your rate goes up, whenever you get up to that 1.0 pound maximum, you have to be at 30 percent there. But if you're only putting down a little bit, you don't need as much slow-release. And that's the issue, and that's why the products would not work for the consumer. If

I have a product that's designed for the summertime, that puts down a little bit of nitrogen, I have much less slow-release in there. If I were required to have 30 percent slow-release in there, I would put more nitrogen in it. And that product that I'm going to apply in the spring, or in the fall, that has a higher amount of nitrogen, I've got to put more slow-release in that. So it's a sliding scale.

So the proposal agrees with the data from Clean Ocean Action. And what's more interesting is, with Barnegat Bay's data on the loading to the Bay, the 465,000 kilograms of nitrogen that goes through the Bay every year, the Clean Ocean Action estimate is that the fertilizer will contribute less than 2 percent to that loading. I can share that information with you as well.

So in the document that Clean Ocean Action provided to you and gave a number for the load into the Bay -- and the Barnegat Bay Estuary Program has a total annual loading of 465,000 kilograms. So it equates to less than 2 percent.

So we've been working in good faith. We've had a very broad coalition -- from the Littoral Society to Barnegat Bay Estuary Program, DEP, Rutgers -- and what is being proposed prior to these amendments is going to be the most restrictive, most progressive legislation in the country. But, more importantly, it's going to be protective of water quality and it's going to achieve the use reductions that we're seeking. If we deviate from that with this other proposal, we're not going to achieve either the water quality or the reductions.

J O H N P O P E: Thank you for having me. And I'll make my comments brief.

I represent the Andersons.

ASSEMBLYMAN McKEON: Identify yourself, okay?

MR. POPE: John Pope from the Andersons.

The Andersons Turf and Specialty Group has been doing business in the specialty fertilizer area, both consumer and professional, for over 40 years. We do business nationally, as well as internationally, and we're involved in many of these conversations in the EU, as well as other places that are more restrictive than New Jersey.

But I have to sit here this afternoon and oppose this legislation, based on three things: One of the things that I'm really concerned about is this 30 percent nitrogen. Chris summarized it very well. But what that does, one of the things in that statement of 30 percent slow-release nitrogen -- does not really allow for new technologies that are coming very quickly. Some person testified a little earlier who indicated that this is an emergency situation. I agree with that; however, the bill is short-sighted because they don't realize that the industry works very hard on new technologies to help protect the environment and the consumers. And that's been one of the focuses the Andersons have taken over the last 15 years. We just, two years ago, won a \$5 million research grant from the EPA to study ways to reduce the exposure of fertilizer in the environment with different technologies. And we're on track to commercialize two of those for the first time in the next two years. And we have also increased the efficiency with some granule technology that we commercialized four years ago.

So I think it's very important for the panel to realize the industry is working towards solutions for these particular situations in the

environment. We haven't sat back on our haunches and said, "Hey, we're not sensitive to this."

The next thing I want to represent is small business folks. There's going to be several of us talking about this, but I want to limit it to one industry -- the landscape distributor industry. And those folks are basically suppliers, information providers; they're the folks who interact with a landscaper who's trying to make a living. And I'm going to use-- There are 57 of those particular businesses here in the state. There are nine companies with multiple outlets, just to give you an idea of the sole proprietors source of the business.

I want to reference Levitt's Plant Food in Parsippany, New Jersey. He's a distributor of mine; we've worked with these folks for a number of years. And Barry was kind enough to share some information that I think you'll find interesting.

By the way, Barry's business is a family business. He's been in business since 1928. He's second generation. He's very green-oriented. He solarized his building here in this past year. Again, the green industry is the green industry.

Last but not least -- if we were to have a shortening of the season to November 15, the effect of the proposal would be that he would lose approximately 15 days of business. And so, on that basis, he would lose about 18 percent of his total sales for the year, which would be about \$200,000. And this would effect, of course, the State of New Jersey in tax and business taxes. He also keeps his staff of nine year-round -- that's folks that work in the building, deliver product. He said to me that he'd probably have to lay some of those folks off. And so, in general,

Assemblyman Rudder asked about a cost, and in the case of these 57 businesses in the state, \$14 million. I know it doesn't sound like a lot of money, but if you're a small business fellow and break it out individually, it's quite a bit of money,

So with that said, I think that we need to consider where we're going with this; look forward as well as where we've been. And hopefully you'll agree with me that I think that we've worked towards, as the green industry worked towards, good environmental stewardship. And I want to thank you for your time again, and have a good afternoon.

K E I T H H A I N E S: Thank you.

My name is Keith Haines. I represent Reed and Perrine, a small manufacturer of fertilizer in Monmouth County. I'm here today to talk about what we believe the economic impact would be on our specific business.

I've been in the green industry for over 30 years. I started out as an applicator, became an owner operator, then worked for a national distributor, and now work for a local manufacturer distributor. We believe that this amendment will send economic ripples throughout the entire green industry.

As I said, our company, Reed and Perrine, is a small, New Jersey-based business that manufactures specific fertilizer blends, and provides retail services and distributions. It is anticipated that almost all of our annual revenue comes from the lawn and landscaping industry, with over 60 percent of our business accounting for straight NPK fertilizers alone. We've very concerned with fallout and the economic impact that this will have on our company.

The amendment to the bill to limit nitrogen to a forced 30 percent slow-release and a cap at three-quarters of a pound of (indiscernible) creates all types of concerns for our business. The law, if enacted, will require us to reformulate almost every single fertilizer blend that we now produce, which will require costly new State registrations for each blend.

It will also require us, depending on when the implementation of the law is -- a loss of inventory of pre-printed bags; and limit our production season, which would more than likely require forced layoffs at our plant, and possibly in our office.

The forced 30 percent slow-release will increase fertilizer costs in an already tough economic environment. Higher costs, we believe, will lead to less sales for us and for our customers. It will require us to carry two lines of fertilizer -- one for the professionals and one for the consumers. There are economic impacts associated with asking our retailers to carry both lines. More important, I feel that the forced legislation will require us to offer an inferior New Jersey blend. We feel that once this is known, that retail customers who live on bordering states will go elsewhere to get their fertilizer.

This law could seriously hurt my companies and potentially put me out of work. So we ask you to please re-look at what you think you're fixing. We don't agree that it holds up under scientific review, and it will have a significant impact on the small businesses of the state.

Thank you for your time.

D A N B E C K E R: Chairman Smith, members of the Committee, thank you for the opportunity to testify today.

My name is Dan Becker. I help manage Becker Hardware in Colts Neck, along with my father and brother. My family has owned and operated this business for 107 years, and we're proud to be in a business that helps our fellow neighbors maintain and improve the conditions of their homes and communities.

I have degrees in environmental science, public health and law, and have worked for public interest organizations. But I'd like to use these few, brief minutes to discuss what the impact of these amendments will be on my small business and my employees, for your consideration.

Fertilizer sales are an important component for our business. We offer high quality, hard-to-find products and great advice to our customers. Our philosophy has always been to encourage people to see that high quality varieties are more naturally disease-and insect-resistant; and to feed their lawns well, but not to overfeed them. A well-fed lawn contributes tremendously to a beneficial environmental situation. One of the hardest parts of my job is actually to convince my customers not to buy fertilizer, or not to buy herbicides -- I don't think they're necessary. I do get into arguments with my customers over this.

Now, once my customers-- They come from all over to talk to me, to talk to my dad, to talk to my brother, to buy our unique products. Once they walk through the door to buy fertilizer, they also buy lawn rollers, barbecues, garden hoses, and other products that affect our bottom line. Fertilizer sales are a very important driver to our business.

While I support this Committee's efforts to protect water quality, I oppose this bill in its current state because I don't think it allows businesses enough time to adapt to changes in the marketplace that the law

will create. Virtually all the lawn and garden products that I sell will be affected by the changes proposed in the latest version of this bill. This means that almost every single item on my floor will have to be reformulated, remanufactured, and resubmitted for approvals, dramatically increasing my wholesale costs.

Under the timeline proposed by the bill, manufacturers will not be able to respond to the changes in time to have products available for sale. And when they do, they may not work to the customers' satisfaction, damaging my reputation, which we worked for over 100 years to build up. Furthermore, I place fertilizer orders far in advance of the selling season. In fact, in four weeks I'm going to Nevada to a trade show to place my orders for fertilizer for 2011. I fully expect, in this terrible economy, much of that inventory will carry over into 2012.

Now, what do I buy, and who do I buy it from? I don't know. In fact, my suppliers also buy their raw materials far in advance to counter volatility and uncertainty in the commodities markets. So how are they supposed to prepare for the future?

This is a hardship to the small retailers like me. The majority of my operating income will be sacrificed. The proposed effective date, in my opinion, is an arbitrary threat to my business and to New Jersey's economy. It can easily be extended to allow businesses time to adapt.

With a few manufacturers-- And we can adapt if given the opportunity. We've been in business for over 100 years, and if you weren't able to adapt, we would have gone out of business a long time ago. With few manufacturers able to meet the deadline and requirements, demand will

far outstrip supply, creating an artificial price bubble for retailers and consumers, further diminishing sales.

I know my customers will still want to use these products. Will they irresponsibly just spray garden fertilizer that's highly water soluble on their lawns? Will they go to agricultural dealers? Will they go to other stores in other states, or UPS their orders? My loyal customers will be confused about what to do, and I may not be able to help them or get the products they need. I will also not be able to present amenable choices to the consumers, and differentiate myself in the marketplace and remain a destination spot.

However, I do expect sales of herbicides and fungicides to increase because lawns will not be as well-fed and healthy. However, that is much to my dismay, because I try to recommend them as little as possible to my customers.

If I don't have anything to sell, I can't employ anyone. A seasonable business like ours cannot remain open long without the strong spring sales which are also being affected by the truncated application schedule. My long-term employees who receive health benefits will lose their jobs, and my business would be in jeopardy. If the deadline is not changed, I can expect to lay off at least 25 percent of my workforce within the first year or two after the effective date, and more later. My own job is also at risk -- which I enjoy. Nothing gives me more satisfaction than helping people achieve their dreams of home ownership, and living in a beautiful house that's safe for them and their family.

I won't be able to pay taxes, and my employees, if they go out of work, they'll be on the unemployment rolls as well. In these challenges

economic times, I support thoroughly evaluating the economic impacts of the proposed laws. It's also important to let businesses have time to plan and adapt. We survived two World Wars, the Great Depression, Sears, Home Channel, Rickel, Builder's Square, Walmart, Lowe's, and Home Depot. It would be a shame to be legislated out of business, and not be able to help many of the customers that I've known since I was a little kid. We've also had productive and honest relationships with some of our suppliers for 40 to 70 years. Why should they be sacrificed?

I think I've made clear how important this issue is to the future of my business, and to potentially the difference between being open and closed.

Based on all these reasons, I respectfully oppose the bill, and ask the Committee to do the same until a workable, enforceable, and reasonable compromise is reached. If we all work together, we can find a solution that can allow us to adapt to meet the demands of the populace and the environment. The easiest and least costly way is to extend the effective date at least three to five years, and to phase the requirements into place to let manufacturers enough time to engineer their solutions.

The economy is terrible, and businesses cannot afford two or three years of losses waiting for the marketplace to catch up to arbitrary legislative demands, which science may or may not support. New Jersey is already a very difficult place to run a business, even in a good economy. Business people like myself have already made too many personal and financial sacrifices to have their businesses legislated away. Please work with us, and we can all adapt if given the opportunity.

Thank you for your attention, and I'd be happy to answer any questions.

SENATOR BECK: Chairman, could I--

ASSEMBLYMAN McKEON: Sure, Senator.

SENATOR BECK: Dan, of course you're in my legislative district.

MR. BECKER: Yes.

SENATOR BECK: So your objection is not so much to the 30 percent, but the time in which you would have to meet the 30 percent. Did I understand that?

MR. BECKER: To me, the first stage is a-- If I don't have time to adapt to any change, I'm going to go out of business.

SENATOR BECK: Sure.

MR. BECKER: To me it doesn't matter what's in the fertilizer; if I can't find a supply or product to sell, I can't exist.

SENATOR BECK: That's fine. And so you know-- Certainly in my conversations with the Chairman and others, we are open to amendments. So this is not the end. That's the reason we took so much testimony today. So there's certainly an opportunity to look at revising certain aspects of the bill. But I guess, just so I understand: You feel that as long as you had time to phase in over -- whatever it was; I think you said three to five years -- that you're not so much opposed to the 30 percent slow-release, but you just want time to do it. And that's not what I heard Chris say.

MR. BECKER: Well I--

SENATOR BECK: Chris said there is no such-- In the definition that we have in this bill, there is no technology that meets that standard. So I don't know. I wanted to make sure I understood Dan Becker clearly: that he's-- You've got a different position.

MR. BECKER: Well, it's not a different position. It's that-- I don't think the requirements are going to help the consumer. I think it's going to hurt -- it could potentially hurt the environment overall if the lawns are not healthy and they can't absorb excess nutrients from the soil. But if I can't adapt and change my business no matter what the law is, no matter what the regulations are, we're not going to be able to continue.

SENATOR BECK: Okay.

MR. BECKER: All I want is enough time to adapt.

SENATOR BECK: Sure; point well taken. And I think that's reasonable.

Chris-- Through the Chair--

MR. WIBLE: Yes, to clarify: The definition of slow-release in the legislation is not accurate, and does not reflect any of the technologies on the market. That just simply needs to be fixed.

SENATOR SMITH: Would you--

MR. WIBLE: But then with--

SENATOR SMITH: I think we've asked for -- the industry for a definition. I would appreciate seeing it.

MR. WIBLE: Yes, and we have--

SENATOR SMITH: Would you send us language, please?

MR. WIBLE: Yes sir, and we have provided that. I provided that to Kevil Duhon. We'll provide that, and that is an APCO definition that is nationally adopted. The second point in that was: Even with the--

SENATOR BECK: Chris, can I stop you? For whatever reason, it's really hard to hear you. You've got to talk directly into the mike, as opposed to Dan who we could hear very loudly. (laughter) I could not hear Chris. I'm sitting here and I can barely hear you.

MR. WIBLE: Once we correct the definition of slow-release, then we have the second issue of the 30 percent, 0.75 concept, and that there is--

SENATOR SMITH: We know that's your issue.

MR. WIBLE: Right, right. So--

SENATOR SMITH: Next speaker.

D A V I D P E A S E: Thank you. My name is David Pease. I'm a golf administrator and Director of Agronomy for the Monmouth County Parks System golf courses. I've been a golf course superintendent for over 30 years. I'm also an adjunct professor at Brookdale Community College, teaching the course curriculum of turf management in the Bioscience Department. I also serve on the Advisory Board for the Monmouth County Career Center, a secondary high school education platform for their turfgrass science and horticultural program.

I am concerned that the bill that is being presented today, with the recent amendments, will forever change the way plant nutrition is applied to our turfgrass areas, in what I consider a negative way. As written, this bill does not show consideration for science-based agronomic programs, and that would be the dynamics of the programs -- dissecting it.

And we don't have time to go into that today, but I mean everything from environmental to traffic issues.

Over the past two years, the New Jersey Green Industry Council Nutrient Taskforce -- which has included representatives from the golf industry -- have been working diligently on developing nutrient management legislation that is science-based, fair, and workable. I believe we need to go back to this proactive effort and get back to legislation based on sound science. I'm here in opposition to the previous bills -- Senate 1411 as well as Assembly 2290 -- for the same reasons, or for the same bullet items of the (indiscernible) slow-release, which (indiscernible) about for a quarter-pound (*sic*) total nitrogen per thousand square feet annual cap. When you're dealing with golf course operations that are looking for high-performance values on the playability performance -- putting through 250 rounds a day, 50,000 rounds a year per golf course -- the health and care of those turfgrass areas may need to require to go in excess of that. So that's a problem. The all blackout dates of November 15, as previously stated, as well as the excessive fines that do not coincide with existing penalties being administered--

The golf course superintendents of this state are highly educated in the field of turf managing -- many possessing bachelor's and associate's degrees in science. They are graduates of institutions possessing programs specifically focused on turf management. (Indiscernible) Penn State, Cornell, Rutgers University, University of Massachusetts, just to name a few.

I'm here to ask full exemption from this bill for the golf sector. The economic impact that will be felt through deficient agronomic practices

as they relate to the turfgrass fertility will result in poor turf quality, playability, and performance issues, as I mentioned, undermining playing conditions which will deter patrons from playing our golf courses.

Golf courses are part of a multi-million dollar industry in New Jersey and are an intricate component of the New Jersey tourism trade, which Monmouth County depends heavily on with respect to its growing economy.

And now I'd like to thank the Committee for your time and consideration.

B I L L L A F I E L D: Mr. Chairman, members of the Committee. My name is Bill Lafield, and I represent the Consumer Specialty Products Association -- CSPA. CSPA is a national trade association that represents some 240 companies that represent a variety of products. Our membership includes large companies like Proctor & Gamble, 3M, and (indiscernible); and includes New Jersey-based companies like Reckitt Benckiser; and it includes companies that are in the lawn and garden industry, including Scotts Miracle-Gro.

CSPA shares many of the concerns -- or all of the concerns -- that have been voiced here today, but I will limit my comments to three areas related to those that have been touched on a little bit this morning.

The first is increased cost. When you produce any specialty product -- and that's what fertilizer becomes if this bill is passed, because it has specific geographical restrictions on ingredients and a limited marketing environment -- whenever you do that, you increase the cost to manufacture, to distribute, and maintain the inventory of your product. These costs, whenever possible, are passed on to the consumer. The marketplace

dictates price, and we have not done any studies as to what the impact would be; but usually, almost in every instance, increased cost at the manufacturing level results in increased cost at the product level.

The second area is distribution control and enforcement problems. Most manufacturers have national manufacturing, and very few, I think, have in-state production. Which means most of your big fertilizer manufacturers will manufacture out of the state. Distribution is usually made on a regional basis, which means you may have a large retailer that has a distribution center in another state selling into New Jersey. The manufacturer might have a distribution center -- it probably will be on a regional basis, and not in New Jersey.

And thirdly, you have an independent distributor, and sometimes several levels of independent distributors.

All this makes it very difficult, despite the best efforts of the distribution channel, to ensure that the right product, compliant product, is within the state -- particularly for the small operations, mom-and-pop stores that are more likely to use an independent distributor that may be two or three levels down. The opportunity for getting non-compliant product increases. And unfortunately the enforcement level is at the retail level, and while large retailers can probably -- certainly absorb the level of fines that are included in this bill, and they in all probability will be reimbursed by the supplier, the mom-and-pop operation that may use an independent supplier may be stuck with the cost of that.

The third area is consumer reaction to what might be an inferior product. CSPA has a great deal of experience in negotiating content requirements. We represent the consumer products industry in

California, and the VOC -- or volatile organic compound -- regulation, development, and compliance. I think the best example of what could happen here in New Jersey really is related to something that took place in the Northwest in sort of a very related incident. And that has to do with phosphorous in automatic dishwashing detergent. Years ago, the industry negotiated a standard for detergents and also a very low level for automatic dishwashers. Some areas wanted to reduce that even further. And despite the best efforts of the industry, we could not reach a standard that we could live with. So some -- in this case it was local communities -- passed regulations impacting the phosphorous content of automatic dishwashing detergents. What happened was, consumers quickly detected an inferior product and they immediately began going elsewhere to get their product. Sales within the regulated area fell and in surrounding areas they increased.

I think the same thing could happen here. There was some conversation about trying different brands. I think that may happen, but I think it's probably more likely that consumers will go elsewhere. I lived in Bergen County for eight years, and I know how easy it is to shop outside the state.

So I think that's an unintended consequence that could result from this. I think the industry has worked very hard to reach a consensus, and I think the industry would like nothing better than to pass something in New Jersey that would become industry standard, that we could take to other states and actually pass there. But I think, as some of the amendments are proposed, that simply is not acceptable to the industry. And I'm still hoping that perhaps a compromise can be made that will set some sort of a national standard. Thank you.

SENATOR SMITH: Appreciate it.

SENATOR BECK: Chairman.

SENATOR SMITH: Guys, we have to be a little more--

SENATOR BECK: Yes, speedy?

SENATOR SMITH: It's 3:30. We have to be very succinct and to the point.

Senator.

SENATOR BECK: Could I just ask-- From the Barnegat Bay folks, they provided us with all these different universities that recommend the 30 percent or 50 percent as the optimal, best practice-- You're not opposed to that? You're opposed to how it's structured in the bill? I'm really confused on this point. All these universities -- Cornell, everybody else -- is saying -- and I have it right in front of me, and I'm happy to share it with you -- that this is the best practice. So you're saying, this *isn't* the best practice?

MR. LAFIELD: I can only rely on what the R&D professionals and the professionals in that are saying about what makes the product work. And I think there is agreement within the industry that the 30 percent rate that's proposed in the amendment will not work. You heard Chris earlier say that.

SENATOR BECK: Right.

MR. WIBLE: Bill--

SENATOR BECK: I'm going to have OLS give this to you, and maybe you guys can take a look at it and then maybe give me a better answer.

MR. WIBLE: Well, I am very familiar with that, and what is missing there is the application rate.

UNIDENTIFIED MEMBER OF AUDIENCE: Rates.

MR. WIBLE: And that's what we're saying. The easiest example I can give is, if you had a product that they said, "Fifty percent slow-release," if you delivered a half-a-pound -- so you'd have three-quarters of a pound of soluble nitrogen, three-quarters of a pound of slow-release. And everybody would say, "Great -- that's a 50 percent product." I say, "Okay, what if I just have a product that puts down three-quarters of a pound? Can that be all soluble?" And the answer would be yes, because three-quarters of a pound was okay when I combined it with another three-quarters of a pound of slow-release. So that's what's arbitrary about it. You say you can have three-quarters of a pound when you combine it and put down the whole pound-and-a-half, but you can't have three-quarters of a pound by itself.

SENATOR BECK: So how do you recommend changing the language that's in the amendment?

MR. WIBLE: The way that it has been proposed, and has been circulated widely and -- I don't want to speak to the amount of support that it's gotten so far -- but the proposal is, all the products would have some slow-release in them, and then as the application rate goes up, the amount of slow-release goes up. So, at minimum, you have 15 percent in all the products. If you're looking at a low rate, you have 15 percent. If you go all the way up to a pound, you have 30 percent.

SENATOR BECK: Okay. And you provided that in writing to us? Because I have not seen that.

MR. WIBLE: Yes, I have. Yes.

SENATOR BECK: I haven't seen it, so--

UNIDENTIFIED MEMBER OF AUDIENCE: We'll get you a copy.

E W A L D A L T S T A D T: My thanks to all the Joint Committee members for such a long, long day; and I promise I will, in fact, be brief.

My name is Ewald Altstadt. I am an Ocean County, Toms River resident, and have been for over 20 years. And I'm also currently the Vice President of Operations and Support Services for Lawn Doctor, Incorporated. Lawn Doctor is a New Jersey-founded and based company. We maintain our corporate and national headquarters in Holmdel, and we also maintain a manufacturing facility as well. We currently have 63 franchise units that are operating within the states, with 21 business owners taking care of the day-to-day business operations.

This bill, which is -- my concern is, the shortening of the servicing season is going to have a dramatic, economic impact on our small business owners. When you strip away the ability to produce income for your small business in a four to six week window, between 10 and 15 percent of your income, I guarantee you not only will some Lawn Doctor business people go by the wayside, there will also be a bunch of other lawn care operators within the state that will go by the wayside.

SENATOR SMITH: We've heard this before, but a question for you.

MR. ALTSTADT: Yes.

SENATOR SMITH: What date works for your industry?

MR. ALTSTADT: The date that works for us is December 15.

SENATOR SMITH: Thank you. Anything else?

MR. ALTSTADT: Yes. There is a little problem as far as an earlier date, because the dates-- If you'll understand, we do try to get out there when the soil temperatures are at the optimal for fertilization rates. Sometimes it's earlier, sometimes it's later. As a business owner, we have to try to put down the right material at the right time, because anything else is going to cause fallbacks and it's going to cause not the product that the consumer wants.

SENATOR SMITH: Got it.

MR. ALTSTADT: But in addition to that, the labor force impact that this is going to have, because our operators are confined to certain business services that they have to offer, we're going to be forced to lay off people earlier -- that is certainly going to impact not only our businesses of the lawn care operators, but the State of New Jersey as it has been already testified to. So we are very deeply concerned about this shortened season -- extremely (indiscernible).

SENATOR SMITH: Got it.

Is that the-- Anyone else on the panel?

M I C H A E L S T A C H O W S K I: Michael Stachowski, Golf Course Superintendents Association of New Jersey.

With some of these exemptions that we are now provided in the bill, and some of the other definitions in the bill on the professional for hire, pertaining to a golf course superintendent-- Because usually that pertains to the landscaper. We're actually hired by somebody. That would make us a professional for hire.

My question is, if that is the case, and then if there's some exemptions in there for the professional for hire, if we were not that, we would be exempt from that and, if that's the case, we would respectfully request total exemption from this bill.

SENATOR SMITH: Thank you for your comment.

MR. STACHOWSKI: Thank you.

SENATOR SMITH: Anyone else on the panel? Yes, sir.

D A V I D C R O W: Yes, sir. I'm David Crow and I represent RISE, the national trade association representing manufacturers and distributors of specialty fertilizers and other products. And many of them are in the room.

I'm going to do you all a favor and be mercifully brief. All of my colleagues have made extremely good points. But I would just like to add two or three, and they will be very brief.

One is that a well-regulated turf creates all kinds of air conditioning and beauty, holds nutrients, and holds water. When I was running this morning, I ran six miles and I ran all through the neighborhoods and I noticed that several of the houses that were for sale had terrible lawns. And I remember looking at them and thinking, "They're not going to sell. There's dirt on the sidewalk, there's some trash everywhere." A well-regulated lawn is a very, very, very valuable environmental thing.

Second is, run-off from lawns is a minuscule -- almost non-existent -- part of what's going on in the Bay. And I'll repeat that: we have science to show the run-off is minuscule. And, if it's done right, it would even be less. Well-regulated lawns don't run off.

The third point is, if you look at the decades of agronomic study, water quality research, and Rutgers' Best Management Practices -- which I think all of us are willing to look at -- they won't support this bill. They will support a different standard that I hope we'll look at.

So I just want to say that we're in opposition to the language -- both bills, S-1411 and A-2290 -- but very hopeful that the Assembly and the Senate, and based on what I've heard today, will sit down with us and try to come to something reasonable.

Thank you very, very much for your time.

D O M I N I C K M O N D I: Hi, thank you, Chairman, Senators, Assemblymen. I'll also be brief and refreshing, in that I'm going to quickly bring up something other than 30 percent.

I've got something else for -- one second here -- and that is the-- I (indiscernible) the New Jersey Nursery and Landscape Association. We represent about 450 small businesses from nursery production to lawn applicators, (indiscernible) contractors, and garden centers.

One component of this bill, which Senator Bateman mentioned in the beginning part of this session, is the fines. The fines as they're written are a little bit excessive compared to the work that's being done. To use one example from a contractor in North Brunswick, Middlesex County, that I spoke with this morning: He charges, for an average residence in North Brunswick, \$45 for fertilizer application. These fines, essentially, would be upwards of 100 times what he gets for one application. And because of some of the subjective nature of the potential for a fine -- being that it surrounds weather conditions and things like that -- there's an opportunity for accidents to happen by the contractor. Fines are going to

happen, and it's literally at a rate where it could put some people, some small businesses, out of business.

I'll leave it at that. Thank you.

ASSEMBLYMAN McKEON: That's it?

UNIDENTIFIED MEMBER OF AUDIENCE: Everybody's available for questions.

ASSEMBLYMAN McKEON: Good, that's fine. I don't think that there'll be any. (laughter) All right.

We are running into a practical problem. We have a lot of other-- We have members who have other commitments. No kidding, I have literally 30 groups that are in favor from various environmental advocacy groups, and some individual citizens. I almost feel guilty about calling out names. Jeff, you have to count two Mississippi-- But whoever the first five are who get up here, if you really feel you'd like to say a few words (laughter)--

UNIDENTIFIED MEMBER OF AUDIENCE: (indiscernible) (laughter)

UNIDENTIFIED MEMBER OF AUDIENCE: There's blood in the water.

ASSEMBLYMAN McKEON: There you go -- no pun intended.

JACK CASEY: Can I say something? It's totally different.

ASSEMBLYMAN McKEON: Let me just mention something to my friends in the environmental community. If the panel is about to act favorably, we're going to end up putting this off, because we're going to lose enough people for a quorum.

MR. CASEY: Well, everybody knows the environmental implications. I had a conversation with Councilman George Wittmann of Toms River. And so far all the discussion has been about everything that's going to go into the Bay -- you know, quick release, short release, warm release -- it doesn't make any difference what kind of release, it still goes into the Bay. But what no one else has addressed is maybe there should be an option on how to get it out of the Bay.

Now historically--

ASSEMBLYMAN McKEON: Can I just have your name for the record, sir?

MR. CASEY: My name is Jack Casey.

ASSEMBLYMAN McKEON: Thanks, Jack.

MR. CASEY: Bay Head Shores Association. I don't want to talk about all the jellyfish and stuff like that -- we already know all about that.

ASSEMBLYMAN McKEON: We know it's there, Jack.

MR. CASEY: Okay. So if you go way back, there used to be an inlet just east of here, which was the third inlet. George Wittmann, who is a Councilman here in Toms River, he and I were kicking around an idea that part of the big problem in the Bay is that it doesn't flush. You've got inlets separated by a huge distance. We talked about something that you could put in -- culverts -- possibly through Island Beach State Park where the inlet used to be, and you would get a tremendous flush of water which would alleviate all the build up of this toxic material.

We got stimulus -- the great stimulus-and-bail-out country we live in now. Certainly if our voices were loud enough, I think that it would

be a great job creator and would definitely add to the environmental part of the Bay, just by flushing it out with some added culverts. I'm talking about getting the stuff out. Instead of worrying about what's going to go in, because eventually I don't really think that the effect is such a long-term thing of what's going in -- the effect is going to be minimal. And I think that if you focused a little bit more on getting rid of what's in there it would be a big advantage. Thank you.

ASSEMBLYMAN McKEON: Thank you very much, sir.

MR. TITTEL: I'll be real brief.

Thank you very much for all the work that's been done.

ASSEMBLYMAN McKEON: Everybody's on the one-minute rule. I'm literally losing my--

MR. TITTEL: Jeff Tittel, New Jersey Sierra Club.

This bill has a lot of public benefits not just for this Bay, but for the drinking water supply for the people of New Jersey, because nitrates are the major source of pollution in our drinking water wells. A third of our wells test for high levels of nitrates -- they're a major cause of eutrophication in our streams and rivers and reservoirs. When you kill bacteria in our water supply -- that really grow because of the nutrients in that water -- you get die-offs like trihalomethane and chloroform and other things. So this bill saves the Bay, but, more importantly, it helps protect drinking water in everybody's district throughout the state. Thank you.

ASSEMBLYMAN McKEON: Jeff, thank you.

Tom.

MR. FOTE: I'll talk for the fishing industry, because that hasn't been talked about at all at this whole hearing.

I represent commercial recreational fishing, and I'm also the Commissioner of the Atlantic States Marines Fisheries Commission. We're seeing this disaster up and down the coast. If Scotts wanted to do this, they should just make it 30 percent -- they wouldn't have any problem. I'm a business major. You could change products immediately. If you can't shift products by barcodes that go to the right stores -- ShopRite, things like that -- you were ridiculous. I sit here and listen to all this stuff. I just had to get vented.

I sat up here five times in the last year, basically telling commercial fisherman -- as a hearing officer, because I'm here representing the Commission -- putting them out of business, because of what's happening in the bays and estuaries. (applause) Nobody's looking at that business that's going out of business. (Indiscernible) millions of dollars in the State of New Jersey. (Indiscernible) which is \$760 million, is what the Commission is saying. The (indiscernible) fishery, the recreational fishery are worth \$1.3 billion.

And that's my minute.

ASSEMBLYMAN McKEON: Tom, thank you.

J E F F C O L E Y: Yes, hi, my name is Jeff Coley. I live in (indiscernible)

I've been on Barnegat Bay for the past 60 years -- I'm 61 years old now. I represent John Q. Public on Barnegat Bay.

You guys know that the Bay is sick. I've been hearing this for the last six hours. All this testimony discussed about this and that. The studies have been out for 20 years. You guys are our leaders-- do something. Do what they say -- Save Barnegat Bay. They've been studying

it for awhile. You need to pass this bill -- that's the bottom line. Look at all-- You even said it, Assemblyman McKeon: all the billions of dollars that come down here. People aren't going to come down here anymore. The barrier islands -- they're going to be shot -- everything. Pass the (indiscernible)

ASSEMBLYMAN McKEON: Sir, thank you for your passion.

UNIDENTIFIED MEMBER OF COMMITTEE: There are a couple of Freeholders you need to talk to.

MR. PRINGLE: David Pringle, New Jersey Environmental Federation.

I have in front of me a Rutgers Cooperative Extension document written by Dr. Heckman and Dr. Murphy. It says 0.25 to 0.5 pounds of nitrogen per thousand square feet. It also recommends a total of 1,000 square feet. So that's anywhere from 25 to 75 percent slow-release.

If you ask folks here, how many people mow their lawns much after November 15? Very few. Enforcement in this bill's already been compromised up the wazoo. I won't list all of them, other than to say the enforcement-- This bill won't be enforced because it isn't civil administrative penalties. So if anything, the bill should be strengthened.

We talked about the enemy being perfectly good. Let's make sure the less good and the worst isn't the enemy of the better. Thank you.

ASSEMBLYMAN McKEON: Thank you very much.

Cindy.

MS. ZIPF: Thank you. Thank you, Chairman.

I have a very short introduction to say, and then I'm going to turn it over to the experts. Many of the people in the room -- the

environmental organizations -- have depended on our legal team and our science team for the bill. So I'd like them to be able to speak to some of the things that have been said.

One of the things that has been said over and over is that this would be the most stringent bill in the country. Well, I think we ought to be damn proud of that, because we need the best, strongest bill (indiscernible) (applause) because we're the most densely populated state in the country -- number one. And number two, because of a national study that was done, we know that the back bays of New Jersey -- the marine waters -- are some of the worst in the country, which is why we need this bill.

And I'll now turn it over to--

ASSEMBLYMAN McKEON: The Prince of Darkness, the lawyer. (laughter)

It's okay. We're almost done. Thank you.

Paul -- you've been amazing. Thank you.

S E A N T. D I X O N, ESQ: My name is Sean Dixon. I'm the coastal policy attorney for Clean Ocean Action, and thank you for letting us speak here.

Two important things to know, real quick -- just two: is that one, economic ripples as have been stated here -- which would happen, occurring after this bill passes -- are actually economic signals. We all know in any good market, as soon as you get something and you say that this is not good enough for our state, then the people who make the product try and compete for the new business. So while Dr. Murphy did point out that there would be some initial consternation among consumers, people would

put more down on the ground, this would end up in a long-term benefit to the entire system.

And second, on the 30 percent number, it's literally been recommended for the last four hours. It's something that is vital, and it's something that is not, as Scott's has stated, reliant on the rate that you're applying. These are two separate issues, according to almost all of the recommendations from universities all around New Jersey, and Rutgers. We need 40 percent -- 30, 40, 50 or 70 percent slow-release -- no asterisks -- and a total nitrogen.

ASSEMBLYMAN McKEON: Thank you.

H E A T H E R S A F F E R T, Ph.D: I'm Heather Saffert; I'm a staff scientist with Clean Ocean Action. And I would just respond to the 15 percent study that was cited.

For that one study, for the one product, it did result in a substantial reduction compared to the fast-release product. I'd like to point out that the 95 percent slow-release was even lower; however, there are other studies. Another study of 11 percent total-release product indicated that it behaved similarly to the fast-release product, with high leaching rates in some conditions. And so I'm concerned that if we don't have sufficient slow-release in the product, we're not going to have a substantial change from what we have right now.

SENATOR SMITH: Thank you.

MS. ZIPF: Thank you, Heather.

SENATOR SMITH: Go ahead.

MR. O'MALLEY: Doug O'Malley, Environment New Jersey. Environment New Jersey represents 20,000 citizen members across the

state. And I want to, obviously, thank Dr. Kennish and Dr. Souza for their testimonies regarding the 30 percent requirement.

I want to talk about three numbers: 19 percent, 33 percent, and 3.5. Nineteen percent was the impervious cover in the Barnegat Bay Watershed in the early 1970s; 33 percent is where we are right now. That's why we're in a crisis. Three-point-five -- that's 3.5 billion -- that is the amount of money that's generated through the tourism economy here in the Barnegat Bay.

ASSEMBLYMAN McKEON: Doug, thank you.

Assemblyman Gusciora has to absent himself -- 15 minutes ago.

ASSEMBLYMAN GUSCIORA: I have to leave in 10 minutes.

ASSEMBLYMAN McKEON: Fifteen seconds.

DR. DeVITO: Yes -- Emile DeVito, New Jersey Conservation Foundation.

Assemblywoman Coyle asked Dr. Murphy earlier if 30 percent would work on most lawns. He said it would. He said it might be that it might not work on lawns that were not healthy, with compacted soil. So if people found that the 30 percent wasn't working, that would be indicative of poor soil. All day long you've been trying to fix soil with all the other bills, so for people that the 30 percent doesn't work, they could actually have their landscapers and the fellow at the hardware store and everybody else tell him how to fix their soil, and that's what we're trying to do anyway.

ASSEMBLYMAN McKEON: Okay, thank you all very much.

Anybody else who has signed up -- your names will be on the record, both for or against -- and the fact that you were here. If you have any written testimony, as this isn't the final vote today, please submit it to

the Committee and it will be provided to all members of this panel and all members of the Legislature.

With no further testimony, I'll entertain a motion to move the bill, as amended.

UNIDENTIFIED MEMBER OF COMMITTEE: Move it, as amended.

UNIDENTIFIED MEMBER OF COMMITTEE:
(Indiscernible)

ASSEMBLYMAN McKEON: Moved as amended.

We'll take a roll call on the part of the Assembly.

And any member who would like to speak about their reasons for or against -- again, please use the chance to do it.

MS. HOROWITZ: On Assembly Bill 2290, with the Assembly Committee amendments, Assemblyman Rudder.

ASSEMBLYMAN RUDDER: Mr. Chairman, members of the Committee.

At this moment-- I've heard testimony on both sides, both very compelling. I have some concerns with some portions of the legislation. I've heard that both Chairmen mention that this is not the last step -- that there's going to be many more steps involved. I want to be a part of that discussion. I've offered draft amendments -- I'm not going to move them today, but we'll want that to be part of the discussion as well.

So at this moment, I'm going to abstain.

MS. HOROWITZ: Assemblywoman Coyle.

ASSEMBLYWOMAN COYLE: My family has had a house in a town very near here for well over 40 years. I cannot tell you how many

times I sailed or kayaked on the Barnegat Bay. I have watched the visible decline, and I never swim in the Bay. To the woman who swims -- God bless you. I never swim in the Bay. The visible decline in the Bay -- it's obvious; it's -- frankly, it's more than obvious. And we need to do something about the Bay.

Though what's going on today, there are-- The amendments that we have before you -- I don't even think I can support them, quite frankly. I really applaud Senator Smith and Assemblyman McKeon on their efforts here. It's very difficult to draft legislation with such opposing sides and such surrounding controversy. I'm very concerned about the impact on the economy, and I just think we need to reach a little bit more balance there, and I really do believe we can do that.

I am going to abstain until I see what final -- what we do here, how we finally amend this bill. Thank you.

MS. HOROWITZ: Assemblyman Mainor.

ASSEMBLYMAN MAINOR: Let me just first-- I come from a town where there is no Bay next to me. I come from a town where there's a lake in the park, so I've learned a lot today.

So with what I've heard today, I must vote my conscience, and I have to look at the health issues. So I vote yes. (applause)

MS. HOROWITZ: Assemblywoman Lampitt.

ASSEMBLYWOMAN LAMPITT: I want to thank Senator Smith and Assemblyman McKeon, again, for the efforts that they've taken to get us to this point. We are talking about a few, last, remaining issues -- there were a vast number of other issues that have been worked out in a collaborative basis.

I do have a couple, still, concerns about it, and I brought those concerns up to both of the leading prime sponsors on this particular bill.

I'm going to vote it through today; I'm going to say yes today, but I think -- through my topics of my questions that I've asked, I've brought out my concerns that I still have. And as we're all on the Environment Committee, we all care very much about what happens in New Jersey, and know the fact that New Jersey is our number one pride, and we all work very hard to continue to make it so. Thank you. (applause)

MS. HOROWITZ: Assemblyman Barnes

ASSEMBLYMAN BARNES: Yes. (applause)

MS. HOROWITZ: Assemblyman Gusciora.

ASSEMBLYMAN GUSCIORA: I also wanted to congratulate the two Chairs for bringing us all together, and the probing questions that we've had. This is a difficult issue, but I've been a Benny down here -- down the Shore (applause) since the Chatterbox was around. (laughter)

ASSEMBLYMAN McKEON: You don't look that old. (laughter)

ASSEMBLYMAN GUSCIORA: And I've also seen the decline in the Barnegat Bay, and we need to do all we can to preserve it. We also need to make sure that there's a healthy economic environment, but I think this is a step in the right direction. I think we'll probably make improvements to the bill, but for the time being, I vote yes. (applause)

MS. HOROWITZ: Assemblyman McKeon.

ASSEMBLYMAN McKEON: Yes -- first and foremost, thank you so much to the esteemed members of the Assembly Committee on the

Environment -- you worked incredibly hard. Peter -- you're on vacation. You told your wife you'd be home in an hour, right? (laughter)

ASSEMBLYMAN BARNES: I told her--

ASSEMBLYMAN McKEON: You told her you went for ice, right? I'll be back in an hour. (laughter)

Reed is off to try a case. And between Jersey City, Passaic, Somerset, and Camden -- or Cherry Hill -- thank you for being here. You guys are amazing, and I care about you all.

I said thank you very much to partisan and nonpartisan staff: Paul, who is with Senator Bateman's group -- you were--

SENATOR SMITH: You were outstanding.

ASSEMBLYMAN McKEON: You were great (applause) and if you could ever hang out with a Democrat in Essex County, I'll take you. (laughter)

Let me just mention the Democrat thing, because this really-- One or two people made partisan comments; it shouldn't be that. We're all here -- mixed parties -- from every corner of the state. We are all so in this together. And I include in that the industry. You were wonderful, and what the industry did, I'll repeat it: On phosphorous -- I think that you've worked very hard with us, getting to the point where you have. The applicator industry -- we're at November 15. I don't think any of us are smart enough about adding a week or 10 days, one way or the other, if it's going to mean that much to your business and people's jobs and income. And we'll work with that before we deliver something to the Governor's desk, in a bipartisan way that will get his signature with a smile.

And in a similar way, with the percentage of slow-release, you have some great scientific minds that have varying views on things. I think 30 sounds pretty right to me, especially with what I'm hearing from Rutgers, who come as even-handed as you could be in these circumstances. Might there be anybody who is smart enough to say, "What's the difference -- 25 percent." If there's something that could continue the industry's progress pretty close to that 30 number, that will bring you on board, I know as a prime sponsor, with all of my colleagues, we'll keep an open mind to that.

To the environmental advocates: You're all my heroes. The people who are up here will come and go, you continue to do it, year in and year out. I'm proud of you for the effort that you put together -- 10,000 different cards that have come from people from around the state -- the effort that you put forth today, the dignity that you conducted yourselves with, and the passion that you feel. We need you.

So I'm really happy that a year later, that we can come back here, release a strong bill -- number one in the nation -- keep an open mind to getting it to the point that we can all do it collectively, together. And with that, I proudly vote yes. (applause)

SENATOR SMITH: Brevity is the soul of wit.

I echo the comments of Chairman McKeon.

Motion is released by Senator Gordon.

SENATOR GORDON: Yes.

SENATOR SMITH: Seconded by Senator Smith.

Senator Beach left his vote in the affirmative to release, but he did indicate that he had concerns which he hoped would be addressed

between the time that the bill is moved on the floor of the Senate. And I think we all know what those concerns may be, but he did want to help the process along. But he has not committed himself to vote for the bill on the floor if it's not in absolutely better shape.

Would you take a roll call vote, Judy.

MS. HOROWITZ: On Senate Bill 141, with Senate Committee amendments, Senator Beck.

SENATOR BECK: If I could just take a moment.

I have some very-- I have some serious concerns in light of our testimony. This is-- Indeed, I am the co-prime on this legislation, and would not have signed on unless I felt very strongly that this Legislature has to take action to fix the very serious, critical issue of our waterways.

That said, I frankly am more concerned with the amendment than I am with the core bill. And I actually was kind of hoping that we were going to vote on them separately.

There are some serious things that are outstanding: the limited data we have about why we chose our date in November. I think we need to take a look at that and revisit that. I think we need to have one standard, both for consumers and professionals. I thought the comments about tying our effort to water quality improvement over time, and the fact that we may need to even look at stricter standards if we do this and we don't see improvement in water quality, we may need to revisit and actually do something stricter.

The issue of golf courses is enormous; it's not a small issue. We certainly have to tackle that. The penalties are something we have to address. The fact that our erosion control standards conflict with what

we're asking for in this bill, and the fact that new technologies aren't being considered.

And, of course, the slow-release, I have to say-- I don't even know if I'm opposed or in favor of it; I really feel like I need more information. I really need a lot more from everybody involved. As many questions as I asked, I still feel that I don't have clarity on that issue.

So I really do-- I know that the Senator and Assemblyman have invested not just a couple of meetings, but really two years worth of work in getting to this point. But I'm going to abstain today, because I feel that, really, if we're going to move amendments to this bill, I would prefer to move comprehensive amendments and not do some now, and do some on the floor -- but one set of amendments that address what I think are critical issues for our environmental folks who talked about the fact that it's great you're doing this, but if it doesn't improve the water, then I don't know what the point is. To our folks who said maybe having two standards is a little -- doesn't make a whole lot of sense, logically. So I'm going to abstain and look forward to supporting it on the floor with amendments that truly address what I think are outstanding issues.

I just want to congratulate Senator Bob Smith, because I know that he personally, along with Assemblyman McKeon -- they personally have invested hours and hours of their time to try to resolve some of these things, and I guess we just have a little bit more time to spend here. So I'm going to abstain.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: I'd like to take an opportunity to first of all to thank the Chairmen. I know that, over the course of the past year

or two, both Assemblyman McKeon and Senator Smith have brought the stakeholders together and spent hours and hours of time to try to resolve these issues. And there's no question, I think everybody up here takes our responsibilities as Legislators very seriously and we care about every group; we care about all New Jersey residents.

And this is one of those difficult bills where you have to balance all the interests. And our concern -- I think there are many questions that need to be answered. I think that this is by -- and in all due respect to the sponsors -- this bill is not a perfect bill. I have many questions, and I'm not one-- I'm always trying to help the small businessman. I'm concerned about that.

But I also think that time is of the essence, and that if we don't act, and if we don't move a bill forward, we're going to lose valuable time. Because I think we all want to try to save Barnegat Bay, it's a very valuable resource. And I'm not happy with the final result, but I also have trust in both sponsors, and both Chairmen, that we're going to continue the dialogue. Because there are a number of amendments that I would like to see, there are a number of questions I would like to see answered. But I also think that it's very important, so I am going to vote yes to release. (applause)

MS. HOROWITZ: Senator Beach has left a yes vote.

Senator Gordon.

SENATOR GORDON: Thank you. Let me add my thanks to the Chairs of this Joint Committee for their work on this bill. And let me also thank everyone who appeared before us today. It was extraordinarily helpful for us to get this kind of input.

All of us up here are in the business of striking a balance between competing interests, and that's what we do in democratic societies. And when it comes to environmental policy, it's usually a very tough balancing act between economic interests and the environment. And that is exactly what we have here today.

I'm reminded of the debates I heard when I first became interested in environment policy, which were about eliminating DDT and other pesticides from the marketplace. We were-- Our national symbol was on the endangered list because the eggs were too thin because of the DDT. That was deemed an emergency. We responded to that, and now all the eagles are back.

I do believe we're facing an emergency here. We're keenly sensitive to the economic concerns, but I do think we have to act, as we have in the past on comparable issues, so I'm going to vote yes. (applause)

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: It's my great pleasure to vote yes, and have the bill released from Committee. (applause)

I want to thank all the Senators and the Assemblymen who participated today, and all of you people who came today and let us know what your views were. Hopefully, at the end of the day, we're going to have an even better bill than we have now. It may be a pretty good bill, but there are some changes that are necessary.

Thanks for coming.

John, we need adjournment.

ASSEMBLYMAN McKEON: Bob, meeting adjourned.

Thank you -- you're the best.

SENATOR SMITH: Back at you.

(MEETING CONCLUDED)