

1 STATE OF NEW JERSEY CLEAN WATER COUNCIL
2
3 2004 PUBLIC HEARING
4
5
6 MEETING THE CHALLENGES OF STORMWATER MANAGEMENT
7 PART 1
8 PANEL DISCUSSION
9
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11 AT: The Holiday Inn - Monroe
12 390 Forsgate Drive
13 Jamesburg, New Jersey
14 DATE: Thursday, October 14, 2004
15 TIME: 9:16 A.M. TO 12:03 P.M.
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1 P A N E L M E M B E R S :

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3 PATRICK MATARAZZO,

4 Chairman of the Clean Water Council

5 DANIEL J. VAN ABS, PhD, PP/AICP, Moderator

6

7 R O U N D T A B L E D I S C U S S I O N M E M B E R S :

8

9 BRUCE KOSENSKY, CPWM, Public Works

10 TONY DiLODIVICO, P.E., Development

11 PETER MESSINA, P.E., Municipal Planning/Engineer

12 BRUCE FRIEDMAN, NJDEP

13 RAY ZABIHACH, P.P., Co-Planning

14 GEORGE HAWKINS, ESQ., Environment

15 FRANK SCARANTINO, P.E., Co-Engineer

16 MIKE MCGUINESS, Business Parks,

17 Executive Director, NJNAIOP

18 FRANK MINCH, SSCC

19 SAM CONARD, Agriculture

20 PAMELA S. GOODWIN, ESQ., Legal

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1 MR. MATARAZZO: Morning, I'm the
2 Chairman of the Clean Water Council. I'd like to
3 invite you to the public hearing. We've decided
4 to do something different to get information to
5 the State. Usually we deal with the technical
6 aspect of things. But when we're talking about
7 the stormwater, what I'm hearing around the state
8 is that the practical application and the
9 political ramifications of stormwater is
10 something that we need to be dealing with.

11 We really don't address that when
12 you read the rule. What the rule tells you is
13 fill out this form, compile this by this date,
14 thank you very much, I'll see you when the time
15 comes. We'll, it's a lot more difficult than
16 that and hopefully we'll find out about this.

17 Earlier this year I was invited to a
18 conference to participate in a round table and do
19 some role playing and that was implementing a
20 TMDL on a watershed level. And I got out to the
21 conference all prepared. I'm a wastewater
22 treatment plant operator. I run a wastewater
23 treatment plant during the day. As I walked into

24 the room to get my badge for the speaking permit,
25 the woman behind the desk hands me the badge. It

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1 says "Pat Matarazzo, Farmer."

2 "No, I'm not a farmer, I run a
3 wastewater treatment plant." She says "I know
4 that, but here you're a farmer."

5 So I had to assume the role of a
6 farmer in dealing with watershed. It was an
7 eye-opening experience. I came away with a new
8 understanding of how the farms interplayed with
9 this process. What I hope you get out of today's
10 hearing is just how things are all
11 interconnecting, how complex this is.

12 What I'd like to do is invite you to
13 be a fly on the wall at a meeting of Anywhere in
14 New Jersey, a town that is going to try to
15 implement their own wastewater management plan,
16 their own stormwater management plan, dealing
17 with C1 waters, a myriad of environmental edicts
18 coming out of Trenton all happening
19 simultaneously that are now on the municipal
20 level or the county level.

21 How do we do this? How do we meld
22 all these things together?

23 Well, we put together a panel. Dan
24 Van Abs from the New Jersey Water Supply
25 Authority is going to be our moderator. Dan will

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1 introduce the Panel. We'd like you to hold your
2 questions until after because we're going to have
3 a hearing when we're completed. Hopefully, what
4 we come out today with is a better understanding
5 on just how we're going to move forward with
6 this. So I hope you enjoy this morning and get
7 something out of it. Thank you very much.

8 Dan?

9 MODERATOR VAN ABS: I'd like to
10 welcome you all here.

11 Several sort of rules of the road.
12 We're going to be -- we're not doing a role
13 playing, so to say. I should mention that.
14 Everybody here is actually representing the
15 interest that they actually work with on a
16 regular basis. So they're dealing with this
17 issue from their own expertise. We are using a
18 fictitious town as sort of a template for our
19 discussions but we're not going to hold to it
20 rigorously. We really want to get at the issues
21 as the primary concern here as opposed to "Does

22 the town have ten miles of road or eleven miles
23 of road?" that's sort of irrelevant for our
24 purposes.

25 We have a series of questions that

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1 we'll be going through. The way we're going to
2 work it is that several of the Panel members will
3 address the questions as the direct respondents,
4 and then other members of the Panel will have a
5 chance to put in their two cents, respond to
6 issues that have come, that sort of thing.

7 I'm going to be directing all of my
8 comments and so on to the Panel until we're done.
9 So basically you're going to see my side or my
10 back, they're going to see my front, and that's
11 because I will be in direct with them.

12 As Pat mentioned, please do hold
13 onto your questions, write them down, whatever it
14 happens to be. When we get completely done with
15 the Panel exercise, then we're going to open it
16 up to questions first from the Clean Water
17 Council and then we'll hit 12 o'clock, we'll
18 close the public portion of this and move into
19 the formal public hearing. At which point, those
20 who have indicated an interest in submitting

21 testimony will be able to do so, and those who
22 now suddenly decide that you want to submit
23 testimony also can do so.

24 I would ask silent mode or off,
25 please. Silent mode or off so that we don't have

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1 any interruptions.

2 We will be taking a break, plus or
3 minus ten-thirtyish, 10:45, so the panelists have
4 a chance to get up and stretch and you have the
5 same chance.

6 And with that, I think we've gone
7 through all the preliminaries, except people
8 turning off their pagers.

9 I would mention my name is not John
10 Weingart. John Weingart was to be the
11 facilitator for this session. You might have
12 noticed in the papers that he has recently been
13 nominated to be the chairman of the New Highlands
14 Council. Therefore, he will be direct at dealing
15 direct and center -- you know, upfront and center
16 with the stormwater management issues. He felt
17 that it would be at least perceived as a conflict
18 of interest, if not an actual conflict of
19 interest for him to be in this role. And so John

20 asked to be excused from this and yours truly was
21 sitting in the center of the room and got
22 nominated. So we'll see how I do on all of this.

23 Anything else?

24 Okay, great.

25 Can everybody hear me in the room?

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1 All right, great.

2 I'd like to go around the table and
3 have everyone introduce themselves so that you
4 folks know the players. They all know each other
5 or have had a chance to chat on the phone.

6 But, Bruce, if you'll start us off.

7 ROUND TABLE DISCUSSION:

8 MR. FRIEDMAN: Good morning.

9 MODERATOR VAN ABS: Remember to
10 speak into the mike.

11 MR. FRIEDMAN: Okay.

12 I'm Bruce Friedman. I'm the
13 supervisor to the Municipal Stormwater Regulation
14 Program with the Department of Environmental
15 Protection. And we basically put together the
16 NJPDES Stormwater Rules and have been charged
17 with issuing the NJPDES Stormwater Permits to the
18 municipalities.

19 MR. ZABIHACH: Good morning, Ray
20 Zabihach, planning director for the Morris County
21 Planning Board, and hoping to spearhead a group
22 of county planners with DEP on how we're going to
23 be implementing stormwater rules as counties in
24 the coming years.

25 MR. McGUINNESS: Mike McGuinness,

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1 executive director of the New Jersey Chapter of
2 NAIOP, with stands for National Association of
3 Industrial and Office Properties. We represent
4 developers, owners, and investors of commercial
5 and industrial real estate properties throughout
6 the staff.

7 MS. GOODWIN: Pamela Goodwin. I'm a
8 partner in the firm Saul Ewing. We represent
9 private developers, corporations, and other
10 businesses located here in New Jersey, and I am
11 also the vice chair of the New Jersey Clean Water
12 Council.

13 MR. KOSENSKY: Bruce Kosensky, I'm
14 the director of Public Works for Branchburg
15 Township and I'm also the vice president of the
16 Public Works Association of New Jersey.

17 MR. SCARANTINO: Mike Scarantino.

18 I'm the director of engineering for Ocean County,
19 and also the secretary to the Executive Board for
20 the New Jersey Association of County Engineers.

21 MR. DiLODIVICO: Tony DiLodivico.
22 I'm vice president of Schorr DePalma Consulting
23 Engineers. I work with just about every
24 regulated entity dealing with stormwater. Today
25 I'm here to represent the development community.

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1 As a company, we deal with the private
2 development. We're members of the NIOC. We're
3 also members and mass response with the
4 New Jersey Business Association, and I'm here
5 today to represent the development interest.

6 MR. MESSINA: Good morning. My name
7 is Pete Messina. I'm the township engineer and
8 township planner for Bernards Township, Somerset
9 County. I'm also the past chairman and executive
10 board of the Tent (ph) House, a very small
11 management committee and representing the
12 municipality.

13 MR. HAWKINS: My name is George
14 Hawkins. I'm the director of the Stony
15 Brook-Millstone Watershed Association. I'm here
16 representing environmental groups.

17 MR. CONARD: Good morning, Sam
18 Conard, Somerset County farmer. I'm also on the
19 state committee for the Farm Service Agency and
20 the state technical committee for the NRCS.

21 MR. MINCH: I'm Frank Minch. I'm
22 with the New Jersey Department of Agriculture and
23 an erosion control specialist. And today my
24 focus is going to be on the State Soil
25 Conservation Committee and the Soil Conservation

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1 District.

2 MODERATOR VAN ABS: All right.

3 We thought we'd start out with a
4 relatively noncontroversial question. You all
5 have it in front of you.

6 What was your initial reaction when
7 you saw these regulations, both the NJPDES
8 regulations and the 7:8 stormwater management
9 rules? And did you initially feel they were
10 implementable and do you now?

11 I'm going to start out with folks on
12 the municipal side.

13 Pete, you're up first.

14 MR. MESSINA: Yeah. Obviously, it
15 was quite a shock and a little upsetting to see

16 the regs and terms of the workload envisioned on
17 a municipality and the financial cost of a
18 municipality. This is always balanced with -- I
19 mentioned before, I have an environmental
20 defense, so you want to do what's best for clean
21 water, but then you have to represent the
22 municipality in terms of what it really means.

23 So it obviously it was -- the
24 workload really seemed to be insurmountable.
25 However, what it means now, there has been a lot

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1 of policy questions answered, a lot of things
2 that were up in the air. DEP has cut back, done
3 a lot of work on ordinances for municipalities.
4 So a lot of the work effort that I thought would
5 be difficult to achieve has been relatively easy
6 to achieve. So the questions that we had
7 upfront, my initial reaction, we would have to
8 spend several million dollars on street sweepers
9 and everything else. Those questions have been
10 answered and we're down to that we don't have to
11 buy anything more.

12 So I feel a little bit better about
13 it now, and so the initial reaction was in error
14 basically.

15 MODERATOR VAN ABS: Bruce, you're in
16 Public Works, what do you think?

17 MR. KOSENSKY: Well, when I first
18 got my packet, the first thing that came to my
19 mind was 1,374 days until retirement. I hope I
20 make it.

21 Well, all kidding aside, after all
22 the planning and after all the engineering is
23 done, the Public Works people will have to go out
24 and implement the work. With staff already
25 having enough work to do, at this point, I really

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1 don't know how we're going to do it. We will fit
2 it in but it's a matter of time allocation and
3 what may get cut along the way to implement these
4 programs.

5 MODERATOR VAN ABS: Tony, you're
6 representing the development community, what was
7 the reaction that you had?

8 MR. DiLODIVICO: Well, I guess the
9 first reaction was just more regulation to slow
10 down and discourage new development. It was, I
11 guess, a little encouraging to see that the state
12 was finally moving forward with a program that
13 would address existing stormwater runoff and

14 stormwater runoff pollution problems. The
15 thought, however, was that it isn't enough, it
16 probably isn't enough. Do the towns have the
17 money to do this? Will this actually move
18 forward?

19 And interesting enough, there was
20 some delays and some time, which is a positive
21 thing, on getting the towns up and running and
22 getting the program going for the existing
23 controlling existing.

24 However, the new development and
25 regulations were effective immediately,

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1 especially for the home, the residential
2 builders. There was a lot of confusion in the
3 ranks. There's a lot of duplicate of reviews
4 which we'll talk about. And so once again it
5 just seemed like the onus was on new development
6 and making it hard for new development and not
7 making it as hard on the municipalities and
8 stuff.

9 MODERATOR VAN ABS: Mike, you are in
10 an interesting position because you represent
11 people who both build and own and manage
12 properties. What was your reaction from your

13 side of things?

14 MR. MCGUINNESS: Sure. Well, not too
15 dissimilar from what Tony said. Our initial
16 reaction was of great concern due to the
17 incremental costs and time delays that this would
18 impose on property owners, commercial and
19 industrial real estate owners. And also concern
20 that the areas that the state was targeting
21 development in did not necessarily have the
22 appropriate level of infrastructure to handle and
23 capacity to handle the new development in
24 compliance with these new standards.

25 MODERATOR VAN ABS: Frank --

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1 Mr. Scarantino.

2 We have two Franks up there. I've
3 made sure that we keep this in shape.

4 From the county perspective, you
5 have county facilities, county roads, all that
6 sort of stuff. How did it strike the county line
7 of things?

8 MR. SCARANTINO: Well, Dan, on the
9 one hand, having been involved with some of the
10 technical advisory committees, we knew what was
11 coming. We actually started to make some

12 administrative and procedural changes in advance
13 of the rule being adopted. However, what
14 surprises me is that none of our legislators and
15 none of our freeholders had any idea what was
16 coming down. No one anticipated the physical
17 cost or the organizational changes that would
18 need to be implemented in order to address some
19 of the municipal needs since the rule now
20 obligates the county to play a leadership role.
21 We were really not prepared for that aspect of
22 the regulations.

23 MODERATOR VAN ABS: I suggest
24 everybody brings the microphones about six inches
25 closer, except for Ray. I know you'll do fine.

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1 Ray, you're on the other side of the
2 town, you're dealing with planning. What was
3 your reaction.

4 MR. ZABIHACH: Well, I have to do a
5 little short story.

6 Back in 1999 --

7 MODERATOR VAN ABS: Very short.

8 MR. ZABIHACH: -- I was on a
9 planning committee for the New Jersey American
10 Water Resources Association, and we were planning

11 to do a fall conference. And we had heard that
12 EPA was going to do some interesting new stuff in
13 stormwater, so we had gotten a commitment from
14 EPA.

15 The rules from EPA were released in
16 December and that December a few days later we
17 had our conference in East Brunswick. And they
18 came down and they explained what the new EPA
19 rules were going to be. So we had that initial
20 response. And I can tell you, the audience was
21 slack-jawed and overwhelmed because they didn't
22 realize, like they were amazed. And because I
23 was talking this up, having heard it at county
24 planners, I got assigned to the outreach
25 committee that the state created at NJDEP on

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1 working on the rules, so I've been involved for
2 quite awhile.

3 So for me it was a long process from
4 1999, so I had gotten involved in it. And my
5 whole intention in being involved was trying to
6 make it implemental and I think it is. There are
7 some difficulties, but -- but it took a long
8 while to absorb all the nuances.

9 MODERATOR VAN ABS: Sam, from the

10 agricultural perspective, you folks come at this
11 from a very different view. What's your thoughts
12 on this?

13 MR. CONRAD: First looking at it,
14 total confusion. Right now, farmers from most
15 part of the New Jersey follow their soil
16 conservation plans which are set up by the NRCS.
17 And a lot of questions arose from whether some of
18 these new rules will come in conflict with rules
19 we already have NRCS which would leave us out of
20 the loop for getting federal funds. And a lot of
21 the technical stuff involved seems to leave a lot
22 of questions as far as interpretation, usually.
23 You talk to one person, they say you do it this
24 way, another says, "No, no, it means this." So
25 it's -- a lot of questions are coming about

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1 because of a whole situations.

2 MODERATOR VAN ABS: Frank Minch,
3 you're a fellow state agency representative, you
4 come at it from a different perspective as well.

5 MR. MINCH: Yes, Dan.

6 Being in a department, we've been
7 closely with DEP from the start of this. So we
8 were aware of what was happening from both

9 aspects of these rules.

10 There was a lot of concern that we
11 had, and we've had many, many meetings on to go
12 over some potential conflicts through our
13 implementation of the Soil Erosion and Sediment
14 Control Act. That act covers some aspects of
15 stormwater management, so there's been a lot of
16 discussion back and forth of trying to alleviate
17 some of the conflicts that are written into the
18 rule and how we're going to work that out.

19 At the same time, we also see a lot
20 of opportunity for the local soil conservation
21 districts to engage municipalities and counties
22 to try to help smooth out some of the issues that
23 they're facing having limited staff and limited
24 budget. I think there's implementability -- I
25 don't know if that's an actual word -- on this

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1 and it's just going to take some time to work it
2 out.

3 MODERATOR VAN ABS: It was not on
4 purpose that I left our two lawyers to last, but
5 I did.

6 George, from the environmental
7 community, what was your reaction when you saw

8 these rules.

9 MR. HAWKINS: Now, my most
10 significant reaction was to be very pleased, I
11 suspect is obvious. We feel very strongly that
12 water is a fundamental resource to the state as
13 well as economic well-being. And what the
14 stormwater rules have ushered in, granted in a
15 very large scale with a very complicated legal
16 structure as well as an engineering structure, is
17 a system that is using water as a precious
18 resource defining it that has that and to try to
19 maintain and preserve it throughout the
20 development and maintenance process.

21 And that's going to be important for
22 this state no matter whether you're concerned
23 about the economy or the ecology because water is
24 going to be the issue of the future. And a C
25 change was necessary to make sure that we

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1 achieved it, and I think these rules go in large
2 measure to achieve that goal.

3 So in the environmental community
4 we're very strongly supportive of these rules.
5 We certainly are mindful that they're expensive,
6 complicated, and well require a tremendous

7 effort. So I think there is a tremendous and
8 equal commitment by the environmental community
9 to try to help and make sure they're implemented
10 well.

11 We certainly don't minimize the
12 degree -- the efforts it's going to take to do
13 so, particularly over the longer haul when the
14 systems get in place, they need to be maintained
15 over time. But the notion of water being a
16 valuable resource that has to be maintained, both
17 stormwater for flooding as well as infiltration
18 for water supply, is of tremendous importance and
19 we're delighted by the rule.

20 MODERATOR VAN ABS: Pam, from your
21 perspective?

22 MS. GOODWIN: Well, I'm happy to
23 tell you that this is an area in which George and
24 I don't have a disagreement. I'm a lawyer who
25 represents corporations and real estate

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1 developers; and likewise, we feel that
2 preservation of the natural resources in water is
3 on our best business interests, as well as our
4 personal interests in terms of protecting the
5 state.

6 Having said that, realistically, it
7 appeared at first that there were no discernible
8 guidelines with respect to these particular
9 regulations about what was problematic. The
10 policy was clear, but how the policy was to be
11 implemented from our perspective was
12 incomprehensible.

13 To give you some examples, the
14 regulated community was confused at first as to
15 how best management practices were going to be
16 implemented. The design standards relating to
17 groundwater discharge and how one was to meet
18 them was unclear. Real estate developers and
19 businesses were concerned that in order to
20 satisfy the rules, they needed to consume much
21 more property than previously they had had to do.

22 In the case of business, of course,
23 this means dollars, and candidly it made
24 New Jersey appear less attractive in surrounding
25 states for purposes of acquisition.

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1 Having said that, I think now its
2 apt to settle quite a bit. There's a growing
3 understanding among the regulated community as to
4 how to satisfy the regulations, and it's an

5 evolution. I think we're still grappling with
6 how it's all going to work, but I think we're
7 committed to making it work, and we see the
8 progress has been made and that the regulations
9 are beginning to come into focus.

10 MODERATOR VAN ABS: Initially, I
11 wasn't go to ask Bruce from DEP to respond to
12 this question, but he said he was interested in
13 responding to the question.

14 So, Bruce, go for it.

15 MR. FRIEDMAN: Thanks, Dan.

16 This is an unusual question for me
17 to answer because obviously I've been involved
18 since almost the very beginning with writing the
19 NJPDES stormwater rules and working with people
20 in our Watershed Management Division on this
21 Municipal Stormwater Management Rule 7:8.

22 And this was a difficult task. I'm
23 not going to lie. I've been with the Department
24 17 years. This was the hardest thing that we've
25 worked on. And when you work that closely with

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1 writing a set of rules, you are almost a little
2 too close. You don't necessarily see it from
3 other people's perspectives, we tried to make

4 this implementable from the very beginning. We
5 were very cognizant of the difficulties in
6 implementing this rule and tries to make it as
7 painless as possible.

8 And I'm glad to see some of the
9 feedback because I've seen a lot of feedback from
10 the very beginning with the public hearings to
11 more now going out and meeting with
12 municipalities. We have a staff assigned to work
13 with municipalities helping them implement these
14 rules.

15 The feedback I'm getting is it's not
16 so bad. It's a good cause. I don't think
17 there's anyone here that would argue or anyone in
18 the state who wouldn't argue that clean water is
19 in everybody's interest, so the cause is there.
20 And we try to lay out the program in a way that
21 it is implementable, enforceable and provide
22 municipalities with the tools that they're going
23 to need to successful in implementing this
24 program. And we've provided them -- I think
25 somebody mentioned ordinances that we provided.

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1 I think we've tried to provide those
2 tools in a format that they can use to help

3 municipalities put this together. It is going to
4 be difficult, and I think that there are going
5 bumps along the way and challenges we're all
6 going to face. But the Department has been
7 committed through grants and through staffing to
8 help municipalities along the way.

9 MODERATOR VAN ABS: True confession
10 time, I used to be with DEP. And Pam, I don't
11 think the dust ever settles. That was the
12 ongoing joke at the DEP. We invented more dust
13 as we went along. So I hope you're right, the
14 dust is truly settling.

15 When it came time to start moving
16 forward on these regulations, some of you
17 confronted some significant need for change,
18 okay, on how you did things.

19 What parts of these rules requires
20 the biggest change in how you approach stormwater
21 management for your interest group or your
22 jurisdiction, and how long do you think it's
23 going to really take before those kinds of
24 changes fully integrated into your operations or
25 your constituencies operations?

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1 And Frank Scarantino, let's start

2 with you on the county level.

3 MR. SCARANTINO: Well, I'm happy to
4 say that in large part Ocean County, and I think
5 all of the counties, somewhat anticipated the
6 rules and were in step with the spirit of the
7 rules, so there are a lot of changes that are
8 going to need to be made. There is a staffing up
9 that is required to address the new regulations.
10 But there has been -- there is one aspect of the
11 new rule that has been problematic for us.

12 There is now a reluctance to
13 commingle stormwater runoff. And at the county
14 level that's something that happens back and
15 forth between private sites, municipal streets,
16 and county streets. And now with the obligation
17 to maintain the various systems and the liability
18 for illegal discharges, there's a segregation of
19 waters. A least if you -- without the effort to
20 pretreat for water quality, the county will no
21 longer allow a discharge from a private site into
22 its system, nor will we allow our road
23 improvement to discharge into a private system.

24 And that has been a problem, that's
25 a new approach in our plan and review as a

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1 planning board, and it has to some extent started
2 to create a redundancy of water quality treatment
3 facilities. And I think as we move along that's
4 going to need to be addressed in the rule somehow
5 to get around the liability issues that result
6 from waters that commingle.

7 MODERATOR VAN ABS: From the
8 municipal perspective, Pete, how do the
9 municipalities respond to that plan?

10 MR. MESSINA: Yeah, it's one of the
11 biggest changes that I'm seeing is that
12 fundamental mentality of the civil engineer
13 preparing plans and myself, my staff preparing
14 plans.

15 In engineering college, you learn
16 that the biggest threat to stormwater on
17 New Jersey is flooding, and therefore, you want
18 to get the water as fast as possible to the
19 Atlantic Ocean. So you know when you design
20 pipes and concrete swales you get the water off
21 your site. That's 180 degrees in the other
22 direction now, we want to keep the water on the
23 site. You want to filter it before it goes into
24 the stream. You want to recharge it so it helps
25 our aquifers and our base flow of the stream, so

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1 it's a total different change.

2 So I'm getting a lot of questions
3 from engineers submitting plans to me in planning
4 board applications, you know, "What do you want,
5 and how do I do it?" So there's a big
6 fundamental change in the whole philosophy of
7 stormwater management.

8 It's achievable. The BMPs are not
9 rocket science. Grass swales and large dry
10 wells, bioengineer detention basins are not no
11 earth shattering. They can be done, they have
12 been done, and their pretty immediate. When the
13 rule came out, we're seeing several plans that
14 have already been approved by the planning board
15 and very implementable. So I don't see -- the
16 big change picks up the jump of once you're there
17 is not a problem.

18 MODERATOR VAN ABS: Ray?

19 MR. ZABIHACH: What I would say what
20 I notice is the biggest change is the acceptance
21 of accountability. Up to this point, whether it
22 was at the county level or the municipal level,
23 we collected the stormwater and we just disposed
24 of it. We didn't say that this was our water, we
25 felt that it belonged to everybody. Well,

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1 because the new rules now say you are responsible
2 for that water and you have to take certain
3 actions, and I think that was a major step of
4 accountability.

5 The other aspect I'll talk about is
6 from a planning perspective. Back in 1981, the
7 legislature enhanced or created a stormwater
8 management rule for municipalities. It did not
9 do the same for counties. It gave counties the
10 role to review stormwater plans and ordinances,
11 but didn't say you have to do certain things.

12 So since the beginning of our
13 enabling legislation, the county does drainage
14 activities. Our reviews are drainage oriented.
15 With the new stormwater management rules and with
16 the permit requirements, that role for
17 municipalities has been enhanced. The county's
18 role, again, was not enhanced. We have to do the
19 reviews process as part of the 81 requirements,
20 that's part of the MLUL. But the permits did not
21 give us any new additional stormwater activities,
22 so we're somewhat out of sync.

23 We at the counties need to have new
24 legislation, although not regulation, but new
25 legislation to put us in line with what

1 municipalities then might have to do, and that's
2 a responsibility I think that will result from
3 this process. Ultimately, we should be in sync
4 because we're the regional coordinators. So our
5 drainage activities should really be stormwater
6 activities, and that's the biggest change.

7 MODERATOR VAN ABS: Sam, the
8 agricultural folks are in an interesting position
9 because, of course, neither one of these
10 regulations directly regulates you, but there's a
11 sort of a relationship to legislation that just
12 got passed recently, the Highlands Act, which for
13 the first time really has a regulatory impact on
14 agriculture based on impervious coverage.

15 When you put all of this together,
16 what sort of changes is that going to require for
17 the agricultural community?

18 MR. CONRAD: Well, it effects all
19 farmers mostly because most of us are expanding,
20 we're building new barns. It arises more
21 questions whether these barns or are horse riding
22 facilities, per se, would come under these rules
23 and jurisdictions. The biggest problem in the
24 farm community right now is just finding the
25 expertise in the engineering community to design

1 these systems. And we need a go-to guy, per se,
2 as to who can guide us through these regulations.

3 MODERATOR VAN ABS: Tony, had his
4 hand up.

5 Let me open it up to the rest of the
6 Panel.

7 Who wants to take a shot at this
8 question as well?

9 George, you want to go first?

10 MR. HAWKINS: My reaction, I think
11 Peter has really hit on probably the single
12 biggest feature to the rules, maybe, is the
13 notion that for a long time stormwater
14 management, we've seen it all over the state, you
15 see your basin, detention basin, the concrete
16 channel, and whether you're an environmental
17 group on a planning board or a developer, you
18 essentially knew what that was, knew how to
19 review it and what to do, and it was relatively
20 straight forward.

21 Now what we transformed to, which
22 I'm very happy about in an ecological sense, and
23 I think because I said I think it's best for the
24 state on a whole bunch of fronts, is all sorts of
25 much more intricate planning. Each site design

1 will now be modified based on ecologic conditions
2 of the site, which is great on an environmental
3 basis, but that requires more personal view of
4 the site and involvement in the process.

5 Then once these swales and
6 infiltration efforts have been built, years down
7 the line there's going to be more maintenance
8 required to make sure that these are working
9 properly much more so than those standard
10 detention basins with a concrete channel, and you
11 know what, clean relatively easily.

12 I think for an environmental
13 group -- and I might mention that that fair from
14 N Jackets (ph) out in the audience, because they
15 did a lot of work on the stormwater rules, and
16 this will effect environmental commissions, but
17 for an organization like mine, we certainly are
18 facing that to do our job now is going to be more
19 involvement earlier in the process to see how the
20 site design is going because that's where the
21 critical questions are going to be, and that
22 involves much more participation than sometimes
23 you would get from a citizens' group.

24 And the second question is, Are

25 organizations like mine going to need to develop

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1 volunteer monitoring programs like we have always
2 had for stream water quality protection? Should
3 we help with the monitoring of all these new
4 systems in place to aid the counties and the
5 towns, as well as the homeowners and other
6 developers to know whether the systems are
7 working?

8 I think that's going to be a
9 monumental task that we may need to create a
10 voluntary effort for citizens to be engaged just
11 like we are on some of the other issues. This is
12 a new one that's got to be on our radar screen.
13 It's going to be a challenge for our groups. We
14 want these to work but we're going to have to
15 participate to see and make sure that happens.

16 MODERATOR VAN ABS: Other thoughts
17 on this question?

18 Tony.

19 MR. DiLODIVICO: From the
20 development community, of course, the change is
21 how now do we design development projects to be
22 in conformance with the new rules. One
23 fundamental change that happened with these rules

24 was the requirement to recharge and the
25 requirement to have to keep swales, open

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1 channels, and historically that was prohibited by
2 certain regulation or discouraged. So it wasn't
3 that the development community didn't want to do
4 this, the development wants to follow the
5 rule and get the project in and out, so they
6 would do what the rule said. A new rule comes
7 out, we analyze what needs to be done and we do
8 it.

9 So the fundamental change was just
10 we're looking at it, now we're going to have to
11 look at recharge, keep the water on the site, not
12 put it in retention basins, not a problem. The
13 problem we get into is, How is that implemented?
14 Where do we go? How do I get this through the
15 system? How do I know I'm doing it properly?

16 MODERATOR VAN ABS: Others?

17 Frank?

18 MR. MINCH: Yeah, just a follow-up
19 to add onto what Tony has talked about.

20 I think from district
21 responsibilities, the soil districts, there also
22 is a greater effort to look at the

23 pre-development site condition and really take a
24 hard look at that from an engineering standpoint
25 where we may not have looked at it as closely as

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1 we have in the past.

2 From an agricultural standpoint, the
3 Department is working closely with DEP, with Farm
4 Bureau and RCS to develop the seven guidelines
5 and criteria to address Sam's concerns as far as
6 who's going to provide them some engineering
7 guidance. So we're working towards it, it just
8 takes some time to get it established.

9 MODERATOR VAN ABS: Let's move on to
10 a sort of a related question. One the things
11 that was brought up in that question was
12 interlinkages and interrelationship. And one of
13 the things a number of people have commented on
14 is that from an institutional perspective this
15 has gotten more complex. So that's what this
16 question gets at is, What aspects of stormwater
17 management are now requiring the greatest
18 interaction either other players, either people
19 that you did interact with but now suddenly it's
20 changed radically or new players you never had to
21 really deal with before that now you do?

22 What sort of opportunities are out
23 there for cooperative approaches with these other
24 players and where is the likelihood for the
25 greatest amount of conflict among these?

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1 And so to start off on that one we
2 have Bruce.

3 MR. KOSENSKY: Thank you. From a
4 Public Works perspective, the initial setup of
5 the plan once we received it, we had involved
6 everyone from administration for their guidance
7 as far as the ordinances go, to finances, "How
8 are we going to fund the project?" Our
9 management information systems, we had to involve
10 them because the GIS data, we have to get this
11 data somehow; engineering, providing the guidance
12 as far as the engineering department, planning.

13 And then finally Public works
14 because we're the people that have to carry out
15 all these plans. We're the ones that are going
16 to be going out that are going to be cleaning the
17 basements, sweeping the streets, managing the
18 fuel facilities, management facilities. All of
19 these things are an afterthought of the whole
20 plan. Once the plan is in place, some people's

21 task get dropped by the side and are inactive.
22 We in Public Works will have to carry out and
23 implement this whole plan now until eternity.
24 And the funding part of that I think is going to
25 be a real issue for us.

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1 With that being said, I think if you
2 can work with your county and turn around to them
3 and ask them maybe the information brochures can
4 be mailed out in your County Recycling Program,
5 which we're doing right now. Maybe even markers
6 can be co-op bid, so we can have a vendor saying
7 for the next three years you can buy as many
8 markers each year to defray that cost so you
9 don't have to spend all that money upfront for
10 your markers. And over a period of three years
11 or four years the vendors will -- he'll supply
12 those markers and every marker will be the same.
13 So you standardize the county marker.

14 Street sweeping disposals, very
15 expensive. If we can get co-op purchase where we
16 have twenty towns in one county doing it, I'm
17 sure the prices can be less. Or maybe we can do
18 something with the county where we can develop
19 our own facility because that is a big part of

20 our cost that we're looking at right now is a
21 disposal of what we pick up, what we take from
22 the grates, what we get from the outfalls. These
23 are all things that we have to consider.

24 I think the conflicts arise when
25 years pass, people don't -- you don't want to

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1 have the interaction with everybody. You want to
2 solve your problems yourself. I think we --
3 we've turned around and went to the county. We
4 go to neighboring towns. You have to take the
5 moat down, build bridges and work together. It's
6 the key.

7 MODERATOR VAN ABS: But when you
8 build that bridge stay out of the wetlands.

9 Since Bruce was picking on the
10 county, I'm going to go to the county next.

11 Frank, what do you think?

12 MR. SCARANTINO: Well, I think it's
13 going accelerate or intensify our relationship
14 with local municipal utility authorities that
15 have regional control of watersheds. And for the
16 southern half of the state it's going to increase
17 our interaction with the Pinelands to a great
18 extent. It's going to cause us to work more

19 closely with municipalities because of the
20 mandate that the county be the reviewer of the
21 new stormwater management compliance.

22 It's also going to create an issue
23 with the fact that we have a majority of the
24 towns that aren't going to be able to address the
25 new regulations in a timely fashion. They're not

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1 going to be able to fund initiatives. As an
2 example, there's one of our municipalities where
3 a six cent tax increase would only raise \$10,000.
4 There's no way without some regional approach
5 probably spearheaded by the county that these
6 small towns are going to be able to address the
7 new permit requirements.

8 And there's no -- there hasn't to
9 date been enough effort out there to communicate
10 prior to the rule implementation to these towns
11 as to what was coming. And as a result, it's --
12 right now I suspect that there's going to be a
13 need for more time for that to happen. Yet the
14 opportunities are there. I think regionalization
15 will ultimately be the approach, and I'm sure
16 that the counties will step up to the task.

17 Where's the point of conflict?

18 Funding is going to be a point of conflict.

19 MODERATOR VAN ABS: Okay, and we're
20 going to get to both the institutional and
21 financial issues a little bit later today.

22 Tony, you folks have to deal with
23 all of these people that have to deal with each
24 other. What do you think?

25 MR. DiLODIVICO: And I guess that's

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1 the biggest problem we're facing now is the way
2 the rule was written and then implemented is that
3 immediately the development community,
4 particularly the residential development
5 community, had to deal with the new rules and go
6 to various layers of review to get the same
7 review done. It's one set of rules, but now the
8 municipal engineer reviews it, the state reviews
9 it, the DRCC reviews it, the Pinelands reviews
10 it. We have a multiple layer of review for the
11 same rule. And we need either the cooperation of
12 everyone to review it under the same guidelines
13 or we need one process where you can just go to
14 one review entities as just one rule.

15 There's lots of conflicts that exist
16 because of the way the rule is written. There's

17 a lot of subjective requirements. There's
18 requirements to utilize nonstructural techniques.
19 Just the whole idea of looking at your site,
20 figuring out how to best manage the stormwater on
21 your site, requires some thought and some give
22 and take. And if you've got to give and take
23 with a number of different review agencies, it's
24 a difficult process especially if there's not
25 cooperation.

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1 There's requirements for special
2 water resource protection areas, for Category 1
3 waters. The state is continuing to make new
4 Category 1 waters. So in the development
5 community, as we look at a site that is in the
6 Category 1 drainage area, we need to get the
7 review at the local level on a residential
8 project to the Residential Site Improvement
9 Standards.

10 We also need to go to DEP for the
11 review under the Special Water Resource
12 Protection Area.

13 We also need to go to the Soil
14 District for the discharge of the stormwater. We
15 have big, big conflict there right now that needs

16 to be worked on on discharging away from the
17 stream while protecting the stability of the
18 discharge into the stream.

19 We have the conflict of if a water
20 right now is a drinking water supply source, if
21 the stream is feeding a reservoir, currently it
22 might not be Category 1, but that seems to be the
23 type of water that will become Category 1. So as
24 you plan your development, do you have to
25 incorporate the new Category 1 Special Water

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1 Resource Protection Area in your design even
2 though it's not Category 1 yet because it may be
3 Category 1?

4 That brings conflicts because there
5 are some design criteria we won't get into that
6 if you're not Category 1, you have certain
7 distances that you're allowed to sheet flow water
8 through which are contrary to the Special Water
9 Resource Protection Area requirement, and so
10 there's lots of these conflicts.

11 The development community would like
12 to see either complete cooperation, which I'm not
13 so sure that could ever happen, where you just go
14 to one place and it's one rule and you work these

15 issues out.

16 MODERATOR VAN ABS: And one thing I
17 should note toward the audience is we've all
18 agreed that we're not going to be talking about
19 specific BMPs because there are all sorts of
20 other programs to talk about than specific BMPs.

21 So I'd like to open it up for those
22 who are also on the Panel.

23 Go Ray first and then Bruce.

24 MR. ZABIHACH: Well, I'd really see
25 that these rules -- since there are two rules,

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1 stormwater management rules and the NJPDES permit
2 rule, the permit rule I think is the one that
3 rules the process and mandates a lot of
4 activities. But I think from my perspective and
5 having been in the planning field for 35 years is
6 that regulation tends to be always directed at
7 new development. And a lot of the comments we
8 heard is a response to what new development has
9 to face.

10 What I am happy about these new
11 rules is that they also address existing
12 development. And I think that's a monumental
13 change and I will perceive it. I've advocating

14 that we really have to address existing problem.
15 The rivers that flood flood because of existing
16 development. The pollution that's in our water
17 body is because of existing development, not the
18 new stuff. So we're regulating the new, but we
19 also have to start going back and mitigating what
20 past practices we didn't do correctly.

21 So I feel that these rules are that
22 step because now the rules are requiring
23 municipalities and the counties to take certain
24 BMP steps that they did on their own but now it's
25 mandate. And so that's like the first step on

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1 that process, so we're going back and mitigating.
2 So I think that's a constituent in terms of
3 existing development, be it private citizens,
4 companies, whatever, they'll eventually get into
5 this stormwater activity, so that's what's coming
6 up.

7 MODERATOR VAN ABS: Bruce?

8 MR. FRIEDMAN: I just wanted to go
9 back to what Bruce had said originally in his
10 opening remarks because I believe he was very
11 accurate in pointing out some of the things that
12 are needed for this program to succeed. And

13 that's on the most basic level with the municipal
14 dynamic or the interaction of the people within
15 the municipalities.

16 This stormwater program, Stormwater
17 Pollution Prevention Plan, everything we're
18 requiring municipalities to do can't be done by
19 one person. And so the state -- if the
20 municipality throws the responsibility on the
21 Public Works, director of Public Works, or simply
22 on the municipal engineer, it truly needs to be a
23 team effort because these things deal across the
24 board on so many different levels, so many
25 different topics, from the Public Works

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1 perspective, the sweeping, to passing of
2 ordinances where your municipal engineer and
3 lawyer needs to be involved with reviewing new
4 development as it comes in with the planning
5 board.

6 Really, the interaction on the most
7 fundamental level needs to be between the proper
8 players within the municipality for this to work.
9 And I hope push it and we keep pushing it, I hope
10 the municipalities hear that and understand it
11 and make it part of their plan.

12 On the county level, I think -- and
13 it's something that we've been trying to do is
14 foster the interaction between the municipalities
15 and the county review agencies. The municipal
16 stormwater management plan ordinances, the county
17 needs to be involved in that process from day
18 one. It can't be something the municipality does
19 in a box by themselves and then at the last
20 minute throws it to the county for review. That
21 would be the wrong way going about it. The
22 county needs to be involved, needs to be a
23 partner in developing the plan so when it comes
24 time to review it there are no surprises.

25 So I think that's two areas: There

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1 needs to be interaction within the municipality
2 and there needs to be better county municipal
3 interaction which is something we're trying to
4 foster.

5 MODERATOR VAN ABS: Have time for
6 one more shot on this and we're moving on.

7 George?

8 MR. HAWKINS: The question is what
9 stormwater interaction will occur now than not
10 before and where might there be opportunities and

11 conflicts. I think the opportunities are on both
12 sides of the scale. I already mentioned the
13 first. I think given that the change to the rule
14 where new development has to look at the
15 ecological characteristics are so much subjective
16 analysis to know when in determining that
17 question.

18 Now the opportunity for discussion
19 at the site plan level of how a site is going to
20 look before it's developed, there's tremendous
21 opportunity to do that together. And a vision
22 for a good outcome of this is that Tony and I
23 would stand next to each other shoulder to
24 shoulder having come to the same conclusion as to
25 what the site outcome could be ahead of time and

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1 go forward together saying we both agree this is
2 how the development would look because we would
3 both at the same ecological character and see if
4 we could conceivably come up with the same
5 outcome.

6 So that would be a good interaction
7 to have earlier on which is possible on this rule
8 which is why I mention Ella because I think the
9 environmental commissions are going to be very

10 involved on that question.

11 I think on the other scale there's
12 going to be interactions within municipalities
13 within a regional context that, obviously, if
14 we're worried about stormwater along a river,
15 what each individual town does separately
16 matters, but it certainly matters what all of the
17 towns along that river do to manage the
18 consequence in total. And great opportunity
19 might arise if towns band together and do
20 regional stormwater planning so that as a group
21 they're going to be stronger than anyone alone.

22 And you can even imagine in the
23 future, there's been conversations of transfer
24 development rights, but if you were between towns
25 that were transferring stormwater potential back

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1 and forth, because some areas would be able to do
2 more, others would do less. That's the whole
3 notion of looking at the ecology. I think
4 there's tremendous opportunity there, although
5 interactions that are not typical.

6 I think the conflict that could
7 arise is when we run into capacity constraints.
8 What do you do when you find that there are just

9 limitations to how much infiltration you can get?
10 There are limitations to how much more stormwater
11 can be generated because of the physical features
12 that exist or the existing stormwater issues with
13 past development. And those are conflicts that
14 just have to do with how much development we
15 already have and the capacity of the state to
16 sustain more in certain places. And I think
17 that's coming no matter what, but this rule will
18 sort of highlight any of those questions.

19 MODERATOR VAN ABS: One of the
20 things that's come up several times is the whole
21 issue of "institutional capacity." Given a look
22 at the existing lay of the land in New Jersey,
23 who's out there, who can do what, what their
24 authorities are, what their funding is, is it
25 reasonable to assume that our existing

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1 institutions with their existing finance capacity
2 can actually get this job done? And if not, is
3 something new needed?

4 So we're going to start out with Pam
5 on this one.

6 MS. GOODWIN: Well, it's interesting
7 because, Dan, I'm very anxious to hear what my

8 colleagues from the municipal and county side
9 have to say on this since candidly it's going to
10 land in their lap before it lands in mine. But
11 having said that, I think that the planning
12 requirements do call for a very high level of
13 scientific and engineering expertise. And the
14 question becomes, how is local government going
15 to pay to obtain the services of the specialized
16 experts that they're going to need, and we
17 confronted that, I think, early in this
18 conversation, at least confronted the question.
19 I don't know that we have an answer.

20 But one suggestion I have would be
21 to encourage the sharing of information and
22 resources. And I think that was something that
23 George just hit upon. It's really important.
24 Collaboration is the only way in which this is
25 ultimately going to work, and I think that the

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1 regulations contemplate that.

2 One thing that I might suggest is
3 that coalitions could be formed among communities
4 in the same watershed and perhaps there may be
5 ways in which those coalitions can figure out how
6 to save money. I think George's suggestion was a

7 good one in that regard. I suggest that he may
8 be a little bit ahead of the rest of us in his
9 ambitions. But I think the ambitions are good
10 and the suggestions as well.

11 MODERATOR VAN ABS: Ray, what do you
12 think?

13 MR. ZABIHACH: The big onus for the
14 municipalities and the counties is compliance
15 with the permit right now. And I think normally,
16 as institutions begin to realize what it's going
17 to cost us and we're now going through a
18 budgetary process of anticipating what we have to
19 do for next year, and the BMPs, all the
20 requirements of the permit now requires all local
21 government to do is one thing.

22 The other major financial burden
23 that people face will be the stormwater
24 management plan doing it properly and then
25 implementing -- you know, then doing the

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1 ordinances, which is another I think hit.

2 We don't want people just to do the
3 boiler plate. We really want people to do a
4 legitimate job, which means they're going to have
5 to spend quite a bit of money to make sure that

6 the rules fit the process. That means tapping
7 the taxes. I mean, if that's the only way around
8 it. I mean, there are some funding sources
9 available but they're not that universally
10 available to everybody. And for municipalities
11 to start tapping into that, it takes too long as
12 an institution to get rolling to get these
13 funding sources. So right now we're in the
14 situation where, be it municipalities or
15 counties, it's what you collect in terms of
16 taxes.

17 There is an opportunity -- and I'll
18 talk to you about it a little bit later that we
19 are going to be hoping to introduce to the
20 legislature the concept of stormwater utilities
21 of the state of New Jersey. And we're working on
22 the feasibility of getting it implemented with
23 our existing rules. And that would be an option,
24 but I'll talk about that later.

25 The other aspect is, yes, it would

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1 be great to do regional activities, regional
2 planning. And, again, that takes a lot of
3 financial effort. Right now in order to do what
4 is an option in the rules of Regional Stormwater

5 Management Plan, it tends to be very expensive.
6 We're talking about hundreds of thousands of
7 dollars.

8 And hopefully that's the direction
9 we'll ultimately go, but we really do need a
10 considerable pot of money to be able to look at
11 the problems in a cumulative perspective.
12 Because right now, the rules are we're going to
13 have 566 individual stormwater management plans
14 totally uncoordinated. And the way to coordinate
15 them is to do regional stormwater planning and
16 that's going to take a lot of money.

17 MODERATOR VAN ABS: Mr. Kosensky?

18 MR. KOSENSKY: From a Public Works
19 perspective, we're faced next year -- we're only
20 at 2.5 percent cap on our operating budget.
21 Based on the rising cost with everything else,
22 it's going to be extremely hard to begin the
23 program much less fund it for the seventh (ph)
24 time.

25 I, too, agree that utility may be

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1 the way to go where everyone can pay into it. I
2 really wouldn't know the amount, but someone --
3 that's the only way that I can see from my

4 municipal level of government. Any other way,
5 taxes, it won't work. We're right now -- like I
6 said, we're facing 2.5 percent cap which is very
7 strong.

8 We all would be tickled if we got
9 the same budget we got last year, but with the
10 rising cost of everything it's going to be
11 impossible to do so. We'll struggle along, but
12 there's going to be programs and things that
13 we're going to have to stop doing to implement
14 the new regulations and the work that's involved.

15 MODERATOR VAN ABS: Mr. Friedman?

16 MR. FRIEDMAN: We realized from the
17 beginning that money would be an issue, was a big
18 issue with public comment received on the rules.
19 We knew it would be difficult for municipalities.
20 They're facing the same financial problems that
21 the Department faces.

22 The Governor and the Commissioner
23 listened to the problem and provided \$6 million
24 in grant money for municipalities to help
25 implement the program. Six million dollars

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1 between 566 municipalities isn't a tremendous
2 amount of money but it is a start. In this

3 year's budget another \$6 million in grant money
4 was provided to help implement the program, and
5 we're putting together the grant packages --
6 actually, we're going to amend the existing grant
7 packages to give municipalities additional money
8 to help implement some other measures of the
9 permit.

10 In addition, we're trying to make
11 some money available through the state revolving
12 funds in grant loan packages, 75 percent loan,
13 25 percent grants for capital improvements that
14 will be available to municipalities for
15 stormwater projects, and the loan would be below
16 prime interest rate. So we're trying to get
17 money out there to help municipalities implement
18 the permit requirements.

19 I think that the permit that we
20 currently have out there while is very aggressive
21 and ask municipalities to do a lot, I think it
22 only addresses the tip of the iceberg.

23 Look, Ray had mentioned about
24 existing development, the permit does touch on
25 existing development, but it leaves a lot of the

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1 problems associated with the existing development

2 unaddressed. Things like flooding, which has
3 been a big problem down in South Jersey lately
4 and continues to be a problem as we reach
5 capacity of our existing stormwater facilities.
6 And that next step of addressing the bigger
7 stormwater problem, I think the stormwater
8 utilities, which I also support in working with
9 Ray and Dan in the subcommittee, is the future
10 for stormwater to see that these bigger issues,
11 these bigger problems have the monies available
12 to address them.

13 MODERATOR VAN ABS: Who else would
14 like to take a shot at this question, funding and
15 institutions? Good enough, "Go do it"? I didn't
16 want to change -- I didn't want to use the
17 slogan.

18 MR. DiLODIVICO: I guess from the
19 development communities' end, I mean, that they
20 feel that they fund everything. Nothing happens
21 until the development comes in to then solve
22 existing problems.

23 One of the most discouraging things
24 that I see that the development community has, is
25 they build new facilities and in some instances,

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1 they even put up money for future operation and
2 maintenance, and then the facilities are not
3 properly taken care of, they're not properly
4 operated or maintained. And if you're a builder
5 and you build something, you have some pride and
6 you don't like to see that happen. So they
7 certainly want some financial institution to
8 operate and maintain these type of facilities,
9 yes.

10 MODERATOR VAN ABS: Any others?

11 Okay, we'll move onto what I think
12 will be our final question before we go onto a
13 break; and that is, you folks all come from
14 constituencies and you're here essentially
15 representing those constituencies.

16 Do your constituencies have the
17 faintest idea of what they're heading into?

18 Do they really know what's coming
19 down the road?

20 Do they really understand the
21 implications of this?

22 Do they have a realistic notion of
23 what it's going to take to protect or restore
24 water resources through stormwater management
25 programs?

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1 And if not, what's needed to achieve
2 those realistic expectations to bring people's
3 knowledge level up to where it needs to be, so
4 that those of you who do it on a day-to-day basis
5 are at least dealing with a knowledgeable group of
6 people?

7 This minor little question we're
8 going to pose first to Sam for the agricultural
9 side.

10 MR. CONRAD: To begin with, we're
11 going to need a broad-based education in the
12 entire process. Farmers, as you know, are very
13 independent. Unless this information is put
14 through the right channels farmers aren't going
15 to hear about it. Right now there's a lot of
16 confusion as to how these rules will be
17 implemented, who's going to police them; how this
18 affects the Highlands region, any farmers up
19 there; how it affects preserved farmland.

20 Do these rules come under the State
21 Agricultural Development Board or the County
22 Agricultural Development Board?

23 All these questions have to be
24 answered. And as far as getting these answers
25 out to the farmers, it's going to take a lot of

1 publication.

2 MODERATOR VAN ABS: Are your
3 educators educated, those who already deal with
4 the farm community?

5 MR. CONARD: Excuse me?

6 MODERATOR VAN ABS: Are the people
7 who already do the outreach to the farm community
8 educated enough to educate the farmers on this
9 topic?

10 MR. CONRAD: Good question because a
11 lot of expertise is needed on how to implement
12 this with farm structures because farm structures
13 are usually very different from normal commercial
14 structures. Where we have the engineering
15 expertise at this point, I really don't know.

16 MODERATOR VAN ABS: George, I'm
17 going to go to you next.

18 MR. HAWKINS: It's interesting from
19 an environmental or watershed point of view. I
20 also saw Ella come in from the Passaic River
21 Coalition. The idea of doing a plan for a town
22 locating ecological resources for a region is
23 something that watershed groups have been
24 advocating for and doing for a long time. So in
25 that sense this rule comes right down to where

1 we'd like to work.

2 I think what most environmental
3 groups where most groups are small, we don't have
4 big staffs, where it's going to be a tremendous
5 challenge, is St. Johns, everybody in Everywhere
6 Town, which is on each of the site plans or the
7 maintenance after they're built, how will we be
8 able -- doing a bigger plan and orchestrating on
9 a regional basis is expensive, but we know how to
10 do that. How it's orchestrated to every town
11 that participates in the plan and then there's a
12 site plan that is built within the town and then
13 maintained into the future, how an environmental
14 group is organized to participate through that
15 scale is something that I don't think we have
16 faced and would be a different scale than most
17 groups are currently prepared to undertake.

18 MODERATOR VAN ABS: Tony, what about
19 the development community, is there truly a mass
20 knowledge of what this is all about, where to go
21 with it?

22 MR. DiLODIVICO: I think there is a
23 mass knowledge because they have to be
24 knowledgeable. As I said, it was implementable
25 right away on the development community, so they

1 had to be up to speed right away. The
2 development community is always concerned that,
3 especially when it comes to restoring, if you
4 just look at the development community, you're
5 not going restore the water quality and the
6 natural resources. You have to do something
7 about the existing problems and control the
8 existing situation. Figures of the development
9 community is 1 percent of the problem as you move
10 forward.

11 The development community does,
12 however, need more guidance. It gets back to the
13 issue you of unclear standards and requirements,
14 working to try to have plans be approvable,
15 exactly what will be acceptable, what needs to be
16 looked at. I imagine that process will just take
17 some time. And that's why it's interesting that
18 the municipal program has some time, it has
19 municipal engineers. We have time to develop
20 plans and to figure out how our ordinances need
21 to be changed and how to properly implement these
22 rules to protect and restore. Yet, on a
23 site-by-site new development, it has to be done
24 right away before these plans are done, and

25 that's where we need the education and we need to

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1 know right upfront what would be the best for
2 this town, for this situation, and then let's do
3 it.

4 MODERATOR VAN ABS: Let me ask a
5 pointed question, present company excepted, of
6 course.

7 What percentage of the consultant
8 community that works with developers around the
9 state is truly thoroughly knowledgeable about how
10 to do this stuff? How do design it, how to
11 implement it. Is the consultant community
12 thoroughly up to speed at this point?

13 MR. DiLODIVICO: For myself I don't
14 know if I can answer that. We're a very large
15 engineering company in the state of New Jersey.
16 It is my function and role to have my fellow
17 partners and co-owners be up to speed and to know
18 what to do. So I think we are up to speed as
19 much as possible. In speaking to other
20 engineers, I think a lot of them are up to speed.

21 Again, I think it comes to there are
22 questions, there are subjective requirements and
23 that's where the issues arise as to does someone

24 knows what to do or not. I guess from the
25 engineering community as a consultant, if you

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1 have to be dealing with new development and
2 you're not up to speed, you have a problem.

3 MS. GOODWIN: Dan, I would turn that
4 question around.

5 MODERATOR VAN ABS: Go ahead.

6 MS. GOODWIN: My experience is that
7 the consultants are very qualified to read
8 regulations. They do read regulations. They are
9 as abreast as one can be. But there are still
10 some ambiguities out there with regard to how you
11 interpret the regulations and whatnot. So, you
12 know, in fairness to those who try to do what
13 Tony and others are doing, I think they're doing
14 a terrific job but there are still some answers
15 that need to be obtained.

16 MODERATOR VAN ABS: Okay. Other
17 people want to take a shot at this. Yes, I've
18 seen several hands.

19 Pete then Frank.

20 MR. MESSINA: In terms of a
21 percentage, if I had to throw a number out, I
22 would say it's less than 50 percent. Of the

23 consultants I talk to, usually the smaller ones
24 are not familiar with what to do. I think it's a
25 shake-out period that they have to learn what DEP

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1 expects of them, what's permissible, what types of
2 BMPs work best in certain situations. I feel
3 fairly uncomfortable and with it.

4 What I've seen a lot of the
5 consultants do when they work with the developer
6 is they're now hiring some consultants that have
7 the environmental vent that do the actual design
8 of the stormwater management for them; they
9 incorporate that design into the civil
10 engineering design. So it's a -- there's going
11 to be two consultants now working for a project.

12 MR. DiLODIVICO: Yes. I'm doing
13 that and that's something new. There was
14 never -- you used to have separate -- well, you
15 still have separate traffic engineers, you have
16 separate geotechnical engineers, now we're being
17 hired as separate stormwater management
18 engineers.

19 MODERATOR VAN ABS: Okay, so there's
20 a lot more partnering going on to cover those
21 issues.

22 Frank?

23 MR. SCARANTINO: Well, that was my
24 observation at the county level as well.

25 MODERATOR VAN ABS: Others?

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1 Ray?

2 MR. ZABIHACH: As I said earlier, I
3 don't think the county as an institution has most
4 of the stormwater role. It hasn't legislatively
5 been mandated nor has it been through the
6 regulatory process. So I think that from a
7 county perspective we don't feel as an
8 institution that we really have much of a
9 stormwater role to protect and to restore water
10 resources.

11 But I think when you talk to staffs,
12 planning staffs, engineering staffs, they
13 understand the role. And I think that in short
14 of that change occurring from the legislature or
15 the DEP, what we're going to need to have happen
16 is that as we go further in this process to hear
17 back from municipalities and environmental groups
18 saying, you know, we've got to have the county be
19 the leader, be the catalyst for these more larger
20 regional approaches. And I think that's when the

21 freeholders who set our agenda will say, "Okay,
22 we're doing this for our towns," and that's the
23 role that then we could fill this role.

24 But short of not having legislation,
25 really the question always is -- you know, there

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1 are so many other activities that the county has
2 to undertake, everyone's vying for the limited
3 resources, and until it's mandated or required,
4 you just don't volunteer to take on other
5 resources.

6 But I think as this process works
7 out and we hear back from municipalities that the
8 county can have a greater role helping to
9 facilitate these regional plans, I think that's
10 when the county's role will increase to be
11 involved, and I'm hoping that's the direction it
12 goes.

13 MODERATOR VAN ABS: Let me throw out
14 general question, Mike, and I'll do you first.
15 But think about this and then after Mike's done,
16 I want to see if anybody has any answers.

17 Elected officials, and it's both
18 level, county level, they are the constituency,
19 if you will, to whom municipal employees respond,

20 so to speak, are they geared up, are they ready
21 for this?

22 Mike?

23 MR. McGUINNESS: Dan, just going back
24 to the last question, I think as it relates to
25 the owners of industrial and office park

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1 properties. We have a huge challenge to educate
2 the background users which include them and
3 homeowners as to what is needed. I don't think
4 there's an appreciation as to what this means in
5 terms of cost and how they do business
6 differently for the existing uses out there.
7 There has to be a huge educational curve and
8 challenge.

9 MODERATOR VAN ABS: So it's the
10 elected officials that handle the budgets.
11 They're the ones that tell you how much you get
12 in "X." Are they -- in your general sense, are
13 the municipal officials, elected officials, up to
14 speed on this; has it really home for you guys?
15 Anybody's thoughts?

16 MR. MESSINA: It definitely hasn't.
17 I deplete that 2 and-a-half percent. My township
18 committee told me I have a 0 percent increase

19 this year in my budget, so stable -- so we have
20 to work with that. And see if it gets down to as
21 I mentioned before what -- my response is what
22 don't you want me to do? And I have to do the
23 stormwater management. So it's something else
24 that's going to be, you know, doing less, less
25 paving, less other improvement. So that's

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1 something they're going to have to deal with in
2 the budgets.

3 But like in ordinances, they have to
4 deal with what their residence is on. There's a
5 big shock that you can't feed the ducks in the
6 pond anymore in the municipal park. Well, that
7 was a Wildlife feeding ordinance. It didn't go
8 over very well. But it's -- you know, once the
9 ordinance is set, that's the law. You have to do
10 it. There's no if, ands or buts. You can't
11 change the ordinance, so they're just going to
12 have to deal with it.

13 MODERATOR VAN ABS: Other thoughts?

14 MR. DiLODIVICO: Yeah. Dan, as a
15 consulting engineer, I'm finding in talking to
16 the different towns to do these municipal
17 stormwater plans, you know, the first question

18 is, "Well, this is the amount of grant we got,
19 how can you do all this in a grant amount?" So
20 it's obvious there's a money problem and that's
21 how they're looking to fund it. I'm going to
22 agree that I don't think that all the municipal
23 officials are up to speed on how much this is
24 really going to cost and what really needs to be
25 done.

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1 MODERATOR VAN ABS: And if you can
2 really do that within that grant amount --

3 MR. DiLODIVICO: Then you can move
4 forward.

5 MR. ZABIHACH: And you can
6 understand that the county being a little further
7 removed from a lot of these requirements really
8 are less likely to volunteer a lot of money.

9 MR. HAWKINS: I would say that this
10 (unintelligible) stub that Pam's been saying I
11 think in defense of the town officials, I don't
12 think it's clear what it will cost. So not
13 having the track record to know what to budge
14 for, I think what DEP has done in this case,
15 which has been good, is to create model documents
16 of all sorts so we don't have to recreate in

17 every town a new plan and a new ordinance. And
18 I'm hopeful that that will reduce the transaction
19 cost in each place which could eventually be
20 induced further by a regional effort. But we
21 don't have a real good handle on what the
22 expenses are because of the new nature of the
23 beast.

24 MODERATOR VAN ABS: It is -- oh,
25 Frank?

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1 MR. SCARANTINO: Unfortunately, I
2 think the plan implementation costs are just the
3 tip of the iceberg. It's the mobilization for
4 maintenance and enforcement down the road that is
5 going to be the lion share of cost at the
6 municipal level, and there's no way that the
7 municipalities are prepared to deal with that.

8 MODERATOR VAN ABS: Okay, on that
9 very affirmative note, it's 10:30. We are going
10 to take a 15-minute break, and I mean 15 minutes.
11 Everybody be back, ready to go 10:45, we're going
12 to plow through the other questions.

13 Thank you.

14 (Whereupon, a recess was taken.

15 Time is 10:28 a.m.)

16 (Back on the record. Time is
17 10:45 a.m.)
18 MODERATOR VAN ABS: Okay, let's move
19 on to the next set of questions. I'd like to
20 thank everybody for coming back. If you could
21 all grab your seat.
22 I will ask again can we be heard all
23 the way in the back?
24 Okay, we hiked up my microphone a
25 little bit.

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1 For those of you on the Panel,
2 please make sure that you're speaking directly
3 into the microphone, and also make sure that
4 you're speaking slowly enough that you're not
5 wearing out the stenographer's fingers. She's
6 been doing pretty well. Her fingers have been
7 really flying here. She didn't have time to go
8 out.
9 I'm supposed to be the field
10 referee.
11 If we could have the back doors
12 closed, please.
13 Okay, let's move on to the next set
14 of questions and we're -- the whole idea here, of

15 course, is that each question is sort of building
16 off the questions before it. We're supposed to
17 get more and more into the meat of the issue.
18 Let's start drawing out some real hard issues,
19 some things that really need to be addressed over
20 time because we're looking forward.

21 What does this program need to do,
22 not just these two rules, but stormwater
23 management as a whole over the next five to ten
24 years?

25 Let's get down into some real

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1 details with regard to this. Okay?

2 First question.

3 There are going political costs
4 involved in compliance. There are going to be
5 political costs involved in non-compliance. What
6 are the costs that you're seeing? What are the
7 implications of those costs? How hard is it
8 going to be to get the people who write the
9 checks to put the money into this, to put the
10 resources into this, to put the thought, the
11 time, and the energy into this? What are the
12 political costs of doing it right and what are
13 the political costs of not doing it right?

14 And we're going to start,
15 interestingly enough, with a nonpolitical,
16 nonmunicipal, a noncounty person. I'm going to
17 start with Mike McGuinness.

18 MR. MCGUINNESS: Thanks, Dan.

19 Well, I guess that's an interesting
20 question. It's like a little difficult question
21 to answer in some ways, but I guess it depends on
22 which perspective you're taking. In terms of the
23 political cost, it's going to be a very local
24 sort of issue depending on how the landowners,
25 property owners are effected in that particular

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1 municipality in that region, so it will have many
2 diverse impacts.

3 I think as it relates to areas where
4 property owners are going to suddenly have to put
5 or leave these 300-foot buffers along certain
6 waterways, you may have an increase incidence of
7 takings.

8 I think -- again, what's going to
9 happen, I think the big challenge as I mentioned
10 earlier is to the existing background users,
11 people of not new development but rather existing
12 where you're going to have to make a case to

13 those owners properties that these new fees or
14 new requirements are necessary and are not
15 duplicative with what you're already being
16 charged in your taxes, whatever. So that case
17 needs to be made.

18 And how it's done -- it has to be
19 done very delicately and very sensitively. Even
20 though I would argue that it certainly is the
21 right thing to do to assess existing users,
22 they're -- you know, whatever they're responsible
23 for they should be addressing somehow. You have
24 to do that very carefully. It's an educational
25 issue, I think, to a large degree.

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1 MODERATOR VAN ABS: Mr. Scarantino,
2 you've worked at both the county and the
3 municipal level, you've had it from both
4 direction here, what's your reaction to this
5 question?

6 MR. SCARANTINO: I think there are
7 several levels of political cost.

8 MODERATOR VAN ABS: You need to have
9 of the mike closer.

10 MR. SCARANTINO: I think there are
11 several levels of political cost. One example

12 was more municipal than county. The new buffers
13 with C1 waters. In a particular municipality,
14 has wiped out virtually 90 percent of their
15 ratable zoning. And that's going to be
16 problematic for potential litigation with the
17 owners of those lands and developers of those
18 parcels. It's also going to be a loss of future
19 tax revenue, it's going to be need to be offset.

20 Other political costs, I think we've
21 hit on it a number of times, the insurmountable
22 difficulty for municipal government to raise tax.
23 Every year is an election year in the
24 municipality. Every year is a bad year to raise
25 taxes. With the Governor's imposed cap, it's

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1 going to be even more insurmountable to address
2 funding for these initiatives. And funding needs
3 to be -- it actually needed to start last year in
4 order to address many of the deadlines and
5 milestones in the rule.

6 What's the political cost of
7 noncompliance? Noncompliance is totally
8 unacceptable on any level. No one in the state
9 of New Jersey is going to want to be liable and
10 polluted. It's just absolutely unthinkable that

11 you're not going to comply. Yet I think on April
12 of '05, the DEP is going to be faced with the
13 very real dilemma that the majority of the state
14 of New Jersey will be in noncompliance.

15 Somewhere along the line that's
16 going to need to be addressed, either the rule
17 means something or it doesn't. You can't have
18 that first milestone come up upon us and have the
19 majority of the state in noncompliance.

20 MODERATOR VAN ABS: Other thoughts?
21 Who wants to take a shot?

22 MR. DiLODIVICO: Yeah, just
23 following up on that, and I agree that the
24 political consequence is the funding of taxes,
25 how do I put something in the budget, raise

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1 taxes, do whatever I have to do to have the money
2 for something five years from now when I'm not
3 going to be the mayor, I'm not going to be the
4 committeeman or the councilman. I care about
5 now.

6 In the development community, I
7 mean, we believe that the reason why a lot of
8 municipalities don't want new homes is because of
9 the burden on the school system and the increased

10 taxes, and that's why they don't want homes. You
11 can have age-restricted homes, but you can't
12 build residential. It's because of the taxes.

13 So you start raising the taxes for
14 clean water. You've got to do it such that
15 you're raising taxes for clean water. Just like
16 you raise taxes to buy open space, you have to
17 have a way of raising taxes for clean water, that
18 it's not a political consequence that it is
19 what's needed. And do we have to show that look
20 the noncompliance is a bigger political
21 consequence that you're out of here, you're in
22 jail, you're not going to be the mayor, you're
23 not going to be the councilman. Those issues
24 have to be dealt with.

25 I'm going to disagree a little bit

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1 with Frank that this coming up date isn't going
2 to be the key date because I think a lot of the
3 towns are going to submit their plans and they're
4 going to do their ordinances. The biggest
5 problem with the compliance is going to be the
6 second year of cleaning all the catch basins of
7 coming up with the operation and maintenance
8 plans, of doing the training of the staff, of

9 having of the staff. That's where there's going
10 to be noncompliance. So we might have a little
11 more than six months, but we don't have a lot of
12 time to get it to compliance. And I think the
13 politics is the biggest reason we're going to
14 have a problem.

15 MODERATOR VAN ABS: Other thoughts?
16 Bruce?

17 MR. FRIEDMAN: I was kind of hoping
18 I could avoid this question.

19 MODERATOR VAN ABS: You didn't have
20 to raise your hand.

21 MR. FRIEDMAN: Well, I think it's
22 unavoidable.

23 I think Frank brings up a very good
24 point. It doesn't make a whole lot of sense for
25 us to issue a permit, NJPDES permit, and not have

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1 the enforcement mechanism in place. It is
2 important for municipalities and everyone to
3 understand that this is a New Jersey Pollutant
4 Discharge Elimination System permit which
5 has -- it's an implementable requirement and if
6 these deadlines aren't met, there are county
7 provisions within the NJPDES regs.

8 Are we looking to go out and
9 penalize municipalities? No, that's not what
10 we're looking to do. We certainly don't want to
11 be put in the position where we have to issue
12 penalties and take money away from a municipality
13 that could be better spent in actually
14 implementing the permit program.

15 Would it be the first time that the
16 Department has issued penalties to a
17 municipality? No, we've done it in the past,
18 we'll do it again. Hopefully, when this April
19 comes up and the first deadlines are due, we'll
20 see that municipalities have complied and we will
21 make a good faith effort as we hope
22 municipalities have made a good faith effort to
23 try to comply with the permit conditions.

24 And I think that's an important
25 thing to look at. Did a municipality make a good

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1 faith effort to comply with the permits
2 condition? Did put together their plan? Did
3 they try, did they make an attempt and just fall
4 a little short?

5 If that's the case, I think that we
6 will continue to work with municipalities,

7 provide outreach, provide assistance, and get
8 them to meet the permit goals. In cases where a
9 municipality simply decides it's not something
10 that they're interested in doing, that will be a
11 situation where we'll have to take some type of
12 enforcement action.

13 MODERATOR VAN ABS: Any last
14 thoughts on that one?

15 If not, I'm going to move forward to
16 the next one. And I'm going to broaden this
17 question a little bit because we heard -- well,
18 many municipalities will actually be able to
19 scrape up the monies to do the plans but the
20 implementation is going to be a big ticket item.
21 So let's broaden this question and talk about
22 alternative funding and sources for implementing
23 stormwater management at the municipal level.

24 There are a couple of points here.
25 One, of course, is that anything that anything

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1 that's required to the developer, we know who
2 pays for that. That's not an issue, we'll set
3 that to the side.

4 We also know that municipalities
5 have basically three sources of funding. One is

6 developer permit fees; second is the general
7 Advalr (ph) tax; and the third is whatever grants
8 they can get from the DEP under stormwater permit
9 program.

10 So let's set all those aside and
11 talk about alternative funding sources, the ones
12 that aren't the normal go-to funding sources.
13 What's out there? What's the potential? What
14 are we going to need to push for?

15 I'm going to start with Ray because
16 this is his favorite topic.

17 MR. ZABIHACH: The opportunity that
18 we have before us is that we're looking at
19 implementing stormwater utilities in the state of
20 New Jersey. We're studying that. We have
21 consultant Camp Dresser McKean (ph) who's looking
22 at and gathering information from the experiences
23 that have occurred throughout the country in
24 terms of how they've implemented stormwater
25 utilities and how it works legally.

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1 The issues that we have before us in
2 the state of New Jersey is that right now there
3 are a lot of complications in implementing a user
4 fee for stormwater management. It's not

5 impossible to do, but it's cumbersome and it
6 becomes too complicated.

7 So what we're trying to do is come
8 up with ideas that we can then present to NJDEP
9 that then can present to the legislature to say
10 here is a solution, this is how we might modify
11 existing regulations for utilities, for municipal
12 activities. This is how we might want to create
13 stormwater utilities on their own.

14 But what we're looking at is options
15 right now. And I think once that gets through
16 the legislature that's where the battle is going
17 to be because a lot of people will perceive this
18 as a tax. And as to say "user fee," one can call
19 it a tax. But it's being implemented in other
20 states and being very successful.

21 My impression, and I may be wrong,
22 where stormwater utilities have failed, they
23 failed because they collected the money and not
24 utilized that funding in a proper way. People
25 say, "Hey, wait, you collected all this money but

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1 you're not implementing." But where they've done
2 it properly, where they've planned it out,
3 collected the money from basically everyone who's

4 a property owner and spent it for those programs,
5 the program does work. It's an effective system
6 of actually doing stormwater management.

7 The basic component is that everyone
8 who contributed towards some aspect of stormwater
9 runoff has to contribute, and that's if you have
10 a home, if you have a business, any property
11 owner that has any improvement would contribute.
12 Now there's all sorts of funding formulas which I
13 won't go into, but in essence everyone's
14 contributing a little bit.

15 The beauty of the process is that
16 it's universal. Constitutionally, everyone gets
17 to pay because you contribute. And what you're
18 paying for is the ability to fix what you're
19 contributing towards in terms of the runoff
20 problem, in treating water quality.

21 So the bite that everyone gets is
22 just a little bit. And if you collect it off of
23 everyone, it's not as hurtful in terms of the
24 pocket as if collected the general taxes, and
25 that's a debate that's going to have to be done

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1 politically. But it's an effective tool.

2 And one of the things that we as a

3 committee when we're debating this, is we're not
4 just looking at stormwater utilities as a means
5 to comply with the permit because that's
6 short-sighted. What we're looking at and that
7 was a point made earlier, we're looking at this
8 being a means to implement stormwater management,
9 to implement watershed planning. There are a lot
10 more global issues like flooding that need to be
11 addressed. And right now we're just looking at
12 the short-term and say "Look, these are the costs
13 that we're going to be incurring because we have
14 to comply and do certain things."

15 But I think that we have to think at
16 a larger picture and I believe that stormwater
17 utilities will give us that option. There'll be
18 discussions. There'll be, I guess, legislative
19 hearings and hopefully everyone will participate
20 and go to those.

21 MODERATOR VAN ABS: George, thoughts
22 from you?

23 MR. HAWKINS: I actually want to
24 very much want to endorse what you just heard. I
25 think that there's no question, and I heard this

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1 at the break, that there's a significant wave

2 which is much larger than the plans and the
3 ordinances themselves. In some respect, those
4 are the easy parts because you can't render them
5 to a model. It's when they are implemented in
6 the field and have to be implemented over time
7 the cost will escalate very substantially. To
8 have not gone well in all purpose for the program
9 in the first place would have been not cost
10 effective.

11 I think that my hope is -- my issue
12 with stormwater utilities is not so much the
13 idea, which I think is a good one, is the name.
14 You think of the political power in this state
15 for raising money for open space. Virtually
16 every open space ballot question that is a tax on
17 people passes and it passes in large margin
18 because people understand why they are interested
19 and should support even though they're willing to
20 pay for it.

21 But this is a clean utility. This
22 is something that are then putting money into
23 that is cleaning the water that when they turn on
24 the tap, it's there, it exists, it's clean. I
25 can connect to that. I can understand why we'd

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1 want to participate in an effort that's going to
2 support the long-term health of both the ecology
3 of the environment of which I am now a part
4 because water's on my land and elements are being
5 done.

6 I believe properly constructed and
7 presented, I don't want to at all minimize.
8 There's a tremendous cost coming when we get to
9 the point of implementing and maintaining the
10 actual structures in the field. I think that's a
11 bigger cost than any of us really can image.
12 Many of you can image that than better than I.

13 But I think there's also a
14 tremendous capacity for the citizens of this
15 state to be persuaded that this is something in
16 their direct and absolute daily interest to know
17 that the water of the state which is fundamental
18 to their livelihood and everything else they do
19 is being handled well and they're contributing in
20 a cost-effective way.

21 The other way would be to show each
22 town doing it separately or each individual doing
23 it separately, economies of scale, of scaling up
24 and reducing costs will save money at the same
25 time. So it will save money when it appears to

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1 protect something that you use every day,
2 obviously. That's a sale where I think we have a
3 reasonable shot at persuaded public to support.

4 MR. ZABIHACH: I know we're not
5 supposed to be debating, but I just have to
6 comment. Thank you. That's an excellent idea.

7 See, when you're involved in the
8 process you don't think about something as simple
9 as that. How you name it is as important as
10 anything else. And I think what George has
11 raised is rephrasing it in another way where it
12 will be more acceptable to the general is
13 important, and we'll raise that at our technical
14 committee meeting.

15 Thank you.

16 MODERATOR VAN ABS: Other thoughts
17 on this question?

18 Sam?

19 MR. CONRAD: I disagree.

20 Farmers pretty much have the largest
21 land base, so unfortunately they're going to be
22 paying the biggest price for this water quality.
23 There's already federal programs, farmers are
24 eligible for these federal programs through NRCS
25 and Farm & Service Agency to accomplish the same

1 goals. It would be a lot more easier for the
2 whole state just to place all these programs as
3 far as the farmer's concerned, just make them
4 exempt for the farm ground.

5 Programs are in place for them
6 already. There's federal dollars there to
7 accomplish the same goals. And, unfortunately,
8 some of these items in the legislation will
9 contradict the federal laws the way they are and
10 the farmers will become ineligible to acquire
11 those fund.

12 MR. ZABIHACH: I have to say that in
13 most states the farms are exempted. You will
14 just pay for the amount of impervious area you
15 have just like a residential unit. So if you
16 have a farm house, your equivalent fee is like a
17 residential unit, that's all.

18 MR. CONARD: I don't want to get
19 into a debate, what is considered impervious
20 coverage? Is it plastic where we have plastic
21 down for farming? Is it horse stables, horse
22 riding rings? I heard in between our breakout
23 session here that a lot of people are doing other
24 things to enhance their agricultural income, like
25 having hayrides. They have to put in road

1 systems to have these hayrides. All these things
2 have to come into consideration at this point.

3 MR. ZABIHACH: Well, your comments
4 are duly noted and we'll discuss that.

5 MODERATOR VAN ABS: Except that this
6 isn't a committee meeting.

7 MR. DiLODIVICO: I'd like to make an
8 observation that I don't have an answer for
9 farmer alternative funding sources, and I haven't
10 heard an answer and that's the biggest problem.
11 We're not hearing there are alternative funding
12 sources. There is the possibility of a clean
13 water authority. There's a possibility of a tax.
14 I think it would be great. Just like the state
15 and then the local governments went and did open
16 space, bills and got taxes, we need the state to
17 look at the clean water tax initiatives
18 incentives that are not just loans but are
19 grants.

20 We need the local municipalities to
21 figure out how to have clean water taxes. They
22 don't exist. They're not there now. I didn't
23 hear anybody come up with some magical things,
24 and I think that's the biggest problem we face.
25 We've got to do that.

1 Meanwhile, new developments
2 implementable six months ago in towns come this
3 March 30th have to decide, showing they did
4 something, so we have a big problem.

5 MODERATOR VAN ABS: Okay. And
6 certainly is you can manage to fit the cost of
7 the management plan into the grant that they're
8 getting, then you have enough wizardry that we
9 should come to you to figure out the next step.

10 Other thoughts with regard to this
11 question?

12 All right, then we're going to move
13 on to the next one.

14 I want specific ideas, not down to
15 detailed language, paragraph and so on, but this
16 is -- these rules are going to change. Rules
17 always change. It's the next cycle, every five
18 years they have to be adopted. Upon the
19 readoption process, the Department takes a look
20 at what changes are necessary. There will be
21 changes inevitably because it's a learning
22 process.

23 So thinking forward, you now have
24 the opportunity through the Clean Water Council
25 to give the Department some advice on, "Are there

1 parts of this rule or the rules that could be
2 changed in a way that improves their
3 effectiveness while reducing the impact on your
4 constituencies?"

5 So that's the starting point.

6 Tony, I'm going to start with you.

7 MR. DiLODIVICO: Yes. And, again,
8 my constituency here is the development
9 community. The biggest problem with the rule was
10 the way it was implemented and that needs to
11 change. There was lots of discussions before the
12 rule came out on how to properly move this
13 forward. I think Bruce's group then took the
14 tact of the NJPDES program of having it be bathed
15 into compliance.

16 Let's say the town's had a year to
17 get going, then a year to do something else and
18 they have a five-year plan through the permit
19 cycle. The new development was forced not only
20 to do things right away, but in some cases having
21 to do things before the rule came out.

22 We need to have a process. We can't
23 go back and undo what was done. We had that
24 discussion earlier. We're not going to sit here

25 and complain about the past. In looking towards

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1 the future, we have to have a way of blending in
2 the review of new development into the municipal
3 stormwater management plans that are being
4 developed.

5 When a town does a municipal
6 stormwater management plan, identifies their
7 ordinances and how their ordinances are in
8 compliance with the stormwater requirements, when
9 the town has to then start requiring operation
10 and maintenance, when the town has to start
11 cleaning these facilities, the town is also under
12 the mandate to ensure that the Residential Site
13 Improvement Standards are here, too. They're
14 under the mandate to ensure that all development
15 has to follow the stormwater rules. We should be
16 going to the town as far as I'm concerned.

17 We need to go to somebody, and my
18 recommendation is the town. They've done these
19 plans. They're under a NJPDES permit to
20 implement the rules. We should go to the town.
21 That's where we should implement the rules. The
22 environmental groups can participate in that
23 process, I think, a lot easier. I understand the

24 issue of town by town. Well, each town needs to
25 have their concerns. They need to be part of

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1 municipal plan.

2 When the municipal plan is done,
3 adopted and implemented. That's the plan that
4 should be followed. The municipality should be
5 figuring out if someone's following that plan.
6 And we don't need these other review agencies
7 coming in and also figuring out the rules.

8 So that is the biggest part of the
9 rule that the new development needs to have
10 changed.

11 MODERATOR VAN ABS: Pam?

12 MS. GOODWIN: Clearly the 300-foot
13 buffer is the most controversial issue for my
14 clients. As I said previously, the more land
15 that's impacted, the more costly it is to do
16 business in the state of New Jersey. The
17 300-foot buffer purportedly is based on
18 scientific studies. And I have to admit that I
19 have not read those studies in detail. And even
20 if I have, I don't have the scientific expertise
21 to critique them.

22 But I understand from speaking with

23 others that do, in fact, have that expertise, the
24 expertise that claim to lack, that a factual and
25 therefore legal issue exists as to whether or not

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1 the DEP's decision to make the buffer 300 feet as
2 opposed to some lesser amount is appropriate in
3 every single instance.

4 And so, I guess, if you're asking me
5 what could be changed, I think having some
6 flexibility with respect to the buffer zone and
7 making the buffer zone or the determination of
8 the amount of the buffer zone site specific.

9 MODERATOR VAN ABS: Okay.

10 Ray?

11 MR. ZABIHACH: The rules have option
12 or provide the option of doing regional
13 stormwater management plans. It's not mandated,
14 it's an option, so therefore it's something
15 that's encouraged to occur. Because the onus is
16 on all the mandatory compliance aspects, the
17 costs, I don't really anticipate there's going to
18 be a great effort towards implementing regional
19 stormwater management plans.

20 I'm part of a process to do a
21 regional stormwater management plan for the new

22 rules, and I understand there's a few of these
23 efforts throughout the state. But I think after
24 this first blush it may dwindle down when the
25 real financial issues come to bear in mind.

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1 There won't be that encouragement.

2 My changes that I'm recommending is
3 if you go through the rules and see what's
4 required to do a regional stormwater management
5 plan, there's too much cumbersome requirements.
6 I fully support the intent of the process, but I
7 think it can be streamlined.

8 With these few examples that are
9 going to occur, I think DEP will have the ability
10 to say, Well, how could we have made this process
11 easier? How can we make sure that municipalities
12 and counties get together to do more regional
13 stormwater management plans?

14 I think that streamlining the
15 process in terms of what's required to do this
16 will make that happen because it's not mandatory
17 it's an option. So we have to really make it
18 very attractive. Obviously, money is one thing.
19 But even if you had the money, all the things you
20 have to do are just, at times, too cumbersome.

21 MODERATOR VAN ABS: Okay. Other
22 people want to take a shot at this.

23 Pete and then Frank.

24 MR. MESSINA: In terms of review,
25 change is the one problem I'm seeing right now is

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1 expansion of existing public facilities. So say
2 an intersection improvement, you want to put in a
3 right-turn slot or widen the road slightly for a
4 left-turn slot, it involves more than a quarter
5 acre of impervious surface, that takes to indeed
6 a permit.

7 How do you do within a right-of-way
8 or you don't own the land on the four corners,
9 how do you do any stormwater management in that
10 area? I have a county project that I'm looking
11 at that has that situation.

12 I think that exemptions for
13 right-of-way improvements should be looked at in
14 it future.

15 MODERATOR VAN ABS: Okay.

16 Frank?

17 MR. MINCH: I just want to incur
18 with Pamela on the need for some regulatory
19 flexibility. My constituency for the purposes of

20 this meeting is the soil conversation districts.
21 And oftentimes they're the final review agency
22 that gets to look at some of the plans that come
23 through the door. And so at that point they come
24 through the county, the town, the state, and then
25 they come to the district. And the district is

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1 oftentimes put in a position of saying "You can't
2 meet our rules, so you can't get an approval to
3 build whatever project you want to build because
4 of some constraints listed in the rules." So I
5 think there is a great need for regulatory
6 flexibility.

7 MODERATOR VAN ABS: Bruce? Not a
8 rebuttal.

9 MR. FRIEDMAN: No.

10 MODERATOR VAN ABS: This is an idea
11 for improving the rules.

12 MR. FRIEDMAN: Absolutely not a
13 rebuttal. I just wanted to say that we have been
14 flexible in putting together this rule and the
15 permits. We took a number of comments that we
16 received during the public process of the rule,
17 made changes to both the rule and the permit as a
18 result of those comments. And we look forward

19 to working in the future in improving this
20 product more.

21 Dan was right in that every five
22 years we need to review the permits that we
23 issued. We hope that at the end of the five
24 years we take a look at what isn't working for
25 municipalities and make changes to try to improve

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1 the product, improve our impact on water quality.

2 As far as some of the issues you
3 brought up with the stormwater management rules,
4 I know already the stormwater management --

5 MODERATOR VAN ABS: Before you get
6 onto that, we're on the question of "How could
7 the rules be changed to improve?"

8 MR. FRIEDMAN: Well, if rules are
9 being changed to improve and we're trying to
10 clear up some of the problems, inconsistencies
11 that occurred. Like, I think Pete illustrated
12 that one of the confusions is with the definition
13 of "major development." It's not clear in the
14 stormwater management rules because the
15 definition of major development is bifurcated
16 depending on whether you're talking about
17 projects subject some to our NJPDES program or a

18 project that's subject to our land use regulation
19 program. The definition is different and needs
20 to be made clearer in the rules when the quarter
21 acre of impervious surface applies.

22 Now, I don't want to get too
23 technical, but we understand that there are
24 issues and there need to be some changes in the
25 program and we're not afraid to do this.

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1 MR. DiLODIVICO: You get it out of
2 the land use regulation program. It's not a --

3 MODERATOR VAN ABS: Are we educating
4 the right people in the right way about
5 stormwater management? Are we really reaching --
6 are the programs, the educational effort, are we
7 reaching the right people in the right way about
8 stormwater management? And if not, suggestions.
9 Let's get down to cases. What should be done to
10 reach these people?

11 I'm going to start out with Frank
12 Minch.

13 MR. MINCH: Well, I can't speak for
14 every program put on by the DEP because I haven't
15 attended all of their training programs. The
16 ones that I have attended are very technical in

17 nature, which is good for the engineering
18 community but not so good for the builders
19 themselves or just the regulated communities in
20 general, the hallmarks.

21 As far as the districts go, I think
22 us and the Department of Agriculture need to
23 coordinate better with the DEP on assessing
24 exactly what they want to get out of these rules
25 so we can pass along to the districts what their

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1 expectations are and then they can go ahead and
2 try to communicate locally to builders and to
3 the local officials and some of the local smaller
4 engineers on what the expectations are.

5 I think as a builder, part of the
6 requirement for a stormwater pollution prevention
7 plan, you know, and the components that are
8 within that requirement are very vague, and I
9 know a lot of builders don't understand what
10 they're accountable for. There's quite a bit
11 that they're responsible for within that
12 regulation.

13 Getting training for them or getting
14 some kind of information out to them, I know that
15 we're starting to get some words out. But as far

16 as things like specifically, not to get technical
17 again, concrete washouts, things like that, we
18 need some design parameters. We need some idea
19 of what the expectations from DEP are so we can
20 then go ahead and communicate with those folks.
21 We need to be able to communicate with our
22 districts because there again they're doing
23 review and enforcement in part with the RFA
24 Program, the Stormwater Based Control Program,
25 and they're doing the reviews with the buffer

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1 requirements. So they need to understand what
2 they're looking at and what they need to look
3 for.

4 I know we've had some good progress
5 in communicating with the enforcement bureau of
6 DEP to try to work on enforcement concerns and
7 coordinate with that, but I think from the
8 permitting side we need to do the same thing.

9 MODERATOR VAN ABS: Bruce Kosensky?

10 MR. KOSENSKY: I too have attended
11 the seminars that Bruce put on with the DEP. But
12 I feel a lot of my other professionals in the
13 Public Works building did not attend those. And
14 maybe they were a little too technical. So what

15 I'm offering up the DEP is that the Public Works
16 Association of New Jersey work with them to
17 provide them with the -- we have a data base of
18 all of our members, to provide them with that and
19 work along with them and maybe host not as
20 complicated a seminar, but just the meat and
21 potatoes or something for the Public Works
22 person.

23 Like Frank said, down in the south
24 who may have three people in his department but
25 he still has to know how to do that. If we can

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1 involve them and make them enthusiastic, I think
2 that's going to be a real plus to that. Because
3 a lot of my resent if they're not educated about
4 them. And they don't want to know about size of
5 the basins and the things that engineering would
6 do. They want to know meat and potatoes. I
7 think if we involve them, that would be a plus on
8 everybody's part because they in turn can go back
9 to the people they report to and say "What are we
10 doing about this?" They may have not done
11 anything about that.

12 Also, I think the public, I think if
13 we get them on our side with the support, much

14 like we're talking about "What do we call it, you
15 know, if we're going to go to the utility?" I
16 think that's a plus. I think the more they know
17 about it, they may be more apt to fund something
18 like that. I think that's something we all have
19 to work. To me as a Public Works professional,
20 if we have a fair or something like that, set up
21 a booth, show them, that's what we're doing with
22 some of the education. We may get feedback from
23 stuff we're going to be sending out with county
24 in the recycling brochures.

25 So I think all of that together on

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1 the Public Works side, we're the ones that are
2 going to be carrying, again, we're the ones that
3 are going to be implementing this in the field
4 every single day. If we can get those 20, 30,
5 40, 50 people who can pass that off to the next
6 person, it's like pyramid-type thing, it's going
7 to on and on and on.

8 So I think that's where -- we're
9 willing to work with DEP to provide those. We
10 have eight regions throughout the state that can
11 provide them with that information. They can
12 come to region meetings and do that. And I think

13 not a whole day seminar, maybe two or three hours
14 just to give them something like that.

15 MODERATOR VAN ABS: The question
16 that I posed was "Are we educating people in the
17 right way?" And I want to thank you for
18 broadening the meaning of the word "we" to it's
19 proper sense. It's not just DEP, it's broadly.

20 Mike?

21 MR. MCGUINNESS: Yeah, I would say,
22 no, we're not. And, again, I don't profess to
23 know all the different ways that the ternary
24 groups are being educated. But I think whatever
25 approach is taken needs to be multi-tiered. I

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1 think you have to identify what the affected
2 people are, which groups, homeowners, corporate
3 owners, pharmaceuticals, office parks, industrial
4 parks, farmers. There's many different groups
5 here, and I think each group needs it's own
6 catered program message. And you can rely on the
7 various associations throughout the state that
8 represent those interests to work with whoever's
9 running these programs to educate their
10 constituents. But I think, again, to be a very
11 multi-tiered approach so that everybody gets the

12 message they need to hear because you can't take
13 a broad brush approach on this type of topic.

14 MODERATOR VAN ABS: A couple of
15 thoughts from anybody else?

16 Frank?

17 MR. SCARANTINO: Just quickly.

18 I think there's another level of
19 education that has been overlooked and I think it
20 speaks to the funding issue. It was raised that
21 people supported open space almost unanimously
22 every time it was raised locally. But there was
23 a reason for that. There's a statewide awareness
24 of farmland preservation, open space
25 preservation, the Green Acres Program. There's

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1 match funding. It was incentive provided to the
2 people to go out and test those self-imposed
3 taxes to raise funding.

4 And that if the state undertook a
5 statewide perhaps TV and radio campaign to
6 publicize this that we are in the new era, that
7 the rule was here and that for all our health and
8 safety and welfare, we need to comply, not just
9 because it's a rule but because of the quality of
10 life issues that are involved, that that would

11 empower the local politicians to go out and
12 start doing the things they need to do to raise
13 funding.

14 I think the rule itself does speak
15 adequately to the local education process,
16 that's what we call it.

17 MODERATOR VAN ABS: Pam?

18 MS. GOODWIN: Just to follow up
19 briefly on something Mike said. I think
20 homeowners are a group that has very little
21 information about what their long-term
22 obligations are or maybe with respect to the
23 responsibilities they inherited at this point
24 that they purchased their property. And the
25 organizations such as George I think do a great

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1 job, at least in our local community, educating
2 people as to these issues.

3 But I think in a broader statewide
4 perspective it's important that there be some
5 outreach methodology by which people understand
6 not only has it been suggested the benefits but
7 also the practical aspects specs that they're in
8 charge with doing.

9 MR. DiLODIVICO: On the education,

10 I mean, again, not to keep saying the same thing,
11 but due to the implementation the engineers
12 needed to be educated. Was there too much of
13 technical focus? Well, there had to be because
14 stuff had to happen right way on the development
15 end. On the municipal end, the first thing had
16 to happen was to do these plans.

17 What we're not -- and then in the
18 future with the homeowners, with the residents of
19 the state, as part of the permit requirement,
20 that definitely needs to be done, but it's part
21 of the permit requirement to do that.

22 What's lacking is the problem we're
23 facing and that's the political education and the
24 Public Works, the people that have to go and do
25 the work, education. I don't think the Public

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1 Work Departments have been educated enough as to
2 what this is really going to mean. I don't think
3 the business administrators in the state have
4 been educated as to what this is really going to
5 mean. And I'm certain that the politicians and
6 everyone that's a councilman or committeemen, and
7 assemblymen and senators, all politicians have
8 not been educated on what this really means and

9 what we have to do to make this happen.

10 MODERATOR VAN ABS: I need to move
11 forward to the next question and I'm going to
12 combine the last two, so listen up.

13 We have stopped talking about the
14 existing regulations and we have stopped talking
15 about the modifications to the existing
16 regulations to make them better and more
17 flexible, whatever it has to be. All right? We
18 are really crystal ballish at this point.

19 This state is 8.8 million people and
20 increasing and is by far the most densely
21 populated state in the nation. We know the
22 nature of the state.

23 Where does stormwater management as
24 a field in New Jersey, regulations or not, DEP or
25 otherwise, where does stormwater management in

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1 this state need to go to really protect and
2 improve the water resources of the state?

3 And what I'm looking for is ideas
4 that are as specific as you get, as you can.
5 Make it better, we all want to make it better.
6 So let's give some specific thoughts to this.
7 Okay?

8 And we're going to start out with
9 George. Slowly for the stenographer.

10 MR. HAWKINS: It's quite a question,
11 Dan.

12 I can't help but meld it into the
13 previous question which is the notion of how we
14 would we educate differently into the future.
15 Because I -- and I believed this before I came to
16 New Jersey and before I became part of the
17 Watershed Association, I truly I believe that
18 water is one of the defining issues of the human
19 condition in the next 50 years. There's just no
20 question about that to me. Others may disagree,
21 but I don't think there's any -- you go to places
22 where there isn't water, and you realize what an
23 important issue this remains.

24 Stormwater is the way we get water
25 into the system. Some is popping from springs or

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1 otherwise, but it's our source of the water
2 that's coming in, and it's the hope of the
3 Watershed Association. But I would judge that do
4 we our education well across the state, this
5 would be something that could be incorporated
6 into the aspect of every business, of every place

7 of every recreation, of every home because, of
8 course, we all use water.

9 Of course, we rely on it every
10 single day. Every business won't function
11 without it, every bit of recreation won't
12 function without it --

13 MODERATOR VAN ABS: You're moving
14 faster.

15 MR. HAWKINS: -- every -- every --

16 That's funny, the last time I sat at
17 a hearing, I was told to slow down by the
18 stenographer.

19 -- every living item and every
20 living thing requires it. And I think we really
21 need a substantial education program on a broad
22 base of how it's -- we have in our regulatory
23 program, which is pushing down requirements -- I
24 was an EPA enforcement lawyer and I always felt
25 that rather than pulling the dog along and

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1 requiring things to be done, it was better when
2 the dog pulled you because they wanted to go
3 somewhere, that I think it is possible for an
4 issue like water, which everybody -- it's one of
5 the first things that you do every single day,

6 every day of your life, is that you can persuade
7 every enterprise to incorporate the management of
8 the water, which stormwater is looking at it as a
9 storm with rain, drizzle and otherwise, that's
10 the source of it all, that's what we use, that's
11 where it's coming from.

12 And incorporating that ethic that
13 this is fundamental, whether you're an
14 environmentalist, consider yourself an
15 environmentalist, or not, you're alive. And
16 every residential, every person who lives in a
17 home ought to be thinking about how they're
18 preserving and maintaining the water on their
19 little plot.

20 Every business should be
21 incorporating the management of water the way
22 they do business, every area of recreation, and
23 so forth. And I think that starts with
24 persuading people that it matters. It doesn't
25 necessarily start with requiring because of the

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1 people want it to go here rather than it being
2 imposed, and that's why associations like mine do
3 all the work.

4 MODERATOR VAN ABS: Okay.

5 Bruce?

6 MR. FRIEDMAN: Basically, I think
7 the --

8 Are we combining the two questions
9 here?

10 MODERATOR VAN ABS: Right.

11 MR. FRIEDMAN: All right.

12 The greatest benefit for water
13 resources at the least cost I think it can be
14 summed up in two words and we touched on this is
15 "public education." And I'm right in line with
16 everything I've heard, and it's something that
17 we're trying to address through a statewide
18 public education program that we're currently
19 putting together. The state will be funding to
20 supplement the local public education programs
21 that each municipality must do. We're going to
22 do television radio ads, things like that. The
23 important thing is to get the message out there.

24 We're a densely populated state.
25 Everything we do is magnified millions of times.

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1 Each person's actions have a direct impact on
2 water quality. And it's to get that point across
3 to people so they understand it that when they

4 throw that little bit of litter out the window of
5 their car, it's not one piece of litter, it's
6 eight million pieces of litter. When they don't
7 pick up after their dog, it has an impact. These
8 impacts are magnified, it's the cumulative
9 effect.

10 And I think that that is the message
11 that we need to get out, and I think that it
12 would probably cost the least amount of money and
13 it's something that we hope to do, and it's
14 something that we hope the municipalities will
15 do. It's not just passing an ordinance, it's
16 letting the residents of the municipality know
17 that there is an ordinance and why we passed the
18 ordinance.

19 MODERATOR VAN ABS: Mike?

20 MR. McGUINNESS: I don't think I have
21 anything else to add to that. I think we all
22 agree that education is the key and it has to be
23 targeted to the various groups and we're here to
24 help to do that. But I think a lot of focus
25 needs to be spent at least initially on who those

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1 groups are and then how you do it, through bills,
2 permits, whatever, joining an association,

3 Realtors, whatever it be.

4 MODERATOR VAN ABS: Frank Minch?

5 MR. MINCH: I guess I don't really
6 have too much to add on top of that. I would say
7 that the education component is very critical.
8 We need to understand that.

9 In the case of the Highlands, a lot
10 of the users of that water don't live in the
11 Highlands, they live in Quinset (ph) County,
12 Bergen County, Passaic County. So the urban
13 areas as well as the rural areas need to be fully
14 engaged in this dialog to understand what their
15 impact are to the overall environment.

16 MODERATOR VAN ABS: Well, let me ask
17 then a more pointed question because I think
18 we've focused on education as the big thing. All
19 right, let's say that.

20 If we had the existing regulatory
21 and management system in New Jersey and a superb
22 public education program, just beats everybody
23 else's program, will our waters be clean or is
24 there something that actually needs to change in
25 terms of how we manage stormwater that will get

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1 us to the clean water?

2 Ray?

3 MR. ZABIHACH: I think the important
4 thing is we have to start treating stormwater as
5 a separate infrastructure unit similar to water
6 supply, to wastewater, and focusing the
7 resources, be it the county, be it at the
8 municipal level, be it at the state level and say
9 these have to be addressed. Right now it's
10 almost a forgotten or we'll get to it last issue
11 in terms of any Public Works activity. Yeah, you
12 cleaned out the catch basin last month. There
13 isn't an effort at the government level to have
14 stormwater activity to have a staff. I mean,
15 that needs to be placed institutionally.

16 I think the other effort is we've
17 got to, as we said with education, we have to
18 think that we convince people recycling was good.
19 We have to convince that stormwater and water
20 source activity is good. So what we don't want
21 is fallout. Because a lot of what we talked
22 about this morning are regulations, cost. If
23 they're not done right and there isn't the
24 flexibility that Bruce talks about, and I'm
25 hoping that's really true, that after these five

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1 years, if we don't adjust the process to reflect
2 issues, constraints, and make it workable,
3 there's going to be a fallout. There's going to
4 be a political response and they'll say forget
5 about it. I don't want to lose the momentum, but
6 I also want the process to the owners where it's
7 going to hurt us down the line.

8 I think that those are two issues
9 that I'm concerned about.

10 MODERATOR VAN ABS: Other thoughts
11 on that? What really needs to change other than
12 public education?

13 MR. SCARANTINO: I'd like to go back
14 to the issue of commingling stormwater runoff.
15 What good does it do if a new development is
16 constructed and it complies with the regulations,
17 and after the water leaves its site, immediately
18 down the stream it's commingling with another
19 site which doesn't comply with the regs.

20 What have we gained by putting these
21 exacting standards on the new development when
22 thereafter they're commingling? I think there
23 needs to be less intimidation about the
24 maintenance and legal responsibilities of
25 commingling waters and more thought towards

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1 regional treatment for water quality.

2 And I'm not saying that treating
3 on-site is wrong. I'm just saying that it will
4 be decades before we get the clean water with
5 that macro approach. We need to have a method of
6 allowing waters, municipal waters, private
7 waters, county waters, sometimes even state
8 waters to commingle and treat them regionally to
9 meet the new standards without being burdened by
10 Well, okay, that was a county road water in here.
11 So the county being the highest jurisdiction is
12 now responsible for that total facility.

13 There needs to be a mechanism to
14 allow those things to occur frequently. And
15 don't tell me that every existing facility is
16 ultimately is going to be upgraded because I need
17 to move out of New Jersey. I don't think any of
18 us could afford the tax that we have to pay for
19 that.

20 MODERATOR VAN ABS: Any other
21 thoughts?

22 George?

23 MR. HAWKINS: I know I've already
24 made sort of a grand statement, I'll make one
25 that I think is stormwater operational.

1 We talked about education at the
2 municipal level for engineers. And I got to know
3 Bruce and watched his team and I was impressed
4 with the knowledge and skill of your group. I am
5 very concerned about the ability of the
6 Department to be to able to implement those vast
7 set of new rules among many others. I think one
8 of the -- it's not only your group, it's when the
9 stream encroachment permit comes in, it's when
10 the wetland issues are supposed to -- those folks
11 are supposed to be incorporated.

12 There's been a lot of change in the
13 Department, and I don't fully understand it, I
14 don't get that close to it. But it's confusing
15 to the outside as to whether it's -- not your
16 team, but the whole team there is prepared for
17 the onslaught of not only this regulation, but we
18 have others, which we won't speak of at the
19 moment, that have been recently and possibly
20 others on the way.

21 If the enterprise of the Department
22 educated and prepared to be able to achieve clean
23 water, that may be the single biggest thing that
24 would be necessary get the clean water separate
25 from education. And then the rule, whatever the

1 rule is, is the team organized properly to get
2 the work done and to have the resources at hand.
3 Because there seems to be a lot of news things
4 hidden a lot of different places all at once. It
5 would be confusing to me, I would think, if I
6 were there.

7 MR. ZABIHACH: I'd like to add
8 enough staff to do this properly.

9 MR. DiLODIVICO: And I think that
10 gets back to putting it at one level. The
11 program has put it at the municipal level, we
12 still these other levels. George is right.
13 There's too much confusion, there's not enough
14 staff. Let's take it out of there and focus the
15 Department's resources on helping the towns and
16 getting the towns' plans done right and letting
17 the towns do the reviews.

18 There goes the controversial
19 statement represent the development community.
20 We have to use the stormwater rules to manage
21 stormwater and protect the resources not as a
22 land use control. And that's where we run into
23 problems. We have problems with 300-foot
24 buffers. We have problems with inconsistent
25 regulations.

1 It's my belief certainly the aspects
2 are used for land use control and not for proper
3 stormwater management. We need to have proper
4 stormwater management -- we need to make sure
5 that -- there I go fast again.

6 We need to make sure the regulations
7 are there to manage stormwater. We need to put
8 all of our governmental resources into helping
9 the one program that is going to be charged with
10 implementing this.

11 And then once we get that up and
12 running, then we need to focus on now how do we
13 take the burden off of those people and make it
14 more regional and actually do proper stormwater
15 management. Because you can't do stormwater
16 management lot by lot, municipality by
17 municipality. You have to do it by watershed and
18 you have to do it regionally. You can't just get
19 there, I understand that.

20 So we should put our focus towards
21 having the municipalities get up and running with
22 a program that looks at existing development,
23 controls to the best they can the distant runoff,
24 manages the new development, incorporates the new

25 development with their existing development

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1 system, commingle it, make some sense, and then
2 look towards the future to have regional plans,
3 regional authority, regional controlled slope.

4 MODERATOR VAN ABS: And with that --

5 MR. DiLODIVICO: I just want to make
6 one interesting comment with going too fast.

7 I had worked in the Puerto Rico and
8 my Spanish isn't that good. So when I would
9 speak to people in Puerto Rico, when they would
10 speak Spanish to me, I'd be like, "Oh, you guys
11 talk too fast, I can't understand that." But
12 then when I would get up in public and speak in
13 English to them, they would come up to me
14 afterwards and say "Tony, that was great, but we
15 have no idea what you just said." It's all
16 perspective as to how fast you talk.

17 MODERATOR VAN ABS: That's right,
18 that's right. And I look at finger moments per
19 second, and I try to get a sense.

20 All right. We are done with our
21 portion of this. I hope you realize that I had
22 by far the hardest job here because my tongue is
23 bloody from biting it and not commenting on all

24 of this sort of stuff.

25 But I'd like to thank the Panel.

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1 We are going to now open this up to
2 comment or questions -- not comment, not comment,
3 questions for the Panel, first, from Clean Water
4 Council members.

5 Are there any members of the Council
6 that wish to pose a question to the Panel that
7 doesn't cover the same grounds that we covered
8 just before? Are there any questions from the
9 Council members?

10 Seeing none, are there any questions
11 from the audience that you would like to pose to
12 the Panel, again, that doesn't cover the same
13 ground that we have.

14 I see a fellow with his hand up in
15 the back. You have to come so that the
16 stenographer can give her your name and spell
17 your last name for the record.

18 QUESTIONS FROM THE PUBLIC:

19 MS. FILIPPONE: Ella Filippone.

20 I'm asking a question with regard --
21 that comes from the Water Supply Advisory Council
22 which is, I guess, a partner with the Clean Water

23 Council, more or less.

24 I'm asking the question which
25 relates to the issues of the Water Supply

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1 Advisory Council. Because in all your
2 discussions on stormwater management I haven't
3 heard the words "water supply."

4 When we recharge the stormwater, it
5 becomes your drinking water supply and that
6 becomes an extremely important economic issue in
7 the state of New Jersey. So I would like to hear
8 comments from you as to how you value the
9 recharge into groundwater of your stormwater to
10 each of your stakeholder groups.

11 I know that my buddy Tony needs
12 water to build his houses, and I would like to
13 know how you see this new program assisting you
14 in increasing water supplies in a water deficit
15 state?

16 MODERATOR VAN ABS: Who wants to
17 take a shot?

18 MR. DiLODIVICO: I'll start first.
19 And I think I touched on it before that recharge
20 is nothing new to the development community and
21 certainly not to environmental engineers that

22 deal with water resources. And historically,
23 we've either been prevented or it's been
24 difficult to deal with recharge. We are more
25 than encouraged to deal with the recharge.

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1 As Ella said, the building community
2 needs clean water. So to sit there and think
3 that the builder doesn't want to have water or
4 doesn't want to have clean water is just
5 incorrect. If the water needs to be put in the
6 ground, they'll put it in the ground. I think we
7 can all agree that we do have to manage the
8 resource such that we do have as much recharge as
9 we can. If These rules mandate that we do that,
10 we will do that. It's how we do it and how we
11 get it approved that all cost. The issue is not
12 will we do it, we will do it. We all agree we
13 need to do it.

14 And then it gets back to the other
15 issue of, Well, let's do it for recharge, let's
16 do it for water quantity, let's do it for water
17 quality, let's not do it for land use.

18 MODERATOR VAN ABS: Okay.

19 Others?

20 Frank and then Mike.

21 MR. SCARANTINO: Well, I think that
22 they are certainly related but not necessarily
23 equal issues. I think Sandy Blick (ph) and her
24 unit did an excellent job in this BMP manual to
25 develop a sliding scale for recharge. I think

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1 that will go a long way towards approximating
2 predevelopment conditions and maintain aquifer
3 levels.

4 There's also the help of the echo
5 system as a whole. You just divert all of our
6 off bin to recharge so you can maintain your
7 aquifers. You have a stream and river network
8 that depends on certain flows as well. And so
9 the regs I think did an excellent job at this
10 point in pointing to that balance.

11 In terms of water supply management,
12 I think that's a separate and broader question.
13 It should take into account what the new regs are
14 going to restore with recharge, but you probably
15 need to look at other strategies for the
16 long-term growth of the population of New Jersey.

17 MODERATOR VAN ABS: Mike?

18 MR. MCGUINNESS: I'd just like to
19 comment that the need for recharge or the

20 relationship between that providing
21 groundwater -- drinking water supply varies as to
22 where you are in the state in the watershed and
23 not all areas are appropriate for groundwater
24 recharge, especially in urban areas,
25 redevelopment areas, which is where a lot of our

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1 members are located. I don't think it's
2 appropriate in some of those areas.

3 MODERATOR VAN ABS: Anybody else?

4 MR. HAWKINS: I'll speak briefly.

5 MODERATOR VAN ABS: All right,
6 George.

7 MR. HAWKINS: If I didn't mention
8 water quality, I certainly meant it. The whole
9 notion of this rule of maintaining water on-site
10 as a resource infiltrating into the ground,
11 replenishing the aquifers. If you see the stream
12 flowing when it's not raining, it's because
13 there's groundwater flowing to that. It's not
14 just drinking water, it's all the stream, it's
15 all the trout fishers, it's all the recreation.
16 And to all living things there's tremendous
17 reason to do properly recharge of water.

18 And I think what's good is that

19 there's -- at least my perspective, is there's
20 fairly broad agreement. We see more often than
21 not that when development applications come
22 forward in central New Jersey is a water quantity
23 problem that is a challenge not quan -- quantity
24 problem is a challenge. There's just not enough
25 water in the aquifers to offer to sustain the

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1 use. And that's going to be a limited feature
2 both environmentally and economically. So I
3 think this is one where the two interests
4 coincide.

5 MODERATOR VAN ABS: Okay. One last.
6 Ray?

7 MR. ZABIHACH: That leaves a point
8 that we need to address is all we've talked about
9 today is new development and the impact and that
10 has to be recharged. We have deficit because
11 we're not managing our water resources
12 effectively. We have to go back to start
13 retrofitting. There are a lot of roof drainage
14 that goes out in the gutter, out to the
15 collection system and out to the ocean. We
16 diverted roof drainage, clean water into the
17 ground as part of that retrofitting aspect that

18 we have to do as society making stormwater as an
19 infrastructure activity, and that way we can get
20 more water back into the ground.

21 But I think there's a huge deficit,
22 and I think it is a concern because a lot of the
23 state is dependent on groundwater for water
24 supply. But we won't tap into that problem until
25 we start going into the existing developed areas

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1 and diverting some of that water that we now
2 don't manage properly.

3 MODERATOR VAN ABS: Okay.

4 Next?

5 MS. TORPEY: Beth Torpey.

6 There's been a recurring theme here,
7 education, different constituencies at different
8 levels of knowledge, and I was wondering who do
9 you think is responsible for this?

10 MODERATOR VAN ABS: For the
11 education?

12 MS. TORPEY: For the education.

13 MODERATOR VAN ABS: Who's supposed
14 to actually do this education? "Hi, we're the
15 state, we're here to help you"? Is it just DEP?

16 MR. HAWKINS: I can tell you that

17 for -- again, if this passed, this is just
18 central New Jersey, although I speak for
19 watershed associations throughout the state, we
20 consider it a responsibility of a nonprofit
21 citizens group to provide this sort of service
22 which we do very well in concert with DEP and
23 other organizations. We've done a lot of
24 programs like it because this is so significant
25 to what our mission is, but there's no question

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1 that's not enough, there's not enough of us, and
2 we're doing the best we can.

3 But, yes, we feel somewhat
4 responsible. I think there's a bigger question
5 that's beyond what we're doing in our particular
6 area that we've addressed and talked about.

7 MS. GOODWIN: Yeah, I think it's a
8 complicated question. Obviously, professional
9 organizations, public interest groups, again,
10 like Stony Brook, do a fabulous job.

11 I think that our public school
12 system ought to be doing the kind of job here
13 that they did with recycling. Because in terms
14 of a grass roots sort of thing, children teach
15 the parents. And you're talking about a local

16 issue as opposed to some of the more complicated
17 things we've been talking about, which is
18 educating engineers, and otherwise that would be
19 a great place to start.

20 So I think that there is -- it's a
21 big tentacle or a lot of tentacles that would
22 have to be effective in order to really
23 effectively implement education.

24 MODERATOR VAN ABS: Pete?

25 MR. MESSINA: Real quickly, the

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1 regulations require municipalities to send out
2 informational to every resident in the town on an
3 annual basis, also to have an annual event, a
4 fair or something. They have it as a requirement
5 of that regulation, and it must be, you know,
6 reinforced every year. So that's the education.

7 MODERATOR VAN ABS: Well, that's a
8 good dissemination. We'll see if we see
9 education.

10 MR. DASS: Bob Dass.

11 In order to protect the water
12 quality, I was wondering if there's need and if
13 there's going to be a new regulation coming down
14 the pike to introduce treatment of the

15 stormwater.

16 MODERATOR VAN ABS: So are we going
17 to be treating the stormwater?

18 Bruce, you're probably in a position
19 to know something about that.

20 MR. FRIEDMAN: Well, this sort of
21 touches on maybe what Frank was getting at and,
22 you know, I've also been biting my tongue in
23 trying to pick when the correct time to answer a
24 question is and put it in the Department's
25 perspective. I didn't want to dominate the

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1 discussion, but obviously I have an opinion on
2 almost everything we've discussed here. But
3 treatment keeps coming up and I don't think that
4 that is the proper way to address stormwater.
5 It's never been our philosophy from day one when
6 we started the program in 1993 to look at end of
7 pipe treatment as being the solution.

8 In most situations with stormwater
9 it is through pollution prevention and
10 eliminating the impact of source materials or
11 pollutants from coming into contact with
12 stormwater. And if you take a look at the
13 permits that we wrote, a number of the BMPs deal

14 directly with that, trying to eliminate that
15 contact, prevent these materials from impacting
16 stormwater quality rather than trying to take it
17 out at the end of pipe. And I think that that's
18 a much more cost effective approach to stormwater
19 management.

20 MODERATOR VAN ABS: Anyone else on
21 that?

22 MR. DiLODIVICO: Just on a new
23 development we do need to treat the stormwater.
24 It doesn't go to a specific treatment plant, a
25 regional treatment plant, but on-site you need to

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1 provide the best management practices to treat
2 the stormwater and water quality. As we
3 implement these rules we'll see how effective
4 these are and we'll refine them and we'll ensure
5 that we're getting the treatment.

6 With the existing development it's a
7 good question. And I think Bruce is right in
8 that you've got to start somewhere, you start
9 with the best management practices, you start
10 with good housekeeping and you see where you can
11 get with that. But you've got to do that, you've
12 got to go clean everything, you've got to

13 maintain everything. And that's the issue. If
14 we go clean, we maintain, we retrofit where we
15 can. Let's see what the benefit is. Do we then
16 need to provide treatment? Well, we'll look that
17 down the road.

18 It's interesting having started in
19 the profession as a wastewater engineer, the
20 first task that I did when I got out of school
21 and worked for EPA was to figure out how to get
22 all the stormwater out of the treatment system
23 and not have it go to the treatment plant. It's
24 very interesting we're going to come full circle
25 eventually.

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1 MODERATOR VAN ABS: We will take a
2 momentary break.

3 We have a couple of other people
4 who want to -- and we're going to close at
5 12 o'clock sharp, by the way, and move into the
6 public hearing. Just for you people to know.

7 (Whereupon a brief break was taken.)

8 (Back on the record.)

9 MS. GOLDSMITH: My name is Amy
10 Goldsmith, G-o-l-d-s-m-i-t-h. I'm the state
11 director of the New Jersey Environmental

12 Federation, as well as a member of the Clean
13 Water Council.

14 And one of things that was touched
15 upon slightly was this issue of beneficial reuse.
16 Within the water supply and allegation programs
17 that's in the DEP, I started going to those
18 meetings but soon discovered there wasn't a lot
19 moving forward, it was kind of lot slogging
20 along. And it seems to me that the stormwater
21 issue and the issue of beneficial of reuse need
22 to also be put together in a way to if we're
23 going to divert some stormwater or wastewater in
24 a larger volume to be uses for purposes, not just
25 as a, quote/unquote, recharge, but for uses that

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1 are nonpollutable water or other kinds of things.

2 And I was just wondering what the
3 DEP is doing to move that beneficial issue along
4 and how it's being connected or are there some
5 things that developers are doing now to think
6 about beneficial reuse and stormwater, not so
7 separate but a little more together?

8 MODERATOR VAN ABS: Let's give Bruce
9 a rest here.

10 Does anybody else want to start on

11 that first?

12 Ray?

13 MR. ZABIHACH: In another county,
14 not in Morris, that have been doing a lot of
15 innovative stormwater activities at the municipal
16 level. And I believe that there is an example,
17 it's called the "Willis School" in Tewksbury or
18 in that area that they implemented not only some
19 very innovative stormwater management practices,
20 but they've also incorporated reuse aspects of
21 the activities at school, which is exactly the
22 point you're making.

23 But the comments that I heard is
24 that there was a lot of resistance both at the
25 municipal planning level understanding these

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1 concepts and both at the DEP level in terms of
2 not saying or they had regulations or policies in
3 place. But it seems to me from a planning
4 perspective that that's really the direction we
5 can go. But specifically on-site you could merge
6 the two, but we're not institutionally prepared
7 yet to deal with both of those aspects.

8 MR. DiLODIVICO: From the
9 development side we have looked at that. We do

10 have projects where we're looking at storing the
11 water in ponds and then using it for irrigation
12 either in large open spaces, at corporate parks
13 where we need irrigation, or at large residential
14 communities where it's a community-owned open
15 space that needs irrigation, at golf courses
16 where you need irrigation.

17 The problem we run into is the
18 inconsistency with regulation and the
19 inconsistency of how it's implemented. You get
20 one group at a local level looking to provide
21 this reuse. You have an MUA that needs to have
22 alternative sources of water for irrigation and
23 so you come up with a plan that provides that and
24 then you go to the state to get a permit. And
25 the reviewer at the state says, Well, that's not

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1 meeting the nonstructural techniques and that's
2 not the proper way of recharging. So you get in
3 a bind. So the way you deal with it with
4 development is you just don't do it. We need to
5 have regulations that are clear.

6 One of the technical issues that
7 come up without getting too technical is "If I'm
8 going to look at my sight and spread the

9 stormwater out over my site as I'm required to
10 maximize recharge, well, then I can't build the
11 facilities that the stormwater is going to go to
12 then I could then use it as beneficial reuse."

13 So we have to have a balance and we
14 have to have an acceptability that if I do one
15 thing, I don't need to do the other thing, and
16 that's what we need to come to.

17 MODERATOR VAN ABS: Bruce, you want
18 to take a shot at it?

19 MR. FRIEDMAN: Beneficial reuse
20 generally deals with more as a wastewater issue,
21 and we do have group or team that looks at
22 beneficial reuse. It was gaining a lot of steam
23 during the drought, trying to use sewage
24 treatment haploid for various reasons,
25 irrigation, street sweeping was approved. And

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1 maybe now that the drought isn't in the forefront
2 anymore, maybe the reuse program has lost a
3 little of its steam.

4 What I want to do is bring this back
5 to the people I know who are part of the
6 beneficial reuse team and, you know, bring these
7 comments and see if we can get it moving back

8 along.

9 MODERATOR VAN ABS: Okay.

10 Last question, if you would.

11 MR. BREVOGEL: Richard Brevogel.

12 My question really is directed at
13 Frank and Tony, if I may.

14 You made several comments about the
15 existing infrastructure and how that's going to
16 interplay with the new infrastructure and design
17 requirements of the new infrastructure. Just
18 some thoughts from your perspective on what it
19 means for -- I'm in Public Works, I work in
20 Public Works day in and day out. I agree with
21 the meat and potatoes concept.

22 What is it going to mean for
23 infrastructure in terms of assessing how it
24 interacts with the new infrastructure in the long
25 run over the next 5, 10, 15 years, what does that

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1 mean in terms of the types of maintenance
2 activities that you would foresee in a Public
3 Works department 15 years out to interface with
4 that new infrastructure and requirements with the
5 regulations?

6 MODERATOR VAN ABS: Who wants to

7 take that one first?

8 Frank, you're looking eager, go
9 ahead.

10 MR. SCARANTINO: No, I'm not really
11 eager, but I really wish I had a clear answer for
12 that. I do believe that implementation of the
13 new maintenance requirements will go a long way
14 towards improving the existing water quality on
15 our current infrastructure. It's not the final
16 answer. And I think that -- I have raised the
17 issue of commingling several times. I think
18 there are some languages in the rules that may
19 need to be adjusted to deal with that.

20 But at the same token, there is room
21 within the rules or within the municipal plans to
22 develop mitigation concepts that would allow for
23 a regional approach to water quality issues. Now
24 exactly how that we'll address, I don't know.
25 Because quite honestly our stormwater facilities

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1 truly are designed to bring everything to one
2 point. And so there are limits to
3 regionalization. But I do think that you can't
4 look at it on the basis of even one town. You
5 have to look at it by watershed, and that's the

6 approach that I think needs to be taken.

7 Hopefully, the plans that come out
8 will address that. And as I think Ray's
9 mentioned that before, we need to encourage the
10 regional plans to be developed to achieve that
11 goal. I think that's the only hope for really in
12 the future addressing the infrastructure that's
13 in place today.

14 MODERATOR VAN ABS: Tony, do you
15 have an answer?

16 MR. DiLODIVICO: Yeah, I certainly
17 don't have an answer of what's going to happen in
18 the future, but you're hitting on one of the
19 major problems we have with again the
20 implementation. We identify that one of the
21 major problems that the municipalities are going
22 to have is to operate and maintain the existing
23 system. They're going to have to clean every
24 catch basin, they're going to have to operate and
25 maintain and clean all the existing detention

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1 basins. And I'm getting the indication from the
2 people I talk to at the municipal level they're
3 not staffed to do that. It's going to be
4 difficult if not impossible to do it.

5 What happens as we now move forward
6 with new development, and not only are we adding
7 new facilities like that, we're adding new
8 innovative type facilities of bioretention basins
9 and bioretention swales, and we're deed
10 restricting lots to have water sit and
11 infiltrate, and all of those have to be
12 maintained. So you have a difficult enough time
13 setting up a program to maintain the existing
14 structural way you can see things, clean them
15 out.

16 Now you're going to have lot by lot,
17 you're going on individual properties and have
18 deed restrictions, and you're going to have
19 maintain these more sophisticated type of
20 systems. It's a major problem as you move
21 forward, and that needs to be coordinated not
22 separated. You need to do municipal plans, you
23 need to identify how much it's going to cost to
24 maintain you're existing systems, come up with
25 the plan on how you're going to maintain these

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1 systems and how you're then going to blend new
2 systems in. And as you see how much of a cost
3 that is, and how difficult that is, then you've

4 got to turn towards the regional and figure out
5 how to do it then on a regional level.

6 MODERATOR VAN ABS: With that, it is
7 12 o'clock. Sorry, no rebuttal from DEP. It is
8 12 o'clock, and as promised, we're closing this
9 part of the session.

10 If the audience would care to give
11 the Panel a round of applause, I think they
12 deserve it.

13 (Audience applause.)

14 MR. HAWKINS: As a member of the
15 Panel, I would like to thank Dan. I think he did
16 a very good job.

17 (Audience applause.)

18 MR. DiLODIVICO: John's, stepping
19 down and then you do it.

20 MODERATOR VAN ABS: Many of the
21 Panel members will probably be around if you have
22 questions that you'd like to ask them. The
23 technical issues that we forbade them from
24 getting into, feel free to grab them. But I'm
25 going to hand this over now to Pat Matarazzo the

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1 chair of the Council because we're going to be
2 moving into the hearing portion of the

3 microphone.

4 MR. MATARAZZO: Thank you all for
5 coming. I want to thank Rutgers for putting this
6 together. They did a great job on this.

7 This is your opportunity. You heard
8 how complex stormwater management is. What the
9 Clean Water Council does is take testimony. We
10 distill it down to a small bunch of questions.
11 We videotaped this, which we're also going to
12 give to the Commissioner. This is your
13 opportunity to speak to the Commissioner and to
14 the Governor on how we could do this. So please,
15 if you wish, come up front and testify.

16 I would like to call the Clean Water
17 Council members up front please.

18 And we're going to take about a
19 five-minute break for the Council to come up and
20 thank you all for coming.

21

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23 (PANEL DISCUSSION IS CONCLUDED AT 12:03 P.M.)

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I, LINDA P. CALAMARI, a Notary Public of the
State of New Jersey, do hereby certify the
foregoing to be a true and accurate transcript of
my original stenographic notes taken at the time
and place hereinbefore set forth.

LINDA P. CALAMARI

Dated: NOVEMBER 11, 2004.