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DEPARTMENT OF ENVIRONMENTAL PROTECTION

GREEN ACRES PROGRAM

IN RE :
PROPOSED SALE OF LANDS LOCATED :
IN THE CITY OF MILLVILLE :
CUMBERLAND COUNTY :
BLOCK 578, LOT 19 :

TRANSCRIPT OF PROCEEDINGS

Wednesday, May 21, 2014

401 East State Street

Trenton, New Jersey

Commencing at 2:30 p.m.

B E F O R E:

JUDETH PICCININI YEANY, ESQ., CHIEF

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1 MS. YEANY: We are going to get started.
2 My name is Judith Yeany. I am with the Green Acres
3 Program here at the Department of Environmental
4 Protection. We are here to conduct the second of
5 two public hearings on the proposed sale of property
6 in the City of Millville, Cumberland County.

7 We here at the DEP have a process we are
8 required to follow when we propose to convey, sell,
9 swap, more than one acre of property. It is
10 codified at N.J.S.A. 13:1D-52, et seq. It is known
11 as the Ogden-Rooney Statute. It requires us to
12 follow certain procedural steps before going through
13 the proposed sale of property.

14 The first step in that process is for us to
15 write a report analyzing the transaction, which we
16 have done. Copies of the report are available on
17 the table in the outside room.

18 We are then required to release the report
19 and to give notice of public hearings. For
20 properties over five acres we conduct two public
21 hearings, one in the municipality in which the
22 property is located and the other one in the City of
23 Trenton. Back on May 7th we conducted the first
24 public hearing in the City of Millville and today is
25 the second public hearing in Trenton.

1 I am going to give a little bit of
2 information about what it is that we are proposing
3 to do and then I am going to ask representatives of
4 the City of Millville to go on the record as to the
5 request that they have made for us. And then we
6 will open the floor up to public comment.

7 This property we are here to discuss today
8 is designated for tax purposes as Block 578, Lot 19,
9 in the City of Millville. It consists of
10 approximately 80 acres of property.

11 We purchased the property on behalf of the
12 state in July of 2013 using Green Acres funds.
13 Shortly after that we were approached by the city
14 about whether we would consider a conveyance of the
15 property to the city, the county or some other
16 entity they might designate for development
17 purposes.

18 We purchased the property for \$335,000 and
19 we are proposing a direct sale to either the city or
20 the county for \$395,000. That represents the full
21 fair market value of the property, \$367,000. We
22 paid less than fair market value. And we made
23 several adjustments to the price.

24 We added a \$13,000 adjustment to cover our
25 technical costs associated with our acquisition, and

1 we asked the city to pay an additional \$15,000 for
2 our administrative costs associated with this
3 proposed conveyance.

4 Our intention, if we go through with the
5 sale, is to apply the fair market value of the
6 value, the \$367,000, to the purchase of
7 approximately 900 acres of property on what is known
8 as the Holly Farm property. I will point that out
9 on the map in a minute.

10 The Holly Farm property is located less
11 than a mile away from the property we are proposing
12 to convey, and we would be purchasing the underlying
13 fee for those 900 acres. The Holly Farm property,
14 as a lot of you know, is the subject of a
15 development proposal that would require that acreage
16 to be set aside and restricted, but not necessarily
17 conveyed to the state.

18 The remainder of the proceeds of the sale
19 would be deposited into our fund to be used for
20 other Green Acres purposes.

21 We also, though, recognize that getting
22 involved in the Holly Farm transaction could be
23 perceived as facilitating that development. And in
24 the report we released we said that it was our
25 intention to require that developer as a condition

1 of this transaction to identify and purchase a third
2 property to be conveyed to the state as part of this
3 overall transaction.

4 If we do go through with this proposed
5 conveyance, the statute requires us to wait 90 days
6 from the date of today's hearing before seeking
7 final approval of the transaction. So, at the end
8 of this process we would be required to get the
9 approval of the Commissioner and the State House
10 Commission, but that would not happen before the
11 middle of August.

12 I am going to walk over and point to the
13 map with the wireless microphone to the various
14 properties. Then I am going to have the city come
15 up and state on the record why it was that they
16 requested we convey the property.

17 When we do open up the record, we will use
18 the wireless microphone. If you could just identify
19 yourself and your affiliation for the record and
20 spell your last name for the court reporter. We are
21 going to leave the record of this hearing open for
22 two weeks following this hearing before we gather
23 the public comments and summarize them for the
24 Commissioner.

25 So, you can send written comments to me

1 anytime in the next two weeks. If you have any
2 written summaries of what you want to say on the
3 record, we will accept those as part of the record
4 as well. I will just point to the properties and
5 then I will turn it over to Millville.

6 UNIDENTIFIED SPEAKER: Will questions be
7 separate or do we just make comments?

8 MS. PICCININI: We are here to accept
9 comments. If there is some factual question we can
10 answer, we will try to do that. But let's just kind
11 of set the stage for why we are doing this first
12 before we open that up.

13 So, this is the Durand Glass property right
14 here. This is Route 55. There is actually not
15 direct access at the moment from Route 55 to the
16 property. These are railroad tracks that run
17 alongside the property. As you can see, there is
18 other preserved lands adjacent to this property.
19 There is the Menantico Creek Preserve, which I
20 believe is owned by the Nature Conservancy, and we
21 added this to the Menantico Ponds Wildlife
22 Management Area and administered it as part of this
23 area.

24 This part here is the Holly Farm property
25 outlined in yellow. So, roughly speaking, the

1 current proposal for development shows the
2 development up on this side of the property. The
3 acreage is down here. These are also preserved
4 lands here at the moment.

5 Ted, are you going to speak or will John?

6 MR. KNOOP: I am John Knoop, city engineer
7 for Millville.

8 If you like, I can state my public comments
9 or just address the reason why we want it.

10 MS. YEANY: If you could explain first why
11 the city requested the conveyance and then whatever
12 comments you want to put on the record.

13 MR. KNOOP: In June Millville showed this
14 property to a potential developer and industry
15 making PVC outdoor fencing and things like that.
16 The developer had indicated they would provide 350
17 jobs and a 250,000 square foot ratable. We weren't
18 aware that this property had been sold or there was
19 an agreement to sell this property. State officials
20 did not notify the city. The city didn't take any
21 action.

22 As matter of fact, it has a long history
23 where the city has supported not just sewer service
24 to this property, but development of the property.
25 We later found out that this developer or the

1 industry was actually site-planning on the property.

2 Cumberland County, it is well documented we

3 need the jobs. We have a high unemployment rate.

4 This property is actually in our industrial park.

5 So, that is the reason that the city tried to

6 reverse the sale before we found out -- before it

7 actually went through. Unfortunately, there was a

8 contract of sale for the property prior to. I guess

9 the DEP couldn't back out, nor could Durand Glass

10 either.

11 I am going to get into my comments. On

12 behalf of the City Commission for Millville, I will

13 kind of you give you some history about Cumberland

14 County and about Millville as a whole so you can

15 have an understanding of where we are at.

16 Prior to the water quality management

17 regulations in 2008, all of the 44 square miles of

18 Millville were within the sewer service area. The

19 state landscape plan, which was part of the adopted

20 regulations, severely limited Millville or the

21 landowner's rights at that time to sewer service.

22 Knowing that, finding out and understanding

23 that, Millville -- and knowing that Millville did

24 not have the resources, we had contacted major

25 landowners that were not being provided sewer, and

1 they were afforded the right, as the regulations
2 allow, to go through the process of doing their
3 habitat species studies to make their own findings
4 and dispute the landscape data, which we all know
5 can be erroneous. It is not parcel by parcel, some
6 of the data.

7 We have been six years trying to work with
8 DEP and trying to get an approved sewer service
9 area. And the statistics for Cumberland County,
10 when you look at Cumberland County as a whole, only
11 15 percent in this draft plan that we have been six
12 years in the making -- only 15 percent of that is
13 within a sewer service area for all of Cumberland
14 County. So, 85 percent under the draft plan as it
15 stands right now is restricted.

16 There is only three sewer service areas.
17 One of them, which I represent, is Millville. The
18 other is Atlantic City Sewerage Authority in
19 Vineland and the Cumberland County Utilities
20 Authority, which services Bridgeton, Hopewell, Upper
21 Deerfield and the Fairton Prison.

22 Current mapping as it stands for Millville,
23 40 percent is in the sewer service area. So,
24 40 percent of our city can be sewerred. So,
25 60 percent of our landowners have lost that right

1 under the draft plan. Again, it is not approved.

2 I have been through the process. I have
3 had many meetings here with DEP officials.

4 Actually, at some of the earlier meetings, the
5 Airport Industrial Park, these areas have been
6 provided with water and sewer. Some of the areas
7 are developer-driven, that they provide water and
8 sewer in the industrial park. There are literally
9 roads right here and buildings on both sides. So,
10 that is where we started with this process.

11 So, that will give you some background on
12 Cumberland County and Millville just in general. We
13 are not overdeveloping; we can't overdevelop. As a
14 matter of fact, in 2005 the city just adopted its
15 master plan. One of our goals was to preserve at
16 least 50 percent of our lands. We met that goal.
17 The environmental community said we couldn't do it.
18 We have already done it. This plan will insure
19 that. So, neither Millville nor Cumberland County
20 can be overdeveloped.

21 There is a Trident report that is a part of
22 this record. We are at the top of all the long list
23 unfortunately in Millville for unemployment,
24 education, teen pregnancy. I am proud to say we
25 have worked hard.

1 My part as city engineer, and again as a
2 former planner and economic developer for the city,
3 we have diversified our city. We have worked on the
4 downtown arts district. We have created a -- where
5 there was once 50 percent vacancy in our town, we
6 are much closer to 100 percent now. We redeveloped
7 a performing arts there. That is doing well. Over
8 400 jobs we have created in the downtown. The
9 regional science center at Route 55 and 47 was
10 opened up. 1,700 jobs have been opened there.
11 There is room for expansion.

12 In or around 2000 we partnered in our South
13 Millville Industrial Park with Galetto Realty
14 through New Jersey EDA land. Millville constructed
15 roads, water and sewer to open up 200 acres of
16 industrial park down there. That would be over in
17 here. So, there is 200 acres that we opened up.

18 T-Fal located on approximately 90 acres of
19 that, creating a 800,000 square feet ratable, 250
20 jobs. New Jersey Motor Sports Park out to the
21 airport took underutilized lands with a lot of
22 questions. DEP helped us redevelop those lands. It
23 created 50 jobs, diversifying our community and
24 creating many other spin-off jobs. Hotels,
25 restaurants at our interchange and our downtown are

1 doing well because of what they have done out at the
2 racetrack. There is a recent development with
3 exotic car garages, and the Field of Dreams project
4 is underway. So, they are expanding and doing well.

5 Unfortunately, this opportunity on this
6 80-acre parcel that we are talking about today is
7 complicated now with unfortunately the state
8 purchasing this land. The land already has water
9 and sewer running through the property. It is tough
10 to see, but it does come down the extension of Court
11 Boulevard and actually runs under 55 here, ties back
12 into Orange Street. I believe that a 12-inch sewer
13 main and water main traverse already through that
14 property. That was already expanded at the
15 taxpayers' expense. So, sewer service is provided
16 on the property.

17 It is next to rail. The railroad is right
18 here. Winchester & Western operates the railroad
19 right adjacent to the property. It is in our Mike
20 Lascarides Industrial Park. It was always zoned
21 industrial. As a matter of fact, I will go through
22 some of the history where it was expanded, the
23 industrial zone was expanded.

24 It is a PA2 under the state master plan,
25 which is an area designated for growth. And the

1 parcel is outlined in blue here. It has a 900-foot
2 buffer to the closest residence. So, that is
3 actually three football fields of mature oak/pine
4 forest.

5 I am going to give you a little history of
6 the piece. In 1989 Galetto Realty purchased
7 approximately 175 acres of land south of the
8 neighborhood area in the R-20 zone. That is the
9 extension of Crescent and Court Boulevard on this
10 map, the subdivision. They purchased the property
11 for approximately \$850,000 in 1989.

12 In that same year Galetto Realty
13 successfully sought and received approval to carve
14 94 acres of land into 148 residential building lots.
15 Those lots are shown here in yellow on this map.
16 This includes land that is now within, now pristine
17 is what we have heard, 80-acre parcel. This is the
18 same 80 acres here in blue. And yellow was the
19 subdivision.

20 There was a habitats and species report
21 prepared at that time in 1989. It was reported to
22 the Planning Board. The analysis showed a fairly
23 low presence of wildlife due to the limited
24 availability of water and well-developed understory
25 to provide cover. The report goes on to say that

1 the site is suitable for residential development as
2 proposed and shows no adverse effect on wildlife or
3 vegetation and indicates that approving an adjacent
4 development would actually improve the wildlife
5 habitat area in that area. They are saying that the
6 fringe habitat development actually creates a
7 habitat. So, that was in 1989.

8 In 2000, the same development company,
9 Galetto Realty, successfully applied to the Planning
10 Board for recondition of these lands, and the
11 Planning Board and the City Commission agreed to
12 rezone an additional 48 acres of land from a less
13 intensive residential use to industrial use. This
14 is how the now infamous industrial center 80-acre
15 tract was created. They actually got the land
16 rezoned and into the industrial zone.

17 As a matter of fact, they took advantage of
18 a condition in our ordinance book where they
19 actually made the rezoning a little bit larger than
20 what they needed so that the adjacent lands actually
21 provided the buffer.

22 Then in 2002 Galetto Realty sold the
23 94 acres of adjacent land shown here in green on
24 this map, the 94 acres, to the Nature Conservancy
25 for \$775,000. Then they sold the same year the

1 expanded 80-acre industrial parcel to Durand Glass,
2 obviously to utilize for industrial purposes. That
3 sale was for approximately \$400,000. Actually,
4 there is quite a discrepancy between the acreage
5 prices, and you may wonder why that was.

6 The landowner is an industrial developer.
7 They had to condition the build for Durand Glass if
8 they exercised their right to build. That was a
9 condition of the agreement. So, that is why the
10 land for the industrial purposes was sold for a
11 lesser price.

12 Even with the lower price, \$325,000 was net
13 as a profit by securing the previous development
14 rights on the land through our Millville Planning
15 Board.

16 Now we fast forward to 2011. After ongoing
17 debate between Durand Glass and the environmental
18 consultants against the DEP and special interest
19 environmental groups that this 80-acre parcel was
20 suitable for inclusion in the city sewer service
21 area, the city documented its support with a letter
22 from the Mayor to the Assistant Commissioner of DEP
23 citing the Durand independent habitat suitability.

24 As I mentioned, the Mayor penned a letter
25 in 2011 to the Assistant Commissioner, Marilyn

1 Lennon, in support of the property to be continued
2 to be used for industrial purposes and to be
3 included in the city sewer service area.

4 The report prepared by Durand Glass of
5 habitat and species suitability stated that all of
6 the habitat components required to sustain
7 endangered or threatened species do not appear to be
8 present.

9 The Assistant Commissioner, Marilyn Lennon,
10 and her staff agreed with the findings. And then in
11 February, 2012, she issues a Durand and Millville
12 letter stating that she has determined that the
13 above-referenced parcels are appropriate for
14 identification as a sewer service area within the
15 Cumberland County wastewater management plan
16 currently under development. I directed my staff to
17 include these parcels within the draft sewer service
18 area to support the proposed development.

19 Our commission, and quite frankly, the city
20 officials that I work with breathed a sigh of relief
21 over that. We maintain some of our industrial lands
22 still in our industrial park. Unfortunately, we now
23 find out that a well known local environmentalist
24 with direct ties to the previous owner of the
25 property was working feverishly behind the scenes

1 through another arm of DEP, the Green Acres Program,
2 to have this land purchased due to its environmental
3 significance.

4 Millville did not find out about this
5 stealth purchase until after it had already shown
6 its piece to the company that I already mentioned
7 earlier. I question how this could be possible, how
8 DEP could contradict local zoning, the city's master
9 plan, the state's own master plan. How could it
10 purchase these lands against the city's wishes with
11 water and sewer already running through the
12 property, next to rail, in the industrial park,
13 after the assistant commissioner already approved it
14 to be in the sewer service area.

15 They could not possibly do this without
16 public process or notifying the city or the county,
17 could they? Unfortunately, that is what happened.

18 This land, after Galetto Realty had
19 profited from it and is now in a position to compete
20 with other lands owned by the same company, could
21 not possibly have a different environmental
22 characteristic than it did 20 some years ago when
23 they provided the studies.

24 Where were the passionate environmentalists
25 and neighbors when these previous owners requested

1 148 building lots on the land? Where were they for
2 the rezoning request? I was there. The commission
3 chambers were empty. If you believe all the claims
4 by the environmental groups, the reports submitted
5 by this developer 25 years ago are now false. There
6 certainly couldn't be a double standard here, could
7 there?

8 The way this purchase was done was
9 absolutely wrong, but the city and state not to
10 honor their master plans is a problem. The last I
11 checked, we represented all the taxpayers. The
12 state and city are on a very slippery slope if we
13 cannot be aboveboard in our meetings, discussions,
14 correspondence and decision-making.

15 If Millville's representatives cannot be
16 afforded the same common courtesy as the
17 environmental community, the state is doing a
18 disservice to all taxpayers. For Millville to
19 potentially lose 50 jobs and the opportunity for
20 hundreds more under these conditions is absolutely
21 unconscionable. Thank you.

22 MS. PICCININI: I believe we have a
23 representative of Cumberland County here. Did you
24 want to go on the record at this time? Just a
25 reminder to spell your name when it is your turn to

1 testify.

2 MR. BAKER: Good afternoon. Thank up for
3 the opportunity to be here. My name is Theodore
4 Baker. I am county counsel for Cumberland County.
5 I was at the May 7th meeting. I will not reiterate
6 all the remarks that I made at that time, but they
7 will obviously be incorporated into the record, as I
8 am sure they will be.

9 The County of Cumberland stands behind
10 Millville with regard to the desire to have this
11 property reacquired. The county was not aware that
12 this property was being removed from redevelopable
13 properties in the county, and therefore the county
14 felt that this opportunity that has presented itself
15 to Millville was also one that would be lost to the
16 county.

17 And the residents in Cumberland County
18 through the end of 2012 and early 2013 have
19 experienced a 13.4 unemployment rate, the worst in
20 the county. By every indicia that we look at,
21 Cumberland County and its ability to create jobs, to
22 create prosperity, to create progress for our
23 residents, we are almost always last. That is not
24 only unfortunate, it is unfortunate that we will
25 inevitably face the same prospect if we cannot plan

1 for the future.

2 This property, Block 578, Lot 19, was part
3 of a planning process, a protracted, extended
4 planning process that was undertaken by the City of
5 Millville in conjunction with the department in
6 order to try to better plan for the future of the
7 residents of Millville and Cumberland County.

8 By every indication this property met those
9 criteria for development, both at the state level
10 and at the city level and also at the county level.
11 We have an open space plan in the county. This
12 particular property was not targeted as being
13 included, primarily because of the potential that it
14 had for the county and its residents to generate not
15 just jobs, but ratables and opportunity in an area
16 that is so sorely lacking.

17 We felt blind-sided when we found that this
18 purchase had taken place. There was no precedence
19 that we were trying to create or to support that
20 properties cannot or should not be purchased by the
21 state for conservation. In fact, 38 percent of
22 Cumberland County is either restricted or preserved.
23 The county has a strong history of preserving
24 properties and even deferring to make the
25 environment a top priority. That has not changed.

1 What has changed is that the county and the
2 city, when it goes through a process to designate
3 where and how and by what means we can try to
4 further the economic and the interests of our
5 residents to have a decent life and a decent job,
6 decent education, decent facilities, taxes that we
7 can bear, when that becomes undermined and the
8 process doesn't include our way of thinking or any
9 input from us, we respectfully came to the
10 department and we pointed out why we thought this
11 was a flawed process and that the interests of the
12 county and the city should be taken into account
13 when we are talking about municipal efforts to try
14 to plan ahead.

15 You know, we talk about forward thinking in
16 order to meet the needs of our community so that
17 they can have ways and develop ways to assure that
18 we will be able to meet future needs. We plan
19 things like restricted access highways. That is the
20 only one in the entire county. One.

21 Now, those of you who come from other areas
22 in New Jersey are well aware of the four-lane roads
23 that run through your communities and which serve as
24 perhaps even a scar in one sense. But they are
25 arterial pathways through which commerce takes

1 place. This is the only one we have.

2 This property has rail-siding. We don't
3 have rails running all over Cumberland County. And
4 we have synergy in this property because of Route
5 55, rail-siding, Gorton Road, local access, water
6 and sewer.

7 The state, through its cross-acceptance
8 plan, looked at this property and said, this is
9 appropriate for a PA2 planning area, which is
10 suburban and residential. That actually took place
11 long after the city had already zoned this property
12 as both residential and industrial, so that there
13 became a synergy of interest.

14 They put it in an industrial park -- not
15 just industrial, industrial park -- along with other
16 industrial facilities with respect to which there is
17 an integration and a central concentration that is
18 part of what planning and zoning is all about.

19 This property has undergone reexaminations
20 through the master plan. This property has been
21 promoted vigorously by the town fathers, the city
22 fathers, to try to attract industry.

23 The sad part of what we are facing is that
24 if the property cannot be returned to its intended
25 use and recognizing all the investment in resources

1 that have been put into it, Millville will further
2 decline. It will lose 50 jobs and it will not be
3 able to take advantage of an opportunity that I
4 described in the meeting on May 7th as fleeting, to
5 try to recapture that opportunity. That door may be
6 closing on us irretrievably.

7 And that is why we came to the department
8 and said, please, if not here, where? If not here,
9 where you have given us permission and we have
10 worked with you, if not here where there is water
11 and sewer, where it is zoned appropriately, where
12 there is four-lane access, where there is rail
13 service, where there is local access, where else can
14 we meet our future needs to provide for our children
15 and the future?

16 That is the position that we have asked the
17 department to take into consideration. We do not
18 discount, we do not ignore, the desire of people and
19 organizations to preserve the environment or the
20 flora and fauna that is necessary for a healthy
21 future. We do, however, take the position that
22 preservation without prosperity becomes
23 self-defeating and that we gain much for a community
24 by allowing the use that for 25 years has been
25 permitted and focused upon in this parcel. Then we

1 will be able to do a substantial good for a greater
2 number of people.

3 Then the balancing approach, we believe
4 this property should be returned to its original
5 intended use. And that is why we came forward to
6 ask for the department's assistance and cooperation
7 to not create a precedent, but to avoid one. And to
8 avoid the precedent that we want to avoid, we have
9 asked the department to return the property to its
10 original intended use and to commit with us -- not
11 to us, but with us -- that we will work together
12 through a public process, just as we are here, in
13 order to make collective determinations with notice
14 and opportunity to be heard so that we can work
15 together, not after 25 years of planning, focusing
16 and promoting a piece of property and investing in
17 it, but rather to do it before we make those kinds
18 of determinations, which now work so negatively to
19 our detriment.

20 That is what we want to avoid, ladies and
21 gentlemen. We want to avoid that precedent in order
22 to try to return some measure of prosperity to
23 Cumberland County. That is why we came here to the
24 department. That is what I wanted to make sure
25 everybody understood. Thank you.

1 MS. YEANY: Thanks. We are going to open
2 up the floor for general public comments. I think
3 this is probably the only microphone we have that is
4 working. So, we are going to pass it around. You
5 can stand where you want. If you want to come up
6 and speak to the maps, you can. If you want to
7 stand over there. Again, if you can state your name
8 and affiliation and spell your last name for the
9 court reporter. I don't know who wants to go first.

10 MR. MOSS: May I ask a question now first?
11 Robert Moss, M-O-S-S. I am speaking as an
12 individual. I did sign in with an affiliation, but
13 I may say things that I would not be authorized to
14 say for the Sierra Club.

15 May I ask a question? I don't understand
16 this proposal to begin with, and specifically the
17 role of Holly Farm and the concept, if I understand
18 it, of a mysterious third party being involved.

19 MS. YEANY: I think we explained this in
20 the report, and I stated it again for the record.
21 But the proposal is that we would do a direct sale
22 of the 80 acres to either the City of Millville, the
23 County of Cumberland or whatever nonprofit or public
24 entity they might designate for development.

25 MR. MOSS: Can I make my question more

1 specific?

2 MS. YEANY: Let me explain the whole
3 transaction, just for the sake of getting this on
4 the record. We would then take the portion of the
5 proceeds that represents the fair market value of
6 the property, the 367, and use it to buy the
7 underlying fee on the Holly Farm property, at least
8 900 acres.

9 As part of an agreement that we intend to
10 have negotiated before we ask anybody to approve
11 this sale, we would identify a third property that
12 would be purchased by the developer of the Holly
13 Farm property.

14 MR. MOSS: Why would Holly Farm do that?
15 Are they donating the land?

16 MS. YEANY: Are they donating the land to
17 the department?

18 MR. MOSS: They are getting the money and
19 they are required to spend it somewhere else. They
20 are getting the money and they are required to spend
21 it somewhere else, if I understand this, and they
22 are losing the land.

23 MS. YEANY: They are required to identify
24 another parcel that we wish to acquire. It is not
25 necessarily a direct connection as far as the actual

1 proceeds.

2 MR. MOSS: That was not my understanding
3 from what I read in the material that has been
4 available online. That is not my understanding. My
5 understanding was Holly Farm would turn over the
6 money that they got from DEP and buy this third
7 property.

8 MS. YEANY: I think because the parcel has
9 not been identified yet and that part of the deal
10 has not been negotiated, that it is too soon to say
11 whether they would actually take dollar by dollar
12 for the third parcel or whether they would acquire
13 it by some other means.

14 MR. MOSS: I guess I can go into comments
15 now, rather than asking questions. I do not
16 understand -- and this a not a question -- how you
17 can have a hearing and solicit public comments when
18 we don't even know what the final result of this
19 transaction is going to be. It is going to be
20 concluded after all the comments are in. The public
21 will not be able to comment without having it all
22 memorialized.

23 It just seems to me that would not be
24 consistent with the intent of the law, if the law is
25 to allow public comment. I will leave that area. I

1 think Judeth has said all she can.

2 What I am hearing here, I was very
3 surprised at the tone of Millville's presentation.
4 The town is already working with DEP. I understand
5 -- the way I understand it, DEP is on their side. I
6 found that surprising. But between the town and the
7 county, I want to make some observations.

8 What I am seeing here is something very
9 analogous to what we see in diversions. There is
10 always a reason to take land out of Green Acres,
11 whether it is through the diversion process. And
12 this is not called the diversion process here.
13 There is either jobs or I suppose compelling public
14 needs. Here it is supposed to be jobs. Jobs are
15 dependant in the county and particularly Millville
16 on that one parcel, which is not that big. That may
17 be the most suitable place to develop industrially,
18 but that is always the case when they want Green
19 Acres land.

20 People propose to build on Green Acres land
21 because it is the cheapest, most suitable, the
22 easiest. Whether it is a driveway in Ocean County
23 College, whether it is a detention basin, a giant
24 detention basin in South Mountain, it is proposed
25 because it is the most obvious place to put things,

1 if you disregard the need for open space. So, there
2 is always a reason to take it.

3 The Green Acres program is structured from
4 the bond acts down to the regulations -- with a few
5 minor deficiencies, it is structured to protect open
6 space. If we always go the easiest route, in
7 50 years I guaranty our open space will all be gone,
8 including the old stuff that wasn't bought with
9 Green Acres money. High Point.

10 The way we are going now, development
11 pressures are increasing. The need for jobs is
12 increasing. Now, that is primarily the fault of
13 Washington and there could be other factors. But
14 the pressures are increasing. We are nearly at
15 build-out and we have a choice. We can take the
16 less easy approach, a little bit more work, a little
17 bit more money, maybe a slightly longer access road
18 or rail extension. We can do that now, or in
19 50 years we will have to do it anyway and we will
20 have no open space.

21 I know Millville and the county do not
22 consider this a diversion because they feel they
23 were blind-sided. Let me just mention that DEP has
24 stated, or the land acquisition has stated -- it has
25 been in the news media -- a rationale for keeping

1 the negotiations secret, which I have always heard,
2 and I think is dispositive -- it tells the reason --
3 if you advertise that you are negotiating for a
4 parcel, the price is going to go up. Quite frankly,
5 New Jersey can't afford the price of open space to
6 go up. That is why they keep the negotiations
7 quiet.

8 As far as DEP's obligations -- again, the
9 land acquisition obligations, their obligation under
10 -- the way I read the bond act and the statutes,
11 their obligation is to buy open space. It is not
12 dependant on overdevelopment. It is not dependant
13 on a percent of lands preserved in this county
14 versus the other counties.

15 The land acquisition program, particularly
16 the state land acquisition program, looks at the
17 state as a whole, identifies good parcels. It is
18 not dependent on the local zoning and it is not
19 dependent on master plans. If it were, you could
20 take them to court over this purchase. And if you
21 think it is, you should take them to court. I say
22 it is not.

23 My other observation -- and my notes are in
24 tatters here, so I may stop here -- DEP over the
25 years -- and I am not a strict student of this, but

1 I have worked on the Highlands Trail as a volunteer
2 for the New York/New Jersey Trail Conference. I
3 have touched bases with the DEP Land Acquisition
4 Program many times. What I have seen is they have
5 an excellent record. The staff is very
6 knowledgeable. I have spoken to staff over obscure
7 parcels. They knew about it seven years ago. Every
8 time I have approached people in the Land
9 Acquisition Program, they always know what parcel
10 and they have always had a priority for it.

11 All I can say is they do an excellent job,
12 whether it is Riker Lake up in, I think that is
13 Morris County -- and Milford, they had a plan, not
14 just parcels here and there, but they wanted to
15 connect the Moonachie Plateau with the Newark
16 watershed, and they had in mind the parcel that the
17 Highlands Trail was going through. For a similar
18 reason they wanted a greenway.

19 These people had not only the land mapped
20 out -- they knew where everything was -- but they
21 also had goals that would promote conservation.

22 Another example, the former Camp Kiusha
23 property, they took that with encumbrances. There
24 were buildings on it. That is expensive. But it is
25 a beautiful parcel. It is a gem. I went to camp

1 there, so I am biased.

2 Also in Sparta. I forget the name of the
3 tract now, but it was another corridor that was
4 connecting two pieces of open space that wouldn't
5 otherwise be connected.

6 Why am I saying this? I have no reason to
7 believe that in this acquisition the DEP Land
8 Acquisition people did any less than an excellent
9 job in selecting the criteria to purchase it. And
10 you can see. Here it is. This is preserved; this
11 is preserved; a lot of this is under various
12 development restrictions; and this is preserved.

13 Just that alone, without knowing the
14 details, but knowing their record, these people made
15 the choice of what is best for the state in terms of
16 conservation, probably not active recreation in this
17 matter, of course, but passive recreation and so on.

18 So, the question then becomes if they are
19 so good at buying lands, why were they suddenly
20 reversed? Why was there a sudden reversal on this?
21 That to me is suggestive of considerations that are
22 not consistent with our open space program.

23 And I think again -- since I didn't get to
24 rewrite my notes, I think that is enough. If I have
25 anything else I can put it in by written comment.

1 By the way, I live in Bloomfield. I didn't
2 say that at the beginning.

3 MS. YEANY: Thank you.

4 MS. BRECHT: My name is Renee Brecht,
5 B-R-E-C-H-T. I am the program director for the
6 Delaware Bayshore office of the American Littoral
7 Society in Millville. I want to thank the DEP for
8 holding this second hearing today. I did speak at
9 the Millville hearing on May the 7th, and I brought
10 up a few points that I won't go through in detail.

11 But I spoke to the appropriateness of this
12 purchase by the Green Acres Program for inclusion in
13 the Menantico Wildlife Management area. In fact,
14 the site was listed as high priority by the New
15 Jersey Fish and Wildlife and Green Acres process.
16 And I spoke about the fact that Green Acres had
17 acquired the property in the industrial park on a
18 prior occasion as well and the city had raised no
19 objections.

20 I talked about the harm that would be done
21 by this diversion and the fact that the DEP is
22 acting outside of its legal charge and should not be
23 acting as a real estate agent for industrial
24 development nor for the municipality.

25 I discussed the fact that the city's

1 argument that they were not notified simply holds no
2 weight and that the purchase was fairly, legally and
3 properly coordinated by the state.

4 I would like to bring up some additional
5 concerns that we have with the proposed sale of
6 conservation lands for development. The Ogden
7 Rooney report prepared on this property was vague
8 and indeterminant both as to environmental value and
9 as to compensation.

10 The environmental value, the prepared
11 report brought forward data about potential
12 habitats, but it downplayed the habitat, even though
13 departmental biologists described it as pine snake
14 paradise. It downplayed that habitat, even though
15 the Trident report recommended further research.
16 And to that end it left information out that was
17 adverse to the developer and on the record.

18 The habitat assessment report for Block 578
19 Lot 19, posted online, page four, says, "This
20 relationship is further strengthened by habitat
21 features observed during a site investigation
22 conducted in January, 2013 (see attachments). As
23 presented in those photos, the site features open
24 sandy areas along the railroad tracks with scattered
25 lumber piles interspersed with vegetation. This

1 configuration of habitat features appeared highly
2 similar to known nesting habitat in Manchester
3 Township, Ocean County, where pine snakes were
4 recently captured.

5 None of those attachments were provided for
6 on the notice site prior to today's hearing.

7 The report as prepared had other flaws as
8 well as to compensation. The price quoted for the
9 Holly Ridge property as part of this conveyance was
10 the average or the mien per acre of a larger
11 1,350 acres, which includes 400 acres of prime
12 uplands.

13 However, the acreage being proposed for the
14 swap are wetlands, lands that won't be hunted on,
15 won't be tromped around on, and they don't function
16 for aquifer recharge, lands that are unbuildable.
17 The value averaged out is disproportionally over
18 that of the monitory cost of the wetlands over the
19 uplands.

20 From the report, although Holly Ridge, LLC,
21 would be likely required to place a conservation
22 easement on all or on a portion of the proposed
23 900-acre replacement property as a condition of
24 NJDEP or local approvals, those approvals would not
25 normally require a developer to convey the

1 restricted lands to this agency.

2 This property would be required to be
3 preserved. The city already stated this in a
4 resolution. How is it legal to use Green Acres
5 money to purchase property that is already required
6 to be preserved?

7 Furthermore, this third property referenced
8 is yet unnamed and no information is available as to
9 acreage or cost or environmental significance.
10 Again, I quote, the final acreage involved in the
11 proposed conveyance is subject to change due to site
12 conditions and/or survey adjustment, but number one,
13 such changes will not exceed ten percent of the
14 proposed acreage on either side of the transaction;
15 and number two, the final replacement land will be
16 of at least equal acreage to the final acreage
17 conveyed.

18 There is no guaranty as to what this ratio
19 could look like. It could be six to one; it could
20 be four to one; it could be one to one. It is
21 impossible to tell what the real value or the real
22 costs are. There is no way to properly evaluate, to
23 accurately determine, compliance or cost or benefit
24 without this information. We cannot know whether or
25 not the public is being shortchanged, and thus

1 compliance cannot be accurately determined.

2 The state has a fiduciary responsibility
3 here to its constituents, and we believe that the
4 analysis done to facilitate the selling off of
5 public lands was a weak and incomplete evaluation at
6 best.

7 We have concerns that the state cannot be
8 relied upon to properly follow through with the
9 directives of this diversion.

10 The Durand report states, "The balance of
11 the sale proceeds, \$28,000, will be deposited into
12 the Garden State Preservation Trust, as required by
13 N.J.S.A. 13:1d-57. However, if the Holly Farm
14 purchase cannot be completed within three years of
15 the actual conveyance of the property, the NJDEP
16 will identify and purchase other suitable
17 replacement land of at least equal acreage in fee in
18 Cumberland County, using the \$367,000 in sale
19 proceeds."

20 Around 2004 Cape May County diverted open
21 space for the Atlantic Cape Community College. As a
22 result of this diversion, the county was to put up
23 \$500,000 into replacing the property that was
24 diverted. Ten years later the state has not been
25 successful in securing open space to replace this

1 diversion. If after a decade the state has not been
2 able to bring this diversion into a state of
3 compliance, how can we expect the state to follow
4 through with this?

5 I would like to address one comment that
6 was made about the county and its -- all of the work
7 it has done for preservation. I would like to
8 stress this past year in September I was privileged
9 to work with the county and with the City of
10 Bridgeton and with Hopewell Township to bring
11 together and to finalize the sale of property that
12 was called Barrett's Run in Hopewell Township. And
13 it was a really wonderful thing because everybody
14 worked together. There were four parties signing on
15 this piece of property.

16 What was interesting to me is it was
17 actually the very first time that the county has
18 purchased open space. They do a lot with farmland
19 preservation, not so much with open space. There is
20 another piece of property that is currently being
21 considered. We are working on together with the
22 county and other entities to try to bring this to a
23 purchase as well. When it came before the open
24 space and the Planning Board, they didn't want to do
25 it. Absolutely not. They were so emphatic about it

1 that when the freeholders insisted, one person
2 actually resigned, because they did not want to
3 support open space with open space funding. It had
4 to be farmland.

5 So, it is not correct to say that the
6 county has actively supported open space. They have
7 actively supported farmland and they have recently
8 made changes, but historically that has not been the
9 case.

10 I would also like to point out that zoning
11 does not preclude open space preservation. One only
12 needs to consider the ill-advised proposal for a
13 supersonic jetport in a city of 250,000 people by
14 the Pinelands Regional Planning Board in 1964 to see
15 that that is not the case.

16 Stephen Schmidt, associate professor, city
17 and regional planning, with the College of
18 Architecture, Art and Planning in Cornell University
19 in an article entitled "The Evolving Relationship
20 Between Open Space Preservation and Local Planning
21 Process," which was published in the Journal of
22 Planning History in May of 2008, states,
23 "Nevertheless, although often misinterpreted as
24 such, zoning and land regulations are not planning."

25 Relatively early on it was clear that

1 zoning was being misused.

2 Alfred Bettman -- for those of you who
3 don't know who Alfred Bettman was, he was one of the
4 key founders of -- modern urban planning and zoning
5 as it is known today can be attributed to his
6 successful argument in front of the US Supreme
7 Court. Alfred Bettman lamented the imposition of
8 zoning control without proper planning, arguing that
9 any zoning regulations should be based on scientific
10 study.

11 The city and the county claim that this is
12 a site that has been part of an economic plan and
13 has been included in the planning prior to state
14 acquisition. I would like to point out that the
15 impetus for the zoning was not through planning, but
16 it was identified because of a local firm who was
17 trying to facilitate a sale from one owner to
18 another. It was not zoned originally industrial
19 because of planning. It was zoned that way because
20 of a change to facilitate ownership.

21 One of the goals of our local planning
22 should be to identify parcels which are not suited
23 for commercial or industrial uses because of a
24 conflict with environmental resources, existing
25 uses, current traffic, development patterns. And if

1 we are presented with new or different information,
2 it is our obligation to examine our zoning and to
3 reconsider rezoning where appropriate.

4 One cannot help but question the wisdom of
5 local planning that includes a site that has been
6 identified with state mapping, landscape map, and
7 has an endangered species habitat and is adjacent to
8 other state protected conservation land and has a
9 long history of accessibility.

10 In fact, the habitat suitability
11 determination report dated 2011 that the city and
12 county like to cite of no rare species concludes
13 with, "Due to the favorable habitat present for
14 northern pine snakes, coupled with two rivers for
15 this species immediately adjacent to the site, TEC"
16 - that would be Trident Environmental -- "recommends
17 a survey be conducted to determine the presence or
18 absence for the species on site," which they did not
19 do.

20 Qualified endangered species biologists
21 within the NJDEP have inspected the site and
22 described it in writing as a pine snake paradise.
23 The northern pine snake is a state threatened
24 species, and the population that occurs at the
25 Durand site is likely the only population of

1 northern pine snake remaining in all of New Jersey
2 that is not contained within the jurisdiction of the
3 Pinelands Comprehensive Management Plan.

4 Not only do we have habitat -- I am sure
5 Dr. DeVito will speak of this in a moment -- but we
6 know there were sightings of northern pine snakes,
7 so that identifying such a site for inclusion in
8 industrial development guarantees both legal and
9 regulatory conflicts that will occur when any
10 prospective developer attempts to develop this
11 property. This is poor planning.

12 The Durand report states, "The purchase of
13 the property by the city or its designee would be
14 separate from any permitting or approvals of the
15 future development of the property by the NJDEP, the
16 city or the county. Attempts to develop this site
17 will inevitably be fraught with legal and permitting
18 difficulties. The city and the developer should be
19 considering due diligence. Permitting of both
20 threatened and endangered species habitat and
21 sightings will be a challenge."

22 One might also recall the Super Wal-Mart
23 for Toms River in Manchester that was proposed
24 almost a decade ago. It has been in and out of
25 courts and expected to be heard again this fall when

1 habitat for northern pine snake was ignored by the
2 New Jersey Department of Environmental Protection.

3 The city needs to invest in its brown
4 fields before pillaging tracts of land that are
5 environmentally inappropriate or taxpayer-funded
6 open space. The cross-acceptance process not only
7 directed that brown fields be considered for
8 redevelopment, but also specified that brown fields
9 sites should be a priority for redevelopment.

10 There is no reason why poor planning should
11 be given any legitimacy in open space and in
12 conservation unless the DEP and the current
13 administration are simply acting as real estate
14 agents for industrial developers and willing to give
15 away the state's conservation land.

16 I would like to end with one last thought.
17 That is justification for planning for the
18 preservation of property frequently relies on
19 economic efficiency arguments. This is unfortunate,
20 because conversions of environmental movement in
21 more recent turns in local planning towards smart
22 growth and sustainable process does present the
23 practice of a more integrated conceptualization of
24 planning in the open space.

25 MS. YEANY: Thank you. Before we take the

1 next comment, I just want to address something for
2 the record. We were not aware that the photographs
3 referenced in Renee's testimony had been omitted
4 from the attachment to our report. When she brought
5 that to our attention, we did locate them. We
6 provided them to her directly, but it was earlier
7 today, so she may not even have seen that message.

8 We are going to amend the posting on the
9 website to include those photographs as an
10 attachment. That information should be available in
11 a couple of days on the website. We are sorry for
12 that omission.

13 MR. DeVITO: My name is Emile DeVito,
14 manager of science for New Jersey Conservation
15 Foundation. First name is spelled E-M-I-L-E. Last
16 name is D-e-V-I-T-O. I have a Ph.D. in ecology and
17 am a forest ecologist. I am on the New Jersey
18 Endangered and Non-Game Species Advisory Committee.
19 And I am an expert regarding the ranking of birds
20 for the endangered species programs during their
21 Delphi process.

22 I have also been involved in pine snake
23 research in Bass River State Forest for 24 years
24 with Dr. Joanna Berger from Rutgers University. I
25 consider myself an expert on pine snakes.

1 I just want to report on some recent
2 findings regarding this tract. The DEP, with the
3 help of the Endangered and Non-Game Species Advisory
4 Committee, lists threatened and endangered and
5 special concern species. Special concern is another
6 word for rare.

7 We list those species -- we, I say the
8 Endangered and Non-Game Species Advisory Committee.
9 We list all those species, especially the special
10 concern species, because the DEP in its mission
11 tries to keep special concern species from becoming
12 more rare, from becoming threatened or endangered
13 and therefore becoming regulated.

14 So, that is one of the reasons that Green
15 Acres spends so much money buying forest and open
16 space or other habitat with special concern, rare,
17 species, to protect those species, to protect their
18 habitats, to help them keep their populations from
19 declining further. They are already in decline. If
20 they decline further they will become threatened or
21 endangered, and that will kick in all sorts of
22 regulatory problems.

23 Now, Green Acres land, the Green Acres
24 diversion rules for municipal and county and
25 nonprofit open space, references a need to consider

1 special concerned species. The Ogden Rooney process
2 is not so particular in terms. It is older
3 legislation. It doesn't have all sorts of rules
4 associated with it.

5 But lately the Green Acres Program, with
6 all sorts of projects scattered around New Jersey
7 regarding Ogden Rooney diversions, has been trying
8 to follow the Green Acres diversion framework in
9 terms of protecting rare communities and rare
10 species.

11 So, given the proposal here for the Durand
12 tract, I have been working with some other people to
13 conduct surveys this spring. We waited until spring
14 came because snakes come out of hibernation when it
15 gets warm and birds return from the tropics when it
16 gets warm.

17 So, we had two days where we spent some
18 time combing the site trying to find pine snakes.
19 We found what appear to be pine snake nests from
20 last season or previous seasons, but of course not
21 any actual animals. They may still have been in
22 hibernation.

23 We -- yesterday I arrived at the site at
24 4:30 in the morning to do a bird survey between 4:30
25 and 9 a.m. to try to uncover as many special concern

1 species that are breeding on the site. I found
2 quite a number. I found at least four or five,
3 maybe six, special concern species breeding on the
4 site. They are all listed in the report that was
5 sent yesterday to the Endangered and Non-Game
6 Species program.

7 And after my bird survey was finished, I
8 transversed the whole site and even some of the
9 surrounding land to get a feel for all the different
10 habitats. As I was working my way back to where my
11 car was parked on the street by the railroad, I
12 happened upon a piece of plywood. I flipped the
13 piece of plywood and there was an adult northern
14 pine snake.

15 That was approximately right here on the
16 site, not too far from the railroad, probably about
17 300 or 400 feet into the woods. The GPS coordinates
18 have been given to the Endangered and Non-Game
19 Species Program.

20 He was a healthy adult. The mating season
21 -- most adult pine snakes this time of the year are
22 spending their time tracking the scent trails of
23 females, so it is very likely that there were
24 females in the area.

25 And in previous visits we had seen possible

1 nests in the same area, and the habitat is
2 absolutely perfect for pine snakes. As was depicted
3 in the DEP e-mails, it is a pine snake paradise.

4 There are open standing nesting areas with
5 Pennsylvania sedge and other herbaceous and
6 low-growing woody plants. There are breaks in the
7 canopy from gypsy moth damage. There are lots of
8 rotten stumps from dead trees that serve as winter
9 hibernation sites.

10 Every single critical component of what
11 pine snakes use is present on the site in great
12 abundance, and it is no doubt there is a population
13 of pine snakes that stretches from this site all the
14 way through the Manumuskin and the Menantico River
15 Forest area here, which is one of the largest
16 unbroken and pristine forest tracts in all of
17 southern New Jersey.

18 And as was previously stated, this is
19 almost certainly the only pine snake population that
20 is not encompassed by the Pinelands Comprehensive
21 Management Plan, as the Pinelands starts on the
22 other side of the Manumuskin River.

23 We also believe that further searching
24 would find corn snakes on the site, because corn
25 snakes occur here on the Manumuskin River Preserve

1 and the habitat is contiguous and perfect for that
2 species also. And that is an endangered species
3 that has not been searched for.

4 So, further work would confirm more special
5 concern species. Pine snake is absolutely confirmed
6 and there, and all the critical habitat components
7 are there, and corn snake is probably there too.
8 There is no reason why it shouldn't be.

9 So, the reason that -- the conclusion of
10 all this is that it is the opinion of the New Jersey
11 Conservation Foundation that if this land was to be
12 developed, that there would definitely be taking of
13 critical habitat components and individuals of
14 northern pine snake under New Jersey's Endangered
15 and Non-Game Species Protection Act.

16 And I find it really troublesome to think
17 that the DEP would be setting up a private developer
18 or landowner for such a sort of loggerhead with the
19 endangered species law.

20 So, we really feel that the DEP should look
21 more carefully at its mission. The land was
22 preserved. It was ranked very highly by the DEP, by
23 the staff of the Green Acres program, by the
24 endangered species biologists.

25 It was acquired. It was given to Fish and

1 Wildlife to be managed as part of the larger Fish
2 and Wildlife management area of the Menantico Ponds,
3 and that is the way it should stay. We feel like
4 that is the best way to avoid problems. Thank you
5 very much.

6 MS. YEANY: Thank you.

7 MR. TITTEL: Jeffrey Tittel, director, New
8 Jersey Sierra Club. I am here on behalf of our
9 70,000 members and supporters here in New Jersey.
10 Actually, probably two million nationwide. The
11 reason is that the Delaware Bayshore is considered
12 an area for the Sierra Club of national significance
13 and has actually been elevated within the club as a
14 place of one of our 50 most endangered landscapes in
15 the country.

16 We consider it similar to West Yellowstone
17 and to areas up in the Tongas. The reason is
18 because in the most densely populated regions in the
19 country we have an area that still has important
20 habitat, an area that still has a lot of green
21 spaces. We have an estuary that is one of the most
22 important flyway stopovers for migratory birds. We
23 have an area close to major populations that are
24 teeming with endangered species.

25 But more importantly, it is also an area

1 where people can get out and breath and exercise and
2 hike and bike and do all kinds of other things.

3 But it is being threatened. It is being
4 threatened by sprawl development. When you look at
5 what is happening here -- and by the way, it is
6 called property rights. The state has the right to
7 buy property. That is first and foremost guaranteed
8 in the State Constitution. And there was a public
9 process and people did support it, just like they
10 supported preservation of so many other parcels
11 throughout the region.

12 Property owners have a right to sell their
13 property to whom they want to and that politics is
14 not supposed to come to bear after the fact to try
15 to change that.

16 And in the past we have proposed many
17 different diversions. However, when you look at
18 this, compared to some of the other diversions -- in
19 Monroe they put a high school on open space. In
20 Princeton they built senior citizen housing,
21 affordable housing. In Union County, in Plainfield,
22 they put a county office building. In Montgomery
23 Township they put in a pumping station. I can go on
24 and on.

25 They at least had a public purpose, whether

1 you agreed with it or not, whether you agreed that
2 it was a violation of public trust to take that open
3 space and to develop it. But at least there was a
4 public purpose. Even when you deal with power lines
5 and gas lines cutting through our open space, at
6 least they are utilities and at least there is
7 another public purpose, which is to bring energy to
8 populations.

9 There is no such public benefit here.
10 There is no such public good. This is only about
11 enriching certain developers at the expense of the
12 taxpayers of New Jersey, because we know they are
13 not buying it for fair market value. They are
14 buying it for value based on open space, not the
15 value they are going to get from selling lots to
16 development.

17 It also goes against the whole concept that
18 we should be providing for economic development in
19 places like Millville, which is a place that we
20 actually do want to see economic development and
21 have supported it in the past, where you build
22 appropriate developments that actually attract more
23 investors and more businesses, not inappropriate
24 development that sprawls you out.

25 Communities in the state and across the

1 country that have actually been able to survive
2 tough economic times or to rebound economically have
3 done it because they actually believe that land has
4 a value and a higher use and that not every
5 development works.

6 I learned that lesson a long time ago when
7 I was at the planning board in Ringwood, when in an
8 area that was zoned for light industry, and we had
9 some very high tech companies there, someone want to
10 build a construction yard. The mayor was supporting
11 it because he was a contributor. And he came to us
12 and said, you have got to push this through.

13 One of the property owners adjoining said,
14 I am investing \$3 million in this community. I am
15 putting in a ball bearing facility. If you are
16 going to turn my investment into crap, we will have
17 to pull out.

18 The point is that the land in Millville is
19 valuable. There are important places in the
20 Millville area that can have development that is
21 close to town, where there aren't endangered
22 species, where sewers are existing, versus being
23 extended. That is called smart growth, for lack of
24 a better term.

25 When you look at zoning in Millville, you

1 could build two Cherry Hills there, just based on
2 what you are zoned. That is not smart land use and
3 it is not a way to attract those kinds of
4 investments. Companies that want to invest want to
5 go to places where the land is valued and their
6 investment is valued, not where sprawl and
7 overdevelopment has those impacts.

8 The point I want to get to is this is not a
9 diversion; this is a perversion. There is not only
10 not a public good, but there is not even a real
11 public process because -- basically the Commissioner
12 of DEP should become the Commissioner of Baseball
13 because it seems like we are making a trade for the
14 player to be named later or a piece of property to
15 be named later. It makes absolutely no sense.

16 I want to also mention that there is an
17 important New Jersey Appellate Division case in
18 Mount Laurel, which is the town that gave us the
19 Mount Laurel decision. In that case where
20 development had been approved, the town used eminent
21 domain to save that property from development.

22 Judge Skillman in his opinion -- it was a
23 unanimous opinion -- wrote that open space is the
24 highest and best use of property. The Supreme Court
25 affirmed that.

1 What I am saying is when you have a piece
2 of property that is this constrained with so many
3 endangered species in such an environmentally
4 sensitive area, that is adjoining many other
5 important pieces of property as part of an important
6 migratory flyway, it is part of an important habitat
7 for pine snakes and so many other reasons, when you
8 look at almost every criteria the DEP has for why
9 you should acquire open space, the only thing
10 missing is it is not in the Highlands. They have
11 got everything else. That is why it was acquired.
12 That is why developing this property and trading it
13 away violates the public trust and I think
14 unfortunately undermines the integrity of the DEP
15 and the Green Acres office.

16 If this goes forward, I think that the
17 Commissioner and folks in DEP, instead of being in
18 Green Acres, will be wearing gold jackets because
19 they are nothing more than a bunch of real estate
20 agents. Because if you can do it here, you can do
21 it anywhere. Where is the next place we are going
22 to be trading?

23 Better yet, if that piece of property gets
24 bought, the one where we don't even know where it
25 is, this mysterious piece of property, wherever it

1 is, who is to say that that won't be traded for
2 something else? Because once you open up this
3 process and you allow politics to run acquisition
4 and politics to run your whole land programs, it is
5 not going to stop. This is the camel's nose in the
6 tent.

7 That is one of the reasons we are here. It
8 is at a time when open space is running out of
9 funds. We need to go to the voters. These are the
10 kinds of deals that will turn the voters off from
11 funding open space.

12 So, what I say to Green Acres and to the
13 DEP Commissioner, do your job, uphold the integrity
14 of our bonds acts, of our trust funds, of the
15 commitment that this administration and 20 previous
16 administrations have made to open space. It is
17 critical for the future, not only of our state, but
18 really for the future of this area called the
19 Delaware Bayshore. Thank you.

20 MR. PEIFER: My name is Dave Peifer. I am
21 project director with the Association of New Jersey
22 Environmental Commissions.

23 I would like to follow along with Jeff's
24 comments about the trust issue and try to impress
25 upon the department and Green Acres just how

1 valuable and precious the public's trust in your
2 integrity is.

3 Since 1961 the public has voted to commit
4 1.4 billion dollars of tax money to the open space
5 preservation effort. There have been numerous Green
6 Acres funding issues which have all passed. And we
7 are, as Jeff mentioned, at a critical point in open
8 space funding here in New Jersey.

9 What is always so well appreciated is the
10 importance of trust between and among the state
11 agency and private landowners, between and among
12 county and municipal governments and between and
13 among private land trusts that give rise to
14 donations and bargain sales.

15 There is simply no way to engage in the
16 kind of national model that New Jersey has been over
17 the years without integrity and trust. Jeff
18 described this particular project as a camel's nose
19 under the tent. It is more like the camel's head
20 under the tent. And I would predict that it is
21 going to have very negative consequences.

22 I have been involved in about 25 land
23 preservation transactions over the years as a
24 representative of a private land trust. And many of
25 the donations that we acquired were given to us,

1 rather than the state, because there was an
2 incipient distrust of government going back to the
3 1980s. Trying to justify this transaction with
4 development as its objective, economic development,
5 is not going to help that.

6 Another question or problem that we have is
7 the proposed compensation of land or any currently
8 restricted from development. I would also say that
9 the purchase of the Durand tract was procedurally
10 correct. There was nothing underhanded about it.
11 It went through normal channels.

12 And I would remind everyone that conflict
13 with local zoning is simply a cost of doing business
14 in the open space and preservation area. Everything
15 in New Jersey is zoned industrial, commercial or
16 residential. So, how in the world do you expect to
17 preserve land while respecting, in quotation marks,
18 local zoning?

19 And state acquisition in particular should
20 be aware that its interest is the wellbeing of the
21 State of New Jersey and its future and not local
22 landowners or local governments as its primary
23 concern.

24 I am amazed with the fact that we are
25 looking to acquire a fee interest in a property,

1 Holly Farm, which -- the title of which remains in
2 dispute. I am also amazed that we are trying to use
3 this as a justification for what is in my view a
4 diversion of open space, with the notion that if we
5 don't complete that transaction on that property,
6 which has been, by the way, a political football
7 since 2002, in three years -- if we don't complete
8 this transaction in three years, then something else
9 somewhere else happens. I would hope that Green
10 Acres will understand the need for specificity in
11 this area and certainly not bring this project
12 before the State House Commission until that kind of
13 surety is guaranteed.

14 One other thing that I do want to raise,
15 and then I will close, is the question of the
16 conservation value assessment of the Durand tract
17 that is used in the Ogden Rooney report.

18 One of the important issues in the entire
19 region is the welfare of the Kirkwood Cohansey
20 aquifer. And critical to protecting the Kirkwood
21 Cohansey aquifer is keeping the surface in natural
22 condition so that groundwater may recharge and
23 travel relatively quickly to wetlands and streams
24 throughout the entire aquifer area.

25 The value of the property, the Durand

1 tract, as a recharge area was not considered. And
2 frankly, it appears to be an excellent groundwater
3 recharge area. Based on online information
4 available on the DEP's own website, we have been
5 able to calculate that the Durand tract recharges
6 something between 23 million and 325 million gallons
7 a year into the Cohansey aquifer. Were that
8 property to be developed as industrial use, there
9 would certainly be a reduction in that groundwater
10 recharge.

11 And importantly, because of the strategic
12 location of that property, that reduction may have
13 an effect on the existing and adjacent public and
14 private nonprofit preserves, which do have water
15 resources on them.

16 So, we would ask the department to give
17 some serious consideration to the groundwater
18 recharge value of the property that is being
19 proposed to leave the public domain, but also to do
20 the same analysis on the proposed compensating
21 property.

22 Most of the property that appears to have
23 been discussed -- and quite frankly, we don't have a
24 metes and bounds description; we have a block and
25 lot number and some kind of vague acreage total.

1 But the nonusable part of the Holly Farm tract is
2 almost entirely a groundwater discharge zone. It
3 has very little, if any, groundwater recharge value.
4 And, in fact, the area proposed for development has
5 an excellent groundwater recharge value.

6 So, in the end, if the Holly Farm proposal
7 is carried out and the development occurs there and
8 the Durand tract is transferred out and is
9 developed, we may find ourselves in possession of
10 publicly owned lands with critical water-related
11 natural resources that are degraded and made less
12 suitable for the purposes for which they were
13 acquired.

14 We urge you to remove this diversion from
15 further consideration. Thank you.

16 MS. YEANY: Thank you. Is there anyone who
17 hasn't testified already that wishes to go on the
18 record? Did anyone who already testified wish to
19 make additional remarks? Then I think we are going
20 to close the record of the hearing.

21 As I mentioned, we are leaving the -- we
22 will close this portion of the record. We are
23 leaving the record open for an additional two weeks
24 for additional written comments.

25 We will be posting comments and transcripts

1 of the hearing online, after which we would evaluate
2 the comments and make our final recommendation to
3 the Commissioner. Thank you for coming.

4 (The hearing was adjourned at four p.m.)
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C E R T I F I C A T E

I hereby certify that the proceedings herein are from the notes taken by me in this matter of the aforementioned case; and that this is a correct transcription of the same.



Phyllis Semanchik

PHYLLIS SEMANCHIK, CCR NO. 1200

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