

Governor James J. Florio Archive

***The Environmental and Energy Programs and Policies of
The Florio Administration***

Center on the American Governor Forum
Eagleton Institute of Politics

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Forum Participants with role during Florio Administration

Todd B. Bates	Environment Reporter, <i>Asbury Park Press</i>
John O. Bennett	State Senator
Dan Dalton	State Senator and Secretary of State
Steve DiMicco	Legislative Staff
Joe Donohue	Reporter, <i>Atlantic City Press</i> and <i>The Star-Ledger</i>
Joe Doria	State Assemblyman, Speaker and Minority Leader
James Florio	Governor
Jeanne Fox	NJDEP, Deputy and Acting Commissioner
Dennis Hart	NJDEP, Division Director and Assistant Commissioner
Jeanne Herb	NJDEP, Pollution Prevention Program Director
Kristi Izzo	NJDEP and NJ BPU
Greta Kiernan	NJ BPU and NJDEP, Staff
Charles Licata	First Assistant Environmental Prosecutor
Steven Madonna	NJ Environmental Prosecutor
Lance Miller	N DEP, Division Director and Assistant Commissioner
Edward Neafsey	NJDEP, First Assistant AG and Assistant Commissioner
William O'Sullivan	NJDEP, Division Director
Mary Shiel	NJ DEP
Jon Shure	Governor's Office, Communications Director
Rick Sinding	NJDEP, Assistant Commissioner
Gary Sondermeyer	NJDEP
Frank Sweeney	Governor's Office, Counsel's Office
Scott Weiner	NJ BPU, President and NJDEP, Commissioner
John Weingart	NJDEP, Division Director and Assistant Commissioner
Michael Winka	NJDEP and NJ BPU

Sam Wolfe NJDEP and NJ BPU
Cindy Zipf Clean Ocean Action, Director

Selected Excerpts

Governor Florio environmental legacy:

The most significant thing for my grandchildren is they still remember that "Pop-Pop" cleaned up the ocean.

Governor Florio lessons for present policy-making:

[The decision to reverse course and not build 22 or more waste incinerators in the state] is just such a wonderful example of what we talked about at the beginning of this session saying that we're going through this not for just nostalgic purposes but to try to learn for future purposes. And the shift to gas pipelines, we're now in the process of building twelve, thirteen new gas and oil pipelines. This is to transport natural gas. But we also know that the nation has a task of reducing reliance upon fossil fuels, including gas going forward. I've tried to make the argument to the pipeline industry think about over capacity, buying into something you're going to have to pay off. When, in fact, the stock of the material you're supposed to put to the pipelines is going to be inevitably reduced. At some point, you build a bubble and you have to bail out. I mean this a wonderful example of what we saw in the past that should be applied to the future. Whether anybody applies it or not is still up in the air.

Governor Florio regrets on campaign tactics:

And in my inevitable way of overkill I went after [Congressman Courter] with a vengeance, which was really one of the few things I regret about my political career. I listened to political intelligence who talked me into approving an ad that was critical of him for his environmental record by putting a picture of him with a Pinocchio nose that kept extending. It was demeaning to him and to me as well. And it was one of the few things I regret about campaigning, subordinating my own good judgement to that of a campaign consultant.

Governor Jim Florio concluding remarks:

I've always believed that knowledge is power... As the issues become more complex - not just in the environment but the environment is a good example - as the issues become more complex it's essential that we have leadership to go out and explain what the options are because there are options and each of them have pluses and minuses. And

we've got to get people engaged and informed because these things, as we all know from Washington and politics nowadays, there are folks out there who are prepared to give you understandable simple wrong answers.

And so someone's got to be out there countering that. And most of the problems really have good answers that are understandable if you explain them - as long as you felt you have full costs evaluated, full benefits evaluated, and external costs have to be brought into the mix. It takes a little work. My apprehension about contemporary politics is that no one wants to do the work. No one wants to really become engaged because it's not easy. There's no answer that's totally positive. There are always some plusses and some minuses. And no one wants to engage because if you engage and raise the question, raise the issue, someone is going to say, what are you going to do about it? And then you're going to get somebody unhappy. And if somebody is not happy they're not going to be able to contribute to your campaign.

So I'm just really encouraging all of you to go out and be disciples for those principles that you believe in and getting engaged and getting people informed.

Complete Transcript

Governor Jim Florio: I want to thank John Weingart at the Center for doing this program. They've all been interesting and this one I'm sure will be as interesting as well. And thank you all for making the time to come and be part of this program. I guess just to launch what I would say is that I think when we came into office in 1990, there were really great expectations for us about environmental concerns for a number of reasons, one of which was my work in Congress largely in the environmental field. I was the chairman of the committee that had jurisdiction and we got a lot of very important things done. So, we had a little bit of a reputation to start with. Over and above that, the problems in New Jersey were fairly serious. There were problems, environmental problems, that were at the top of the agenda. I mean, the Jersey Shore was closed as much as was open at that period. There were solid waste problems, a whole lot of other problems as well. I used that set of circumstances having a little bit of a reputation and the existence of problems in the campaign to highlight the goals and aspirations we had for the environment and I think it resonated with people. I tease Congressman Courter [1989 Republican gubernatorial opponent], who I see every once in a while, about how he was very

good on a whole lot of issues but on the environment-- he was not particularly good. But his advisors told him he had to do something about it, so he started making things up.

<laughter>

Governor Jim Florio: And in my inevitable way of overkill I went after him with a vengeance, which was really one of the few things I regret about my political career was in that campaign listening to political intelligence-- the ones not here who talked me into approving an ad that was critical of him for his environmental record by putting a picture of him with a Pinocchio nose that kept extending. It was demeaning to him and to me as well. But it was one of the few things I regret about campaigning, subordinating my own good judgement to that of a campaign consultant.

But we've done a lot of good things. And, just as a summary of my observations at the beginning of this program, looking at what goes on in the world today in terms of legislative accomplishments, governmental co-operation, and achieving of the general public interest goals-- we did a lot. And I mentioned to a couple people before that having these events is very pleasurable for me, because it requires me to go back and think about things to prepare for them. And you get a sense of the fact of the magnitude of the things that we did in the public interest. So, today we're going to talk about some of them in the hopes that people who view things review the materials and research for scholarly purposes who have at least access to what it is that was done and then, perhaps more importantly, what it is that we can take from what was done, so as to be able to shape events going forward, to assist not in nostalgia, but something that's practically of use. So, thank you very much.

Group: Thank you.

John Weingart: There are several people not here who are going to be coming later in the afternoon. And in the spirit of what the governor just said we recognize we can't discuss every issue in one afternoon and not every topic can be neatly categorized into four panels ... But that said, I'd ask everyone to try to keep their remarks brief, feel free to supplement them in writing. One of the benefits of doing this online is we can add to this as we go along and add references to things that come up during the discussion, like the ad with Pinocchio. I'll try to keep us on schedule and may need to ask that we move on from time to time to get to the next topic.

Jim Florio was elected governor on November 7, 1989 and sworn in on January 16, 1990. His initial cabinet included Judy Yaskin as DEP Commissioner and Scott Weiner as president of what was then called the Public Utilities Commission. One

year later Commissioner Yaskin resigned to return to the Superior Court and Governor Florio chose Scott Weiner to be the new DEP commissioner. Then towards the end of the term Scott became the Governor's Counsel and Jeanne Fox moved up to serve as acting DEP Commissioner.

The condition and image of the Department of Environmental Protection in January of 1990 was, I think, accurately captured by Michael Catania, who was at that time a once and future deputy commissioner of the department: In a transmission report he submitted that month in January of 1990 he wrote,

"In its 20-year history DEP has grown incredibly fast. During the Kean administration some 50 laws were enacted, which created major new DEP programs or imposed substantial responsibilities on the department. These responsibilities have been handled with very mixed success. While New Jersey is regarded nationwide as a leader among states in the environmental area the fact remains that DEP is also an agency with staggering management problems and severe public relations problems with the regulated community, environmentalists, the legislature, local officials and the general public."

The Catania transition report then moves on to a section on immediate issues and problems. And second on his list of immediate issues and problems is the establishment of the environmental prosecutor. He writes, "Given the attention focused on this issue during the campaign, it is crucial that the responsibilities of this new position be assigned as soon as possible."

So, with that as way of introduction, I'll turn to the first environmental prosecutor, Steve Madonna.

Steve Madonna: Thank you very much. Folks, I decided to just put some comments together and read them for you and then Charlie Licata's going to take over and he's going to give you some specifics on other things. So, bear with me. The State of New Jersey, like most states in the United States, has a significant commitment of manpower and resources within three primary components of its enforcement effort. These include administrative enforcement elements, civil enforcement elements, and criminal enforcement elements. The New Jersey State Police Marine Services Bureau and the Solid and Hazardous Waste Unit have their waste units; each has responsibilities, which overlap these three primary enforcement components. Each of these enforcement components utilize resources of varying degrees of intensity, depending upon the intensity of the nature, extent, and timing of appropriate initiatives or response. While each enforcement mode has the potential to be effective when used properly each can be grossly ineffective and even counterproductive if used in an untimely or uncoordinated manner. In an effort to maximize the government's utilization of these resources, Governor Florio

established the office of the environmental prosecutor. I always think to say—and I think you can identify with this very easily—we have Marines, we have Navy, we have Air Force, we have Army. Can you imagine them at war with somebody and not having a supreme command? And that's what was going on in the environmental area. We had people with these three different backgrounds—administrative, civil, and criminal, and they would go to a site and after a while it got to be—so this is before I was the environmental prosecutor. I would go to a situation and I'd just look around a little, a couple of seconds, to see if anybody's stepping forward and then I would go in and take over. Because not that I was pushing the criminal side, but that you had to—we had a whole load of drums in the building, and what was next door to the building? People living. So, as important as it might seem to get search warrants and all this, it was more important to stabilize this situation for these people. And that's what I did before I had any kind of real power to do it, but I think you had to do it. Okay? We were housed in the justice complex and there were sixteen individuals in the environmental prosecutor's staff and only three were hired from outside. We used attorneys and other people from inside. We—the governor and myself and Attorney General Del Tufo—did not mean to set up some kind of a fancy hierarchy with all kinds of people, whatever. It was meant to be efficient, to enforce things expeditiously and efficiently. First step in creating a comprehensive statewide environmental enforcement program, one of the primary responsibilities of the state environmental prosecutor, was establishing a system of coordination of the initiatives, personnel, and resources of the various environmental enforcement divisions and departments. The SEP initiated the appointment of representatives within each of the divisions and departments to act as liaison with our office. The assistant state environmental prosecutors were likewise assigned to coordinate and manage the relevant enforcement activities of these various divisions and departments. They've also been instrumental in establishing working protocols of operation with their respective liaisons and agency. The coordination of the use of the resources and personnel within these state agencies by the state environmental prosecutor is designed to maximize the efficiency and effectiveness of the enforcement program. The office of the environmental prosecutor initiated a project that will inventory and make recommendation regarding compliance problems at state facilities. So, then we undertook the state facilities. County coordination—very important—one important component of the environmental program is an increased emphasis on county agency enforcement. The State of New Jersey is divided into you-know-how-many counties. The county prosecutor's office and county health departments have been designated as the core of the county components of this network. They are looked at as the catalyst in each county for the formation of county environmental enforcement taskforces consisting variously of county hazmat teams, county sheriff's departments, public works, emergency services and the like.

John Weingart: Let me ask: Was there opposition to setting up the environmental prosecutor or was it universally perceived as a good thing, much less great? It got into the campaign somehow.

Governor Jim Florio: It was a whole cluster of issues Really, everyone was very receptive to anything that sounded like remediation of problems. I mean, the environmental issues obviously have now disappeared to a large degree from the hierarchy of really serious problems, other than climate change. But in that period of time, the end of the 80s, the end of the Kean administration, this was super high in terms of people wanting things to be done.

John Weingart: You, Steve, were appointed, like, two days after the governor was sworn in, right? Or pretty soon, right?

Steve Madonna: Pretty soon thereafter. Yes.

John Weingart: And, Charlie, you came to it--

Charlie Licata: I came within a couple of weeks.

John Weingart: So, was it a success?

Charles Licata: Well, let's talk about it. And I think one of the ways we can do that is think about what the real goals of the prosecutor's office were. And they were, as Steve pointed out, policy coordination across the board: whether civil, criminal, or administrative is more appropriate enforcement mechanism.

Charles Licata: And then a broader policy that Senator Dalton-- I know we're going to talk about later with the Clean Water Enforcement Act -- which kind of became a cornerstone of the hardness of the new environmental policies. I think what we were trying to do was to set a new tone across the board for corporate New Jersey, and in the public's mind, both from a DEP policy and an enforcement perspective. And I think, on the whole, you would have to say that that was successful. Now, getting back to what the governor said about there being no opposition, I'll note that it was [your Executive Order #2](#) that established it -- Number two, but it was [Christine Todd Whitman's #9](#) that abolished it.

<laughter>

Charles Licata: So, while it had a significant role and perhaps not a tremendous amount of opposition when it was created, opposition certainly developed over the course of a period of time when we did a number of important things, but things that also annoyed people. I mean, we were kind of the front end of regulating water during the drought for golf courses. We dealt with the old chromium issues, dealt with numerous old cases that had been kind of sitting on the dock, the Ciba Geigy

case, the CPS Madison cases, all the chromium cases. So, we took on a very large plate of issues and coupled them with some significant legislative changes that put a lot more oomph behind it. And I think that that may have been part of a change in corporate attitude towards being more compliant, but certainly less broad support.

Governor Jim Florio: There were some egregious examples of the need to pierce the corporate veil, that corporations would get fines and the people who were signing off would not-- just walk away. There was an effort to try to change it and that was very controversial.

Charles Licata: Yes, it was and criminal enforcement in general was not a major undertaking in previous administrations. And the volume of it got cranked up and that got noticed in various industries, in particular, I think, in the solid waste industry.

Governor Jim Florio: Well, one of the first things we did, which was controversial, but needed. It was supposed to be that each of the 21 counties was going to have an incinerator with an extra one for the Meadowlands; it would be 22. We stopped that. With hindsight, think if that had gone forward-- if today we had 22 incinerators working. I mean, a catastrophe environmentally as well as economically.

John Weingart: I think maybe we'll wait to talk about Clean Water Enforcement Act until John Bennett gets here.

Steve Madonna: Can I make a comment?

John Weingart: Of course.

Steve Madonna: I was returning home late one night and down by the river in the area of my home there was a tanker. I go down to the local police department and I say, "Can you send a squad car down there to find out what's going on?" And we see a tanker in a river, right away you start thinking "dumping". And the police officer said to me that-- they were sitting behind the desk, he said, "Why doesn't somebody tell us about this?" And that's what got us into the training of the local police and health officers and what have you, so that they would-- when they're out on their patrols they could see the signs of things going wrong.

John Weingart: Let's move into talking about ocean dumping and beaches, and start with Cindy Zipf who was heading Clean Ocean Action then and is heading it now.

<laughter>

Cindy Zipf: Right. Well, those were the days, I just have to say. Whoa!

<laughter>

Cindy Zipf: As the governor pointed out, as everybody knows, the late 80s were not a good time for the ocean. You know, we had a lot of stuff washing up on the beaches. Monmouth County started testing water quality, which was a good thing, because people weren't testing state water anywhere nationally and when you tested the waters they came up positive. So, there were a lot of closed beaches. As the governor said, it was closed more than it was open. I think 800 beach closures one summer. Todd would know. He reported on all of those.

Todd Bates: 888, I think.

Cindy Zipf: So, it was some bad times and we were also at that time the ocean dumping capital of the world. We had eight ocean dump sites off our coasts. And I think that the public had finally had enough. The American Littoral Society, Dery Bennett, who I was under the tutelage of, informed the public about a lot of these things and, so we started working on some of those issues. And I think that the public had just had enough and especially when we started publicizing the eight ocean dump sites. Or there were six at the time and more later? Sewage sludge really was sort of off the charts for people. You know, just the description of it alone and the idea of it alone and just twelve miles off our coast. So, I think as a Congressman you were very active in that in trying to address those issues as well. And when you became governor you moved very quickly and the Department was on the way to identifying the alternatives. And there had been a law passed where ocean dumping had to end by 1991-- March 17th, St. Patrick's Day.

But, then New York was going to kind of exceed that deadline and we-- I don't know if you remember, we had that campaign with the blue fish that we signed to get people to sign them all up and down the Jersey shore, and all businesses had people signing the blue fish, and we brought them up to New York. And I actually have the blue fish that you signed and the news article, because we wanted to make sure that no more deadlines were going to be exceeded, because this was a long time in coming. I think the first effort was in the 70s to try to stop ocean dumping. So, I mean, it was wonderful. We had that great celebration. We met the deadline on March 17th. I think what was key also was the citizens that worked so hard in the Clean Sludge Coalition to identify acceptable alternatives other than incineration. I think that was the first go-to, was just to incinerate it all, as you were saying before. And I think with citizens we came together, Clean Ocean Action, a number of other groups, the Clean Sludge Coalition, to identify environmentally acceptable alternatives that could, potentially, beneficially use that material. And I think that was a cornerstone.

John Weingart: Was there a noticeable shift moving from the Kean administration because these issues were already present or was it building on that?

Cindy Zipf: I think it was building on that. I think there was broad support because, you know, when all those bad-- those things started washing up on the beach, the dead and dying dolphins and I mean people had just had it. And that really provided Congress with the need to do something. And, so, those laws were passed. And then the state, I think, passed laws as well to add further concrete dates to it. And, you know, again, I wasn't on the inside of the department, so don't know the governor's views on what was going at that time to make sure that we were going to meet those deadlines because I'm sure it was very challenging to meet those short deadlines.

Governor Jim Florio: The most significant thing for my grandchildren is they still remember that "Pop-Pop" cleaned up the ocean.

<laughter>

Governor Jim Florio: They're all grown up now, but I think they do remember going on a whale watch and seeing dolphins, whales, brown pelicans because we really did conscientiously work to clean up the ocean, which we did to a large degree.

Cindy Zipf: Yes.

Governor Jim Florio: Let me just acknowledge the work of someone whose work is not necessarily associated with the environment. A fellow from the Alliance of Action-- Ellis Vieser--worked very hard to get sewage treatment lifted to a higher level than it had previously been. And we had hypodermic needles on the beaches and things of that sort. So, going after New York to start putting covers on the barges--

Cindy Zipf: Oh, the garbage barges, right.

Governor Jim Florio: --across the garbage, cleaning up medical waste, we actually made a fairly good impact.

Cindy Zipf: Great impact.

Dennis Hart: I started with DEP on February 23, 1981 and my first three days were reading EPA manuals, but on my fourth day I got sent out in the field to inspect the Asbury Park treatment plant, which was a little primary plant underneath the boardwalk in Asbury Park. You lifted up a little hatch and you went down into Hell to take a look at it. And it was a brick building on the beach. Now, the effluent from the treatment plant-- the bare treatment it got-- was only 30 feet

off the beach. And in the summer the brick building held the sludge, but the day after Labor Day all that sludge just got pumped out into the ocean---because that's the way it was handled. I remember going inspecting the Freehold area and there were over 30 waste water treatment plants just in Freehold and Freehold Township. So, we talk about ocean dumping with sludge and it was, you know, with all the eight sludge dumpers. We used to work with a crazy guy; you probably remember named Lester Jargowsky--who was the Monmouth County Health officer who was trying to buy a PT boat with a 50-caliber machine at the front to follow--

<laughter>

Dennis Hart: --the sludge barges. And he was absolutely Vietnam-Vet-serious about it. But the thing I think about is that the identification during the 80s was the big thing - to get people to finally say, "I had enough." I mean, I remember George McCann [Director of the DEP's Division of Water Resources] getting a bright idea to go to Brooklyn and dump all these plastic bottles in the ocean to prove that New York was polluting our beaches, until they all washed up on our beaches and we got criticized for polluting our own beaches!

<laughter>

Dennis Hart: But then the implementation came during Governor Florio's time period, which was the actual harder part. Commissioner Weiner, when I was in the water program, you said, "You've got to go up to Hoboken and tell them that sludge incinerator that they were building with state and federal money has to stop so we don't have a sludge incinerator in Hoboken." And that was the hard part. I mean, doing those kind of things. And the big deadline was July 1, 1988 - all primary treatment plants had to sign an agreement to become secondary, not *be* secondary, but at least sign a consent order and then with "Polluters' Playground" and the Clean Water Enforcement Act all that came to a crashing halt in about 1989... So, ocean dumping was very real and very bad.

John Weingart: Other perspectives?

Rick Sinding: May I make a general observation here? I had the privilege of sitting on the outside of the CAG roundtable discussion among environmental activists and environmental regulators during the Kean administration and I was struck by how nice it must have been to work in that administration - at a time when the Bhopal crisis happened in India and Love Canal and radon in the basements in Montclair and these guys and gals were sitting around and talking about how easy it was to pass those 50 new programs that were referenced earlier in the Kean administration. Even the discussion that's taken place so far today indicates the shifts that took place by the time the Florio administration came in. There was enormous public support for the environmental prosecutor, for the Clean Water

Enforcement Act, for getting the needles off the beaches, for a Worker and the Community Right To Know program after Bhopal. But then I can recall many, many meetings of just getting beaten up by the legislature, by the business community, about the fact that the Worker and Community Right To Know Act required that if there was a bottle of "Wite-Out"-- remember Wite-Out? Doesn't exist anymore-- in a secretary's drawer they were required to report it as part of the Worker and the Community Right To Know Act. And I think that embodied the difference between the time when there was widespread support for taking dramatic action in order to protect the environment the accusation that government had overkilled in order to protect the environment and is now driving business out of the state? Are you coming down too hard? Is it costing people too much money?" And that clash, I think, took place throughout the entire time that we were in office in the Florio administration. I think we got the backlash.

Joe Doria: Let me add to that, because the whole Right To Know was an issue that the legislature was very, very involved in and very concerned about it.

Rick Sinding: I think Dan [Dalton] was the author of it, weren't you?

Joe Doria: Right. And Dan remembers there was no fun dealing with the issue, because there was a lot of controversy, at least in the Assembly chambers and also in the Senate, over it. And it was, again, the feeling that we were going too far. Everybody supported the environmental prosecutor, they supported the Clean Water Act, they supported a lot of the other environmental initiatives, but when it came to the Right to Know it became very much, you know, we're going too far. We've gone as far as we can go and the opposition was based upon-- what'd Rick say? That it was now getting to the point where you had to deal with things like Wite-Out and the Wite-Out is the good example, because that was the example that was used. I was trying to, as Speaker, mediate that issue and trying to help to try to come up with some kind of a compromise. And it wasn't easy, because both sides didn't want to.

Rick Sinding: We came up actually with a proposal to change the regulations to provide for a threshold amount over which it had to be reported. We got backlash from the environmental community and also from labor groups.

Joe Doria: That's right. Labor was-- there was one group of labor that was very much pushing it. But the majority of the labor community was opposed. And that was part of the reason why there was so much opposition. Dan would remember, and probably he can go into more detail than I can, but that was an issue that became very controversial and, to be very honest, it shouldn't have been, but it became a flashpoint as it related to the environment. because all the other things-- clean beaches, you know, everybody was for clean water, clean beaches, you know,

dealing with the sludge issue, going after the polluters, but that issue really created a great deal of controversy.

Dan Dalton: Yes, it was a lot of fun.

<laughter>

Dan Dalton: And I often times think about the responsibility when you had a bill like Right To Know. Because you didn't want to be the guy to establish this program and then have it not work. And that was what I think Joe was talking about. And, so, there was a constant back and forth. If you look back-- when I look back on Right To Know I think about the number of amendments that we tacked on the Right To Know. Just-- and I would assume it was close to a hundred amendments from the original version. And the number of hearings that we had to try to make sure that we had it right. But at the end of the day you had to make a call. And Right To Know was somewhat illustrative of what we're all-- we were dealing with in the 80s in that we were identifying problems and attempting to address problems in the State of New Jersey without having any background anywhere else to look at throughout the country. We were cutting edge on so many of these issues. The Right To Know is a perfect example we were the first state that had a combined Worker and Community Right To Know Act. So, you know, when-- at the time Governor Florio comes in and is dealing with these water issues and a lot of the other concerns that he was dealing with, the concern I remember having when Scott was sworn in as he's got just an enormous job on trying to take programs like Right To Know and the other programs that we had passed and then trying to effectively manage them. And that-- I mean, if you just did that, you would have accomplished such a great deal, but we still had more to do. And we were still cutting edge as far as the nation was concerned. So, again, it was identifying the problem, trying to address the problem legislatively, and, then, you know, "God, I hope DEP can handle this."

<laughter>

Joe Doria: The enforcement issue was one of the big problems with the Right To Know. And then legislators were very concerned how was it going to be enforced. How far down-- how much would it interfere in the functioning at the lowest levels? Was it going to get down to that point? And, so, that was the issue and Dan did a great job and was able to get people to understand, but it was not an easy process. It was a very difficult process.

John Weingart: The evolving role of the department in this issue was crystallized for me because I was assistant commissioner and then I was kept as an assistant commissioner at the beginning of the Whitman administration. And there was a bill to amend the Right To Know Act to make to include fewer substances. And Jeanne

Herb and I went over to testify on it and I testified in opposition, because DEP was always in opposition to those amendments. And the chairman, Paul DiGaetano, interrupted me at some point and said, "Let me get this straight. You work in DEP." And I said, "Yes." He said, "You're opposed to this," and I said, "yes," and he said, "So, how come your commissioner called me this morning and told me he supports it?" And that was a change of-- the way at least that policy change was communicated.

<laughter>

Dan Dalton: Well, it was interesting because there wasn't unanimity as far as the Kean administration's policy or perspective on Right To Know. Because if you were dealing with, I think, Commissioner Hughey at the time, he was supportive generally, but if you were dealing with Labor or Health, they were opposing the bill. So, there wasn't one voice with regard to a perspective on Right To Know. There really-- and there wasn't even to the end. I mean, I had no idea-- no idea-- that Governor Kean was going to sign the bill. To me it was a 50-50 shot. There wasn't any indication from the administration how they were going to come down on the bill. And, as I said, you had various commissioners both supporting and opposing the bill.

Rick Sinding: What was frustrating to us three years later-- four years later-- in trying to-- I don't want to say "amend the bill," but to change the regulations so as to at least allow for certain amounts of certain substances that everyone deemed to be non-threatening to be allowed not to be reported, to make it easier on the reporting community-- what was frustrating was that every time we assembled groups of people to try to develop this and to try to get consensus around it, there was always opposition to any kind of retrenchment from one side or another. It never came from the business community, but it always came either from the environmentalists or from the labor groups that any sign of moving, of deviating from what was already specifically in the law and in the regulations would indicate backsliding and they wouldn't accept that. And when we left office we had been unable to effectuate any kind of consensus around any kind of changes.

John Weingart: John Bennett's here so, if you've caught your breath, let's move to the Clean Water Enforcement Act-- and talk about how that came to be.

John Bennett: Yes, and I apologize to everyone, Governor, for being late.

I think there was so much that was going on back at the later part of the 80s where I was in the Assembly and Dan was as the chairman of the committee in the Senate, we kind of both got together and just decided here were two young guys that were going to show that bipartisanship actually worked. I mean, that was something that was unheard of.

<laughter>

John Bennett: But, you know, the Assembly was controlled by the Republicans and the Democrats controlled the Senate and we could've just sat and done nothing, but Clean Water Enforcement Act came up as an idea where we just were tired of seeing people get away with paying more-- pay fines and it was a cheaper business idea than it was to follow the laws. We had the laws, they just weren't following them because it was cheaper to pay a fine to get away with it. And I remember so well how, I mean, first of all it was unheard of, they tell me, for a Republican to go against business... But it wasn't a Republican thing or a Democratic thing: It was the right thing. That really was what it boiled down to. We worked really hard in '89 and the governor who was running at that time came out and was supportive of us getting it done and we just didn't-- were not able to get it done until he came into office and then I think everybody knew at that point there was-- they better get on board or the ship was going to sail. So, we made some amendments. Dan and I worked on it. I had now come to the Senate, so-- and I can't remember-- I think the sponsorship changed for a few different people, but I mean, we were the two that still were driving the bus and the governor was so supportive in making sure that it was never the intention to put a corporate CEO in jail. That was never our intention. The intention was to show them if you violated the law once and polluted the environment, you'd get a fine. If you violated it twice, you were going to get a bigger fine. And if you violated it a third time, you were going to go to jail. You know what? It stopped people from violating the law on the third time. And that was the intent. The intent was to stop the way-- just random dumping of things everywhere around the state. The governor-- and I think it was really early in your term when you were able to be able to come forward and sign that bill and make it the law. We made some changes and the governor had been supportive of it through the campaign all the way through and then after he was inaugurated I think it was one of the first things we were able to get done and get passed.

Governor Jim Florio: One of things we did in Washington when I was there is-- Frank Sweeny's here from my days in Washington-- we went after midnight dumpers. And all the remediation legislation we had, we had strict penalties for people who were taking superfund waste and things of that sort. So, yes, we were very sensitive to the fact that a lot was going on on the enforcement side and people were doing this as the cost of doing business, just carrying-- and that was not sufficient. Because people would do a cost-benefit analysis: "It costs me so much to get rid of it. Cost: the fine. If the fine's not that big, I'd rather pay the fine." So, we had built a record of that in Washington; so, early on it was supported at the state.

John Bennett: And it became a model throughout the United States. Both Dan and I were active in the Council of State Governments and it became a model law that was used in other states as something to follow as the right way of trying to stop the dumping, which I mean I'm sure there's still some of it going on, but the mentality changed. And that's really how to do it, the state of mind and the way of doing business had to be changed. And, so, that was what it was. We thank you for that, Governor.

Edward Neafsey: Senator Bennett, if I remember correctly, it was a New Jersey public interest research group report called "Polluter's Playground," which crystallized the need for this kind of legislation. And, again, I'm going back over 25 years to try to remember, but I think it--

Dennis Hart: And [here is a copy](#).

<laughter>

Edward Neafsey: In '89 it got through committee and it didn't pass in the legislature I believe until December of 1989.

John Bennett: No, it did not.

Edward Neafsey: You were very angry that day. I remember you addressing the environmental groups. The department at that point strongly opposed the bill... So, then in January Governor Florio came in and under his leadership the bill passed the legislature, was enacted, and-- again, if I remember correctly, Governor-- [May 23, 1990, in Asbury Park was when you signed the bill](#) and you were fulfilling a commitment that you have made in Asbury Park in the campaign at the time that you signed that...

John Weingart: Let's move the discussion to dredging.

Rick Sinding: Yes, oh, my, my. This was an issue that occupied far more of Cindy's and my time than either of us would have liked. But it was a fascinating issue in many ways. This was a situation where the Port Authority of New York and New Jersey sought permission to deepen the channel of Port Newark, Port Elizabeth, and some of the births. The primary reason being that there were new supertankers that required a draft that was deeper than the harbor would allow. And that if this wasn't done and done in a fairly expeditious manner, the New York-New Jersey area was going to lose a tremendous amount of shipping business to everywhere from Halifax to Savannah, up and down the East Coast. So, okay, relatively simple problem, right? You just got to go in and dredge and make the harbor deeper. Unfortunate situation arose in that some 20 years earlier, the Diamond Shamrock Company located on the banks of the Passaic River in Newark allowed a certain

byproduct of its manufacture of Agent Orange to escape into the Passaic River, namely dioxin, which then gravitated over a 20-year period down through the waterways and into Port Newark and Port Elizabeth. And, so, when it came to dredging every time you put the dredge down there and the spoils came up it released the dioxin and the consequences of that could be severe. The question of how severe was an ongoing question. Our own Division of Science and Research had some disagreements within it. The EPA, both the regional EPA and the national EPA, had differing standards about what was acceptable or not acceptable for dioxin, particularly in the uptake in critters, which were then up-taken by larger critters and then by fish, which people were going out and fishing out of the Passaic River and God knows what was happening to them if they were eating it. So, the Port Authority came up with a plan, which involved-- the Army Corps of Engineers came up with a plan essentially, which was to dredge and to take the dredge spoils and put it in barges and take it six miles out beyond Sandy Hook and dump it in something called the "mud dump", which they would then cap with clean soil and that this would be a reasonable and environmentally protective response. I'd say that the department's position on this was actually neutral because it was really difficult to know whether this would or would not be effective. I'll let Cindy pick up the opposition.

<laughter>

Cindy Zipf: Yes. Well, you know, the mud dump site had been on the radar. It was one of the eight ocean dump sites and it had been dumped into for years and years. And, you know, it was the dioxin was the new trigger of concern of the many contaminants that were in the mud, in the muck. If you can imagine what the muck up in the harbor area was like with all the industrial revolution that had occurred there and the chemical revolution. There was also a high PCB contamination issue that was in the mud at the same time. So, it was just this cocktail-- we called it "Black Mayonnaise" because that was the consistency. And when it was dumped offshore, all the fishermen knew that this stuff just wafted away. It just spread throughout the ocean and all the worms and crabs and clams that were in there would be trickling down, because somehow they were able to survive and up take all these materials. So, then the fish would come. And there'd be this feeding frenzy. So, the fishermen were excited when the dumping barges would be going out there. I actually went out there one time to experience it for myself and it was just extraordinary. The fish really did come in when the barges were dumping. So, we felt that we had come off of a number of these dumping issues where we found environmentally sound alternatives and all the other dump sites had been closed or were on their way to being closed, but it was time to think of something else other than ocean dumping for this contaminated material. And we needed to come up with a means to address it and, for sure, one thing we shouldn't do is legalize dioxin dumping in the ocean. So, that's when we geared up and set our attention to and

got scientists together to look into not just the concerns about the dredge material, but also what are the alternatives? Where can we perhaps find some decontamination technologies, what have you? Congress stepped up, I think, and got some money through WRDA in future years. But we did wind up going to court. And it was, you know, a very interesting case.

John Weingart: It was going to court against the DEP, right?

Cindy Zipf: No, against Colonel York from U.S. EPA.

Rick Sinding: Corps of Engineers.

Cindy Zipf: Yes. Yes. Army Corps of Engineers. Colonel York.

Rick Sinding: It was not resolved during this time.--

Cindy Zipf: No, but it did get resolved. There was a bright future at the end of it, but it was a rather challenging time. And I remember there was a lot of-- it was a lot of anger and there was a lot of controversy. And I remember there was one public hearing where a thousand longshoremen showed up and hundreds of citizens. It was very contentious.

Rick Sinding: That's the one with Senator Torricelli as I recall.

Cindy Zipf: Yes, it was challenging times, but, you know, I think it was never our intention to block the dredging, because shipping is a very environmentally sound way to move lots of cargo around. So, it was never our intention to stop the dredging. It was just we had to find something else other than just dumping it in the ocean.

Rick Sinding: And I think it put the DEP in a very, very awkward position. I would say that throughout the entire time that this was going on-- and it probably lasted a couple of years, really until the end of our administration-- I really felt as though we wanted to be supportive of the environmental opposition, but we had no scientific basis for making that determination. And at the same time we didn't want to be seen as being preventative of shipping interests. And, so, I think our neutral position, if you will, was often mistaken for being supportive of the Army Corps and being supportive of the Port Authority and I felt awkward and uncomfortable, I think, for us in that position. I don't think it was the governor's position to be supportive of-- to be automatically supportive of either side on this, but wanted to have some scientific basis for a decision. And that was never, unfortunately, forthcoming during the time that we were dealing with it. I think, Jeanne, you ultimately ended up with it.

Cindy Zipf: Oh, yes, yes. And we worked it through. I mean, you know, we felt there was a lot of science to support. And then when EPA went out and actually looked at what was going on out there, you know, we called it the toxic stain, but the contamination that oozed out from the six-- the little two-mile square box that they hadn't put in the ocean is this is the dump site. The area of contamination was well, well beyond that. And it was, you know, toxic to aquatic life and the levels of contamination were very high, so, you know, over time there was that evidence and then we were able to move forward and I think we-- again, New Jersey became a leader nationally in coming up with the solutions to those and coming up with really great ways of using material.

Jeanne Fox: I should probably say for the record that EPA's testing of critters and ocean life showed that only the bile and the lobster maybe--? So, there wasn't any risk to eating the food sources out there. To me, it was a political situation. And I had no problem with not doing this, but the issue was where do you put the dredge materials? And my personal feeling is that but for the public hoopla that went on for a number of years it would've been a lot cheaper to cover-- ended up covering landfills, but it would have been a lot cheaper to cover up landfills because it was almost like free cover. Unfortunately, we had to treat it as contaminant materials, so the landfills charged a lot of money to cover the landfills with that material. So, it would've been nicer if it was done not publically, but it wasn't. So, it cost a lot of money to use what's perfectly safe for cover materials, because the landfill owners took advantage of the public hoopla saying that this contaminated material. Obviously, what's in the ocean is contaminated, because you might have critters eat it. But using it for a landfill cover, totally not...

Scott Weiner: As I look back at that period of time for-- I forget how you described it, Rick, but it was probably one of the most tumultuous issues we had to deal with. It was an intractable issue where despite the absence of fact or science or something for us to grab onto, there seemed to be no way to address the political tug and pull that was going on. And with my memory fading what's been dredged up for me--

<laughter>

Scott Weiner: --are feelings of being squeezed with no way to come up with some kind of process or dialog where we could figure out how to get to the solution that everybody wanted to get to which was not to shut down shipping, but to do it in an environmentally sane way.

Todd Bates: Kirk Moore and I wrote a three-part series about this crisis back in 1993, pretty exhaustive research, and it was an extremely controversial issue with the pro-port report forces, worried about job losses if the port shut down and the environmentalists saying, "No more dumping." So, and dumping began in the area

in 1888, from what I recall, for the-- you know, the late 1800s, and there's still "uncontaminated" material being put out there in the historic area-- the HARS.

Cindy Zipf: Historic Area--

Todd Bates: Remediation Site.

Cindy Zipf: In other words, it was a toxic stain to us.

<laughter>

Rick Sinding: You always had a way with words.

Cindy Zipf: Thank you!

Todd Bates: They're actually still trying to cover up the contaminated material out there as we speak, as far as I know.

Cindy Zipf: Right.

Todd Bates: They're trying to cover it, all the contaminated material with a meter of uncontaminated or relatively uncontaminated material. So, it's still ongoing, right?

Cindy Zipf: Yes, it is. You know, it would be really interesting for this story to be told about it if anybody was interested. I mean, it's not being managed very well and actually there's a lot of clean sand now that's being dumped out there-- super clean. Like, beach sand is being dredged out of Sandy Hook and being dumped offshore, which is really a waste, because we just spent money putting it on the beach and now we're digging it up and taking it out to the ocean-- it just doesn't make any sense. And then we're starving our burrow areas for the beach sand material and it's-- so, now we're looking for new areas of sand. And, again, so I think some of our public policies need to be brought back and assessed. But, you know, I do really feel that we had science to be concerned about the issue and it was one of the most challenging issues to work on. I mean, the mud dump site was the last one to be closed. But, again, I think that what resulted was actually a win-win all the way around. You know, we got the harbor dredged deeper. It's-- and we got solutions to the material that helped remediate some of the landfills that are now back in society and doing things and, you know, I think it really worked out in the end, but I would agree with you it was a painful time because each side was-- you know, in its silo, I guess, but we never really wanted to shut down the harbor, but that's what everybody-- all the longshoremen, "They want to shut down the harbor. They want to shut down the harbor." And that was not in any of our positions at all. So, it was-- messaging got really kind of muddy, if you will, but at the end of the day I think everybody kind of came together at the end.

John Weingart: We're only allowed two puns per topic.

<laughter>

John Weingart: Let's talk about permitting and enforcement more generally and part of what I think it needs is an introduction, which Scott will talk about more in a few minutes. A major change was caused by the way that Scott reorganized the department when he became commissioner which was to take most or all of the permitting programs and put them together and similarly organizationally consolidate the enforcement programs..vi. And Dennis was heavily involved in the permitting and Ed was heavily involved in the enforcement along with other who are here...

Edward Neafsey: Well, I don't have too much to say other than we had a philosophy: fair, but firm enforcement. That was our overall philosophy. It was an era-- and you touched on it, Senator Bennett, "Polluter pays." So, we were trying to pay attention to that. I'm not so sure that that resonates anymore.

Under Commissioner Weiner we-- he had the separate enforcement programs, hazardous waste enforcement, clear water enforcement, air pollution enforcement. He had them unified-- brought together under an enforcement wing so that there would be some consistency to the approach throughout the department rather than each group having their own philosophy and their own way of handling things. So, that's pretty much what I have to say.

I'm sorry I was late, too. But I'm sure you covered the environmental prosecutor already. And I just wanted to put in a plug by having done criminal in environmental enforcement before the environmental prosecutor and doing it after the environmental prosecutor. I would say the beauty of having the environmental prosecutor was it made sure the criminal environmental unit spoke in a clear way with the civil environmental enforcement people. And I'm not suggesting that it didn't occur without the environmental prosecutor, but it was more personality driven. The folks in the Attorney General's office and the DEP could communicate. There was good coordination, but without that there wouldn't be. And that was one of the beauties of having an environmental prosecutor because it institutionalized that good communication.

Charles Licata: And I think that what you talked about, the coordination inside the department of all the different enforcement units, to a certain perspective the environmental prosecutor's office across civil, criminal, administrative, county, municipal-- up and down the government chain-- and attempted to put, you know, a coordinated face on it.

Dan Dalton: Ed's being too kind and when he used to beat John [Bennett] and I up pretty good.

<laughter>

Dennis Hart: Coming out of the Kean administration and then you have the Clean Water Enforcement Act coming in. I was hired by John [Weingart] to run what was the New Jersey Pollution Discharge Elimination System permitting program. That was a complete disaster, not working. And we had a situation where there were no permits going out. All the old permits were being automatically enforced with limits that weren't acceptable. And then you had things like a bunch of nuns being drug over to the legislature--

<laughter>

Dennis Hart: --because they had Clean Water Enforcement Act penalties. And Ed [Neafsey] would come and say, "What are you guys going to do about it? I'm only doing my job."

<laughter>

Dennis Hart: When John hired me, Commissioner Weiner called us up to his office and he said - I remember to this day, he goes -"I want you to go away for three months and I don't want to hear from you and I don't want to see you. But in three months you're going to tell me what's the problem and what you're going to do about it and you better fix it." And over time we did, I think. I think we did a pretty good job of that. But there was another thing that we did at the time that I can't imagine doing now was this thing called a sewer ban.

And you would be able to say if the DEP put you on a sewer ban, "No COs in the house, no commercial connections." And the Middlesex Authority treatment plant they kept telling us it was all the storm water. And when we looked at it; no, it wasn't. It was broken and they weren't fixing it. And I'm sure the Governor was involved in this decision, because when we put Middlesex County utility on a sewer ban in the early 90s, in the go-go 90s, Fred Kurtz, Craig____, John Lynch [State Senator] went berserk. Every development all up and down Route 1 was stopped. Ellis Vieser [of the Alliance for Action] who the governor talked about called me up and said, "Can I come talk?" And with Ellis -- he had two tones of voice: screaming and really screaming.

<laughter>

Dennis Hart: And I showed up and there were 300 developers in his conference room just saying, "What are we going to do about it?" But we stuck to our guns and

Middlesex County had to upgrade their treatment plant. I can't imagine anybody doing that kind of stuff even though it's still on the books right now.

And then the other thing is a legacy project. In the first year of the governor's administration there was a fire drill and Commissioner Yaskin jumps on the back of a pick-up truck and holds up a report and says that "The PSE&G nuclear power plant is killing fish every day and I'm not going to stand for this anymore. I'm going to order the plant to be shut down."

Months later when Scott Weiner came in as Commissioner, it was John Weingart really the lead for this that said, "Let's take another look at this."

And the result of that taking a look at it-- and it was a lot of hand wringing and a lot of work-- was PSE&G ended up -- buying-- they thought it'd be 2,000-- 23,000 acres. And John made the senior vice president cry at one of the meetings when he told them they had to buy 23,000 acres of salt hay farms in Delaware and New Jersey and rip them out and replace them with productive wetlands, upgrade the intakes for the nuclear power plant, take down eleven fish ladders in both states and a whole bunch of other stuff. And now you have-- and that has survived permit challenge after permit Challenge after federal and state legal challenge. And the Delaware estuary now is phenomenal. And no one thinks back to that as part of Governor Florio's legacy but that only came about because of that, because of that permit. And that's a real legacy.

Jeanne Fox: And that's quite successful.

Dennis Hart: Right.

Jeanne Fox: And PSE&G still gripes about it.

Dennis Hart: Oh, absolutely.

<laughter>

John Weingart: One footnote to fixing the NJDPES program is what Dennis did-- and I don't know how much this contributed to it - but he pledged to his staff that if they churned out some number of permits by some date [he would kiss a pig in front of the DEP building](#). [This was not the only time he used a [similar motivational tactic](#).]

<laughter>

John Weingart: And they did, and he did.

<laughter>

Jeanne Fox: But we thought it would be a big pig. It was a little cute pork belly.

<laughter>

Dennis Hart: Stuck to the regulations.

<laughter>

John Weingart: There are other comments on water quality issues in general with people who haven't spoken yet. Anyone want to speak on that or we can move on to the next section? Okay, Scott, let me turn it over to you.

Scott Weiner: Thanks, John. So, I get air quality and energy. And the context, which I think for me fits through more of our discussion today, the words that come to mind: collaboration and alignment. Governor Florio made it very clear to those of us agency heads and others that the expectation was that we'd be working together to assess and solve problems. And that it wasn't a case of one agency or another or one issue set or another taking prominence. Of course, that's easy to say and it's difficult to do, but that was the theme with which the administration got launched and we did our work and I think it's going to manifest itself in our discussions a few times today. One example is the Pause commission that was bringing together Commissioner Yaskin and myself [then as President of the PUC] and our staffs and other stakeholders recognizing that the question raised by incinerators was both environmental but also very much energy policy and energy regulation. And the incinerators themselves were not just a way to dispose of waste, but were also a source of electricity, which was, of course, the grand bargain conceived of at the time. And, so, they had implications on energy policy, energy security and energy supply. And, of course, rate making and not to make it any less complicated, that was an era we'll remember when the PUC-- now BPU-- regulated the solid waste disposal industry. So, we were setting rates for everything from transfer stations, the pick-up rates, and it was regulated as a public utility. Energy policy, when I took office in early 1990 was a group of people who were housed in another building. And many of us will look back to the early mid 70s when the energy division was created following the oil embargo. And between the mid-70s and say the late 80s, 1990, the energy policy in New Jersey can best be described as a "lost tribe of state public policy".

<laughter>

Scott Weiner: It just wandered the desert for 20 years. And sometimes it was an agency and sometimes it was a division and sometimes it was this. And we got in and it was a division in this other building led by a group of very dedicated people who, for the most part, were ignored and weren't listened to. So, they just sat there and the governor said, "Where's our energy master plan?" And we looked and

realized that there hadn't been one in quite some time. So, we began to activate that. And, of course, the regulation of air issues implicates immediately, as we discussed and as we can think otherwise, the generation of electricity in all of its manifestations. So, it was against that backdrop, with a passage of a year of experience under the Pause Task Force under trying to do the energy master plan, I'm trying to reconcile energy policy that when the opportunity came and I had the honor of being asked to take on the DEP job the governor talked about how do we bring the energy portfolio together with the environmental portfolio and begin to reconcile the policymaking? I think during from-- looking at the period from January of 1990 to, say, November-December of '90- the interaction between the staffs had improved. But we thought it would be much more efficient and far-reaching if we could bring together those policy portfolios, environment and energy, into one department where we had the responsibility as a department to reconcile these issues, take the traditional function of the PUC as rate regulators and say, "Keep doing that." But now policy will be this integration work that's done at the department level. So, that was the idea and, of course, from where I sat it made enormous sense and I had the luxury of having Jeanne Fox then as my chief of staff who worked with me at the PUC-BPU, agree to come down to Trenton. So, I got to say, "Okay, Jeanne, what do we do?" And let me turn it over to Jeanne.

Jeanne Fox: Oh, okay.

<laughter>

Jeanne Fox: ... Well before we got there they were actually thinking about re-organizing on these lines. And John [Weingart] and Lance [Miller] agree, so it must have happened, because the two of them were both there. But the theory in my mind was whoever thought about it initially-- if it was Judith [Yaskin] or someone else is that you had people in silos. You had almost 4,000 people in a bunch of silos and they've been in those silos since they started they've been there for 20 years some of them. So, if you want them to walk together talking to the people on the other side of them-- and they just didn't do that. So, if you break up the silos, yes, the person who was in water, now in enforcement, and the person who was air, now in enforcement-- they can work together. So, it was really simple and, in fact, when I got to EPA after that, that's what I did at the EPA region as well. It was very effective, I thought, at DEP. I don't know what everybody else thought. But it seemed like people were working all together. And we were trying a lot of new policies. We had to do enforcement. It was clear that enforcement sitting out there-- the violation notice doesn't really count; it's what you do. And you needed a real clear policy that everybody would understand if they're violating air or water. It's going to be the same enforcement policy, for instance.

Scott Weiner: The internal re-organization, the department that you mentioned, too, was something that I think had been in the works. I think, John, sitting with

you-- and it was very early on in my tenure and I was trying to get a feel for different people and what roles they might play-- and I presented the idea of bringing all the permitting activity under one assistant commissioner and-- at least this is my recollection of history-- John, you said something like, "But I don't have an engineering background." To which I said, "Precisely."

<laughter>

Scott Weiner: You know, how do we bring these activities together in a way that forces the collaboration and alignment? And we can think about it and also to bring about accountability. If I can share a personal war story-- and I think back at those days, among the things that rise to my list of things I'm proud of were the-- I don't know if everybody felt this way-- were the weekly meetings that we used to hold to go over every major decision, whether-- and this was-- all anybody that's ever had a senior position in a department knows there comes a day early in your tenure when somebody walks in your office with a big stack of files and says, "Here, sign this."

<laughter>

Scott Weiner: And you say, "Okay, but what is it?" And that was coupled with an experience I had, again, early on when an attorney I knew was wandering around the seventh floor of the building and I said, "What are you doing here?" And they said, "Well, I have a closing soon and I needed a permit." And in an abundance of caution I called up to make sure the permit I had negotiated would be ready for the closing and I was told that it was changed. And I said, "Well, that makes no sense. Let's go find out what happened." And we convened a meeting and we had all the permit writers there and eventually I found out what had happened was that one permit-writer who had negotiated the settlement-- the permit-- went on vacation and said to his colleague, "Here, can you take this for me?" The colleague said, "Sure," and then read it and said, "Well, I don't like this."

<laughter>

Scott Weiner: But it wasn't just an individual who was going rogue, it was the department head failed to provide consistent policy and guidance. So, people didn't understand what the policies were and that was part of the charge that-- John got that as part of the charge, that Ed got, and Rick got in his position and that led to the fact that once a week any time somebody wanted to propose a change in rules, or the like, or issue a decision, they would come up to the office and everybody who was relevant would be there and they had to present their case why this action should take place. Not only did it give me some comfort when I tried to put my name on something, but it was a wave infusing alignment and collaboration within the department and something that carried through.

Jeanne Fox: I would say, Scott, I mean, he did a little bit of that at the BPU, but in a smaller agency, right? Like, 300 people compared to almost 4,000. What was really interesting was this meeting happened every week and I was thrilled with it, because when we got in there was a backlog of all kinds of permitting. I mean, everywhere. Backlog of enforcement actions and, so, the DAGs would be there with the relevant assistant commissioners-- and there were a lot of items on the agenda and we sat there and got through it, but they would also bring the directors and maybe somebody else who knew something about the case, because Scott asks a lot of questions. And, so, it was kind of-- Scott could be intimidating way back in those old days. But it--

<laughter>

Jeanne Fox: But it was really very good and what's really interesting-- and I don't say this often enough to my good friend, but Scott would ask questions that nobody had ever thought about on a routine basis. Now I know that because he did it at the Utility Commission, but it really cut to the chase and got decisions made. I also just wanted to mention that the re-organization was actually very good for the public and for our customers, because if they needed a permit, there's one place they would go. I mean, you had the different water permits, but it's under one assistant commissioner, it was much easier for the public to do that. And the accountability was-- let me tell a little story: Scott talked about the pile of things for him to sign. I think-- and you guys might know-- I think when it got to the chief of staff of the deputy commissioner there were, like, 18 signatures and Scott was, like, number 19, something ridiculous like that. So, I talked to the assistant commissioners and I said to them, "I don't really care if it's a supervisor, the bureau chief or whatever position, only one of-- because nobody read things. I was finding typos because everybody thought that the guy before him and after him would read it and some things nobody seemed to ever read. So, however the assistant commissioner wanted to do it-- so, when it got to me I was, like, I don't know what number. Six or eight or something like that. But we kept it under ten. I mean, that's how bureaucratic DEP was. Also, with computers we brought in Peter Nichols at some point. I guess a year into it. It was all this money that we had spent on computer systems for all these different types of computers in the different bureaus. Not only the divisions, but in the different bureaus, which was insane because they couldn't talk to each other. So, we brought in Peter Nichols who we recognized that, I guess, got some money from the governor to do that, but it was quite successful. And, thank god it happened, because it was definitely necessary. And a lot of money was wasted before that.

Scott Weiner: Thinking about the energy portfolio, Rick, I'm going to throw it to you in a second.

Rick Sinding: Okay.

Scott Weiner: That's your cue.

<laughter>

Scott Weiner: That the energy policy portfolio was placed in the policy office that Rick headed up-- Rick Sinding headed up. And around the same time was one of the drivers, the Clean Air Act of 1990, was coming into implementation. And, Rick, I wondered if you would share your observation about having to integrate this portfolio and also how the Clean Air Act amendments played out?

Rick Sinding: Weren't we trying to put the "E" of the DEPE [Department of Environmental Protection *and Energy*] into some historical perspective?

In 1974 I was the communications director for the then emergency New Jersey State Energy Office and along with the late Dick DeKorte and Tom O'Neil and Jay Biggins and Roger Schwartz and a handful of other people formed the first energy task force and made a report to Brendan Byrne, within two months, basically laying out New Jersey's energy situation and why we needed to take some definitive position on establishing an energy portfolio and why it should be its own department. But if it wasn't going to be its own department, it should be a division within an agency that didn't have a vested interest in the outcome of that energy policy. It could be an independent-- we could put it in [the Department of] Law and Public Safety, put it in Treasury, just put it somewhere other than the Board of Public Utilities or the PUC. So, Brendan[Byrne] put it in the PUC,

<laughter>

.... And that was because Joel Jacobsen wanted it.

Scott Weiner: And who was the first director?

Rick Sinding: it was Burt Ross - the Mayor of Fort Lee...

Scott Weiner: And he opened up a seat for me to become a councilman.

<laughter>

Rick Sinding: See how it's all works out.

<overlapping conversation>

Rick Sinding: Absolutely, well, then it was [State Senator] Pat Dodd who took up the cause and got a bill passed that created it as a department. And it was a department for some time in the late 70s, I guess. And then it sort of degenerated and -- I don't remember who-- I guess Kean moved it back to Public Utilities. And I

always had these ambivalent feelings, I guess, because of the fact that I'd been involved in that first task force that said, "Don't put it in the PUC-- don't put it in DEP. Don't put it in any agency--" and, of course, then I got the portfolio...

<laughter>

Rick Sinding: So, that came full circle. The energy office that came down to Trenton, I have to say, was probably just as dysfunctional there as it had been when it was up in Newark, except that we were able to begin to integrate some of the energy policies that they were playing with with Clean Air Act implementation. And the Clean Air Act amendments of 1990 were a driving force in much of the activity that the department was involved throughout the Florio administration. Many of them-- I mean, specific ones that we'll get to-- the California Car, the DMV, and so forth, but I think I'd ask Bill [O'Sullivan] ... who has a long history. He's still doing the SIPS and the TIPS and the state implementation plans and the transportation plans and more.

Scott Weiner: That's a great segue to the next agenda item. Let me just cap off your history of the energy portfolio at least in my personal experience, which is some time around January-- excuse me, before the end of January 1994, after Governor Florio left office and after Governor Whitman was sworn in, our colleague we just mentioned, Peter Nichols, was walking in front of the building on State Street and found a worker there unceremoniously ripping off the letters that spelled out "and Energy"--

<laughter>

Scott Weiner: --and said, "What are you doing?" And he said, "Well, I was directed to take it off." He said, "What are you going to do with them?" He said, "Well, I'm going to through them away." And he said, "Can I have them?"

<laughter>

Scott Weiner: And he said, "Sure," and he then gave them to me and many of you know they're now mounted on something in my office that says "and energy".

<laughter>

Scott Weiner: But, Bill, why don't you pick up the conversational gauntlet and talk about the Clean Act amendments.

Bill O'Sullivan: There are still holes in the building where that "E" was.

<laughter>

Bill O’Sullivan: I grew up on the stationary source side of the air program and was the permitting assistant director. So, actually somebody else reported to you, Rick. John Elston on the planning side. But you’re absolutely right that the 1990 federal Clean Air Act started a major planning process for New Jersey, and we developed this monster document called the SIP – the State Implementation Plan. And that set the precedent for the next 20- 25 years. There are six national ambient air quality standards. And at that time we exceeded four of them; I’m proud to say today we only exceed one. And that’s ozone right now. And the only reason we exceed that is the standard got more stringent. So, the then-standard for ozone we do achieve. Every administration after yours, Governor, contributed, but your administration was the one that started the big planning process that set the precedents for achieving those health standards and that’s quite an accomplishment. Thousands and thousands of lives have been saved as a result of achieving those standards.

Rick Sinding: Those standards were both stationary source and mobile source. And one of the many challenges of creating the SIP, the dreaded SIP, was that we had to model what steps we were going to-- well, first of all, we had to do an assessment of how much we were contributing to ozone and particulates and oxides of nitrogen and carbon dioxide... And we had to quantify how much was coming from stationary sources, primarily smoke stacks, and how much was coming from mobile sources, primary transportation. And then we had to come up with a plan that said, “Here’s how we are going to achieve the standard in each of these areas. Complicating that was the fact that New Jersey at that time was actually apart-- Bill tells me now it’s only two different ozone-- is it ozone quality areas?”

Bill O’Sullivan: Air quality control regions.

Rick Sinding: Air quality control regions-- but at that time there were three. South Jersey was part of the Philadelphia-Wilmington area, North Jersey was part of the New York area and a slice of Warren and Sussex County was part of the Allentown-Bethlehem-Easton area. And each one was in or out of compliance for each of these substances by a certain amount.

Scott was the one who came up with the idea and vigorously supported the idea of the co-called California Car program. And this was quite a controversial undertaking. The way in which the EPA set it up there were all these different regions each one was-- some were in compliance, but mostly in the Midwest. Some were out of compliance, but not greatly. Some, like New Jersey, were out of compliance rather substantially. And then on a whole different level there’s California, which needed to completely reformulate its gasoline, which needed to-- so did we with MTBE and don’t get me started on that. And one of the things that California came up with was a program of achieving mobile source reduction by changing the mix of motor vehicles on the road by requiring a certain amount of vehicles that are sold in the state be low emission vehicles, a certain amount be

ultra-low emission vehicles, a certain amount be electric vehicles-- far in excess that was required in other states. New Jersey decided-- we decided, the DEP, to push for the adoption in New Jersey of the California Car standard, which would probably-- I don't know if in and of itself, but it would've come very close to achieving all of the mobile source goals and, in fact, exceeded them. But was greatly opposed by the automobile manufacturers who did not want to be-- they were already chaffing at having to come up with the mix of vehicles that would be satisfactory in California. But then to have to do that many more low emission or ultra-low emission or electric vehicles to satisfy New Jersey and god knows how many other states who would follow our lead would balk at that. And, of course, the Automobile Dealers Association was adamantly opposed. And this fight lasted throughout the administration and was not resolved by the end of the administration. And then there was the dreaded DMV issue, which basically came down to there were all kinds of programs that EPA was recommending. There were two in particular. The IM-- Inspection Maintenance 240, the IM 240 would require a car to be placed on a dynamometer for 240 seconds to determine what was coming out of the tailpipe and also evaporative emissions. And then there was the ASM-50-15, which also would put a car in a dynamometer and simulate a car going 15 miles an hour using 50 percent of its energy or something. I don't even remember the details all that much. I'm surprised I even remember the acronyms. And this was a requirement. I mean EPA said to New Jersey, "You must adopt a new enhanced inspection maintenance system." The Division of Motor Vehicles did not want to do this. And it ended up going-- as I recall to the legislature where there was a heated debate about whether the DMV was going to adopt it or--

Joe Doria: Extremely heated. It was a lot of very, very difficult discussions about it and a lot time spent joking about how many rotations and why. It has to be one of the more unpopular plans that were presented. And by the time it did come to us it was dead on arrival. I mean, nobody really wanted to deal with it.

Rick Sinding: Well, the problem for us was the department had to go back to the EPA and say, you know, "We can't do this. The Legislature won't let us." And then EPA says, "Well, then you got to come up with some other way of doing an enhanced inspection maintenance inspection." Well, what other way is there? And, of course, you can imagine what a nightmare it would have been to have every car in New Jersey that had to go in for re-inspection to spend at least four minutes of this already interminable inspection having to go through this thing. And, of course, I guess maybe it was sort of not-- I wouldn't say it was a nice moment. It was-- there was a fulfilling moment during the subsequent Whitman administration where that whole enhanced inspection maintenance program got them into some considerable difficulty, as I recall.

Bill O'Sullivan: Rick, I think ultimately we did get the dynamometers.

Rick Sinding: We did.

Bill O'Sullivan: The EPA did threaten to take away our highway funds, which is a sanction in the Clean Air Act. I think that was the only time that New Jersey triggered what they call a "sanction clock," and we ultimately got whatever legislation we needed, and the rules were adopted the day before we would've been sanctioned...

Rick Sinding: Well, things evolve. You now have all these onboard diagnostics. The whole system has changed substantially.

Jeanne Fox: Wasn't there the thing that goes on the tailpipe that some legislators thought it would effectively reduce the--

Rick Sinding: Oh, you're not talking about the inset device?

Jeanne Fox: What's it called? It was stainless steel-- just fit in there and--

Joe Doria: And it would solve the problem. Yes...

Bill O'Sullivan: Rick mentioned the stationary sources and the mobile sources. We've done a really good job over the years with the stationary sources. We're probably for most air pollutants in the top five for lowest air pollution from our power plants. That's in part due to the nukes, which supply 50 percent of our electricity, and coal has gone down from 20 percent to two percent. Renewables are now up to four percent and climbing. So, we're one of the cleanest power sectors in the United States. But cars? Trucks? Still a challenge. We've got so many of them, even though the cars are cleaner and we're still a California Car state. We have an inspection maintenance system which is different today, but very important. Even with all that, we've still got a challenge meeting the ozone standards.

Scott Weiner: At the time we were promoting the California Car standard, as I recall, Massachusetts had already adopted it. And part of our goal was to create a market in the Northeast that would be able to be the gravitational pull for the auto manufacturers in the fuel industry. The other theme that's opening up my head today is being squeezed. And this was being squeezed between the auto manufacturers and the fuel folks and the petroleum industry. It was probably not withstanding harbor dredging, one of the more intense debates-- so much so without mentioning names that one of my son's playmates and classmates was told he could no longer play with my son--

<laughter>

Scott Weiner: --true story-- because of my position on that subject matter.

Man [off camera]: Wow.

Scott Weiner: One of the things it did do, it was an example of the need for-- yes, for interstate collaboration. And, of course, we were working with the northeast states. There was a history of collaboration with organizations like NESCOM and others that Bill and his colleagues had long been involved. But two themes I want to bring up for people's comment: One was the Ozone Transport Commission that was part of the Clean Air Act and it was formed. I served as one of the founding commissioners. Each of the states in the Northeast Ozone Transport Commission area had appointed a commissioner. I can't remember who the second was. But Sue Tierney, a name many of you know, who was then the environmental commissioner in Massachusetts and Bob Perciasepe, who was then the environment commissioner in Maryland, and I and others-- I had the real joy a couple-- about two weeks ago being on a panel with both Bob and Sue, so we got to think a little bit and talk a little bit about the role of interstate collaboration. In that regard-- and I can't remember, Rick-- I guess you and Jeanne and Bill and others were instrumental in putting this together, we held a regional conference with air directors and energy directors in Princeton. And it was, again, to bring together the counterparts from around the region to think about interstate collaboration in Clean Air Act amendments and cross state border issues. And what was so striking was there was more than one state where the air director and the energy director really didn't know each other. It was an opportunity for them to meet each other and talk directly. And we would talk about how we had integrated and create the agencies and there was a lot of envy in those other states.

Bill O'Sullivan: Along those lines, OTC, which you helped found, is meeting today. I think it's down in Maryland. And that remains another one of our big problems, the interstate transport issue, particularly from the coal plants in the Midwest, and a challenge that we're slowly being successful at getting those emissions down, but it's taking a long time. And it started in Governor's Florio's term.

Scott Weiner: So, why don't we use this opportunity to also just now bring in the issue of mercury standards, certainly part of the topic. And Mary.

Mary Sheil: Well, at this point in time I was a policy planner with the department and I worked for Rick Sinding. And he came to me one day and he said, "We're going to do this report and study on mercury and you are the project manager."

<laughter>

Rick Sinding: I believe I asked you, Mary.

<laughter>

Mary Sheil: No science background, but, okay, he's my boss. He wants me to be the project manager, I'll be the project manager. So, we pull together a team and Bill was our lead scientist on it. And thank god for that because he did a great job of pulling together all the information on what was needed to establish mercury standards. But the report was done in a record amount of time-- I think we did it in about six months to complete them, to Rick's surprise. <laughter>

Rick Sinding: Delight.

Mary Sheil: He couldn't believe we were able to get it done. But, anyhow. We did it in about six months and one thing that did come out of that was we got the mercury out of the alkaline batteries and today you can just throw them in the trash. But it was a big issue for trash incinerators with the mercury that was in a lot of waste products, but it eventually-- that report eventually led to state and federal legislation establishing standards for mercury. I'll turn it over to Bill for more scientific background.

Bill O'Sullivan: I have to thank Mary for great leadership of that first mercury task force, the first of two. And I got a little story on air with respect to reduction of mercury from the incinerators, which happened during the Florio administration. I actually prepared remarks here. It's not just off the top of the head. So, I'll go through these. John said I had up to five minutes.

<laughter>

Bill O'Sullivan: I'd like to tell a story about mercury and how NJ set precedents for control of mercury emissions into the air during the Administration of Governor Florio.

It's a story about paying attention to a local community, making commitments to solve a clear environmental problem, and following through.

We had permitted a number of waste to energy facilities and the test results were coming in. We had done a good job requiring best available air pollution control technology, so emissions were well under permitted levels, all except mercury.

Why the high mercury? The federal emission factors for MSW combustion were outdated, and there was more mercury in the waste than anticipated. And despite the facilities having multiple air pollution control devices, most of the mercury escaped them all.

While we were evaluating these mercury exceedances, a group of concerned citizens in Camden petitioned the NJDEP to do a rule to limit mercury from MSW combustors, one of which is located in Camden. Rulemaking petitions are few, and few result in action. What was different about this petition is it included a

recommended emission limit. A very smart scientist, Stephen Krivanek, provided the calculations for the petitioned limit. He based his 50ug/m³ limit on a new air pollution control technology, carbon injection, in use on one MSW combustor in California.

We looked at the petition and determined that the limit was likely to be reasonably achievable. I remember briefing then Commissioner Scott Weiner, who gave us the go ahead to draft a favorable response to the rulemaking petition. That was quite exciting, and I remember going through many drafts to present to Commissioner Weiner for his signature. Scott promptly gave it to a really smart attorney, Marlin Dooley, to improve, which she did in short order.

Scott formally committed to do the requested rulemaking, and we proceeded to do further technical evaluation and rule development. The rule that was eventually adopted had 2 phases of limits, starting at 65 ug/dscm in phase 1 and stepping down to 28 ug/dscm in phase 2. Phase 2 was even more stringent than the 50 ug/dscm recommendation in the petition. It felt good to do even more than was requested, and the rule worked.

NJ's statewide mercury limits were first in the USA, and resulted in the installation of carbon injection on all 5 MSW incinerator facilities in NJ. These are achieving almost 99% reduction of mercury today. It also set the precedent for federal mercury limits on MSW combustion. States really are the incubator for environmental programs.

And NJDEP did not stop there. With a series of mercury task forces and rules, we eventually limited mercury from hospital incinerators, iron and steel scrap melting, and coal fired power plants. The recent federal limits on coal fired power plants were also based in part on the NJ rules already in place. These federal rules were finally fully effective in April 2016, less than 2 months ago.

Therefore, it is appropriate today to be citing the successful reduction of mercury emissions in the USA, which was given a big push forward by NJ 25 years ago. This was the result of a citizen's petition and the Florio administration, which listened, committed and acted.

A recent article in "Science Daily" states "along the East Coast, mercury levels in rainfall have been trending steadily downward over the past 20 years."

I am proud of the NJ air pollution control rules, in particular NJ's leadership on mercury, and I thank Governor Florio and Scott Weiner for the resultant mercury emission reductions in NJ, and by precedent, in the USA.

Rick Sinding: Yes, two things to Bill's very excellent report there: One is the citizen's committee in Camden that petitioned us was headed by Mark Lohbauer, who had been a former Camden County Freeholder and who most recently went on

to become the chair of the Pinelands Commission, a position to which he was not re-assigned after being appointed--

<laughter>

Rick Sinding: --after he made a certain decision having to do with the pipeline. The other is that we convened a series of meetings of environmentalists, scientists, and the effected community-- people who were running incinerators. And I was stunned by the fact that within the second meeting when Bill came up with his standard of-- I guess it was 28 at that point or maybe it was 50. I don't remember which--

Bill O'Sullivan: It was 65 then, it's 28 now.

Rick Sinding: Okay, but it was, as I remember it, the most stringent mercury emissions standard in the world.

Group: <generally agrees>

Rick Sinding: And I was just stunned that, number one, you came up with it; and, number two, the scientists agreed that it was achievable. Mary, who had spent a lot of time looking into how to get mercury batteries out of the waste stream, indicated that it was achievable. The people who ran the incinerators said, "We can do this." And I thought, "What more can you ask for?" until one representative of the environmental community, who shall remain nameless, said, "It's too little too late."

Scott Weiner: In the few minutes that we have left in this session I was just thinking that one day many years from now some student somewhere is going to be pulling up this video and is going to think, "Boy, this is great. There was-- the legislature must have just supported all this--"

<laughter>

Scott Weiner: "--that there was no controversy," and although that around this table are certainly some of the more supportive legislators of that era and this issues I would invite you to share some of your memories of this era.

Joe Doria: Well, I'll begin and Dan can add. I mean, you have to understand the legislature. You haven't sat in the caucus in a long time. I haven't either. I would suspect that it's more raucous. We used to call it the "raucous caucus".

<laughter>

Joe Doria: You never can deal with the legislature and the members and expect them to be happy at all times. And a lot of these things they have constituents who

chase them. Some constituents are very supportive. Then there are other constituents who aren't and the problem is the ones that are the loudest many times are the ones that are paid attention. So, that is part of the difficulty in dealing with a lot of issues in the environment and to find that happy medium. And, so, there were always conflicts, whether it be California Car. I mean, mercury, to be very honest, was not something we really paid attention to. It wasn't an issue that people in the legislature were paying attention to. They were paying attention to the ones that the public would know about and would be concerned. One of the things that everybody was very happy about was doing away with all the incinerators. Because there was a great deal of negative reaction on the part of the legislators, both Republican and Democrat when that legislation came through at the end of the Kean administration. And, so, that decision and then moving forward on that was a very positive. It was bad for all the developers, the patronage people, they were all not happy, because it was really an internal source of campaign contributions. And a lot of counties, including Hudson, had have spent a lot of money and then rebuilt an incinerator. So, the incinerator issue was very positive. So, you have the positive issues, then you have the negatives. The Right To Know we talked about-- very controversial. So, you go back and forth on the issues, but it's never a totally unanimous agreement on any issue in the legislative caucus, whether Republican or Democrat. Somebody always has a problem and especially on environmental issues and if they dealt with developers. But some of them-- like, nobody was against clean air or clean water - everybody's for until it comes down to the details--

<laughter>

Joe Doria: --then everybody has problems.

Governor Jim Florio: But, Joe, let me just say, that's really the key to successful legislating, knowing how to be creative enough to be able to get the good parts and the bad parts opposed to each other. For example, in the Right To Know one of the things that highlighted support for that bill was finding a child daycare center across the street in Edison, New Jersey from a factory that was putting all kinds of tremendous things there. Mobilizing people to understand the good part as opposed to the bad part.

Joe Doria: You're absolutely right, Governor. And that's where you had to create the balance and that's how a lot of pieces of legislation when we were in the majority between 1990 and '91, not only the environment, was to create that balance. And the administration doing that and then being able to sell it in the caucus.

Governor Jim Florio: The gun bill was a wonderful example of something like that.

Joe Doria: Yes, the gun bill was a perfect example. And we always thank god for all of the NRA members who, in their nice plaid shirts who filled the entire State House annex and broke the windows because that helped to get the votes. So, all those things sometimes-- sometimes it's the stupidity of the opposition benefits you a great deal.

John Bennett: I agree with what Joe said to a large degree that legislators for the most part are reactionary. Across the board and as opposed to being proactive in certain areas they kind of react to what the different groups or what their constituents bring them. Unfortunately, you usually have the ones come to you that have the problems and, you know, they haven't been able to get the permit or DEP is putting them out of business because they're unable to get an answer. So, then the legislator paints, as a general across-the-board, "Well, they all have to be bad." It was harder to get ... legislators to focus. I mean, the [Assemblywoman] Maureen Ogdens of the world who were great in coming forward to having that particular way of dealing with environmental issues and selling her-- you know, selling the story. There certainly were more-- I mean, I don't want to sound too negative, but I think there were a lot more proactive environmental legislators on both sides of the aisle then under the Florio administration than there are certainly now.

Group: No question.

John Bennett: In fact, I haven't been able to find too many--

<laughter>

John Bennett: --at all! But that-- maybe it's because we solved all the problems. But we know better. We all know better. But I think the other thing that you had in the legislature and while the issues came forward, so many of the environmental issues did not at that time totally revolve around partisanship. And, I think, that that was critical and central to being able to resolve some of the issues that came. When things become so totally partisan, whichever way, R or D, it is much more difficult to build that consensus. And I think we were able to build consensus on many of the environmental issues during that time frame just because of the individual leaders that were on both sides of the aisle.

Dan Dalton: And I think that includes the commissioners.

John Bennett: Yes.

Dan Dalton: Because I remember distinctly your predecessor in the Kean administration, Bob Hughey, was a collaborative-- he was just a very collaborative type of individual and so were you. I mean, you would come and we would sit and talk and if there were issues, we'd try to get at them right away. And I think that

process was a process that, you know, certainly the governor can take credit for. But it certainly helped address a lot of issues before they became-- they snowballed. The other thing I remember is when you were going through your-- the air permitting issue and some of the other issues that the regulators that you were dealing with-- and thank you very much for dealing with them; I'm certainly very appreciative of that-- is at that same time we were dealing with automobile insurance reform. We were dealing with guns. We were dealing with education funding. So, we were glad you were there do your jobs, because our focus was certainly on a lot of other things at the time.

John Bennett A little bit of taxes--

<laughter>

Dan Dalton: Yes, I knew you were going to mention that, John.

<laughter>

John Weingart: It's interesting what Rick said at the beginning about the difference between the era when Tom Kean was governor and the era when Jim Florio was governor. So far in this discussion we haven't talked about land use which was the dominate part of environmental protection-- or at least got the most publicity in environmental protection-- before and after. But it was that in these four years in particular that the focus came to be, "How do you implement all these programs?" And the example that occurs to me in terms of what you were just saying was when the Freshwater Wetlands Act was signed by Governor Kean one of the members of the legislature who was in the press event, said, "We're really proud that these are the toughest environmental freshwater wetland protection regulations, in the country." About two years later -- with Jim Florio now the governor—a constituent of this same legislator wanted to get a permit under the Freshwater Wetlands Protection Act and was denied. The legislator complaining, saying, "In any other state in the country he'd get this permit."

<laughter>

Governor Jim Florio: In land use, one of the things we did was to start the process of recognizing the importance of the highlands. We established a task force which ultimately resulted in during the McGreevey administration a highlands program being put in place. [Signed into law by Governor McGreevey on August 10, 2004] And we were trying to do it coming off of, I feel, a successful implementation of the Pinelands Preservation Act, trying to replicate that didn't really come up to the same standards, but at least moving in the right direction.

Joe Donohue: You remember that freshwater wetlands was one of the two areas you really caught hell for when Attorney General Bob DeLufo who came out with that interpretation that allowed a lot of development and then eventually you pulled back on it.

You know, one thing I wanted to point out that one way the governor is unique is there are not many people who went in the office who have set in motion major laws that he had to implement. Like, I mean, years before you even took office I was walking around dealing with superfund sites after you sponsored the superfund law. And I'm down in Atlantic County where they're cleaning up a site that destroyed Atlantic City's water supply. And then he co-sponsored-- well, really the first House sponsor of the Pinelands Protection and later, after being governor, chairs the commission. So, not too many governors have been in position where they pioneered the law and then they implemented it. Tom Kean did sponsor CAFRA [Coastal Area Facility Review Act]. He implemented that, but that's one way you were distinct from some of the other governors.

John Bennett: I would have done that, but I only had four days [as Acting Governor in January 2002].

<laughter>

John Weingart: Well, you did get amendments to CAFRA adopted during the summer of 1993 that [Senator] Joe Kyrillos sponsored. And in terms of what you were talking about, that was a wonderful bipartisan initiative led by Joe and you, two Republican Senators, in the middle of a campaign. You both still did that even when it could have made the incumbent Democratic governor look good.

Well, why don't we take a break.

[BREAK]

Jeanne Fox: So because I once did solid waste at the Public Utility Commission back in the mid-eighties, Scott made me the solid waste guru. I'm not going to talk too much about it, though, other people will because they spent more time in it. I just want to note too that we tried to set up processes. So we talked about permitting, for instance, and how-- all of the delays when we got there. So because I did solid waste I pulled in Steve Madonna, the solid waste office people who a lot of them had come from the BPU or the PUC at the time. And the DAG is involved, everybody involved in the 901 permitting permit that was created in the brilliant legislation passed by the legislature making us the only state in the country to ever regulate solid waste like a utility. It didn't really work, either. But anyhow, when we got out-- I forget it was a backlog of six or seven years and it had only been in effect for a couple of years. And so I got everybody in the room including Steve and

the deputies and our solid waste people and the permitting people. And I had the diagram at the first meeting. We met every single week on the board how the process works. But they started doing it. And what I said after they did that was quite simple which is why don't you when the permit comes in make copies of it and give it to everybody else so you can do it at the same time. Anyway, we met for two or three or years at least every week. Cut the waiting time for permits from something like six or seven years to like sixty days or so. And that's the type of just practical things that the Florio administration and Scott did at DEP.

And, obviously, there are organized crime elements back in the solid waste which I have some great stories when I was at the utility commission but also at DEPE. And so that obviously played a lot into how we handled things, trying to get people out of the business who should be out of the business and not letting their children or their wives get the business. Really, some really interesting stories that some people might want to go into. But I want Scott really to just talk about, and then we have some real experts here who lived this, from his perspective of being in the cabinet and working with the governor, why this was so important and the big picture on it.

Scott Weiner: I've been trying to figure out. With some confession, I took a look at the agenda and I said, what am I supposed to introduce? And now I just got my cue. And speaking of cues, Lance when you do ECRA to ISRA I assume the voluntary cleanup program will be in there or it will be now.

Lance Miller: It will be now. I remember that phrase.

<group laughter>

Scott Weiner: One of the phrases Jeanne used was "common sense" and all of us who had a chance to work with the Governor knows that this was often the deciding factor, what made sense? And to try and strip away all of the rhetoric and all of the hoopla and figure out what makes sense. So when we take a look at this issue said ECRA to ISRA is one that I'm sure Lance will spend a lot of time on. A related initiative was a voluntary cleanup standard under ECRA. Both of these were enormous in terms of common sense, I think, is why it was important. We're saying that it was needed. I would say that Lance played a very important role in helping formulate it. Former Senator McNamara, no longer with us, was our partner in this. I'll say that I knew Hank McNamara from days in Bergen County. And some of you know that before I came to the administration I had a very short lived run to try to become the Democratic nominee for county executive in Bergen County. And I got two things from working with Hank. One was a pen.

<group laughter>

Scott Weiner: When the bill was signed he just gave me a pen. It wasn't a governor's pen. It was the pen. It was the governor's pen from the Governor. And the other was he said if I had known about you then I would have supported you for county executive.

<group laughter>

Jeanne Fox: And I know at the time he was a Republican.

Scott Weiner: Yes, for those of you in the future who are watching it. The Pause, again, we'll spend some time talking about that. And we've talked about it in the context of collaboration but it was just common sense. Anybody who stopped and thought for a minute about why twenty-one incinerators, twenty-two incinerators? And speaking of, for those of you who were in the department back in the eighties if you were involved, I remember being an attorney in practice then and the state solid waste management plan, said, "Well, here's what we'll do, we'll just punt it all to the counties." And, of course, as was pointed out the counties saw this both as an act of responsibility and a wonderful way to raise money which was done. Recycling, not just another common sense initiative. It was something before the Pause. The Pause really brought out, in my mind, among other things, the importance of recycling as a core principle. This was a core policy. This had to do with how we were going to live our lives as a society, source reduction also came in. And before we talked about any disposal method we need to be taking about these issues. And incinerator regionalization, again, relates to the Pause and we'll have some interesting conversations about that. When I saw all the talk about incinerators, I'm reminded that as we were dealing with the Pause and the Pause was over, I was now at DEP. I was dispatched out to Union County to address a group of protestors. And I get out of my car and I'm greeted by all of the protestors one of whom was holding a sign which is a big frankfurter with my face at the top with the phrase "Weiner don't roast our future."

<group laughter>

Scott Weiner: Which I thought was great. It ended up in the Ledger in the next day and I used to hang it on my refrigerator to teach my kids to have a sense of humor about their last name that everybody in our family, particularly the males, for generations have had to deal with.

<group laughter>

Scott Weiner: So with that, Lance, you're up.

Lance Miller: Before I move into ECRA to ISRA, just something that has struck me. Governor, I'll see if you remember this, one it was difficult to run the site

remediation program with Mr. Superfund as your governor. Right? So just a little bit of pressure there. But one of the pleasures I had was taking the Governor out to the Woodland Township superfund site which we were cleaning up. And the Woodland Township site is in the Pinelands industry. And it's desired to make a buck, just brought backhoes in, dug trenches in the sand and brought the tanker trucks in and dumped the liquid waste right into the ground and, of course, it leached into the groundwater and created quite a mess. And we were cleaning that up for quite some time. But the Governor wanted to come out and see one of our sites in action getting cleaned up and it was a pleasure to take you out there to do that. ECRA to ISRA I suggested this topic to John not just because it was an important piece of legislation but for how it came about and the interactions that we've talked about today of people and how important that was in getting this legislation to happen. ECRA, for the record, is the Environmental Cleanup Responsibility Act. It was sponsored by Senator Dalton and, I think, enacted in 1985. As many programs at DEP its initial implementation was a disaster. And there were calls in the latter eighties for its repeal and just get rid of it, a failed experiment. And what ECRA requires is industrial sites to show that they are clean before they can be sold. A great concept. Fantastic concept. The way the department initially went about implementing it though was not so good. We made changes in the late '80s from 1986 on to change how the program was being implemented and really stood the program on its head in terms of how an environmental agency would approach a problem. The way it was first implemented was gee, we've got to focus on these sites that we're finding that are contaminated and they were badly contaminated. And all the staff was working on those sites and it was just creating a tremendous backlog. We changed that and said, we need to have different groups of people working on different parts of the process. So if somebody has a clean site they're not held up by this. And those changes saved the program. And so when the Governor was elected and took office there weren't calls in the legislature to repeal the statute anymore. And we had democratic control of both houses. So we were safe. Everything was going well. We were moving forward implementing it. Scott came up with the idea of the voluntary cleanup program to let people start the process early.

Scott Weiner: Actually, it was your idea.

Lance Miller: Was it?

Scott Weiner: Yes.

<group laughter>

Jeanne Fox: But Governor, you can take credit for it.

<group laughter>

Scott Weiner: So the way this got started, as I recall, my memory is I remember getting a call from you one day and you said there was a developer, whose name I don't recall, because the program was really administrated as an enforcement procedure so you were somewhere in the queue. And when you got high enough in the queue then you had to deal with the department's enforcement staff and you could get your property cleaned up and signed off. So Lance calls and says that there's a developer who eagerly wants to develop their property. And they're willing to pay for everything and develop it to any standards that we set. They'll voluntarily do this if we will expedite the cleanup. And, as I recall, you and I had a discussion that said, why wouldn't we do that? Why would we force them into the queue and that gave birth to the voluntary cleanup program which is the first time that somebody could raise their hand and say, "You tell me what to do, give me clear standards. I'll pay for it. I want to get my property back in the market."

Governor Jim Florio: I have a recollection about the Singer facility, the Singer Sewing Machine Perth Amboy. I think that was the one.

Lance Miller: You guys' memories are better than mine.

<group laughter>

Lance Miller: And I'm younger than both of you, so I'm in trouble here. So why was ECRA then important as we went through the-- into the second half of the administration? Well, of course, something happened in November 1991 that we don't really want to talk about and that's the Legislature changed and we now had veto proof majorities in both houses that were Republican.

Jon Shure: You don't have to say it like it's a bad thing.

<group laughter>

Lance Miller: ... So the issue had shifted, now. It was no longer the department's implementation but it's what we had talked about earlier and that is the costs of these programs. And the department's different standards and different approaches when at this point in time I had 750 people working for me. And the question, you know, all in different programs but cleaning up sites. And the question was, well, what standard gets applied here? Do we have to remove the stuff? Can we leave the stuff? All of these questions were being focused on. And the legislature now led by Senator McNamara, who unfortunately passed, comes in and says, "We're going to amend ECRA." Scott calls me into this office to tell me this. And goes, "Lance, the legislature is going to amend ECRA. Here's your mission. Get the best bill that you can but the Governor will sign whatever the legislature passes."

Scott Weiner: I don't know that I said that...

<group laughter>

Lance Miller: So Senator McNamara-- now, it just so happens, here's where the interesting personalities come to be. Scott mentioned he was from Bergen County. He was from Wyckoff in Bergen County. I grew up in Wyckoff. I bought my first Ford Mustang from Senator McNamara's car dealership.

<group laughter>

Lance Miller: So I made sure that I told him all of these things.

<group laughter>

Lance Miller: And so Senator McNamara started working on this legislation and worked on it and worked on it. Now, during this time he had a hip replacement. I would go up to Wyckoff for meetings with him in his house, in his bedroom, with him up in traction recovering from his surgery. He spent over a year working on this legislation. And one of the final issues that we had to deal with was what should the legislature say about cleanups. Now, no offense Senator Dalton, but Senator McNamara asked me, he goes, "Lance what's your biggest program with ECRA?" And I told him I said it's a great piece of legislation but I don't know what it wants me to achieve at each individual site because the statute said cleanup the sites to the maximum extent practicable. Well, that to me left a lot of interpretation. And Senator McNamara agreed. And he said, "Okay, we're going to address that." So Senator McNamara convenes a meeting. He goes, "Lance, we're going to have a meeting. We're going to talk about this. Come over to the State House." And I arrive. And at this meeting is Hal Bozarth [Chemical Industry Council ED] and about five scientists from DuPont Chambers Works. And we proceed to go through what the statute should say about a cleanup standard. And I argued that it needed to say we're going to cleanup sites to a one in a million cancer risk because that was the federal standard. And I said, if we don't do that we take the risk of having all of these sites potentially subject to a subsequent federal action and that would be terrible for business. We also said that we were willing to allow encapsulation of contamination rather than dig up and haul to some other location. And the reason for that was the one in a million cancer risk was all based on exposure. So if we could eliminate exposure, which is something we were already implementing, so this was an easy give to put into the statute it would significantly lower the costs. So those were my arguments. Of course, industry didn't agree with that and they were arguing for a 1 in 100,000 standard. And we went back and forth, back and forth, back and forth, back and forth. And finally, Senator McNamara said, "Okay, I've heard enough. I'll let you know my decision in a couple of days." And he called me up a couple of days later and said, "Lance your arguments made phenomenal sense. You did a great job in that meeting." And I don't mean to sit there and pat myself in the back but he goes, "It's going to be as you proposed it." And that's

how the statute got written. That's how the one in a million cancer risk became law. I'm not as good as my friend here Ed Neafsey who remembered the exact date of when you signed that bill but it was in 1993, the spring. I do remember the location, though. It was on the Passaic River. And here's why I remember it so well I went up early to make sure the site was fine. There weren't going to be any environmental issues that would be available. And I noticed some drums on the site. And I said, oh my God.

<group laughter>

Lance Miller: I'm lucky I was a young man at that time because if I did this now I probably would have died of a heart attack because I go by one of the drums and all of sudden there's this big commotion and splash and I look in and there's this enormous snapping turtle that the workers had taken out of the Passaic River and were obviously going to use for supper that night stuck in one of the barrels. So I left that alone...

<group laughter>

And that's how the Industrial Site Recovery Act then came into being.

Jeanne Fox: It was another era of bipartisanship of working together for the good of New Jersey.

Lance Miller: And one last thing of how effective that statute was along with the rest of our cleanup programs. I did a lot of work with the association of state and territorial solid waste management officials. ASTSWMO as its nickname is known. Gary knows it well. And they had this-- the hazardous waste programs were part of that association. And they convened a study of how many sites the different states had cleaned up at that time. And this was in the early nineties and New Jersey had cleaned up more contaminated sites by that date than the next eight states combined including California, New York, all of these other states and Senator Dalton it was mostly because of ECRA.

Rick Sinding: So Nick would ask if New Jersey had eight times more contaminated sites than any of the other...

Lance Miller: No. We were finding them. We were finding them because it was now a condition of business, of a business transaction which although it didn't trigger the same legislation in other states, it triggered it as a commercial business practice driven by the attorneys that now said, "This is an issue that has to be dealt with. Look at what's going on in New Jersey. These sites are contaminated. It's strict joint several liability. You buy this thing without investigating you're going to inherit the liability."

Jeanne Fox: Let me say, that in the eighties and the nineties the Democrats and Republicans in New Jersey, most of them, were environmentally oriented. And they worked together for the good of the state which hopefully will happen, again. Let's go on to-- and, obviously, when you have the Governor who actually wrote the superfund law because the state had an issue, it was significant pressure on the department to get it right. And Scott always talked to him about it. I'm sure he knew more about superfund than you did?

<group laughter>

Jeanne Fox: Okay. We'll go on to the Pause. I think at solid waste-- I was a solid waste person and the Pause is really very interesting. Gary, as you all know, was at one point deputy commissioner of-- or chief of staff. Chief of staff. I was both. There was a chief of staff and then there was a deputy commissioner. We didn't have two. But anyhow, talk about this because the Pause is an interesting thing. Government frequently doesn't like to pause.

Gary Sondermeyer: Right. It was a fascinating time. Commissioner, you kind of teed it up well in your introduction. And, you know, solid waste has always been the wild, wild west. And to sort of paint the picture, I started at DEP in 1980. And one of the first things I was involved with was doing an open dump inventory. And we found 630 open dumps in the little state of New Jersey. So every single down, all 567 had a dump and a few were special and had 2 or 3. So we got this landscape of 630 dumps. Our legislature kind of recognized in 1975 and said, you know, towns can't do this. They really can't. It's got to be regional. Waste has got to be managed regionally. So we're going to do the simple thing logically, administratively, push it up to the twenty-one counties. And you know what, there's so much garbage up in the Meadowlands, let's make them a special district. So we had the Hackensack Meadowlands Development Commission. And the entire focus-- the freeholder boards did not want to do this, kicking and screaming. And, you know, public policy was a different time and the department really took a leadership role in calling freeholder boards in and reading them the riot act. You've got to site facilities. And, of course, what do the freeholder boards do? They hire consulting firms. And the consulting firms look at well, what's the state of the art for waste management? Every single one of them looked at West Germany and what was the state of the art was building mass burn incinerators. So we wind up through this county planning process with these freeholder boards making really hard decisions to site waste facilities. And, in fact, nineteen of the twenty-one counties sited specifically an incinerator site. And fifteen sited landfill sites. Thirty-four major siting decisions and you kind of had to be there. I was at a lot of these hearings. They were blood baths. I mean thousands of people throwing vegetables, fist fights between freeholder boards. It was crazy. But they site all of these facilities. And then low and behold in 1987 Governor Kean signs the Mandatory Source Separation

and Recycling Act. So let's think about that for a minute. We just spent ten years with an exclusive focus on building environmental infrastructure at tens to hundreds of millions of dollars. And now we just passed a law to take as much of the stuff you've got to feed the garbage plant away as you possibly can.

<group laughter>

Gary Sondermeyer: Thank you about one. So Rick said, I thought you just nailed it earlier, you know, in the eighties we had a lot of very popular environmental initiatives and these major landmark laws put into place. But in the nineties you had to implement them. So here like how do you deal with this dichotomy of building all of these major facilities and then taking all of the waste away from what you've got to feed in? And commissioner, you kind of used the term of using common sense, bringing common sense in. So on April 6 of 1990, Governor Florio is in office not very long. He signs executive order number eight and establishes the emergency solid waste assessment taskforce. And it was called appropriate, the Pause.

<group laughter>

Gary Sondermeyer: And that's really what it did. It said, you know what, our public policy has kind of gone amuck. It was a good idea what the legislature said. Let's take it away from the towns, give it to the counties. But we didn't watch that process. And that process kind of got out of control. We don't need thirty-four major solid waste facilities built in this state. So this executive order basically said for 120 days we're going to stop everything. Shut it down. Nothing is going to happen. Nothing is coming out of DEP on all of these different projects. And we put together a taskforce. And President Weiner was at the table. Commissioner Yaskin at the time. The environment community, county governments, private sector entities, other state departments and we all got in a room like this and used a great term earlier, the raucous caucus. It was a raucous caucus.

<group laughter>

Gary Sondermeyer: And it was a significant amount of knockdown drag out fighting, outright fighting of what the policy should be. And God bless the environmental community for coming in for the first time, really, in a serious way of saying we have to look at not producing waste in the first place. Gee, source reduction. We had never systematically looked at source reduction. Secondly, we have to maximize recycling. Third, if we're going to build anything let's look at opportunities to regionalize so we don't have thirty-four things. We have something that makes, back to your point, common sense. And the net result of those discussions we actually-- and I have to point them out the architect of how we designed the recycling rates which to this day are the statutory recycling rates in

this state twenty-six years later was Frank Sweeney. And Frank actually came out to the division of waste management and spent a tremendous amount of time. And we actually went through every//

But we systematically honestly took apart the waste room. We went through every single county composition study, thirty-four different commodities and did legitimate regression analysis and other statistical ways of determining what is a feasible recycling rate. So this was not a willy-nilly pull it out of the air public policy, let's pick a number. We actually calculated those numbers and we came out with two numbers, fifty percent of the municipal waste stream, sixty percent of the total waste stream and went forth and actually, once again, drove public policy with your leadership. And had every one of the twenty-one counties come back with fifty and sixty percent recycling plans, regionalization plans. And sort of the legacy to it to me is we put together-- I actually have-- I'm probably the only human that still has these things.

<group laughter>

Gary Sondermeyer: We did this incredible solid waste plan. And we did, if you remember, the wash ups of the regulated medical waste on the beach. How can anybody forget?

Jeanne Fox: Oh yes, 1988.

Gary Sondermeyer: The state's first comprehensive regulated medical waste management plant. And to our discussion about water quality earlier, the state's sludge management plan. And these documents were absolutely the most transformational documents I ever had the honor of having a small part of being involved with. And to fast forward, and I'll finish the legacy of all of this in my mind is the recycling goals that we establish with their leadership were the highest goals in the United States of America. And we still haven't achieved them which is pretty fascinating in terms of the drive or perhaps lack of drive consistently to the goal of the public policy to achieve them. And our latest numbers are 58 percent of the total waste stream, 43 percent of the municipal waste stream. So we still have a ways to go. And in terms of infrastructure we did build five, as Bill pointed out, five mass burn incinerators all of which have operated frankly up to spec since day one. And we built twelve double composite line landfills. So we built a statewide infrastructure which is still in place and every one of those facilities is still operating. But more importantly we didn't build the fourteen other incinerators. And to this day we are still paying off the debt for the five incinerators we did build. Can you imagine if we built all of those facilities?

Governor Jim Florio: That's just such a wonderful example of what we talked about at the beginning of this session saying that we're going through this not for

just nostalgic purposes but to try to learn for future purposes. And the shift to gas pipelines, we're now in the process of building twelve, thirteen new gas and oil pipelines. This is to transport natural gas. But we also know that the nation has a task of reducing reliance upon fossil fuels, including gas going forward. I've tried to make the argument to the pipeline industry think about over capacity, buying into something you're going to have to pay off. When, in fact, the stock of the material you're supposed to put to the pipelines is going to be inevitably reduced. At some point, you build a bubble and you have to bail out. I mean this a wonderful example of what we saw in the past that should be applied to the future. Whether anybody applies it or not is still up in the air.

Senator Dan Dalton: What was the driving force behind the Pause? Was there a particular...

Gary Sondermeyer: I'll go back to the search for common sense. Really, I think, it was our public policy has gone out of control, right, commissioner?

Scott Weiner: Yes, it really came from the Governor. I mean, of course, the environment at the time was counties were promoting it. There were some counties that had a vested interest in promoting it. There was industry promoting it. There were environmental groups pushing against it. It was raucous to use that phrase. And it was common sense to just say let's just step back and Pause and make an assessment because this doesn't make sense on its base. And that led to the taskforce.

Jeanne Fox: But obviously at the utility commission as a deputy director Essex County moved pretty quickly on their waste to energy facility or incinerator, as we call it. It was very much an environmental justice issue. They put it a low income poor neighborhood. I will now admit for the first time publicly that I was the deputy director and I had hired an economist lawyer to work on this full time and a couple of other people. And our recommendation to the commissioners who will go nameless was not to approve it. Not because it might not work technically although there were questions but that was a DEP issue. But because economically the Essex County tax holders would be on the line if there were problems. And the commissioners went along with it anyway because it was political and they approved it and it was sited there and there were some real problems. And economically the taxpayers could have had a problem. So that was an issue that I knew quite well about, Scott knew about it. And we really didn't need those fights all over the country because of source reduction, which is what you should do first obviously, would then lead to not for the need. So it was very much for the Governor and Scott an opportunity of being practical about this and not putting in facilities that we did not need if we did the right thing by recycling and source reduction and so it made complete sense to do what we did. It was really another

example of the governor's leadership on how to do the right thing for the state in the least costly manner but get a better result.

Scott Weiner: There was besides all of the usual suspects who were involved and maybe these were usual suspects also. I just remember the finance industry was also very engaged in this. And the reason I knew something about it was because at that point I was a bond lawyer and was involved in the financing of a couple of the transactions. But through it all, I mean when you're inside the bubble you have one perspective. And what the Governor did was create the environment for us all to step back and say this doesn't make sense. Let's take the Pause. And the reaction to source reduction for those of us that were in the room was at first that this was just-- what's this wild idea? You were saying practical but it began to take hold and it was really the strength of the commission, of the taskforce that the Governor put together. And the diversity in that room that brought about the result.

Frank Sweeney: So there were a couple of other factors also. New Jersey wasn't operating in a vacuum. There was a big crisis on the east coast. All of the big cities New York and all were shifting all of their garbage to Virginia, Pennsylvania, Ohio. And there was a big backlash from those states. And everybody knew deep down when it got to the Supreme Court, the Supreme Court would probably strike down any attempt to ban. But there were all kinds of other pressure. People were inspecting trucks and doing all kinds of things to harass the industry, to prevent this waste from going to landfills also. So New Jersey was under tremendous pressure and this is being used to justify a lot of the public policy, somewhat understandably. The other thing that's not on the list here is the other big solid waste bill that the legislature worked with the administration on was the solid waste de-reg bill because this whole waste flow, this whole rate regulation system had been put in place and it was designed to basically put the hooks on the garbage to feed the burners. So, you know, you put your trash on the street and a big hand would appear it would grab it and off it would go to the incinerator. So that whole system had to be dismantled but it had to be done in a responsible way so that we could deal with organized crime and other industry concentrations, other kinds of economic issues that affect it. So I think that was another significant accomplishment because it was basically a way of getting the private sector really back involved in waste management in the state by saying, you know, New Jersey is open for business. We want you to come in. We want you to make investments because we want legitimate business to be handling the trash in the state and making sure it's getting to the right place and not being dumped somewhere.

Scott Weiner: One of the names that's not mentioned and is not at the table today because he couldn't be here, is Steve Gable.

Frank Sweeney: Right.

Scott Weiner: Steve, you may recall, was the director of the division of electricity at the PUC/BPU. And when we came in the position of the director of solid waste at the PUC was open. So I felt we needed a really good finance person, somebody with an economic background to head that up because of the issues... So I asked Steve if he would take it on. He thought he was being punished.

<group laughter>

Scott Weiner: And I said, no, it's really important. This is going to lead us to deregulation- light, and so he did it. There was a utility executive who thought that he was a communist because of his rate making. And thought that we did this for him, for his company. But Steve was very effective in leading us down that path, both rationalizing the regulation when we had it and then getting us deregulated.

Jeanne Fox: And we did merge the PUC solid waste people basically in with the DEP solid waste people which was a good thing. ..

Ed Neafsey: Jeanne, I think it was important that you raised the environmental justice issue with regard to that siting of that facility in the north because at least during the early nineties there were a lot of problems, air pollution problems. We had significant enforcement actions. I remember one in 1992, \$400,000 for air pollution against them.

Jeanne Fox: As you know, incinerators don't really have that many jobs so locating them in the Ironbound, or locating them in South Camden doesn't really present a lot of jobs but it does prevent pollution. Now, today they're burning much hotter. But back then they weren't burning hot enough. And there was definitely some impact in the communities surrounding them and there were a lot of people living around them. So that was another good reason for the Pause to actually think this thing through and not just site these things where the people who can't defend themselves as well live.

Rick Sinding: Or as close as possible to the border with the next county.

<group laughter>

Jeanne Fox: Okay. So why don't we move on to what came out of this, actually, do you want to talk about how the recycling came out of this?

Scott Weiner: Yes, and Mary is really going to address this, our expert on recycling.

Jeanne Fox: Mary Sheil is the recycling queen of New Jersey.

Scott Weiner: Yes, absolutely.

Jeanne Fox: Has always been and will always-- she did the-- we had the best recycling in the country for years because of this. And, unfortunately, because we didn't have a second term, the plans that we had were kind of toned down a bit. But, Mary...

Mary Sheil: Well, to tell Gary was doing the work in 1980 down in DEP, the first recycling act came out of department of energy under Governor Byrne and that was the Voluntary Recycling Act. But the whole goal of that was to go into mandatory if it worked on a state basis and we said, "Yes, this does work on a state basis." And that's why we went to mandatory in 1987 in the Kean administration. And then we had the Pause which took the rate-- I think the rate at that time in 1990 when Governor Florio signed the executive order was about 40 percent of the total waste stream, the recycling rate. And then the recommendations, the taskforce was to go to 60 percent of the waste stream. But this entailed bringing in other stuff, construction, demolition waste which then brought in the need for regulations because we found that a lot of people would use-- recycling facilities were not regulated. There weren't regulations for them. They operated as sort of private facilities. And as long as they were only taking paper, metal and glass and plastics it seemed to work. But when you started to get into C&D waste, construction demolition waste and other types of waste then we got those in who were trying to bypass the system. And they were using recycling as a way to manage solid waste. And we had a lot of problems. In fact, I think, this really happened in Kean administration where you had a facility in Newark and they were bringing in waste from New York and it was supposedly a recycling facility. And we at DEP we had worked with the attorney general's office. I don't know how many times we went to court to try to get them-- that place shut down and we kept getting thrown out of court. And finally, we went down-- I don't know if you were with me, Gary, we walked with the judge through the site and explained to him why it wasn't a recycling facility. ...

And there were rats running in front of us. I mean it was awful. The judge came back and he denied us. He said he saw too many poor people working there and we would put them out of a job. And we were like ugh...

About four days later that place went into spontaneous combustion. It caused several million dollars' worth of damage to Route Interstate 78 and almost shutdown Newark Airport. And then that judge also lost his seat on the Superior Court. So we finally got it shut down but that's what we were dealing it.

Lance Miller: Yes, because you blew it up.

Cindy Zipf: Don't tell them that.

Lance Miller: And we had to go out and clean it up.

<group laughter>

Mary Sheil: Yes, and then it had to be cleaned up.

Scott Weiner: And people went to jail.

Mary Sheil: Yes, people who were really operating illegally under the guise of recycling. So then we had to put in all of these regs. And today we have a facility like Gary operates that does handle C&D waste and other type of waste in an environmentally sound manner. And a legal manner.

Gary Sondermeyer: And... another legacy item when we first started to regulate the recycling world to make sure that it was done properly, you know, I think we did things properly. We weren't very imaginative. We named our facilities A, B, C and D.

<group laughter>

Gary Sondermeyer: Class A is curbside stuff that we all put out in front of the house. And we really didn't regulate very much. It just had to go in a county plan and that was appropriate to keep the free market. But once you get beyond that you can get into some shenanigans. But the good news is Class B recycling facilities which take concrete, asphalt, brick, block and soils, there's 122 of them operating in the state today. I think that's fantastic because you have a built infrastructure. You have appropriate competition. You have appropriate government oversight and it is done properly. And it really stemmed out of these plans and what came out of that in terms of environmental regulation.

Governor Jim Florio: Prior to some of these things happening we had whole industries of waste oil taking chemicals and selling it to people for home heating.

Gary Sondermeyer: Yes. Absolutely. We know them well.

Governor Jim Florio: In the name of recycling.

Jeanne Fox: Could some of the enforcement guys talk about-- because, obviously, the organized elements were very involved. I have some great stories from when I was at the PUC and a few from DEPE. But why don't you guys tell us a few stories about how we tried to get the guys and, in fact, get a lot of these guys out of the business.

Edward Neafsey: Oh, in the solid waste field I think of Cicarelli, which was under Commissioner Weiner. He was completely shut down and put out of the business.

M1: And Chris Grungo, who we just grazed. He and his father were quote unquote “waste oil recyclers” Burlington County and they were taking it in one end, charging the people to take it in, pumping it directly out into a tanker that was then going to New York City schools to be burned in the heating plants in New York City schools. And we had tried to get Frank, his father, a couple of times unsuccessfully.

Edward Neafsey: Well, the Grungos were on everyone’s radar because they were persistent scofflaws of environmental. So that’s how that case started. That’s how they were targeted. To go back to hub for a second, as I said, there were a number of people who went to jail, some of those sentences were significant fifteen, eighteen years. But there was a deputy police chief who was paid off and that kind of allowed things to get out of control at that site. And he went to jail for ten years too.

Rick Sinding: I don’t know how many of you remember that Michael Aron and his then-wife Carolyn Braun, wrote a song, a takeoff on Bill Joel’s, “We Didn’t Start the Fire.”

<group laughter>

Rick Sinding: And the opening line was “[We didn’t start the fire, It was Hub Recycling but they weren’t recycling.](#)”

<group laughter>

Governor Jim Florio: Another example is in Pennsylvania there were a number of cement kilns. Cement kilns were unregulated—unlike the hazardous waste incinerators, which are regulated under RCRA, the Resource Conservation Recovery Act. And so what was happening, all of the wastes were going to the cement kilns which were legally able to burn them notwithstanding the fact that it didn’t have regulation. So a lot of us got involved in trying to change the regulation so as to close the loophole for cement kilns.

Jeanne Fox: I think we already talked about the incinerator regionalization so I think we’re...

Cindy Zipf: I’m just curious about the medical waste because that was such a big issue. And I remember we got blamed with planting it out on the beaches because nobody would...

Jeanne Fox: I didn’t blame you.

<group laughter>

Cindy Zipf: No, no, no, no. Others. But it was such a really amazing issue that made national news. And what were some of the findings there and how did you all ultimately regulate it with the Governor's leadership?

Gary Sondermeyer: The medical waste issue did prompt very significant rulemaking very, very quickly along with the statutes both in the state and regionally. And we wound up with a registration program for all generators of regulated medical waste, doctors, dentists, podiatrist, funeral homes. I seem to remember 45,000 generators that we identified.

Jeanne Fox: That's where the color coding started.

Gary Sondermeyer: Yes, across the state.

Cindy Zipf: Remarkable that that hadn't been regulated at all before that.

Gary Sondermeyer: No.

Jeanne Fox: Well, the 88 beaches-- I mean I had a place at Brigantine I would walk with big bag and pick up all of this stuff. Right? And people wanted to shut down the beaches. So it was very clear one of the things we started pretty early on was just that. And basically it's a system that's still used today.

Gary Sondermeyer: It's still in use today. Put in place a manifest for tracking cradle to grave, from generator to transporter, disposal facility, packaging requirements, double packaging, labeling. The truck has to have a certain size letter that the notes that it's got regulated medical waste in it. Any facility that deals with it has to both treat and destroy which is the only regulation like that in the United States of America. And what that really means if you have to treat it which you can do through a steam sterilization technology like an autoclave or others but you also have to grind it to half inch minus to destroy it. And all that really does is avoids any potential for needles on a beach.

Jeanne Fox: So that was a very cool one. And we did it in a fairly short time all of this. I mean it's pretty impressive. Who spent all of the time on that...?

Edward Neafsey: No one could comprehend that it was coming out of the out flow pipes and washing down. And that's why people were blaming others. Everyone thought there was someone out on a boat dumping it and it's coming on to the beach. But that wasn't the case. And it took a while to learn that.

Gary Sondermeyer: And I think our state police in the attorney general's office did investigations. They tracked material going through. They found greasy substances on the syringes coming through combined sewer overflows and going right out into waterways. That's what I recall.

Edward Neafsey: The Division of Criminal Justice did issue the report. And the problems, and they were-- it was a national news story. The problems were significant because of how important tourism is to the state's economy. But it led to the formation of the beach wash up response teams that are in place so that when things come in...

Cindy Zipf: Floatable action plans.

Edward Neafsey: ...everyone is notified. DEP is notified. Criminal justice is notified. The local county health officer is notified.

Mike Winka: And that medical waste is important and I just wanted to raise two bills that the Governor signed that probably the legislature don't remember. They were very small bills. They weren't like the Water Enforcement Act or ISRA. One was the Dry Cell Battery Management Act that you signed. And the other was a Toxic Packaging Reduction Act. Both small bills but now very important. Both of those said in the solid waste plan, they said we're going to do this resource reduction and we're going to have a couple of incinerators. And they realized that these metals that you're putting in products stay in the waste stream when you through these things away. And when you burn them they end up in the ash or they end up in the air stream. And we have to take these things out. And those were the first bills in the country, where they were saying, we want to take these things out of products in the front end so we don't have them on the back end. And issues that you're seeing today product manufacturers were absolutely opposed to this. Didn't want to do this. They had play books on how not to do this. But now you see they actually reverse. They brag about, "Our products are now safe. We don't have things in our product." And that was first done in the Florio administration in that Dry Cell Battery Management Act. It said you had to take mercury out of alkaline batteries. You had to take metal cadmium out of batteries. And you had to take cadmium out of the packaging that we did. So very important, very small bills. You may not remember them but extremely important in terms of cleaning up the environment, those toxic metals that are no longer in the environment today.

Governor Jim Florio: The same concept, by the way, applies to sewage sludge. Pre-treatment to the sewer sludge will take the heavy metals out of the sludge because you treated it to take them out about before you treat them.

Mike Winka: Or go one step up and take it out of the product so you don't have it in the sludge, and you don't have it in waste water samples.

John Weingart: I think we need to move on to the fourth category which is "other environmental initiatives" and it is appropriate to have Rick's name there because that was basically his job.

<group laughter>

John Weingart: ...But first, by the way, Bill, the way the department is organized now in terms of permitting and enforcement is largely the way it was from that reorganization Scott implemented. Is that right?

Bill O'Sullivan: Enforcement is still all together, but permitting and planning is back together, again. So instead of having these three functional segments there are two functional segments.

John Weingart: One part of the 1991 reorg was to include Pollution Prevention with me within environmental regulation which was not Jeanne Herb's first choice.

<group laughter>

Jeanne Herb: That's true. So I had the opportunity to have two tours of duty at New Jersey DEP. I started in 1985 under Commissioner Hughey in the office of cancer and toxic substances under Tom Burke's mentorship. And I stayed until '96 and returned under Governor McGreevey in 2002 and then left under Governor Christie in 2010. Well, let's be honest, I was asked to leave.

<group laughter>

Jeanne Fox: You weren't the only one.

Jeanne Herb: I know. So when I first came in, my job was to help pull together the outcome of the 1979 industrial survey which was revolutionary, quietly revolutionary. It was done only through regulatory authority under the general powers of the department in which manufacturing facilities were asked to report what kinds of chemicals they use and what do they do with them. And this was a long time ago before a period before now disclosure. And so those companies said what kind of chemicals they used and what did they do with them. And it had never really been written up. And so my job was to write it up. What came out of that was a keen understanding of dumping, illegal dumping, which led to some of the laws that Lance then picked up. It also led to an understanding of how many of the companies were treating chemicals at the end of the stream, but not looking to see how they could reduce at the beginning. It led to the 1983 Worker and Community Right To Know Act. And I had the opportunity to work on the implementation of that act which then became the model for the federal toxics release inventory. All of that led to a conversation about now what do we do to try to encourage companies to reduce their use and generation of hazardous materials at the beginning, at the source. And that led to the Pollution Prevention Act which was introduced and sponsored by Senator Dalton. Governor Florio signed that law and the first time I met him for some reason I was in the state house briefing the governor's staff

without Commissioner Weiner. Why was I there without a commissioner? I have no idea. But I was asked if I wanted to meet the Governor so I said sure. And you had this little tiny office. Right?

<group laughter>

Jeanne Herb: And he thanked me for DEP's hard work and then he said, "I know you're going to adopt these rules on time."

<group laughter>

Jeanne Herb: And I look back now to see that that was the first time that Governor Florio really pushed me on some things which he continues to do today.

<group laughter>

Jeanne Herb: So that law was innovative in that the design of the law was that companies had to look at their use and generation of hazardous materials. And then they had to set a goal to reduce it. So the concept was an ounce of prevention is worth a pound of cure. The concept was if the company's had to look at their chemical use, that they would see how they could benefit from reducing it because if they generated less waste, if they had to dispose or treat of less waste it would be good for them in the long run. So that seems to make a lot of sense, unless you're a company that makes chemicals. And so for that reason the law was very controversial. And we were litigated and eventually prevailed by unanimous decisions in the court. I think just based on the Governor's comment about this is not intended to be about nostalgia but about lessons learned is one of my lessons learned, many lessons learned from that experience, was the value of data and the value of information because those data are still collected on an annual basis but not used so much. And so currently I work here at the university. I work at the Bloustein School. And one of the things that I do is I facilitate a coalition of people working on climate change. And Governor Florio is our honorary chair. And so about two years ago he pushed again and said, "I don't understand why you're not looking at climate change and using data like right to know data." And that was a great challenge. And so currently, we're about to finish a project where we're taking that pollution prevention data which not too many folks are looking at these days and we're overlaying that with data about current and projected flood hazards and sea level rise. And I expect that sometime this summer you all will be seeing that data. And I think we'll probably get a big splash. But that was definitely something that came from the Governor. And I appreciate that push. Most recently the Governor has also pushed us to think about the connections between climate change and impacts on public health. And so the reason that I was late today and I'm sure the Governor would have joined us if he were not here, was that we actually had an assemblage of more than 100 local public health officers coming

together to talk about impacts of climate change on public health. So thank you for that push as well. I think the last comment I would make and then pass it along is, I think, in terms of thinking about legacy there is something that's to me not on the list. And being slightly sentimental I will point out that when I went to the signing of the pollution prevention law it was at the Schering-Plough facility. Lance, you might have been there. I'm not sure. And I brought my then in one-year-old daughter, Sara, to the signing. And Sara now is 26. And works at the New Jersey DEP.

<group laughter>

Mike Winka: <inaudible>

<group laughter>

Jeanne Herb: Well, she's leaving but...

<group laughter>

Jeanne Herb: And two years ago, she had the opportunity to, I guess, sort of be the Governor's host at a conference on historic preservation. And she was so honored because she had heard about my admiration for you for 25 years. And so I think your-- part of your legacy is that sort of inspiration to those who have come after you and after us. And my last legacy item ... is the value of the voluntary furlough program... which allowed a generation of women to come into the department and balance work and family. And when I came back from my maternity leave with that 26-year-old how now works at New Jersey DEP it was the first time I met Scott Weiner, who said, "I will take you as much as I can get you." And that allowed me to work part time. And to implement the Pollution Prevention Program. And there was an entire generation of women my age who had the opportunity to do that, most of whom have probably retired from the department. But I think-- I hope you will consider as part of your legacy helping to develop an entire generation of women who have become environmental professionals. And I'm tremendously grateful for that.

Rick Sinding: You know, there were other environmental initiatives. It wasn't intended to be complete. In fact, I was going to ask, does anybody have any other suggestions of things to add on here.

Lance Miller: Can I follow up on pollution prevention just real quick? My reward for doing that ECRA to ISRA thing was to have Hal Bozarth target me as soon as the new administration came in. And if it wasn't for Jeanne Fox, my career in state and federal government would have ended at that point in time. But Jeanne rescued me and sent me off to EPA to work on a permits improvement team (PIT)...

But the important thing here, you know, we've talked a lot about how New Jersey's led things and other states around the country have picked them up. This was an interesting one on pollution prevention because Jeanne asked me as part of our interactions with industry literally across the country was to talk about pollution prevention. And I raised it at a meeting with industry and, "We understand pollution." Not a whole lot of buy-in on the record. One of the environmental representatives from industry came up to me afterwards and said, "Lance, here's the story in industry. I go in. I am competing on a budget with other departments within the company. You regulate something I can go in and say, I have to do this, this and this to comply with this regulation. It gets funded automatically. I now come in and say I want these extra funds for pollution prevention and it's going to save us this much money down the road, I'm now competing with all of the R&D activities, all of the other cost savings or cost generating aspects of the company and I can't compete there. You want us to do pollution prevention regulate it." And that taught me a tremendous lesson about how important government regulations are in determining the behavior of industry. And it's something I applied from that point forward in my career.

Jeanne Herb: One other lesson I had from that experience because New Jersey and Massachusetts implemented their pollution prevention laws at exactly the same time. And despite the fact that Massachusetts was not a chemical producing state their law had one other little difference which was that it established what they called toxic use reduction consultants. And those consultants became available to industry to help them to look at their chemical use and generation. And all of a sudden Massachusetts had a constituency for their law because those consultants didn't want to lose their law. Whereas we did not have that. And so that lesson has stuck with me for the last twenty-five years. And has really helped me to think about when you develop a regulation, particularly one that's controversial, you need to think about who are the winners, who are the losers, who's going to love it, who's going to hate it. And take the ones who are going to love it and develop them as a constituency and keep them close to you because they will kind of cover you and be there to support you when times get rough.

Governor Jim Florio: The current debate about the Toxic Substances And Control Act in Washington raises the issue the was raised with pollution prevention as well, a question of prevention. The fact of the matter is that New Jersey has always felt very strongly about having the best laws that we can have notwithstanding what the national law is. Now, we've now changed this going backwards in Washington so as to preempt state's ability to have more protective laws rather than set them. And that was the debate-- part of the pollution prevention debate because we're coming off of the Reagan administration which was talking about lowering the standards at the federal level. And if they were preempted they were preempting the state level

and it would have had a bad problem. So there's something to be learned from the things that we've experienced.

Jeanne Fox: I have a question, did Greta talk about legislation at all, what were her fun bills that she worked on?

Scott Weiner: I don't think Greta said anything yet.

Greta Kiernan: I'm just eating this all up.

<group laughter>

Greta Kiernan: Thank you. I mean I don't remember any particular bill except I was talking to Frank Sweeney before, I remember spending a lot of time on the Permit Extension Act, one of the more exciting pieces of writing I've ever looked at. You know, it went on and on for weeks and weeks and weeks, back and forth, back and forth. And it got to be a hobby.

<group laughter>

Greta Kiernan: Now, I mean I enjoyed working at the department very much. And I was mentioning before to Mary Sheil before I went to work with Scott, I was working for Senator Contillo. And Senator Paul Contillo was the sponsor of the Mandatory Recycling Act. And I will tell you talk about raucous caucuses there were a lot of people who didn't want to see that go any further than his brilliant mind but it did. And it seems to have set a standard for this state anyway still going on. I came from the good experience of running for election in a second legislative district in 1989 after having won an election in another district in the seventies and losing. Again, the people in both districts preferred Republicans at that point. And been kind of thinking that I would not go back to work for Paul Contillo but maybe I would like to do something in the new administration. One of the great fun things of that previous year, by the way, was many times I had you and Lucinda to campaign with and that made it really a good run. So Scott is going to be at the BPU. And he wanted me to do legislation. And we're at the board and we're only there a short time. I don't think I got used to the streets in Newark before the idea was we were going to really inhabit the Trenton office so that we would have a place we could be in in Trenton and some place where he could come and the commissioner, the assistant commissioners and they're going to testify or there's the cabinet meeting and we'd have a home. It wasn't long before that home didn't seem big enough.

<group laughter>

Greta Kiernan: So we then were able to get a spot down the street and a lovely old-- one of the best offices I ever had one of the old buildings across the street

from the state house. And I got to pick an office in the back that had its own entrance and it was great.

<group laughter>

Greta Kiernan: And he wasn't there all of the time. <laughs> But when he came down we knew it.

<group laughter>

Greta Kiernan: His secretary, Sandy McGee, would get the phone call, "He's on his way. You know, put away all of those things you're doing and get some real work in front of you." It was a great experience. And the next thing I know we're at the DEP and then we get the E to come with us. So now we're in the DEPE. It was a great experience for me. I learned a lot from the talented people in the department all through those years. I have absolutely no scientific background and I don't understand a lot of the science. I think what I bring to the business of, well, politics but certainly of the department was I think I understand people pretty well. And I like people. And I like to work with people and I like to talk to them. And I like to listen to people which I find teaches me a lot. So here I am, enjoying this day of-- all of these remembrances we all have and all of the people that we work with and how great experience it's been to be in public life all of these years. Don't believe what you hear in the campaign. Don't believe that we're all old crooks.

<group laughter>

Greta Kiernan: We actually have contributed and been able to help a lot of people over the years and I'm proud to be a politician. Thank you.

Rick Sinding: Well, like Greta, I don't have any background, either in science or technical programs which is why Scott made me the assistant commissioner of the science and technical programs.

<group laughter>

Rick Sinding: I'm struck and I never thought this before but in listening to Jeanne's description of the Pollution Prevention Act that there are some eerie similarities between the Pollution Prevention Act and the State Planning Act in the sense that as you now recollect twenty-five years later what could we have done to strengthen it or to make it more effective and to have it either be mandatory or to have the businesses understand the importance of taking particular steps. The State Planning act suffers from the same difficulty, always has and evidently from what I can gather always will. We were-- I'm very proud of the fact that the first-- that the adoption of the first State Plan took place in the Florio administration. The State Planning act was passed in the 1980s. It was-- many of you will not

remember the motivation for it. The motivation for it was that the Supreme Court said that on the Mount Laurel ruling that any municipality in a growth area had to provide its fair share of low and moderate income housing. But there was nothing in the law that indicated what a growth area was. And the State Planning act grew out of that, a way of identifying growth areas, non-growth areas and then determining on some kind of a presumably rational basis what a community or municipality's fair share would be. It morphed into a much larger enterprise. In trying to essentially, I think, if you were to talk about what the State Planning Act's ultimate direction was it was to say we've had enough of private development decisions driving public infrastructure investment. It's about time that we had public infrastructure decisions drive private development decisions. That if we were to adopt a program or a plan that said that there are certain parts of the state, the Pinelands being a primary example, where there will be no growth. Certain areas of the highlands. Certain areas that are determined to be environmentally sensitive would just be off limits to growth. There are areas primarily urban areas and those that were already built up and were suffering from decline where there would be a positive reinforcement for redevelopment. And that then there would be a series of gradations of suburban areas, what as referred to as a fringe area. And I think the problem was that we made them-- well the State Planning commission made the mistake at one point of coming up with a map. And as soon as you come up with a map everybody looks at it and says, "Well, this looks like a zoning map to me. You're telling me that I can't build here. I can build there." And we had planning area one, planning area two, planning area three. And now everybody is arguing, "I don't want to be in planning area two. I want to be in three. Or I don't want to be in three. I want to be in two." And we-- I mean I am proud of the fact that we passed a plan. Still, when I went to work years later for New Jersey Future which is an organization whose primary responsibility is to push the State Plan. And it's fighting the same battle today which is if the law doesn't have teeth-- if it doesn't say to a municipality we're not going to give-- well, you signed an executive order I think the last day in office saying that henceforth transportation for any discretionary funds, transportation funds, energy funds, infrastructure funds would be directed to areas that were deemed to be a development or redevelopment areas under the State Plan. That is as strong a statement, I think, that has ever been made to try to implement the State Plan. And we're still fighting, I think, what is a losing battle today in that regard.

Lance Miller: There was one other attempt to implement the State Plan through regulation and that was the watershed management rules that were proposed in the late 1990s. But unfortunately Governor Whitman went off to EPA and Gary knows what happened to me for my attempt to implement that regulation properly and came up against Commissioner [Bob] Shinn and Jeanne came to my rescue, again...

But the key point was how do you take the State Plan and tie it to a regulatory program that will allow the State Plan to be implemented legally? And we had the DAG sign off on it. We had the appropriate way to do it. It made total sense. And the key was we-- Dennis knows this we treat with the sewer band roles and stuff we treat development if you're going to get a sewer differently than if you're going to put septic tanks in. This rule changed that and said if you're putting in more than ten septic's I think was the cutoff because that triggers a regulatory threshold you have to do the same type of studies as if you were sewerage it. So now we raised the bar up and then that brought in the State Plan to say where those areas were.

Rick Sinding: Unfortunately, it didn't get implemented.

Joe Doria: Can I just frame with the legislature? Because the issue of the State Plan was the map. Rick, hit it right on the head. .. The map was always the issue. Rick is absolutely right. And everybody got uptight because of the map. And I've seen it from both sides having been there in the minority as minority leader and then speaker. And then being commissioner of the department of community affairs trying to do the State Plan.

<group laughter>

Joe Doria: And, you know, I've seen it from both sides. And the problem is it's a great concept. It's something we need to do but it needs to be better explained and it needs to be developed so that it's not a hard and fast situation. You need the flexibility and that's where the problem came in. And that's the problem-- today there is no State Plan. Once it got moved out of DCA it went to wherever it is now the secretary of state, lieutenant governor, wherever. It's in never, neverland. But the concept was very good. It was just that it was never, never clearly explained to the legislature. And so whether it was Republicans or Democrats and, again, Dan could talk about the Senate and John can also, it always became the bête noire. It was always whenever you needed to have a scapegoat, very fitting with our republican national candidate now, whenever you needed a scapegoat to complain about the developers used the State Plan as the state scapegoat. And, of course, the other scapegoat was coal. So those two were always tied together. And then once they were tied together there was no hope to move it to. But it was always a problem in the legislature for that reason.

Governor Jim Florio: But to give you a sense of the discussion, the legislative discussions, when I signed the State Plan I got a letter from a very sophisticated person who went beyond just calling me a communist. I was a Leninist communist.

<group laughter>

John Weingart: I remember Jerry Stockman who was the Senate sponsor saying when the bill was being debated that he was spending half his time going around telling people that the state was being overgrown with development and we had to get this passed. And then the other half of his time saying 'the bill is just advisory-- don't worry about it.'

<group laughter>

John Weingart: And that was the conflict that the law did not clear.

Rick Sinding: Well, and to his credit, Cary Edwards who was Tom Kean's Attorney General was a forceful advocate for the State Plan and really worked very hard even well into his-- in private life to see it implemented. The other thing I should say in its defense and like pollution prevention, again, one of the things that happened for the State Plan was this elaborate and excruciating cross acceptance process of getting counties and municipal planning boards to buy into the concept of what the State Plan was pursuing. And a number of municipalities and counties although they've never formally adopted any kind of statement of we're going to do this according to the State Plan, have, in fact, learned sort of in a sophisticated way how they can carry out the objectives of the plan just, I think, as a lot of businesses recognize that even if it wasn't absolutely mandatory there were things that they could learn from the process that would be beneficial to them. So I don't want to suggest that it's been a complete failure because I think there has been a major-- a higher level of understanding at local planning levels and at regional planning entities about what the State Plan concept is about.

Jeanne Herb: I just want to add two comment to Rick's comment on teeth because I completely agree. So the first is I don't want anyone to leave here today thinking that Governor Florio's Pollution Prevention Act doesn't have teeth. It has teeth. They were not initially deployed. And I think had there been a second term the implementation of that law would have gone on a very different path. And so perhaps the next administration will do a creative reading of the law to see where those teeth are hidden. I think second is I totally agree that as we look at the need for teeth, the other benefit of teeth and regulation and in laws is the cost effectiveness of it. That it allows you to efficiently implement laws. And we've certainly seen the lack of implementation under the Global Warming Response Act which does not have teeth and a lot of time and money that's been spent initially to develop that program and then to dismantle that program. So, I guess, one thought I would present in terms of the concepts of today which is lessons learned is that as we look at-- there's a lot of gray hair in this room and there's a lot of lessons learned in terms of the value of teeth. And I worry as I look at the next generation of people, including my daughter who work at New Jersey DEP, that they haven't embraced that lesson. And so as a result we're seeing a lot of voluntary programs, a lot of bottom up programs, a lot of community based programs. And I don't have

a problem with any of those programs. But I don't think that there's been any real kind of quantitative evaluation of their effectiveness and cost effectiveness. And that's worrisome moving forward.

Governor Jim Florio: I'll give you an example of a successful teeth program is the Pinelands.

Jeanne Herb: Yes.

Governor Jim Florio: The Pinelands Comprehensive Management Plan everyone has to sign on to it and frankly over the years that it's been there people locally now appreciate the fact that they've signed on to it. They get access to the staff to supplement their resources. So that's a good example of something that's fairly strong.

Jeanne Herb: And one other-- and then I'll stop talking but one other really great example if-- we have spent a lot of time since [Super Storm] Sandy talking to coastal communities about what their needs are to truly become resilient. And the number one thing that every community that we've talked to whether it's community based organizations or local officials or paid professionals or mayors is we need decision making from the state in terms of standards because A, we don't have the capacity to do it. And B is we don't have the political ability to do it. And while DEP might not want to be the bad cop all of the time we need DEP to do that.

Jeanne Fox: Talking about teeth, the program at EPA that Lance managed for a couple of years for us the program improvement team was to streamline and it worked on hearings, public hearings all over. Because what we learned what the Florio administration did is we did public participation on everything because we represent the people we should listen to them. Also at EPA, though, there was a plan that Carol Browner announced with Al Gore, her guru, and vice president that allowed industries to come up with different ways to achieve the same environmental result but not having to follow with the regulations. And all of the companies had-- it was wild because the vice president announced it. It was all over. It was the main priority for the agency. Hardly any companies would come in with voluntary plans. They couldn't figure out how-- they complain all of the time, "Let us do it. We can reduce it." Literally, they had that opportunity and they had to force a couple of companies in so it wasn't a failure. But I think what Lance had said and what Jeanne says about teeth is legitimate. Voluntary programs could be well but it's not a bottom line thing for company. On the other hand, being heavy handed and a dictator as a government we've learned from other people is not the way to go. You've got to bring people together in consensus which is what we did in the Florio administration to feel what they want to do and move ahead with that. And that was something that, I think, is a major legacy that some people follow and other people don't.

John Bennett: Rick, I want to just get back from the State Plan, if I could for a moment. I agree with you the cross acceptance practice in many cases though did work. It got bogged down certainly in the beginning, everybody the home rule thing just dominated and once that map-- the little map or the big map came out I mean every-- and then it's not really the map. That was the best-- you know, it's a map but it's not really the map. So wait until the real map comes out. But in Monmouth County, for instance, in going through the cost acceptance practice it actually came to the degree that it worked out. I think a lot of it dealt with the personalities and the communities involved to the point now that the State Plan is actually utilized as a defense as to why COAH [Council on Affordable Housing] should not be doing what they're doing.

<group laughter>

John Bennett: Almost a reverse situation. So I think a lot of that, the overall concept of the State Plan is one that was difficult for people to swallow in the beginning because of the home rule barrier. But I think if it had been able to be able to really continue even more some counties-- in our counties it's been pretty successful.

Rick Sinding: A lot of the developers have bought in to the notion of cluster development.

John Bennett: Absolutely.

Rick Sinding: And first of all, they see it as beneficial to them financially. They don't want to eat up a lot of open space with more suburban sprawl. But more important they see that millennials prefer that as a location. A lot of millennials don't want to drive cars. So I think there is-- but it's interesting that now it appears to be the market that is driving this as opposed to any government regulation or program.

John Bennett: But you wouldn't have had the market to be developed if we didn't have the concept....

Rick Sinding: Very possibly. Very possibly. There are a couple of other items on the agenda here. One of them is the in house sabbatical program which I asked to be put on there just because I thought it was a really, really interesting initiative on Scott's part. There are two initiatives that I can recall in keeping with what Jeanne has talked about in terms of openness and collaboration. One was turning the first floor of the DEP into a huge public room where I remember, in particular, one budget, legislative budget session where the entire appropriations committee came over to the department and we hosted them instead of vice versa.

Jeanne Herb: And we had that public information room with a fulltime person.

Scott Weiner: Which was a version of a project of what we had done at ELEC [Election Law Enforcement Commission]. It's something I wanted to repeat in terms of getting public access.

John Weingart: And, although we eventually called it a library, there was some regulation saying departments couldn't have a library so it was the "public information room".

<group laughter>

Rick Sinding: But it did. It sent a message. It sent a message that the DEP was open to the public and that that first floor you walked in, you had an opportunity to meet people there. You could have hearings there. You could have meetings there. It was important. And internally, from the standpoint of department morale I think the in house sabbatical program which I cannot imagine taking place today was very successful. It defies the notion that every person who works in every program, in every part of the department is indispensable for more than a day. We had people coming anywhere from two weeks to three months on a voluntary basis with the approval of their directors or the assistant commissioners. Lance was the first one to approve a three-month sabbatical for a young woman who really flourished in the program.

Lance Miller: And thanks me for that to this day...

Rick Sinding: And what most of the work that was done by the sabbatical program is a lead into the next issue which was environmental indicators. And I have to say the one-- if there is one regret that I have-- well, there are many regrets that I have about not having a second administration. But the major regret that I have was that we never had the opportunity to implement a set of environmental indicators that would be like leading economic indicators, a real indication of what was happening to the environment. Was it improving? Was it not improving? What were our environmental outcomes? And I found-- my wife just read the Japanese art of tidying up and so I threw away practically everything that I haven't looked at in the last twenty years. But I did save this one speech that I gave at the beginning of an EPA national program on environmental indicators. And I just wanted to read a little bit from it to give you some sense of what we were looking for. There were a group of us some senior officials of state agencies and, in particular a couple of high level EPA Washington people who seized upon this crazy notion that maybe our agencies should spend a little less time measuring bureaucratic outputs and pay a little more attention to environmental outcomes. That we ask people to tear their attention away from MPDES permits and RCRA and CRCLA and the SIP and section 404 planning documents. And start answering some

fundamental questions that all of us in the business of preserving and protecting our environment are being asked with increasing frequency these days. Is the air getting cleaner? Is the water more drinkable or fishable or swimmable than it was last year or five years ago or ten years ago? For all of the millions upon millions of dollars that we've invested in environmental programs in recent years what have we purchased in the way of environmental improvements? It was a painstaking process to try to come up with, and in fact we never did, an actual set of indicators. But the idea was and I think there are two groundbreaking programs in this regard, one is in the state of Florida and the other is in the Chesapeake Bay where every year the Chesapeake Bay comes out with a set of indicators that say here's the water quality as it was in this location last year, two years ago, five years ago. Here's what it is today. Here is how many ozone days we have had this year compared to two years ago, five years ago, ten years ago. One of their cleverest ones is there's a state legislature who lives on the Chesapeake Bay. Every year on the same day he would walk into the water and measure how far he had to walk before he could no longer see his toes. And then that would be one-- I mean these are easy to understand, very, very-- it's not meant to try to measure how well the department is performing. It's to measure how well we're doing environmentally. We all here every month or every couple of weeks or whatever leading economic indicators that say we're doing this, we're doing that, this shows this trend, this shows that trend. Why couldn't we do the same thing in terms of the environment? We devoted-- the sabbatical team really threw itself into this and devoted a tremendous amount of time and attention to it. And I think we were on the verge of-- and by the way at the national level, we were having much greater difficulty finding any consensus among the different state agencies of national environmental indicators. But I think at the New Jersey level we really were at the point of being able to come up with a set of indicators that people could understand and relate to and would buy into. And unfortunately we didn't have that opportunity.

Jeanne Fox: Also there were other things that we prepared in every single fricking division to work on if we had had another term. You might want to ask because I know Gary has his reports here, of which only one was implemented and two weren't, but in every area we were ready to rock and roll, as Scott would say, moving forward and the state would have been a lot better off. But thanks to the NRA...

<group laughter>

John Weingart: So we're coming to the end of this and as I said at the outset we want to supplement this record with anything anyone has that would be helpful for that. So whether there are documents or transition reports from either '89 or '93 or other things that you-- our preference would be that you lend them to us so we can

scan them in and give them back to you. But if not we'll take them, that would be great, or photographs or clippings.

Let me just ask before calling on the governor, is there anyone who has, particularly people who haven't spoken much have anything they want to add that we missed?

Jon Shure: I want to say something real quick. I've been listening. And some of this stuff I'm thinking, where was I? I don't remember a lot.

<group laughter>

Jon Shure: I think there were other things we were working on. But going back to the beginning a lesson that I learned and I mentioned this to Joe Donohue and I teach this now when I'm doing strategic communications or media training, the day that the Governor announced his candidacy in 1989 we did it in Hoboken and Asbury Park. And we only talked about one thing - clean drinking water, clean beaches. And I remember a couple of veteran reporters coming up to me later on saying, "That was the worst announcement speech I've ever heard. He only talked about one thing." And meanwhile you're driving up and down the turnpike and hearing on the radio, "Jim Florio announced his candidacy today saying he'd vow that we'd have clean drinking water and open the beaches." And it's like, yes. So what I teach people now is if you only one thing to be the message then only say one thing.

<group laughter>

Jon Shure: Don't make there be a choice. So the policies and everything we talked about here are fantastic. I learned a little bit of a lesson from the environmental political way that we discussed things.

Governor Jim Florio: Let me just say thank you to everyone. It tells you something about my life that this is enjoyable.

<group laughter>

Governor Jim Florio: But I want to say thank you of everyone. I've always believed that knowledge is power. And you can just sense that everyone at the table is intimately involved in what they were involved with knowing how to go out and talk to people, explain to people. As the issues become more complex, not just in the environment but the environment is a good example, as the issues become more complex it's essential that we have leadership to go out and explain what the options are because there are options and each of them have pluses and minuses. And we've got to get people engaged and informed because these things as we all

know from Washington and politics nowadays, you know, there are folks out there who are prepared to give you understandable simple wrong answers.

<group laughter>

Governor Jim Florio: And so someone's got to be out there countering that. And most of the problems really have good answers that are understandable if you explain them-- even in terms of a cost benefit analysis. As long as you felt you have full costs evaluated, full benefits evaluated. You have to-- external costs have to be brought into the mix. It takes a little work. My apprehension about contemporary politics no one wants to do the work. No one wants to really become engaged because it's not easy. There's no answer that's totally positive. There's always some plusses. And no one wants to engage because if you engage and raise the question, raise the issue, someone is going to say, what are you going to do about it? And then you're going to get somebody unhappy. And if somebody is not happy they're not going to be able to contribute to your campaign.

<group laughter>

Governor Jim Florio: So I'm just really encouraging all of you to go out and be disciples for those principles that you believe in and getting engaged and getting people informed. So thank you.

<applause>