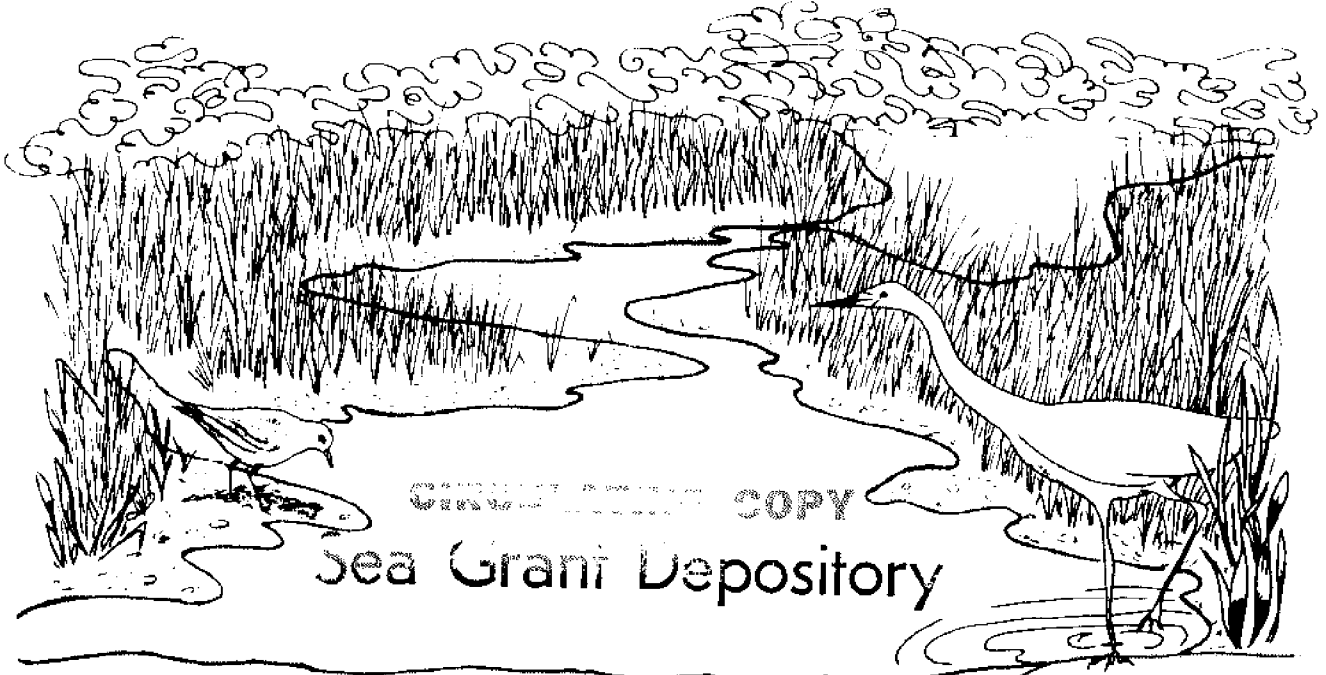


PROCEEDINGS OF THE
WETLANDS SYMPOSIUM

16 AUGUST 1972

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Cover Design: Karen Hendrickson

Mrs. Claire Stern - Executive Director, Long Island Environmental Council

Welcome to all participants in this seminar, each of whom has spent a good deal of time in his own department, agency, town or community organization with the hope of preserving those Long Island wetlands in his own community.

Many of us were chagrined that Governor Rockefeller vetoed the tidal wetlands preservation legislation in the 1972 legislature. But this small conference was called to invite representatives from all the towns on this Island, people representing public and private interests; not to sit in a sense of mourning for the Governor's action, but rather to provide the tools to all of you for the critical task of using existing statutes for our advantage.

We have arranged the presentations with a basic assumption in mind--that we will not spend time explaining nor defending the vital place of wetlands in our total ecological system. We assume that you all agree that wetlands serve their highest function when left in a natural state. Any alteration to be undertaken must be planned and executed with the greatest consideration for the least disturbance.

Fifteen years ago, perhaps even five years ago, no conference on the wetlands would have been complete and useful without an extensive definition of tidal wetlands, their aesthetic and ecological values. Today's conference is directed toward providing effective tools to the participants and to others who will receive the proceedings of the conference for preserving wetlands.

We have chosen our speakers from public agencies of the federal, state and county governments, and from the private citizen and scientific sectors to explain the laws which exist today which can be implemented. We regret losing a bill which would have established a state policy toward the wetlands.

Let us use the statutes we have to proceed toward our common goal. Representatives of each of the towns of Nassau and Suffolk counties are present, as well as members of their advisory commissions, and individual organizations which belong to the LIEC. (A list of the participants is a part of the Appendix.)

Drs. Joel O'Connor and Orville Terry from the Marine Sciences Research Center at Stony Brook, and authors of the "Marine Wetlands Report", a report and inventory of the wetlands in the two counties, are present and will act as resource to explain any technical or scientific questions you may have.

This conference was organized with the cooperation of the Advisory Service of the New York Sea Grant Program, with the special assistance of Roger Allbee and William Walters.

It is a pleasure to introduce the moderator, Dr. Roland Clement, Vice President of the National Audubon Society, and present Chairman of the Environmental Advisory Board to the U.S. Army Corps of Engineers.

Roland Clement - Vice President, National Audubon Society
Chairman Environmental Advisory Board of
the United States Army Corps of Engineers

Having been interested in this problem of wetlands conservation for some twenty-five years, I'm convinced that the value of salt marshes is adequately documented from a biological point of view, from an aesthetic point of view, or any other point of view you care to select. And fortunately the value of these wetlands is increasingly appreciated by the public. And things that have helped are: first of all right here on Long Island, your own Marine Wetlands Report put out by the Marine Sciences Research Center here at Stony Brook and a bit earlier in the game, the Marine Resources Committee of the Atlantic Coast published a 1960 report entitled "Wildlife Wetlands and Shellfish Areas of the Atlantic Coastal Zone", providing a series of maps going from the northern border of the United States in Maine, all the way down to the tip of Florida, so that we now have a visual picture of what is involved in the coastal wetlands of the eastern United States, plus the adjoining shellfish areas in the shallow waters. So, for ten or more years, there's been growing documentation of the importance of preserving what is left of our wetlands, particularly in the Northeast, where we've already lost so many of them. So what is the problem? Mostly one of convincing the rest of the community of the importance of this facet of the environment, since in many respects our civilization has reached saturation. Certainly New York City and Nassau County are over-saturated from the viewpoint of over-development. We have a job to do in convincing our fellow citizens, and particularly our politicians, that we need to strike a better balance in order to preserve the quality of life for people in the future. I'm not talking now about preserving the quality of life for people in the future. I'm not talking

now about preserving shellfish or the birds that use the marshes or any other segment of the values involved, but rather talking of the total environmental balance that is necessary for a proper human existence. It has been difficult to do this in the past because we have lacked a rule of thumb that would impress people with the fact that such preservation has become imperative. Unfortunately, up until now, it has been possible to assume that you and I have a special point of view, one that is interesting but not necessarily imperative from the viewpoint of society. Fortunately, just a few months ago two top American ecologists, Eugene Odum and his brother Howard Odum at the University of Georgia and the University of Florida, respectively, delivered an important address at Mexico City at the North American Wildlife and Natural Resources Conference, suggesting that from an ecological point of view, we need to preserve fifty percent of every natural environment that we invade. Now here at last is a beginning, a rule of thumb, given to us by top ecologists and based on an ecological modelling. Models computerize the inputs and outflows of energy in natural systems. This paper will shortly be published in the transactions of the North American Wildlife Conference and I hope that those of you who are interested in the scientific documentation of these interests of ours, will obtain it, study it, and help spread the word. If you are scientifically oriented, help test the assumptions that went into this model because I think it may be a turning point in convincing the scientific community, and gradually the politicians and businessmen, that we must recognize saturation and move on from there to develop a better life for all people. At the present time our unthinking commitment to growth, which is a commitment of both big business and government, is a threat to the quality of life. We need to tease out the implications of the kind of reward systems that we have built into our civilization, somehow change the rules of

the game so that we can rationalize our society a little better instead of going off the deep end as we have been going for the last generation or so. The challenge to all of us is to learn to legitimize a new set of values and convince the majority of the American people, or at least those who make decisions, that this is the way we must go if we are to prevent the breakdown of society that comes with over-saturation. I don't need to point any further than New York City which has deteriorated at a tragic rate in the last twenty years. These problems that are coming home to us now must be brought under control. One of the best and quickest ways of doing this is to reserve the open space which is necessary to strike that balance between man's developed ecosystem, the city or the suburbs, and the natural ecosystems which provide us with an opportunity of inter-acting between culture and nature so that we get the best out of life during those few decades we can enjoy the planet.

This is by way of introduction. We now turn to four people who have come to orient you to the nitty-gritty of the legal, statutory and other techniques of getting things done from a political and economic point of view. Our first speaker is Mr. Gary Rankel of the United States Fish and Wildlife Service, stationed here on Long Island, who will introduce us to the background of the Federal statutes involved in the protection of wetlands.

Gary Rankel, Biologist with the Bureau of Sport Fisheries and Wildlife, Division of River Basins, in Patchogue, Long Island, New York.

The Division of River Basins is primarily concerned with assessing the effects of water development projects on fish and wildlife and is not considered an authority on land acquisition procedures by the Bureau. Such authority is centered in the Bureau's Division of Realty and in the Office of the Regional Director in Boston. Because representatives of these offices could not attend this meeting, I've been asked to outline general acquisition procedures of the Bureau with emphasis on wetland acquisition on Long Island.

As you may know, Long Island tidal marshlands have been disappearing at an alarming rate in recent years. Between 1954 and 1971, about 14,000 acres or nearly 40% of bi-county, that is Nassau-Suffolk County, acreage was lost. There is substantial evidence to indicate that the bulk of this loss has resulted from selected filling of the high marshes or salt meadows located above the plane of mean high water.

Three main factors have apparently influenced the disproportionately rapid destruction of these Spartina patens marshes. The lack of state and federal jurisdiction above mean high water has resulted in few legal barriers to construction on these marshes. Secondly, the relative ease of accessibility and the more favorable soil and water conditions which characterize salt meadows, provide economic incentives to build on them rather than on the lower, inter-tidal marshes; the Spartina alterniflora marshes. Finally, private ownership of large segments of salt meadows has probably resulted in wide-spread availability of these lands to construction. Many of the remaining wetlands in the bi-county area are privately owned but not dedicated to conservation purposes. Even when such dedication exists, cooperative agreements could dissolve

in the face of pressure on local governments for additional housing, public facilities, etc.

One method of preserving wetlands is through acquisition by the Department of Interior's Bureau of Sport Fisheries and Wildlife. The Bureau acquires land mainly through donations and with monies from the Land and Water Conservation Fund and the Accelerated Wetlands Loan Act. The primary authorities for accepting donated lands are the Migratory Bird Conservation Act of 1929, which authorizes the Secretary of Interior to accept donated lands in the interest of fish and wildlife conservation.

Long Island lands administered by the Bureau and which were acquired through donations include the Morton National Wildlife Refuge near Sag Harbor, the Target Rock National Wildlife Refuge in Funtington, the Oyster Bay Refuge in Oyster Bay, the Conscience Point Refuge near North Sea, the Wertheim Estate at the mouth of the Carmans River, and the Nicholl's Estate near Mastic Beach. I refer you to the handouts I have placed on the table which list Bureau holdings on Long Island and which describe these refuges in detail. Unfortunately, there may not be enough copies to go around. If you write our office in Patchogue, we will try to send you copies of the desired pamphlets.

Under the Federal Refuge Sharing Act, the Federal government shares revenues with counties in which lands administered by the Bureau are located. The revenues amount to 3/4 of 1% of the appraised value of the land. The appraisal is made by the Division of Pealty. The monies must be used by the counties for roads or education. At the present time, there are no funds available for direct purchase of land by the Department of the Interior. Hopefully, funding will be forthcoming.

I will now briefly outline some specific legislation which provide the authorities for wetland acquisition by the Bureau. Already mentioned was the Migratory Bird Conservation Act which authorizes the Secretary of Interior to purchase, rent or acquire sanctuaries for migratory birds. The Migratory Bird Hunting Stamp Act of 1934 authorizes the Secretary of Interior to acquire by gift or exchange, small wetland and pothole areas designated as waterfowl production areas. To my knowledge, there are no such areas on Long Island. The Federal Aid to Wildlife Restoration Act of the Pittman-Robertson Act of 1937 authorizes the Interior Secretary in cooperation with the State to select, restore, rehabilitate and improve areas of land or water adaptable as feeding, resting or breeding places for wildlife, including acquisition by purchase, condemnation, lease or gift. The previously mentioned Fish and Wildlife Coordination Act allows the Secretary of Interior to acquire lands through donations for fish and wildlife conservation, generally. The Endangered Species Conservation Act authorizes the Secretary of the Interior to acquire by purchase, donation or otherwise, land or interests therein needed to carry out the purpose of this Act relating to the conservation, protection, restoration and propagation of selected species threatened with extinction. I mention this Act in connection with the osprey. The National Wildlife Refuge System Administration Act of 1966 authorized the Secretary to accept donations of funds to acquire refuge lands.

A couple of acts not related to the Department of Interior may have some applicability. The National Flood Insurance Act of 1968 provides for the Secretary of Housing Urban Development to negotiate with flood plan owners for purchase of fee or lesser interests. Such federally purchased lands may be transferred by sale, lease donation or otherwise to State or local agencies who agree to use the properties only for purposes determined by the HUD Secretary consistent with

sound land management and use in flood plain areas. The Water Bank Act authorizes the Secretary of Agriculture to enter into contract and to make payment to landowners who preserve wetlands and retire adjoining agricultural lands. Finally, Congress is currently considering a coastal zone management program and associated legislation. Out of the legislation may come more funds for wetland acquisition.

I will now briefly outline the mechanics involved in land acquisition by the Bureau. As I said before, the authority for acquisition rests in the Division of Realty and in the Regional Director's Office. All proposals for land acquisition by the Bureau, for administration by the Bureau, should be referred to the Regional Director. His name is Mr. Richard Griffith and he is located at the U.S. Post Office or Court House in Boston. He is the man to contact for all types of proposed land acquisition by the Bureau. The Regional Director determines if there is legal authority for such acquisition, and if so he refers the proposal to the operating branch which will administer the land. Usually, this is the Division of Refuges.

The branch supervisor decides upon the suitability of the land in relation to the programs for which the lands are to be acquired. Upon tentative approval of the proposal, the Division of Realty and Engineering determines real estate values and cost estimates. After these are completed, the material is reviewed by the Land Acquisition Review Committee in Boston. If their recommendation is favorable, the reports are then forwarded to Washington to the Land Acquisition Advisory Committee. If the Committee's recommendation is favorable, the project is submitted to the Director for approval. After the Regional Director has been informed of a favorable decision, he takes appropriate action toward acquisition of the lands.

Anthony Taormina, Prin. Fish and Wildlife Biologist, New York
State Department of Environmental Conservation.

Biologists or Ecologists interested in Wetlands see Wetlands in much the same perspective that most men regard women. Most of them are pretty attractive and nice to have around. However, some are put together better than others: some might be considered to be expendable. In managing or acquiring wetlands we have to establish priorities relative to which areas are more attractive or more productive than others. It's like rationalizing who should be Miss America or Miss Universe. It's a pretty tough thing to do but we are constantly trying to make these judgments. Most of us agree that Wetlands are quite important. Let's go back fifteen years or more right here on Long Island and we find that in those days it was not regarded as very sensible to try to persuade the electorate to save the wetlands. But thankfully, some far-sighted people, political people, did pass a bill known as the Long Island Wetlands Act. What this bill did was to give incentive to local governments who owned the great majority of wetlands here on Long Island. The Act provides that if a Village, Town or County were to pass a resolution by their local board to dedicate their wetlands for their natural value or conservation purposes, they could enter into a cooperative agreement with our Department, wherein we would not only help them develop and manage these wetlands, but most important, we could use state money to finance certain development. We recognize that for most wetlands, not much money is needed for development. On the other hand we believe that some development is worthwhile. So this morning I would like to show you some slides illustrating the kinds of things we have done through the Long Island Wetlands Act with the towns that we are working with. Hopefully when we are through you will agree that we can spend money developing or restoring or making these wetlands more useful to the people who own them. Now, I want to make sure we

agree about what we are talking about. Let's talk now about marine wetlands, salt water wetlands. We'll ignore the fresh-water wetlands for this discussion this morning. From the point of view of marine wetlands, if we call this line (illustration on board) the mean high tide line and this line the mean low tide line, we have to regard two other zones: namely a) the zone above high tide line which is a storm tide, spring tide zone of marsh meadow and b) a zone of shallow water that extends six feet below low water. Today, as we discuss wetlands and the Long Island Wetlands Act we will be talking about the zone of shallow water which includes most of our bays and harbors that is at least six feet deep at low tide, the inter-tidal zone which may range from 7½ feet on the North Shore to a matter of inches on the South Shore and then the marsh-meadow zone above the normal high tide line. Often, when people speak about the Wetlands that have been lost to development and the 35% wetlands that have gone under the gun since World War II, they are referring to this zone in here. (Zone of meadow and marsh). Most of our shallow bays are still intact as are many of our harbors. Now, I want to show some slides relative to how the Long Island Wetlands Act has functioned on Long Island. The first Town to enter into an agreement was the Town of Oyster Bay when John Burns was Supervisor. John has since been in charge of our State Office of Local Government. The Town of Oyster Bay dedicated 500 acres to the Wildlife Sanctuary, an area on the barrier beach just east of Jones Beach. This is the former Guggenheim Pond, a brackish water pond which had historically been one of the most heavily hunted water fowl areas in the country. If you were "in" with the millionaires who liked to hunt duck, and you got an invite to hunt this pond, that was a big thing in your life. There were blinds and caretakers and all kinds of methods used to shoot water fowl. This became our first area managed under the Long Island Wetlands Act and you must realize

that this was an area that had a great wildlife value. Many wildlife inhabit this zone of dunes, meadows and brackish ponds that borders Oyster Bay. The basic consideration under this agreement was that we would make this area a Wildlife Sanctuary and encourage wildlife usages. One of the things we have done is to allow an extensive bird banding program to go on there. A number of Audubon groups, amateurs in a sense that they are not being paid, have banded thousands of song birds, as many as two thousand in one year. They are on nobody's payroll, they do it because they enjoy doing it. More than 100 species have been banded so that the Tobay banding operation has probably been as significant as any in getting us information on the migration of song birds on their routes along the coastal zone in spring and fall. We've also tried to encourage the use of the area. One thing we did was to build an observation tower. Some people said "Oh, for heaven's sake don't put a tower out in the Wetlands, who wants to see a tower out there." On the other hand if you're up there on the tower, it's pretty nice to look out over the entire zone out here, the shrubby area, the bay, the marsh. While you're up there you get a great perspective of ibises and egrets flying along side of you. It's a very nice feeling so we say it's worth it. The State paid for the tower, parking lot, and access road. Also, we manage the area with trails and blinds and every year they have to be maintained. We have management-research going on too, such as the nesting box program to attract tree swallows. We're doing work with the Nassau County Mosquito Control Commission who have been very cooperative in biological control of mosquitoes. To what degree is mosquito control good or bad for wildlife? We've come to the conclusion that much of it is good for wildlife. It is bad when you drain a fresh water pond. But where you dig a broad ditch through a meadow or a marsh, you are adding edge and permanent water. Consequently you've increased the amount

of invertebrates and small fishes in that zone that make it more attractive for the wading birds, ibises, egrets and waterfowl. So it's not by any means all negative, parts of it are positive.

Next, one of the other things we are doing is building ponds. Before I came to Long Island, my major job was building ponds upstate. I enjoy building ponds. Building small ponds throughout the countryside is a great way to embellish wildlife, fisheries, etc. Here on our marine edge we need fresh water. Fresh water can be a limiting factor for many kinds of wildlife. So we have been building a number of fresh water ponds. We've built several here at Tobay, we're building others at other areas. We introduced the garbusia minnow to help control the mosquito problem. We re-introduced amphibians, the Fowlers toads especially and in turn we can bring back some of the reptiles such as the hog-nosed snakes that feed on amphibians. Overall, such ponds make Tobay a much more attractive area. All of this has been done on the most part with State funds, capital invested by the people of the State. Keep in mind that wildlife belong to all the people of the State, thus wildlife management is everybody's business and that's why we are in this program.

Another interesting project that we did in Oyster Bay Town (the five hundred acres under cooperative agreement have now become five thousand) developed when the Wantagh sewer plant was being proposed. The sewer plant site required many million yards of sand fill. We worked with the Town Board and other people to design a channel network in South Oyster Bay which we felt could provide not only the necessary sand but also a network of channels that could be useful to the fishermen and at the same time not damage our wildlife. Unfortunately because of the political wrangles that occurred we couldn't get the proposal consummated. I mention this primarily to

indicate that even under our Long Island Wetlands Act we do not regard dredging of channels as being necessarily negative. We think there are ways and means of developing channels that can be quite positive, and therefore it is not a program which says once your Town is under the Wetlands Act there shall never be another dredging program. Dredging does not have to be negative, it can become positive.

This is the Town of Hempstead. (Aerial photo). The Town of Hempstead has 10,500 acres under our agreement. The Town also has a very active and fine Town Department of Conservation and Waterways. You might say, "Well, why do they need our Department to help them when they have a good outfit of their own?" Their organization evolved only recently and many of the people in this room were responsible for it. When I first came to Long Island, the first group I met with was the Hempstead Town Wetlands group that was fighting very hard to get the Town to preserve their Wetlands. Some of the finest wetlands on Long Island are in Hempstead Town and the Hempstead Town Resources Council was the first very active group on Long Island fighting a trend which said "Don't fight the trend of development, let's use bay sand for marsh fill, that's progress." You can see on this overview the mosquito ditches and many of the buildings on the meadow. A great political victory was realized when the Town Board about six years ago, agreed to dedicate 11,500 acres to Conservation and to consider the area for the values which are obvious to us today. So this was quite an achievement for the Town of Hempstead. But it happened because of groups like the people meeting in here, fighting very hard and convincingly, doing their homework, getting together, getting good information and pushing their Town Board. One of the great problems of course was this operation, dredging the sand of productive shallow bay bottom to put houses along the marine edge. This has been big business and still is in many

parts of our Island. To what degree do we compromise? Where do we say you can't do this sort of thing? It's quite a problem. But it is being resolved more easily through the efforts of the Fish and Wildlife Service, town governments and many agencies who are becoming concerned with maintaining the integrity of the marine edge wherever possible. We had a real problem here as to what to do with bay shacks? When there weren't many people, you could have a few bay shacks on the marshes. Not all Towns allowed bay shacks on their marshes. Hempstead had a big program, but has now stopped issuing permits for new bay shacks and as old ones deteriorate, they are burned down. So we have fewer every year.

Here you see a flock of brant flying over the salt marshes. Hempstead's Wetlands are amazing areas from the point of view of water fowl as well as other wildlife. They are the hub of the water fowl hunting that we have on western Long Island. Some of you may not like hunters. On the other hand the hunter for years has been the leading proponent of wildlife conservation. You can say their motive to save wetlands is selfish, but it still is a very worthwhile motive. We have thousands of scaup, thousands of many kinds of other birds and over thirty species of water fowl that use this total Wetlands complex. We need to maintain this space undeveloped if we are going to encourage these birds to winter here with us.

One of the last major projects that we accomplished in the Town of Hempstead was this fishing pier on Reynolds Channel just off Point Lookout. We argued that if the Town could dedicate 10,500 acres, the people of the State could finance a fishing pier for the Town so that many people could capitalize on the productivity of fish coming from the Wetlands. After all, these Wetland areas do produce a great fishery. This has been a very popular project, we need many more fishing piers in our

coastal waters to help the people who do not enjoy going out in a boat, but would rather fish comfortably from a pier. This pier was designed with the intent that the State would finance the capital investment, but the Town would then manage it. Also, we've done research for the Town, by paying for people who worked for the Town in the summer time on projects of interest to our Department, such as determining water quality, finding out what makes these Wetlands tick. So there's a broad spectrum of the kinds of things we can do under the Long Island Wetlands Act. Another one of our major projects relates to the control of erosion of the meadows. Where meadows and salt marshes are contiguous with boat channels, we're getting a hellish erosion problem which we have been measuring for about eight years. In some cases, it's about two feet a year. We're hopefully going to get working with the Sea Grant people and any other people who want to work with us on this project to figure out how to ecologically control the erosion rate on these meadows. It is difficult to preserve them when boat traffic is constantly moving back and forth creating different waves than the sea normally makes. The meadows are being undercut and they are very slowly disappearing. We feel we must stop that and need all the help we can get.

In the Town of Islip, Harry Kiltbau, here today, was one of the key people to get the Town of Islip to agree to a Wetlands Agreement for a magnificent area in Suffolk County known as Captree Island. One of the programs we started was to restore drainage ditches, we brought in drag lines and opened up filled creeks that had been filled in. We built four fresh-water-brackish water ponds. We also built an island on a shoal and stabilized it. We stabilized a new beach with snow fence, Black Pine and dune grass. We've done clapper rail research. All these things have been done under the Long Island Wetlands Act, working closely with the Great South Bay Waterfowlers.

and other Town conservation groups who were most active initially in getting their Town, under Supervisor Harwood, at that time, to execute the agreement.

Our latest agreement is on the North Shore in the Town of Brookhaven on Mt. Sinai Harbor. It's a beautiful harbor and our only agreement with a North Shore Harbor. Those of you who know the history of Mt. Sinai know that we had to battle the commercial dredging interests. The harbor was a great place for sand and gravel. In fact, most of our North Shore harbors have been mined for years. We recently made an agreement with the Town of Brookhaven to work with them in managing this magnificent area. Some of the marsh does not exist any more. It was dredged out back in the heyday when sand and gravel seemed to be most important. This only goes back four and five years ago. Many kinds of shellfish live in the harbor: hard clams, soft clams, oysters and mussels.

Mr. Clement: It is sometimes possible to combine a variety of activities with the conservation of these coastal zones. We don't need to be against all alteration providing we know what we are doing. This is the multiple use concept which makes the whole conservation movement much more dynamic than it may have been at one time. Keep in mind that these zones are dynamic in themselves; they keep shifting because of natural causes and man may therefore impose other changes providing he doesn't go too far.

Next we will go directly to someone who can orient us as to what is going on in other states, since it is by looking over one another's shoulders that we learn the tricks of convincing one another that these things are worth doing. We are pleased to have with us the Conservation Director of the American Littoral Society, based at Sandy Hook, New Jersey, a group which has devoted itself to trying to alert the Atlantic Coast public to the importance of preserving this littoral zone. Mr. Derek Bennett of Sandy Hook.

Mr. Derek Bennett - Conservation Director, American Littoral Society

I bring you greetings from New Jersey, land of the New York Giants, the New York Rangers, the New York Knickerbockers, no-fault insurance, the most successful state lottery, and home of the Wetlands Act of 1970. The list of states which now have wetlands legislation of some sort includes Maine, Massachusetts, Connecticut, New Jersey, and Maryland. Delaware has a coastal zone protection act and is considering a wetlands protection act. In other words, New York is surrounded by states which have enacted legislation to protect wetlands and should be ashamed of itself for having failed to pass similar legislation.

What I would like to do is summarize some of what wetlands acts in other states do, talk in some detail about New Jersey, and then mention other tactics to save wetlands.

All wetlands acts passed by states in the northeast have similarities: the acts attempt to define the wetlands zone and then to list activities which should be regulated in the zone. There are, of course, differences, including the definition of the zone (and how it is defined) and the powers that the act gives the state to prevent wetland modification.

The heart of the Massachusetts wetlands legislation is an agreement between a private wetland owner and the state, an agreement which the owner enters into voluntarily, saying he will not modify the wetland he owns. The problem with the act is that it will protect only those wetlands which the owner does not want to modify anyway.

Connecticut's wetland act is very similar to New Jersey's, both in the definition of wetlands and in the regulation of wetland use. Unlike Massachusetts, the Connecticut law attempts to regulate wetland usage even if the wetland owner doesn't want regulation. This amounts to state zoning, and is expected to be tested in the courts when the state clamps down on a major wetland owner.

New Jersey's wetlands act is designed after the Connecticut act, and I would like to cover the act in some detail.

New Jersey owns all the lands in the state below mean high water except where it has sold them. These lands below mean high water are called riparian lands. In New Jersey, wetlands are defined as those lands which lie between the line at mean high water shoreward to a line made by local extreme high water plus one foot, and which support or can support certain marine grasses, the spartinas and others. The "and" in the definition is important, because while it is nearly impossible to lay out either the high water line or the line of extreme local high water, it is possible to photograph and layout the grasses listed in the act. These grasses have been located by using infrared photography and the state is part way through the procedure of mapping all wetlands in the state. As wetlands are mapped, the state is empowered to hold public hearings to publish the maps and the regulations, after which the regulations can take effect. Two test areas have been mapped and published, and the rest of the state should be covered by the end of 1973.

New Jersey's wetlands regulations are written in such a way that very few activities are prohibited in the wetlands, nor are many activities permitted outright. A vast majority of usual activities in wetlands associated with use -- dredging, filling, draining, ditching, etc.; are regulated through a system of permits, public hearings, and fees. The thrust of the act is to place the burden of proof of environmental protection on the person proposing to alter wetlands.

If the applicant for a permit to modify wetlands cannot prove that his modifications are in the public interest and will not cause significant damage to wetlands values, the state's Commissioner of Environmental Protection is empowered to turn down applications. It is when an application for a permit to develop wetlands is denied, in New Jersey or in any other "wetland act"

state, that the most serious weakness of wetlands acts is apparent. In most cases, the applicant will appeal the decision in the courts and the time will come when the decision of a Commissioner is overturned by the courts. At that time, it is quite probable that the argument will be that the denial of the application is a taking without compensation, that the owner of the wetland has been deprived of any reasonable use of his land by the state's action, and the state will face the problem of buying the land from the owner of letting him go ahead with his plan. No wetlands acts have been tested in the courts yet, and may not for several years. Until then, at least, they afford some environmental protection.

There are some specific local actions that can be taken to protect wetlands. Little Silver, New Jersey has passed a municipal wetlands ordinance which is close in design to the state's wetlands act, but regulated only those wetlands within the municipality. The act is about two years old and has not yet been challenged by a developer. A copy of the Little Silver ordinance can be acquired by writing the Borough Clerk, Little Silver, New Jersey 17739.

South Kingstown, Rhode Island, introduced an ordinance last August to regulate land use on a three-mile strip of barrier beach along Block Island Sound, a barrier which includes a section of wetlands on its inner side. The ordinance is designed to prevent development on the barrier beach by designating the areas as flood danger zone. It severely limits land use to such things as agriculture, grazing, and some fisheries uses. It prohibits housing, parking lots, septic tanks, in fact; almost anything. Copies of that ordinance would be available from the Clerk, South Kingstown, Rhode Island.

About a year ago, the State of New Jersey passed a regulation banning septic tanks on filled land less than 10 feet above sea level. The reason for the regulation was that this sort of land-fill does not provide good percolation and developments on such landfills were polluting nearby waterways. This regulation has

had a real dampening effect on residential construction in wetlands because few developers want to put in sewage systems and because so much of the land they are developing is within 10 feet of sea level. Copies of these septic tank regulations are available from the Department of Environmental Protection, Trenton, New Jersey.

There is one other tactic worth investigating. Under the Federal Water Quality Act, states have been ordered to submit water quality criteria for their waters to the federal government for approval. Upon approval, states are eligible for federal grants for sewerage construction. I am most familiar with New Jersey's water quality criteria and in most waters around wetlands, the classifications are either CW 1 or TW 1. Both classifications are high; very little in the way of pollutants is permitted to enter waterways of this quality. I believe there are good ways to prevent development of wetlands by challenging the state to enforce its own water quality criteria, particularly because almost all wetlands development effects tidal and coastal waters in some way. If the state grants permits to dump effluent into waterways with CW 1 or TW 1 classifications, and such effluents will tend to degrade these waters, I think it would be worthwhile considering some court action against the state for granting such permits. I believe the waters around Long Island are classified either TW 1 or CW 1 and that New York can be held accountable for upholding those classifications.

Mr. Clement:

We've been reviewing the tools available for getting the job done and the rest of the morning's session will be devoted to some new approaches that are being developed at state and local levels. To start us off in this new direction and to discuss the New York Environmental Bond Issue, we're delighted to have the Assistant Commissioner for Metropolitan Affairs, the Department of Environmental Conservation of New York State, Mr. George Humphreys.

George W. Humphreys - Assistant Commissioner, Metropolitan Affairs
New York State Department of Environmental
Conservation

Before we discuss the Bond Issue and its provisions for the wetlands, I must say something which is a bit painful. As some of you know, Tony Taormina has been my guide and mentor ever since I arrived on Long Island and entered into the Department. But I must say here, publicly, that sometimes Tony Taormina takes positions that I cannot possibly agree with. For instance, when he suggests that we must look at wetlands with the same zeal and emotion with which we look at women, I announce to you that this is not official Department policy and I have full clearance from the Commissioner to disassociate ourselves from Tony's position. The remainder of Tony's discussion on wetlands we would like to once again endorse.

Properly, Senator Bernard Smith of Long Island should be here talking about the Bond Issue. The Senator was the Chairman of the Conservation Committee in the Senate who developed the Environmental Quality Bond Act along with his counterpart in the Assembly, Assemblyman Larry Lane, from Greene County.

At this time, a little history about how the Bond Act came to pass both Houses and how it came to be Proposition One on the November ballot may be helpful. Early in the Spring, the joint conservation committees of the Senate and the Assembly invited Commissioner Diamond of our Department to discuss some aspects of Department business as the Commissioner saw it. During the hearing, Senator Smith and Assemblyman Lane asked Commissioner Diamond to identify the critically urgent environmental needs of the state. Not completely taken by surprise, the Commissioner picked a piece of paper from his pocket which contained an inventory of those projects which he considered to be the most urgent statewide needs which must be faced and undertaken within the next few years. Following the Commissioner's presentation to

the joint committees, the Legislature held public hearings on the Bond Issue throughout the state; the first time in the state's history for any bond issue. There were hearings in Hauppauge, New York City, Buffalo and Albany. In these hearings, which were held to give the public detailed information about the Bond Act and to hear the people's environmental needs, a slightly altered version of the original Bond Act was taking shape. This Bill, the one before you today, now better reflects the concerns and needs of the people because of these hearings.

What you will have before you in November is a Bill that reflects the best environmental thought to date. Therefore, the Bond Act is not a simple one--but is a comprehensive, well planned bill. Together, all of us, public official and citizen, are working on the major aspects of capital needs for our environment. That concern, when boiled down into action, requires a billion, one hundred fifty million dollars.

The people of the State of New York are being asked to indebt themselves for that amount of money to turn their ideas into concrete environmental projects--clean air and water, land acquisitions, and solid waste recycling.

The real question are: Do we want to spend:

- * 650 million dollars to continue our pure waters program and to build needed sewage treatment plants?
- * 175 million dollars to acquire unique land areas and to preserve our fast vanishing wetlands?
- * 150 million dollars to abate air pollution from public sources?
- * 175 million dollars to help communities deal with solid waste recycling?

Let's first look at our accomplishments under the old Pure Waters Bond Issue which built 342 sewage treatment plants and

which was extremely effective in combating municipal water pollution. This Bond Issue began an unprecedented drive to clean up the state's 3.5 million acres of lakes and more than 70,000 miles of rivers and streams. When the work of this Bond Issue is completed, 2.8 billion gallons of raw sewage will be treated each day and will thus bring 80 percent of current municipal discharge into compliance with the state's water quality standards.

True, the billion dollars did not go as far as was anticipated in "65" but for three very good reasons. One, the vicious rise of inflation, running around 15% in the last six years in sewage treatment plant construction. Two, the federal share of the cost, 55%, never really amounted to more than 14%. Third, and more importantly, the rules changed; we and the federal government both raised our standards.

But, we are also now asking for secondary treatment rather than primary treatment. This means more money is needed for more construction of better plants which will be built and planned to higher capacities than those projected in the "65" Bond Act. In those days, we were planning for 1970 population projections, we are now building plants to 1990 population projections.

In this perspective, it is now understandable that the "65" Bond Issue did not go as far as we thought. I think our decisions then were right and I also think that our decision to face the present necessity of funding for better sewage treatment plants is also right--even though people don't like to hear talk about money. Talking about money is just not politically popular today.

There are 347 identifiable sewage facilities throughout the state which are eligible for bond funds for construction and improvement. On Long Island our treatment plants require tertiary treatment, including nitrate removal. This refined treatment allows effluent to be recharged into our underground aquifers and therefore insures Long Islanders of a continued clean water supply.

In addition to our water program, one hundred and fifty million dollars of the Bond Issue will go for air pollution abatement. Of this, \$100 million will go directly to municipalities to clean up public sources of air pollution. Private sources of air pollution, of course, are by far the greater contributor to the contamination of the air. But, roughly 18% of the air in our metropolitan areas is contaminated by municipal incinerators, school boilers, fire stations, and police stations; these facilities must be upgraded. This can be done by having electrostatic precipitators or scrubbers installed to reduce the amount of particulate emissions. Fifty million dollars of the \$150 million goes for air pollution abatement of state sources such as, state hospitals and prisons.

Another unique feature of the Bond Act is that for the first time in this country, the state is trying to aid local government in changing from traditional methods of solid waste disposal to resource recovery -- a recycling approach. This is the first time a Bond Issue attempts to change attitudes as well as technologies. There may be as many as 50 difference approaches to recycling that have reached some degree of acceptable technology today, but these can be expensive from a capital standpoint. Since it takes one hell of a lot of money to accomplish recycling, a burden on the limited tax base of the municipalities, the state must assist municipalities in initiating viable resource recovery technologies. We are proposing, with the passage of this Bond Issue, methods which will hopefully move the municipalities in the direction of resource recovery by direct grants of 25% - 50% of the total cost of their solid waste recycling expenditures.

The Bond Act also assures us of maintaining our open space land projects by providing \$175 million for land acquisition and easements. Sixty-eight million dollars goes for metropolitan park acquisition; \$59 million to the Adirondacks and Catskills.

Ten million dollars is provided for unique area preservation; \$3 million for limited access to currently held public lands and \$27 million for wetlands preservation.

Earlier we listened to Derek Bennett's discussion of the problems we face when we deal with the legislation, the rules, the regulations, and the zoning laws associated with condemnation procedures. From that discussion, it is clear that we cannot confiscate land without due compensation. Very simply, this means that land acquisition is one of the best and cheapest tools, out of many, which will be used to preserve our wetland areas throughout the state. Mr. Rankel spoke about the Department of Interior's programs which might be used for such purposes but which, unfortunately, have no money. Mr. Hammond also spoke about acquisition. All of these programs require funds, but where is the dollar coming from? Well, we are suggesting that all dollars come from the people anyway. There really is no state money, no federal money, and no local money; it's all our money. At each level of government, we are asked to pay a little more taxes to finance programs, but without having a decided say about where the money is to go. Here, with the "72" Bond Act, we have a chance to say, "Here's where I want some of my tax dollars to go."

You have before you a bill of particulars, detailing how your money will be spent -- on what priorities and in what ways. From that bill of particulars, you know we want to buy specific wetlands, some \$27 million worth. We think, on Long Island, we can identify 4,800 acres. We think, by the issuance of bonds, by indebting ourselves, we have a proper bonding approach for saving these wetlands from commercialization - something we had better do, and do now. As Tony pointed out, we have lost some 32%-35% of our wetlands on Long Island since 1948. This is an atrociously high figure. Both our upstate fresh water wetlands, and our Long Island marshlands are in jeopardy. Eighteen million dollars must be used to save Long Island's wetlands, with the remainder going

to fresh water wetlands preservation. In total, we can identify some 50,000 acres upstate that should be bought and preserved.

We're also talking about a \$4 million allocation in the Bond Issue for the restoration of the existing wetlands and for cooperative agreements with local municipalities. Renovation has a particular meaning in the Bond Issue. Let me read to you directly from the Bill under Title IV Wetlands Restoration Project: "A state and municipal project to renovate levies, dikes, ditches, and other water level regulation works, to establish vegetation, plants or shrubs or such other necessary desirable work to achieve optimum productivity of wetlands.

I hesitate to go into too much detail about the Bond Issue in general, since I know our principal interests today are to deal specifically with the wetlands portion of the Bond Act. But, I would urge you to consider that the monies and methods employed by the Bond Act seem to be the most practical way of saving our wetlands. It's extremely doable since the methods employed don't take a hell of a lot of time, and a lot of litigation to get the job done.

Considering the rate of disappearance of our wetlands, we think we ought to acquire our wetlands with the \$27 million available to do it. We can have all kinds of programs, but if they are not funded, they are of absolutely no use to us whatsoever.

There are two or three things that I would like to point out about the Bond Issue in general, but which does have particular application to our wetlands areas. First, when the people say yes -- assuming that the people will say yes, "We want to indebt ourselves for \$1.15 billion." -- they must understand that they are not writing a blank check to the State or to the Department of Environmental Conservation to spend the money as they will. These allocations, which I have mentioned, are outlined in detail in the enabling legislation itself. Before any money can be spent, the Department must go to the Bureau of the Budget and say, "This year, we plan to spend X number of dollars out of the Bond Issue fund."

The Budget then says, "Fine, that makes some sense." We must then go back to the legislature, and say, "Mr. Legislator, we plan to spend X number of dollars in this program this year; we would like you to say we can use this money for these purposes, consistent with the Bill which was mandated to us by the people." Then, the legislator can say, "Fine, it looks good," or "It requires some changes." Now we are in the position of going to the Comptroller's Office to make sure that our monetary expenditures are consistent with the Act which was passed by vote and mandated to us by the people.

We feel that this process affords every citizen good protection, consistent with good and sound governmental policy. I urge you to again read, study, and ask questions about the provisions of the Bond Act and to consider its impact on the preservation of our wetlands and the state's environment in general. There is no need for me to spend one second explaining how vital all this is, because if you hadn't realized it, none of you would be here today or have asked the advice of experts on how to save our wetlands.

We think we have a good Environmental Bond Act which will assist all of us in protecting our rapidly disappearing natural resources and deteriorating environment. Certainly it should be evident that the wetlands are an integral part of that Bond Act. To do a good job, we must all act in concert to fund our environmental programs.

Mr. J. Kemp Hannon - Deputy County Attorney, Nassau County

One of the tools available to government, if it were to consider stepping into public ownership of the wetlands, is what is popularly known as the "scenic easement." To fully understand the scenic easement, however, it would be better to put it in terms of how a government takes land in a normal manner.

Any municipality has the power of eminent domain, the right to condemn land. However, it may choose to negotiate with the land owner for complete taking in order to provide roads, parks, or land space that they can use for their own municipal building or what have you. When they do this, they take the land in fee simple. In other words, they will buy the entire ownership of the land. This is a concept that has been with us for a great number of centuries. Nevertheless, there is another concept that has also been with us and that is that you don't have to take the entire ownership of the land, that you can take a partial ownership. Perhaps this was done so that someone could run a path across your land in order to get his cows from the barn to the pasture. This concept is known as an easement. Easements have been used in the United States, in the sense we are talking about them, for about fifty years. The State of New York, back in the thirties and forties, used easements for fishing rights along certain upstate rivers. This was in the sense of a positive easement. In other words, they went to the land owner and they actually bargained with him. They said, "We would like you to give the State of New York and therefore, the residents of the State the right to fish along the banks of the river that you own." This has also been used in the West for breeding grounds for ducks, and it has been used in Wisconsin for certain rights along the Mississippi River.

The scenic easement as known today in the State of New York is the result of a law that was passed in 1960 entitled Section 247 of the General Municipal Law. It basically says that the preservation of open spaces is a public purpose for any municipality, be it a village, town, county or the state itself. Then it goes on to define open space. It defines it as a natural scenic beauty, or an existing openness or natural condition, or present state of use, which if retained would enhance the present or potential value of the surrounding area. The law basically says that the county or state can go in to some area either by condemnation, or negotiation with the land owner, and get the land owner to agree that he is not going to develop the property. It is a very simple tool. In Nassau County there is now some pressure to grant scenic easements to estates or golf courses because of the fact that easements usually grant a tax abatement. The granting of these easements is still under study.

There really has not been a full scale evaluation by the County of Nassau to the potential use of easements in terms of wetlands protection. However, I would stress that this is something that is a "partial tool", and it is only a partial tool because usually these easements are given for a period of years. The shortest that I have heard of is for five years, but the usual period is about twenty-five years. The benefit to the municipality is that it stops the development for a period of time. The benefit to a land owner is that he gets a bit of a tax break. The benefit to a municipality is also that taking of an easement may cost less, not always. In a county such as Nassau, and I would surmise also in Suffolk, some of these scenic easements may total in price just about the amount of the taking of the entire land. It is a device that has to be approached on an area to area basis. It just does not make sense to say that we are going ahead with this program, that we are going to use this tool. It is something that lends itself to discriminate use.

There is one other indication that past use of either a positive or negative easement implies. I have mentioned the New York State fishing program, Wisconsin had the highway program and Mississippi the river scenic improvement program, and the federal government had the western marshes program. The scenic easement seems to lend itself to the best use when it is part of a program. In other words, you have to set up a program. If something were to evolve out of this meeting, or the discussions going on at all levels of government on the wetlands, that implies that we have made a commitment that we are going to go into a wetlands program, that we are going into an area and deal equally with all of the owners, that they will each equally get tax abatements, and that they will all be treated so that they will feel that someone who owns property next to him is not getting a better deal. In that context, a total program context, use of the scenic easement lends itself to recommendation, as opposed to a scatter approach where you do not really have a program.

In my introduction, Mr. Clement said something about the zoning powers of the counties. Counties do not have zoning powers. If you really get down to the nitty-gritty, we have planning commissions which can have a great deal of influence, but even there they can be overridden by the town governments. I think that on the county level, and on the state level, the present power now rests with the state and the county. Their best involvement with these programs is through, if they make a commitment, some type of ownership. Zoning itself really comes in to play in the town government, and it does not seem to lend itself, and I am thinking now of Long Island wetlands, to change in zoning by the town. This is because the wetlands cover too many towns. There is too much chance, if you approach it at that level of government, that too many different types of zoning and different applications of zoning laws will be involved. In the end you would not achieve the best goal.

I thank you for the opportunity of addressing you.

Mr. Thomas Harrison, Assistant Attorney General, Environmental
Protections Bureau

I'm going to outline very briefly some legislative provisions and steps that the State legislature is going to be considering. A couple that I will discuss are already on the books. There are a couple of others that are not there that should be there.

We have heard some of the earlier speeches mention some State laws that now give local governmental authorities, the towns, villages, and counties, authority to take steps today to preserve and conserve their wetlands. The Town Law of the State of New York and the Municipal Home Rule Law of the State of New York, as presently written and as presently on the books today, do give local governmental units the authority to enact laws and ordinances to protect wetlands. They can do this through their power to act to preserve the general welfare and safety of their residents. There's another provision in the Municipal Home Rule Law that gives a town or local government the right to enact legislation to preserve and enhance its physical environment. This is a new provision. It has only been on the books for about a year or so and I think it's one that's going to be used more and more as the towns become aware of environmental situations and pass bills in this area. Where they are challenged as to their authority to do so they can refer to this particular law. So as far as delegating authority by the State to local government to act in this field is concerned, there are already statutes on the books including some very new ones such as the one I mentioned in the Home Rule Law. There is really very thorough authority delegated by the State to local communities to act.

Another law that is on the books that should be amended is the Navigation Law. This has a little hooker in it that

presently excludes Nassau and Suffolk from coming within the ambit of other legislation that could be used to protect wetlands. The Navigation Law now defines navigable waters of the State in such a way as to exclude Nassau and Suffolk counties--the only two out of the sixty-two in the State that are not included within the definition of navigable waters. Now this hurts wetlands because there are other sections in the law that require developers, for example, who want to fill in navigable waters to obtain permits from different State agencies, such as Mr. George Humphreys' Department among others. But if the particular waterway the developer wants to fill in is a navigable water of the State and if it is located in Nassau or Suffolk County, the State has no handle on the situation, we have no control or jurisdiction there. Now there is an amendment that has been put in for several years and never gotten anywhere. It's going to go in again to amend the definition of navigable water to bring Nassau and Suffolk within that definition so that other provisions of the law will be applicable here. But now we have this loophole and frankly it has been hurting the State in its efforts to help the local areas preserve their wetlands.

Two bills that I'm going to mention will be of no surprise to most of you. the Wetlands Bill and the Marine Sanctuary Bill. We were fortunate this year in one thing and that was to have not one but two wetlands bills come out of the legislature. It's either feast or famine, you have none of them or you have more than you need. But one of the bills was offered by Senator Smith, the local legislator, and the other bill was sponsored by the Department of Law, the Attorney General's Office. The two bills are quite similar: there are some minor differences but none of them is of any substance and either bill certainly would have been very adequate and helpful in dealing with the wetlands problem. But, as we all know,

Governor Rockefeller on the last day of the period in which he had to do so, saw fit to veto both bills. The reason announced in his veto message was somewhat vague. We talked about social conditions requiring that you may have to fill in wetlands and you can't have an absolute prohibition against filling. But neither bill would have provided that kind of absolute prohibition. Both of them would have permitted development of wetlands under certain circumstances. But in any event the Bill was vetoed so the thing is to go ahead and try to get something passed next year. I'm sure Senator Smith, and I understand that he is to have a representative here today, is going to reintroduce his bill. We're hopeful that the Department of Law and Senator Smith and other legislators interested in this issue will get together and maybe we can resolve the differences and concentrate on getting just one joint bill through the legislature.

I'd like briefly to outline what the Wetlands bill would have done and what we propose to have it do when we reintroduce it next year. Number one, the Wetlands Bill would have provided a moratorium on further development. It would not be a blanket prohibition, for if someone could come forward to show a hardship, that, for example; maybe he had already started a project that was permissible at the time he started it and had finished ninety-five per cent of it or something and the moratorium would irreparably harm him, in that case it could be continued, whatever the project is. Put aside from a hardship situation, there would have been a complete moratorium on further development of wetlands. Not a permanent moratorium but one long enough to permit George Humphrey's Department of Environmental Conservation to take an inventory of wetlands.

One problem we have is that we really don't know fully what kind of wetlands we still have available in this State. We have a pretty good idea of where they are, we could point them out on a map, we can drive by them and single them out,

but for legislative and administrative purposes we feel there should be a complete inventory mapping the wetlands, indicating what kind of growth they have, what kind of condition they are in, how polluted they may be or relatively unpolluted they may be, who owns them, whether publicly owned or privately owned, whether they adjoin other wetlands or just exactly what is the status of the wetlands in the State. So during the period in which the Conservation Department was completing its inventory, there would have been a moratorium on further development of wetlands.

Upon completion of the inventory the Commissioner of Environmental Conservation would be authorized to promulgate regulations on a broad, geographic basis that would be designed to continue the use of wetlands in the manner compatible with their existing condition. If you had a wetland that was thoroughly polluted, sitting in an area that perhaps was used for industrial purposes, where it would be no good to preserve it, obviously different, more extensive uses could be permitted there, than in a wetland that is still in a virgin state, if I may use that phrase. So the Conservation Commissioner was empowered to promulgate regulations that would take into consideration the condition of the particular wetland in the area.

Based on the natural condition of that wetland, certain kinds of development would either be permitted or not permitted. Maybe some wetlands could be used in their natural state. Maybe you should have an outright ban on hunting or fishing or trapping in that area. Maybe other wetlands are in areas where those uses would be permissible and would not harm the value that the wetland has. So it was not to be a blanket uniform regulation of wetlands but rather one tailored to meet the local condition of the area and keep it compatible with the natural functions of the wetlands.

Once these zoning regulations or land use regulations are promulgated, from that point on, any party who wished to develop the wetland in any way would have to apply for a permit. He would have the burden of showing that what he proposed to do with the wetland would be compatible with its natural uses. We thought that putting the burden on the applicant would make the work of the Conservation Commissioner a lot easier. The man would have to come in with a map of the area, a detailed plan of what he proposed to do plus a showing prepared by him that what he wanted to do would not harm the natural purposes of the wetlands. The Conservation Commissioner could hold hearings on it, there would be various administrative steps taken, and ultimately he would either grant or deny the permit. There would be full provision for intervention in that proceeding by interested parties. If you, a citizen lived in the area of the wetland affected, you would have the right to be a party in the Conservation Department's proceeding. You could speak, make your views known, submit evidence and so forth, it would not be a closed shop operation. Conservation groups could come in, such as the Environmental Council, the Audubon Society, any interested group could appear and take part in the proceedings.

Once the Commissioner made his determination, there would then be a provision for judicial review. This is very essential in any kind of legislation where you are dealing with a man's property, where you may be depriving him of his right to do something on that property. You must provide for review by the courts. So if for example, the Commissioner granted a permit to allow some kind of development of the wetlands and you were a conservation group or another party who thought that the decision was wrong, you would have the right to go into court and make the Commissioner prove that his determination was a correct one. Similarly, if the developer had his application denied, then he could also go into court and challenge it, trying to show that the Commissioner acted arbitrarily. This

kind of judicial review may be a little bit time consuming but it is absolutely necessary and you have to have it in there to be fair to everyone. Human beings can make mistakes, so we have this provision for court review of the Commissioner's action.

Now if the Commissioner in making a determination restricted the use of the land so much that it amounted to a taking of the land, and this question was mentioned by some earlier speakers today, if a court felt that the State's land use regulation amounted to a taking of a person's land, the court would give the Commissioner two choices, Number one, revoke your order-- let him go ahead and do what he wanted to do with his land or two, the Commissioner would have the option to buy the land, compensate him for the use that he was deprived of in that land. It was mentioned by George Humphreys a little earlier about how some of the funds in the Bond issue are going to be used to purchase wetlands. If we had this kind of situation where the court felt the restriction on the use of the land was such that it did amount to a deprivation of the property, the Commissioner would either have to revoke his order or buy the land. But we felt that provision should go in the Bill for the protection of the owner of wetlands.

Finally, there are sections in the Bill that would give the Commissioner of Environmental Conservation together with the Attorney General the authority to enforce the provisions of the Bill; if the terms of the Commissioner's permit, for example, were being violated or if someone wanted to act without a permit, or if there were pollution going on in a wetland, the Commissioner and the Attorney General would have the authority, acting together, to go into court to seek to enjoin the violation if it is amenable to that kind of remedy, collect fines or take whatever judicial steps are necessary to enforce the provisions of the Bill.

Now as I said, these basically were the provisions of the Wetlands Bills. Both Senator Smith's Bill and the Attorney

General's Bill were quite similar and they didn't really vary much in scope and either one would have been very acceptable.

Now we were very happy that the Bills did not become a partisan question in the recent legislature. They had wide support of all the political parties represented in Albany. You had Conservatives, Liberals, Republicans and Democrats all backing the Bills. So it did not become a partisan issue and we're very hopeful that that attitude on this question will continue at the next legislative session. You may not realize it, but there's going to be a substantial change in the personnel in the next legislature. More than forty current members have announced plans to retire or run for other office or not seek re-election. Regardless of whatever decision the voters make in November on the other members, there are going to be at least forty new faces up there next year. So I think it's very important for people such as yourselves during the legislative campaigns this Fall to inquire of the candidates in your district how they feel about environmental questions in general and wetlands questions in particular. And obviously it would be better from the point of view of wetlands adherents to support the candidates who support your thinking. But it's no guarantee that just because it passed last year it will go through again at the next session. There are going to be a lot of new men up there and I think the voters have the obligation and the duty to see to it that they elect people or try to elect people who will support wetlands legislation.

The second Bill that was introduced but unfortunately didn't pass was the Marine Sanctuary Bill. This has to do with oil drilling offshore and I don't have to tell anybody here on Long Island about some of the threats that the wetlands face from the proposals now circulating to permit drilling in the Atlantic Ocean several miles or fifty or a hundred miles offshore. The Bill as introduced would have established the

coastal zone as a marine sanctuary--in other words that would be a complete sanctuary zone. If there were any oil spills by any party from any source that floated into the waters of the coastal zone, there would be absolute liability placed on that person regardless of whether the spill occurred by accident, by negligence, or by someone falling asleep at the switch. Whatever the reason, absolute liability would be imposed on the person or party who was responsible for the spill. The State would have the authority, if necessary, to board and confiscate the drilling rig and correct the conditions. The cost of cleaning up the oil where there are coated beaches and shorelines would be borne by the party responsible for the spill. Now there are some legal questions on the authority of states to do that we think the State can do that but there are differences of opinion on it. But the Bill was introduced and although it had the support of a number of legislators from Long Island, it did not come out of Committee and once again we're going to push the Bill next year and I think again that as you consider the candidates this Fall, you should ask them this question: without taking a stand on whether the drilling should be permitted, and that's a Federal decision, can the State and should the State take some steps to protect itself from any oil spills that might result?

So those two Bills are going to be re-introduced at the next session and we are very hopeful that we are going to get them through the Legislature and that we can get the Governor to sign them next year. Claire Stern and Dr. Bennett and some of the other people here in the room have participated in sessions of the Long Island Wetlands Task Force. This was a group created last year consisting of private citizens and public officials to act as a kind of wetlands lobby, to use that phrase, to develop support for wetlands conservation. This group is fine as far as it goes, but to get this kind of legislation through and to get the public aware of what has to

be done we really have to educate the public to make them realize they have a stake in preserving wetlands, that it's not just something that's going to affect someone in another county and not just me, that we all have a stake in it. So this Task Force was very effective in singling out the wetlands question for public attention and I think its activities did have a large measure in influencing the legislature to pass the two wetlands bills that were before it. The Task Force is going to continue in the Fall and during the Winter and next Spring along this line to develop wetlands interest.

I would like to close by elaborating on something that was asked of George Humphreys about wetlands restoration. There was some litigation that our office was involved in on this question. I think it would be very interesting to you because the State was the "bad guy" in the case.

About a year ago this time, the Federal government brought suit against the New York State National Guard, accusing the Guard of filling in a marsh area up at Camp Smith near Peekskill. Some of you who are in the Guard may know about it, there's a fairly large marshy area there and the Guard officials had filled it in for the classic purpose of building a parking lot,-- it couldn't be anything good--it had to be a parking lot of all things--and the Federal officials claimed that the filling in was done without a permit under the 1899 Refuse Act so they brought suit to do two things: halt additional filling and also to do something different, to get the State to dig out the area that it had filled in and try to restore the marsh. Now this had never been done before. It was a very interesting case but we lost it, which is really not such a disappointment from an environmental point of view. But the State was ordered by the Federal court to expend public funds to dig out a marsh and nobody knew what would happen when the marsh was dug out-- can you restore one of these things? The State Office of

General Services, which is the agency that handles contracts, public works contracts of this kind, had all sorts of engineers go down to look at the area. It was about an acre and a half of marsh that had been filled in, and they sat there with their slide rulers, charts and diagrams and figured out the cheapest expenditure to dig out the area would be fifty thousand dollars. That would be the bare minimum to dig it out. They advertised for bids and about ten contractors bid on it. Nine of the bids came in fifty to sixty thousand dollars. One bid came in for nine thousand dollars. So everybody figured maybe he knows something that's in there that he doesn't want the rest of us to find out about. We thought maybe he would locate Judge Crater or somebody else. Well, this fellow got the job at nine thousand dollars and the witness that the Federal government relies on was a scientist from the Boyce Thompson Institute, a Dr. Buckley, perhaps you know him, Dr. Bennett, or have heard of him, he's one of these very enthusiastic, environmental types. The first day the contractor was on the scene he took the laborers out for lunch at his own expense and gave them a sales pitch about what they were doing, that it was unique in the history of the world, future generations would look back on them, and he did such an effective job that the contractor agreed to do extra work and not charge for it. So this was a feat in itself. But they started the dredging about the end of last September. They had to do it by hand in a lot of areas because since it's marshy area, bulldozers couldn't be supported on the ground. These fellows had to go down there with pails and shovels and buckets and they worked under his inspiring guidance and direction. They dug out the whole area and Dr. Buckley has been floating around up there in his little boat ever since and a lot of the plants, believe it or not, were able to rebloom even though they had been covered over with fill, a number of them were still in bloomable condition, I don't know if that's a word but that's what he said. Others he had to replace,

but he put them in at his own expense, and there was not public expense in doing the replanting. And we have learned a very valuable lesson from this, that even though you do have a marsh area that has been filled in, you can remove the fill and restore it to its former state, its former natural condition--it's thriving now. The plants are blooming, there's all sorts of wildlife in the area that had been filled in and even though they say we lost the case, we won the war, if I can phrase it that way, because we learned some very valuable information on it. I think the data gained from that experience will be useful in the Bond issue provisions in restoring marshes. So I'll conclude on that note. The legislation is important, we appreciate your support for it and we hope to have your support continue at the next session.

Mrs. Louise Strassenburg - President of the Suffolk County League
of Women Voters

At the top of the ballot in November - or in some cases on a separate paper ballot - will be a question called "County Question No. 1." This will provide an opportunity for the third year in a row for the citizens of Suffolk County to amend their County Charter and provide a very valuable planning tool which would help greatly in the protection of Suffolk's wetlands. We hope that the third time will be the charm because, if there is such a thing as a ballot issue being "star-crossed," this is it. The first chance was lost two years ago when, in an almost comic session of the Suffolk County Legislature, this portion was deleted from the proposed new article of our Charter which dealt with the Planning Department. The second chance was lost last year because the voters said "no." In fact, they said "no" so overwhelmingly that most of us felt they didn't understand the question. It was a devastating blow because literally everyone had been positive it would pass; all four parties had endorsed it, and all conservation groups worked for it - a little bit, anyway. No one was too much concerned. Afterwards, the general feeling was that it had been carried down to defeat by the tremendous anti-transportation bond issue. In addition, it had a rather mysterious wording on the ballot. There is a joke around the Planning Department that one staff member came in after voting and said "Gee, I thought that shoreline thing was going to be on the ballot." When told that it had been, he said, "Oh, that thing! I voted no because I didn't know anything about it." That planning officials can get confused only illustrates how important it is for those of us in this room to work hard explaining this amendment to the public. The amendment is actually so simple that it is inconceivable to me how anyone in the public could fail to vote for it if they understand it. In addition, there are no strings attached, and it doesn't call for spending lots of money.

In brief, all the amendment would do is require any municipality which has zoning powers - and that means mainly towns and villages - to present to the County Planning Commission any proposed change of zoning which is planned for "within 500 feet of the Atlantic Ocean, Long Island Sound, any bay in Suffolk County or estuary of any of the foregoing bodies of water." Actually, the law would specify zoning changes, special permits, variances, and subdivision plots, but we can think of it simply as any requests for changes in the existing zoning status in order to construct anything within 500 feet of the shoreline.

The Planning Commission would have 30 days in which to suggest changes in a proposal or to disapprove it, after which, if no action is taken, the proposal would be considered approved. If the Planning Commission suggests changes or disapproves, then the town or village must reexamine its plans and state its reasons if it disagrees with the Planning Commission but may then proceed with the original plan if it has a majority-plus-one agreement of its town or village council.

That is really all there is to it. The main advantage to the public is that two separate opinions would have to be required before anyone could start tampering with our shoreline.

When the League first started studying county-wide planning back in 1964, one of the first obstacles we ran into was the concept of home rule. As a general rule, we have taken the position that zoning powers - or any other powers for that matter - should be left in the hands of those effected. As our County has become more complicated and crowded, however, it has become obvious that fewer and fewer matters affect only one town or village. This is particularly true with regard to our water. We now feel that it is crucial to have at least a county wide over-view of any projects involving water protection. The county has the facilities to offer professional and objective long range planning. Sometimes the towns are able to offer such planning - and sometimes they are not. We simply

cannot afford to take a chance where our irreplaceable wetlands are concerned. There must not be any more miserable mistakes.

As Mr. Like pointed out earlier, possibly the greatest boost the proposed amendment would give to conservation efforts, would be the greater likelihood that potential air or water pollution would be detected by a county review. If this can be proved by the proper state agency through investigations and hearings, then the state agency would have the power to stop the project.

Again, for the sake of wiser long range planning, and the hope of better wetlands protection, let me urge you all to work for the passage of County Question No. 1 in November. We cannot afford to assume that just because all political parties support it, and because it is a sensible and wise thing to do, that the wording which will appear on the ballot will make any sense at all to the uninformed voter.

Mr. Clement:

You've had several very specific things pointed out to you by way of tools, specific objectives by way of new legislation. I'm impressed by the fact, for example, that you Long Island people must get the legislature to amend the present Navigation Laws so that they will apply to Long Island as well as to the rest of the state. Exempting Long Island is favoritism and it is hurting the preservation of wetlands. You must re-introduce wetlands legislation and make sure that it passes this time and that the Governor approves it. You have a Bond Issue to consider, one that will provide the dollars to do the job that the Wetlands Bill proposes to do. I was pleased to see that the League of Women Voters is concerned well beyond the local prerogative of voting on zoning issues, recognizing that some of these things have social implications that go way beyond the community. This is another example of the fact that our awareness of the inter-relationships and inter-dependencies is broadening all the time. I would like to call your attention to one

big roadblock that nobody has mentioned yet. That is that we need to work on altering the capital gains tax because it is low capital gains taxes on lands that has led to speculation in land. People who have done absolutely nothing to increase the value of a piece of marsh, simply because they have held it, are now asking us to compensate them for values that are social values and have nothing to do with personal property enhancement. You need to pay attention to this because the loss of salt marshes is a social loss and here we have private appropriation of social value for private interests.

Mrs. Claire Stern- Long Island Environmental Council

I have the happy chore of first of all thanking you for the fortitude of sitting in this freezing room this morning. Second of all to thank the community relations office of the State University for their cordiality in welcoming us here in this room. Further, to thank Roger and Bill for their keen attention to detail which helped to make this morning move smoothly.

I would like to thank Roland Clement for keeping to the schedule, but more importantly for his astute ability to link the speakers together, and to the central theme of the day.

We have offered you several ways to proceed to protect and preserve Long Island's wetlands, with statutes which exist or mechanisms available after the November referendum. Choose your favorite way and proceed.

[The Long Island Environmental Council is a membership organization and you are welcome to join as an individual, or through an organization.]

APPENDIX A

WETLAND ORDINANCES

IN

SUFFOLK COUNTY*

For each town in Suffolk County, the following information is given: Under apply to, the name of the person who receives the permit application. Under reviewers, the person, persons, Board and/or Boards who review the permit and who to contact for further information. The final decision maker is indicated by an (f) when the information is known. Where there is a known title for the ordinance, this is listed under ordinance along with what the ordinance covers. Further information and instructions on filing for a permit are found in and following the footnotes. When wishing to obtain an application for a permit, contact the person listed under apply to who is in most cases the Town Clerk.

* This information was compiled by Ms. Deborah Howes for the Long Island Environmental Council, 95 Middle Neck Road, Port Washington, New York 11050.

TOWN

APPLY TO

REVIEWER

ORDINANCE

Babylon

Raye D'Ambro
Town Clerk
200 E. Sunrise Highway
North Lindenhurst, NY
TU8-7300

Town Board (F)

Dredging ordinance regulates and controls the removal of land from town property by any form of dredging. ¹

Brookhaven

Kurt K. Behme
Town Clerk
South Ocean Avenue
Patchogue, NY 11722
GR5-5500

Tom Ashare
Town Attorney
475-6650
Dr. Robert Smoker
Board of Waterways
GR5-5500

Permit required for all wetland operations. ²

East Hampton

Charles F. Anderson
Town Clerk
Pantigo Road
East Hampton, NY
324-4243

Dept. of Conservation
Bluffs Drive
Amagansett, NY 11930
267-8420
Board of Appeals
324-4143 Eugene Haas

"Flood Control and Wetlands Preservation" permit required for all wetland operations. ²

Huntington

George Stringer
Dept. of Engineering
Building and Housing
11, 256 Main Street
Huntington, NY 11743
HA1-1000

Dept. of Engineering
HA1-1000
Ian Warceau
Dept. Environ. Protec.
Town Hall HA1-1000

I. "Regrading or Filling of Depression in Vacant Land."
Permit required for any operation on vacant lands.
II. "Marine Conservation Law."
Permit required for all wetland operations.
III. "Environmental Impact Statement." Must be filed for any land activity. ³

Southern

Islip

Anne Pflifferling
Town Clerk
Town Hall
655 Main Street
Islip, NY 11751
581-2000

Carlos Cruz (F)
Building Department
Brookwood Hall
Irish Lane
East Islip, NY 11751
581-2000

"Coastal and Interoceanal Wetlands of the Town of Islip." Permit required for all wetland waterways and tidal marsh operations. ²

TOWN

APPLY TO

REVIEWER

ORDINANCE

Riverhead

Harold Evans
Conservation Council
90 Sound Ave.
Riverhead, N.Y.
11901 722-3793

No wetland ordinance.
A dredging ordinance exists,
but it does not cover wetland
areas.

Shelter Island

Helen Smith
Town Clerk
Town Hall
Ferry Road
Shelter Island, N.Y.
11964 749-1166

Mrs. Theodore Newman (f)
CAC of Shelter Island
Box 125, Shelter Island
N.Y. 11964 749-0603
Planning Board & Town Bd.
31 Cuttle Drive, S.I.
749-1166

"Wetland Ordinances of the
Town of Shelter Island."
Permit required for all
wetland operations.^{2,4}

Smithtown

Victor T. Liss
Town Clerk
Town Hall
Main Street
Smithtown, N.Y.
11787 AN5-2900

Mr. Fredrick Meyer (f)

CAC-Smithtown
Box 575 Smithtown
N.Y. 11787 AN5-7112
Water Resources Comm. of
the State of N.Y.;
NYS Conservation Dept;
U.S. Fish & Wildlife Serv.;
Army Corps of Engineers

"Marine Law of the Town of
Smithtown." Permit required for
all wetland, upland and^{2,5}
watercourse operations.

Southampton

Trustees Office
County Highway 39
Southampton, N.Y.
11968 AT3-1581

Trustees Office (f)
AT3-1581

Permit required for all
dredging operations.

Southold

Albert Richmond
Town Clerk
Main Road
Southold, N.Y.
11971 765-3783

Clement Booth (f)
CAC-Southold
c/o Town Hall
Southold, N.Y.
11971 765-3783
Town Brd. & Town Trustees
c/o Town Hall
765-3783

"Wetland Ordinance of the
Town of Southold." Permit
required for all wetland
operations.^{2,4}

FOOTNOTES

1. Being that 99% of the wetland areas in the township of Babylon are town or county owned, any activity that takes place in these areas would automatically have to be approved by the Town Board. So, further wetland ordinances are perhaps unnecessary here, as the Town Board can easily overlook any existing ordinance and deal with the area in question as their private property.
2. All wetland operations include: (a) the removal of material from wetlands, (b) the deposit of material on wetlands, (c) the erection, construction, alteration or enlargement of any building, dock pier, wharf, bulkhead, jetty groin or other structures, temporary or permanent on wetlands.
3. Huntington Environmental Impact Statement: Must be filed for any of the following activities: for a change of zone, a subdivision, a site improvement, a building permit, or a license to occupy or use land being the property of the Trustees of the Freeholders and Commonalty of the Town of Huntington. Applications must be accompanied by a map showing the location of the site in question, in sufficient detail to enable its specific location in the Town of Huntington to be pinpointed, and showing dimensions, elevations, grades, etc.
4. Provides for the protection, preservation, proper maintenance and use of its wetlands in order to minimize damage from erosion, turbidity or siltation, salt water intrusion, loss of fish, shellfish or other beneficial marine organisms, aquatic wildlife and vegetation and the destruction of the natural habitat thereof, to minimize danger of flood and storm-tide damage and pollution, and to otherwise protect the quality of

wetlands, tidal waters, marshes, shorelines, beaches and natural drainage systems for their conservation, economic, aesthetic, recreational and other public uses and values, and to protect the potable freshwater supplies of the Town from the dangers of drought, overdraft, pollution from salt water intrusion and misuse or mismanagement." As quoted in "Wetland Ordinance of the Town of Southold" and found in same or similar language in local ordinances in the Towns of Shelter Island, Huntington, East Hampton and Brookhaven.

5. "In order to minimize the disturbance of watercourses and wetlands and in order to prevent unreasonable erosion of soil, increased turbidity, the loss of fish and aquatic wildlife, and the destruction of natural habitat thereof, the danger of flood and pollution; and believing the regulation of the watercourses and wetlands of the Town of Smithtown is essential to the health, welfare, and safety of the people of the Town of Smithtown have thereby enacted." As quoted from the local law known as the "Marine Law of the Town of Smithtown", Preface. By order of the Town Board of Smithtown, April 21, 1970.
6. The Trustees of the Town of Smithtown are presently operating as if all wetland areas were town property, not private property.

The following is the information needed and procedure to be followed when filing for a wetlands permit in the Town of Islip as found in Local Law "Coastal and Intercoastal Wetlands of the Town of Islip", Chapter 67 of the Code of Islip Town. Similar procedures are followed for all applications in all the Towns

Required on Permit

(a) Name and address of applicant and agent and whether applicant is owner, lessee, licensee, etc. (If not owner, duly acknowledged written consent of owner must be attached.) (b) purpose of proposed action, (c) amount of material to be removed or deposited, (d) description of the area. Description shall be by bearing distance, (e) depth of entire area, and proposed slopes or angles of the area of activity, (f) the manner in which material will be removed or deposited, (g) evidence that this activity is consistent with the purposes of this statute.

All applications should be accompanied by the following:

(a) A survey and topographical map with contours shown at one foot intervals and the area of removal, deposition use or construction indicated, (b) all maps shall be certified by a registered land surveyor or professional engineer, both licensed in the State of New York, (c) survey and topographical map shall show soundings, depth or height of proposed removal and deposition area. The vertical control for elevation and soundings shall be based upon USC and GS and/or US Geological Survey datum, (d) the names and address of all owners of lands contiguous to lands and waters where proposed operation will take place, (e) a filing fee is required, and varies from town to town.

APPENDIX B

PERSONS IN ATTENDANCE

Robert Ackerman
Town of Oyster Bay
Supervisor's Office

George Andrek
Nassau County Planning Dept.

Ellen Arel
Marine Sciences Research Ctr.
N.Y. Sea Grant

Gareiss Aurora
Pres., Udall Cove
Preservation Committee, Inc.

M. Ayearst
East End Council Organizations

Mrs. H. L. Bachrach
League of Women Voters
Riverhead

James F. Bagg
Suffolk County Council on
Environmental Quality

Mrs. B. Barnett
League of Women Voters

Bill Berne
Citizens for a Better
Environment

Samuel E. Bleecker
New York State
Dept. of Environmental Cons.

Laetitia Bradley
League of Women Voters
Brookhaven Brd. of Waterways
and Natural Resources

Robert Brewster
Cooperative Extension

Fred Broszeit
Town of Babylon

Lauren Brown
Environmental Defense Fund

Ralph Cioffi
Lyman Langdon Audubon Society
Glen Cove Environmental Comm.

Roland C. Clement
National Audubon Society

Mrs. Dean Darrow
Three Village Garden Club
Village of Old Field

T. Doheny
Town of Hempstead

Fred Drewes
Mt. Sinai Civic Association

Karl Fedronas
Town of Hempstead
Planning Dept.

Bob Felber

Irene R. Ferrand
League of Women Voters
Huntington

Judy Fischer
Environmental Reporter
Long Island Press

Kenneth B. Fizenke
Dept. of Environmental
Protection, Huntington

Mrs. D. A. Fletcher
Baldwin Bird Club
Seaford Garden Club

Edwin S. Furman
Southampton Town Baymen's Assoc.

Herbert Gareiss

Dorothy Gilliar
Nassau Council of G.S. Inc.
Garden City, NY

Mrs. Gordon T. Hall
North Suffolk Garden Club

Thomas F. Harrison
N.Y. State Attorney General

Myrna Hemmerick
Brookhaven Town Natural
Resources Committee

Harold Holmes
Town of Babylon

Virginia Horowitz
Member of LIEC

George W. Humphreys
New York State
Dept. of Environmental Cons.

Martha Jacovides
Malverne Environmental Council

Michael Jacovides
Malverne Environmental Council

Stephen M. Jones
Town of Islip
Planning Department

Barbara L. Joyce
Congregational Church of
Manhasset

Jane Joyce
Congregational Church of
Manhasset

Peter C. Kehler
WCBS-TV

Russell M. Keller
Town of Hempstead
Dept. of Planning

Harry Knoch
New York State
Dept. of Environmental Cons.

E. D. Lambe

Irving Like

H. Maurin
Dept. of Env. Studies
SUNY, Stony Brook

Lynne Mehalick
Smithtown Conservation
Advisory Council

Bonnie June Mellon
LIEC

Susan E. Morse

Arline Nagelberg
Nassau Council of Girl Scouts

Barbara A. Newill
Smithtown Conservation
Advisory Council

Joel S. O'Connor
Marine Sciences Research Center
SUNY, Stony Brook

Marie M. O'Shea

Mrs. Carole Paquette
League of Women Voters

Kevin J. Quinn
Environmental Research Ass't.
Town of North Hempstead

Gary L. Rankel
U.S. Fish & Wildlife Service
Division of River Basin Studies

Fred Roberts
Marine Sciences Research Center
SUNY, Stony Brook

Ted Robinson
Environmental Advisory Council
Village of Port Jefferson

Dick Roop
Department of Biology
SUNY, Stony Brook

Nelson Slager
Great South Bay Commission
Town of Islip

Robert E. Smolker
Brookhaven Board of Waterways
and Natural Resources

David Sommers
Town of Babylon

Carol Sondheimer
New York State Office of
Planning Services

Louise Strassenburg
League of Women Voters of
Suffolk County

Paul Stoutenburgh
Nature Conservancy

John A. Tunison
Environmental Control
Syosset

Harry L. Willard
New York Ocean Science Lab

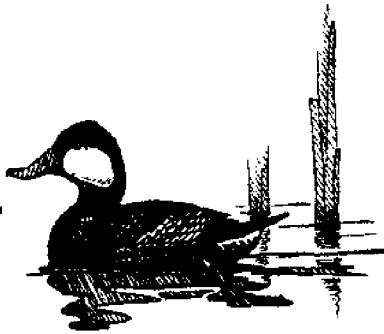
Ms. Ruth Wood
League of Women Voters of
Huntington

Thomas Zawyrucha
Suffolk County Chairman of the
Save our Bays Association

AN ACT

for the preservation, development
and management of

LONG ISLAND WETLANDS



There is keen public interest in what is happening under the Long Island Wetlands preservation act, and what can be done to move programs along faster. In this connection, procedures come in for questioning, including just what wetlands are applicable under the law. Since the law itself is quite explicit in this respect, and since the Legislative finding of fact is an excellent description of the need for this legislation, we are reprinting both "finding in fact" and the law in this leaflet.

The material contained herein is taken directly from the "Report of the Joint Legislative Committee on Revision of the Conservation Law," State of New York, Legislative Document No. 11, 1959, pages 74-76.

Cooperative Agreements under Long Island Wetlands Act: May 1969

Town of Hempstead	10,500 acres
Town of Oyster Bay	5,000 acres
Town of Islip	550 acres

N. Y. S. CONSERVATION DEPARTMENT
DIVISION OF FISH AND GAME
ALBANY, N. Y.

AN ACT to amend the conservation law, in relation to authorizing the state to assist the villages, towns and counties in the preservation, development and management of the Long Island wetlands.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative finding in fact. This act and the amendments made thereby shall be construed and administered in the light of the following statement of finding of fact:

(a) The fish, game, wildlife, crustacea and protected insects, ownership of which is vested in the State of New York by section one hundred fifty-one of the conservation law, represent one of the most valuable assets of the State.

(b) The wetland areas of Long Island, extending over six hundred miles of coastal shore line and including hundreds of small islands within its bays is, because of its proximity to the world's largest concentration of people and the huge eastward migration of human population, fast becoming the "last frontier" for certain of the natural resources of the State.

(c) Resourcewise, the Long Island wetlands are important for the growth and culture of clams, oysters, bay scallops and many fin fishes. For fish the area serves as a nursery ground and sanctuary and its destruction will affect the fin fishing for miles away. Its shores and bays serve as a feeding and resting place for migratory waterfowl, shorebirds and other wildlife. The area has become a popular place for boating, fishing, hunting, wildlife watching, bathing and other outdoor recreational uses.

(d) Due to the vast migration of people and urban development, bulldozers and dredges have cleared and filled great areas to provide homes and commercial developments. Springs and small brooks are becoming



a rarity, or if present at all on the western end of the island, run underground, and elsewhere on the island seem doomed. Drainage of swamps and the filling in of the small estuaries has destroyed and will continue to destroy much spawning and nursery area for fish and shellfish. The increase in population and urban development has brought extensive pollution of the waters.

(e) Much of the remaining wetlands on the south shore are owned by the villages, towns and counties. Some are still in a relatively unspoiled state as compared to the shoreline located just immediately north of the bay.

(f) In view of the increased demand for recreational opportunity for all the people of the state, it is in the interests of the state to preserve as much as possible of these wetlands, in their present natural condition, for the propagation of fish, shellfish, waterfowl, shorebirds and other forms of wild life and for the recreational use of the people of the state. It is important to preserve and enhance the natural conditions of these lands and also to make them attractive and continue their value as wild lands for those who desire to pursue the observation of natural wildlife.

(g) The Long Island wetlands are used, and will continue to be used, for such recreational purposes by millions of people living elsewhere in the State who come to Long Island for rest and recreation. The preservation, care, development and management of these lands is therefore a "joint" responsibility of the state and its local subdivisions.

(h) Moreover, in respect to the remaining wetlands to which the villages, towns and counties have title, these objectives can best be accomplished by cooperation between the state and such political subdivisions. In order to carry out such a co-operative program the state should have authority to assist financially in the care, management and development of such wetlands on Long Island, as may be dedicated by the villages, towns and counties in which such wetlands are situated to conservation purposes, and to develop programs thereon of habitat restoration and improvement and promotion of natural propagation designed to maintain the wetlands in their naturally wild condition.

(i) The accomplishment of these objectives is justified and will require expenditure of moneys by the state in providing technical advice and services and in furnishing services and materials for the development and management of the wetlands and for habitat restoration and improvement thereof.

Section 360. Powers of the Department Amended to add

(g) to enter into cooperative agreements with a village, town, or county or with any one or more of them, for the purpose of preserving and maintaining, in accordance with the purposes and policies set forth in Section 175, lands located on Long Island and owned by such villages, towns and counties which have been dedicated to conservation purposes.

Section 394. Cooperative agreements with towns and counties concerning lands dedicated to conservation purposes.

(1) A cooperative agreement with a village, town or county or with any one or more of them made pursuant to paragraph (7) of subdivision (1) of Section 360, may provide for the development by personnel and facilities of the Department or the payment, out of funds appropriated for the purpose, of the cost of development of all or a part of an area dedicated by such village, town or county, or one or more of them as the case may be, to conservation purposes, and for the furnishing of personnel and facilities of the Department or the payment, out of funds appropriated for the purpose, of moneys for the maintenance of such area to the extent of fifty per centum of the total cost of such maintenance, provided that such village, town or county, or one or more of them as the case may be, shall provide personnel and facilities or moneys for the maintenance of such area to the extent of fifty per centum.

(2) The agreement may also provide for determining the value of personnel and facilities for the purpose of fixing such proportionate shares.

(3) A reservation in any such agreement by a village, town or county of the right to operate or lease for operation shellfish beds lying within the area, and a reservation of the income from such operation or lease for village, town or county purposes shall not be deemed a limitation of the dedication of the area for conservation purposes so as to make this section and paragraph (e) of subdivision (1) of Section three hundred sixty inapplicable.

Send for:

The Nature of a Tidal Marsh
Our Shore Areas - Let's Save Them
Our Changing Shoreline
Natural Values of Marine Wetlands
Wetlands Preservation on Long Island

Prepared by: Division of Conservation Education

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