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# *Commission Meeting*

of

## STATE HOUSE COMMISSION

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**LOCATION:** Committee Room 11  
State House Annex  
Trenton, New Jersey

**DATE:** July 15, 2010  
9:00 a.m.

**MEMBERS OF COMMITTEE PRESENT:**

Peter J. Tober, Chair  
Senator Gerald Cardinale  
Senator Bob Smith  
Assemblyman Joseph Cryan  
Assemblyman David P. Rible  
Charlene M. Holzbaur  
David Ridolfino

**ALSO PRESENT:**

Robert J. Shaughnessy Jr.  
*Secretary*

Gary A. Kotler  
*Counsel*



*Meeting Recorded and Transcribed by*  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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**PETER J. TOBER (Chair):** I'd like to call the meeting to order, please.

And I'd like to ask the Secretary to read into the record the Open Public Meeting statement.

**MR. SHAUGHNESSY (Secretary):** Thank you, Mr. Chair.

In compliance with the Open Public Meetings Act, notice of this meeting was given by way of notice filed with the Lieutenant Governor, Secretary of State, and delivered to the State House press corps on July 12, 2010, and posted to the Office of the State House Commission.

Thank you, Mr. Chair.

**MR. TOBER:** Mr. Secretary, would you call the roll, kindly.

**MR. SHAUGHNESSY:** Yes, sir.

Special counsel Tober.

**MR. TOBER:** Here.

**MR. SHAUGHNESSY:** Director Ridolfino.

**DIRECTOR RIDOLFINO:** Here.

**MR. SHAUGHNESSY:** Director Holzbaur.

**DIRECTOR HOLZBAUR:** Here.

**MR. SHAUGHNESSY:** Senator Cardinale.

**SENATOR CARDINALE:** Here.

**MR. SHAUGHNESSY:** Senator Smith.

**SENATOR SMITH:** Yes.

**MR. SHAUGHNESSY:** Assemblyman Cryan.

**ASSEMBLYMAN CRYAN:** Here.

**MR. SHAUGHNESSY:** Assemblyman Rible.

**ASSEMBLYMAN RIBLE:** Here.

MR. SHAUGHNESSY: We have a quorum.

I may add, before we start, Mr. Chair, that Item No. 28 will be pulled from consideration at today's meeting -- that's Item No. 28.

MR. TOBER: Okay.

All right, we'll start with -- the first item on the agenda today is the Tennessee Gas Pipeline project. We'd like to start with a statement by our-- I'm sorry; I thought we were skipping the minutes. I'm sorry, we do have to deal with a housekeeping matter of approving our July 2 minutes.

MR. SHAUGHNESSY: May I have a motion to approve the minutes?

ASSEMBLYMAN CRYAN: Motion.

MR. SHAUGHNESSY: Second? Is there a second for the July 2 meeting?

DIRECTOR HOLZBAUR: I'll second.

MR. SHAUGHNESSY: All in favor? (affirmative responses)  
Opposed?

DIRECTOR RIDOLFINO: I'll abstain from the minutes.

MR. SHAUGHNESSY: Any abstentions?

SENATOR SMITH: I think I have to be an abstention, too. I wasn't at that meeting, I believe.

MR. SHAUGHNESSY: Okay; thank you very much.

We'll move on to the next continued matter.

MR. TOBER: Now we're ready.

MR. SHAUGHNESSY: Okay.

The next is Item No. 2 on today's agenda -- the continued matter in which New Jersey DEP requests approval to lease approximately

19.5233 plus-or-minus acres of land to the Tennessee Gas Pipeline Company. The approval and execution of the subject lease is subject to the following conditions as in the agenda today.

MR. TOBER: I'd like to start this matter with a statement from our Deputy Attorney General regarding the abilities of members to vote on this matter, please.

MR. KOTLER: Thank you, Mr. Chairman.

There are, I believe, four members here today who were not present at the July 2 meeting, in which two matters were discussed and then tabled. These items are on the agenda today for approval -- I believe they are agenda Items 1 and 2.

I have had the opportunity to review this issue as it relates to the State House Commission, and have discussed it with the supervisors in the Attorney General's office. Our conclusion is that those four members are able to participate and vote in this, with respect to these tabled items. There is no requirement for a Commission member to either read the transcript or listen to a prior tape of that earlier meeting. Accordingly, these members, in their judgment and discretion, can so vote. Notwithstanding that, I understand that each of these four members -- Senators Cardinale and Smith, Assemblyman Rible, and Treasurer Ridolfino -- have, in fact, read the transcript. Further, upon review and consideration by our office, it is our conclusion that members of the Commission may, in fact, leave votes in advance prior to their departure today from the meeting, if necessary, subject to the caveat that at all times after their departure, there is a quorum present in the room, which would mean five members.

MR. TOBER: Thank you, Mr. Kotler.

Let's start the hearing on this matter by calling up Amy Cradic, Assistant Commissioner of the DEP, to address some of the questions, that were presented to members of this Commission by various groups -- in writing; and hopefully that should cut to the heart of some of the testimony today.

So with that introduction, welcome, Assistant Commissioner.

**A S S I S T A N T C O M M I S S I O N E R A M Y C R A D I C:**  
Chairman, State House Commission members -- I appreciate the opportunity to go through a written testimony that we prepared, but did not deliver until yesterday late afternoon. So if you could bear with me as I go through, point by point, some of the concerns that were mentioned at the last meeting and some questions that were brought up as part of the testimony. So I'm going to go through the written document that was forwarded last evening, just so that everybody has all the information that was, again, requested at the last meeting on July 2.

The primary issue of concern centers on whether or not the State is being fairly compensated for impacts of Tennessee's project. While the Department required an independent appraisal for a permanent right-of-way to be located on public lands, the methodology in establishing the fair market value and resulting compensation has been questioned.

The Department believes that the total compensation package from Tennessee does represent fair payment, with more than \$1 million in compensation and mitigation for impacts to State lands, and more than \$1 million in compensation and mitigation through the Highlands Council. Let the Department be clear that this more than \$2 million in compensation and mitigation is fair payment for the Tennessee project.

However, we do concur that the lease fee of \$45,750 established through the appraisal does not alone fully compensate for the true impacts of the Tennessee project to the State-owned property. Moving forward, the Department is already in the process of reviewing a new methodology for appraisals that more fully captures upfront the value of the natural resource assets impacted.

Recognizing the shortfalls of the existing appraisal methodology, and lacking a more comprehensive alternative at this time, the Department negotiated above and beyond the lease compensation, for those values not captured through the appraisal, by requiring a four-to-one replacement of land for every acre impacted in the permanent right-of-way. This four-to-one compensation is equal to the amount required for permanent public land diversions.

A permanent right-of-way is being sought for approximately 29 acres of State-owned property, either preserved in fee or through a conservation easement. The lands impacted are within Hamburg Mountain Wildlife Management Area, Long Pond Ironworks State Park, Wawayanda State Park, and Newark Watershed lands.

As compensation for the 29 acres, Tennessee Gas will purchase 116 acres in replacement open space to be permanently preserved in the Highlands, or a cash payment at a per-acre value of \$7,500 -- 116 acres at \$7,500 is \$870,000 to the State -- if land deals cannot be achieved within two years. This \$870,000 is to be pro-rated if some, but not all, of the required land is purchased.

The Department has identified potential properties to assist Tennessee in meeting this obligation, prioritizing land compensation over

cash compensation. With a backlog demand to purchase more than 3,300 acres of property being offered by willing sellers in the Highlands, we are confident this obligation can be met through priority land acquisitions.

In addition to the \$915,745 in total lease payment and minimum land-value compensation, the Department negotiated significant mitigation for construction impacts as part of the comprehensive compensation package. These efforts include: 100 percent of the vegetation will be restored in the areas of construction, and a one-to-one replacement of trees will occur in compliance with no-net loss; funding to create a much-needed Woodlands Management Plan for Hamburg Mountain; invasive species monitoring and control until 2015 at multiple locations where invasions may occur as a result of land disturbance; an ecological inventory with an estimated value of approximately \$140,000; and a professional management plan, estimated with a value of \$50,000, for the entire 1,363 acres of Bearfort Mountain Natural Area where only 13.5 acres are impact by Tennessee's project.

The State will be compensated for any value achieved from resource extraction such as timber, or value from the rock product that came out. The initial estimates for the trees are low and are approximately \$100,000.

Any rock area blasted and permanently altered due to construction will have to be replaced, again at a four-to-one replacement value, which will result in additional preserved land.

Any rattlesnake gestational habitat will be avoided or mitigated for, again at a four-to-one replacement value.

Total compensation and mitigation to the DEP will well exceed \$1 million in total value.

In addition to DEP's negotiations, the State of New Jersey and the U.S. Fish and Wildlife Service were also compensated through the Highlands Council for the value of 59 acres of prime groundwater recharge area impacted by the project, totaling \$97,500. Approximately 253 acres of non-State replacement lands were purchased, or will be purchased, totaling more than \$1 million; and \$564,000 of mitigation members (*sic*) were agreed upon. I have provided a spreadsheet summarizing all the things that I just listed in my testimony.

In addition to the issue of fair lease compensation, which I just went through, the following questions were raised at the Department and I'd like to go through those responses briefly.

There was a question of how was the \$7,500 per-acre cap established -- that's the cap that if lands cannot be purchased the State would be compensated in cash. The Department based the per-acre value on the Highlands Council Financial Analysis Technical Report from 2008, using data from the State Agricultural Development Committee and Green Acres. The Highlands Council estimated total acquisition cost for agricultural and conservation priority list to be \$1.3 billion for over 162,000 acres, or an average cost for SADC land and Green Acres land of \$8,188. The data relied upon for this estimate included actual Green Acres acquisitions from August 2002 through January 2008, with a reported average cost of the \$7,500 per-acre cap. In the Highland's PSE&G Susquehanna Roseland project, PSE&G agreed to use that \$7,500 per-acre

cap as an average-base cost, so we were being consistent with what's being done in similar projects.

The land value established by the appraisal that we had done, or asked to have done by Tennessee Gas -- the average was between \$3,000 and \$5,000 acres. However, we used the higher acreage value of \$7,500 when we asked, if they could not purchase land, that they provide cash compensation at that rate.

Has Tennessee met the requirements under the No-Net Deforestation Act? Tennessee Gas will be required to meet all requirements of the No-Net Deforestation Act. They are going to schedule a public hearing; they are in the process of that. They recently submitted a reforestation plan, and there will also be a public hearing scheduled very soon. That was a concern that was raised by several of the environmental groups at the last meeting.

Why did the Department allow for a 24-year lease? The statute governing disposal of DEP property, which is codified in N.J.S.A., imposes some substantial procedural requirements on permanent conveyances of DEP property in an amount greater than one acre or leases of Department property for 25 years or more. As indicated by the Department in its testimony on July 2, the initial selection of a lease, as opposed to a permanent conveyance, as the appropriate instrument to be negotiated with Tennessee, was driven by the Department's policy decision to avoid permanent conveyances of property in situations where more limited rights could serve the objectives of the project that is proposed to be located on DEP property. This policy was first articulated by the Department when it negotiated a 20-year lease extension of the original

pipeline right-of-way after a 50-year term expired for 2004 -- that's referring to a Tennessee existing line. To our knowledge, Tennessee Gas Pipeline would have preferred to obtain permanent easement rights for the new right-of-way rather than negotiate a lease for this project, but we did not offer a permanent easement as an option.

We have acknowledged in our meetings with the objectors to this project that we do not anticipate that the pipeline will be removed after 24 years, since the usual life of natural gas pipelines is much longer than 24 years. However, the draft lease does not contain any automatic or guaranteed renewal provisions, since we believe such provisions would violate what is otherwise known as the Ogden-Rooney act. Therefore, it is our intention that the DEP and the company will renegotiate the terms of the lease toward the end of the 24-year period, under whatever DEP policies and statutory constraints exist at that time.

In our view, the difference between a 20-year lease and a 24-year lease is a negligible one under the circumstances of the project. The cutoff in the statute is 25 years, not a shorter term. The purpose of the procedural requirements are to ensure that the DEP engages in a thorough analysis of the economic and environmental impacts of an area to be conveyed or leased, to ensure that the public has an opportunity to comment on the proposed conveyance or long-term lease. We believe the first objective has been met through the vetting of this project by the Federal Energy Regulatory Commission, the New Jersey Highlands Council, our administrating divisions of the Division of Fish and Wildlife, and the Division of Parks and Forestry, and to the other DEP programs we

consulted while developing the compensation and mitigation requirements for this project.

On the issue of public notice: It has been our policy to conduct informational meetings even for projects that do not trigger the procedural requirements if we are aware of significant opposition to a concern about a proposed conveyance or lease. In this case, the public process associated with the FERC approval, the Highlands Council review, the proposed release of a conservation easement on Newark Watershed lands upon which DEP holds an easement did not reveal such opposition or concern at that time. When we became aware of concerns of the objectors who have testified at the July 2 meeting, we met with the objectors, both before and after the meeting. At this point, we believe that converting the lease to a 25-year agreement solely to trigger additional procedural requirements would be a duplicative effort we have already put into analyzing this project and our efforts to address public concerns about the project.

In summary, the State of New Jersey is being fairly compensated more than \$2 million through either the Department of Environmental Protection or the Highlands Council. The Department is committed to identifying and applying a new methodology for future appraisals that more fully captures, upfront, the value of the natural resource assets impacted. The Department will establish a better, more streamlined, statewide approach to look at cumulative impacts, compensation, and mitigation for projects like the Tennessee Pipeline project, moving forward.

I'd be happy to answer any questions. Thanks for your patience while I read through the testimony; I appreciate it.

MR. TOBER: Thank you, Assistant Commissioner. And thank you for your efforts in trying to address some of the concerns raised at our last hearing.

At this time, I'd like to open it to questions from the members.  
Senator Smith.

SENATOR SMITH: A question, if I might -- actually two.

In some of the testimony that was submitted for today's meeting, there's a letter from the New Jersey Conservation Foundation--

My microphone's not working, by the way.

--wherein they mentioned that we may be on the short side in terms of the money for the purchase of replacement land. And they quote a couple of recent transactions: one's on the average -- the north New Jersey Water Supply Authority paid \$13,225 per acre; the most expensive of 20 parcels was \$36,000 per acre. "Properties preserved by the Green Acres program and Passaic County since 2004 in the project region were purchased for well over \$7,500 an acre. The Lefcovitz parcel was purchased in 2007 for \$25,000 per acre; and the Facciglia property was preserved in 2008 at \$83,000 per acre. The Woggish parcel next to the pipeline and Long Pond State Park was purchased for \$41,000 per acre in 2009. Considering these land values, Tennessee will not be able to purchase high quality upland forests to mitigate for the impacts of this project at a four-to-one ratio."

So the question is: Is the \$7,500 per cap good for the State of New Jersey? Or would we have a better deal where you, perhaps, collected that money in trust, but if your costs exceeded that, they would be on the hook for the costs above the \$7,500?

What are we able to purchase for \$7,500 -- good forest uplands?

ASSISTANT COMMISSIONER CRADIC: Well, in working with Tennessee, we are going to prioritize land acquisition. Some of that land acquisition may total more than the \$7,500 per-acre cap. What we did was, we had an appraisal for the property. The land valued for that specific property -- as we do all Green Acre purchases, we have an appraisal for the specific property -- valued it between \$3,000 and \$5,000. We took an average--

I'm sorry--

SENATOR SMITH: Yes, but why should that be the guideline?

ASSISTANT COMMISSIONER CRADIC: I'm sorry?

SENATOR SMITH: Why should that be the guideline? I mean, why shouldn't it be-- If we're talking about putting -- adding additional forest, why shouldn't it be top-quality forest? Are we going to get top-quality forest for \$3,000 to \$5,000 an acre?

ASSISTANT COMMISSIONER CRADIC: Well, we did not use the \$3,000 to \$5,000 an acre figure.

SENATOR SMITH: You increased it up to \$7,500.

ASSISTANT COMMISSIONER CRADIC: Right; we used the average of purchase for Green Acres for a period of time when land values were higher, for part of that period of time beginning in 2002. And we're also replacing -- for every acre, we're doing it four times. So that's \$30,000 in compensation per acre to the State of per acre impacted. So one acre's impacted -- we're getting four times that amount of lands. So we're

actually, for every acre of State land impacted, we're getting about a \$30,000 replacement value cost.

When we purchase other Green Acres property, we rely on a certified appraisal -- that's what we've done. We don't make up the number.

SENATOR SMITH: No, no-- And listen, I believe you should be objective.

ASSISTANT COMMISSIONER CRADIC: Right.

SENATOR SMITH: You should try to have an objective standard. The problem with the standard that you're using is that you may be forcing yourselves to buy cheap. If you have to get four times as much land, and the maximum value can be \$7,500, that may mean that higher quality uplands may not be purchasable. So the question is: Why limit yourself? Why limit the ability of the taxpayers of the State to get the best possible forest uplands at a good price? I mean, why-- We seem to be doing the work for the utility, as opposed to for the taxpayer. The taxpayer should get the best land replacement that you can possibly get.

ASSISTANT COMMISSIONER CRADIC: And I think we will be very successful in actually purchasing land, and not going for the compensation. But we had to come up with a number, based on an average or reality in the system, so we had an appraisal. We didn't believe that that was high enough, so we used average per-acre costs that were done over a significant period of time.

SENATOR SMITH: And I don't disagree that you should have an objective number, but I think a better deal would be: Collect that money in escrow; buy the best upland forest you can get. But if you can't

get the four-to-one replacement within that dollar amount, that the utility still be on the hook for the difference. I think that's better for the taxpayers. It's my personal opinion.

ASSISTANT COMMISSIONER CRADIC: Okay; understood.

SENATOR SMITH: With regard to-- You have in your comments -- and you were kind enough to provide written comments -- has Tennessee met the requirements under the No-Net Deforestation Act? And the comment that you read was, "the No-Net Deforestation Act at N.J.S.A. 13:1L-14.4 provides that whenever land at least an acre in size is owned by a State entity, and is scheduled for deforestation, a minimum of one public forum must be held 180 days prior to the deforestation of the area." Then it says, "Tennessee is in the process of scheduling a public hearing and fully complying." So the answer to that is: They currently have not met the requirements of the No-Net Deforestation Act, correct?

ASSISTANT COMMISSIONER CRADIC: Correct.

SENATOR SMITH: All right, now, in your -- and you've been in the DEP, in this position, for many years -- it seems as though the purpose of the law was to hold the public hearing to decide if this was a good thing for the State of New Jersey to pursue, which would make this a little bit of the cart before the horse. Because if the State House Commission decides to go forward with this, we've already agreed on the transaction, and the lease, etc., without the public hearing being held. In your recollection, is there precedent for this? Have we, in any other case, gone forward with these projects -- where we're granting easements or conveyances that fit the no-net deforestation act parameters -- without having the hearing first?

ASSISTANT COMMISSIONER CRADIC: There are two separate processes: the lease and the no-net loss. A lease doesn't always trigger no-net loss -- the no-net loss provision.

SENATOR SMITH: Right.

ASSISTANT COMMISSIONER CRADIC: So we have proceeded with leases parallel, or on separate tracks, for no-net loss. For Tennessee to comply with no-net loss, they will not be able to-- They'll have a public hearing; they'll have to have 180 days before they take down any trees. The public hearing is to review the reforestation plan -- the draft reforestation plan -- that is provided to the State and to see if that reforestation plan is an adequate plan.

SENATOR SMITH: So it's solely on that issue.

ASSISTANT COMMISSIONER CRADIC: It is on that issue.

SENATOR SMITH: Not whether the project is a worthwhile project or not.

ASSISTANT COMMISSIONER CRADIC: Correct. My experience has been that that's what the issue is reviewing. They submit a draft plan, and that draft plan has to be provided in a public forum.

SENATOR SMITH: All right. So the answer to the question that you have no-- There is precedent for this, and it's been done frequently in the past.

ASSISTANT COMMISSIONER CRADIC: I'm not sure if frequently, but we have--

SENATOR SMITH: But you have done it in the past?

ASSISTANT COMMISSIONER CRADIC: I mean, we recently went through the Turnpike widening -- they were still voting on

and dealing with the no-net loss issue, and we proceeded with the lease. That's the most recent example, in my mind, because they are separate act requirements: you're voting on, again, the reforestation -- you're publicly discussing the reforestation plan on a no-net loss, and here we're discussing the provisions of the lease.

SENATOR SMITH: Thank you.

MR. TOBER: Any other questions for the Assistant Commissioner?

ASSEMBLYMAN CRYAN: I do.

MR. TOBER: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Good morning.

ASSISTANT COMMISSIONER CRADIC: Good morning.

ASSEMBLYMAN CRYAN: I want to go to this methodology on the lease situation, where, if I understood correctly, what you said is that you're going to review and actually change the methodology of leases that is used. Is that correct?

ASSISTANT COMMISSIONER CRADIC: The current methodology we use is basically for land value. It doesn't take into consideration some of the impacts to the natural resources. So that's why the State-- When we got the appraisal -- which is a certified appraisal -- went above and beyond that and did the four-to-one replacement value for the land to try to compensate for the recreational assets of the property, for the natural resources of property, that aren't necessarily captured in a typical appraisal. We are reaching out -- we have economists on staff -- we're reaching out to other states to see if there's something-- So we're in the process of looking: is there a way, up front, so we don't have a process

where you have a \$45,000 lease that raises concerns. But then on top of that, above and beyond, we negotiated the four-to-one replacement value, because it didn't capture what those natural resource assets were worth. So we did it in a two-pronged method.

If we can find the methodology, moving forward, where that is captured up front in the lease appraisal methodology, then that's a good place for the Department to go. But absent the existence of that right now-- I mean, we met with some of the environmental groups afterwards, and we talked with them, and we met back with our economist. We've reached out and looked at other states. There's nothing apparent right now that does that up front -- that's kind of a hybrid approach that does the typical appraisal process that's certified, but also looks at the recreational and other natural resource asset impacts. If we can identify that, we would use that type of methodology, moving forward. So you, up front, would have that value reflected in the lease.

Again, absent that, what the Department-- When we got the appraisal, we said, "that doesn't reflect the recreational. That's maybe the land value, as appraised." But that's why we went to the four-to-one replacement. If there's a way to put that in the appraisal process -- and I'm talking hypothetically; we don't know, that methodology doesn't exist -- then the Department will proceed. If we find it, and we identify it, and it's a more solid process, then we will move forward with that in the future.

ASSEMBLYMAN CRYAN: So basically what we have is that you might change the methodology, if you find something.

ASSISTANT COMMISSIONER CRADIC: We're reviewing it, we're researching it, we're working with economists, we're looking at other

states. And if we can find a methodology that more fully captures those values up front, we will proceed with that.

ASSEMBLYMAN CRYAN: In our surrounding states, this methodology -- it's currently used?

ASSISTANT COMMISSIONER CRADIC: That we're aware of, it's an appraisal value -- a land appraisal value.

ASSEMBLYMAN CRYAN: And is it the same method-- I mean, the acknowledgement of a need to look at the lease methodology, just-- I don't want to echo-- I guess I want to echo, but also follow up on Senator Smith's comments about this idea of an average value of \$7,500. That also, clearly, needs-- The Senator made the point, I'm making it again: That needs a refinement here, in terms of the process -- really clearly -- like, soon.

ASSISTANT COMMISSIONER CRADIC: Understood.

ASSEMBLYMAN CRYAN: Like not in DEP time (laughter) -- like in real time.

The priority of lands to be purchased -- is the priority list generated off this deal, or any other deal from DEP?

ASSISTANT COMMISSIONER CRADIC: There is a priority area list for the Highlands, where it's closest to our properties or significant natural resources. We work on that list as part of our Green Acres acquisitions, as well as the Highlands Council uses that list for prioritizing their acquisitions as well.

ASSEMBLYMAN CRYAN: So through the Chair, is there a list, if members requested it, where we would be able to look at the \$1 million dollars that, for this particular lease or compensation package --

what's the priority of the lands that need to be purchased, and what their cost estimates are?

ASSISTANT COMMISSIONER CRADIC: We're in negotiations -- on different levels of negotiations -- for properties, because it's always by willing sellers. So we have a list; they come to us -- the willing sellers -- and we prioritize it. We don't normally publicize those lists because we do not want to start a competition for the property, knowing that the property is possibly for sale, and then you start a bidding war.

ASSEMBLYMAN CRYAN: But is the list a wish list, or is it a list that actually has for-sale items -- what is it?

ASSISTANT COMMISSIONER CRADIC: There's kind of an overlap: There are willing sellers who come to us, and we have high resource value locations in the Highlands, and there's kind of an overlap of that. So the way we prioritize it: who's coming to the table, and are they sitting in some of those high resource value areas? We do have a map of some of the high resource values that we could easily provide you the list.

ASSEMBLYMAN CRYAN: So does DEP, or the State of New Jersey, solicit -- go and knock on somebody's door and solicit property if it's in the zone you want; is that how it works?

ASSISTANT COMMISSIONER CRADIC: Well, most of the time willing sellers come to us. Everyone's very aware of the program. There are times when there's an adjacent property to a State Park or a Fish and Wildlife Area where there's a close relationship between the manager of the property, and there's discussion that if you're ever going to sell the property, the State's very interested in taking it because they're contiguous to existing natural resource assets. So I would say that it's probably two-

prong: We have willing sellers who come to us, unsolicited. We have relationships with local communities where we manage land, where there's an open dialog that if the property is ever to be sold that the State is very interested in it because it's contiguous to our property.

ASSEMBLYMAN CRYAN: Okay. In my short time on this Commission, the price of things -- and I guess you caught that from the last hearing -- is of real concern. This methodology approach, I think-- I'm glad, and I want to emphasize the point that this thing needs to be fixed. It's not their fault they made a deal with you that the State of New Jersey signed; it's not. Which leads me to my final question: Has Tennessee, since our last hearing, approached DEP with any sort of revision to simply the leased dollar amount?

ASSISTANT COMMISSIONER CRADIC: They have not.

ASSEMBLYMAN CRYAN: They have not; okay. All right, thank you.

MR. TOBER: Senator Smith, you have another question?

SENATOR SMITH: What-- As Assemblyman Cryan was speaking, another thought was generating, and that is that perhaps we are not thinking out of the box with regard to the value of the property. Because we're the DEP, we think of this solely from an environmental perspective: threatened and endangered species, value of the forest. When appraisers do appraisals on land or on buildings, they frequently look at the revenue-generating capacity of the property. If our appraisers were asked to consider that as well as the other factors, I wonder what value would result from that appraisal. If we're spending-- If Tennessee is spending whatever to build this pipeline and to access more supply or deliver more supply, the

question might more appropriately be: What is the revenue to the entity? If they're literally going to make hundreds of millions of dollars over some period of time, or even every year, it seems to me that \$1 million, or \$2 million, or \$45,000 to the State of New Jersey is inadequate compensation; and maybe the structural problem with the way in which we do appraisals is that we're not thinking about it like capitalists, or even like governments. I mean, we're a cash-strapped government. Remember the budget, remember the caps? I mean, I don't have to bring all this up to everybody -- we're hurting campers here, in terms of this government.

We're about to convey a benefit on a private, capitalistic company -- which are good things; we want them to put people to work, we want them to make profits -- but if the asset was evaluated based on its revenue potential, this might be a totally different story. And I'd love to see that in future DEP appraisals, and even in this appraisal, if it's at all possible -- if there's any further consideration -- so that we, the representatives of the taxpayers, know exactly what we're giving away and perhaps what its real value is. So that's just a comment for you to think about.

ASSISTANT COMMISSIONER CRADIC: Senator, I appreciate that. And again, we'll look at, as we move forward, we'll look at it a different way of maybe looking at our appraisals in the future.

MR. TOBER: Thank you, Senator.

Are there any other questions for the Assistant Commissioner?

(no response)

Seeing none, thank you for your testimony.

ASSISTANT COMMISSIONER CRADIC: Thank you very much, I appreciate it.

MR. TOBER: At this time, do any representatives of the applicant wish to testify before the Commission? Because I know two of our members have another committee in the building, and I'm just trying to streamline things.

**MICHAEL J. GROSS, ESQ.:** Thank you, Mr. Chairman.

Again, my name is Michael Gross from Giordano, Halleran & Ciesla, environmental counsel to the applicant.

I have with me Mark Hamarich, who is project manager for the applicant.

We'd like to reserve the right to respond to any testimony as we did last time. I'll be very, very brief.

Just to address Assemblyman Cryan's question whether we approached DEP: We had some informal discussion with DEP and they felt comfortable with the entire transaction, in terms of the consideration, and that's why we didn't approach them on the lease consideration itself. They felt comfortable with the \$2 million; they did not feel comfortable, at this point in time, changing the lease consideration because they didn't have a methodology to do so. And that's why we didn't really pursue it; we just didn't think it was a viable-- We wouldn't be able to accomplish anything within a short period of time.

Just a couple of things: We think this project is a project that should be approved by the State House Commission. This lease should be approved by the State House Commission. We appreciate the consideration issues, but we believe we negotiated a fair deal for the State of

New Jersey. We did it in open negotiations with DEP. I think DEP will -- if you brought them back -- would testify that we were cooperative in those negotiations because they were a little bit unique in terms of the enhanced recreational value and the enhanced mitigation value. We've gone through the Highlands; we're going through DEP permitting. So we believe that the environmental issues will be resolved through that DEP permitting, including the no-net loss reforestation issue.

We believe that this Commission should also consider the fact that this will generate substantial jobs -- short-term, highly skilled jobs. It will generate about \$11 million, short term, into the economy in an area of the state that sorely needs that type of fiscal revenue generation. It will have some long-term implications in terms of taxes, tax payments to the municipalities through which the pipeline does traverse. And, most importantly, this will bring additional natural gas to New Jersey. I just read that PSE&G is reducing its gas prices to consumers. We think that the additional gas that we bring will allow suppliers, such as PSE&G, to further reduce and stabilize natural gas prices, and we believe that will be of ultimate benefit to consumers in New Jersey and the citizens of the State of New Jersey.

MR. TOBER: Thank you.

Questions? Senator Smith.

SENATOR SMITH: Yes, I have a few.

I don't know much about Tennessee Gas. Is it a New York Stock Exchange-traded company?

MR. GROSS: Yes, it is a subsidiary of El Paso Natural Gas (*sic*).

SENATOR SMITH: El Paso.

MR. GROSS: Which is -- El Paso Corporation -- which is a Fortune 500 Company, traded on the New York Stock Exchange.

SENATOR SMITH: Can you tell me the market cap for the company? Price per share times the number of shares.

MR. GROSS: I don't know. I'm sorry, I don't know.

SENATOR SMITH: Okay.

MR. GROSS: I just represent the company, I don't own it.  
(laughter)

SENATOR SMITH: I understand, I understand. (laughter)  
Listen, if I-- You can't possibly know everything.

I assume that the answer to the next question is "I don't know," but I'll ask anyway. Any idea what the annual net profit is for Tennessee Natural Gas?

MR. GROSS: I have no idea.

SENATOR SMITH: Any idea what the profit potential of this additional pipeline is?

MR. GROSS: No idea. I don't know.

SENATOR SMITH: No idea?

MR. GROSS: No.

SENATOR SMITH: Company--

MR. GROSS: Hopefully, it will be profitable.

SENATOR SMITH: Well, I can't imagine you're making this kind of an investment unless you expect a pretty substantial profit.

MR. GROSS: Right.

SENATOR SMITH: I know of no American corporation--

MR. GROSS: Correct.

SENATOR SMITH --unless it's Enron or whatever -- but most corporations are investing money--

MR. GROSS: Yes.

SENATOR SMITH: --because they expect a profit.

MR. GROSS: No question about it. And we just transport the gas. We don't manufacture the gas, we don't--

SENATOR SMITH: No, I understand that. And it's also a way to make money -- transporting gas is a good thing. I don't want you to get the wrong impression -- I have nothing against corporations that are transporting gas. I'm just trying to find out more information about the applicant.

MR. GROSS: I assume this transaction will be profitable, I just don't know the extent of the profit.

SENATOR SMITH: All right, can I ask that you provide that to the State House Commission? Annual net profit of the company; what is the expected profit potential of this additional pipeline? And then, can you avoid using this route? I mean, suppose the Commission said no. Do you have another way to go?

MR. GROSS: Just let me explain the concept here. There is an existing pipeline -- 24-inch pipeline. This is a loop.

SENATOR SMITH: Right.

MR. GROSS: And the loop, by definition, is supposed to be close to that pipeline. The Federal Energy Regulatory Commission basically dictates where these pipelines can be located. We do an alternatives analysis; they basically dictate it, and they have dictated that this is where

this pipeline should go because it has the least environmental impact -- those types of things. But we did evaluate alternatives, and we evaluate alternate. We demonstrated to the Highlands Council and to DEP that this was the most viable alternative. Is there another alternative that we could theoretically utilize? Yes. Realistically? No. We are constrained by FERC -- the Federal Energy Regulatory Commission -- in terms of this route. We have their Certificate of Public Convenience and Necessity which requires us to use this route.

SENATOR SMITH: You're between a rock and a hard place. I understand.

One government's telling you you must do this; the other government hasn't yet made a decision. I understand.

The-- With regard to the No-Net Deforestation Act--

MR. GROSS: Correct.

SENATOR SMITH: The comment was made by DEP, but I think it's better coming from you: It's your understanding that you cannot begin any deforestation activities within 180 days of this hearing?

MR. GROSS: Right.

SENATOR SMITH: Okay.

MR. GROSS: At least.

SENATOR SMITH: All right.

MR. GROSS: At a minimum.

SENATOR SMITH: So when do you anticipate beginning the project, if you're successful?

MR. GROSS: Well, we can begin the project on non-State lands prior to the 180 days, but the--

SENATOR SMITH: And that would be your plan?

MR. GROSS: Well, we're looking at that as an alternative because of this delay; and the 180 days, hopefully, would expire sometime in February so that is our--

SENATOR SMITH: Why the rush?

MR. GROSS: Why the rush? Because we have a con--

**MARK HAMARICH:** Let me answer that.

SENATOR SMITH: I think this is by way of an emergency meeting of the State House Commission, right?

MR. TOBER: Not this one any longer, Senator. I think we--

SENATOR SMITH: No, not today's.

MR. TOBER: Yes, today, no.

SENATOR SMITH: But the last one was.

MR. TOBER: The last one was from a scheduling point of view, because there was some concerns that there weren't going to be any more legislative sessions in June; and, as we all know--

SENATOR SMITH: So not as a result of a desire to move the project forward.

MR. TOBER: That's correct.

SENATOR SMITH: Okay.

MR. HAMARICH: There are still other portions of the project that we would like to start this fall, as early as August or September, to put us in position to have our project complete next year. The no-net loss is impacted on 5.5 miles of the 16-mile project, but we have other areas that we cross -- Wallkill National Refuge, some golf courses, some other areas that we're scheduled to construct and start this year. So it's important for

the process, on both that and the State lands, that we have as much of our permitting and everything in place to proceed with the project to be able to meet our contractual in-service date.

MR. GROSS: I'm sorry, there's a contractual in-service date of November 2011. That is included in our FERC certificate. There's some leeway, but FERC will not allow us to go-- The concept is to be in place for the 2011-2012 heating season, because that's, of course, when the natural gas is needed.

SENATOR SMITH: Okay. Did you hear my comments on valuation?

MR. GROSS: Yes.

SENATOR SMITH: And the comment that, perhaps, a better approach would be to collect the money for the purchase, put it in escrow, and if the purchase amount exceeded the \$7,500 an acre, that your client be on the hook for the difference. Is that something that Tennessee would consider?

MR. GROSS: Well, I don't know. I would have to speak to upper management at Tennessee, because we did negotiate this with DEP and--

SENATOR SMITH: A deal is a deal?

MR. GROSS: No, no I'm not saying a deal is a deal.

SENATOR SMITH: Make a deal, face the wheel?

MR. GROSS: But in terms of the upper amount, I mean, the cap, you know, a company likes to know what it's going to be liable for, so we negotiated this, and we know that we have a maximum; and I don't

think we can negotiate for an open-ended type of payment. But if that's the (indiscernible), obviously we would consider.

SENATOR SMITH: I'd appreciate if you would discuss it with upper management, see what their position would be, and maybe get back to the Chairman of the Commission.

One of the comments I saw -- and I'm not finding it right at the moment -- is that this pipeline is going to go through a reservoir -- is that true?

MR. GROSS: No, no.

MR. HAMARICH: Not this project.

MR. GROSS: It was originally scheduled to drill under the Monksville Reservoir, but that was removed from this project.

SENATOR SMITH: No longer a part of the project?

MR. GROSS: Right.

SENATOR SMITH: Okay. Thank you very much.

MR. TOBER: Are there any other questions for the applicant's representatives? (no response)

Seeing none--

MR. GROSS: Thank you very much.

MR. TOBER: Thank you, gentlemen.

Okay, at this time I'd like to call up some of the witnesses who have signed up to testify today. I notice a lot of the names are the same as our last meeting, so I would ask any witnesses to focus their testimony on new material, and I'll certainly give you ample time to testify.

The first witness signed up is Jeff Tittel from the New Jersey Sierra Club.

J E F F T I T T E L: Thank you, because I also have to go to the same meeting Mr. Smith goes to.

SENATOR SMITH: Yes, we're now 12 minutes late.

MR. TITTEL: There's a couple of points I want to address that are different, and I can answer some of the questions, also -- this is not turning red; I don't know why (referring to microphone).

MR. TOBER: I don't think any of our microphones are today, so--

MR. TITTEL: Okay, thanks.

Thank you very much for this, and I'll try to be brief and I'll go through new territory.

I actually have here a list of properties that were acquired in the Highlands area. And I just want you to know that when the Highlands Council put together their funding, they did not do this analysis. And I just got it, because they asked this year for Morris Land Conservancy to do it. And I will put this on the record, but there are a couple of things you should know about it. This is the most recent acquisition list of all the lands in the Highlands Preservation Area since the passage of the Act. And, according to this analysis that was done by Morris Land Conservancy -- or, Land Conservancy of New Jersey now -- the average price of land in the Highlands Preservation area -- going through all the acquisitions since the passage of the act -- is \$25,000 per acre; that's the average. Secondly, when you look at some of the properties that are near the pipeline, in Ringwood and Oakland and other places, under this Woggish property, which is actually assessed at \$46,000 an acre where the pipeline goes through -- and I know Bob Woggish quite well, who sold the property -- the assessment or

appraisal by DEP for that same piece of property now that's it's preserved, a year later, is \$3,000 an acre. There's something wrong in that system, and they're asking for \$7,500. The Camp Todd tract in Oakland is \$105,000 an acre; the Morris tract in Ringwood -- because this is going right past Camp Todd -- is \$105,000 per acre. The (indiscernible) property in Ringwood is \$115,000 per acre; and Facciglia which is the property named, is \$86,000. So the land values are way off.

But I wanted to really talk about a couple of big issues. The State of New Jersey, by making a 24-year lease, broke the public trust, and you should kick it back and have them go back and renegotiate at a 25-year level. And the reason is this: Under Rooney-Ogden, at 24 years, the burdens of proof are much lower. At a 24-year lease, you don't have to have the two public hearings that you do with a 25-year lease, which would have brought all this information out to the public way ahead of time. And two, the biggest issue is that when you look at a 25-year lease -- and, again, this is a pipeline that is a 50-year piece of infrastructure -- the previous lease on this site was 50 years, so why are we doing 24? It's to get around the public, and to get around the public trust, and getting around the rightful payments for the people of New Jersey. Because if it's under Rooney-Ogden and a 25-year lease, when you do the appraisal you have to look at intended use, which means you value it as a pipeline -- not as a piece of open space, which is what they did. And because of that one flaw, or that one loophole, we get put behind the eight ball, basically, from a financial standpoint, from an environmental standpoint.

A couple of other points I want to talk about. When they talk about the \$2 million in impacts that they're going to pay, most of it is for

the destruction of natural resources that they have to mitigate for under other statutes and other laws. This is not something that's coming to us from the benefit of their heart. The State of New Jersey has spent hundreds of millions of dollars protecting this area because it's the headwaters of two major reservoir systems, and we've put in place different laws and different protections that they're now trying to go around through the destruction of them with this property -- destruction of forests, endangered species habitats, wetlands, and all those mitigations. So most of the money is going for the natural resources that belong to all of us that are being destroyed.

A couple of other quick points: That El Paso Natural Gas (*sic*) -- their parent company -- in the last quarter made \$577 million; so there is financial stuff available.

Again, and this is going to their impacts: On Hamburg Mountain they're leasing three acres for the pipeline, but they're actually destroying 17 acres -- 14 acres are going to be for staging equipment and other things. I don't know about you, but when you take down hardwood oak forest that's 120 years old, you don't replace that. So the impacts are actually a lot more. There's going to be blasting.

The other point is that you're only looking at the western half of this project. They still haven't come in for the eastern half, when they cross into Ringwood on the other side of Monksville Reservoir. And that's why they stopped it there; and they're going to figure a way around the reservoir or they're going to have to go through the reservoir. It's not part of this application -- it'll be part of the next.

The other point I wanted to make is when they talk about -- when Amy talked about all the different analyses. The Highlands Council

never did a thorough analysis of the impact to State lands. In fact, they came in for an exemption. The Highlands Council itself, in their analysis, said that this was inconsistent with the Highlands Plan at 56 different times, but then gave them an exemption for linear development. So there was not a real analysis of the impact.

Also the Fish and Game Council raised great concerns about this project and the valuation of it. I was at the meeting the other day; she didn't mention that. She just mentioned that they reviewed it. They have real concerns about it, just like all of us have.

And finally, when you think about the impact of a project like this -- because it's linear development -- it impacts a lot more land than the 29 acres that they're actually taking, because it's a 23-mile trench that they're going to be digging. So it's like going into your closet, somebody taking a razor blade and cutting through all your shirts. Well, guess what? They're only taking a little bit of thread, but your shirts are all now worthless. The point is that this is having a bigger impact to the environment and to the people of New Jersey.

So finally, I really just think that this has to go back to be revisited, because without a 25-year lease the State's hands are tied, and there's no reason for it to be a 24-year lease.

The other final point I want to make is that you're a legislative body. This is a recommendation from them; you can change the amounts. You can do your own analysis and figure out what a true, fair-market value is for this property and what real replacements are and what a real lease should be. Because, quite frankly, when you look at the numbers, everybody I talk to thinks it's a joke.

This isn't funny.

MR. TOBER: Thank you, Mr. Tittel.

Are there questions for the witness from any members of the Commission? Seeing none-- Senator, do you need to--

SENATOR SMITH: Yes, you can. You can do anything -- it's America. And we've done it in prior cases.

By the way, Mr. Tittel is right: In prior applications before the State House Commission, we've undertaken, as a body, to change the recommendations from the agency. So he is absolutely not wrong on that. And Chairman Tober asked me to cast my vote and make my comments. Now I have to go to a-- I'm now 25 minutes late to a 10 o'clock Environment Committee meeting that I'm chairing. I'm casting a "no" vote on this application, unless the terms are changed. I think that, number one, New Jersey is not being fairly compensated for what we are, literally, giving away. I think the appraisal should be revenue-based, so that we at least know what the benefit is that the purchaser is getting before we decide whether this is a fair price or not. Number two, I do think that the 24-year lease term is exploiting a loophole and it was designed to avoid a public process, which I think disserves the citizens of New Jersey. And number three, I think the value of this cap of \$7,500 per acre is, again, short shrifting the people of New Jersey. We've had testimony and -- both orally and written -- indicating that property values in the Highlands can be substantially higher for mature, forested properties. And to limit ourselves to that \$7,500 per acre I think is not serving our citizens well.

So for those reasons, and I'm sure others that I could go on and take too much of the Commission's time, I'm going to vote "no." And

respectfully, I apologize to everybody because I have to leave for the other meeting.

MR. TOBER: And I thank you, Senator.

SENATOR SMITH: And I'm casting a "yes" on the other matters before the--

MR. TOBER: I understand; I appreciate you putting your votes on the record, and taking the extra time this morning to be with us.

SENATOR SMITH: Thank you.

MR. TOBER: The next witness I'd like to call up then is Mr. Emile DeVito, from the New Jersey Conservation Foundation.

**E M I L E D. D e V I T O, Ph.D.:** Members of the State House Commission, thank you very much for the opportunity to testify.

You received our letter yesterday, so I won't take too much time being repetitive. I just want to point out that I have lots of comments about the mitigation, the ecological harm. I'm going to save all those comments for the no-net loss hearing that's going to take place -- the no-net deforestation loss hearing -- except for a couple.

One is that the mitigation that's going to be done is scheduled to be done in 2015, but the lease is going to run at least until 2034, unless you change it for a longer term. That means that any invasive species monitoring is going to stop in 2015, but all sorts of problems could pop up -- and will pop up -- as a result of this project between 2015 and the 2030s. So it's very important to have a mechanism for dealing with that. There will be all sorts of impacts to the adjacent state land as invasive species and weeds creep into our State Forests and State Parks, because of this pipeline work, in the next 25 years. And the current project proposal has no way to

deal with anything past 2015. And history tells us that that's not enough number of years to deal with the ongoing impacts of construction in the heart of the forest.

Also, Assistant Commissioner Cradic mentioned one thing about critical rattlesnake habitat. I actually work with the endangered non-game species program in the DEP. I have a permit to do rattlesnake research, and I'm an expert on timber rattlesnakes. I've been doing research on them now in the Pine Barrens for five years. And there is no way to mitigate for impacts to timber rattlesnakes -- they are one of the most critically endangered invertebrates in New Jersey. This project is not going to just impact gestational habitat, which is where the females go to give birth, it's also going to impact the winter den. And winter dens are historic and cannot be replaced. So this project has to avoid the habitat -- it can't be mitigated for. So Assistant Commissioner Cradic mentioned that they will avoid or mitigate endangered species impacts, and they can't mitigate -- they have to avoid it. So that seems to be a crack in the armor out there.

In terms of the overall concerns: We think the lease is -- 24 years is not right; we think it needs to be a longer terms. And we think that you should delay your vote since you have 180 days anyway because of the no-net deforestation issue; and get more money for the compensation lands so we make sure we hit that four-to-one ratio. Fix the concerns we have in the mitigation package and do right by the people of New Jersey.

Thank you very much.

MR. TOBER: Thank you, Mr. DeVito. And I just confirmed for the record that the members did get your letter, and it has been distributed to all the members.

DR. DeVITO: Thank you very much.

MR. TOBER: The next witness we have today is Julia Somers from the New Jersey Highlands Coalition.

And, just for those members who weren't with us last time: I'll state for the record that Ms. Somers and I have somewhat of a pre-standing personal relationship, in that we attend the same house of worship in Bernardsville -- just stating that for the record.

**JULIA SOMERS:** Thank you very much, Chairman.

I'm Julia Somers, the Executive Director of the New Jersey Highlands Coalition. My comments will be brief because I got back from vacation last night, and it was while I was away that you called this meeting.

I just want to -- since we have a couple of new members here today -- touch again on this issue of public scrutiny of this project. I really think it is unfair of the Department to expect New Jersey residents to go to Washington to FERC hearings and consider that an appropriate opportunity for public comment.

I also think it is unfair to say that the Highlands Council has held public hearings on this, and consider that public comment. There was consideration by the Highlands Council when this was reviewed and the public had an opportunity to speak for three minutes. So I do not consider that a true public hearing on this.

When you put that together with the fact that there has to be a public hearing on reforestation plans -- recognizing that there is on reforestation plans -- however that the comments for that hearing may inform any decision that you come to, it really-- I would hope you would

agree that it is not appropriate to go forward and vote on this issue until after those public hearings have been held. So we really think there is plenty of opportunity.

Also I'm confused; but I believe that this project, while it seems that they think that -- in response to Senator Smith's question -- that they would prefer not to take a different route with this project, they seem to indicate that they're going to take a different route around the Monksville Reservoir. So either that or they're not being completely forthcoming, and they will be back and proposing to go underneath the Monksville reservoir, which is where the current line actually goes.

It also, I think, has to cross the Appalachian Trail, which will require public hearings as well. So all of this put together suggests that you have plenty of opportunity to say you want to reconsider this; you want to take the opportunity to review how the State is going to be compensated, and apply that to this project, as well as to the rest of the project.

So in conclusion, I ask that you do, indeed, send this back to the drawing board, and make sure that the State maximizes its return on this diversion of public assets, and give the public a true opportunity to comment on it.

Thank you very much.

MR. TOBER: Thank you for your testimony.

Are there any questions for the witness? (no response)

Seeing none, I'd like to call up our next-- Robert Moss.

**R O B E R T M O S S:** Good morning. I don't believe I did this testimony last time, but you can stop me if I did.

I have a problem with the general approach that's being taken here. And it's not really with this application. But expanding on what Senator Smith mentioned, about high-quality replacement land: The purpose of this Commission is to evaluate proposed diversions and not only get a good return on the lease, but to make sure that the diverted land is replaced with something of high quality, or substantially equivalent to what is lost.

It's true that the-- And I don't see how we can do that if we don't even know what the replacement land is. So there's a lot of discussion of methodology of appraisals and everything, but the real question is: Is it substantially equivalent? The Commission-- The statute creating a requirement's approval -- sorry -- requiring this approval is sparse: it says you approve. But common sense tells us that you cannot approve properly what you don't know.

You have to approve or disapprove an application based on not only whether it meets the regulations, and whether it meets the statutes, but also whether it meets the State constitutional requirements. The Bond Acts in the Garden State Preservation Trust amendment require that the money be spent on-- I'm sorry. The State Constitution requires that Bond Act money be spent on what is specified in the Bond Acts, and the Garden State Preservation amendment to the Constitution has a similar provision. And it is assumed that the voters at the time they vote have at least a general idea of what open space existed. So they were voting for the money to be spent purchasing parcels from what existed at the time, not 50 years later, not even 10 years later. And the Legislature, in putting these Bond

Acts before the public, specified in their findings that this land is not going to be available in the future. The whole point was to get it at the time.

So if you're going to have to divert a parcel -- supposing this pipeline is necessary, it has to be done -- the replacement has to be substantially equivalent.

And I think I can close right now. These remarks, by the way, apply to a couple of the other items later on the agenda, where we get a replacement of *X* acres for *Y* acres, but we don't know whether it's substantially equivalent, or whether it's any good at all. So what should happen in this case, and in general -- Tennessee Gas should be required to get options on replacement land that they think is substantially equivalent to what they're taking and bring that before the Commission, and then the Commission should decide. That's the proper way to evaluate a diversion application. Thank you.

MR. TOBER: Thank you.

Are there any questions? (no response)

If none, I'd like to call up Teresa Stimpfel.

Thank you; just make sure your red light's on.

**T E R E S A   S T I M P F E L:** It just went out. Do I hit it-- Yes, okay.

Thank you very much for this opportunity. Yes, I'm nervous, but bear with me.

Ladies and gentlemen, here in the room: If I put a pipeline through your living room and dining room, and then built the walls on either side, and expanded your house a little bit on either side, would that pipeline have an impact on your life? Could you continue to live that way?

And yet what we're talking about is a lease that will give us just \$45,000 to put that pipeline through. And mind you, if I were to accept that lease, all the rest of it is trimming to repair my walls, and expand my living room by a little bit. But if I accept that lease, what happens? I don't even know whether it's going to go through my bedroom, kitchen, or bathroom. Can I even live with that? And yet this fragmented proposal is simply to avoid -- not just the public comments, as we understand -- but to avoid looking at the true value of this pipeline.

Yes, the pipeline will bring jobs, and the jobs will be there. But if we don't value it properly, we will end up in a state where all of the money we get for the jobs will be consumed as we try to pay for the loss in services that we will have because our State is too deficit to provide our services, our recreation, parks, and so forth. This is a treasured 50,000-acre hardwood forest that I paid for with my tax dollars and you all did, too. Do not destroy it for a nominal value. What we are looking at, in fact, is if you vote in the affirmative for this, what you are doing is you are starting the process of converting New Jersey from the Garden State to the State of Cheap Pipelines.

Please don't do it. Thank you.

MR. TOBER: Thank you for your testimony.

Any questions? (no response)

Our next witness is Victor DiSanto

**V I C T O R D i S A N T O:** No thank you.

MR. TOBER: Okay.

Moving on to Bill Wolfe, please.

**B I L L W O L F E:** Good morning. My name is Bill Wolfe; I'm the Director of New Jersey PEER -- that's Public Employees for Environmental Responsibility. I'm a former 13-year DEP employee, most recently as Policy Advisor to Commissioner Bradley Campbell.

I testified last time on primarily the economic aspects. I want to challenge some of the commentary here and the misperception that's been created regarding the methodology.

I very much appreciate the DEP's willingness to reach out to critics and listen to their concerns. And I very much appreciate their unusual candor, which is very unusual to hear a bureaucracy acknowledge that they made mistakes. So the fact that they're acknowledging the methodology is inadequate and unsuitable to capture values -- this is highly significant, and I appreciate that. I think we should all recognize that.

However, with that said, some of Senator Smith's concerns with respect to valuing the appraisal on a revenue basis are technically within the scope of the auditing methodology -- excuse me -- the appraisal methodology; and the appraisal guidelines, and criteria, and standards which include definitions of fair market value, and include a definition of highest and best use. And the highest and best use of the property, according to the appraisal that's been done on this parcel, is based upon the maximally productive use of the property based upon the land and improvements. So that would mean the maximally productive value of the property, based upon a pipeline infrastructure. However, the appraisal itself, even though it's bound by those criteria and standards to be an independent, certified appraisal, did not apply those standards and criteria to the lease in question, and to the parcel of land in question. So we don't

need to prospectively change the methodology and go through a process. We can say that the current appraisal is deficient and unacceptable -- should never have been accepted and approved by DEP. Therefore you have a basis right now -- at the last hearing there was a legitimate concern about fairness, about changing the ground rules midstream, post the negotiation. That's not what's happened here. The underlying deal, the pre-existing negotiation, is based upon an extremely flawed document that should never have been accepted by the State.

And I have the appraisal here; I did file an OPRA, I did get it. However, the Commission should also be aware that the Department has denied my OPRA request for other very relevant documents. So when they sit here and talk about their bending over backwards to facilitate public involvement, it is simply not true. Because going to a meeting with DEP and the Assistant Commissioner and having staff spoon-feed you documents and talk to you, and come here and testify and give you memos, does not give you the underlying technical documents. I file OPRA's to get the real deal, and those documents, typically, do not reflect the full public record and statements of the agency. So in this case, the appraisal itself -- and I encourage, before there's any movement in terms of reviewing this thing -- I urge the members of this body to review the appraisal.

And the other thing, in terms of-- I'd like to make, in terms of the nature of the deal and the negotiation-- In any arm's length transaction between two parties -- you're a home seller and I'm a buyer -- you're not going to disclose to me your bottom line in advance. So in this case, the appraiser -- the independent appraiser -- provided an appraisal to the gas company in Texas before they did it to the State -- or simultaneously to the

State. And that became the financial basis for the deal -- \$45,000 -- it's in that appraisal. So that, to me, seems bizarre in terms of the State of New Jersey was not holding its cards close to the vest in the negotiations on the economic terms. And that, to me, violates fundamental negotiating principles that I would conduct as a buyer or a seller.

The last point I'd like to make is that as a park user -- and the DEP, recognizing the economic value of the park -- charges me \$25 a night to camp in a State Park. Now, on an annualized basis, adjusting for the acreage of the campsite -- I did a few numbers -- that's about \$180,000 per acre. So campers in New Jersey are compensating the State \$180,000 an acre per year to camp, which has virtually no impact. And yet this lease, on a per-acre basis, is \$64.65. So it is 2,500 times more to the campers in New Jersey than it is to a gas company -- a billion-dollar Texas gas company. And I just think that we can do a little bit better than that.

And the last point is that the properties in the appraisal -- the so-called comparable properties, upon which you do an appraisal -- in no way reflect the actual use and maximal productive use of the property -- again violating fundamental requirements of appraisal methodology, by they're own terms. So if the Commission is under some false notion that the DEP has to rely on some appraisal methodology and market valuation methodology to deal with infrastructure, that's not the case here. We can do it with the existing appraisal, and just say it's deficient and needs to be redone by somebody who's representing the State of New Jersey.

Thank you.

And I just note, for the record, that I did submit a written testimony to the Commission, dated July 6, and I hope that was received and made part of the record -- just to clarify that.

MR. SHAUGHNESSY: Yes it was, Mr. Wolfe.

MR. WOLFE: Thank you.

MR. SHAUGHNESSY: Thank you, sir.

That was the tri-party letter that you are a part of -- yes.

MR. WOLFE: No, I had an additional, independent communication dated July 6, sent by electronic to members of the Commission and to the Lieutenant Governor, because I thought-- I looked at the Commission's web site, and I didn't know the Chair's e-mail address. I sent it to the Lieutenant Governor, as the Administration's contact point on the Commission. I think this is a delegated-- I think that the Chair serves as a delegated-- I don't quite understand the legal structure of this Commission, frankly. So I thought I sent it to the lead entity, which in this case was the Lieutenant Governor, the Secretary of State, so--

MR. TOBER: Yes, the Lieutenant Governor is the designee, and then there are two alternate designees, of which I am one. I did remember seeing a letter from you, Mr. Wolfe--

MR. WOLFE: That's all right, that's--

MR. TOBER: --so I'm sure that it was received and distributed to the Commission.

MR. WOLFE: Okay, thank you.

MR. TOBER: I have a-- Is Dave Pringle signed up to testify?

**DAVID PRINGLE:** Thank you, Mr. Chairman.

My name is David Pringle; I'm the Campaign Director for the New Jersey Environmental Federation. We have 100,000 individual members, and an additional 100 member groups throughout the state.

We join those who have testified in opposition to this proposal. We would prefer this proposal not occur at all; but if it is to occur, it needs to have a much better deal than the proposal before you for taxpayers and for the lands that the State holds in public trust.

These types of diversions are supposed to be hard, to deter them from occurring wherever possible and to ensure that the true costs and value are reflected. I've heard folks complain about this process, that everybody's trying to take their pound of flesh -- the Highlands Commission (*sic*), the State House Commission, the DEP -- and that might not be pretty, but it's appropriate, and that's how this process is supposed to work. Because in the end we're supposed to deter, wherever possible, and ensure that the true costs and values are reflected.

The lands we're talking about here are top-notch -- they don't get better than that in the State of New Jersey. They're already preserved; they're providing our drinking water; they're saving us billions of dollars, according to New Jersey Water Supply District Commission, in avoided treatment costs. They're a critical habitat for threatened and endangered species. Louis Pinchot (*sic*) who is basically the forefather of the National Forest, planted trees himself to reforest this land over 100 years ago. The Fish and Wildlife Council yesterday expressed concerns about this proposal, so it's not just the regular run-of-the-mill environmental folks.

In short, this deal is wholly inadequate, and I'd like to highlight six things. And I will be brief.

As Senator Smith and the Sierra Club noted, the \$7,500 cap is entirely inappropriate. We're talking about orders-of-magnitude less than the true compensation for this land. So either this is a very bad deal, or the vast majority of projects that DEP has closed on in the last five years have been a raw deal for taxpayers. So if you're going to move forward with this process, then we should begin an immediate audit of DEP, because they haven't been doing their job these last five years in buying lands in the Highlands, and the taxpayers have been getting ripped off.

The DEP (indiscernible) acknowledges that that's not the case, because they acknowledge their methodology here is flawed. So we're going to move forward with some vague promise of improving things in the future, when we have a critical project right before us.

The four-to-one acreage and the number of acres is entirely inappropriate. I think the analogies that have already been cited are much better than the ones I have -- the ripped shirt or a pipeline through your home -- but a bobcat lives in the interior forest. It's an endangered species; this is bobcat habitat we're talking about here. When you take one acre of interior forest, you destroy 36 acres of bobcat habitat. So that's a 36-to-1 replacement value. The DEP is proposing here four-to-one.

I'm disappointed in the Attorney General's interpretation that members don't need to hear testimony, and don't need to even review that testimony before voting, or even being present for the vote. Whether it's legal or not, it's not good government. This is not a legislative committee; you should be holding yourselves to a higher standard than that. And it is quite likely to bring additional litigation, if that continues to be the interpretation.

At the end of the day, this project is to bring natural gas from Marcellus Shale to market. The Marcellus Shale is going to have devastating impacts on the drinking water in the Delaware Watershed, which much of New Jersey relies on both in and outside of the Highlands. So I think it's important to keep in mind the true costs of what we're talking about that aren't reflected in this deal. And I think Senator Smith nailed it dead-on: The Tennessee pipeline needs the State much more than the State needs the Tennessee pipeline. They need this deal -- the State does not. You have tremendous leverage, and the DEP has refused to utilize it.

A one-to-one replacement for cheap lands versus high quality land: one acre of edge land isn't equal to one acre of interior forest. One sapling isn't equal to 125-year-old oak. And that's what DEP is proposing here. So we urge you to reject this deal until a better deal can be struck.

Thank you.

MR. TOBER: Thank you, Mr. Pringle.

Are there any questions for Mr. Pringle? (no response)

None -- then the last witness we have signed up to testify is Cliff Westfall (indicating pronunciation) -- I'm sorry.

**CLIFF WESTFALL:** Yes, that's right.

MR. TOBER: I'm sorry if I mispronounced your name.

MR. WESTFALL: No, that's all right.

My name is Cliff Westfall. I'm the legal coordinator for an organization called Damascus Citizens for Sustainability, Incorporated, and we are trying to slow or stop Marcellus Shale development in the Delaware River Basin. We're based in Damascus, Pennsylvania, where I own some

property. But I should also note that I am a New Jersey resident, and my water supply here in New Jersey, as well as up there, comes from the Delaware River Basin.

I wanted to echo the remarks that Mr. Pringle just made, and encourage this body to see the costs of this development in a larger, sort of more holistic sense. And that is to understand that this is part of the infrastructure of the Marcellus Shale development. This is a development that, by and large, will hold very few benefits for New Jerseyans, but has the potential to impose devastating costs. As you may be aware, New York City has already taken effective steps to ensure that their small portion of the watershed is protected from this sort of development. They commissioned a study by a consultant. That study's come to be known as the Hazen and Sawyer Report. And if you haven't seen it, I would definitely recommend that you do check it out. If anybody's interested, I'll send you a link to find that online. Not having it in front of me, and with no prepared remarks, I can't quote it extensively. But one phrase that has really stuck with me from there is that they projected that if this occurred in the New York City Watershed, New Yorkers would face chronic, low-level toxicity. Now, the same is true for us: New York is in a position where they're not only advantaged by the great political clout that New York City has, but they're also advantaged by their position in the Watershed, which is to say that they can carve out their portion of the Watershed and have the gas company say, "Okay, we'll leave that alone; we'll just develop the rest of the Watershed." New Jersey, and southeastern Pennsylvania as well, are not in such a lucky, geographically fortunate position. In order to protect our drinking water, we have to protect the entire basin. That's the only way it's

going to work. Keep in mind, we're talking about-- There's no such thing-- When we talk about shale gas development, there's no such thing as a small amount of it. It's done in very large-- Essentially, the industrialization of the headwaters of our drinking water is what we're talking about. And as New York City Councilman Jim Gennaro said -- and he is, himself, not only a Councilman there, but a hydrogeologist -- it's absolutely inconsistent with the drinking water supply. So again I would urge you, when you consider the cost of this development, remember that by enabling this sort of development we are running the risk of really shooting ourselves in the foot, or worse.

I'll be happy to answer any questions. Thank you.

ASSEMBLYMAN CRYAN: Mr. Chair, I have a question.

MR. TOBER: Yes, Assemblyman, question for the witness.

ASSEMBLYMAN CRYAN: Thanks.

What steps did New York take?

MR. WESTFALL: Well, it's a complicated political matter in New York, but what they -- as might not be surprising. After they commissioned that Report, they essentially made clear that if this was going to go forward, they were going to sue the state. And the state had a very novel solution where they haven't officially taken New York City's Watershed off the table. Instead, what they have done is to say that any project that would occur within the New York City Watershed would not follow the rules that they are currently drafting for the rest of the state, but would instead have some unspecified set of rules that are clearly meant to, in a political sense, take it off the table. So it's an overstatement, perhaps,

to say that it's officially off the table. I think it's clear, to a political certainty, that it's off the table, however.

ASSEMBLYMAN CRYAN: Well, I guess let me ask it this way: Are you representing that in this watershed -- which is located in Jersey, right? And--

MR. WESTFALL: Well, the watershed extends all the way--

ASSEMBLYMAN CRYAN: All the way up.

MR. WESTFALL: Like, for example, Wayne County, Pennsylvania, is where the drilling is already beginning to take place.

ASSEMBLYMAN CRYAN: So you're representing that there's actually different standards, dependant upon the state, within that watershed, right? That's essentially what you're telling us.

MR. WESTFALL: Right, yes. New York City's small portion of the watershed is going to be protected.

ASSEMBLYMAN CRYAN: At a tighter restriction.

MR. WESTFALL: I think it's quite likely that it will be protected.

ASSEMBLYMAN CRYAN: Thank you.

MR. WESTFALL: Sure.

MR. TOBER: Any other questions?

Senator Cardinale.

SENATOR CARDINALE: Thank you, Mr. Chairman.

This is an important project. We haven't heard a great deal about -- we have heard a little bit, but not a great deal. There's a great deal in our written material about the ultimate impact on the ratepayers -- the people who are going to be paying for the gas that's going to be transmitted

in this pipeline, and the ultimate availability of that gas. It's going to affect particularly the area that I represent in Bergen County by making more gas available. And that will obviously be a benefit to the constituents I represent.

I share a number of Senator Smith's concerns about how we have arrived at the compensation to the State. I don't believe that we have, on this Commission, the expertise to second guess everything that the Department has done. But it certainly is very apparent that \$45,000 is a very low number, and I cannot understand how the appraiser could have come to that number.

I am going to suggest that we move this with a change in that \$45,000 figure. And the change that I would suggest is-- In terms of our getting replacement land, we're getting four-to-one -- and I understand that that's a part of the cost of that. It's not just the rent that is part of the cost, but that is also part of the cost. And I understand that we're getting monies from the resources that are going to be recovered in terms of rock, in terms of lumber. And so all of those costs, as I have looked at them, are somewhere between \$2 million and \$3 million. But every time every one of these witnesses has mentioned this lease value, it has sort of struck a chord with me that this is just almost like a ridiculously low number. And I am going to suggest that we quadruple that number, and make that number \$180,000. And with that amendment, I would move the approval of this item.

MR. TOBER: Let's entertain some discussion on that motion.

Is there anybody who would like to address Senator Cardinale's motion?

ASSEMBLYMAN CRYAN: How about the guy paying?

SENATOR CARDINALE: You should second it.

MR. TOBER: I beg your pardon?

ASSEMBLYMAN CRYAN: Can we ask the guy who's paying?

MR. TOBER: Well, I think that--

ASSEMBLYMAN CRYAN: Or is that out of the-- I don't know how this operates.

MR. TOBER: We can certainly-- The representation was made to us, it's my understanding as well, that we can change the numbers or make a recommendation that the numbers be changed, and essentially do-- But if the members of the Commission would want to see what the applicant's willingness to accept such a number would be, I certainly would be willing to call the applicant up and ask them.

ASSEMBLYMAN CRYAN: Yes, I haven't been through this process before.

MR. TOBER: Shall we do that?

SENATOR CARDINALE: I have no objection.

MR. TOBER: Could we call up somebody from the applicant, please.

MR. WOLFE: Was that per year-- \$180,000 per--

SENATOR CARDINALE: Changing the \$45,000 to \$180,000.

MR. WOLFE: Per year? (off microphone)

SENATOR CARDINALE: I don't believe it's per year; I think that's the term of the lease.

UNIDENTIFIED MEMBER OF AUDIENCE: I couldn't buy a new house for that.

MR. TOBER: Hold on. It's not open to the floor right now. There's a motion pending on the table. We're asking the applicant to come up.

UNIDENTIFIED MEMBER OF AUDIENCE: Why can't we have a-- Point of order: Why can't we have public reaction to that, if the applicant can react?

MR. TOBER: Sir, I'll call some additional witnesses right now. But right now, the floor is not open. There's a motion on the table, and I'm asking the applicant to come up.

Sir, could you just restate your name for the record.

MR. GROSS: Michael Gross.

Through the magic of text messaging, we were able to text message senior management, and whatever the Commission believes is appropriate, we'll consider -- yes.

MR. TOBER: Okay, thank you.

Let's have some further discussion on the motion. Any further input from members of the Commission -- reaction to Senator Cardinale's motion? (no response)

At this point, maybe then I should entertain a second to that motion.

ASSEMBLYMAN RIBLE: I'll second that, Chair.

MR. TOBER: There's a motion on the table by Senator Cardinale to change the terms of the lease that we were presented -- to increase the amount from \$45,000 to \$180,000. What I would like to do is first have a motion to change the proposal before we actually vote on the proposal. And then entertain a little more public discussion, limited solely

to Senator Cardinale's motion, and then take a vote on the actual application.

So I would ask the Secretary to call a roll on the Senator's motion to amend the proposal, from \$45,000 to \$180,000.

MR. SHAUGHNESSY: Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: That motion carries.

MR. TOBER: Okay. I did see from the public that there was some interest in discussing solely the revising of the number. I'd like to entertain a couple of witnesses on that, and then we'll go back.

We'll start with Mr. Wolfe, then.

MR. WOLFE: I appreciate the recognition that the State of New Jersey is not being aptly compensated, in the effort to increase the compensation value. However, again, I'll reiterate from page 33 of the appraisal itself: Appraisal guidelines call for four criteria that must be met to satisfy highest and best use. In this case the operative and determinate

one is number four, maximally productive. And in interpreting maximally productive, the appraiser said that the appraisal process -- this is a quote from page 33 -- the appraisal process applies to the subject as vacant and improved.

And, therefore, the improvements being maximally productive goes right to the revenue test that Senator Smith suggested. And that, therefore, I strongly urge you not make an arbitrary decision, based on a *4x* factor of a fundamentally flawed appraisal, but send the matter back to the department as if you were a court -- remand it back to the agency for fix -- to repair this defective appraisal methodology. It's not the methodology -- it was how the methodology was applied. So you're not changing the rules mid-stream, and you'd have an appraised basis upon which to proceed, instead of making an ad hoc, arbitrary determination that arguably is trying to make things better in the public interest but, number one, as a precedent, is very bad practice; and number two, doesn't deal with the underlying problem of this audit; and three, will not satisfy the conditions, going forward, that the Department talked about in terms of revising their methodology; and four, you have an OLS audit on the table from the State Auditor that has the same findings over a pattern of four audits dating back to 1997.

So my point is you've got the facts so overwhelmingly on point here. To just come in and resolve it with a Band-Aid of the *4x* factor is just very bad practice, and not in the public interest. Although we very much appreciate the Senator's efforts to seek additional compensation.

Thank you.

MR. TOBER: Thank you, Mr. Wolfe.

Are there any representatives from the Department who would like to comment? You don't have to. (laughter)

**JUDETH PICCININI YEANY, ESQ.:** My name is Judeth Yeany. I'm Chief of the Bureau of Legal Services and Stewardship of the Green Acres Program. And I actually just wanted to comment on one aspect of Mr. Wolfe's earlier testimony.

He indicated that the Department had denied his OPRA request for information related to this transaction, and I didn't want to leave the Commissioners, the members of the Commission, with the impression that that was true, because that was not the case. We did speak to him about obtaining an extension, because we were having difficulty tracking some of the documents. But we've actually spent a considerable amount of staff time in the last week assembling what he had asked us for, which was pretty much all correspondence between the DEP and the company. And we did intend to disclose that.

**MR. TOBER:** Do you have any comments on the revised compensation for the lease, from \$45,000 to \$180,000?

**MS. YEANY:** Obviously we thought the \$45,000 met the appraisal standards and the scope of the appraisal, as we had defined it, so we wouldn't object to the additional compensation.

**MR. TOBER:** Okay, thank you.

**MS. YEANY:** Thank you.

**MR. TOBER:** I think Mr. Pringle had his hand up.

**MR. PRINGLE:** Thank you. I'd also like to thank the Senator for his efforts, but I concur: it's still too much of a low ball. That is the equivalent of 67-- That additional \$135,000 would be \$6,750 a year. I

mean, that's not even cents on the dollar -- it's chump change. And this company is going to be reaping millions off this, and New Jersey's lands are going to be scarred because of it. If it's going to occur, they need to pay their fair share, and this still is a drop in the bucket and should be remanded back to DEP for a much more accurate price.

MR. TOBER: Mr. Pringle, just one question from me, as the Chair: there is an existing 50-foot wide easement there for an existing pipeline. What we're, essentially, being asked to do is widen an existing easement. That's true, right? Okay.

MR. PRINGLE: Right. Because of the value of the land, and the critical habitat around it, one acre of increasing that edge will destroy nine acres of bobcat habitat, just as one example of one species. There's much more value to it than just for a bobcat.

MR. TOBER: Thank you.

Ma'am? I'm sorry-- Did you sign up to testify before? I apologize--

AMY HANSEN: No, but I was added to Emile DeVito's comments (off microphone)

MR. TOBER: Why don't you come up and state your name for the record. And I'll take one more witness after that, and then we'll--

MS. HANSEN: Thank you. I'm Amy Hansen with New Jersey Conservation Foundation, and I greatly appreciate Senator Cardinale's attempt to increase the land compensation value -- the lease compensation.

But I've been hearing a lot of concern from the panel -- or the Commission members -- and I think that this process should really not be voted on today. And we urge you to hold it, have the DEP create their

better methodology, and do additional appraisals of the project before you consider voting. Thank you.

MR. TOBER: Thank you for your testimony.

Mr. Tittel?

MR. TITTEL: Thank you.

And thank you, Senator Cardinale, for trying to come up with a solution on this. I think that, unfortunately, just multiplying a factor on it doesn't get to the real cost. I really believe there has to be an analysis done to find out what the true value is, and what the market value is, and what is an appropriate fee for what is going through the property line that's owned by the State of New Jersey, meaning where the pipeline is.

If this is kicked back and we do a 25-year lease, which is appropriate, then the State has the authority to look at intended use and you can come up with a much more accurate appraisal and much more accurate lease. So we think this is sort of arbitrary -- \$185,000 per year might make sense, after you do the analysis, but for over 24 years, I don't believe it does.

The other point that I want to make is that the previous leases were, again, 50 years -- and now we're doing 25. And the other point I want to make is that on Delaware Water Gap lands, where the old pipeline went -- they're avoiding them with this new loop, and they're going around that area, so they do have the ability to move things when they want to. It's not going in the same exact cut throughout all of New Jersey. So they have moved it in places, because they didn't want to go through some of the Park Service processes there.

MR. TOBER: Okay, thank you, Mr. Tittel.

Is there further discussion on this matter, or Senator Cardinale's motion, by the members? (no response)

If not, then a motion to approve the item on the agenda would be in order.

SENATOR CARDINALE: Moved.

MR. TOBER: Moved by Senator Cardinale. Is there a second?

ASSEMBLYMAN RIBLE: Second.

MR. TOBER: Seconded by Assemblyman Rible; moved with Senator Cardinale's amendment to increase the lease value to \$180,000.

Mr. Secretary, would you kindly call to roll.

MR. SHAUGHNESSY: Thank you.

Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

Oh, pardon me.

MR. TOBER: Senator Smith has left his vote in the negative.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: Motion carries.

MR. TOBER: Thank you.

MR. GROSS: Thank you very much.

MR. TOBER: We'll now move on to the next item on the agenda, which is a carry from last week as well. This is a DOT matter -- it was carried because of the lack of appraisal, and I'm now told that the appraisal has been provided and is in all our packets.

MR. SHAUGHNESSY: Yes, Mr. Chair, New Jersey Department of Transportation requests approval to sell by direct sale an approximate 1.11 acre parcel of surplus vacant land. The record of sale amount will be \$640,000, the appraised value.

MR. TOBER: Are there any representatives from the Department of Transportation who wish to be heard on this matter? (no response)

Any members of the public? (no response)

ASSEMBLYMAN CRYAN: Can I get grounded here? Which--

MR. TOBER: Absolutely. Oh, I'm sorry--

ASSEMBLYMAN CRYAN: Where are we at here? Under old business?

MR. SHAUGHNESSY: I'm sorry-- Old business, item No. 3, Assemblyman.

ASSEMBLYMAN CRYAN: Okay.

MR. TOBER: Three on the current agenda.

MR. SHAUGHNESSY: Item No. 15 on the original 6/24 agenda, sir.

ASSEMBLYMAN CRYAN: Okay, thanks.

MR. TOBER: Again, any members of the public, any discussion by the Commission on this matter -- questions?

There is a recommended sale amount in the amount of \$640,000, in accordance with the appraisal that we were--

SENATOR CARDINALE: This is the land-locked parcel?

MR. TOBER: That's correct, Senator.

ASSEMBLYMAN CRYAN: Let's face it -- it boggles the mind that this is \$640,000, after the last vote.

MR. TOBER: Any further discussion? (no response)

Motion?

SENATOR CARDINALE: So moved.

MR. TOBER: Moved by Senator Cardinale.

ASSEMBLYMAN CRYAN: Seconded.

MR. TOBER: Seconded by Assemblyman Cryan.

Mr. Secretary, would you call the roll.

MR. SHAUGHNESSY: Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: Motion carries, and Senator Smith has been marked in the affirmative on this and all remaining matters.

MR. TOBER: Okay, let's move on to the next items in the agenda. If there are any time constraints by any of the members, please let me know and we'll do our best to accommodate what we can do in the time we have left.

MR. SHAUGHNESSY: Under old business, Item No. 4: New Jersey Department of Treasury requests approval to extend the negotiations period between the State and Marlboro Township for an additional six months from the date of today. If no agreement is reached between the State and Marlboro Township within six months from today's meeting, the State may hold a public auction, with the property being sold to the highest bidder.

MR. TOBER: Are there any witness who wanted to testify on this matter?

UNIDENTIFIED MEMBER OF AUDIENCE: (Indiscernible)

MR. TOBER: On the old agenda--

MR. SHAUGHNESSY: It was postponed; June 24, agenda Item No. 3. This is--

ASSEMBLYMAN CRYAN: Can somebody tell me the notification process for-- Is this the internet auction one, or is that later? I might be off on this.

MR. SHAUGHNESSY: In the alternative, this would be an internet auction; yes, sir.

ASSEMBLYMAN CRYAN: So--

MR. SHAUGHNESSY: This is merely to extend negotiations between Marlboro Township--

ASSEMBLYMAN CRYAN: Marlboro--

MR. SHAUGHNESSY: --for six months. But this is the permissive ability in the alternative. It's a permissibility in the alternative to hold an internet auction.

ASSEMBLYMAN CRYAN: Okay, so for the edification of this member, how does a fellow find out about an internet auction, and how does it work?

MR. SHAUGHNESSY: It would be posted on the web site -- the Treasury web site -- properties that would be available.

ASSEMBLYMAN CRYAN: Not this web site, right?

MR. SHAUGHNESSY: No, not the State House Commission.

ASSEMBLYMAN CRYAN: Because our web site needs a little work. (laughter) So it's simply posted online, and that meets the requirements?

MR. SHAUGHNESSY: Yes, that would be how it's conducted.

ASSEMBLYMAN CRYAN: Okay, thank you.

MR. TOBER: Any further discussion of this item? (no response)

If not, a motion will be-- I'm sorry -- Senator Cardinale.

SENATOR CARDINALE: One second -- I don't know if my book is giving me the right item.

MR. TOBER: In the large binder, Senator, I have it as Item No. 3.

SENATOR CARDINALE: Item No. 3 that I have in the large binder is Riverfront State Prison.

MR. TOBER: I have that as No. 2.

MR. SHAUGHNESSY: There's actually-- I think in the original binder there may have been a no-further-disposition sheet with regard to this, Senator, because it's a request -- prior request -- to add another six-month additional negotiation period. But this was actually, my understanding, this was Item No. 3 on the postponed June--

MR. TOBER: June 24?

MR. SHAUGHNESSY: Right, but I believe that there was nothing further -- a no-further-disposition sheet, because it was previously approved to be disposed via this negotiation process.

SENATOR CARDINALE: Are we dealing with Riverfront State Prison? Is that-- Then it's not the right item.

MR. SHAUGHNESSY: Sir, I know your continued interest in Riverfront. No, Riverfront is not on today. There is no consideration of Riverfront today.

SENATOR CARDINALE: Okay, but that's what I have as Item No. 3 in my book. That's what's creating the confusion for me.

MR. SHAUGHNESSY: I'm sorry for the confusion. There is no consideration today of Riverfront Prison.

SENATOR CARDINALE: Okay.

MR. SHAUGHNESSY: This is why--

SENATOR CARDINALE: I have a blank in my book--

MR. SHAUGHNESSY: That's correct, and that would be this continued negotiation approval, if the Commission (indiscernible).

SENATOR CARDINALE: Okay, just so I understand.

MR. SHAUGHNESSY: Sorry for the confusion.

SENATOR CARDINALE: Okay, just so I understand.

SENATOR CARDINALE: Thank you.

MR. SHAUGHNESSY: Do we have a motion?

MR. TOBER: Is there a motion on extending the negotiation period on Marlboro for six months?

ASSEMBLYMAN RIBLE: Chairman, I'll make the motion.

MR. TOBER: Thank you, Assemblyman Rible.

SENATOR CARDINALE: Second.

MR. TOBER: Seconded by Senator Cardinale.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: And Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: Motion approved.

The next item on our agenda for today is Item No. 5. It's the Zalewski Park matter. NJDEP, on behalf of Cliffside Park, requests

approval to allow the diversion of approximately 0.24 plus-or-minus acres of Zalewski Park by conveying a temporary easement to Aurora Development Partners, LLC, a developer planning to construct residential housing towers across the street from the park. The easement will allow Aurora to continue operating a sales office on the park until all units in the development are sold, or until January 1, 2014, whichever is sooner.

To compensate, Aurora will dedicate to the Borough a 0.345 plus-or-minus acre permanent access easement at the southern edge of the property and construct a public observation platform overlooking the Manhattan skyline. Aurora is paying to the Borough \$2,000 a month in license fees that will be used for park improvements within the Borough, and has agreed to replace the existing playground equipment in the park and provide other improvements for a cost not to exceed \$150,000. The Borough wishes to retain the sales office building for indoor recreation and museum purposes once the temporary easement expires.

And this is Item No. 4 in our thick book.

MR. TOBER: Any questions, comments, or discussion by the members? (no response)

Anybody from the public wishing to be heard on this matter?  
(no response)

Seeing none, a motion will be in order.

SENATOR CARDINALE: Move for approval.

MR. TOBER: Moved by Senator Cardinale.

ASSEMBLYMAN RIBLE: Second.

MR. TOBER: Seconded by Assemblyman Rible.

MR. SHAUGHNESSY: Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: That motion carries.

The next item is No. 6, which is actually under old business -- a clarification. It's previously agenda Item No. 5 in the prior book. But it's a clarification as to the actual acreage leased. New Jersey DEP requests approval to amend the acreage for Abbotts Meadow 1 farm lease and service agreement to Joe Ayars, approved on October 27, 2009, by the State House Commission. The original approval granted was for 68.1 acres, when it should have been 94.4 acres.

All other terms of the State House Commission shall remain the same.

SENATOR CARDINALE: Move the approval.

ASSEMBLYMAN RIBLE: Second.

ASSEMBLYMAN CRYAN: Is there (indiscernible) questions?

MR. TOBER: Certainly -- Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Can you go through that acreage (indiscernible) there again for us?

MR. SHAUGHNESSY: My understanding is that'll be changed from 68.1 acres -- from 68.1 acres to actually the 94.4 acres.

ASSEMBLYMAN CRYAN: All right. How does that happen? How do we miss by a third?

MR. TOBER: I think we have somebody from DEP coming up to answer your question, Assemblyman.

**M A R C I D. G R E E N, ESQ.:** Marci Green; I'm from the Department of Environmental Protection.

ASSEMBLYMAN CRYAN: Hi, Marci.

MS. GREEN: This was purely a typographical error. We had auctioned 44 farm leases, and we were dealing with a large volume of them when we brought them to the State House Commission in October. So it was purely a typographical error. The farmer and all the other information was correct throughout the bid process.

ASSEMBLYMAN CRYAN: So everything else we can count on?

MS. GREEN: Exactly -- the per-acre amount didn't change; it was purely a typographical error on the acreage.

ASSEMBLYMAN CRYAN: Okay. So the value of the lease is what?

MS. GREEN: Well, these farm lease and service agreements are a combination of the farmer--

ASSEMBLYMAN CRYAN: Right.

MS. GREEN: --farming a parcel of land, and then performing in-kind services to the Division of Fish and Wildlife on a separate parcel of land.

ASSEMBLYMAN CRYAN: Yes, there's a few of them here.

MS. GREEN: Yes, exactly. So the total rental value is \$8,124. What they'll actually be paying on this, in cash, is \$4,124; and then performing services valued at \$4,000 annually.

ASSEMBLYMAN CRYAN: Okay, and how does-- Might as well answer these now, because I have them to throw out, and I'll just ask them once. How does the value-- I saw it in one of these documents, the value of the in-kind services is at \$24 an hour -- is that right?

MS. GREEN: Yes. Essentially what the Division of Fish and Wildlife did was they figured out, using different resources through Penn State and Rutgers -- there are actually statistics reporting what different values are for mowing or planting. So they based it on those values for all of the in-kind services.

ASSEMBLYMAN CRYAN: Right; so one of these, I thought, was like \$24.84, or something, right? One of them was -- may not have been this one.

MS. GREEN: That could be per acre, or-- Yes.

ASSEMBLYMAN CRYAN: And how does anybody find out-- I appreciate these good folks, and the good work they do. Not only these folks, but all throughout these processes-- Who verifies the in-kind hours and dollars? Who does that?

MS. GREEN: The Division of Fish and Wildlife. This is the first time we did something like this, and they-- This is the first year we're

doing it, but they will be the ones verifying. There's actually a worksheet prepared, and they will be-- They actually have relationships with all of these farmers, the staff people in the region. So they'll be verifying all of the information.

ASSEMBLYMAN CRYAN: Okay.

MS. GREEN: It's more per-acre values; it's not necessarily an hourly value -- it's per-acre values for various services.

ASSEMBLYMAN CRYAN: Yes, I guess throughout these, without -- and I'm just asking once -- you kind of scratch your head and say, "How does somebody verify?" Because these leases come down considerably off the in-kind. And you appreciate it -- I mean, yay, good stuff. But how do you verify that when somebody is sitting where we are; and, I guess, methodology-wise you would refer us to another place, right?

MS. GREEN: Yes, I think you're kind of lumping together these farm agreements, and then our agreements with non-profit agencies.

ASSEMBLYMAN CRYAN: I think I am.

MS. GREEN: We rely on their reporting requirements. For those, we solely rely upon their reporting methodologies of when their volunteers sign in. For this, I can tell you, there's definitely going to be oversight because the Division of Fish and Wildlife is relying on them to plant 20 acres with rye grass. So they'll be out there verifying that that has been done.

ASSEMBLYMAN CRYAN: Okay; all right. Thank you.

MR. TOBER: Any other questions? (no response)

Seeing none, a motion would be in order.

MR. SHAUGHNESSY: We do have a motion.

MR. TOBER: Oh, we do have a motion. That's right.

MR. SHAUGHNESSY: We interrupted.

MR. TOBER: So can we have a vote on the motion?

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: And I will note again that Senator Smith has been marked in the affirmative as to all these matters.

Okay, the next matter under old business is No. 7 on today's agenda -- was agenda Item No. 6 on the June 24 agenda. New Jersey DEP requests approval to amend an existing lease with the Delaware River Mill Society to add 2.343 acres of land and structures to the leased premises. The additional parcel was recently acquired by Green Acres. The parcel is adjacent to a historic site commonly known as Prallsville Mill, which the DEP has leased to the Mill Society since 1976. The State House Commission approved a 20-year lease with the Mill Society on September 23, 2004. The lease term will remain the same.

The new parcel includes a structure known as Stockton Stone Master's office, and most recently referred to as the "Cathers Residence." The payment for the lease amendment will be an additional one-time payment of \$20. The tenant will be responsible for maintenance and upkeep of the land, structures, and all utilities. The Mill Society is a non-profit organization, and as such the DEP charges a nominal fee for rent in light of the value of the public services and funding provided by the nonprofit in volunteers hours, interpretative programming, improvements, maintenance, and operation of the facility. The Mill Society provided volunteer services for the State Park Service at an estimated value of \$40,906 in 2008.

MR. TOBER: Comments by members of the Commission?

SENATOR CARDINALE: Moved.

ASSEMBLYMAN CRYAN: Second.

MR. TOBER: Moved and seconded.

MR. SHAUGHNESSY: Vote; special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: Motion carries.

Okay, onto new business. New business Item No. 8: RPR 09-06, former Motor Pool Fueling Station, Block 3703, Lot 1, Trenton, Mercer County. This was Item No. 7 on the prior agenda.

New Jersey Department of the Treasury requests approval to sell a former motor pool property containing approximately 0.37 plus-or-minus acres that has been declared surplus to the Department's needs. The property will be sold via internet auction with the minimum bid being the fair market value, \$355,000, as determined by an appraisal.

MR. TOBER: Questions or comments from members?

DIRECTOR RIDOLFINO: Bob, just a quick-- Is this the Calhoun Street station?

DIRECTOR HOZBAUR: Yes.

MR. SHAUGHNESSY: Yes, it is.

MR. TOBER: Any other comments or questions?

ASSEMBLYMAN CRYAN: Motion.

MR. TOBER: Motion by Assemblyman Cryan.

ASSEMBLYMAN RIBLE: Second.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The motion carries, unanimous.

The next matter under new business is No. 9. It's RPR 10-09, Sea Girt Training Center, Block 106, part of Lot 1, Sea Girt Borough, Monmouth County -- previously Item No. 8 on the agenda.

New Jersey Department of Treasury, on behalf of the Department of Military and Veterans Affairs, requests approval to lease 175 square feet of vacant land located on the grounds of the Sea Girt Training Center to Metro PCS. Metro PCS will be collocating a cellular antenna on an existing monopole. Their plan requires them to secure a ground lease to support equipment associated with the antenna. The lease will be for a term of five years, with three, five-year renewal options. The annual rent will be \$1,750, with annual increases of 3.5 percent based upon previous year's rent.

MR. TOBER: Any discussions or questions on this issue?

Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Just the rent-- I don't have any problems with the location, but the-- I'm just going to put on the record, the rent looks pretty darn low for a big cell tower. This goes to, I think, Senator Smith's earlier comment about use. You can't put a cell tower in everybody's backyard. The armory makes perfect sense to do it, but it's dirt cheap, is what it looks like.

MR. SHAUGHNESSY: One thing I will mention, to put in the record: In addition, because it's a collocation, Assemblyman, AT&T will pay the State -- does pay the State -- 25 percent of Metro PCS collocation fees in the amount of \$358 (indiscernible) per month and, of course, with the original lease terms between the State and AT&T. So in addition to the rent, there's that additional monthly fee to augment that rent.

ASSEMBLYMAN CRYAN: All right. I appreciate the comment; thanks.

MR. SHAUGHNESSY: You're welcome, sir.

SENATOR CARDINALE: May I follow up on that?

I share Assemblyman Cryan's concern that that sounds like a very low number for a cell tower site. From my own experience, which is limited to pretty much the towns around Bergen County, the number is a different world than I'm used to seeing for a cell tower site. How was this amount determined?

MR. SHAUGHNESSY: My understanding, Senator, based upon \$10 per square foot amount; therefore, the \$1,750 was determined, because it's 175 square feet.

SENATOR CARDINALE: But, you know, the site is not-- The site for a cell tower-- I mean, this is a use question. I'm not comfortable with this amount of money. This sounds awfully low.

MR. TOBER: Sounds like the preference is to either table this or--

SENATOR CARDINALE: I move to table this and get a better explanation of the \$1,750 amount. I have no objection to the use of this, but this seems to me to be a giveaway.

MR. TOBER: Okay, there's been a motion to table, and a second by Assemblyman Cryan. May we have a vote on that, Mr. Secretary?

MR. SHAUGHNESSY: Sure.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes on the motion to table.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: Okay, that motion to table is approved.

The next matter is Item No. 10 -- it's RPR 10-10, Block 158, Lot 7, Wantage Township, Sussex County. This is postponed June 24 agenda Item No. 9.

The New Jersey Department of the Treasury requests approval to lease a DEP residential property located within Luscroft Farms to Robert and Laurie Lendenmann for \$1,400 per month. The lease will be for a term of one year, with four one-year renewal options, with annual increases based upon the CPI. The lessee is responsible for all necessary

repairs, up to \$500 per occurrence, and routine maintenance of the property at its sole expense. The rent is in-line or above the current market analysis that is in our possession.

MR. TOBER: Any discussion by members? (no response)

SENATOR CARDINALE: Move the approval.

MR. TOBER: Motion to move the approval has been made. Is there a second?

DIRECTOR RIDOLFINO: I'll second.

MR. TOBER: Second.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: That motion passes.

Item No. 11 is RPR 10-11, Skillman Farm, Block 27001, part of Lot 7.01, Montgomery Township, Somerset County. This is your postponed June 24 agenda Item No. 10.

New Jersey Department of the Treasury, on behalf of the Department of Corrections, requests approval to grant an easement to Public Service Electric & Gas to install and maintain new electric service to the State's Skillman Farm.

SENATOR CARDINALE: Move the approval.

ASSEMBLYMAN CRYAN: Second.

MR. SHAUGHNESSY: Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: That motion passes.

Twelve: RPR 10-16, Block 53, part of Lot 11.01, Monroe Township, Middlesex County -- postponed June 24 agenda Item No. 13.

The New Jersey Department of the Treasury, on behalf of the Juvenile Justice Commission, requests approval to grant an easement to Jersey Central Power & Light for the installation and maintenance of electrical service necessary for a previously approved Verizon Wireless cellular tower that is being constructed at this site. The easement will

consist of 0.41 plus-or-minus acres of vacant land located on the grounds of the New Jersey Training School for Boys. The easement will be granted for the appraised value of \$18,500.

ASSEMBLYMAN CRYAN: This is item what in the book?

DIRECTOR HOLZBAUR: Thirteen.

MR. SHAUGHNESSY: It's Item No. 13 in the original book, sir.

MR. TOBER: Any questions or discussion by the members?  
(no response)

Do you need a minute to review?

ASSEMBLYMAN CRYAN: I'm okay.

MR. TOBER: Okay. If not, a motion would be in order, then.

ASSEMBLYMAN RIBLE: Motion.

MR. TOBER: Motion by Assemblyman Rible. Is there a second?

SENATOR CARDINALE: Second.

MR. TOBER: Seconded by Senator Cardinale.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The motion carries.

Next is Item No. 13, which is RPR 10-20, Block 214, Lot 43.03, Marlboro Township, Monmouth County. This is your postponed June 24 agenda Item No. 14.

New Jersey Department of the Treasury requests approval to convey 16.50 plus-or-minus acres of vacant land located on Boundary Road directly to Monmouth County. The property will be sold for fair market value, \$462,500, as determined by two appraisals.

ASSEMBLYMAN CRYAN: I have a question on that.

MR. TOBER: Question by Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Okay, has Monmouth County explained any sort of purpose for this?

MR. SHAUGHNESSY: I believe they want to continue to use it for open space -- parkland, park purposes -- that's the intended purpose.

ASSEMBLYMAN CRYAN: Okay. So they're purchasing it through their Open Space money?

MR. SHAUGHNESSY: I believe there's the Open Space funding that they're using, yes, sir.

ASSEMBLYMAN CRYAN: And is that why there's no bid on the 16 acres?

MR. SHAUGHNESSY: Well, we typically do a circular and we have the ability to sell to other governmental entities. So that's why there's no bid on this. But these have been appraised -- there are two appraisals --

and the merged, appraised price is \$462,500, based upon appraisal, which also has been reviewed internally.

ASSEMBLYMAN CRYAN: You know, Bob, I'm just looking at it and, again, I don't pretend to be--

MR. SHAUGHNESSY: I understand.

ASSEMBLYMAN CRYAN: --a real estate guy, but there's 16 acres, it has a road; it's in Colts Neck, right, or somewhere?

MR. SHAUGHNESSY: It's actually--

ASSEMBLYMAN RIBLE: Marlboro.

MR. SHAUGHNESSY: --in Marlboro.

ASSEMBLYMAN CRYAN: Marlboro. I mean, less than \$30,000 an acre in Marlboro, adjacent to a road -- again, I'm not a real estate guy, but I'd buy it if I had the money. You know what I mean?

MR. SHAUGHNESSY: It seems consistent, it seems consistent. We actually have an appraiser here from Treasury, if you want to hear more -- Robert Tighue, who's on staff with the Treasury.

ASSEMBLYMAN CRYAN: Yes, I just-- And really, if you could, Mr. Tighue--

**ROBERT TIGHUE:** Sure.

ASSEMBLYMAN CRYAN: Why wouldn't you bid this stuff? Is there a Green Acre plan, or how does that all fit?

MR. TOBER: Good morning, Commissioner.

MR. TIGHUE: I actually-- This parcel has a 10-acre minimum lot area. So it's really one building lot that you can get on the 16 acres, which was determined as the highest and best use. So when you compare that site to other building lots in this real estate market, you're looking at

about \$450,000, \$460,000 per lot. So it really was not determined on a per-acre basis, as much as it was on a per-usable building lot basis.

ASSEMBLYMAN CRYAN: Okay, so local zoning in Marlboro only allows--

MR. TIGHUE: In this particular zone, yes. It's a 10-acre minimum lot zone. So for one house, you need 10 acres.

ASSEMBLYMAN CRYAN: Really? In this particular zone?

MR. TIGHUE: Correct.

ASSEMBLYMAN CRYAN: It's quite a zone. How--

MR. TIGHUE: It's a very low-density zone, which was-- We have the same issue with our Marlboro Hospital as well.

ASSEMBLYMAN CRYAN: It's a royalty zone, is what it is.

So what-- I mean, I guess that's-- So Marlboro establishes a zone -- and I don't want to spend too much time on this; we've all had it. But Marlboro establishes a zone that makes my head shake -- on my little 50-by-100 lot that I live on -- and we fall to a value based on what seems like a pretty sparse, or less than, zoning. Is that pretty much this operates?

MR. TIGHUE: Well, I mean, in order to value something, you have to look at what its legal use can be.

ASSEMBLYMAN CRYAN: Right, right. So you have to factor--

MR. TIGHUE: Its legal use can only be one lot. The zoning, as far as I know, has been in place for several -- 20, 30 years.

ASSEMBLYMAN CRYAN: It's there a while.

MR. TIGHUE: Yes.

ASSEMBLYMAN CRYAN: Okay; all right. Thanks.

MR. TIGHUE: Yes. Also, I'd like to-- Just one other issue that was brought up on agenda No. 3, when you asked about Marlboro and how the internet auction is -- give it to the public. It's also in the Newark *Star-Ledger*. We're required to--

ASSEMBLYMAN CRYAN: So you print it off legals? You print a legal ad as well?

MR. TIGHUE: Yes, and usually we will advertise it in local papers as well. Our objective is to get the word out.

MR. SHAUGHNESSY: Thank you for that clarification, Mr. Tighue.

MR. TOBER: Any other questions from members of the Commission? (no response)

Hearing none, a motion would be in order.

ASSEMBLYMAN RIBLE: Motion.

MR. TOBER: Moved by Assemblyman Rible.

Is there a second?

SENATOR CARDINALE: Second.

MR. TOBER: Seconded by Senator Cardinale.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: No.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The motion carries.

Okay, on to No. 14. These are Department of Transportation matters, new business matters. Item No. 14 -- your previous agenda Item No. 16 -- project Route 72, Section 6, Parcels VX23 and VX24, Block 120.21, adjacent to Lots 8, 9, and 10, Stafford Township, Ocean County. The New Jersey Department of Transportation requests approval to sell an approximately 576-square-foot parcel to the only adjoining property owner, Andrew and Marie Davlouros, for assemblage to their commercial property. The recommended sale amount is \$864, the appraised value.

MR. TOBER: Any questions or comments on this matter?

SENATOR CARDINALE: Moved.

MR. TOBER: Senator Cardinale moves the approval. Is there a second?

ASSEMBLYMAN CRYAN: Second.

MR. TOBER: Seconded by Assemblyman Cryan.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: Now Items No. 15 through 17, inclusive, relate to the Raritan Valley Railroad. Item 15, which is your postponed agenda Item No. 17, is the Raritan Valley Railroad, Block 300, part of Lot 5, Borough of Kenilworth, Union County. New Jersey Department of Transportation requests approval to enter into a month-to-month lease of an approximately 7,000-square-foot area to an adjoining property owner, PH Partners, LLC. The principals are as listed in the agenda item. The recommended lease amount is \$234, plus a \$36 municipal service charge, for a total rent of \$270 per month, with an incremental rental increase of 5 percent per annum on the base rental.

MR. TOBER: Questions or comments from the members?

ASSEMBLYMAN CRYAN: Motion.

MR. TOBER: Motion by Assemblyman Cryan.

ASSEMBLYMAN RIBLE: Second.

MR. TOBER: Seconded by Assemblyman Rible.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: On to No. 16: It's project Raritan Valley Railroad, Block 300, part of Lot 5, Borough of Kenilworth, Union County. This is postponed agenda Item No. 18. New Jersey Department of Transportation requests approval to enter into a month-to-month lease of an approximately 4,550-square-foot area to an adjoining property owner, 130 Market Street Holdings, Inc. And the principals of that entity are given in your agenda. The recommended lease amount is \$151, plus \$24 municipal service charge, for a total rent of \$175 per month, with an incremental rent increase of 5 percent per annum on the base rent.

MR. TOBER: Questions or comments?

ASSEMBLYMAN CRYAN: Motion to approve.

MR. TOBER: Motion -- is there a second?

MR. SHAUGHNESSY: I think there were two motions.

SENATOR CARDINALE: Second.

MR. TOBER: Motion by Assemblyman Cryan, seconded by Senator Cardinale.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The last of these three matters: project Raritan Valley Railroad, Block 300, part of Lot 5, Borough of Kenilworth, Union County. New Jersey Department of Transportation requests approval to enter into a month-to-month lease of approximately 15,610-square-foot area to an adjoining property, 120 Market Street Associates. The principals are as listed in the agenda item. The recommended lease amount is \$520, plus an \$82 municipal service charge, for a total rental of \$602 per month, with an incremental rental increase of 5 percent per annum on the base rental.

MR. TOBER: Questions or comments? There's been a motion?

SENATOR CARDINALE: Motion.

ASSEMBLYMAN CRYAN: Second.

MR. TOBER: Motion and seconded.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: Okay, the next is Item No. 19. It's with regard to-- Pardon me: Item No. 18 is project Route 46, Section 14M and Route 20, Section 4P, Parcel VX37B2B, Clifton, Passaic County; previously on the agenda as Item No. 20. New Jersey Department of Transportation requests approval to sell by public auction a 0.782 acre vacant lot. Due to the inability to access Route 46, the appraiser posits change to RB-1 mixed residential commercial zone in the City of Clifton. The minimum starting bid price will be \$180,000, the appraised value.

MR. TOBER: Questions or comments on this matter?

ASSEMBLYMAN CRYAN: Motion.

MR. TOBER: Motion by Assemblyman Cryan.

SENATOR CARDINALE: Second.

MR. TOBER: Seconded by Senator Cardinale.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The motion carries.

The next is Item No. 19, which I understand is to construct a mitigation bank. This project is the Jackson Street Bridge Project, Section 16, Parcel VX493B, Block 171, Lots 1, 6 and 8; and Block 2029, Lots 1, 7, 21, and 22, Newark, Essex County -- postponed agenda Item No. 21. The requesting party is New Jersey Department of Transportation, requesting approval to enable conversion of an irregular-shaped parcel containing 2.9 plus-or-minus acres, located at the southwest corner of Jackson Street and Raymond Boulevard. The property is being proposed to be set up as a mitigation bank under an agreement with the City of Newark, which will provide for future transfers of land at appraised market value in lieu of providing cash payments for City lands impacted by New Jersey Department of Transportation projects.

New Jersey Department of Transportation will execute a lease as a separate transaction after this mitigation bank is approved, to permit the City to operate a park on the mitigation site. This will allow the citizens of the State to benefit from the mitigation site while relieving the Department of Transportation of maintenance obligations. The property will be held in New Jersey Department of Transportation ownership as a

mitigation bank; portions of the property will be divided off and transferred to the City after State House Commission approval as mitigation for future State highway project impacts.

Transfers will utilize a market value rate determined by appraisal and will be subject to transfer ratios set forth with then-current Green Acres regulations -- if Green Acres encumbered -- or market value if for other City lands. The agreement provides that the site will be valued as if not subdivided so that the market value is not diluted as the site becomes smaller and less viable. And future transfers of land from the mitigation bank will be submitted to this Commission.

MR. TOBER: Questions or comments?

ASSEMBLYMAN CRYAN: Can somebody explain a mitigation bank?

MR. SHAUGHNESSY: Is there anyone from the Department of Transportation?

Please come up and identify yourself, please.

**D A V I D K O O K:** Good morning. My name is Dave Kook, and I'm with the Department of Transportation.

I guess the question is, what is a mitigation bank? This is a piece of property that Newark has been greatly interested in acquiring. It's right along the river, it's a part of their project that they're going to have -- a series of parks on either side of Jackson Street Bridge. The county's providing lands on the other side of the bridge, and the City has, for many years, been attempting to get this property from us. Unfortunately, we have not had any projects available that we could just switch off and exchange as Green Acres -- exchanges up until now -- and we don't have any

in the foreseeable horizon of five or so years. And therefore it wasn't practical to transfer it to DEP, because they want to have a shorter window in which to deal with lands that are held by them. So in lieu of doing that, or losing the value of the property by making a transfer, shall we say, too soon before the need was there, we came up with the concept of holding the land ourselves, making it available to the City to use as a park, and then as our transportation project hits a park somewhere, we would exchange, whatever the Green Acres ratio was -- say two-to-one, or five-to-one, or whatever it becomes in the future -- the pieces of the land by deeding them out to the City as needed. There's already a piece that's removed from this that the (indiscernible) project required us to do, and we're just committing the rest of the land to that process in the future.

ASSEMBLYMAN CRYAN: So under this deal, roughly three acres -- 2.9.

MR. KOOK: It's actually a little less than that.

ASSEMBLYMAN CRYAN: Okay.

MR. KOOK: That's their finding in the survey, but we weren't sure exactly how much, because the survey hadn't been finished at the time we put together the concept.

ASSEMBLYMAN CRYAN: Surveys are interesting here, I can tell you that. Have we done mitigation bank anywhere else?

MR. KOOK: I-- Green Acres may have held lands with that concept, but this would be the first for DOT. And we were hoping that this would be a way that we could put public lands to public use, while still retaining the value for the taxpayers at some future transaction date, so that it wouldn't be turned over for just-- In fact, this piece is unusual in that

when we bought it, it had a gasworks on it, so it was rather expensive land and the City clearly couldn't afford to just buy it from us outright.

ASSEMBLYMAN CRYAN: So who took the gasworks off?

MR. KOOK: We did. Unfortunately there was no access because of a ramp we were putting on Jackson Street Bridge, so we had to take the entire property. The owner couldn't use it anymore.

ASSEMBLYMAN CRYAN: Okay; so the State, for lack of a better term, cleared it off.

MR. KOOK: Correct.

ASSEMBLYMAN CRYAN: And now it potentially can be used -- that's fine. Can you explain to me how, in the future, the lease process works? I got the appraisal part.

MR. KOOK: Yes.

ASSEMBLYMAN CRYAN: I guess I just want to understand, before I vote, how the next transaction or how the mitigation-- How does one cash into the mitigation bank?

MR. KOOK: Well, we set it up so that if we hit any City land -- be that Green Acres encumbered, or otherwise -- they have to use the land from the mitigation bank to offset credits. So if we hit a vacant lot or something the City has acquired through tax purposes, the agreement would have us provide -- well, they could take as much of that land as they want, or 50 percent if they want half the cash value in exchange for what we acquired. We would appraise both pieces, and divvy it up, based on that basis. Green Acres, on the other hand -- if we hit a piece of Green Acres, then we would have to replace land for land, and as you've seen, they have ratios above what we have. So instead of having to buy a piece in the future

to give to them, we've already established a piece that they really like; and we get to make it into a park today, even though there's no current need for us to transfer it for mitigation purposes.

ASSEMBLYMAN CRYAN: Okay; thank you.

MR. TOBER: Any other questions? (no response)

None? Then a motion will be in order.

SENATOR CARDINALE: Moved.

ASSEMBLYMAN CRYAN: Second.

MR. TOBER: Moved and seconded.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: Okay, that motion carries.

We are now on to the new business: Department of Environmental Protection requests. The first DEP project under new business is No. 20 on today's agenda; it was agenda Item No. 28 previously.

The project is Dundee Dam Historic River Park, Block 140, Lot 24, 45 and 49, Garfield, Bergen County.

New Jersey DEP, on behalf of the City of Garfield, requests approval to allow the City to dispose of 0.568 plus-or-minus acre of Dundee Dam Historic River Park to accommodate proposed improvements to River Drive, which is County Road 507, which is part of an overall project to improve the park for public use, including widening, realignment, and intersection improvements necessary to upgrade the existing county roadway and improve driver safety. The proposed project also involves the release by the DEP of a deed of conservation restriction it holds on Block 140, Lot 45, to accommodate the roadway improvements. As compensation, the City will acquire and dedicate as new parkland four properties totaling 1.216 plus-or-minus acres. Apparently there were two public hearings held, and no public opposition was voiced at either public hearing on this matter.

MR. TOBER: Any comments or questions? (no response)

SENATOR CARDINALE: Motion.

ASSEMBLYMAN CRYAN: Second.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The motion carries.

Next is Item No. 21 -- previously Item No. 23 in your agenda: Project Liberty State Park, Block 2145, Lots 42A and 50N, Jersey City, Hudson County. New Jersey DEP requests approval to enter into a 20-year lease of approximately 0.15 acre to Public Service Electric and Gas for the purpose of constructing, installing, operating, and maintaining an underground gas pipeline, associated structures/equipment for the transmission and distribution of natural gas to a newly constructed public building -- headquarter building -- on a marina managed by the Division of Parks and Forestry, and leased to New Liberty Landing Marina, LLC, Liberty Landing.

SENATOR CARDINALE: Move the approval.

MR. TOBER: Second?

ASSEMBLYMAN RIBLE: Second.

MR. SHAUGHNESSY: Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: That motion carries.

The next item is Item No. 22, previously No. 24 on the agenda. The project is South Branch Wildlife Management Area, Block 740, Lot 70, Readington Township, Hunterdon County. New Jersey DEP requests to enter into a five-year farm lease and service agreement, with an option to renew for five years, on a 64.6-acre parcel of land located in the South Branch Wildlife Management Area to Steven Zamek, Z-A-M-E-K. The compensation is as provided in your agenda.

ASSEMBLYMAN CRYAN: I have a question on this.

MR. TOBER: Okay; Assemblyman?

ASSEMBLYMAN CRYAN: I appreciate the promotion, but-- In the book, on page 3 of the summary sheet: The tenant will receive a reduction in rent, in-kind services, within the same wildlife-- Same deal. How does that get verified? It's a pretty-- How does that work? Same thing. I guess I--

MS. GREEN: Can you repeat the question? I'm sorry.

ASSEMBLYMAN CRYAN: You know, I probably asked it already, but it's just one of those like the other ones where I had notes on it.

MR. SHAUGHNESSY: And for the record, it's Marci Green again, from DEP.

ASSEMBLYMAN CRYAN: How do you verify the in-kind services in the Wildlife-- In the same Wildlife Management Area? It's on page 3, it's the third from the bottom, I guess. It starts with "the tenant will also receive--"

MS. GREEN: The value of the in-kind services that-- Yes, Marci Green from DEP. The value of the in-kind services was established through data and statistics provided by various sources, including Penn State and Rutgers.

ASSEMBLYMAN CRYAN: So what's the overall acreage here?

MS. GREEN: The total acreage of the leased parcel is 64.6 acres.

ASSEMBLYMAN CRYAN: So we're going to make-- This one just kind of looked a little weird, here. We're leasing 64 acres, right? Just help me a little bit. I mean, if we've done it over the years, but-- And the lease value is \$1,800. I mean, it just raises an eyebrow, I guess.

MS. GREEN: Sure, I can explain to you. The lease values were derived through rental rates established by the USDA, and it's basically based on the productivity of the soil, so each soil type has different rates. So the more productive the soil, the higher the rental rate. So--

ASSEMBLYMAN CRYAN: So is this area going to be farmed?

MS. GREEN: Yes, yes -- the area will be farmed, if that-- But it's a farm lease.

ASSEMBLYMAN CRYAN: Okay, this fellow will farm it and whatever he grows-- Sixty-four acres, so I assume you can sell some of that stuff?

MS. GREEN: He can sell it, yes.

ASSEMBLYMAN CRYAN: Okay, so he-- Good for him, but he gets to sell and do that, and we get \$1,800?

MS. GREEN: Yes, well, we actually-- The cash payment is \$109. he'll be providing in-kind services on a different parcel of Fish and Wildlife land valued at \$1,750.

ASSEMBLYMAN CRYAN: So, Marci, let me go through it: Sixty-four acres that this gentleman can farm, to use to hopefully make a lot of money and hopefully things are good, right? I assume farming--

MS. GREEN: The crops that can be grown on Fish and Wildlife land are limited because it is seen more as a management tool. So they're not going to be growing high-value crops, like vegetable crops or--

ASSEMBLYMAN CRYAN: So what do you--

MS. GREEN: It's usually hay or grass and-- I mean, not that they can't make a profit from that, but they're just not high-value crops. They're not going to be growing corn.

ASSEMBLYMAN CRYAN: Do you know that-- I have no idea, but do you know if this is-- This lease just kind of shocks my conscience a little bit, and I guess I want you to give me a reason.

MS. GREEN: I guess I'm comfortable. We went through a very thorough process in establishing the minimum bids on these leases based on the data and the information provided by the USDA, the farmer service agency. And it's actually the rates-- And I have to tell you, we established those rates, we met with the Secretary of Agriculture and the Farm Bureau and had many meetings with the farmers, and we were actually pushed back on the values that we had established because there are some limitations on the land. So we had the USDA rental rates, and we

actually decreased them a little, based on limitations of farming on public land. But I can tell you that this is a big increase compared to what Fish and Wildlife was getting for farmlands, because they used to lease these lands out for free with the caveat that the farmer had to provide a 15 percent area of unharvested lands to provide deer a habitat. We don't have that-- This was a policy that was established a long time ago. We don't have that issue anymore where we're encouraging and providing deer habitat. The deer population is thriving well without that.

So for a number of reasons we kind of rehailed the whole farm lease program with the Division of Fish and Wildlife. There had also been complaints that we never made it an open process; that the land was just continuously being given to the farmers who had had it. So this was a lengthy process to establish what we thought were sufficient values. And I'm comfortable with them, because I've been administering a lot of other leases, and I came from the Department of Agriculture -- I worked there for 10 years -- and I'm comfortable with these lease values. I think they're actually a big improvement and--

ASSEMBLYMAN CRYAN: Thirty dollars an acre, Marci?

MS. GREEN: Excuse me?

ASSEMBLYMAN CRYAN: It's \$30 an acre a year, right? Sixty-four times 30 -- it's about that.

MS. GREEN: Like I said, it's based on the productivity of the soil, and it's not a high income crop that they're producing.

ASSEMBLYMAN CRYAN: I appreciate the efforts, and the try, but I can't vote for this. This looks ridiculous.

SENATOR CARDINALE: May I?

MR. TOBER: Senator Cardinale.

SENATOR CARDINALE: I notice that in this process you have done live public auctions with respect to these various properties. And this particular one is noted that no one bid on it--

MS. GREEN: Correct.

SENATOR CARDINALE: --at the opportunity to bid at a public auction. Have you tried internet auctions?

MS. GREEN: We did not do an internet auction. The reason why we held them as live auctions was because we received a lot of criticism from the farmers who had been farming the land for a long time -- that they wanted, basically, to have the option to top the highest bidder, and it was something that we had been considering. The Attorney General's Office didn't think that was putting everyone on a fair playing field, so we wanted to hold a live auction so that the farmer who had been farming the farm for 20 to 30 years could see what the highest bid was and top it. I don't know if the internet auction would allow a farmer to do that -- I'm not familiar with internet auctions, to be honest. But by having everybody in the same room, including the farmer who had been farming the land, it gave him the opportunity to see what was happening and top the highest bidder.

SENATOR CARDINALE: Let me just follow up by asking: Are these auctions, when you hold them, advertised on the internet.

MS. GREEN: Yes.

SENATOR CARDINALE: As well as in local publications?

MS. GREEN: Yes, yes, they're advertised on the internet. They're advertised on our web site, on the Department of Agriculture's web

site; the Farm Bureau advertises it on their web site. (indiscernible) State Agriculture Development Committee had it on their web site as well.

SENATOR CARDINALE: If you didn't lease it to this particular individual, there are apparently are no other takers -- is that correct?

MS. GREEN: That is correct.

SENATOR CARDINALE: What would then be the problem for the State?

MS. GREEN: The problem-- Well, like I said, this is a land management tool for Division of Fish and Wildlife. This isn't just providing farmers farmland to farm. There are guidelines in the lease that benefit Fish and Wildlife for habitat management. So the benefit--

SENATOR CARDINALE: Would you have to employ anyone to go in and--

MS. GREEN: Yes, yes.

SENATOR CARDINALE: --operate this property for you--

MS. GREEN: Yes--

SENATOR CARDINALE: --and somehow tend to it?

MS. GREEN: Yes. Given the staffing limitations on the Division of Fish and Wildlife, management of the lands has become an issue, which is one of the reasons why we require the in-kind services as part of these deals. So this will relieve the Division of Fish and Wildlife some from managing the lands as well.

SENATOR CARDINALE: Thank you very much.

MR. TOBER: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Did you have something, Dave?

ASSEMBLYMAN RIBLE: No.

ASSEMBLYMAN CRYAN: Is there a fish that we're saving or something along those lines here?

MS. GREEN: It's habitat management, and I'm not an expert in habitat management, but it is all to promote birds and other wildlife to live in the area.

ASSEMBLYMAN CRYAN: Okay, thanks.

MR. TOBER: Any further discussion? (no response)

Seeing none, a motion would be in order.

SENATOR CARDINALE: Move the approval.

MR. TOBER: Moved by Senator Cardinale.

Is there a second?

ASSEMBLYMAN RIBLE: Second.

MR. TOBER: Seconded by Assemblyman Rible.

MR. SHAUGHNESSY: Okay -- Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: No.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: That matters passes; thank you.

Okay, the next item on the agenda for today is Item No. 23 -- another DEP request. The project is Allamuchy Mountain State Park, Block 901, Lots 2 and 2.01, Allamuchy Township, Warren County. This was previously on as agenda Item No. 25. The New Jersey DEP requests approval to lease a historic building, the Mahler House, to the Canal Society of New Jersey for 20 years. The Society will restore the house and use the property for office space, a public interpretive facility, library, and collection storage facility; and to establish a trailhead for the Morris Canal Greenway. The Society will be responsible for the upkeep and maintenance of the property, in addition to the utilities. The payment will be a one-time payment of \$20, as the Society is a nonprofit organization and will provide public services of programming and funds invested by the organization, including improvements, maintenance, and operation of the facility. The Society has proposed to invest approximately \$40,000 in the restoration of the Mahler House.

That is up for approval today.

MR. TOBER: Any questions or comments?

ASSEMBLYMAN CRYAN: Motion.

MR. TOBER: Motion by Assemblyman Cryan.

Is there a second?

SENATOR CARDINALE: Second.

MR. TOBER: Seconded by Senator Cardinale.

MR. SHAUGHNESSY: Okay -- to the vote:

Special counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: No.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: That motion is approved.

The next matter is Item No. 24. The project is Parvin State Park, Block 2801, part of Lot 3, Pittsgrove Township, Salem County -- previously on the agenda as Item No. 27.

New Jersey DEP requests approval to lease a building, known as the Danna House, and the surrounding 2.5 acres to the Parvin State Park Appreciation Committee, a nonprofit organization, for five years, with an option to renew for another five years, for use as its administrative headquarters and as a public interpretive facility. Payment for the lease will be a one-time payment--

SENATOR CARDINALE: (indiscernible)

MR. TOBER: Just place on the record that Senator Cardinale is indicating that he needs to go, but he's leaving a "yes" vote on the remaining matters in the agenda.

Thank you, Senator Cardinale, and all the rest of the members for a long meeting today, and your continued patience.

MR. SHAUGHNESSY: Payment for this lease will be a one-time payment of \$20, as DEP charges a nominal fee for rent in light of the value of the public services and improvements provided by the nonprofit in volunteer hours, interpretive programs, improvements, maintenance, and operation of the leased facilities. And the volunteer hours provided and the values of the improvements are otherwise provided in your agenda item.

MR. TOBER: Any questions or comments? (no response)  
Motion, please.

ASSEMBLYMAN RIBLE: Motion.

MR. TOBER: Motion by Assemblyman Rible.  
Is there a second?

ASSEMBLYMAN CRYAN: Second.

MR. TOBER: Seconded by Assemblyman Cryan.

MR. SHAUGHNESSY: Special Counsel Tober.

MR. TOBER: Yes.

MR. SHAUGHNESSY: Director Ridolfino.

DIRECTOR RIDOLFINO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

DIRECTOR HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale has been asked to be marked in the affirmative, as well as on all remaining matters.

Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Yes.

MR. TOBER: Let me just put on the record that Assemblyman Cryan is leaving as well, and has also asked to be marked in the affirmative.

Have we lost the quorum? He was here for that matter, so we're okay.

MR. SHAUGHNESSY: That was Item No. 24.

MR. TOBER: Okay; so then Items 25, 26, 27, 28 and 29 will have to be left to our next meeting, for a lack of quorum.

Mr. Secretary, is there any other business that we need to conduct?

MR. SHAUGHNESSY: None known, Mr. Chair.

MR. TOBER: None known. In that case, I ask for a motion to adjourn.

ASSEMBLYMAN RIBLE: Motion.

MR. TOBER: Assemblyman, thank you.

Second?

DIRECTOR RIDOLFINO: I'll second.

MR. TOBER: Seconded.

All in favor? (affirmative responses)

MR. SHAUGHNESSY: Okay, the meeting is concluded at approximately 12:07 p.m.

MR. TOBER: And again, thank you to all the members for your patience today, especially Assemblyman Rible who is new to the Commission, and to our Executive Branch members for a long day. Thank you.

**(MEETING CONCLUDED)**