

CN - Orego Farms v. Colts Neck Twp

2/17/84

Transcript of Proceedings: Depositions of  
Allen J. Dresdner + William Queale, JR.

P-167A

CN 000 031 G

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION : MONMOUTH COUNTY  
DOCKET NO. L-3299-78 P.W.  
DOCKET NO. L-13769-80

ORGO FARMS & GREENHOUSES, INC. :  
consolidated with SEA GULL, LTD. :  
BUILDERS, INC. : CIVIL ACTION  
  
Plaintiffs, : Depositions of:  
  
vs : ALLEN J. DRESNER  
TOWNSHIP OF COLTS NECK, : WILLIAM QUEALE, JR.  
  
Defendant. :

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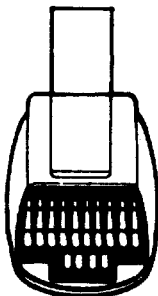
T R A N S C R I P T of the  
stenographic notes of the proceedings taken in the  
above-entitled matter, by and before NATHALIE TULLMAN,  
a Certified Shorthand Reporter and Notary Public of  
The State of New Jersey, held at the offices of  
MESSRS. FRIZELL & POZYCKI, 296 Amboy Avenue, Metuchen,  
New Jersey, on Friday, February 17, 1984 at 9:15  
o'clock, a.m.

A P P E A R A N C E S :

MESSRS. DRAZIN & WARSHAW  
BY: LOUIS F. LOCASCIO, ESQ.  
For the Plaintiff Sea Gull, Ltd. Builders, Inc.

**CITONE  
ASSOCIATES**

1697 Oak Tree Road  
Edison, New Jersey 08820  
(201) 548-3050



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A P P E A R A N C E S : (Continued)

MESSRS. FRIZELL & POZYCKI  
BY: DAVID J. FRIZELL, ESQ.  
For the Plaintiff Orgo Farms & Greenhouses, Inc.

MESSRS. STOUT, O'HAGAN & O'HAGAN  
BY: ROBERT W. O'HAGAN, ESQ.  
For Defendant Township of Colts Neck

MESSRS. LOMURRO, EASTMAN & COLLINS  
BY: EDWARD C. EASTMAN, JR., ESQ.  
For the Zoning Board of Adjustment of Colts Neck

I N D E X

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WITNESSES

DIRECT

CROSS

ALLEN J. DRESDNER

By Mr. Frizell: 2

By Mr. Locascio: 35

WILLIAM QUEALE, JR.

By Mr. Frizell: 43

By Mr. Locascio: 79

1 A L L E N J . D R E S D N E R , the witness,  
2 residing at 23 Edgemont Avenue, Summit, New Jersey, after  
3 being duly sworn, was examined and testified as follows:

4 MR. FRIZELL: Mr. Dresdner, you have  
5 been deposed before, I'm sure.

6 THE WITNESS: Yes, sir, I have.

7 MR. FRIZELL: You understand the rules  
8 of depositions, that you have to answer verbally  
9 and that your words will be taken down by the  
10 reporter and distributed to the attorneys in  
11 booklet form, and they do use it later.

12 THE WITNESS: Yes, I do.

13 DIRECT EXAMINATION BY MR. FRIZELL:

14 Q Mr. Dresdner, I see --

15 MR. O'HAGAN: Can we agree we are  
16 reserving objections except as to form?

17 MR. FRIZELL: Yes.

18 Q I see from the report that we have here,  
19 dated February 1984, Mr. Dresdner, that you have a Bachelor  
20 of Science degree in City Planning from Illinois, and a  
21 Master of Science in Public Administration from New York  
22 University?

23 A That's correct.

24 Q Do you hold any other degrees?

25 A I have a diploma in Computer Application Planning

1 from Columbia University, and that would be the only other  
2 certificate and/or university degree.

3 Q Which planning firms were you employed  
4 by in New Jersey over the course of your career?

5 A After leaving school, I was employed by Candeub,  
6 Fleissig & Associates in Newark, New Jersey for a period  
7 of time between 1956 and approximately 1970. During that  
8 time I also received a Research Fellowship for work in  
9 South America.

10 I took a leave of absence from Candeub, Fleissig  
11 as a consultant for the State of Israel for a year for  
12 the Ministry of Housing.

13 I also was with, at that time, Raymond & May, for  
14 one year. However, most of the years between 1956 and 1970  
15 were with Candeub, Fleissig & Associates.

16 In 1972 to 1977, I was employed by Dames & Moore  
17 in Cranford, New Jersey, an international environmental  
18 consulting firm, where I was head of their land use and  
19 environmental management group.

20 In 1977, I formed my own company, Dresdner Associates,  
21 located in Summit, New Jersey.

22 Q Have you had any formal education in what  
23 I will generally refer to as the health sciences, that is,  
24 dealing with the health of the human species?

25 A In two areas. One would be as a landscape

1 architect, that is, I had a Minor in Landscape Architecture  
2 from the University of Illinois, and courses in hydrology  
3 and hydraulics, with some course work in water quality  
4 included in that curriculum. And in the Graduate School  
5 of Public Administration, we had a course that related to  
6 Public Health, the Graduate School of Public Administra-  
7 tion at NYU.

8 Q That was the Master's Program?

9 A Yes, sir.

10 Q How many hours is that?

11 A The course would have been three hours, or three  
12 credits. I don't recall how many hours.

13 Q Is the report dated February, 1984 the  
14 only report that you have issued to Colts Neck in connec-  
15 tion with this situation?

16 A That's correct.

17 Q Could you tell me what factual information  
18 or what information they gave you in terms of plans, other  
19 studies, or factual information about the Orgo Farms Colts  
20 Neck Village Development? What was the data base on which  
21 this started?

22 A The factual information included the number of units  
23 proposed for the property from the area of the property,  
24 the location of the property, the Master Plan; a map of  
25 the Township; other factual data that I used was the result

1 of my own research.

2 Q So you did your own. Other than those  
3 five things which I have listed, the number of units pro-  
4 posed, the area and -- perhaps these are the same things --  
5 the area in which it was proposed, the location of the  
6 project -- which I take it you know -- the Master Plan and  
7 the map of the Township, those are the things they provided  
8 to you and the rest of the information you used to prepare  
9 the report you gathered on your own?

10 A Yes, sir.

11 Q Generally, could you tell me about the  
12 other information, what that was about?

13 A Well, there was soils information, geologic  
14 information; stream and reservoir information; reports on  
15 the 208 Water Quality Master Plan from the County; and  
16 other studies relating to the effect of land use develop-  
17 ment on water quality.

18 Q Did you come to a conclusion as to whether  
19 or not the proposed Colts Neck Village Development would  
20 have an adverse impact on the water quality of either the  
21 surrounding area or the Swimming River Reservoir?

22 A Yes, the conclusion I arrived at was it would  
23 have an adverse effect on Slope Brook which is a tributary  
24 to the Swimming River Reservoir and, therefore, would have  
25 an adverse effect on the Reservoir as well.



1 Q Would you describe what that adverse  
2 effect is?

3 A The adverse effect would be in terms of a variety  
4 of increased contaminants ranging all the way from litter  
5 to potential pathogens, heavy metals, and a decrease in  
6 biologic oxygen demand.

7 Q In your opinion, is there a methodology  
8 available to measure the amounts of pollutants which  
9 would reach a given body of water starting at an urbanized  
10 type development from one point in which it could be  
11 measured as to how much of those pollutants are reaching  
12 a given body of water?

13 A Yes. Studies such as the one you described have  
14 been performed and are the basis for conclusions that are  
15 drawn elsewhere.

16 Q Can you tell me what those studies are?

17 A I can't at this point give you chapter and verse.  
18 However, General Whipple has conducted a number of studies  
19 for both the Corps of Engineers and several years ago for  
20 the Rutgers Water Resources Center, I believe, on the  
21 relationship between land use and water quality, as well  
22 as the impact of land uses on receiving waters.

23 Q Are you aware of any practices or  
24 development practices that can be implemented in order to  
25 ameliorate or mitigate any impacts of urban type development

1 in receiving streams or downstream facilities such as the  
2 Swimming River Reservoir?

3 A Yes, I am.

4 Q Could you list those for me; what would  
5 have a tendency to reduce adverse impacts?

6 A Broadly, land use and density are the major  
7 control on pollutant generation. To cite specifically,  
8 there are techniques relating to directing runoff water  
9 over grassed or wooded vegetated surfaces. There is the  
10 classic retention and detention of waters. There is the  
11 limited treatment of detained waters to either settle out  
12 or skim off certain contaminants. Those are two basic  
13 means of treating storm water.

14 Q Are there any others that you are aware  
15 of in terms of development practices that would tend to  
16 reduce the adverse impacts?

17 A Yes, there are maintenance practices by the --  
18 conducted in the project relating to rapid collection of  
19 litter, street cleaning, and the use of certain kinds of  
20 non-chloride chemicals or natural materials for anti-  
21 skid maintenance during the wintertime.

22 Q Are there any others that you can recall?

23 A Those come immediately to mind. Street maintenance  
24 is extremely important.

25 Q Are you aware of any studies -- first,

1 what are the adverse impacts of suburbanized-type large-  
2 lot, single-family development on receiving streams and  
3 downstream facilities?

4 MR. O'HAGAN: Do you understand  
5 the question? I'm not so sure I do.

6 A It's the large lot that I can't pin down. I don't  
7 know what you mean.

8 Q Let's talk about lots of one acre, two  
9 acres, with large houses and off-street parking facilities,  
10 that is, paved driveways, streets in the vicinity of 40 to  
11 50 foot widths with sidewalks, a typical suburban one-  
12 acre, one and-a-half acre suburban type development with  
13 large cultured lawns.

14 A Just in terms of, if I could qualify the question  
15 in a minor way: I would expect the roads would be closer  
16 to 30 rather than 50 feet, and on one- or two-acre lot  
17 developments there probably would not be sidewalks.

18 But beyond that, I'll answer your question as it  
19 was posed.

20 There would be many of the similar types of  
21 contaminants generated. However, they would be, one,  
22 generated at much, much lower intensities; and, two, there  
23 would be a significantly more open space, that is,  
24 vegetated area, to absorb these contaminants prior to their  
25 runoff into streams.

1           When you go to a two-acre lot, the property  
2 pretty well can absorb whatever pollution is generated  
3 from it. Significantly, in all likelihood, it would not  
4 have public sewers. It may not have public water. It is  
5 in environmental terms almost a self-contained utilities  
6 unit.

7           So at the density, or development at these low  
8 densities are a traditional land use technique for protect-  
9 ing and preserving environmentally sensitive areas.

10           MR. O'HAGAN: Excuse me. Off the  
11 record.

12           (Discussion off the record)

13           Q           In your view, Mr. Dresdner, is the  
14 installation of these septic systems in the immediate sur-  
15 rounding properties, the Swimming River Reservoir, poten-  
16 tially adverse to the water quality in the Reservoir, or  
17 is it in your view of no consequence?

18           MR. O'HAGAN: Can I just interpose.  
19 Does that give Mr. Dresdner enough facts?  
20 Doesn't he have to know the adequacy and the  
21 state of construction of the septic fields  
22 to answer that?

23           MR. FRIZELL: I think Mr. Dresdner  
24 has a broad enough background in septic fields  
25 to understand what a septic field is, and the

1 different types, and they are generally  
2 regulated by the State in any event. And  
3 I think what we are talking about is discharg-  
4 ing household waste into the ground, either  
5 through a septic field or a tank.

6 Q Do you want to expand on that in any way,  
7 Mr. Dresdner, in terms of the physical description of the  
8 septic fields?

9 A If the septic tank and the septic fields are  
10 properly installed and properly maintained, and proper  
11 maintenance is as important as installation, there should  
12 be no significant or, indeed, even measurable effect on  
13 the waterway.

14 The distance from the septic tank and its field  
15 to the waterway -- call it the reservoir -- both in  
16 horizontal and vertical terms, would be an element of  
17 proper installation. So you would want to keep the septic  
18 tank further rather than closer on your property line to  
19 the reservoir. Additionally, you would want to keep it  
20 deeper rather than shallower; but then, again, subsurface  
21 conditions in terms of quality of the soil, what-have-you,  
22 would all play a role in that.

23 Q Did you read General Whipple's testimony  
24 at the trial in this case?

25 A Yes, sir, I did.

1 Q Did you read what he said about the  
2 septic systems in the area?

3 A I don't recall what he said about that.

4 Q Did you make any inquiries concerning the  
5 practices encouraged by the Township of Colts Neck in  
6 development, through planning board procedures, practices  
7 in Colts Neck concerning the development of suburban  
8 residential facilities?

9 A Insofar as the updated master plan and a, I must  
10 admit, a quick review of the zoning ordinance.

11 Q I was really more concerned with whether  
12 or not you had reviewed what their general practices have  
13 been in the past concerning the channelization of flow,  
14 concerning the installation of streets, and concerning  
15 the development in the area immediately around the Swimming  
16 River Reservoir?

17 A I am familiar with some of the practices in the  
18 subdivision immediately adjacent to the Reservoir, but I  
19 have not reviewed any papers. I'm familiar with that as  
20 a result of looking at the maps.

21 Q When were you first retained by Colts  
22 Neck?

23 A Perhaps two months ago.

24 Q Did they hire you to testify in this case  
25 specifically, or were you hired as a general consultant

1 to the Township?

2 A No, I was hired as an expert to testify in this  
3 particular case.

4 Q Have they at any time asked you or  
5 retained you for the purpose of giving them recommendations  
6 on management practices in terms of protecting the Swimming  
7 River Reservoir in the long run, not only in connection  
8 with this particular property but in connection with all  
9 the suburbanization that's going on around the Swimming  
10 River Reservoir?

11 A No, they haven't.

12 Q Do you know whether or not they hired at any  
13 point General Whipple for that purpose?

14 A No, I don't.

15 Q He is now a State employee, isn't he?

16 A Yes, he is with the State Department of Environmental  
17 Protection.

18 Q Do you know whether or not they have in fact  
19 a policy in the town in terms of development application  
20 review which would direct itself specifically to the  
21 management practices that you have outlined as those which  
22 would best protect the Swimming River Reservoir?

23 A Other than site plan review where these principles  
24 are typically applied, I don't know of any specific docu-  
25 ment they might have that would outline that.

1 Q You say that are typically applied but you  
2 don't know whether or not they are in fact applied in Colts  
3 Neck, do you?

4 A No, I don't.

5 Q What about the maintenance of large  
6 residential lawns with nitrate and phosphate fertilizers  
7 in a suburbanized development --

8 A Yes.

9 Q -- such as the typical one you would find  
10 in Colts Neck Township; what effect does that have on the  
11 water control downstream?

12 A Well, it would have an impact on the water quality  
13 in terms of leaching of nutrients, increased nutrients  
14 in a water body, and it would depend on the extent of the  
15 nutrients, which would create a more fertile environment  
16 for growth of microaquatic organisms, which in turn would  
17 increase biological oxygen demand and reduce oxygen within  
18 the stream.

19 The result of that would be in certain waters the  
20 loss of the higher species, fish species, and the algal  
21 blooms, and the accompanying potential discoloration and  
22 odors that go with it. That would be an extreme example  
23 of nitrogen contamination.

24 Q General Whipple testified he had  
25 installed at the Delaware Canal when he was the former



1 consultant or head of the Commission -- in any event, they  
2 had installed management practices for the building of  
3 detention basins and other management practices within the  
4 D & R Canal Commission's drainage basin.

5 A Right.

6 Q The D & R Canal generally is a potable  
7 water source, is it not? You know that, don't you?

8 A Portions I understand are used as a potable water  
9 source but I thought it was as a reserve rather than a  
10 primary source.

11 Q You don't have to take my word for this,  
12 but I think the water you are drinking today in the  
13 coffee comes from there.

14 A That's the reason for the taste.

15 Q Most of the water in Middlesex County and  
16 Somerset County comes from the D & R Canal directly.

17 A Oh.

18 Q Are you familiar with those practices that  
19 they recommended and installed at the D & R Canal?

20 A Yes, I am generally familiar with it as a result of  
21 work I had done in the community adjacent or along which  
22 the D & R Canal goes.

23 Q Have you analyzed those in terms of what  
24 you would conclude was their effectiveness in terms of  
25 reducing adverse impacts of suburban and/or urbanized

1 type development on a potable water source?

2 A Oh, they had had a -- to the extent they have  
3 been applied -- they have had a positive effect, but the  
4 main protector to the quality of the D & R water is the  
5 buffer, a substantial buffer that exists along the Canal,  
6 along most of its length, and the fact that it is somewhat  
7 higher than the adjacent riverway, and the control of  
8 storm water, the volumes of storm water runoff rather than  
9 the quality of the storm water runoff that enters the  
10 Canal.

11 The buffer around the D & R Canal is a thousand  
12 feet in either direction, is it not, in terms of their  
13 jurisdiction?

14 A Yes, it is.

15 Q Do you know whether or not the Township  
16 of Colts Neck either in its master plan or otherwise  
17 either has installed or implemented a similar buffer regu-  
18 lation around the Swimming River Reservoir?

19 A It's my understand that there is a buffer around  
20 the Swimming River Reservoir up to an elevation, I believe,  
21 of 40 or 41 feet.

22 Q What is that understanding based on?

23 A Discussions with the municipal employee.

24 Q Have you visited the Reservoir and the  
25 surrounding subdivisions?

1 A Yes, I have.

2 Q Have you seen residential development right  
3 up against the edge of the Reservoir?

4 A No, I haven't seen residential development right  
5 up against the Reservoir. There appears to be, at least,  
6 where I was, a wooded or a natural buffer between the more  
7 formal lawns and backyards and the Reservoir itself.

8 Q Did you fly over it?

9 A No, I haven't.

10 Q The development of lawns and the develop-  
11 ment of septic fields within a hundred feet, 100-200 feet  
12 of the Reservoir, as a matter of general development course  
13 in Colts Neck would be something that I assume from your  
14 testimony you would conclude would be adverse to the  
15 quality of water in the Reservoir?

16 A That's correct. It's my opinion that a Reservoir  
17 should have a more substantial buffer area than 100 feet.

18 Q Are you aware of any studies that  
19 compare a development of, let's say, mid-range densities  
20 of the type we are talking about here -- six units an  
21 acre, five to ten units per acre, in that range -- which  
22 implements what I will call generally best-management  
23 practices, that is, the state of the art management  
24 practices which are available from all sources, that  
25 compares the urban runoff or the adverse effects on

1 downstream facilities from that type of a development  
2 with a typical suburbanized one-acre type residential  
3 development?

4 A The main study that I am familiar with is one that  
5 relates to density rather than type of design and, again,  
6 I am referring to General Whipple's studies. His studies  
7 indicate a correlation between density and generation of  
8 different pollutant types; that is, direct relationship.  
9 The higher the density, the greater the generation of  
10 pollutants.

11 Q Are you referring to the Mile Run Study  
12 in New Brunswick?

13 A The Twin Rivers Study.

14 Q Do you know whether or not the best  
15 management practices had been implemented in Twin Rivers?

16 A I don't know for sure but I would think at that  
17 time, the best management practices recognized at that  
18 time were used in Twin Rivers.

19 Q But obviously not the same state of the  
20 art that would be implemented today?

21 A Probably not.

22 Q Was he comparing -- this was not only the  
23 study at Twin Rivers but he also did studies on the  
24 Passaic River, the Hackensack River, and also a study of  
25 the Mile Run in New Brunswick, isn't that correct? And

1 you may correct me about that.

2 A Yes.

3 Q Are you aware of any other studies besides  
4 General Whipple's studies that relate urban runoff to  
5 density?

6 A His studies were the ones I used primarily because  
7 they are New Jersey oriented. There are studies that have  
8 been prepared through the auspices of EPA, the names of  
9 which I don't have at the tip of my tongue.

10 Q Are you aware of the controversy that  
11 developed after the publication of the Mile Run Study to  
12 the effect that in fact most of the pollution he found in  
13 the Mile Run in New Brunswick was not point-of-source but  
14 turned out to be illegal discharge of industrial pollutants?

15 A No, I'm not familiar with that.

16 Q You never heard anything about that whole  
17 controversy?

18 A No.

19 Q Are you aware, Mr. Dresdner, of any studies  
20 or have you yourself conducted any studies on the effect  
21 of equine agriculture, horse industry, on water quality  
22 on surrounding streams, adjacent streams, and/or downstream  
23 facilities?

24 A I haven't done any specific studies on the equine  
25 industry. I am familiar with studies, not on the equine

1 industry but on high-density cattle feeding lots out in  
2 the Midwest.

3 Q Are you aware of a study recently published  
4 by the Department of Environmental Protection dealing  
5 with the Navasink Basin and the adverse effects of the  
6 equine industry on the water quality in the estuary?

7 A I am generally familiar with the report and its  
8 general conclusions regarding the equine industry as well  
9 as other pollutant sources.

10 Q Did you inquire at the Monmouth Consoli-  
11 dated Water Company as to what their particular problems  
12 were, if any, in terms of maintaining water quality?

13 A No, I haven't.

14 Q Is it possible for someone to come to a  
15 conclusion concerning the adverse impacts of a proposed  
16 development without knowing the hydrology of the particular  
17 development involved and whether or not best management  
18 practices were in fact being implemented?

19 A Yes. I think in planning, as contrasted with  
20 engineering terms, you can come to those conclusions,  
21 particularly insofar as land use planning is concerned.  
22 It's generally accepted, and this is demonstrated in the  
23 208 Water Quality Program, that land use is the major  
24 driving force in impacts on water quality.

25 So, addressing the land use issues, I think one

1 can make generalized statements and reasonable statements  
2 regarding the effect of different land use developments on  
3 water features.

4 Q Did you see in the Master Plan and/or in  
5 your brief review of the Zoning Ordinance the zoning for  
6 the commercial development along Route 34?

7 A I don't recall the zoning for commercial develop-  
8 ment along Route 34. Perhaps if I could see it, it would  
9 refresh my recollection.

10 MR. O'HAGAN: Why don't you just  
11 describe it to him.

12 Q Were you on Route 34?

13 A Yes.

14 Q Did you see the basically strip commercial  
15 development in the vicinity of Route 34 and Route 537  
16 that has developed fairly recently, with the large asphalt  
17 parking lots, et cetera?

18 A (Refers) Okay. Yes.

19 Q Were you asked to analyze the potential  
20 adverse impacts of the development of that strip commercial  
21 zoning in that area?

22 A No, I wasn't.

23 Q Is there not potential adverse impact  
24 from the development of retail strip commercial development  
25 in that vicinity?

1 A Well, yes, there is. As I mentioned before, any  
2 development causes a change in the natural environment.  
3 The greater the density, the greater the land coverage, the  
4 greater the loss of natural vegetation, the greater the  
5 potential of impact would be on any receiving stream.

6 Q Did you look at the existing conditions  
7 at the Orgo Farms property?

8 A I was not on the Orgo Farm property. I passed by  
9 it but I was not on it.

10 Q Is it possible for you to determine, without  
11 studying the plans, how much water would actually be lost  
12 in terms of the effect on the downstream facility -- without  
13 studying the plans?

14 A I could not determine what the loss or gain in water  
15 would be after development unless I saw the plans.

16 Q So the generalized conclusions you made  
17 about the potential impacts of loss of water, ground  
18 water, for instance, recharge, et cetera, do to impervious  
19 surface coverage would have to be subject to some kind of a  
20 review of the actual plans that were developed?

21 A Were I to review the actual plans -- and there is  
22 no reason why I shouldn't -- then I would be able to  
23 develop specific numbers on what happens to the hydraulics  
24 on the site.

25 I suspect if there were these -- not if there were



1 these plans, but the site engineer, I'm sure, has  
2 developed calculations on storm water runoff.

3 Q Did Colts Neck Township tell you that  
4 specific plans will be prepared for this development?

5 A No.

6 Q Did they tell you an Environmental Impact  
7 Statement had been prepared for the development?

8 A I don't believe so, but I don't recall for sure.

9 Q Are you familiar with the Tri-State  
10 Regional Planning Commission and its publications, namely,  
11 the Regional Development Guide and the accompanying  
12 publications?

13 A Yes. They are called the Metropolitan Council now.

14 Q The Tri-State Regional Planning Commission,  
15 first of all, identified those parts of the Northeastern  
16 New Jersey region and, in fact, in the entire Tri-State  
17 region which were sources of surface water which would  
18 ultimately become part of the potable water supply of the  
19 region. Now, are you familiar with any of those maps or  
20 studies?

21 A I'm not familiar with any map or report that they  
22 prepared relating to potable water supply.

23 Q Do you know yourself or can you estimate  
24 how much of it -- for instance, using the Northeastern  
25 New Jersey region from Monmouth County all the way to

1 northern Bergen County -- how much of that area is a  
2 source of potable water in terms of the water that actually  
3 hits the ground?

4 A I don't understand the question.

5 Q Well, Orgo Farms is itself, the land  
6 mass itself is a source ultimately of water in the  
7 Swimming River Reservoir and, for that reason, that's the  
8 basic premise on which your report is based; is that not  
9 right?

10 A Yes.

11 Q That is water emanating from the Orgo Farms  
12 site that could have an adverse impact on the potable  
13 water in the Reservoir?

14 A That's correct.

15 Q How much of the Northeastern New Jersey  
16 region do you know is in a similar condition as Orgo Farms,  
17 that is, water that hits the site, has a potential impact  
18 of ultimately becoming potable, part of a potable water  
19 supply; do you know?

20 A No, I don't. I do know that the major reservoirs  
21 for Essex and Hudson County are located up in the northern  
22 portion of Passaic. But I wouldn't know specifically what  
23 the numbers are, the acreage figures you are asking for are.

24 Q First of all, there are both deep and  
25 shallow aquifers throughout the Tri-State Region, are there

1 not?

2 A Yes.

3 Q Which are used for potable water?

4 A Well, deep aquifers would be used for public potable  
5 water; shallow would be used for private wells. It's not  
6 very wise but it's cheaper.

7 Q There are minor reservoirs interspersed  
8 throughout the ten-county region, are there not?

9 A Yes, the minor reservoirs would be interspersed.  
10 The major reservoirs, however, would be in primarily  
11 northern Passaic County as well as Spruce Run and Round  
12 Valley.

13 Q The management practices for the purpose  
14 of preserving the water quality should also be applied,  
15 should they not, to areas which are aquifer intakes, and  
16 any area which is potentially a source of potable water;  
17 is that fair?

18 A Yes, that's generally fair, recognizing that New  
19 Jersey has periodic problems with the quantity and distri-  
20 ~~but~~ bution of water. However, water, like any other resource,  
21 is subject to trade-offs.

22 The provision of potable water is one of a number  
23 of responsibilities every community has. And there has  
24 traditionally been trade-offs between providing specifically  
25 the buffers within water reservoirs, watersheds, and other

1 interests, whether they be development-oriented or other.

2 Q The Tri-State Regional Planning Commission  
3 specifically, their reports for development specifically  
4 identify potable water supply areas as, quote, critical  
5 lands to be protected. They conclude from that that one of  
6 the best ways -- I'll be glad to provide this to you if  
7 you would like to look at it; it's only a paragraph or  
8 two -- one of the best ways to preserve critical lands is  
9 the implementation of zoning, cluster development in  
10 planned unit development configurations because of the  
11 ability to control adverse effects of the development  
12 by good design.

13 I ask you, Mr. Dresdner, whether or not you agree  
14 that is something that should be encouraged in terms of  
15 preserving those kinds of areas?

16 MR. O'HAGAN: I would object to the  
17 question in this respect: there are so many  
18 variables that come to play in this question.

19 As I understood Mr. Dresdner's response  
20 before, he thought that large lot zoning mini-  
21 mized the impacts on the reservoir.

22 I think there are too many variables  
23 for him to fairly answer the question, and I  
24 would object to it, therefore, on those  
25 grounds.

1 MR. FRIZELL: I think the question  
2 asked for a generalized opinion in the same  
3 way this entire report is generalized  
4 opinions as to whether or not PUD or PURD  
5 development generally can -- can potentially  
6 minimize the adverse impacts.

7 I think it's a fair question and if  
8 you want to direct Mr. Dresdner not to answer  
9 it, he's your witness, and we will just have  
10 to address it later.

11 MR. O'HAGAN: I just think there is  
12 not enough in the question for him to fairly  
13 answer it.

14 MR. FRIZELL: What I postulated  
15 was they had come to a conclusion in two  
16 paragraphs saying one of the best ways to  
17 preserve critical lands is through these  
18 techniques. And I asked if he agreed with  
19 that as a generalized statement.

20 MR. O'HAGAN: On the other hand --

21 MR. FRIZELL: I don't want to debate  
22 it.

23 Q Do you understand the question, Mr. Dresdner?

24 A Yes, I understand it.

25 MR. FRIZELL: Then if he understands

1 the question, you can tell him to answer  
2 it without debating any further. You can  
3 tell him to answer it or not answer it.

4 I think it's as clear a question  
5 as I can put on that subject, and we can  
6 debate all day as to whether or not you are  
7 going to enjoy the response or not.

8 MR. O'HAGAN: I am certainly not  
9 debating with you. I am not so sure you  
10 have accurately quoted Tri-State. As I  
11 understood them, they took the position that  
12 zoning the the areas of reservoirs should be  
13 as low --

14 MR. FRIZELL: I will get it out.

15 MR. O'HAGAN: Off the record.

16 (Discussion off the record)

17 Q Mr. Dresdner, I am going to show you a  
18 document entitled "Regional Development Guide"; do you  
19 recognize that?

20 A Yes, I do.

21 Q This is the principal document describing  
22 the Tri-State Regional Planning Commission's studies and  
23 reports and recommendations, is it not?

24 A That's correct.

25 Q I am just going to show you one plate

1 which was introduced at trial in this case.

2 I will ask you, first of all, are you aware of  
3 any source of information which would collate all of the  
4 areas or show all of the areas in the Northeastern New  
5 Jersey region which are watersheds used for public water  
6 supply, other than what Tri-State may have done?

7 A Yes.

8 Q What are they?

9 A That would be the New Jersey Department of  
10 Environmental Protection's LORDS Study, which is an  
11 acronym for the Land Oriented Resource Data System. And  
12 that shows all of the reservoirs and surface water intakes  
13 and public wells throughout the entire State.

14 Q Was that done, do you know, before or after  
15 the publication of the Regional Development Guide?

16 A It's dated, as I recall, 1976.

17 Q This is dated 1977. Are you generally  
18 familiar with the character of the Tri-State Regional  
19 Planning Commission?

20 A Oh, yes.

21 Q They were the official 895 Review Agency  
22 for the federal government, were they not?

23 A Yes, they were the 895 Review Agency for the counties  
24 within which they operated.

25 Q They show on page 16 of the Regional

1 Development Guide a small graph -- which I will show  
2 everyone -- watersheds used for public water supply.  
3 This was introduced and described at the trial.

4 Looking at that map, at that graphic, I would  
5 guess that of the counties, the New Jersey counties that  
6 make up the Tri-State region, the New Jersey portion of  
7 the Tri-State region, that of the undeveloped areas --  
8 that is, the areas that are not blacked out as developed --  
9 90 to 90 percent of those areas are part of a watershed  
10 used for public water supply.

11 Are you aware of any information that would contra-  
12 dict that information before you?

13 A Well, I am aware of information in the way of maps  
14 that could confirm it or contradict it, but I don't know --  
15 I'm not convinced that what you say is accurate.

16 Q You don't disagree that my estimate that  
17 90 percent of the areas shown in that map as undeveloped  
18 is part of the watershed for public water supply -- you  
19 might guess 80 percent?

20 A For Northern New Jersey?

21 Q For the New Jersey portion.

22 A I would say it's less than 90, for sure; possibly  
23 80, 70; something like that. There are large areas that  
24 are uncolored.

25 Q Well, almost all of that part of Somerset



1 County which is undeveloped is colored on this map; is it  
2 not? Almost all of Somerset County, which is right here  
3 (indicating).

4 A Almost all of Somerset County, if it's where you  
5 point it to be, is colored.

6 Q How about Morris County?

7 A Morris is virtually all colored.

8 Q And Middlesex County, the area adjacent,  
9 which I would estimate was probably like Old Bridge  
10 Township and perhaps part of South Brunswick, is  
11 uncolored; but southern Middlesex, especially the south-  
12 west edge of Middlesex County, is all colored; is it not?

13 A Which one?

14 Q This is Monmouth, this line, so Middlesex  
15 County would be right here (indicating).

16 A The western portion of Middlesex is colored; the  
17 eastern portion is not.

18 Q Now to the quote on page 41 of the  
19 Regional Development Guide, which is part of a chapter  
20 entitled "Carrying Out the Plan"; that part of the plan  
21 which is entitled, "Preserving Critical Lands," occurs  
22 on page 41.

23 It says, "In striving to make development compatible  
24 with natural resources, all governmental levels can  
25 evaluate land-saving devices and make recommendations

1 for their application if they appear feasible."

2           It says that available tools and potential ideas  
3 include -- and the first one is entitled "Acquisition of  
4 property rights in all its forms." It describes fee simple,  
5 easements, et cetera. The second one says, "Zoning and its  
6 innovative forms including clustering and planned unit  
7 development or planned residential development. The latter  
8 are already authorized or required by many localities in  
9 the Region for certain types of tracts."

10           Would you agree that clustering and planned unit  
11 development techniques can be an important way to preserve  
12 critical lands such as those described as watersheds for  
13 public water supply?

14           A           Yes, it's one technique that I personally have  
15 recommended as an environmentally sensitive way of dealing  
16 with development. But there are other considerations as  
17 you know.

18           Q           I understand there are other considera-  
19 tions, but the reasons for recommending it, do they involve  
20 the fact that the off-site impacts, especially in terms of  
21 adverse impacts on water quality, can be better controlled  
22 when the tract is developed as a unit with an overall  
23 environmental design as opposed to the piecemeal subdivision  
24 of the same tract?

25                           MR. O'HAGAN: There are too many

1 variables in there.

2 Are you saying piecemeal develop-  
3 ment in exactly the same densities, or piece-  
4 meal development at the two-acre densities?

5 I myself don't understand the question  
6 and it seems to me like there are too many  
7 variables for the witness to answer it.

8 MR. FRIZELL: I thought he under-  
9 stood it.

10 MR. O'HAGAN: Do you understand  
11 exactly what densities he is talking about?

12 THE WITNESS: I think I can answer  
13 the question.

14 A Given the same density on a tract, I would say  
15 that a planned unit development, PUD, or cluster, or  
16 what-have-you, is a more desirable way of developing that  
17 tract. So let me repeat that once again.

18 Given the same density for a particular piece of  
19 property, a planned unit development or a cluster develop-  
20 ment, in my opinion, is a reasonable and environmentally  
21 compatible way of developing the tract.

22 Q What if one were given the same density  
23 not only of a given tract but of a much broader geographical  
24 area, for instance, the entire watershed of a reservoir,  
25 are not planned development techniques, are they not better

1 ways to deal with that -- and clustering -- than the  
2 spreading of the density uniformly throughout the area?

3 MR. O'HAGAN: Do you understand  
4 the question?

5 THE WITNESS: That one I'm not  
6 clear on.

7 Q If one were to assume that a given  
8 geographic area were to be developed at a given gross  
9 density, would not planned development techniques be a  
10 better way in terms of preserving environmental quality,  
11 a better way to develop that area than a uniform -- when  
12 I say "uniform," I mean if one were to assume one unit  
13 were going to exist for every acre or half acre in a given  
14 area -- wouldn't it be better they should be clustered or  
15 developed in a PUD configuration?

16 A I don't think I can answer that question.

17 I think within the area there are differences in  
18 densities, and that's the critical thing.

19 Q In your report you referenced the fact  
20 that the Hokhockson Creek does not drain into the Swimming  
21 River Reservoir.

22 Are you aware of how many treatment systems  
23 currently exist in the Swimming River Reservoir drainage  
24 basin?

25 A No -- in the Swimming River Reservoir drainage

1 basin -- no, I'm not.

2 Q If a sewage treatment system were to be  
3 developed in Colts Neck Township, in terms of preserving  
4 the environmental quality of the reservoir, would you  
5 agree that it would be better if it were developed in the  
6 Hokhockson drainage basin as opposed to elsewhere?

7 A Where the outfall was in the Hokhockson rather than  
8 the Swimming River Reservoir?

9 Q You have assumed an outfall, but the  
10 particular design may not be discharged directly into the  
11 stream. It may be a land application system. But never-  
12 theless the ground water would drain into a stream which  
13 itself would be outside the drainage basin and in the  
14 Hokhockson.

15 That would be preferable to locating the same type  
16 of system within the reservoir drainage system; is that  
17 not true?

18 A That's correct, yes.

19 Q Have you reviewed any plans for the Sea  
20 Gull Ltd. site?

21 A No, sir.

22 MR. FRIZELL: I have no further  
23 questions of this witness.

24 MR. O'HAGAN: I have no questions

25 MR. LOCASCIO: I have a couple of

1 questions.

2 CROSS-EXAMINATION BY MR. LOCASCIO:

3 Q In **response** to the last question or two,  
4 the line of questioning, you haven't studied the area of  
5 the Hokhockson stream with respect to whether or not it's  
6 developable, have you?

7 A I haven't studied the Hokhockson basin except inasfar  
8 as to see where it drains into the Navasink.

9 MR. FRIZELL: Just to clarify  
10 something. Perhaps you didn't understand  
11 my question. My question was the installa-  
12 tion of a sewage treatment system, not  
13 development of residential densities in  
14 the Hokhockson basin.

15 You understood that, didn't you?

16 THE WITNESS: Yes.

17 MR. FRIZELL: I wasn't referring  
18 to the part of the report that talks about  
19 recommending residential development in  
20 that stream drainage basin.

21 I think that's what your question  
22 was directed to, was it not? Do you under-  
23 stand the difference?

24 Off the record.

25 (Discussion off the record)

1 Q With respect to that part of your report  
2 dealing with the Hokhockson Creek watershed, I would like  
3 to know what you meant when you said, "In planning and  
4 environmental terms, there is merit in locating higher  
5 density development as extensions of existing areas  
6 rather than leap-frogging into rural areas which lack an  
7 urban infrastructure."

8 A What I'm saying there is that in energy conserva-  
9 tion terms, in traditional planning theory, it is more  
10 desirable to tie into an existing infrastructure or  
11 relate to existing development rather than bypassing  
12 open, adjacent open lands, and developing in essentially  
13 rural areas.

14 It's better to move out in a series of waves  
15 rather than to leap-frog past vacant lands or farmlands  
16 into rural areas.

17 Q In line with that, would it then be  
18 more desirable to develop high density in an area where  
19 the development could be hooked up to an existing sewer  
20 system?

21 A Yes, that would be one of the considerations or  
22 criteria.

23 Q When you testified to that, or you  
24 indicated in your report on page 1 that a more appropriate  
25 area for high density development would be outside the

1 Reservoir in the Hokhockson Creek watershed, you did  
2 not take into consideration, did you, whether or not the  
3 land immediately adjacent to the Hokhockson Creek watershed  
4 is in fact suitable for high density residential develop-  
5 ment, did you?

6 A In driving through the area and looking at maps  
7 of the area -- and those were my basic sources for what  
8 the Hokhockson Creek watershed looks like -- I was of the  
9 opinion that there was land that could be developed  
10 within the Hokhockson Creek watershed at higher densities.

11 Q You never studied any topographical  
12 studies of that area?

13 A No, except insofar as, again, the topography was  
14 shown on the USGS quad. sheets.

15 Q You refer in your report to the fact that  
16 as far as you are concerned, the Monmouth County Growth  
17 Management Guide and the SDGP are substantially consistent  
18 with each other except for a minor difference with respect  
19 to an area at the southwestern corner of the Township; is  
20 that correct?

21 A That's correct.

22 Q And from a planning environmental stand-  
23 point, you consider that to be a minor difference; is that  
24 correct?

25 A That's correct. I consider it to be two plans



1 essentially complementary to each other, with the County  
2 plan as the driving plan.

3 Q And the difference that exists between  
4 the County plan and the SDGP you do find to be only of  
5 minor difference; is that correct?

6 A Well, I consider the SDGP plan line arbitrary in  
7 its application to the Township.

8 Q You don't know what went on or how that  
9 came about, the difference, or the minor difference, as you  
10 say; is that correct? You don't know whether the SDGP  
11 met with the County, or what?

12 A Well, I'm confident --

13 Q Have you ever determined that from your  
14 own investigation as to whether there were any discussions  
15 between the County and the State when the two lines were  
16 drawn, if I might?

17 A There was a discussion between the State and the  
18 County when the State Development Guide Plan was prepared.

19 Q So prior to the line being drawn by the  
20 ~~SDGP~~, you do know the SDGP met with the County Planners  
21 before they drew the line, before the SDGP drew the line;  
22 is that correct?

23 A That's correct.

24 Q So certainly you will agree, then, that  
25 when the line was drawn, it certainly wasn't by accident;

1 it was a concerted, determined decision to put it where  
2 the SDGP put it; is that correct?

3 A No, I wouldn't agree to that.

4 Q Let me ask you this question, then.

5 Since the State Planners met with the County  
6 Planners before the line was drawn by the SDGP -- you know  
7 that; is that correct?

8 A Yes.

9 Q Okay. You were not part of those dis-  
10 cussions, I assume.

11 A That's correct. I was not.

12 Q Then you will agree, won't you, that the  
13 line drawn in the SDGP was not an accidental line or a  
14 typographical error. I mean, it was drawn there after  
15 discussions with the State and the County Planners; is that  
16 correct?

17 MR. O'HAGAN: I would object to  
18 the question for this reason: I think  
19 you can certainly argue to the Court as  
20 to the point that you are making, but I think  
21 it goes beyond this witness' domain and  
22 fund of knowledge.

23 Whether it was put there because of  
24 this or that, I'm not so sure he knows.

25 MR. FRIZELL: I think he already

1           said he doesn't know.

2                   MR. O'HAGAN: I think you have made  
3           your point, and you can argue it to the Judge.  
4           I don't know that this witness can help you  
5           on that.

6                   So I would object to the question.

7                   MR. LOCASCIO: I would like the  
8           question answered.

9                   MR. O'HAGAN: You can answer the  
10          question.

11                   (The pending question was read back  
12          by the reporter)

13                   MR. O'HAGAN: There are a couple of  
14          questions in there. Do you think you can  
15          rephrase it to make one question and then  
16          another question?

17                   Q           Can you just answer that yes or no at this  
18          stage?

19                   A           I couldn't answer it yes or no. I have to qualify  
20          my answer.

21                   MR. LOCASCIO: I will rephrase it.

22                   Q           Maybe a couple of questions might make it  
23          easier instead of one.

24                   Since the State Planners met with the County  
25          Planners before the State drew the SDGP line, you will

1 agree that where the line is drawn is not by accident;  
2 is that correct?

3 A I would agree that it's not by accident.

4 Q And it wasn't a typographical error when  
5 it was drawn; is that correct?

6 A Correct.

7 Q So as far as you know, when the SDGP line  
8 was drawn by the State after a meeting with the County,  
9 discussing the whereabouts of that line, and as a result  
10 of those discussions the line was drawn where it is now;  
11 correct?

12 MR. O'HAGAN: Again you are going  
13 beyond his field. How does he know how it  
14 was drawn?

15 MR. LOCASCIO: If he doesn't know,  
16 he can tell me he doesn't know.

17 A I don't know whether the State Planners considered  
18 the comments that were made by the County Planners at that  
19 meeting.

20 MR. O'HAGAN: Off the record.

21 (Discussion off the record)

22 Q Did you know, Mr. Dresdner, that before  
23 the SDGP drew the line that they drew, putting a growth  
24 area in Colts Neck -- did you know that the State Planners  
25 had recommended that the line be drawn further east of

1 where it presently is?

2 A No, I don't.

3 Q Have you ever discussed the whereabouts  
4 of the SDGP line with the State Planners?

5 A I haven't discussed the whereabouts of this segment  
6 of the line with the State Planners.

7 Q I am only talking about the one in Colts  
8 Neck.

9 A No, I haven't.

10 Q So you don't know why they drew it where  
11 they drew it, then, if you haven't spoken to them -- the  
12 one in Colts Neck?

13 A Except insofar as there are general principles  
14 given in the State Guidelines.

15 MR. LOCASCIO: No further questions.

16 MR. EASTMAN: I have no questions.

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1 W I L L I A M Q U E A L E , J R . , the  
2 witness, residing at 45 Noreen Drive, Morrisville,  
3 Pennsylvania, after being duly sworn, was examined and  
4 testified as follows:

5 DIRECT EXAMINATION BY MR. FRIZELL:

6 Q Mr. Queale, I was given an Amendment to  
7 the Pre-Trial Order as to a meeting of August 26, 1983  
8 between the Plaintiff, Sea Gull Builders and the Defen-  
9 dant's Planner.

10 MR. LOCASCIO: The meeting was before  
11 that date, so you can properly frame your  
12 questions. That was the date of the  
13 rejection.

14 Q Did you attend these meetings, Mr. Queale?

15 A No.

16 Q Were you informed of the meetings?

17 A Well, I knew that Sea Gull had an application. I  
18 have not reviewed any of the plans. And I knew that they  
19 obviously were having meetings, but I did not attend any  
20 of them.

21 Q Did they submit the application to the  
22 Planning Board, do you know?

23 A Sea Gull? I'm not sure of the status of the  
24 application.

25 Q You don't know anything about that?

1 A Only that it was submitted.

2 Q What information did you have about it?

3 A My first knowledge of it was probably a meeting in  
4 January or early February that I had with the Township to  
5 discuss the fact that Mount Laurel II decision had come  
6 out in mid-January, whenever it was, and it was almost  
7 by accident that they mentioned that in the designated  
8 growth areas -- I explained to them where it was -- that  
9 they had an application up for preliminary approval.

10 And I offered caution that if that was in fact  
11 a growth area, we had additional work and evaluation that  
12 had to be done, perhaps in cooperation with the developer,  
13 to find out just what should be approved on that site,  
14 so if they in fact had an obligation, that site was not  
15 lost by virtue of approval for something other than would  
16 comply with Mount Laurel II.

17 Q Do you know what the application was for?

18 A As I recall, it was single-family homes, but I  
19 don't know the density or the number of units or the design.

20 Q Is there any information, any other infor-  
21 mation you have about that?

22 A About their application?

23 Q Yes.

24 A No, I have just never seen it.

25 Q You have given us a report, I guess, to

1 Mr. O'Hagan, who has given it to us, concerning fair-  
2 share methodology in Colts Neck.

3 Have you changed that report?

4 A I have not changed it. I would expect to change  
5 it as a result of the discussions with Judge Serpentelli  
6 and the methodology that was discussed with a group of  
7 planners, I guess, that are involved in the case, whatever  
8 it is. And I would like to test that against my own  
9 numbers.

10 MR. FRIZELL: Off the record.

11 (Discussion off the record)

12 Q Mr. Queale, you have prepared, and I  
13 have the February 1984 analysis of fair-share methodology  
14 for Colts Neck Township; have you not?

15 A Yes.

16 Q Would you explain to me what are the  
17 components which are given weight in terms of deriving a  
18 fair-share for Colts Neck Township?

19 A The primary components that I used were what  
20 portion of the Township is in a growth area, and the  
21 relationship of that acreage, which was roughly 262 acres,  
22 as a percentage of the region's total acreage in a growth  
23 area.

24 I then took the Labor & Industry's number of jobs  
25 and took Colt Neck's numbers as a percent of that same



1 region.

2 Q Is that static jobs as opposed to jobs'  
3 growth, or did you use jobs' growth?

4 A No, it was the absolute number that existed, and  
5 I believe at the time I did it, the most recent numbers  
6 were 1981.

7 Q As a percentage of the region cover jobs?

8 A Yes.

9 Q Did you just take those two factors?

10 A Yes.

11 Q What did you apply that to; how did you  
12 derive present need?

13 A I worked -- I basically worked it backwards from  
14 a projected population, where I used the Labor & Industry  
15 population at the year 2000; and I used their Method One,  
16 which is the method they identify as being a combination  
17 of demographic trends as well as economic factors. I used  
18 that because I felt that it in some way factored in their  
19 consideration of job growth as well as population growth.

20 I felt that that was a reasonable relationship in  
21 the Mount Laurel issues where there was -- as I understand  
22 it, and feel -- a concern over relationships with jobs to  
23 housing. So, anyway, I used Model One.

24 I then took the total population, deducted roughly  
25 two percent for that portion of the population that would

1 be occupied in group quarters as that portion of the  
2 population that would not be in demand for housing, and  
3 used a net number.

4 I then divided that net number by the 1980 average  
5 household size to produce what would be the need for  
6 total housing at the year 2000. And that was some 653,000  
7 units in the region.

8 Q How many?

9 A 653,100. That's on page 13.

10 I then took the regional portion of housing units  
11 that currently represent the lower income households,  
12 which was 39 percent. I took 39 percent of that 653,000  
13 number. That then produced a total need by the year 2000  
14 of almost 255,000 lower income households in the region.  
15 There were in 1980 over 150,000 units currently valued  
16 as rentals serving lower-income households.

17 The difference was then 104,600 new units that  
18 would be needed. It was that figure of 104,600 that I  
19 applied Colts Neck's percentages to, and their land area.

20 Q You don't have to give me the percentages.

21 A The land area would produce 63 units, and the  
22 number of jobs would produce 136 units, and I gave them  
23 equal weight and averaged -- sorry -- 63 units by land  
24 area, 209 by employment.

25 When you average the two, you come up with fair-

1 share of 236 that I consider to be both -- to be prospective  
2 in that it was dealing with the year 2000 population as to  
3 a goal to be reached, if you will, if those population  
4 numbers held.

5 My report also indicates that those numbers I  
6 just gave you were based on my March 1983 memo to the Town.

7 Since that time, Labor & Industry has revised its  
8 population projections downward, and using that same  
9 methodology comes up with 117 rather than 136.

10 Q First of all, are the federal employees  
11 of the U. S. Navy and the federal government at all  
12 counted as part of the coverage figures?

13 A It's my understanding that the L&I numbers do  
14 include some federal employees, not because they are paying  
15 New Jersey Unemployment Compensation but because there is  
16 apparently some exchange of information between the  
17 Federal Labor people and New Jersey Labor people.

18 Q In your 1982 update of the Colts Neck  
19 Master Plan, do you recall what you indicated in terms  
20 of the ~~BARLE~~ employees as to whether or not they were  
21 counted in the total figures under the L&I covered numbers?

22 A Probably in the '81-'82 period the numbers were --  
23 I forget what the numbers were. If I indicated anything,  
24 I probably indicated they were not in the L&I numbers  
25 because I did not know until recently, and it may have

1 been only in the last year or so that they began  
2 exchanging the federal information.

3 I did not inquire of L&I as to what these numbers  
4 included.

5 Q Have you determined how many employees are  
6 employed in Colts Neck Township on your own, without looking  
7 at L&I?

8 A Well, back in '79 or '80, probably in '79 because  
9 as I recall it was prior to the first trial, there were  
10 questionnaires sent out to all the employers in the  
11 Township, and they had a response. It has various break-  
12 downs that I don't recall at the moment, but I do know  
13 one of the significant items I pulled off of that was  
14 in the neighborhood of six or seven hundred employees  
15 that came out of that survey. Roughly one-third of them  
16 were part-time employees.

17 Q Are the municipal employees in the school  
18 system, the Board of Education employees, counted under  
19 covered employment?

20 A I'd have to doublecheck. I don't believe they are  
21 but I'm not certain.

22 Q Do you recall ever seeing a Monmouth  
23 County study indicating there were over 1200 jobs in Colts  
24 Neck?

25 A I've never seen that study. That does not ring

1 a bell.

2 Q Are you aware of the 1982 count in  
3 Colts Neck, at the County level of jobs, total jobs?

4 A No.

5 Q Have you made any attempt to find out?

6 A I spoke to someone in the Monmouth County Economic  
7 Development -- I'm not sure of the title.

8 Q Do you know who you spoke to?

9 A I'm sure I have it in my records. I don't have it  
10 with me.

11 Q If you can identify the individual to  
12 whom you spoke, Mr. Queale, I will be happy to know what  
13 the individual told you. But unless we know who you spoke  
14 to and have some way I can verify what he said, I'd just  
15 as soon not know.

16 A Fine.

17 Q I just have a problem with unidentified  
18 sources in general for any purpose.

19 In any event, are you able to determine how many  
20 of the EARLE civilian employees are covered under the L&I  
21 numbers, if any?

22 A I'm not able to determine. All I would do would be  
23 to ask Labor & Industry to give me whatever numbers they  
24 have. And when I had my discussion there, of course,  
25 there was a separate issue as to the number of employees

1 in EARLE, and whether or not they have been correctly  
2 allocated as to Colts Neck's portion, because EARLE covers  
3 some five municipalities.

4 Q But the entrance for employment purposes to  
5 EARLE is in Colts Neck, adjacent to this tract.

6 A There is one, but there is dockside as well; there  
7 is a direct connection between the two. There is a direct  
8 connection with the highway. There is a direct federal  
9 highway connecting EARLE and Colts Neck, Tinton Falls,  
10 and Howell.

11 I don't know the exchange in terms of civilian  
12 employees reporting through the Colts Neck entrance, who  
13 sits at a desk, and one who has a responsibility out at  
14 Leonardo, out in Middletown, whether he spends all his time  
15 out there, or whether he is responsible for something  
16 that is happening out at dockside. The same would be true  
17 in any other town that had a similar facility.

18 Q I'm not sure of the import of what you just  
19 said.

20 A Well, the import as far as I am concerned is I  
21 have no way of allocating EARLE's civilian and military  
22 personnel between the five or six towns that EARLE covers.

23 Q Mr. Queale, the phone company, for example,  
24 may cover an entire county and the facility may be located  
25 in Freehold. That is the point of employment at which

1 they would be reporting, but nevertheless those employees  
2 may spend 95 percent of their time in Colts Neck. Isn't  
3 that always true of any kind of employment center -- the  
4 employees themselves may spend their time outside; isn't  
5 that an inherent problem in reporting these statistics?

6 A I don't think the analogy you gave is correct. If  
7 you had a telephone building that deployed X number of  
8 people, and that was situated on one acre of land in a given  
9 town, I think your analogy might be correct. Here we  
10 have acres spread across five or six towns, and a major  
11 highway connecting the four or five towns encompassing the  
12 facility.

13 So I visualize employees traveling back and forth  
14 and around all within the confines of the EARLE property  
15 and the EARLE facilities, but shifted among all those  
16 towns in some proportion I can't allocate, and I don't know  
17 that even EARLE can allocate.

18 All I am saying is it's unfair to say whatever the  
19 number of employees EARLE has go to Colts Neck.

20 Q I think you allocated it based on land  
21 mass.

22 A That was an approach I used.

23 Q Notwithstanding the existence of the gate  
24 in Colts Neck and the reporting of those employees as  
25 Colts Neck employees at the County and State levels?

1 A Yes.

2 MR. O'HAGAN: Wait a minute. I'm not  
3 so sure I followed you. Would you just  
4 repeat the question?

5 MR. FRIZELL: There was something like  
6 800 civilian employees in Colts Neck. They  
7 are generally reported in most of the reports  
8 as within Colts Neck, at the State and County  
9 level. That's where the office and gate is  
10 to the facility. I am assuming that's why  
11 in the report they are considered to be Colts  
12 Neck employees.

13 What Bill did is take those 800  
14 employees and distribute them among Colts  
15 Neck, Howell, Wall, et cetera, based on the  
16 land mass within those towns.

17 A (Continuing) I would only point out, Dave, that I  
18 would expect that if the County or the State or anybody  
19 else is identifying the location of EARLE employees as  
20 Colts Neck, that maybe where the administrative head-  
21 quarters are has a Colts Neck Zip Code, and that's where  
22 their paychecks are written from, which may not have any  
23 bearing, you know, in terms of their daily responsibilities  
24 where they may actually work.

25 Q For planning purposes, isn't the point



1 of entry to the employment center a key determinant, not  
2 what happens once he's inside? If he has to commute, he  
3 has to enter through Colts Neck, and some may report  
4 directly to Leonardo.

5 If he has to report to Colts Neck, why would I  
6 allocate some of those employees reporting through the  
7 Colts Neck gate, adjacent to our tract, to Wall Township?  
8 Because they happen to get to Wall through the Colts Neck  
9 gate?

10 A There are a lot of people who get to their jobs  
11 that probably travel from Eatontown to Freehold that go  
12 through Colts Neck also.

13 Q That's a little different analogy. I  
14 am saying the man is reporting in Colts Neck and parking  
15 his car in Colts Neck, and probably does his work in Colts  
16 Neck. But you have allocated -- because of a land mass --  
17 you have allocated some of those employees back to Wall  
18 Township.

19 A I did that in order to provide a technique,  
20 because I think it's incorrect on a facility that covers  
21 five or six towns to say one of those towns gets all the  
22 jobs.

23 Q You did that consciously, knowing the  
24 effect of that technique was to reduce the number of jobs  
25 in Colts Neck Township, didn't you?

1 A No, that's incorrect. You are assuming I am looking  
2 for an angle to reduce the jobs at Colts Neck. I would  
3 think you would know me well enough over the years to know  
4 that's not the thrust. My purpose was to make some sense  
5 out of raw data that doesn't otherwise exist, and I  
6 would think it would be wrong to say that Colts Neck gets  
7 one hundred percent.

8 Q Do you know how many retail employees  
9 there are along the corridor in Colts Neck?

10 A I don't know offhand. I would have to go back  
11 to the late '79 survey and pull those numbers off, and I  
12 don't know how they would stand up today if you did a  
13 similar survey.

14 Q Do you know how many employees there are  
15 in the school system in Colts Neck?

16 A You asked me if I knew whether they were under  
17 New Jersey covered employment. I have not done anything  
18 recent.

19 It seems to me that back at the original trial, I  
20 had some numbers from that, but I haven't anything more  
21 recent.

22 Q That would be an easy number to get,  
23 wouldn't it, from the Board of Education; just the number  
24 of people they employ?

25 A I would imagine the easiest way would be to call

1 the three principals of the schools and ask them.

2 Q Is there a Superintendent of Schools,  
3 an office we could just call and find out how many  
4 employees they have in the whole Board of Education?

5 A Well, yes, there is. I think the question, though,  
6 and what I don't know, is whether or not there would be  
7 facilities outside of Colts Neck that the school system  
8 may in fact have because they are in a regional high  
9 school situation.

10 Q What is the current status of the police  
11 department? I have heard or seen in the papers that the  
12 State Police are no longer going to cover.

13 A I will defer to Mr. O'Hagan. There is a phasing-  
14 out period for the State Police. I don't know whether it  
15 has taken place or not.

16 Q Do you know what the municipal tax rate is  
17 for municipal purposes in Colts Neck?

18 A No.

19 Q Could you explain to me, Mr. Queale, the  
20 ~~rationale~~ for using percentage of growth area in the region  
21 as a percentage of the total growth area; (a) explain the  
22 ~~rationale~~ and, if you can, characterize the result of that  
23 methodology in terms of its relationship to the distri-  
24 bution of housing in the region.

25 First of all, explain your rationale for using

1 percentage of growth area.

2 A This goes back to March of '83 when we first did  
3 several memos for a variety of towns. It was my inter-  
4 pretation of the decision that relied on the State Develop-  
5 ment Guide Plan and its growth areas in assigning or  
6 concluding, rather, the growth areas should have respon-  
7 sibility for providing portions of the region's fair-  
8 share housing allocations.

9 Based on that, I concluded that the line, or the  
10 best estimate of where that line was -- because around the  
11 State some of the actual locations of that line is a  
12 little difficult to ascertain -- but that the Court was  
13 directing the intent of future housing development along  
14 the theories expressed in the State Development Guide  
15 Plan for the growth area.

16 And that if there were to be allocations as to  
17 where future growth was going to go and how it was to be  
18 accommodated, and increasing densities for the internal  
19 subsidies and so forth, you were really looking at the  
20 growth areas, it struck me that the fairest way of doing  
21 that would be to take the developable land within the  
22 growth areas as a percent of, you know, in that town,  
23 a percent of developable land within growth areas for the  
24 region.

25 But those numbers are just not available. The

1 numbers **that** are in the SDGP I think are 1970 or '72  
2 **aerial** photographs, and there have been significant changes  
3 since then.

4 While the developable area within a given town is  
5 relatively easy to do, it's very time-consuming and probably  
6 impossible to get consistent data for a region to have a  
7 fair comparison.

8 So without that number, I and my partner opted to  
9 use growth area within the town as a percentage of total  
10 growth area in the region. Number one, because you can  
11 calculate the municipal growth area acreage; and secondly,  
12 the SDGP gives you the amount of growth area by County in  
13 tabular form in the back of the report. So you had a  
14 rather easily attained and reliable number to use.

15 I purposely excluded limited growth, agricultural  
16 areas, conservation areas; things of that sort, because I  
17 did not feel that was the direction in which the Court had  
18 come down with its ruling.

19 Q The effect of using total growth area  
20 as opposed to using developable portions -- and let's  
21 put aside the statistical problem, data problem for a  
22 second -- but the effect of using total growth area is to  
23 compare, in this case, 262 acres of undeveloped real  
24 estate in Colts Neck Township as a percentage of the  
25 growth area in the region -- and we could disagree about this

1 percentage, but the total region may be 50 to 60 percent  
2 developed -- and the effect of that is to halve the  
3 proportion.

4           What if the growth area is 50 percent developed  
5 and you are comparing undeveloped land to total land, that  
6 is, comparing Colts Neck to the total region? The effect  
7 of that is to halve what you would have earlier preferred.  
8 You indicate you would have preferred to compare undeveloped  
9 land to undeveloped land. What you in fact did is compare  
10 what we know is undeveloped land in Colts Neck to the  
11 regional area which includes -- and we can argue about  
12 the percentage in the region, but it may be 50 percent  
13 or it may be 80 percent. But the effect of that, is it  
14 not, is to decrease Colts Neck's percentage of land as  
15 opposed to the ideal formula you described earlier. Isn't  
16 that right?

17 A           Not entirely. I did not calculate what might  
18 be undevelopable in Colts Neck's 262 acres. The flood  
19 plain they do have going through it is some percentage of  
20 that 262 acres.

21           The other issue is just because a town has some  
22 developed land to be used to calculate its fair share  
23 doesn't necessarily mean it's incorrect to use that  
24 acreage to calculate some number.

25           The result is in a town that's truly a hundred

1 percent developed, which has zero vacant land available,  
2 might find it -- and probably would find it -- more  
3 difficult to respond to a solution. But I have not  
4 concluded that in those towns a solution has to be by new  
5 development.

6 I mean, there are many areas that are developed  
7 either through rehab or conversions, or vacant industrial  
8 buildings in the urban cities, and things of that sort  
9 that could in fact produce housing units.

10 Q Do you know what the land mass of the  
11 City of Long Branch is?

12 A No.

13 Q Do you know what the land mass of the  
14 City of Asbury Park is?

15 A No.

16 Q Those areas you know are completely within  
17 growth areas, isn't that correct; that entire end of the  
18 County is completely in growth areas?

19 A Yes.

20 Q And as far as Monmouth County goes, those  
21 are urban centers?

22 A Right.

23 Q The effect of comparing Colts Neck to  
24 those towns is that it allocates substantially greater  
25 numbers of fair-share units to those towns than to Colts

1 Neck -- putting aside the jobs methodology for a second --  
2 isn't that correct?

3 A If you put aside jobs. If Asbury Park has a larger  
4 land mass in the growth area than Colts Neck --

5 Q Well, it's entirely growth.

6 A Your assumption is correct, then.

7 Q The overall effect of comparing static  
8 jobs to static jobs in the region -- your methodology --  
9 and comparing percentage of growth area to total growth  
10 area, the overall effect of that methodology is to concen-  
11 trate the fair-share of allocations within existing urban  
12 centers. Isn't that a fair generalization about the  
13 methodology?

14 A No, I think that goes overboard in that direction  
15 of your assumption.

16 I think what it does is allocate on an equal basis  
17 dwelling unit and housing responsibility within growth  
18 areas which, in my opinion, the Court intended.

19 Q Do you think that the Court intended that  
20 developing suburban municipalities which are partially in  
21 growth areas should not be expected to do more for future  
22 housing needs in terms of receiving and encouraging the  
23 development of low- and moderate-income housing; is that  
24 your characterization and decision?

25 A My characterization would be if they are in fact



1 developing with jobs and have a growth area, they have a  
2 fair-share to perform. To the extent they may be suburban  
3 areas or inner urban areas, or in the older suburban  
4 areas, makes no difference.

5 There is a relationship between the growth area  
6 and jobs that we have attempted to draw. I think that is  
7 the spreading of this fair-share responsibility.

8 Q What percentage in your view of the low-  
9 and moderate-income housing population, present and  
10 prospective, is in the job force, in the work force, as  
11 opposed to being unemployed either by virtue of retire-  
12 ment, age, disability, child dependency, or some other  
13 reason?

14 A I don't know.

15 Q Have you made any attempt to find out?

16 A I have not. I have heard some other numbers but I  
17 don't know them off the top of my head, and I don't know  
18 whether they were calculated by the people who spoke the  
19 numbers, the ratios, or how they came upon them.

20 Q Would you characterize it as greater than  
21 20 percent, greater than 40 percent; do you know?

22 A I would even hesitate to characterize it. Because  
23 I would recognize that in Ocean County, for example, you  
24 would have a higher proportion of retired persons who  
25 would not be reflected in the job force, which would

Queale - Direct

1 differ, let's say, from Middlesex County.

2 Q Did you read the Rutgers Study in terms  
3 of the age, the age distribution within the low- and  
4 moderate-income population?

5 A You mean where they were dealing with headship  
6 rates?

7 Q Not necessarily headship rates. I'm not  
8 familiar with the title; maybe it is. But where they  
9 characterized the present prospective low-income popula-  
10 tion in terms of age cohorts.

11 A I went through the Rutgers report, Dave, but that  
12 just does not come to my recollection.

13 Q They show that more than 60 percent is  
14 over the age of 62, the present prospective totals.

15 A Yes?

16 Q Assuming those numbers are between 20  
17 percent and 60 percent accurate --

18 A That's about the ratio of everybody's accuracy.

19 Q I don't want to be facetious, but assuming  
20 it is a substantial number, how would you rationalize the  
21 distribution if fair-share allocation/<sup>is</sup> based on the  
22 presence of jobs within a municipality?

23 A Well, I haven't entirely done it on the basis of  
24 jobs. I also did it on the basis of land area and also  
25 working backwards from the total population estimate, that

1 assumed a family size. So that the lower the family  
2 size that one might assume, the higher number of units  
3 you would produce. That median family size within a region  
4 does reflect a certain number of retired persons in that  
5 region.

6 Q I don't think you understood my question.  
7 My question is not how did you get to the total need,  
8 both present and prospective, for household formation in  
9 the future. We will get to that.

10 What I am talking about is once that need is  
11 established, by whatever methodology, you allocated it on  
12 two bases. We talked about growth-share area. The other  
13 is on the basis of jobs in the municipality.

14 That's a fair summation of what you said?

15 A Yes.

16 Q How would you rationalize that, or how  
17 do you explain that being such a primary determinant in  
18 the allocations if 40 percent, or some similar, substantial  
19 number of the people to be housed in the future and  
20 presently, are not in the work force?

21 A Well, you are talking people. I was using house-  
22 holds.

23 To the extent that that would be a situation in  
24 Ocean County, maybe there would be a distortion in that  
25 direction.

1           But I have also made some other assumptions in  
2 trying to devise a simple approach to this thing, in that  
3 I don't feel the Supreme Court is looking for an exact  
4 number. That in my instance where we have come up with  
5 136 -- anywhere from 117 to 200 units as Colts Neck's fair-  
6 share, that it's the magnitude that's important as opposed  
7 to the specific number.

8           Even though you take employment and you might  
9 disagree with it as being one-half of an averaging technique,  
10 there is some latitude here in terms of where the numbers  
11 are sloshing, so that we have some idea of what kind of  
12 handle are we dealing with when we try to convert the  
13 number within a zoning policy in a town.

14           I would be open to any suggestions as to how you  
15 would factor in fairly a factor of unemployed people. I  
16 would not accept as being any more accurate than my  
17 technique to take the Rutgers 40 percent number and apply  
18 it evenly around the State.

19           Q           The SDGP generally included all the urban  
20 centers of New Jersey and the growth area; isn't that  
21 fair to say?

22           A           Yes, it did.

23           Q           And it generally included basically all  
24 of what we refer to as the outer ring or the outer suburbs,  
25 the first ring of suburbs, the older suburbs?

1 A Generally I think that is correct.

2 Q It was spotty as far as including in the  
3 growth area any outer suburbs or third-ring suburbs;  
4 there are different names for these type of areas but it  
5 was spotty in that, wasn't it?

6 A I guess I would agree with you. It included the  
7 inner cities, the older suburbs, and went somewhat beyond  
8 the older suburbs into the newer suburbs, and even some-  
9 what beyond the boundary of the new suburbs in configuring  
10 the growth area.

11 Q If you were to use total number of static  
12 jobs, the tendency would be that number would tend to  
13 increase the percentage of jobs -- increase the allocation  
14 to an area like Newark, Jersey City, and the older suburbs  
15 -- Roselle, Union County, outer western Essex County --  
16 relative to other methodologies that may use job growth;  
17 isn't that true?

18 A I'm not sure it's true. I can only explain why  
19 I have used it, in that, number one, I see this process of  
20 enumerating fair-share responsibility as an on-going  
21 process, which would be part of every six-year examination  
22 period of master plans and so forth.

23 So that if you take a static number that exists,  
24 let's say, with 1981-1982 numbers, you devise a percentage  
25 of housing need based on a ratio of jobs that exist

1 at the moment. Six years later you can use the current  
2 numbers. If the number of jobs went up, then the Town's  
3 responsibility also went up, perhaps counterbalanced by  
4 any housing production that took place.

5 And basically, then, what that does is say that  
6 you are orienting the fair-share responsibility to those  
7 locations where jobs actually are, as opposed to a trend  
8 that would say, Well, here's an area of where the jobs  
9 have been going, and then assume that rate of increase is  
10 going to continue forever, and then give them a higher  
11 number based on a higher percentage of the trend.

12 My view is if you are concerned about trends,  
13 use the absolute numbers in every periodic update, because  
14 if Colts Neck's fair-share is going to be 200 units,  
15 let's say, I dare say that within six years -- even if  
16 one of you two guys starts to build your units -- within  
17 six years, you are going to complete marketwise the 200  
18 units that I have identified.

19 And if six years later we have new absolute numbers  
20 that say, Okay, that number went from 200 to 300, and you  
21 have produced 150, we now have 50 of the old ones that  
22 still have to be made, plus another hundred that have to  
23 be added, we have to respond -- we have an obligation to  
24 respond to that.

25 But to take a growth trend and say that any town

1 has increased its job market by fifty percent, and yet,  
2 by whatever you know, that rate of increase produced in  
3 1984 may have been one percent of the region's jobs,  
4 why take the 50 percent number or some trendline that  
5 would suggest that it is something more than one percent  
6 and assign it to it, when the growth they have had in the  
7 last ten years may be their one shot in a lifetime?

8 It may never happen. It may never continue, and  
9 may not continue as a job market growth area for the next  
10 ten years. I think there is plenty of lead time to use  
11 the absolutes and pick it up periodically, pick up the  
12 trend.

13 Q An urban core may have 80 percent of the  
14 jobs, and actually have a substantial decrease in jobs  
15 over a 10-year period, so that the suburban areas have  
16 100 percent of the increase but at the end of the time  
17 have only 10 percent of the total jobs.

18 The effect of what you would do would be to allo-  
19 cate 70 percent of the static jobs based on the static  
20 job count; 70 percent of the allocation would be back to  
21 the urban core.

22 A Let me respond to that. I think I know where you  
23 are going. You can interrupt me and tell me I'm off  
24 base.

25 My view is if the urban center has 50 percent of

1 the jobs they should have 50 percent of the responsi-  
2 bility to house lower- and mid-income housing. But once  
3 you start to take trends, if you say the Newarks of the  
4 State had an actual loss in jobs, and they will get a  
5 zero allocation, it seems to me you are artificially  
6 saying that Newark's 10,000 low- and moderate-income  
7 households are to be picked up and moved out by some  
8 statistician's methods with new housing built out in the  
9 suburbs, when their jobs are still back in Newark. It  
10 doesn't make sense to me.

11 I think there is plenty of lead time in all of  
12 this, over the next 10 or 20 years, to let the housing be  
13 built in the direction it's going to go, rather than to  
14 artificially come up with the high numbers in the suburban  
15 areas.

16 Q But then, Mr. Queale, the use of jobs in  
17 the growth areas, it is only used to reflect need. So  
18 the analogy or the description you gave that you are going  
19 to take 10,000 people in Newark and move them out into  
20 the suburbs doesn't hold for those 10,000 people in terms  
21 of where their present jobs are, assuming they are ade-  
22 quately housed.

23 A But it would either over-zone or put burdens on the  
24 private development industry to produce -- not initially --  
25 because I could agree you could expect there is a rather



1 strong demand for this type of housing -- but at some  
2 point, having numbers in the suburban areas that are too  
3 high. And I think there is plenty of lead time to take  
4 care of that adjustment and come up, at the first crack  
5 out of the box on Mount Laurel II, to come up with a  
6 formula that produces higher numbers than even the trends  
7 would suggest.

8 I am not prepared to say that Town X has had a very  
9 high rate of employment growth through the 70s and that's  
10 going to continue in the 80s, but that job number, whatever  
11 that job growth produced in the number of employees,  
12 could stay static now as of 1985, even though it was the  
13 most rapidly growing employment town from 1960 to 1980.  
14 It may be now static.

15 Q I take it you are concerned that the  
16 suburbs not be allocated too high a number; it might be  
17 too high and be burdensome on industry and the developing  
18 suburbs to handle the low-income population that would be  
19 allocated under that formula?

20 A No, I don't agree with that conclusion.

21 Q I thought that's what you said. Maybe  
22 I misunderstood.

23 A I am saying I feel that the trend that everyone  
24 is talking about can be accommodated by using absolute  
25 numbers and using those over a period of time in the

1 six-year master plan reexamination periods.

2 If there is continued growth, you will pick it up.  
3 You will have a situation where the trendline of where  
4 they have been and the number of housing units they are  
5 deficient by should meet at some point in time so there  
6 is an equal balancing of whatever the ratio should be  
7 between the number of jobs and the number of low- and  
8 moderate-income housing.

9 Q You didn't use evaluation per capita, or any  
10 factor which would take into account the ability of the  
11 municipality to pay?

12 A That's right. I disagree with it.

13 Q Do you disagree with it from a social  
14 policy standpoint?

15 A I disagree because if you were to take ten towns  
16 and consider them equal in area and the number of jobs,  
17 and then on the basis that I have used, they would all  
18 have an equal responsibility for, let's say, 200 units;  
19 but now suddenly because two of these towns are very  
20 wealthy, they would get 300 units instead of 200 units,  
21 and have those 300 units disproportionate in terms of the  
22 jobs, where the jobs are, to me doesn't make sense.

23 I have no problem with the general recognition  
24 that if a town is wealthy it can afford it. It should  
25 have less of an impact financially on a community to

1 provide the services necessary.

2 And I don't also have a problem recognizing that  
3 if Newark were -- or any of the urban cities that are  
4 having financial problems -- were to have a large respon-  
5 sibility and not be able to afford it that it might be  
6 justification to modify the allocation.

7 But it comes after the allocation, and recognizing  
8 the common sense of where the units should go, rather than  
9 using wealth of a community as an input to determine what  
10 that allocation should be simply because they are rich.

11 Q It's not a matter of simply because they  
12 are rich; it's a matter of simply because some towns have  
13 a relatively greater ability to sustain the services  
14 necessary for the low- and moderate-income housing popu-  
15 lation as a matter of policy. I find it difficult to  
16 understand why you have a problem using that factor and  
17 you have no problem using percentage of growth area,  
18 which to me is as arbitrary a figure in its results as  
19 anything.

20 I don't want to debate that with you. You simply  
21 don't believe in using affordability to pay as a deter-  
22 minant in allocating fair-shares?

23 A That's true, and I think if you look at it in  
24 isolation and say that was going to be the only factor we  
25 would use, I think that becomes a broad-brush approach,

1 a broad brushstroke approach, if you were to erase every  
2 other allocation method and just say the only thing  
3 anybody is ever going to use to determine where low- and  
4 moderate-housing should go would be the wealth of the  
5 community.

6 I think on its merit, standing alone and isolated  
7 by itself makes the point I am trying to make. It does  
8 not necessarily mean that's where the housing should go;  
9 it only means they may have an easier job of accommodating  
10 the services that would have to go with it.

11 But another problem I have with the methodology  
12 I have seen -- and you have to recognize that I haven't  
13 gone into depth with anyone who has used those methodologies  
14 of this wealth factor, and because I haven't used it  
15 myself, I haven't gone into a lot of depth on it --

16 I lost my train of thought.

17 MR. O'HAGAN: There is no question  
18 pending, in any case.

19 Off the record.

20 (Discussion off the record)

21 A (Continuing) Let me just finish my thought. I  
22 appreciate what you said.

23 The factors I have seen have not also dealt with  
24 other things like how much debt do they have, you know;  
25 what is the capital implication on those towns.

1           If you are going to use one side of the equation,  
2 you have to balance it off with a more total financial  
3 picture.

4           Q           You don't believe in using the financial  
5 picture at all as a matter of your personal belief?

6           A           That's correct, but if I did, I would look at those  
7 other issues.

8           Q           Do you believe in using a straight popu-  
9 lation model of some type in determining fair-share  
10 allocation?

11          A           As I indicated at the outset, I used Labor &  
12 Industry's Model One.

13          Q           I mean for purposes of allocation, not  
14 for establishing regional need; a percentage of population  
15 growth as an allocation criteria.

16          A           I have not used that, no.

17          Q           Why don't you believe in using straight  
18 population as a method of allocation?

19          A           Maybe I am misunderstanding the question. If it's  
20 projected that Colts Neck would have a growth of 50  
21 percent over the next number of years, to the year 2000 --

22          Q           Two percent growth.

23          A           -- you are saying why didn't I use it to say they  
24 should get 50 percent of the overall need?

25          Q           If they have two percent population growth

1 in the next ten years, why wouldn't they have two percent  
2 of the region's, just on that allocation alone, using  
3 the same principle you expressed before, why shouldn't  
4 they accept two percent fair-share growth in housing?

5 A It could be the kind of sprawl development the  
6 SDGP was trying to stop, to get some kind of control over,  
7 which would mean the past rate of growth they had, if you  
8 continued that to the year 2000, would in fact violate  
9 the principles set forth in the SDGP. That's one of the  
10 problems I have with Rutgers using Model Two.

11 Q Assuming we could agree -- whether taking  
12 zoning factors, economic factors into account -- that we  
13 could agree on a methodology for establishing population,  
14 L&I, or whatever the methodology was, why don't you  
15 believe as a matter of principle in allocating fair-shares  
16 on the basis of projected population growth?

17 A Because in my view it's inconsistent to use past  
18 trends and make some assumption on what the growth would  
19 be now that the SDGP has become a guideline as to where  
20 the regional patterns of growth should be.

21 What determination are you going to make in a  
22 Colts Neck that has 262 acres in a growth area if you  
23 look at its past history of what kind of development  
24 and the numbers of people and the houses have been? That  
25 now, if based on the SDGP it says, Hey, we're going to

1 shift everything and go to agricultural zoning with 20-  
2 acre lot lines? What assumption are you going to make of  
3 the growth between 1980 and the year 2000?

4 Q Put that assumption aside for the moment.  
5 Could you just put that out of your mind for a minute.

6 We will agree on what the population growth is  
7 going to be, whatever it is -- 1,000 people, 2,000 people,  
8 5,000 people. Assuming that methodology could be developed,  
9 and taking into account the SDGP -- and I agree it is  
10 highly suspect as to whether or not it actually reflects  
11 what is going to happen in the next ten years -- but  
12 assuming we could agree on what's going to happen in Colts  
13 Neck in the next ten years, why would you not agree, as a  
14 matter of principle, it is a result of the regional  
15 population growth?

16 A You have given me a situation where perhaps I can't  
17 disagree with you. I just don't think the assumptions  
18 you have made would make it practical to do so.

19 Based on my expectation we could not agree on a  
20 population forecast, I would have to disagree with your  
21 assumption in the question.

22 I have tried to use population projections in a  
23 broader scale than by the rather "iffy" projections that  
24 one would have to make at the municipal level, which are  
25 rather difficult to do.

1 Q Your reason is it's impractical, not  
2 because you don't agree with it as a matter of principle?

3 A Well, I guess that's a fair characterization.

4 Q Mr. Queale, I have one more series of  
5 questions.

6 From a planning and/or socioeconomic perspective,  
7 does it concern you that the methodologies you have  
8 selected would have the effect -- I shouldn't relate it  
9 to the methodologies -- does it concern you that your  
10 recommendations, in terms of moving the State Development  
11 Guideline out of Colts Neck, would result in a continua-  
12 tion in all probability, based on everything we have seen,  
13 of a situation in Colts Neck where it develops at suburban-  
14 ized densities -- 50,000-foot lots -- in a way that con-  
15 tinually increases Colts Neck's percentage of the evalua-  
16 tion per capita relative to the County? That is, it  
17 continues to attract as a township wealthy, suburban  
18 commuters over time, and would have -- under the arguments  
19 that you make -- zero housing for low- and moderate-income  
20 families anywhere in the township? We would move the  
21 line out, other than perhaps the 13 indigenous need you  
22 say is in the township -- or 17, whatever the low number  
23 was -- does that concern you as a planner that that town  
24 would continue to develop under your recommendations as  
25 an exclusive enclave for wealthy suburban commuters?



1 A No, it doesn't concern me, Dave, because I have  
2 always indicated from the beginning of this trial that I  
3 do not consider Colts Neck an appropriate location for  
4 higher-density development. I think it is an appropriate  
5 location for the kind of horse-breeding, farm-type charac-  
6 teristics that I would hope would be more clearly identi-  
7 fied and dealt with so that there would in fact be lower  
8 density development in those agricultural areas.

9 But you have a community that is, from any  
10 regional perspective, whether it's done by Tri-State,  
11 the State, or the County, identifying this teardrop area  
12 in the center of the County, if nothing else, as a holding  
13 area, but not an area which should receive immediate  
14 attention to deal with these regional development problems,  
15 whether that's low- and moderate-income housing, or just  
16 housing in general.

17 What happens in the intervening period; if it  
18 continues to develop with the kind of housing that it has,  
19 then my reaction is "so be it"; there are more important  
20 areas in which the housing problem should be addressed in  
21 Monmouth County.

22 Q Your firm recommended the strip commercial  
23 development along Route 34, didn't it?

24 A We did not recommend. It was there. We identified  
25 it.

1 Q In your -- It was in your master plan,  
2 even though there were areas that were not developed,  
3 that were identified as proposed areas for strip commercial  
4 development.

5 A There were additional areas on the west side of  
6 34 that were included in the 1970 version, which has been  
7 readopted and so forth.

8 Q You recommended Office/Research develop-  
9 ment for a portion of the Orgo Tract and for what we some-  
10 times call the Hammer Tract, the Colts Neck Airport Tract,  
11 in your 1970 Master Plan, and as republished in 1979; did  
12 you not?

13 A That was recommended in those plans, yes.

14 Q That's employment generation, is it not?

15 A It would be, but it won't be.

16 Q The 1980-1979 Master Plan has never been  
17 changed by the Township of Colts Neck; is that true?

18 A It's under review.

19 Q It's been under review since this liti-  
20 gation started, has it not?

21 A Yes.

22 MR. FRIZELL: I have no other  
23 question.

24 CROSS-EXAMINATION BY MR. LOCASCIO:

25 Q With respect to the last question of

1 Mr. Frizell, you indicated the Colts Neck Master Plan is  
2 presently under review, in fact, there is a draft; is that  
3 not so?

4 A Yes.

5 Q As I understand it, that draft specifically  
6 redraws the line, does it not, so that it conforms with the  
7 SDGP growth area; is that correct?

8 A Well, it recommended -- I have recommended, I  
9 guess -- we have to understand this is a draft that I have  
10 prepared. It is not yet -- it has not yet had extensive  
11 review, or probably any review, by the Planning Board.

12 I have located a proposed higher-density area in  
13 a portion of the growth area shown in the SDGP.

14 Q The draft you prepared of the Master Plan,  
15 does it generally conform to the SDGP line indicating  
16 the growth area in Colts Neck?

17 A Well, I would say it's about half of it, without  
18 knowing the specific acreage. What I have excluded was  
19 the horse farm that's up against Route 18. There are two  
20 ~~or~~ three houses that are on whatever size lot; probably  
21 close to a two-acre lot. And then there is a larger  
22 property, I would estimate maybe eight acres or so, where  
23 a new home with some kind of outbuilding -- and I haven't  
24 seen it to know whether it's completed yet -- but it  
25 struck me that it might be an outbuilding for private

1 horses or something; but apparently, a very large home.

2 I just thought it was more accurate to reflect  
3 those portions of the growth area that were more likely  
4 to be able to receive development than to pick a horse  
5 farm that has had some recent improvements and a new,  
6 large, single-family house that's just under construction  
7 now.

8 Q So approximately how large is the acreage  
9 of the area you have in your Draft of the Master Plan  
10 designated for high-density growth?

11 A Well, I have not taken the calculation as  
12 precisely or gone to the tax maps, but just as a crude  
13 estimate, maybe half of it, so say 100 to 150 acres.

14 Q You are familiar with the Sea Gull Tract,  
15 are you not?

16 A I know where it is.

17 Q That's approximately 77 acres?

18 A That portion in Colts Neck?

19 Q Yes, sir.

20 A I've heard 77 acres. I don't know if that's the  
21 Colts Neck portion or the total portion. I understand a  
22 sliver goes into Freehold Township.

23 Q The 77 acres in Colts Neck --

24 A Yes.

25 Q -- those 77 acres are included in the 100

1 to 150 acres of what you have drafted to be the high-  
2 density area in your Draft Master Plan; is that correct?

3 A Yes. If you are familiar with the eastern  
4 boundary of your tract, there is a drainage swale. I  
5 have followed that drainage corridor and have followed  
6 it all the way down parallel to the Howell boundary. So  
7 we pick up some acreage along the Howell boundary in  
8 addition to the tract you are speaking of.

9 Q You are saying assuming -- and I am not  
10 holding you to this -- you said it was 100 to 150 acres --  
11 assuming what you have in your Master Plan designated as  
12 high-density developed, assuming it's 100 acres, 77 of  
13 those 100 would be the Sea Gull Tract; is that correct?

14 A Yes.

15 Q When you say high density, how high have  
16 you proposed the density for that Sea Gull Tract?

17 A Well --

18 Q How many units per acre?

19 A Well, I did it in a series of stages, recognizing  
20 there are likely to be different conditions that might  
21 apply. I understand your client's interest in the tract,  
22 but as I recall, I had three options available. One would  
23 be the standard point five to the acre, if there are no  
24 sewers or water systems available; similar to the zoning  
25 that's there at the present time.

1           The second option increased that slightly, based  
2 on the assumption that either water or sewer was available --  
3 I forget which one. I think that went up to something  
4 like one or one and-a-half to the acre.

5           And the third option was if all utilities were  
6 available.

7           Q           Water and sewer?

8           A           Yes. It went up to three units an acre, with an  
9 additional three or three and-a-half per acre bonus for  
10 Mount Laurel, of which the six or six and-a-half units to  
11 the acre would have to have 20 percent low/moderate.

12           I had at one time done a rough calculation that  
13 if you took the 77-acre piece, which I consider to be the  
14 parcel most likely to be developed because of the drainage  
15 location corridor and so forth, that you would take a  
16 hundred units; a hundred low- or moderate-income units  
17 added to the 39 units at point five to the acre that  
18 could be generated, and then something else was added to  
19 it. I forget the number. I don't remember it.

20           But I was looking at the solution of having 100  
21 units in that growth area to accommodate the 130 to 140  
22 or 150 units that I had estimated was the Town's fair  
23 share; that the other units would be taken care of in other  
24 ways.

25           Q           So we come to approximately 500 units?

1 A At 20 percent, yes.

2 Q You said that you found this 77-acre  
3 tract, the Sea Gull Tract, as being the most likely to be  
4 developed. Why did you say that; how did you conclude  
5 that?

6 A We have to understand -- and I think you are clear  
7 on the presumption that's gone into this -- it's not my  
8 recommendation that this is how the land should be  
9 developed. It's my recommendation now, should the growth  
10 area decision not be decided in the Township's favor, this  
11 should be considered.

12 Q Assuming the line is not moved out of  
13 Colts Neck?

14 A Right. This is a suggested solution I have made  
15 in order to start the dialogue going and see where we go  
16 from there.

17 In that location, the stream is flowing in a  
18 northerly direction so it crosses under 537 at approxi-  
19 mately the interchange of Route 18. The information I  
20 have is that the adjacent area in Freehold, south of  
21 537, does not have water and sewers. It's on wells and  
22 septic. But that a portion of the tract on the north  
23 side of 537, that portion, I guess, which is closest to  
24 Freehold Borough, up near the top of the hill, going up  
25 a slight grade at that point, does have sewers, but the

1 rest of the development does not. What it has are  
2 septic tanks with the streets having been constructed with dry  
3 sewer lines in them, in the eventuality that sewers may be  
4 needed. It's my understanding those dry sewers flow  
5 downhill towards the Colts Neck boundaries, and if a  
6 sewer goes in, the line would go over the ridge toward  
7 Freehold Borough.

8 Q Let me show you something which has been  
9 previously marked PS-1, the Monmouth County Sanitary Sewer  
10 Facility. I would like you to look at it.

11 You have found the Sea Gull Tract; is that correct?

12 A Yes.

13 Q Looking at what has been previously  
14 marked PS-1, would you confirm that in fact there are  
15 sewers, sanitary sewers, within what has been previously  
16 determined to be approximately 200 feet of the Sea Gull  
17 Tract?

18 A They have the lines marked there in green, indi-  
19 cating 8 inch lines with a couple of 12 inch lines, and  
20 a pumping station several blocks west of the Colts Neck  
21 boundary.

22 There is no indication on the legend as to whether  
23 they are wet lines or not. As I indicated, some of these  
24 lines are apparently, from my information, dry lines.

25 Q Where did you get that information from?



1 This thing in front of you doesn't show whether it's  
2 wet or dry; is that right?

3 A Right.

4 Q Where did you get that information from,  
5 that you understand it to be dry?

6 A I spoke to Tom Thomas, the Planner for Freehold  
7 Township, and also Mr. Dickerson, or Dickenson.

8 Q Dickerson?

9 A Yes.

10 Q When was that?

11 A A couple of weeks ago.

12 Q And they indicated they were dry?

13 A Well, portions of it. I don't **know** what pieces  
14 of it.

15 Q You don't **know** if the sewers within the  
16 200 feet of the Sea Gull Tract are the sewers they are  
17 talking about as being dry?

18 A That's correct.

19 Q They could be elsewhere?

20 A Somewhere else, but my understanding was it was  
21 in this development that shows green and red lines. There  
22 are wet sewers there.

23 Q There are?

24 A Yes. But there is a question of whether all the  
25 green lines shown are wet. In other words, I'm sure

1 this is accurate with respect to where the lines lead,  
2 but there is nothing in the legend that says wet or dry.

3 Q There is no question that some of the  
4 sewers within the 200 feet of Sea Gull are operable?

5 MR. O'HAGAN: Do you know that?

6 A That's my understanding based on what I have been  
7 told.

8 MR. FRIZELL: Off the record.

9 (Discussion off the record)

10 Q I will show you what was previously  
11 marked this week as PS-2, Monmouth County Water Supply  
12 System.

13 I ask you to again locate the Sea Gull Tract. Once  
14 you locate it, will you tell me whether or not that also  
15 shows there is a water facility within the same 200 feet?

16 A (refers) Yes, it does.

17 Q I want to ask you some other questions  
18 about them later.

19 Mr. Queale, having shown you PS-1 and PS-2, is it  
20 your opinion that assuming the SDGP line is not moved  
21 out of Colts Neck, that the best place to put high-  
22 density residential facilities in Colts Neck is the  
23 77-acre Sea Gull Tract?

24 A Well, given the state of circumstances, I have to  
25 conclude yes.

1 Q Let me ask you another question in line  
2 with that.

3 With respect to the 77-acre tract which we have  
4 been talking about, I think you have told us that assuming  
5 your number -- looking at page 20 of your report -- your  
6 number of 500 units, which would include the bonus for  
7 the Mount Laurel --

8 Do you have that?

9 A Yes.

10 Q -- it's your opinion, isn't it, that  
11 these units could be accommodated by that tract?

12 A Yes.

13 Q As I understand it, the Draft of the  
14 Master Plan specifically identifies the SDGP growth area  
15 and suggests compliance with this area by allocating this  
16 higher density of approximately 6.5 units per acre,  
17 including the Mount Laurel obligation; is that correct?

18 A Well, I'll answer the question yes, but you had  
19 a premise in there that's not quite accurate when you say  
20 we identified the growth area. We only identified that  
21 piece, as I explained earlier.

22 Q Which is about 100-150 acres which they  
23 put at, I believe, 162 acres?

24 A Yes.

25 Q And you basically cut out those areas --

1 a farm and house and the areas that go with the properties  
2 -- because they are already developed?

3 A Well, they are the least likely to be developed.

4 Q You also indicate in your report that this  
5 77-acre tract of Sea Gull Builders represents a logical  
6 extension of both the regional and local development  
7 patterns in that it doesn't leap-frog throughout the Town-  
8 ship; isn't that correct?

9 A Yes.

10 Q As I understand that, because of the existing  
11 sewer system and water system within 200 feet of the tract,  
12 assuming that could be hooked up into the Sea Gull Village  
13 Tract, this would be one of your considerations?

14 A That's correct.

15 Q I would like to ask you this:  
16 What did you mean when you said that the designated  
17 growth area is a headwater area?

18 A The headwaters are where streams begin, near  
19 original lines, so you are at the very beginning of a  
20 drainage area that would feed into, in this case, the  
21 Reservoir. It's the beginning of the drainage pattern  
22 into the Reservoir.

23 Q What did you mean when you said a site --  
24 it is a site most directly impacting the Reservoir,  
25 whereas the designated growth area is in one of the

Queale - Cross

1 immediate growth areas. Which site are you talking about  
2 there?

3 A The original reference was to the Orgo Tract,  
4 I believe. Are you at the end of the report?

5 Q On page 22.

6 A I believe that was the section that dealt with  
7 granting no builder's remedy to Orgo.

8 If you look at the position of the Orgo property  
9 with respect to the Reservoir, vis-a-vis the location of  
10 your property, you are further away from it and, therefore,  
11 assuming that that distance alone -- in my view -- would  
12 have to modify whatever impact there may be on the  
13 Reservoir.

14 Q So the Sea Gull Tract would have less of  
15 an adverse -- less of an effect upon the Reservoir?

16 A Well, let me put it this way: If both of you  
17 treated the runoff in the same manner --

18 Q Okay.

19 A -- then that would be my conclusion, that your  
20 tract, being further away, would have less of an impact.

21 Q I want to show you what was Marked as  
22 PS-3 this week, the Sanitary Sewer Facilities.

23 Can you locate Tinton Falls?

24 A Yes.

25 Q Are there any sewers there?

1 A There are sewers which extend down to the Circom  
2 Building. That's the old Econ Building.

3 Q Where is that?

4 A As shown on the sewer map, it would be where the  
5 12 inch line comes off of Tinton Avenue, just after it  
6 crosses the Parkway.

7 Q That's the closest sewers come to the  
8 border with Colts Neck?

9 A Well, further north they are right on the border.

10 Q The water facility --

11 A The same pattern. You have -- there is actually  
12 a little more water coverage in Tinton Falls than there is  
13 sewer coverage, and with this 30 inch main running down  
14 Lakeside Road.

15 Q Are you aware, Mr. Queale, that before the  
16 SDGP line was drawn so as to place a growth area in Colts  
17 Neck, that the State Planners met with the County Planners  
18 and discussed that?

19 A I know that was a policy around the State.

20 Q In other words, the State Planners didn't  
21 just sit in their ivory towers in Trenton and draw  
22 arbitrary lines; they actually met with the Monmouth County  
23 Planners?

24 A Subsequent to some earlier drafts, that's correct,  
25

1 yes.

2 Q Are there other reasons, other than  
3 the fact that the 77-acre Sea Gull Tract is in proximity  
4 to the sewer and the water lines you have previously told  
5 us about --are there **any** other reasons why you feel that  
6 that is in your opinion the best place to fulfill Colts  
7 Neck's Mount Laurel obligations?

8 MR. O'HAGAN: If that obligation  
9 need be fulfilled.

10 MR. LOCASCIO: Yes.

11 A I am assuming -- just for clarification -- that  
12 all your questions with respect to your Tract are on the  
13 assumption there is a growth area. So we don't have to  
14 say it.

15 Q You can accept the fact that these questions  
16 assume that the present line of the SDGP is not moved out  
17 of Colts Neck.

18 A The Master Plan addresses that, the Draft Master  
19 Plan does, and I include some of those points in my report.  
20 ~~And they are~~ some of the items that have been addressed in  
21 the 1982 version as well as, I guess, other testimony I  
22 have given.

23 Q Go ahead.

24 A I'm not sure I can recall them all, but it is  
25 written in the report.

1           One of them is access to 537; proximity to it.  
2           That then provides you with access to, in your case, to  
3           the Freehold area. Whereas the eastern end, if that had  
4           been designated, would have provided access to the Circom  
5           Building and the Eatontown area and so forth. I don't  
6           think that portion is a legitimate item with respect to  
7           your tract. I would expect the occupancy there would be  
8           more or less oriented to the east.

9           Q           To the west.

10          A           To the west. I'm sorry.

11          Q           Go ahead.

12          A           537 is what I would consider an important road  
13           locally, and it does have that one bus route that runs from  
14           Red Bank to the Circom Building and Freehold on the return  
15           trip.

16                    So to the extent individuals would have employment  
17           in Freehold Borough, or in the Circom Building, or in  
18           Red Bank, there is within walking distance a bus route  
19           that could be used.

20                    It happens to be the headwater area, the Reservoir,  
21           as opposed to closer-in sites.

22                    That's all I can think of at the moment that I  
23           have identified in my report.

24          Q           Would you agree that the SDGP expresses  
25           a statewide effort to preserve agriculture?



1 A In the plan itself?

2 Q Yes, sir.

3 A Yes, it does.

4 Q I would like to know whether when we  
5 talked before about the effect of leap-frogging -- I think  
6 you mentioned that before, didn't you?

7 A Yes. That comes out of the SDGP.

8 Q And that's because in this case Colts Neck  
9 you find is in the center of the two corridors, one on the  
10 east and one on the west?

11 A Yes, sir.

12 Q However, is it your opinion that any  
13 logical projection of extending sewer lines or facilities  
14 that would normally attract growth would under normal  
15 expectations be just a gradual enlargement of those corri-  
16 dors rather than a leap-frogging effect?

17 A I would agree with that.

18 Q Would you agree that the Sea Gull Tract  
19 would fall right within that opinion?

20 A It has that potential, yes.

21 Q So if in fact the Sea Gull Tract of 77  
22 acres were developed, based on the opinions just given us,  
23 you would not consider that to be a leap-frogging; is that  
24 correct?

25 A Yes.

1 Q I assume again that's another reason why  
2 you would prefer the Sea Gull Tract as opposed to any other  
3 tract?

4 A I wouldn't say any other tract because we have the  
5 whole east end that we discussed as a potential, prior to  
6 the Mount Laurel decision, as a potential for development.  
7 But with that understanding, I would agree.

8 Q The east end is not in the growth area?

9 A That's correct.

10 Q Have you ever looked at the topographical  
11 of the east end?

12 A Yes.

13 Q Isn't it wet?

14 A Well, there are two aspects to the physical  
15 characteristics. The topography -- which was the initial  
16 question, which would indicate where the stream corridor  
17 is -- shows there is a higher degree of wet soils. But  
18 the conclusions in the soil maps that we include in the  
19 various reports we have submitted to the Township would  
20 indicate it is developable land, with sewers.

21 And I have concluded as a result of this type of  
22 issue where you would be talking about higher densities,  
23 that no matter where you put the development, you would  
24 need sewers.

25 Q The sewers you are talking about in the

1 east end are the ones that border Colts Neck in the Tinton  
2 Falls area?

3 A Yes.

4 Q You said a higher degree of wet soils;  
5 what did you mean? Higher than what?

6 A As I recall, the stream corridor that cuts through  
7 or along the Sea Gull property is a narrower channel. It  
8 is higher land than the east end, so when you would compare  
9 the two -- not just your property -- but if you compare  
10 the broader area, take 500 or a thousand acres, somewhere  
11 on the west side versus the southeast corner we were  
12 talking about before, I would expect that the southeast  
13 corner would show a higher degree of wet soils than the  
14 west side.

15 Q Therefore, the west end would be more  
16 developable, is that what you are saying, or more preferable  
17 to be developed, density-wise?

18 A I would say design-wise you might have -- you might  
19 expect to have less of a problem, at least with respect to  
20 dealing with wet soils.

21 Q Less of a problem at the Sea Gull Tract  
22 than the east end?

23 A On the issue of designing around wet soils. There  
24 might be other design problems that your site has that  
25 another site at the east end wouldn't have.

1 Q We are just talking wet.

2 A Water; yes.

3 Q So from a point of view of wetness, the  
4 Sea Gull Tract is better for development high-density-  
5 wise than any other tract?

6 MR. FRIZELL: Objection. Just  
7 from the point of view of state of knowledge.  
8 If we had to identify the Sea Gull Tract for  
9 him earlier, I don't know how he can discuss  
10 wetness or lack of it now.

11 THE WITNESS: You didn't have to  
12 locate it.

13 MR. FRIZELL: I thought Mr. Locascio  
14 spent ten minutes locating the tract for you.  
15 Now you are telling me you knew where the tract  
16 was before the dep started?

17 THE WITNESS: Yes. I don't know what  
18 the series of questions was that causes you  
19 to think that.

20 MR. LOCASCIO: He knew it as soon as  
21 I showed him the map.

22 Read back the question.

23 (The pending question was read back  
24 by the reporter)

25 MR. LOCASCIO: Amend that to read at

1 the end, "...than the eastern tract."

2 MR. FRIZELL: Let me object to the  
3 form of the question.

4 First of all, there is no eastern  
5 tract developed. I think the "eastern tract"  
6 can refer to a whole lot of properties in the  
7 eastern end of town, none of which include  
8 our property, incidentally; some of which are  
9 good and drier than Sea Gull; some of which  
10 are wetter than Sea Gull.

11 It gets absurd. The record is just  
12 getting mushy and wet, and totally indecipherable  
13 in terms of any meaning in light of the issues  
14 in the case.

15 MR. O'HAGAN: I think we are getting  
16 off the track.

17 MR. FRIZELL: It's not fair to compare  
18 the Sea Gull Tract to any other tracts  
19 anywhere.

20 MR. LOCASCIO: I will solidify it.

21 MR. FRIZEL: Can I ask a question?  
22 Did you do any particular studies of the Sea  
23 Gull Tract in terms of the topography and  
24 physical conditions?

25 THE WITNESS: Only the same information

1 I have town-wise.

2 MR. FRIZELL: I don't want to  
3 belabor this point, Mr. Locascio. You  
4 certainly will have every opportunity to  
5 prove the environmental suitability of your  
6 site through your own witnesses.

7 You take a witness at random,  
8 virtually, who doesn't know anything about  
9 your site other than town-wise, and will  
10 be making a deposition that is unusable.

11 He didn't study the site, he won't  
12 be allowed to testify about it without having  
13 done that.

14 You can bring in your engineers.  
15 The status of your site is a fact no one is  
16 going to argue. I'm sure it's a decent site  
17 and developable, as a lot of sites are. But  
18 to compare it with others -- the whole direc-  
19 tion of the deposition to me is wasting an  
20 awful lot of time.

21 MR. O'HAGAN: Off the record.

22 (Discussion off the record)

23 Q Mr. Queale, you previously referred to  
24 another area that you considered for high-density develop-  
25 ment in Colts Neck; is that right?

1 A Yes.

2 Q That area -- that's the eastern section;  
3 is that correct?

4 A Eastern boundary south of Route 537.

5 Q Are you familiar with that area as well  
6 as the Sea Gull Tract?

7 A From the point of view of having done township-  
8 wide drainage maps from soil conservation service data,  
9 the patterns of drainage corridors, wet soils, and so  
10 forth.

11 Q Armed with that knowledge, would you  
12 answer the question that I previously posed; namely, with  
13 respect to water and the developable land as it pertains  
14 to water, would you say that the Sea Gull Tract, -- being  
15 higher, as you have said -- is preferable for high-  
16 density development, residential development, than the  
17 eastern area that you have just told us about?

18 A The problem I have in answering it -- and maybe it  
19 is the problem that Dave and Bob expressed -- you have  
20 laid your foundation based on what we have done town-wise,  
21 town-wise, which is area-wise, and you have asked me to  
22 compare the site with an area. And I have a problem  
23 concluding negatively or positively with that question  
24 because there are areas in the eastern end, a particular  
25 spot in the eastern end, that might have zero impact. If

1 I were to pick out another 77-acre piece at the eastern  
2 end that would have a zero impact, it would be a better  
3 site from a wetness point of view than your site.

4 All I can conclude generally is the eastern end  
5 as a broad area has a higher proportion of wet charac-  
6 teristics, which would have to be designed around, compared  
7 to the western end. It's area compared to area, not  
8 site compared to site.

9 Q Fine. I will take that.

10 Would you agree at the present time, and until  
11 the Colts Neck Zoning Ordinance is amended or changed,  
12 that at the present time there is no variety of residential  
13 structures in Colts Neck?

14 A Yes.

15 Q In line with that, would you agree that  
16 in terms of low-income groups, they would not be able to  
17 afford the typical houses presently being built in Colts  
18 Neck?

19 A Yes.

20 MR. LOCASCIO: I have no further  
21 questions.

22 MR. O'HAGAN: No questions.

23 MR. EASTMAN: No questions.

24 MR. FRIZELL: No questions.

25



1  
2 CERTIFICATION  
3  
4

5 I, NATHALIE TULLMAN, a Certified  
6 Shorthand Reporter and Notary Public of the  
7 State of New Jersey, certify that the foregoing  
8 is a true and accurate transcript of the depo-  
9 sitions of ALLEN J. DRESDNER and WILLIAM  
10 QUEALE, JR., who were first duly sworn by me  
11 on the date and place hereinbefore set forth.

12 I FURTHER CERTIFY that I am neither  
13 attorney nor counsel for, nor related to or  
14 employed by, any of the parties to the action  
15 in which these depositions were taken; and  
16 further that I am not a relative or employee  
17 of any attorney or counsel employed in this  
18 action; nor am I financially interested in  
19 this case.  
20

21 Nathalie Tullman  
22 Certified Shorthand Reporter  
23  
24  
25