

AD - Bernards.

9/1/1975

Proposal submitted to the Planning  
Board + Twp. of Bernards

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MOUNT LAUREL: A TRULY REGIONAL RESPONSE

This proposal is submitted to the Planning Board and Township Committee of Bernards Township.

For completeness it includes some items which have already been agreed upon or acted on. In one significant area it represents a departure from the earlier consensus.

William W. Allen

September 1, 1975

Introduction

Many court decisions--the best known being Mount Laurel--have developed our interest in the concepts of "region" and "fair share" of housing. There follows a proposal to deal with these twin concepts by a simple, empirically derived formula, one which can be applied objectively and systematically once it has been established by legislative mandate. The formula is based on the concept of a "job oriented residential distribution". Action proposals for Bernards Township and some unanswered questions are included at the end.

Job Oriented Residential Distribution, JORD

Where a man lives (or where a woman lives) is a function of many factors--housing cost and quality and availability, family ties, his income and life style--but certainly important are the location of his job and the burdens of home-to-work travel. A place of residence is related to a place of work, and, other things being equal, there is a tendency to keep the daily commute short rather than long.

The term "commutershed" has been coined to describe the region in which people live who work at a particular employment site. This is a valuable concept. However, we also need a quantitative method for determining the region. It helps to give names to things so let's define the manner in which employee residences are distributed throughout the commutershed as a "job oriented residential distribution" or, more simply, JORD.

The following expression was developed from an examination of residences of employees of RCA in Bridgewater, and confirmed by those of Bell Telephone Laboratories in Murray Hill.

(1)  $F = 1 / B (R^{1.4})$  (R is raised to the exponent 1.4, and this in turn serves as the exponent of B.)

F is the fraction of employee residences which fall outside a circle of radius R. B is a constant for a particular employee distribution.

EQ.1 has certain commonsense and convenient properties. When R is zero F is 1, indicating that all residences are outside the circle. As R grows large then F approaches zero. If F is known for any value of R then B can be calculated and all other values of F. FIG.1 displays a plot of EQ.1 for the case when the median circle is 8, that is, the circle which encloses 50% of the employee residences has a radius of 8 miles. Using functional notation let's define this as a JORD(R50=8).

By differentiating EQ.1 it is possible to develop an expression for residential density. EQ.2 shows this for the density of residents per square mile generated by a group of 1000 employees. This is also plotted in FIG.1. Density estimates are quite significant in describing the region.

(2)  $D = (\frac{700}{PI}) \times (LOG_e(B)) \times (1/ R^{0.6}) \times ( 1 / B^{(R^{1.4})} )$

The plot of EQ.2 suggests that employee residences are clustered near the job site and become fewer or less dense further away, again a commonsense view.

## Factual Evidence

Like many large companies RCA has employee counts by post office; it also has separate counts for male and for female employees. Using a standard road map and its municipal index these residences were assigned to various cells of the map. The distance from the center of each cell to the plant was determined. The commuting distances were then ranked and a cumulative distribution made of employees vs distance.

There are potential pitfalls in this approach. Residences are scattered around a post office, and the cell method does not precisely locate the post office or the residence. These factors will reduce the precision of the result. However, in all work which rests on empirical data, one can usually trust the results if the data is "well behaved" and that is the case here.

One test is to compare trips from the east with those from the west. These are plotted for male employees in FIG.2. Taking logs of both sides in EQ.1 we have

$$(3) \quad \text{LOG}(F) = - (\text{LOG}(B)) \times (R^{1.4})$$

This means that  $F$  vs  $(R^{1.4})$  will plot as a straight line on semi-log paper. One end of the line is anchored at  $(R=0, F=1)$ . FIG.2 is constructed in this manner. The dashed lines are constructed to pass through the point where  $(F=0.05)$ . Though arbitrary this point has the virtue of consistency.

Define  $R_{50}$  as the radius within which 50% of the residences lie. This represents the median commute and can be read directly by entering the graph at  $(F=0.5)$ , and then converting the observed value of  $(R^{1.4})$  to a value of  $R$ .  $R_{50}(\text{EAST})$  is 11.1 miles and  $R_{50}(\text{WEST})$  is 15.2 miles.

It is clear that the eastern and western residents travel different distances, and this is not surprising if one considers the relative population densities to the east and to the west. It may also reflect the fact that those in the west have collectively chosen to travel further. The significant fact is that the data for each JORD (job oriented residential distribution) is well behaved and leads to its own reasonably straight line. Though the trips vary in length, the eastern and western distributions follow the basic pattern suggested by EQ.1.

FIG.3 shows a comparison of all male and all female employees.  $R_{50}(\text{MALE})$  is 12.7 miles and  $R_{50}(\text{FEMALE})$  is 7.2 miles. Again each JORD follows the projected pattern, but with significantly different trip lengths.

In the RCA plant the bulk of the female employees lies in the clerical, lab assistant, and production worker categories. Managerial, administrative, and engineering personnel are predominantly male. The average male salary is higher than the average female. (Like most large companies RCA has an affirmative action program which attempts to develop a better balance, but the conditions today are as I have described.) The salary difference may account for the longer male commuting distance; with higher earnings travel costs become less important and residential amenities have higher priority. Another potential explanation may be that many women also carry family responsibilities which require them to spend less time in travel.

A plot of all employees is given in FIG.4. R50 is 10.2 miles.

### Confirmation

A similar analysis was made of Bell Telephone Laboratory employees in Murray Hill, using 1972 residence data. (This is the same data as M. Douglas McIlroy used in his 1972 study entitled "Regional Implications of Bell System Headquarters Moves" and which dealt with AT&T in Bedminster and Bernards Townships.) The data is plotted in FIG.5.

Unfortunately, data for municipalities with less than ten employees was not included, leaving about 17% unaccounted for. If one assumes that those accounted for are typical of the whole population then Plot A results. On the other hand if one assumes that all those residences left out lay beyond the documented ones then Plot B results. Truth probably lies in between, say along the JORD(R50=7.0) line which is plotted.

The plot of the RCA JORD(R50=10.2) is included again in FIG.5 for comparison. The BTL work trips are significantly shorter than those for RCA, leaving room for conjecture as to why. The chief significance of FIG.5 is that the basic pattern of EQ.1 is confirmed in the BTL commutershed.

### Trial and Error

I have no theoretical argument to support the choice of the exponent (1.4) in EQ.1. It was selected on the basis of best fit to the RCA data and confirmed by the BTL data.

This factor shapes the distribution curve. If it is made larger, then the impact of R is accelerated and there is a greater concentration of residences near the job site.

### Importance

EQ.1 has value because it organizes considerable information into a simple expression. This can be manipulated to derive some other result, the density expression in EQ.2 for example. Also, it is easy to characterize an entire commuting population by its R50 value (median commuting distance), or to make comparisons between populations.

But most important for our purposes it provides the ability to assign population densities to the various parts of the commutershed.

By examination of many more employee sites it would be possible to refine or "fine tune" EQ.1, either with regard to the median commuting distance (R50) or with regard to the exponent of R (1.4). It is also possible to examine commutation costs and then legislate a value for R50. In any case it is possible to work from a determined value of R50 to a "natural" or expected residential density at any point in the commutershed. Total expected employee residences in a defined area, such as a municipality, could be calculated by integrating EQ.2 over the entire area, or more simply, by just multiplying the area by the expected density in its center.

### Overlapping Commutersheds

Employees of Allied Chemical in Morristown, BTL in Murray Hill, and RCA in Bridgewater all live in Bernards Township, demonstrating that commutersheds from many different employment sites overlap. The expected total of all employee residences in an area could be found by summing the expectations from each separate employment site whose commutershed touches the area.

This is far less difficult than it sounds. By using a state-wide grid, cells could be developed and distances calculated such that the expected residences in any one cell could be derived from the employment in any other cell or the same cell. Cells could be assigned to municipalities and totaled.

A rather simple computer program could handle this. Of course, the basic geographic relationships between cells would not change and would be calculated only once. Afterwards as the employment pattern changed, only summing would be required.

The big problem is collecting the employment data.

### Fair Share of Housing

Implied, but not yet explicitly stated, has been the hypothesis that there is a natural order of things with regard to employment and residence, that this can be used to develop residential projections, and that these can be used to establish "fair shares" for housing. A simplified technique follows.

- a. Assume that all employment and housing in a municipality is concentrated at its geographic center. This not only simplifies data collection and calculations but is more fair. For example, this method would provide that AT&T in Bernards would have a relatively smaller impact on Harding and Mendham Townships, and that AT&T in Bedminster would have a relatively smaller impact on Bernards, than would be the case if each were analysed with respect to its position near the municipal boundary.
- b. Determine the distances between municipal centers for the whole state.
- c. Use municipal areas, inter-municipal distances, and EQ.1 and EQ.2 to determine one municipality's fractional share of housing for another's employment. Perform this for all combinations of municipalities and develop a 567 by 567 statewide fractional-share matrix of shares. This would include each municipality's housing share for its own employment. Use a computer and do this one time. Publish the results.
- d. Survey employment within each municipality. This is an ongoing task and is the most difficult part of the problem. However, it is an essential ingredient of any fair share analysis, not just the one proposed here.
- e. Combine the actual employment data and the fractional share matrix to compute municipal fair housing shares. Again, this is an easy task for a computer and could be performed quickly as new employment data evolves.

## Illustration

FIG. 6 shows a fractional share matrix for Bernards and its immediate neighbors, together with the pertinent area and distance data. Only the cells dealing with Bernards have been filled in. Shares are based on a JORD(R50-8).

Because they were available, municipality centers were taken from data developed by the Tri-State Regional Planning Commission. These are population centers, not geographic centers. I believe geographic centers would be better over the long term since they are objective and constant. For Bernards the population center falls in the undeveloped area west of Lyons.

If one wishes to determine the Bernards share for Bridgewater employment he enters the matrix from the top in the column labeled Bernards and moves down to the row labeled Bridgewater and the value (3.5). This indicates that the fair share of housing in Bernards is for 3.5% of the Bridgewater employees.

Conversely, if one wishes to determine the fair share of Bridgewater housing for Bernards employees, he enters the table at the row labeled Bernards and moves across to the Bridgewater column and the value 4.8%. The Bridgewater share for Bernards employment is greater than the Bernards share for Bridgewater because Bridgewater is larger than Bernards.

The Bernards share for its own employment is 14.3% and is found where the Bernards row and column intersect. This is calculated directly from EQ.1. Bernards and its eight neighbors account for 45.6% of the total housing share for Bernards employment.

## Gross vs Net Fair Share

The preceding analysis leads to an estimate of total fair housing share, including what is already in place. Let's call this the "gross" fair share. Some municipalities have already provided more housing than others and they should be given credit for this. The difference between the gross fair share and the current housing stock can be called the "net" fair share and this represents an increment or debt which should be provided for.

In order to establish net fair share for a municipality it is first necessary to survey its existing housing stock.

## Fair Share for Different Incomes

The JORD for low paid employees should probably be more concentrated than for the higher paid, that is, the travel distance should be less, since the economic burden of travel is less significant for the latter. Also, the accessible housing price range varies with income. Therefore, a complete net fair share analysis should be made for each major wage group which experiences difficulty in finding housing.

### Jobs, Residences, Households, and Dwellings

The discussion thus far has been in terms of residences and employment, where a person lives in relation to where he works. One or more persons who live together form a household and more than one may have a job. One person can have two jobs. And one household may own and occupy more than one dwelling--a "home" in the suburbs and an apartment in the city, a summer cottage in the mountains, etc. Generally there will be more jobs than dwelling units. It will be necessary to develop factors which relate housing shares to dwelling units.

### Simple is Better

Society is guided by many rules, most of which contain a degree of arbitrariness--driving on the right side of the road, working forty hours per week, voting after age eighteen, the 5% sales tax, nine innings in a baseball game--and these work and perform their function if they are generally accepted by those to whom they apply. Acceptability is enhanced if the rule and its purpose are fully understood and it is perceived that the rule is applied impartially. A simple rule is better than a complex one.

A major defect in our federal income tax system is the numerous deductions and loop holes and the feeling by many tax payers that others are getting a better deal.

The professional planning firm of Rahenkamp Sachs Wells and Associates has suggested that fair shares be developed from considerations of "environmental, physical and fiscal" "capacities". This is impressive sounding but I doubt that there would ever be sufficient statewide agreement as to the measurement of these capacities and the weight to assign to each. The statistical war which Prof. Jerome Rose predicts would rage, benefitting primarily the attorneys and other paid consultants.

The JORD formula in EQ.1 has the great virtue of simplicity. Once R50 is established everything else follows automatically. Performance with regard to fair shares can be objectively verified. The weapons in the statistical arsenal will have been limited.

### Founded in Fact

EQ.1 reflects a concept of a mathematically continuous and infinite region, in which density trails off to very small and insignificant values. (See FI.1.) It is not affected by arbitrary boundaries such as county lines or a thirty-minute commuting distance. It reflects the way people actually live and the manner in which they have selected their places of residence around the place where they work.

### Reward for Good Performance

Many municipalities have dragged their feet with regard to their housing obligations. It is essential that fair share quotas take existing housing into consideration and not reward those who have done less up to now. The net fair share concept reflects this principle.



## Sooner is Better than Later

Planning will more likely lead to its intended results when the rules are known and they don't change. I doubt that AT&T would be building major installations in Bedminster and Bernards if the key judicial, tax and zoning decisions had been made in 1954 and 1965 rather than ten years later. Even now the writing on the wall is perceived less clearly by some than others. Will Bernardsville, or Branchburg, or Readington see the taxes generated by ratables in their neighboring townships of Bernards, Bridgewater, and Raritan, and decide that industry will be their salvation?

If they do, then that will impact unfavorably on all of us. For most problems with which municipal officials wrestle and in which residents of the outer suburbs are concerned are aggravated by increased population. It does not matter whether that population is in your own town or the one next door. And the general damage done by the proliferation of industry throughout the countryside has been discussed many times.

Therefore, it is to the advantage of Bernards and the state as a whole that we develop quickly a means by which the principles of Mount Laurel can be implemented in Bernards and throughout the state. This will tend to head off additional unfortunate and irreversible actions.

Some will want to delay--for various personal reasons or just through a reluctance to face reality. But, like it or not, we in Bernards have been thrust into a leadership role. I propose that we act constructively in it.

## Local vs Regional Needs

The Mount Laurel decision stresses regional needs, that is, the local response to needs generated throughout a region. Yet we in Bernards--and any other municipality--can most effectively determine needs generated locally and are severely limited in our ability to estimate regional ones. One planning course, which I will call Plan A, would be to deal only with local needs and exclude regional ones, on the argument that we do not know what the latter are. I believe this course would be unwise.

A regional system of housing allocation must ultimately come. Plan B would be to tailor our local actions to conform to this regional system. Since the regional system is not yet in force then we are free to develop one to fill the vacuum and then to conform to it. Of course, the system we adopt must really pass regional tests. I believe one based on the JORD and fractional share concepts will do so.

Under Plan A we would at this time accept housing responsibility for 100% of our local employment or its equivalent. Under Plan B we would accept responsibility for 4.3% of Bedminster employment, 14.3% of Bernards, 3.5% of Bridgewater, etc. (See FIG.6. These are illustrative and not necessarily final figures.)

Under Plan A Bernards would substitute its own initiative for that of other jurisdictions--municipal, county, and state. But ultimately these must all contribute to and participate in the regional system. I believe we will fulfill our legal obligation at this time if we make a regional proposal, act now on those parts which can be defined now, and stand ready to act on others as they become known. And by helping to advance the regional system we will play a constructive leadership role.

I propose that we pursue Plan B.

### Regional Sharing vs Regional Planning

There has always been an inherent logic in the principle of regional planning--that is, the placement of agricultural, commercial, industrial, public, residential, and transportation facilities where they make the most economic, environmental, social, and regional sense. Through lack of perception of its value, lack of confidence in government, and for various other private reasons, regional planning has not yet received broad public support in New Jersey.

What we have talked about thus far is not regional planning but only "regional sharing" of housing obligations. A strict formula approach to housing would tend to homogenize a region. Densities might vary slightly from town to town, but each would tend to have the same housing mix. I find this prospect unappealing. Yet it is the natural consequence of the Mount Laurel mandate unless we deal with the question in some other way.

A superior alternative is true regional planning. Residents of more affluent and less densely populated communities now have a personal stake in regional planning and a much clearer incentive to act via the political process to bring it about. I hope they will now recognize the opportunity and do so.

We must rest our own actions on the premise that others will also exercise good sense, if not right away, then sometime. We should also encourage them to do so. This is another reason why we should immediately work towards a regional solution and forego a purely local one.

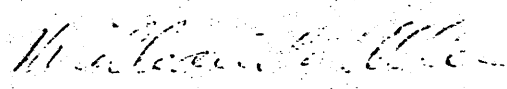
### Action Proposals for Bernards

1. Complete local survey and analyses of employment and housing.
2. Ask Somerset County Planning Board to sponsor similar studies in each Somerset municipality.
3. Ask the Department of Community Affairs (DCA) to sponsor these studies throughout the state.
4. Ask the Tri-State Regional Planning Commission to determine geographic centers for each New Jersey municipality and to develop matrix of inter-municipal distances.

5. Ask the latter to determine the geographic coordinates for each New Jersey post office.
6. Ask DCA to sponsor studies of residence vs employment using representative employers throughout the state, the ZIP codes of their employees, and the established post office locations. Refine the basic JORD formula for different income ranges and population densities.
7. Ask DCA to develop factors which relate job holders and dwelling units for different income ranges.
8. Ask DCA to develop factors which relate dwelling unit costs-- price and rent--to the capacity to pay for different income ranges.
9. Consult with our municipal neighbors and seek their cooperation and support in this program.
10. Ask our legislative representatives to embody these findings in statutes.
11. Accept fractional housing share for Bernards employment, plus shares for employment in other municipalities as these become known, and take appropriate steps to satisfy these obligations. (Of course, these "appropriate steps" are not yet well defined and must themselves be the subject of extensive study.) Use factors which we develop until the agencies petitioned above can supply more authoritative ones.
12. Point out to all who will listen that this is only an interim process and that proper long range solutions require regional planning.
13. Move from the regional sharing phase to the regional planning phase as quickly as possible.

#### Other Questions

1. Should the median commute reflect what currently obtains, recognizing that this reflects some questionable zoning practices, or should it be modified to reflect some other concept of what is proper?
2. What housing should be provided for those households with no job holder, whose incomes derive from insurance, investments, pensions, or welfare? What credit should be granted for their dwellings?
3. In measuring the existing housing stock, should prices be based only on the current market, if the present occupant has an income which enabled him to acquire the dwelling at an earlier date but which would not be sufficient at its present inflated price?

  
William W. Allen  
September 1, 1975

RESIDUAL RESIDENCES

$$F = \frac{1}{BR^{1.4}}$$

FOR  $R_{50} = 8$  MILES

RESIDENTIAL DENSITY

$$D = \left(\frac{700}{\pi}\right) (\text{LOG}_e(B)) \left(\frac{1}{R^{0.6}}\right) \left(\frac{1}{BR^{1.4}}\right)$$

(RESIDENCES PER SQ. MILE FROM 1000 JOBS)

8.0

6.0

4.0

2.0

0.0

10

20

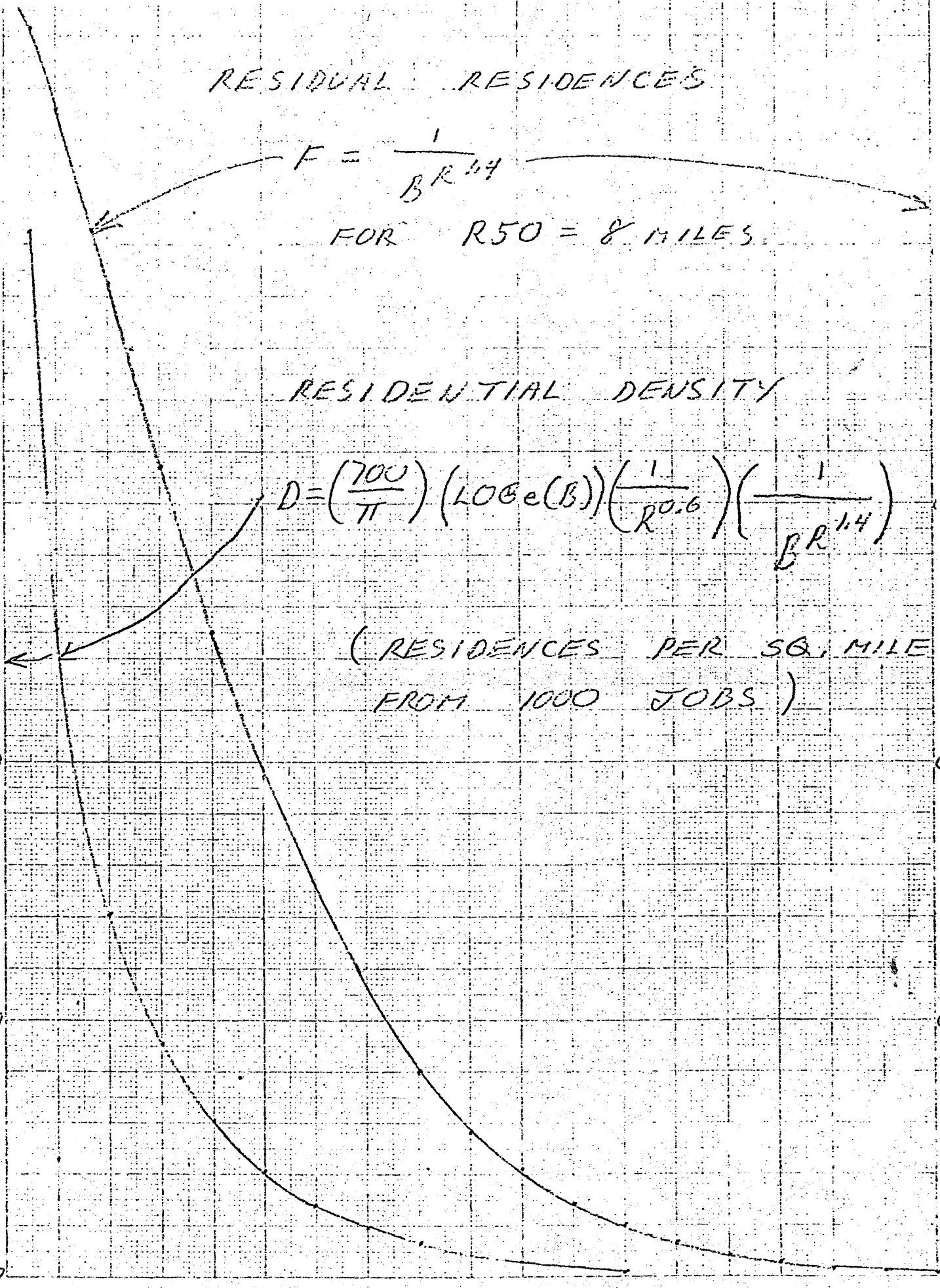
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R (MILES)

8-11-75

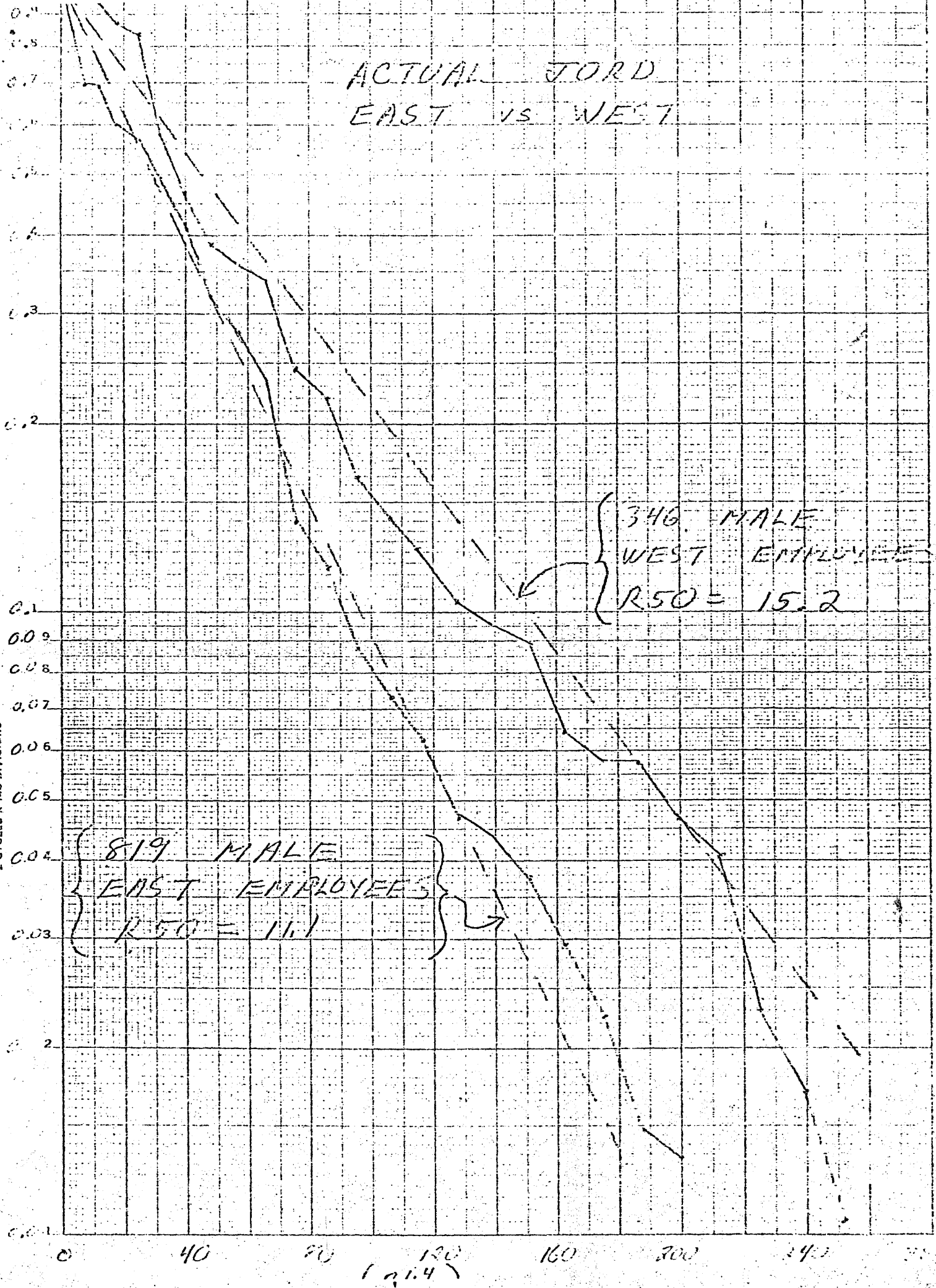
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MADE IN U.S.A.

NO. 410-M DIETZGEN GRAPH PAPER  
MILLIMETER



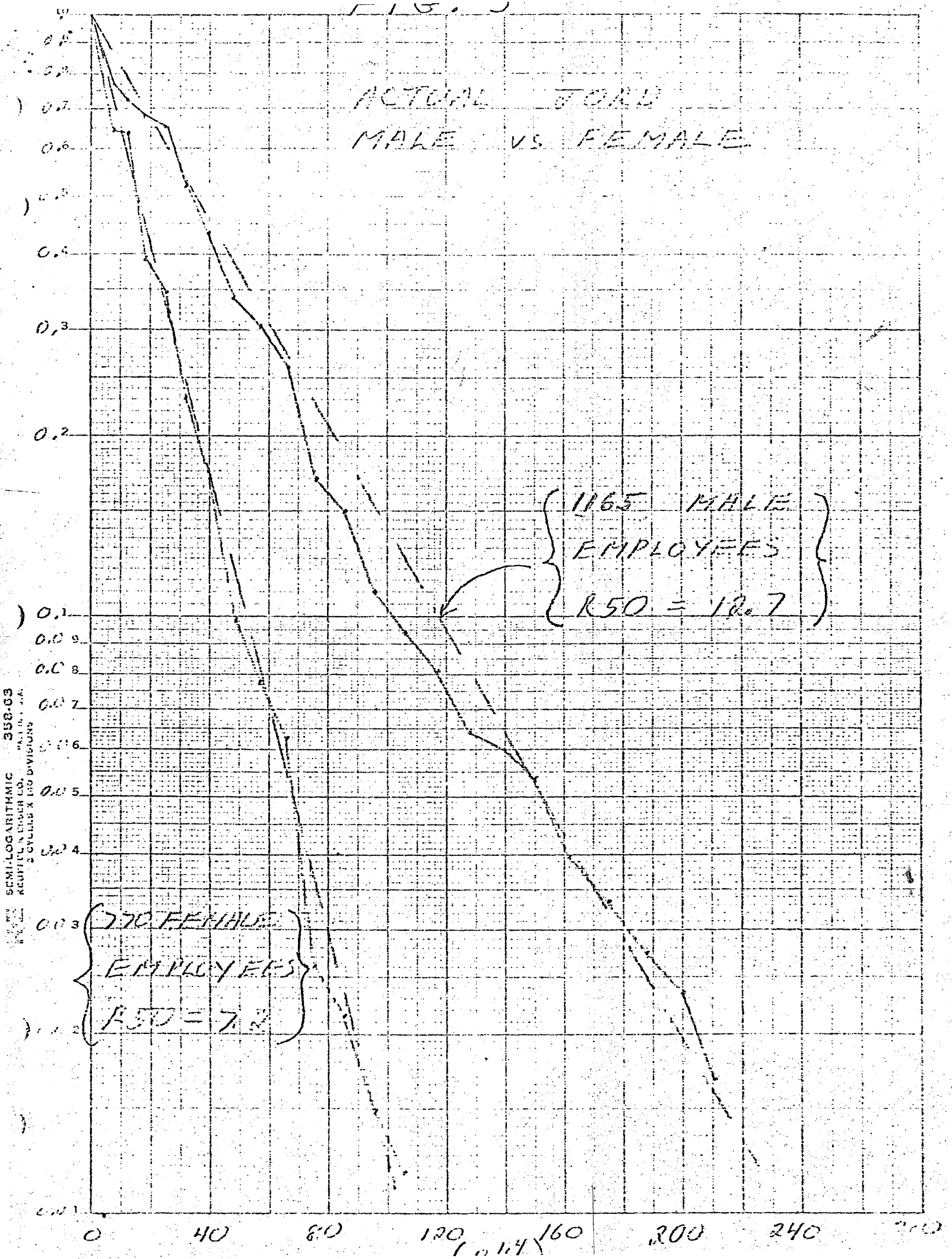
ACTUAL JORD  
EAST VS WEST

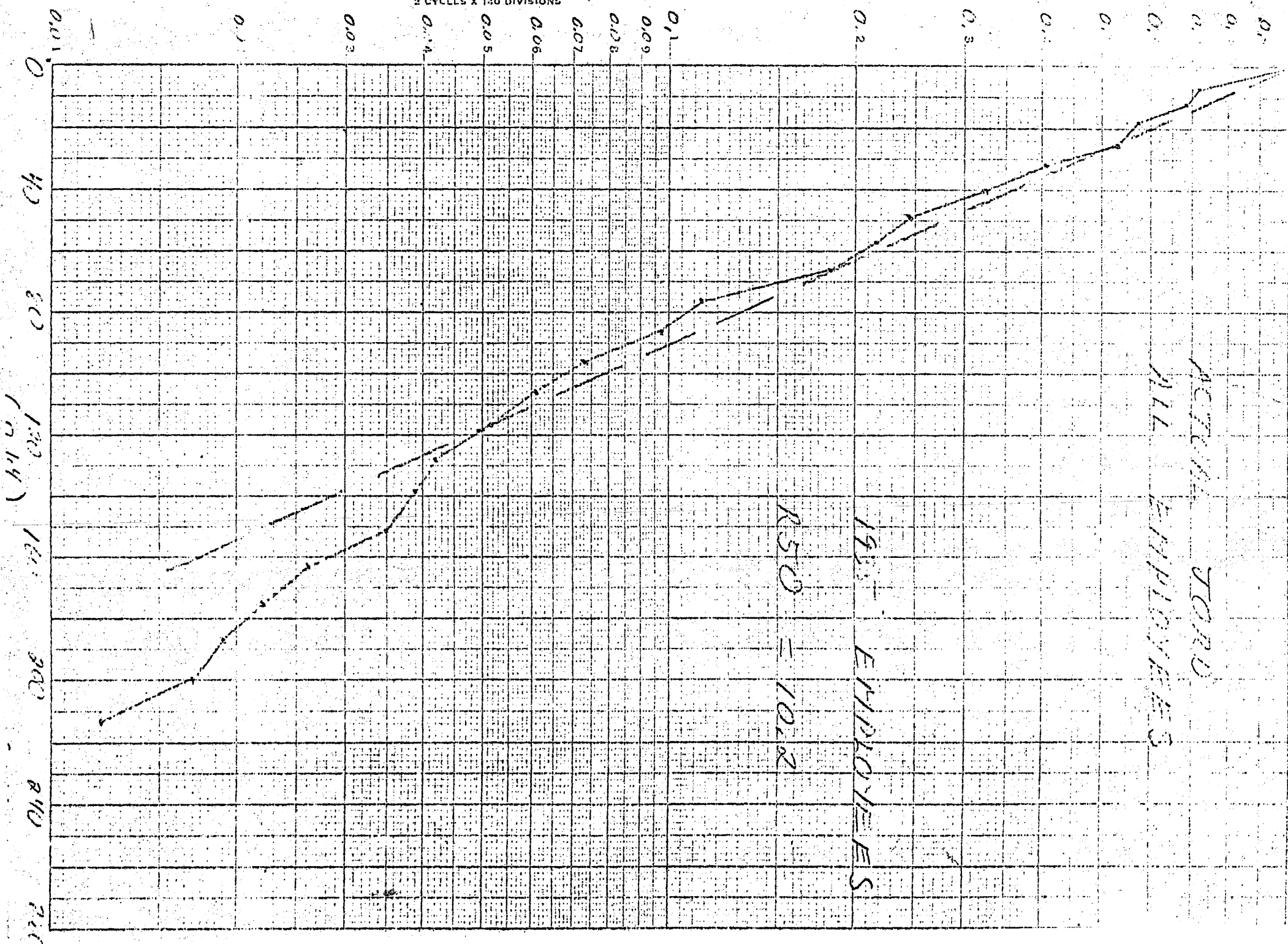
SEMI-LOGARITHMIC 358-63  
KEUFFEL & ESSER CO. MADE IN U.S.A.  
2 CYCLES X 140 DIVISIONS



120  
(11.4)

FIG. 1  
 ACTUAL FORD  
 MALE VS FEMALE





KE SEMI-LOGARITHMIC 35B-63  
KEUFFEL & ESSER CO. MADE IN U.S.A.  
2 CYCLES X 140 DIVISIONS

ACTUAL JORD  
ALL EMPLOYEES  
RCA + BTL

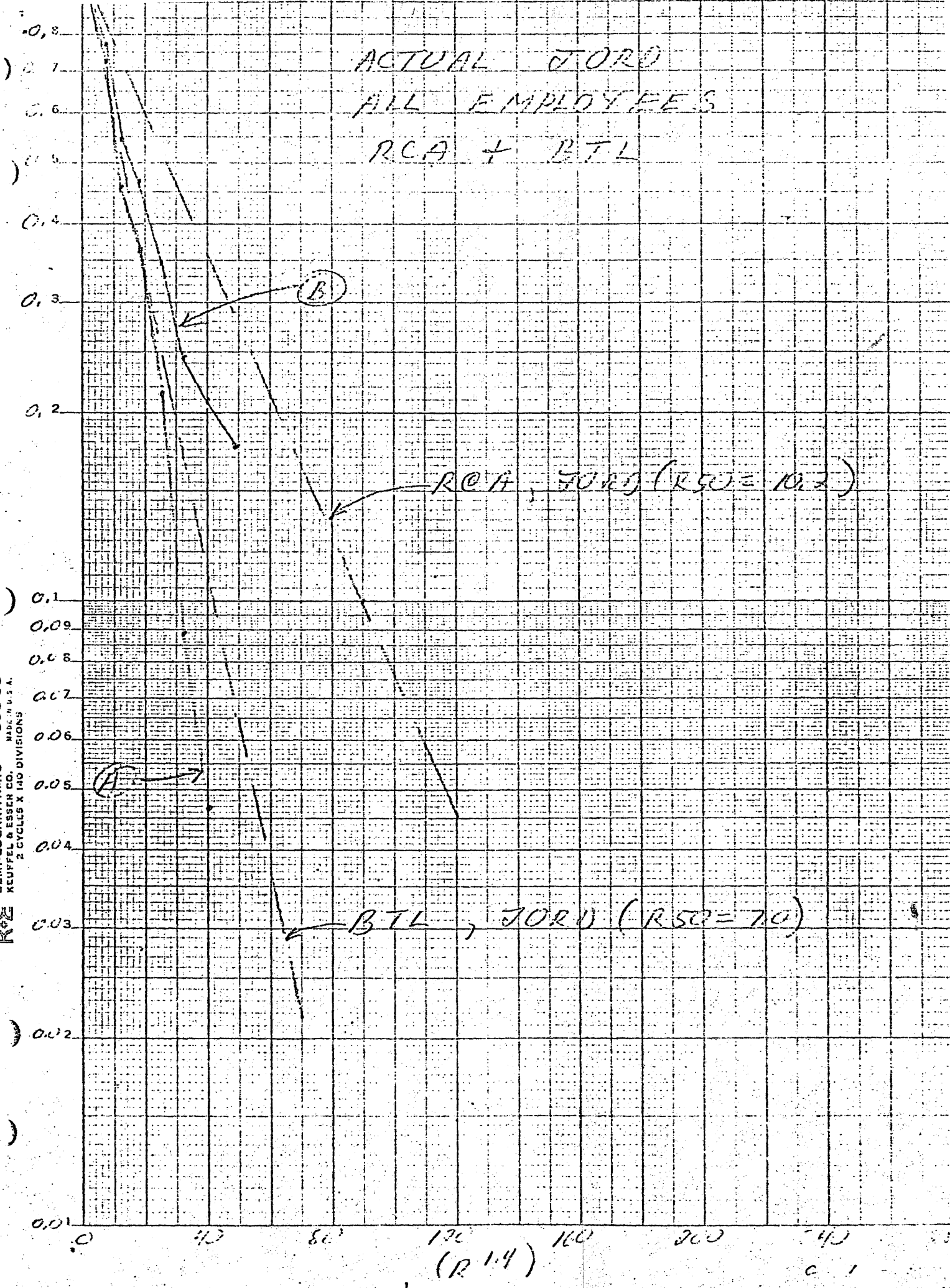




FIG. 6

Fractional Share Matrix for Bernards Township and Its Neighbors

Code	Municipality in which employment is generated	Municipality in which housing share exists, by code									Total	Municipal area ←
		BED	BTP	BVL	BRI	F-H	HAR	MEN	PAS	WAR		
		26.7	23.5	13.1	32.8	5.0	16.7	17.6	16.5	19.3	171.2	
BED	Bedminster Township		4.3									
BTP	Bernards Township	** 4.9 (5.9)	14.3	5.4 (2.6)	4.8 (7.0)	1.5 (3.6)	3.9 (4.8)	3.1 (6.1)	4.1 (4.5)	4.6 (4.7)	46.6	
BVL	Bernardsville Borough		9.6									
BRI	Bridgewater Township		3.5									
F-H	Far Hills Borough		6.8									
HAR	Harding Township		5.5									
MEN	Mendham Township		4.2									
PAS	Passaic Township		5.9									
WAR	Warren Township		5.6									

Examples: Bridgewater has housing responsibility for 4.8% of Bernards employment. Bernards has housing responsibility for 3.5% of Bridgewater employment.

\*\* Fractional shares are in percent of total requirement. They are based on JORD(R50=8).

Data in ( ) under fractional share is inter-municipal distance.

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766-2876

LATEST THOUGHTS ON MOUNT LAUREL

October 26, 1975

1. Judge Leahy reversed himself on 10/17 in Allan-Deane v. Bedminster. He had previously accepted the argument that Bedminster's alleged compliance with the Somerset County master plan was a validation of Bedminster zoning. Following the Mount Laurel decision he now makes the distinction between land use planning and zoning. Regional planning under present statutes is essentially advisory. "...the legislature has not yet taken the step of imposing any requirement that zoning comply with regional planning requirements." Since a municipality is not required by statute to comply with a county or regional plan, then it cannot use compliance as an excuse for evading real statutory obligations, such as those defined in Mount Laurel. The municipality must act independently and its "ordinance must stand or fall in its entirety to the extent that it fails to comply with the standards set forth in... Mount Laurel."

This makes sense. It has always bothered me that we could be bound by the existing county plan. County government is largely invisible to the public. Its planning officials are appointed by Freeholders who have no legislative authority and these former are almost perfectly insulated from, and potentially unresponsive to, the public will.

Of course, new statutes might change this.

2. The ecological arguments flew out the same window. Judge Leahy clearly sympathizes with ecological needs but now finds that "Bedminster has not met the heavy burden of establishing that its present land use regulations are, viewed in their entirety, warranted by any valid ecological need." Ecological arguments, which are not now embodied in statutes, may not be used to counter other arguments which are.

3. Judge Leahy also states: "Clearly, Bedminster is a developing municipality..." We were wise to concede this point early without wasting time and energy.

4. Justice Hall in Mount Laurel often stresses the obligation of each municipality to reflect regional needs. Example: "...we feel that every municipality therein must bear its fair share of the regional burden." And: "Confinement to or within a certain county appears not to be realistic..."

We are confronted here with a paradox. Each municipality must zone independently, unencumbered by the provisions of any non-enforceable county or regional plan, but in doing so it must accommodate the needs of the entire region in which it lies.

This is confusing but not all bad. The wise municipality will carefully, extensively, and objectively examine itself and its region and define its proper role within it. Since each will act independently, these roles will not necessarily be in harmony. But gradually a broad understanding of regional factors and relationships should develop so that realistic

and enforceable regional zoning can emerge. At least three of us look forward to this: Justice Hall, Judge Leahy, and myself.

Some ostriches will look to the state legislature to relieve the Mount Laurel burden and re-enforce home rule. Remember: Mount Laurel rests on the "general welfare" provisions of the state constitution. Either the constitution must change, or the membership of the Supreme Court, for Mount Laurel to be denied.

5. Fair Share: Plan A. Initially we looked <sup>within</sup> Bernards to discover our fair share obligation, what I called Plan A in my memo of 9/1/75. This may not be acceptable. It may force us one day to say: "Sorry, Your Honor, I knew what you really wanted, but I didn't know how to do that, so I went and did something else."

It may also prove excessive. I can foresee that a friendly "voracious" land developer will come along and say: "Well, that's a fine start for Bernards. Now what are you going to do for the region?"

Though inspired by practical and fair considerations, Plan A does not meet the Mount Laurel tests of regionality.

6. Fair Share: Plan B. In the 9/1/75 memo I described a Plan B. It proceeds from a Fractional Share Matrix which in turn rests on a Job Oriented Residential Distribution (JORD). I believe this meets Mount Laurel tests and avoids the problems illustrated in the two examples above. Some of these tests follow.

7. Test: confinement to municipal boundaries. Justice Hall quotes Justice Vanderbilt in a 1949 decision and speaks of "...the unreality in dealing with zoning problems on the basis of the territorial limits of a municipality." And he states that developing municipalities must consider the "general welfare" which "extends beyond their boundaries..." The JORD formula pays no attention to municipal boundaries. The Fractional Share Matrix uses the JORD, municipal areas, and inter-municipal distances. Fair shares are summed across many municipalities. Plan B meets this test.

8. Test: desire. Justice Hall speaks of the municipal obligation to people "who may desire to live within its boundaries..." How does one determine where people desire to live? The JORD identifies a pattern in the manner in which people locate their residences. To the extent to which this pattern reflects choices which have not already been frustrated by existing zoning restrictions, it is a true reflection of desire. If a municipality makes possible the continuation of this pattern, then it meets this test.

9. Test: fiscal zoning. Justice Hall: "Certainly when a municipality zones for industry and commerce for local tax benefit purposes, it without question must zone to permit adequate housing within the means of the employees involved in such uses."

Lyons Hospital is not the product of fiscal zoning, and does not impose any municipal obligation beyond the overall regional ones of Plan B. However, AT&T and other products of the latter-day industrial zones ~~may~~ impose some special obligation. If we compute our fair share of regional housing by Plan B, separately compute the total housing required by the employees in our industrial zones, and find that the latter is larger, then our fair share is probably the larger of the two. We should perform both computations.

10. Test: prospective need. Justice Hall speaks of the "fair share of the present and prospective regional need..." Plan B provides a technique by which fair shares can be recomputed from time to time and adjusted upwards as regional needs increase. This automatic feature obviates the need to project and provide now for prospective needs.

In a footnote Justice Hall stated that the validity of "timed growth" had not yet been determined. Though given in a different context, this statement suggests that a dynamic approach is permissible, and that we do not have to make commitments now to serve future and still-undetermined needs.

11. Test: varying region. Justice Hall: "The composition of the applicable region will necessarily vary from situation to situation and probably no hard and fast rule will serve to furnish the answer in every case." Plan B provides an objective means for custom tailoring each municipality's fair share, based on its unique position in the varying region.

12. Action: Plan B. I recommend that we compute our fair shares under Plan B. We need area, distance from Bernards, and employment for each municipality within approximately 25 miles. Our municipal staff can help. Some data may not be available. But we can show that we tried.


13. Action: Bernards industrial zones. We would be hard pressed to prove that the OL-1, OL-2, and Commercial zones were not in large part the result of fiscal zoning, and therefore not covered by Justice Hall's statement in PAR.9 above. I recommend that we compute total housing requirements for only these zones and compare them with those in PAR.12. Then choose the larger ones--that is, a value for low income, one for moderate income, etc.--and incorporate them in our zoning ordinance. This would demonstrate good faith in the absence of clearer guidelines.

14. Industrial zones. Following is data which I remember but which I did not have time to verify. However, it should serve to illustrate the point.

The OL-2 zone contains 66 acres west of Whitenack and Mt. Airy Roads. The FAR is 15%. The floor area per employee is projected at 300 sq. ft. The dwellings per employee average out to 0.67. Under the Hall dictum this adds 958 dwellings to the Bernards obligation. Of course, they will not all be low and moderate income, but a large fraction may be.

Again, I propose that we rezone this land to residential use. R40 with a cluster provision would be reasonable.

This will invite litigation, since the land owner has little to lose. However, we should get some help from Mount Laurel. We will be demonstrating that we are mending our fiscal-zoning ways. Also, Justice Hall goes to some length to describe and lament the erosion of the urban economic and tax base. Bernards has contributed to this trend in the past; by rezoning some of the acreage we will help to reverse the trend.

  
W. W. Allen