

RULS - AD - 1976 - 120

8/3/1976

- DEPOSITIONS OF GEORGE FLUKE + JOHN RAHEUKAMP

~~8/3/1976~~

PGS - 73

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11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO WITNESSES

<u>Witness</u>	<u>Direct</u>
George Gordon Fluke, Jr.	2
John Rahenkamp	26

EXHIBITS

<u>Number</u>	<u>Description</u>	<u>Identification</u>
DR-1	"Regional Development Guide, Technical Perspectives" dated November 1969	56
DR-2	"Water Supply and Distribution" dated September 1973	60

1 G E O R G E G O R D O N F L U K E, J R.,
2 residing at 401 South Uber Street, Philadelphia,
3 Pennsylvania, being first duly sworn, testifies
4 as follows.

5 DIRECT EXAMINATION

6 BY MR. ENGLISH:

7
8 Q Mr. Fluke, what is your occupation or profession?

9 A My occupation is Planner.

10 Q Are you related to any firm or organization in
11 the practice of your profession?

12 A Yes, I'm an employee of Rahenkamp, Sachs, Wells and
13 Associates, Inc.

14 Q Will you tell me, please, your educational back-
15 ground.

16 THE WITNESS: To what degree?

17 MR. ENGLISH: Well, college and beyond.

18 A I have a Bachelor of Arts degree from Colgate University
19 and a Bachelor of Architecture from the University of
20 Pennsylvania.

21 Q When did you get your latter degree?

22 A In 1976. No, no. Excuse me. In 1966.

23 Q And what has been your job experience since 1966?

24 A Practicing as a Designer-Draftsman in architecture with
25 a variety of firms for three or four years, military service

1 for six months of active duty, working as a Manager in a
2 manufacturing firm and working in the construction trades
3 as a carpenter for several summers and working with
4 Rahenkamp, Sachs, Wells and Associates, Inc., since 1970.

5 Q What, generally, has been the nature of your work
6 with Rahenkamp, Sachs, Wells and Associates, Inc.

7 A It began as a staff person, and I was basically respon-
8 sible for design or synthesis of the various factors in
9 planning into the actual site planning portion of a project,
10 working on through various management levels to my present
11 position of Project Manager.

12 And most currently, I am Vice-President in charge
13 of professional services for our firm.

14 Q In what fields or areas do you claim expertise?

15 A I would say probably the nearest to being a specific
16 area of expertise would be design, which is the actual
17 synthesis of the various factors in planning through our
18 firm, and beyond that it would be management.

19 Q Well, what are the factors which you synthesize
20 to come up with a design?

21 A Politics, economics, the technical aspects of project
22 implementation, the environmental base information.

23 Q Do you claim to be an expert in politics?

24 A No.

25 Q Do you claim to be an expert in economics?

1 A No.

2 Q Do you claim to be an expert in environmental
3 sciences?

4 A No.

5 Q Can you tell me when the Rahenkamp firm was engaged
6 by the Allan-Dean Corporation to develop a proposal for its
7 land in Bernards and Bedminster Townships?

8 A I believe it was July or August of 1975.

9 Q Is this an area which would better be addressed
10 to Mr. Rahenkamp?

11 A Well, I think you're looking for the specific date that
12 we came under contract with the Allan-Dean Corporation, and
13 I'm afraid I can't recall the exact time.

14 Q Did you personally participate in the negotiations
15 or discussions which lead to the Rahenkamp firm being engaged
16 by Allan-Dean Corporation?

17 A Yes.

18 Q Whom did you and other persons in the Rahenkamp
19 firm deal with on behalf of Allan-Dean Corporation?

20 A Mr. Lynch, Mr. Murar and John Kerwin.

21 Q What instructions did your firm receive from the
22 Allan-Dean Corporation respecting the nature and scope of
23 your work?

24 A Well, initially we were requested to prepare a proposal
25 for master planning or planning services on the Allan-Dean

1 tract, essentially to investigate the feasibility of develop-
2 ment on this tract and working with them toward putting
3 together a satisfactory plan as far as they were concerned,
4 and also one which we felt, as professionals, could be built.

5 Q Did they suggest any form of development for you
6 to consider?

7 A Principally residential developments. But commercial
8 components were to be included as well.

9 Q Were any particular kinds of residences mentioned
10 to be included in the residential development?

11 A Not specifically.

12 Q Now I think you said that your firm was engaged
13 to prepare a plan that would be satisfactory to Allan-Dean
14 Corporation.

15 Was the term "satisfactory", as you've used it,
16 defined or spelled out or given any criteria by the Allan-
17 Dean people?

18 A Well, one of the criteria, of course, was that it was
19 financially feasible, economically feasible for them to
20 develop the project.

21 Number two, they wished to -- well, that in itself
22 includes an investigation or concern for the marketability
23 of any proposed development.

24 There was also a concern that the quality of the
25 development be as high as possible and that the -- well,

1 let's just leave it at that. I think they were looking for
2 an economically feasible development and one that was of a
3 quality that they could be proud of and that they could
4 market.

5 Q Mr. Fluke, I believe you have before you a document
6 entitled "Proposal for an Open Space Community", and that
7 document is dated February 1976, and it was prepared by your
8 firm for the Allan-Dean Corporation. Is that correct?

9 A Yes, sir.

10 MR. ENGLISH: And can we agree, Mr. Hill,
11 that this document has already been marked Exhibit
12 D-76 for identification on May 24th, 1976, in
13 other depositions taken in this proceeding?

14 MR. HILL: We can agree.

15 MR. ENGLISH: And to save words, if I refer
16 to that document as "D-76 for identification", I'm
17 sure you'll understand what I'm talking about.

18 THE WITNESS: I'll try to.

19 Q Now can you describe for me in general terms the
20 process that your firm went through in preparing D-76 for
21 identification?

22 A Well, D-76 for identification is representative of the
23 majority of the work -- all of the work that went into the
24 project.

25 It's a presentation document to describe to the

1 Township of Bernards the nature of the development proposal
2 and, also, the nature of the background studies that went
3 before the formation of the actual plan or development
4 proposal.

5 The process that our firm went through, in general
6 terms, was, number one, to investigate the environmental
7 conditions on-site -- what is there today; we also investi-
8 gated the service facilities that were existing, not only
9 at the site but in the neighborhood of the site, also.

10 Q What do you mean by "service facilities"?

11 A Sanitary sewerage facilities, potable water supply and
12 the circulation system or the road system surrounding the
13 site, servicing the site. I --

14 Q Did you -- I think I interrupted your answer.

15 THE WITNESS: Yes.

16 MR. ENGLISH: Go ahead. Continue.

17 A (Continuing.) We also were aware of and did look into
18 the political structure to some degree of the Townships
19 involved and, also, the land use control tools or land use
20 management tools that they had at their disposal.

21 As the process developed and as the results of the
22 base studies -- basically, the environmental study which was
23 the major portion of the work -- began to display themselves,
24 the process of design began and we began to formulate
25 schematic land use plans to review with the Allan-Dean

1 Corporation.

2 There were economical analyses done based on
3 individual plans along the way to determine their financial
4 feasibility, which of course included construction techniques
5 and, also, being aware of the service problems and the
6 environmental problems or opportunities that the site
7 presented.

8 I think that really summarizes, in general, the
9 process we went through. The preliminary or land use plan
10 that is represented in this report was the one that -- it
11 was the end result, I should say, of the process, that
12 process of design, the balancing of various factors, if you
13 will, as the process went through to this point. We also
14 reviewed some market information done by other consultants
15 for the Allan-Dean Corporation, and that was also incorporat-
16 ed into our thinking. But we were not responsible for that,
17 at that point.

18 MR. ENGLISH: Have you finished your answer?

19 THE WITNESS: I think so, yes.

20 Q Now you say you investigated the political struc-
21 ture of the Townships. By "Townships" I assume you mean
22 Bedminster and Bernards?

23 A Yes.

24 Q Any others? A No.

25 Q What were the results of your investigation of the

1 political structure of Bernards Township?

2 A Well, that there was a Town Council and a Planning
3 Board, a Township Engineer and a Sewer Authority, all of
4 which we felt were either individuals or a collection of
5 individuals that we would have to, in one way or another,
6 deal with as the process went through. It was about as
7 simple as that.

8 We did make certain attempts to discuss in the
9 very preliminary stages our thinking with the various
10 members of the Bernards organization in order to get their
11 views and to begin to at least, you know, in our initial
12 thinking, incorporate the problems that they may have seen
13 in the potential development of this area.

14 This was one of the reasons why I talked to Mr.
15 Agle at one time, as professional to professional, to begin
16 to discuss the planning problems that we recognized or that
17 he recognized with our proposal, and this was as it was in
18 its developmental stages.

19 Q Did you talk with anyone else connected with
20 Bernards Township, besides Mr. Agle?

21 A I can't recall exactly whether we did speak with the
22 Chairman or Members of the Planning Board. I think I did
23 speak with -- I believe it was a Member of the Planning
24 Board or the Chairman of the Planning Board, to get permission
25 to speak with Mr. Agle.

1 Our approach was, generally, to work with the
2 professionals.

3 Q. Well, was that subject, namely permission to
4 speak to Mr. Agle, the extent of your discussion with any
5 Township officials, other than Mr. Agle, himself?

6 A Other than the people at the Sewer Authority, yes.

7 We did make -- yes, I'd say those were the only
8 people we did talk to.

9 Q What is the substance, as you now recall it, of
10 what you learned from your conversations with Mr. Agle?

11 A The net result of our conversation was that we would
12 not be allowed to meet.

13 Q You say "We would not be allowed to meet."

14 Who would not be allowed to meet?

15 A Mr. Agle or myself or representatives of our firm.

16 Q Okay.

17 Other than that, did you get any substantive
18 reaction to what your firm had in mind?

19 A No, because Mr. Agle had not been privy to the develop-
20 ment of our thinking.

21 He had not seen any of the work that we had done
22 and, of course, communicating this kind of information over
23 the phone is somewhat difficult.

24 He was aware of the location of the site, of
25 course, and he had personally been involved with the piece

1 of property, physically, and he was aware of some problems
2 that he saw. But that was as far as the discussion, as I
3 recall it, went.

4 Q Did he identify the problems that he saw?

5 A I don't recall specifically.

6 I know that we did touch on them, but I can't
7 recall specifically which ones he did bring to the surface.

8 Q Tell me about your conversations with the people
9 at the Bernards Township Sewerage Authority.

10 A Well, they were simply conversations to try to determine
11 the location -- to verify the location of existing sewer
12 lines within -- sewer lines that emanate from the Bernards
13 Treatment Plant, the regulations that they were under, the
14 capacity of the plant and any kind of problems that they may
15 have been having.

16 Q And what did you learn on the subjects you've just
17 mentioned in your last answer?

18 A Well, we did learn of -- and it was public information
19 at that time, of course -- the location of the various lines,
20 we did check to verify certain sizes and to verify what,
21 where and in fact they did end in areas where we were a
22 little vague on their exact location.

23 We did determine at that time that the plant --
24 what the plant capacity was.

25 Q What was it? A As I recall, it was

1 3 million gallons per day.

2 Q That was the capacity, as you recall it?

3 A I may be confusing that with the actual usage at that
4 time.

5 Q Did you have any discussion with the Sewerage
6 Authority people about tying in development on the Allan-
7 Dean tract with the plant of that Authority?

8 A I personally did not carry on such a discussion.

9 Q Do you know whether anyone else in your organiza-
10 tion carried on such a discussion?

11 A I believe that the subject was discussed. I do not
12 know with whom, though, at the Authority.

13 Q Do you know what the results or the conclusions of
14 that discussion were, that you derived from what you were
15 told about it?

16 A Well, the conclusions that I recall, in general, were
17 that the plant was going to be expanded and that the sewerage
18 system, the actual trunk lines, and so on, were to be expand-
19 ed as well. However, it was not a part of their program to
20 move in the direction of the Allan-Dean property; that they
21 were going, I believe, in another direction at that time.

22 Q Well, as far as your firm's plans for the develop-
23 ment of the Allan-Dean property, what are your proposals for
24 waste or sewerage disposal?

25 A Well, the principal proposal would be that a sanitary

1 sewerage treatment plant of some nature or another would be
2 required, either a hookup with existing facilities, either
3 in Bernards Township or via Bridgewater Township or possibly,
4 through the new plant at the A. T. & T. facility.

5 Q In Bedminster? A Yes, sir.

6 Or, also, the possibility of an on-site treatment
7 plant to handle it.

8 The thing that we did determine was that we did
9 not recommend any on-site septic systems. In other words,
10 we felt the conditions on the site would be prohibitive in
11 most cases, in most areas, for traditional septic or land
12 treatment of sewerage facilities or sewerage wastes.

13 Q Well, have you determined the likelihood of the
14 Allan-Dean development utilizing the sewerage plant of the
15 Bernards Township Sewerage Authority?

16 THE WITNESS: Excuse me. Could you repeat
17 that?

18 (The requested question is read by the
19 reporter.)

20 A I think that is still under review as part of our
21 ongoing work and concern.

22 But we are not actively involved in that, as a firm.

23 Q Is some other organization assuming primary respon-
24 sibility for determining how to handle the sewerage disposal
25 problem?

1 A I believe so, yes.

2 Q Do you know who that outfit is?

3 A No.

4 Q In any event, it's not anyone engaged by your firm?

5 A No.

6 I believe the Allan-Dean Corporation is, in fact,
7 responsible for seeing that that's being carried out, and
8 it's not being carried out through our firm at this time.

9 Q Have you had any communications with the sewerage
10 consultants of Allan-Dean?

11 A We've had communications with a consultant. I'm not
12 sure that the Allan-Dean Corporation still has these people
13 engaged, but they were at that time beginning to look in
14 more detail at the Bridgewater system, and we were called in
15 to explain to them the nature of our development that was
16 proposed at the time, and this was so that they could better
17 understand their investigation and perspective of what we
18 were talking about.

19 Q What was the time, or what was the approximate
20 time of those discussions?

21 A It was prior to our presentation of this proposal to
22 Bernards Township.

23 Q Which took place on February 10th, 1976?

24 THE WITNESS: If you say so, sir.

25 MR. ENGLISH: Am I right on the date, Mr.

1 Hill?

2 MR. HILL: I believe so.

3 MR. ENGLISH: It was a month before we
4 brought suit.

5 Q Can you give me your best recollection of how much
6 in point of time earlier than the presentation with Bernards
7 Township?

8 A I think it was in the nature of several weeks, but I
9 can't recall the exact date.

10 Q And who were the consultants with whom you had
11 those discussions?

12 A I believe the man's name was Fox, but I don't recall
13 the name of the firm.

14 I could ask Mr. Kerwin for the name, but I don't
15 know if that's --

16 MR. HILL: If you want information, you can
17 get it.

18 MR. ENGLISH: Well, let's just get that
19 information on the record, if we can.

20 Was that Robert Fox of Apgar Associates?

21 MR. KERWIN: Yes.

22 MR. ENGLISH: Does that sound correct?

23 THE WITNESS: Yes.

24 MR. HILL: Mr. English, if you look at the
25 last page of that exhibit, Page 19, it has the

1 names of the consultants there.

2 MR. ENGLISH: All right.

3 BY MR. ENGLISH:

4 Q Mr. Fluke, have you or has your firm reached any
5 conclusion as to whether sewerage disposal can in fact be
6 provided for through the Bernards Township Sewerage Authority?

7 A Our conclusion, which is represented on Page 20 of this
8 report -- that connection to the Bernards Treatment Plant at
9 at time was the only feasible alternative which would permit
10 containment of the waste water within the Passaic Watershed.

11 And the alternatives that were looked at are also
12 recorded there as well.

13 Q Well, looking at Page 20 of D-76 for identification,
14 I read the language which seems to suggest that six alterna-
15 tives are under construction, five of them in the Raritan
16 Watershed and one of them in the Passaic Watershed.

17 THE WITNESS: Excuse me. They're under
18 consideration.

19 MR. ENGLISH: Under consideration. Thank you.

20 THE WITNESS: Not construction.

21 MR. ENGLISH: All right.

22 Q Now am I correct in assuming that those six methods
23 were under consideration at least as of February 1976?

24 A Yes.

25 Q Have you or has your firm made any judgment as to

1 whether any of them can in fact be implemented?

2 A At this point, no.

2 3 MR. HILL: Mr. English, for the record I'd
4 just like to state that we turned over a massive
5 number of documents to you in response to your
6 request for production of documents.

7 Now there are numerous documents that contain
8 analyses of those alternatives.

9 Not all of them came from the Rahenkamp office.

10 MR. ENGLISH: Thank you. I'm aware of that.
11 Off the record.

12 (Discussion off the record.)

13 MR. ENGLISH: Back on the record.

14 Q Now, what was the nature and extent of your
15 investigation of the water supply for the Allan-Dean tract?

16 A Well, we determined early on that the Commonwealth Water
17 Company was the utility that serviced the area and we
18 determined, as is recorded on Page 19, that there was a
19 16-inch main running along Route 202-206 and that there was
20 also a 12-inch main along Martinsville Road, with a 6-inch
21 main reaching the site along its boundary on Liberty Corner
22 Road and an 8-inch main along the portion of Allen Road.

23 As is also recorded, the small mains on the eastern
24 portion of the site, the latter ones I mentioned, they would
25 not provide sufficient capacity to service the site, but our

1 proposal at that time was that the developer would contribute
2 to the construction of larger mains.

3 Generally speaking, Commonwealth Water felt that
4 the only problem that they saw in servicing the site with
5 potable water was that due to the elevation there may be the
6 potential need for a booster station and a storage tank to
7 insure the adequate pressure and sufficient fire flows.

8 Q Do you recall whom you talked to at Commonwealth
9 Water Company?

10 A I'm seeing if the man's name is recorded in the report.
11 I don't recall his name.

12 However, I was present at the meeting -- at one of
13 the meetings with those people. I know we spoke to them in
14 person, as well as over the telephone. I believe the details
15 at least the man's name would appear in some of the documents
16 that were passed to you earlier.

17 Q Do you recall the name of the person or persons
18 connected with the Bernard's Township Sewerage Authority, with
19 whom you dealt?

20 A I did not carry on those conversations, personally.

21 Q Now you told me earlier, Mr. Fluke, that you
22 examined the environmental conditions on the site.

23 Now by "on the site" do you mean within the
24 boundaries of the Allan-Dean tract?

25 A Specifically, yes.

1 However, one doesn't -- one cannot look at the site
2 as an island. It obviously has edges.

3 Q. To what extent did you investigate the environ-
4 mental conditions beyond or outside the boundaries of the
5 Allan-Dean tract?

6 A Principally from a watershed point of view.

7 We had no detailed investigation beyond the
8 boundaries of the site. Our principal concern was to
9 determine the suitability of the piece of property for
10 development of any kind. Obviously, though, going in we
11 were thinking in terms principally of residential construc-
12 tion, so in a sense our approach to the site had that going
13 before it.

14 But we, essentially, were looking at the potential
15 points of off-site impact from storm water runoff, from an
16 environmental point of view.

17 Now this was the principal concern, as far as the
18 externalities are concerned, from an environmental point of
19 view.

20 Q All right.

21 Now in your answer you used the phrase "watershed
22 point of view."

23 A Yes.

24 Q What specifically did you mean by that? Did you
25 mean by that the shedding of water off --

1 A There are two principal watersheds.

2 Actually, though, the shedding of water from our
3 site to wherever it may go. There are two river basins or
4 two watersheds that our site is involved with, the Raritan
5 Watershed and the Passaic Watershed.

6 Because of ongoing environmental concerns in the
7 State and regional and local levels about maintaining the
8 integrity of watersheds, we obviously felt it had to be part
9 of our thinking and planning as we went into the project, so
10 we determined which portions of the site shed, in which
11 directions they shed and actually how those waters would
12 exit the site -- at what points.

13 So there are many sub-watersheds within the major
14 watershed boundaries. And if you were to look at the map
15 that comes after Page 13, the results of that investigation,
16 as well as some other information, is displayed there.

17 Q Well, having determined what parts of the Allan-
18 Dean tract would drain into the Passaic Watershed and at
19 what specific points and, similarly, what parts of the Allan-
20 Dean tract would drain into the Raritan Watershed and at
21 what specific points, did you make any investigation of the
22 effect of the Allan-Dean development on either the Passaic
23 or the Raritan Rivers?

24 A As far as the rivers, themselves, were concerned, no.

25 Our proposal, which I believe would be recorded

1 in "Storm Water Systems" -- let's see if I can find that.

2 MR. JOHN RAHENKAMP: It's on Page 21.

3 A (Continuing.) Well, this states that we would design
4 storm water control systems that would prevent any increase
5 in peak runoff during a 100-year storm.

6 That, essentially, was our feeling -- through our
7 experience and in dealing with the consultant, Mr. McKeever,
8 who is listed here -- that it was feasible to design such a
9 system and that the impact on the rivers, themselves, would
10 be minimized.

11 So beyond the edge of the site and with the knowl-
12 edge or with at least the approach that there would be no
13 significant off-site impact from storm water, we did not
14 advance further into investigating the rivers, themselves.

15 Q Now did you give any consideration to or make any
16 studies of the possible effect of development of the Allan-
17 Dean tract on the water quality in the Passaic River?

18 A We did not.

19 Q Or the Raritan River? A No.

20 Again, we felt that the systems of ponds and basins
21 which essentially are detention and retention devices for
22 volume as well as to control sedimentation and erosion,
23 would prevent any -- well, that they would protect the down-
24 stream quality, not only at the point of exit at the site,
25 but as it would continue on into the rivers, themselves.

1 Q Have you ever made any study of the degree of
2 pollution caused by non-point pollution sources?

3 A We have not, to this point, on this project.

4 Q Have you ever done that in your own professional
5 career?

6 A I personally have not, no.

7 Q Did you consider the possible effect of non-point
8 pollution resulting from the development of the Allan-Dean
9 tract in the development of your proposal?

10 A We were aware that it would be a factor, but we have
11 not carried on the necessary -- we have not carried on
12 further study to know exactly the nature of the non-point
13 pollution, with the development as it now stands or the
14 proposal as it now stands.

15 MR. ENGLISH: Let's take a short recess.

16 (RECESS: 10:30 A.M.-10:35 A.M.)

17 MR. ENGLISH: Back on the record.

18 BY MR. ENGLISH:

19 Q Mr. Fluke, would you be good enough to look at
20 Page 6 of your firm's proposal, which has been marked D-76
21 for identification?

22 A (Witness complies with Counsel's request.)

23 Q Am I correct in my understanding that Page 6
24 contains land use summary tabulations for the total site,
25 the total property of the Allan-Dean Corporation?

1 A Yes, sir.

2 Q And this tabulation here breaks down the acreage
3 and the percentage of the site in different kinds of suggest-
4 ed land use?

5 A That's correct.

6 Q If I may bring your attention to the heading "Open
7 Space" at the bottom, is there an arithmetical error in that
8 "Open Space"?

9 A (No response.)

10 Q Specifically, my notoriously poor arithmetic
11 suggests that the figures for "Park" and "Historic Site"
12 and "Other Open Space" add up to 285.9 and that figure
13 doesn't appear at the bottom of the next column.

14 The figure there is "447.5."

15 A Well, not being a stellar mathematician either, it --

16 MR. HILL: It looks like 300 something,
17 doesn't it?

18 MR. ENGLISH: I get 285.9.

19 Off the record.

20 (Discussion off the record.)

21 MR. ENGLISH: Back on the record.

22 Q Well, let me also direct your attention, Mr. Fluke,
23 to Page 7, which is a similar land use summary tabulation
24 for only Bernards Township. of the Allan-Dean site. Is
25 that correct?

1 A Yes.

2 Q And the "Open Space" figure there seems to add up
3 correctly to 279.6 acres. Is that correct?

4 A Yes.

5 Q Offhand, can you straighten me out on what the
6 facts are for "Open Space", as shown on Page 6?

7 A No.

8 Without taking the time to analyze the thing in
9 detail to find out -- obviously there's an error somewhere --
10 where in fact the error is. I can't say.

11 Q All right.

12 Now may I direct your attention to Pages 30 and 31
13 of your proposal, which is marked D-76 for identification,
14 and particularly to the authorities listed on those two
15 pages under the heading "Sources."

16 Now let me ask you this: Is it your position that
17 the proposals that your firm has prepared for the Allan-Dean
18 Corporation flow from and are consistent with the various
19 sources listed on Pages 30 and 31?

20 THE WITNESS: Could you clarify for me what
21 you mean by "consistent with."

22 MR. ENGLISH: Well, maybe you'd better tell
23 me what is the relationship between your proposal
24 and the material appearing in the sources you have
25 cited here.

1 MR. JOHN RAHENKAMP: Perhaps I can help you.
2 They're consistent with the principles, but
3 not necessarily consistent with the conclusions.

4 Do you want me sworn in first?

5 MR. ENGLISH: Yes.

6 I think the suggestion was made earlier, off
7 the record, and I think that you should be sworn
8 in.

9 The purpose in swearing Mr. Rahenkamp at this
10 point is to enable him to answer questions that I
11 put to Mr. Fluke, that he may be in a better
12 position to answer, and I have no objection to
13 Mr. Rahenkamp answering such questions.

14 May I inquire as to whether Mr. Rahenkamp or
15 Mr. Fluke has a more thorough familiarity with the
16 material contained in the sources cited on Pages
17 30 and 31 of Exhibit D-76 for identification, or
18 are both of you gentlemen thoroughly familiar with
19 the source material cited here.

20 MR. RAHENKAMP: Most of the materials I've
21 personally read or reviewed.

22 THE WITNESS: Well, I think Mr. Rahenkamp
23 would be in a better position. He would have a
24 more thorough knowledge than I, I think.

25 MR. ENGLISH: Off the record.

1 (Discussion off the record.)

2 MR. ENGLISH: Back on the record.

3 Swear in Mr. Rahenkamp, please.

4 J O H N R A H E N K A M P, residing at
5 166 East St. Andrews Drive, Moorestown, New Jersey,
6 being first duly sworn, testifies as follows:

7
8 DIRECT EXAMINATION

9 BY MR. ENGLISH:

10 Q Mr. Rahenkamp, would you tell us please what your
11 occupation or profession is.

12 A I'm a Land Planner.

13 Q And how long have you been engaged in that line of
14 work?

15 A About 15 years.

16 Q What is your formal education?

17 A Bachelor's degree in Landscape Architecture ^{from} Michigan
18 State, Master's degree from the University of Pennsylvania,
19 a Master's degree in Landscape Architecture and Regional
20 Planning.

21 Q When did you get your latter degree?

22 A About 15 years ago.

23 Q And what have you done since then?

24 A Formed the planning firm of Rahenkamp, Sachs, Wells and
25 Associates, Inc., and we now have three offices.

1 Q And what, generally, is the line of work which
2 your firm engages in?

3 A It's a balance between public and private work, generally
4 heavily related to resource analysis and land management
5 techniques.

6 Q What are the fields in which you consider your firm
7 to have expertise?

8 A I consider we're experts, certainly, and recognized in
9 such things as planned unit development, and I think we're
10 recognized as well from the public planning side, as well as
11 assisting the impacts of development.

12 Q Can you tell me more fully what you mean by
13 "assisting the impacts of development"?

14 A We developed both computer and manual techniques to
15 evaluate the impacts of development, reasonably consistent
16 with the National Environmental Policy Act, which involves
17 environmental assessment and -- well, we've carried out those
18 exercises, for instance, with the Corps of Engineers in
19 Kentucky, and with a quarter of a million dollar reservoir
20 site in Kentucky, an E.P.A. 208 Study in Pueblo County,
21 Colorado, as well as similar other kinds of studies.

22 Q In connection with your work for the Allan-Dean
23 Corporation, did you make any assessment of the impact of
24 the proposed development?

25 A Yes.

1 Q What did that consist of?

2 A It consisted of an environmental assessment, assessing
3 the various road impacts through traffic consultants, we
4 assessed the runoff characteristics -- as Gordon has outlined
5 them -- and we also assessed the fiscal impacts on the town.

6 Q The F-I-S-C-A-L impacts on the town?

7 A Yes, sir.

8 Q Did you make any investigation of the effect of
9 the proposed Allan-Dean development on the water quality of
10 the Passaic River?

11 A We made preliminary investigations.

12 Q What did they consist of?

13 A They consisted of reviewing the various reports in the
14 area, reviewing the NRI report that the Township had generat-
15 ed, as well as reviewing that in relation to our own exper-
16 ience with similar kinds of sites in other sections of the
17 country.

18 Q Now I think you mentioned before the NRI report,
19 which is the Natural Resource Inventory of Bernards Township.
20 Is that correct?

21 A Yes.

22 Q Now were there any other kinds of reports?

23 A Various kinds of reports.

24 Q What are they, please? A They're indicat-
25 ed in our "Source" column on Page 30.

1 Q Did you investigate any sources of information on
2 the subject of the effect of your proposals for the develop-
3 ment of the Allan-Dean tract on water quality, other than
4 those listed on Pages 30 and 31 of your report, Exhibit D-76
5 for identification?

6 A There may well have been others, certainly.

7 Off the top of my head, though, I can't recall
8 what they were. We're doing constant research on this
9 particular area.

10 Q When was your firm engaged by the Allan-Dean
11 Corporation to develop a proposal for the development of its
12 property in Bernards and Bedminster Townships?

13 A I don't know.

14 Off the top of my head, I don't know. Do you
15 happen to have a copy of the contract, by any means?

16 MR. KERWIN: I was trying to remember when
17 we went to Denver.

18 A (Continuing.) It was probably in December or January.
19 I can get the contract.

20 But it was probably in December or January of 1975.

21 MR. HILL: No, no, it was way before that.

22 THE WITNESS: Are you sure?

23 Q You mean December 1974 or January 1975 or --

24 A We went to the Town on February 6th, I believe we were
25 on it for around six or eight months before that, so I

1 suspect we had a proposal submitted about the first of the
2 year, the prior year.

3 MR. HILL: Okay. All right.

4 THE WITNESS: That's what I said before --
5 1975.

6 MR. HILL: No, no.

7 THE WITNESS: I'm sorry. I mean 1974.

8 MR. HILL: 1974, yes.

9 THE WITNESS: Excuse me. Yes, 1974.

10 Q Well, the first part of 1974 would have been about
11 two years before February 1976, wouldn't it?

12 MR. HILL: You know, I recall hearing about
13 your working on it in June or July of 1975.

14 THE WITNESS: Let's not muck around. Let's
15 see if we can find a copy of the contract.

16 MR. ENGLISH: Off the record.

17 (Discussion off the record.)

18 MR. ENGLISH: Back on the record.

19 BY MR. ENGLISH:

20 Q Was the initial approach, Mr. Rahenkamp, made by
21 your firm to Allan-Dean Corporation or did Allan-Dean
22 Corporation initially approach your firm?

23 A Allan-Dean approached us.

24 Q And what were you engaged by Allan-Dean Corporation
25 to do?

1 A To do a preliminary assessment, to see what development
2 program could be placed on this site.

3 Q Were you given any specific instructions, conditions
4 or limitations as to the nature of the development that
5 Allan-Dean Corporation wanted?

6 A No.

7 I think Gordon outlined the basic program problem.

8 Q Do you or does your firm hold a Planner's license
9 in New Jersey?

10 A My partner does, yes.

11 Q In the course of preparing your proposal for Allan-
12 Dean Corporation, which is D-76 for identification, did your
13 firm give consideration to the appropriateness of placing
14 this kind of development and, specifically, this many people
15 on this precise location in Somerset County?

16 A Very definitely.

17 Q And what was that consideration?

18 A The consideration has to be one acknowledging the
19 sensitive location of the site in an environmentally sensi-
20 tive and difficult area, in an area that feeds into the
21 Passaic River, which is a sensitive and flooding river, and
22 in terms of the existing zoning and various Master Plans
23 and other various Township documents.

24 Q And having considered all that, what was your
25 conclusion?

1 A Our conclusion was that a good portion of the basic
2 information accurately depicted the site as a very difficult
3 one to work with.

4 However, the conclusions of the Master Plan were
5 in fact an inaccurate representation of what one in fact
6 could do with the land. In other words, if one applied
7 proper land management techniques the population density
8 would have no relation whatever to the zoning categories.

9 Every piece of land can be managed properly;
10 therefore, the density can be increased in direct proportion
11 to the management skills that the applicant brings.

12 If the site is 1,500 acres, it's not a convention-
13 al parcel of land in which you can internalize many of your
14 problems.

15 With a tract this large we can plan it much better
16 and retain our water and we can retain and properly manage
17 the good conservation of land, so that we could acknowledge
18 and work with most of the important town criteria, with the
19 exception of what we feel are fairly abstract conclusions
20 that were reached in the Master Plan.

21 There are no absolutes in the numbers. In the
22 30,000 population cap there are no absolutes. There are
23 also no absolutes in the terms of water budget, even if we
24 acknowledge the basic principle.

25 Q Well, does the appropriateness of putting a

1 number of people in a particular location have any relation-
2 ship to the availability of sewerage capacity to handle the
3 wastes from the development?

4 A Certainly.

5 But the sewerage waste situation in this district,
6 and along the whole Passaic, is still in the rudimentary
7 form. It's still done heavily with mechanical systems, which
8 we don't feel will be the final ultimate answer.

9 Obviously some of the tracer elements, mostly in
10 the nitrates, more particularly, are best not treated
11 through sewerage treatment but through spray or land applica-
12 tion techniques.

13 So the present technology -- or at least the
14 application of the present technology -- to sewer systems
15 is in its infancy and gives relatively indefensible absolutes
16 Even changing the sewerage treatment plant in Bernards
17 Township from second to third stage, depending on which
18 techniques to use in the third stage, would increase the
19 capacities of the system and, therefore, increase the
20 developability of developable land.

21 Q Have you explored that kind of increase and change
22 in the Bernards Township Sewerage Treatment Plant on the
23 water quality of the Passaic River?

24 A We've reviewed the principle of it. We have not re-
25 viewed the specifics.

1 There's no doubt at all that technically or theo-
2 retically, at least, one could virtually treat the sewerage
3 in any way, certainly to improve the water quality going
4 down the Passaic. No question at all about that.

5 Q Well, would there be any problem of cost involved
6 in such a degree of treatment?

7 A Certainly.

8 That's one of the reasons why a major developer
9 like this can be negotiated with or talked with, in order
10 to resolve higher standards and, in fact, improve the
11 management techniques.

12 Q Is it your position that technical improvements
13 in the treatment afforded by the Bernards Township Sewerage
14 Treatment Plant could be made at an acceptable economic cost
15 which would permit an increase in the population of Bernards
16 Township beyond the 30 to 35 thousand figure postulated in
17 the Township Master Plan?

18 A Definitely.

19 Q What is the basis? Tell me the basis for your
20 conclusion, Mr. Rahenkamp.

21 A The basis of our conclusion is several times having
22 built third-stage sewerage treatment plants directly related
23 to developments the size we're talking about here and the
24 development, itself, virtually being able to carry the cost
25 of the third-stage treatment.

1 Q Are you familiar with the Federal Water Pollution
2 Control Act Amendments of 1972, which were passed by the
3 Federal Congress and which legislation is sometimes known as
4 "Law 92 - 500"?

5 A Reasonably, yes.

6 Q Did you give any considerations as to whether the
7 kind of expansion of the Bernards Township Sewerage Treatment
8 Plant that you're talking about would permit fulfillment of
9 the criteria established in that legislation?

10 A I'm not suggesting that the plant, itself, is the only
11 solution to the expansion capacity. I'm suggesting the
12 plant, in addition to other corollary treatment facilities,
13 is the proper solution.

14 Our feeling is that we ought not to concentrate
15 anymore high intensity sewerage in one location but ought to,
16 in fact, distribute it better. This is in the NRI report,
17 and in the Township there were discussions of some of those
18 principles.

19 Now land application of effluence, which can be
20 used in combination with the treatment plant, would certainly
21 increase the capacities at a reasonable cost within the law.

22 Q What would you consider "a reasonable cost"?

23 A I -- in relation to what?

24 MR. ENGLISH: Well, you used the term. I
25 want to know what you mean.

1 A Okay.

2 I would think if the cost is within \$1,000 to
3 \$1,500 per unit, it would be a handleable cost -- whether
4 exclusive of subsidy. But that's a very nebulous thing
5 because, in fact, we don't know what the true costs are of
6 the whole game.

7 Q Do you know where land would be available in
8 Bernards Township, where such spray irrigation could take
9 place?

10 A I didn't say "spray." I said "land application."

11 There are several alternate techniques.

12 Q All right.

13 What did you mean by "land application"?

14 A Well, spray is one of the techniques of land applica-
15 tion. There are a series of others.

16 Q What are the others? A Percolation
17 techniques, even reasonably conventional septic systems
18 close to the surface, so that the grass can take the nitrates
19 out.

20 Q All right.

21 Can you tell me where land for such purposes is
22 available in Bernards Township?

23 A Generally, the best lands would be Class 1 and 2 farm
24 soils, and there are some lands of those kinds in the
25 Township.

1 Q Are they located in areas that would lend them-
2 selves to this kind of use?

3 A Some would, certainly, yes.

4 The Bonnie Brae farm, for example.

5 Q How would you propose that arrangements be made to
6 utilize Bonnie Brae farm for such a purpose?

7 A That's beyond our study at the moment and beyond my
8 capacity to address the issue.

9 There are lands available in the Township that are
10 Class 1 and Class 2 farm soils.

11 Q What do you mean by "available"?

12 A That are available to accept surface treatment.

13 Q They have the physical properties to accept it?

14 A They have the physical properties to accept it.

15 Q I take it you do not mean that the owners of the
16 lands would be happy to have them utilized for that purpose?

17 A I have no comment on that.

18 I have no knowledge of it, one way or the other.

19 Q Well, if your scheme is going to be carried out,
20 wouldn't land have to be acquired by some public authority
21 to be used for waste disposal?

22 A Yes.

23 Q And that would cost something, would it not?

24 A Definitely.

25 Q But you have not explored the economic feasibility

1 of acquiring such land, I take it?

2 A No.

3 Q Did you make any investigation of possible non-
4 point pollution of the Passaic River or Raritan River that
5 might result from the development of the Allan-Dean property,
6 as you have suggested?

7 A We spent a considerable amount of time over the last
8 five or six years working, particularly with non-point
9 pollution problems.

10 The key non-point pollution problems from a site
11 like ours, as a headwater site, is the storm water runoff and
12 the silt and effluence it would carry off a normal site.

13 To that degree we've used detention and retention
14 ponds to hold water on-site and, in fact, we could increase
15 their capacity to reduce the runoff from the site to less
16 than it is now under its existing situation.

17 And, in fact, there are erosion problems on the
18 site now which we could in fact control. So, if anything,
19 the impact of managing the site properly would be a reduc-
20 tion of the runoff, a reduction of the flooding problems
21 downstream, and it would be a reduction in the silt problem
22 on the present site.

23 Q Is it your position that the only kind of non-
24 point pollution that would result from the development of
25 the Allan-Dean property would be the reduction of the runoff,

1 the reduction of the flooding problems --

2 A No, no.

3 It's one of the key and critical ones to handle.
4 It represents more than 50 per cent of the non-point pollu-
5 tion source problems.

6 There are other tracer elements.

7 For example, there are salts which one might use
8 on a road. We'd suggest it might be one of the conditions
9 that salts not be used but, instead, sand and gravel be used
10 on the icy roads.

11 There are other potential tracer elements as well,
12 most of which would be dropped out in the silt or detention
13 or retention ponds. They act to hold the water until most
14 pollutants drop out.

15 Q Well, is it your position that the detention basins
16 that you are proposing would eliminate any non-point pollu-
17 tion of the streams?

18 A There is no such thing as "elimination", because it's
19 all part of a tied-in system.

20 It would certainly eliminate it below that which
21 would be created by conventional three-acre lots.

22 Q Well, never mind a comparison.

23 Would it eliminate the non-point sources of
24 pollution?

25 A There is no such thing. There is no such thing as

1 "elimination."

2 In other words, you don't have -- in fact, a
3 natural site, in its natural condition, brings what you would
4 call pollutants. It brings nitrates, it brings natural
5 wastes back into the system.

6 There is no such thing from any system -- ever --
7 of elimination, unless you have a head river.

8 Q Which happens to be the name of the stream here.

9 I --

10 MR. KERWIN: Off the record.

11 (Discussion off the record.)

12 MR. ENGLISH: Back on the record.

13 A There are two different kinds of dead. One is dead
14 when it's over-polluted and the other, in terms of not having
15 any nitrates or nutrients at all, and, therefore, having no
16 fish or plant life.

17 Q Well, in your judgment and experience does develop-
18 ment cause non-point pollution that did not exist before?

19 A If it's not properly managed, it certainly does.

20 That's certainly the case along the Passaic.

21 Q And is it your position that with proper management
22 you can prevent any additional non-point pollution resulting
23 from the fact of development?

24 A You can manage the amount within a reasonable range.

25 In other words, there is no such thing as absolute

1 elimination.

2 MR. ENGLISH: I didn't ask you that. I
3 asked you --

4 THE WITNESS: I thought you did.

5 Q My question is this: Can you prevent any increase
6 in the non-point pollution which would normally result from
7 it?

8 A Yes. Definitely. Yes.

9 Q So it's your position that you can have a develop-
10 ment and it won't produce any more non-point pollution than
11 was there before?

12 A Yes.

13 And, in fact, it can reduce it and manage the
14 flows at the right times so that you can, in fact, enrich a
15 river if you want to, in order to increase fish life et
16 cetera.

17 Q Well, what techniques do you use to achieve that
18 kind of management?

19 A Valve releases on ponds, so that you can release water
20 at different rates at different times.

21 Q Well, I was not referring to the control of the
22 rate of flow but to the elimination of any increase in the
23 non-point pollution resulting from development.

24 THE WITNESS: Are you asking a question or --

25 MR. ENGLISH: Yes, I am.

1 THE WITNESS: -- concluding that?

2 Q Now I understood you to say that by proper manage-
3 ment you can eliminate any increase in the non-point pollu-
4 tion which would result from the fact of development. Is
5 that correct?

6 A Yes, sir.

7 Q So that if, for example, you start with a non-point
8 pollution from land and its existing state of X --

9 A Right.

10 Q -- you can prevent any increase above X, notwith-
11 standing development?

12 A Yes, sir.

13 Q Now what's your technique for doing that?

14 A Primarily the use of retention and detention ponds.

15 Q Does it make any difference what kind of develop-
16 ment is put on the site, or can you do that with any kind
17 of development?

18 A You can do it virtually with any kind of development.

19 In other words, the -- yes, you can do it with
20 any kind of development. And, in fact, agriculture should
21 be managed in the same way, even if it's open space use.

22 Q Well, do I understand your testimony to be,
23 Mr. Rahenkamp, that simply by using detention basins you
24 can prevent any increase in the non-point pollution that
25 would result from any kind of development?

1 A Yes.

2 There are some minor qualifications but, certainly,
3 yes.

4 Q What are the "minor qualifications"?

5 A If you had an extraordinary amount of blacktop.

6 Let's say that there was an industrial site here.
7 Then you may have some unusual elements that would have to
8 be handled.

9 For instance, petrol or gasoline washing across
10 the paving, that would have to be treated in a very separate
11 or different way, perhaps. And there may be other minor
12 tracer elements which one would have to deal with, depending
13 on what the use of the ground would be.

14 The principle is true. The principle is right.
15 There may be some minor adjustments which might have to be
16 made, depending on the exact specific use of the ground.

17 Q Well, even with residential development don't you
18 have automobile traffic?

19 A Yes.

20 Q And doesn't that necessarily produce some petroleum
21 derivatives on the paving?

22 A Yes. But not in quantities sufficient to give us
23 problems, number one.

24 Secondly, we would use surface swales throughout
25 the site, along with grass, in order to reduce the amount of

1 pollutant coming to the concentrated pond and going off the
2 site. It's a link system with surface drainage going through
3 the parking areas, through swales and into the ponds.

4 Therefore, most pollutants would drop out before
5 they got to the ponds.

6 Q Is it your position that the grass and the swales
7 would remove some or all petroleum derivatives from the
8 surface?

9 A Some of them would attach, yes.

10 Q Is it your position that the retention pond would
11 remove some or all of the petroleum derivatives that arrive
12 there?

13 A Some of them, yes.

14 Q But some would remain, nevertheless?

15 A Some may, yes.

16 Q Some may or some will?

17 A Some probably will.

18 Q Well, that would be a kind of pollution over and
19 above what existed in the pre-development state, would it not?

20 A That may well be.

21 Q Is there any doubt in your mind about it?

22 A Yes, considerable doubt.

23 As a matter of fact, I -- yes.

24 Q It's your position that there is some pollution
25 from petroleum derivatives resulting from land in its natural

1 state?

2 A No.

3 There are existing roads running through the site
4 and --

5 Q You're talking about this particular site, is that
6 right?

7 A Sure.

8 Q But it's your position that the amount of petroleum
9 derivatives that would survive running over the swales and
10 the detention basins that you are proposing would not be any
11 increase over the amount of petroleum derivatives that result
12 from existing traffic on existing roads in the Allan-Dean
13 site?

14 A Yes.

15 If the retention and detention pond systems are
16 properly constructed, that's exactly right.

17 Q Have you made any calculations of that problem?

18 A No.

19 Q Are you able to quantify it in any respect?

20 A Not now, no.

21 Q Do you know how much pollution comes from existing
22 automobile traffic?

23 THE WITNESS: On that site?

24 MR. ENGLISH: Yes, on that site.

25 A No.

1 Q Do you know how many cars a day use that site?

2 A Our traffic consultant generated that information, yes.

3 Q May I direct your attention, Mr. Rahenkamp, to
4 Page 10 of your proposal, which is D-76 for identification.

5 A Yes, sir.

6 Q Down at the bottom of that page you make the state-
7 ment that your proposal is consistent with the Township's
8 Master Plan's recommended population growth. Is that right?

9 A Yes, sir.

10 Q Do you have with you or available to you the
11 Master Plan of Bernards Township?

12 MR. HILL: I've got it.

13 Do you want anything else? Off the record
14 for a moment.

15 (Discussion off the record.)

16 MR. HILL: All right. Back on the record.

17 A Yes, I have it.

18 Q Now referring to the bottom paragraph on Page 10
19 of your proposal for Allan-Dean, which is Exhibit D-76 for
20 identification, is it your position that your proposal is
21 consistent with the Master Plan of the Township.

22 A It's our position that if the Township says that the
23 theoretical maximum population is 30 to 35 thousand within
24 25 years, that means that there is an additional capacity
25 for 16 to 21 thousand people, and we are certainly within

1 that number.

2 We would challenge, quite frankly, the 30 thousand
3 as any substantial number, based on any kind of relevant
4 information, and we would challenge most of the assumptions
5 that went into making that calculation, particularly based
6 on applying land management skills which would substantially
7 change that number, as well as any assumptions that went
8 into any population calculation.

9 Q Well, do your proposals conform to the recommenda-
10 tions of the Township Master Plan as to where the population
11 growth is to take place within the Township?

12 A Certainly not.

13 Q May I direct your attention to the map in the
14 Township Master Plan which appears immediately following
15 Page 6.

16 THE WITNESS: The one saying "Population
17 Distribution"?

18 MR. ENGLISH: Right.

19 A All right. I have it.

20 Q Do you see anything in that map to support the
21 proposition that 8,000 or so people are to be placed on the
22 Allan-Dean tract in Bernards Township?

23 A No, sir.

24 The map is nonsense.

25 Q May I direct your attention to the map appearing

1 in the Township Master Plan, following Page 11.

2 A Yes, sir.

3 Q Can we agree that this map sets forth in graphic
4 terms the proposals of the Township Master Plan for future
5 land use?

6 A No, sir.

7 Q All right.

8 What do you think this map shows?

9 A It shows a bunch of colors.

10 Q Do you derive any meaning at all from the map, the
11 map that we are referring to?

12 A No, sir.

13 As a matter of fact, we feel it's inconsistent
14 with the principles laid out in the Master Plan in the
15 earlier sections.

16 For instance, it encourages sprawl development.

17 Q How do you define "sprawl development"?

18 A Large lot subdivisions with septic tanks on top of
19 basalt.

20 Q Well, are you saying that this following Page 11
21 in the Township Master Plan does suggest a kind of use for
22 the southwest part of the Township?

23 A It suggests a kind of use, yes.

24 Let's call it a certain color.

25 Q And that color on the key is labeled what kind of

1 residential use?

2 A "Sparse."

3 Q Do you regard your proposal for the development
4 of the Allan-Dean tract as being consistent with a recommenda-
5 tion of "Sparse" residential development?

6 A Our proposal is consistent with the principles outlined
7 in the Master Plan, but not with this colored map.

8 MR. ENGLISH: Just answer my question,
9 Mr. Rahenkamp.

10 MR. HILL: Mr. English, I wish you wouldn't
11 interrupt the witness.

12 MR. ENGLISH: I'm not interrupting the
13 witness.

14 But I think he's intelligent enough to answer
15 my question and not be evasive, Mr. Hill.

16 MR. HILL: I don't think he's being evasive.
17 Just because you're not getting the answers
18 you want, this is no reason for you to object and
19 badger the witness.

20 Q Is it your position that the development of the
21 Allan-Dean tract, as you have proposed it in Exhibit D-76
22 for identification, is a sparse residential development?

23 A No.

24 Thank God!

25 Q Well, regardless of the merits of either the

1 Township Master Plan or of your proposal, do we agree, Mr.
2 Rahenkamp, that the kind of development which you have
3 proposed for the Allan-Dean tract is not consistent with the
4 recommendations of the Township Master Plan?

5 A No, sir.

6 Q We don't agree? A No, sir. It's not
7 consistent with this colored map.

8 It's totally consistent with the principles in the
9 Master Plan.

10 Q All right.

11 Is it your position that the kind of development
12 you are proposing for the Allan-Dean tract should be allowed
13 on the entire area designated for sparse residential develop-
14 ment, as shown on the map following Page 11 of the Township
15 Master Plan?

16 A I'm suggesting --

17 MR. ENGLISH: No, no. Please, just answer
18 that yes or no, if you can.

19 MR. HILL: I wish you wouldn't interrupt the
20 witness while he's attempting to answer your
21 question, Mr. English.

22 I don't do that with your witnesses and I
23 can't understand why you're doing it with mine.

24 A Well, neither a yes or no would have any meaning.

25 Q All right.

1 Well, what is your answer?

2 A The answer is that in the yellow areas most particularly,
3 which have sensitive environmental problems, the best system
4 would be one of encouraging clustering, one of discouraging
5 septic treatment, one of encouraging as much open space
6 division as possible and one of encouraging proper land
7 management techniques. So that at whatever density it's
8 built, the impacts of that are essentially internalized
9 within each one of the sites.

10 Q Well, would it follow from that that the same kind
11 of development could be -- and I mean with differences of
12 detail, obviously, because of the specific terrain, and so
13 on. But would it follow from that that same approach could
14 be made to development of all of the other parts of the
15 Township designated for sparse residential development on
16 the map following Page 11 of the Township Master Plan?

17 A Yes, sir.

18 Q Is it your position that such development would be
19 consistent with the established regional plans for Somerset
20 County?

21 A They would be inconsistent with the County Plans.

22 MR. HILL: Off the record.

23 (Discussion off the record.)

24 MR. HILL: Back on the record.

25 Q Mr. Rahenkamp, may I direct your attention to two

1 of the colored maps in your proposal marked D-76 for identi-
2 fication. One is entitled "Land Use", and it appears some-
3 where around Page 2 or 3. The other is entitled "Vegetation"
4 and appears somewhere around Page 16 or 17.

5 A Yes, sir.

6 Q Now as my untutored eyes look at those two maps,
7 it would appear to me that the proposed development which
8 you were recommending would involve a certain amount of
9 removal of trees from the site.

10 A Yes, sir.

11 Q Can you give me any rough idea in quantified terms
12 of the amount of wooded area that would no longer be wooded?

13 A No, sir, I can't. We have not calculated that yet.

14 Q All right.

15 Well, would it reduce the wooded area by at least
16 50 per cent?

17 A No, sir.

18 Q Well, maybe you can help me. I arrived at that
19 figure because it seems to me ^{that} ~~that~~ amount of land indicated
20 on the Land Use Map, which is left for open space is mostly but
21 not entirely contained in the area indicated on the Vegeta-
22 tion Map as being "Forest."

23 Am I correct so far?

24 A Yes, sir.

25 Q All right.

1 And it would appear to me that the lands indicated
2 on the Land Use Map for one kind of development or another
3 comprise more than half of the area shown on the Vegetation
4 Map as being in "Forest." Is that correct?

5 A Yes.

6 But you're assuming that we would clear 100 per
7 cent of the developed site, which in fact is not true.

8 We agreed in percentage with the Township Perform-
9 mance Standards which say that we wouldn't clear beyond 15
10 feet from a building and, therefore, substantial amounts of
11 areas shown for development would in fact have tree cover
12 retained on them.

13 Q Well, am I correct in assuming that would be
14 particularly true for the single-family development of low
15 density? Well, the residential development of low density,
16 I mean.

17 A Some of it would, yes, although the multi-family tightly
18 clustered, would in fact probably have the same amount of
19 tree cover remaining, so I don't think that that's a sane
20 assumption.

21 Q Okay.

22 But you don't have any rough idea of that, percent-
23 age-wise or anything like that?

24 A No, sir.

25 Q Now one of the sources which you cite on Page 31

1 of your report is the "Master Plan of Land Use of Somerset
2 County", prepared by the Somerset County Planning Board,
3 dated September 1971. Is that correct?

4 A Yes, sir.

5 Q Do you have in your hand a copy of that document?

6 A Yes, sir.

7 Q Would you look, please, at the map in the rear
8 which is entitled "Somerset County Master Plan Land Use."

9 A Yes, sir.

4 10 Q Can you tell me what kind of land use is indicated
11 on that map for the Allan-Dean tract in Bernards Township?

12 THE WITNESS: You mean on the colored map?

13 MR. ENGLISH: Yes.

14 A It says "Rural Settlement."

15 Q And can you tell me in general terms what the text
16 of the Master Plan of Land Use proposes with respect to
17 rural settlement?

18 A No, I can't. As a matter of fact -- not directly, no.

19 Q Did you consider those aspects of the Somerset
20 Master Plan of land use in preparing your proposal for the
21 Allan-Dean Corporation?

22 A We carefully considered them and rejected them.

23 Q Why did you reject them?

24 A Our feeling is that they're arbitrary; they have no
25 basis in fact.

1 Q No basis in fact? A Yes, sir.

2 Q For their recommendations? A Yes, sir.

3 Q Are you aware that the Somerset Master Plan has
4 been cross-accepted by the Tri-State Regional Planning
5 Commission?

6 A Yes, sir.

7 Q Are you aware that the Tri-State Regional Planning
8 Commission has been designated by the New Jersey Legislature
9 as the official planning body for the portion of the State
10 which falls within its jurisdiction?

11 A Yes, sir.

12 Q Were your proposals consistent with the recommenda-
13 tions of the Tri-State Regional Planning Commission?

14 A They are consistent with the basic principles and
15 inconsistent with the land use designations.

16 Q Would you refer, please, to a document that's
17 listed on Page 31 of your report as one of the sources, which
18 is entitled, "Regional Development Guide, Technical Perspec-
19 tives." This was prepared by the Tri-State Transportation
20 Commission and dated November 1969.

21 THE WITNESS: Do you have it, Henry?

22 MR. HILL: I don't have it.

23 We never got a copy of it, unless you
24 (indicating Mr. English) sent it to us in your
25 Requests for Admissions.

1 Did you?

2 MR. ENGLISH: No.

3 Q I show you a copy of the document I just described,
4 Mr. Rahenkamp, and ask you if you are familiar with that
5 document.

6 A Yes, I am.

7 Q And is this one of the documents which you consider-
8 ed in the preparation of your proposal for the Allan-Dean
9 Corporation?

10 A Yes.

11 MR. HILL: Could we mark it as an exhibit?

12 I can Xerox it and get a copy of it that way.

13 MR. ENGLISH: May I have the document so
14 identified by the witness marked DR-1 for
15 identification, please.

16 (The above mentioned copy of a document
17 entitled "Regional Development Guide, Technical
18 Perspectives", prepared by the Tri-State Transporta-
19 tion Commission and dated November 1969, is
20 received and marked Exhibit DR-1 for identification.

21 Q Mr. Rahenkamp, would you please look at Page 1 of
22 your proposal, which has been marked D-76 for identification.

23 A (Witness complies with Counsel's request.)

24 Yes, sir.

25 Q Now directing your attention to the first paragraph

1 on that page, do I understand your document to state that
2 the property of the Allan-Dean Corporation is located in the
3 headwaters of the Passaic River, as well as the headwaters
4 of the Raritan River?

5 A Yes, sir.

6 Q Do you recall the recommendations of the Tri-State
7 Transportation Commission, as contained in Exhibit DR-1 for
8 identification, with reference to land use treatment of the
9 headwater areas?

10 A Generally so, yes.

11 Q And what do you recall was the effect of those
12 recommendations?

13 A The general effect was that the headwaters are the most
14 sensitive area of a stream valley watershed, that addition
15 of pollutant loads or of non-point pollutant problems was
16 an extraordinary one and, therefore, they had to be treated
17 very sensitively, generally with low intensity development.

18 Q I direct your attention to a sentence at the bottom
19 of Page 26 of Exhibit DR-1 for identification and ask you if
20 I read that sentence correctly: "The Tri-State Region
21 must therefore deal carefully with its headwater areas.
22 If they can remain predominantly in the natural state where
23 the artifacts of man have only an incidental effect on the
24 natural landscape, the region's headwater areas will continue
25 to function effectively as important, natural suppliers of

1 its water."

2 MR. HILL: What page is that?

3 MR. ENGLISH: The bottom of Page 26.

4 Q (Continuing.) Did I read that correctly?

5 A Yes, sir.

6 Q Now is it your position that your proposed develop-
7 ment of the Allan-Dean tract is consistent with that state-
8 ment in Exhibit DR-1 for identification?

9 A In principle, yes.

10 Q What do you mean by "In principle"?

11 A Well, in principle we're retaining a goodly portion of
12 the site in its exact natural state.

13 We're returning the majority of the water back to
14 the ground and, in fact, we're reducing the amount of runoff,
15 even going off in its natural state. So, in fact, we are
16 consistent with it, consistent with the principle of it.

17 Q Is it your position that your development would
18 leave the Allan-Dean tract predominantly in the natural state?

19 A Yes, sir. As a matter of fact, I -- yes, that's true.

20 Q Do you recall a recommendation on Page 26 of
21 Exhibit DR-1 for identification with respect to forest cover?

22 A Yes, sir.

23 Q And what is the thrust of that recommendation, as
24 you understand it?

25 A I don't recall the specific -- let me read it.

1 Q Well, let's read it into the record.

2 It says, "Forest cover to survive requires enough
3 water in the ground. The region's forests are its natural
4 water supply regulators, its natural flood controllers, its
5 natural purifiers of the air and may even play a part in
6 maintaining the level of annual rainfall."

7 Did I read that correctly?

8 A Yes.

9 Q Do you interpret that statement that I read as an
10 indication of the desirability of retaining forest cover in
11 the headwaters?

12 A Yes, sir.

13 Q Now, Mr. Rahenkamp, I understand from Page 30 of
14 your proposal, which is D-76 for identification, that one
15 of the sources you considered was the document entitled,
16 "Water Supply and Distribution", prepared by the Somerset
17 County Planning Board and dated September 1973. Is that
18 correct?

19 A Yes, we reviewed it.

20 Q I now show you that document and ask you if this
21 is the one to which you refer.

22 A Yes, sir.

23 MR. ENGLISH: I'd like this marked for
24 identification, please.

25 (The above mentioned document entitled

1 "Water Supply and Distribution", prepared by the
2 Somerset County Planning Board, dated September
3 1973, is received and marked Exhibit DR-2 for
4 identification.)

5 Q Now do I understand correctly that your firm's
6 proposal for Allan-Dean Corporation contemplates water supply
7 from mains and the Commonwealth Water Company?

8 A Yes.

9 Q Are you familiar with the map in the back of
10 Exhibit DR-2 for identification entitled, "Somerset County
11 Comprehensive Water Plan"?

12 A I am, yes, now that you gave it to me.

13 Q Had you ever seen that before?

14 A I did not review this technical piece, no. Others in
15 my office did.

16 Q Can we agree that this map entitled "Somerset
17 County Comprehensive Water Plan", according to its legend,
18 indicates three kinds of situations: Number one, areas
19 presently served; number two, future service areas and,
20 three, areas planned for no major facilities. Is that
21 correct?

22 A Yes.

23 Q All right.

24 Now can you tell us what that map shows with
25 respect to the Allan-Dean Corporation in Bernards Township?

1 A It shows no areas planned for no major facilities.

2 Q Do you have any position as to the merit or lack
3 of merit of Exhibit DR-2 for identification?

4 A I would say the reports that you have shown me from the
5 County and from the Tri-State people, that in principle we
6 adhere to the principles outlined in each one of them.

7 But we certainly question the color categories.
8 We suggest that most of them are fairly subjective and we
9 suggest that -- well, they've had to work with the lowest
10 common denominator, assuming that all developers are equal
11 and perform exactly the same way -- the lowest common
12 denominator.

13 And, therefore, at least in terms of ^{the} colors on the
14 maps, they're not relevant to our site.

15 Q Do you know what the Somerset Master Plan of Land
16 Use sets forth as the rationale for the uses comprehended
17 under the term "Rural Settlement"?

18 A Certainly.

19 Q Well, what is it? A If you mean in terms
20 of specifics, no, sir.

21 Q Well, what is the rationale as set forth by the
22 Somerset County Planning Board in the Master Plan of Land
23 Use for all of the areas in the County designated for
24 "Rural Settlement"? Are you familiar with that?

25 A Generally so, yes.

1 They're generally wanting large lot, single-family
2 residences.

3 Q Why? A They say it's because of septic
4 problems, generally.

5 Q Do they give any other reasons?

6 A Not to my recollection.

7 We read that probably about six to seven months
8 ago.

9 Q Well, is it your position that the sole rationale
10 for rural settlement and ^{for}no water mains in the Allan-Dean
11 tract is the unsuitability of that piece of land for septic
12 systems?

13 A I wish it were that rational. I suspect the reason that
14 there's no water shown there and why it's not serviced with
15 sewers or proposed to be serviced with sewers is to retain
16 as open a space for as long as possible.

17 Q Was that what the Master Plan of Land Use says?

18 A No.

19 Q Are you questioning the good faith of the Somerset
20 County Planning Board in the preparation of the Master Plan
21 of Land Use and the Water Supply and Distribution Plan, and
22 Sewerage System Report for Somerset County?

23 A I certainly am.

24 Q What evidence do you have to establish the bad
25 faith of the Somerset County Planning Board?

1 Bill, he were curious that the I.F. & T. site had not
2 been designated on the County Plan, as it was shown originally
3 or that it wasn't designated, as in fact it's finally been
4 the result that there have been a substantial number of
5 zoning changes.

6 Q Is that your complete answer as to the factual
7 basis you have for charging the Somerset County Planning
8 Board with bad faith? A I didn't charge them.

9 You asked if they are inconsistent with those three
10 and I said "Yes."

11 MR. ENGLISH: Read back the question, the
12 next to the last question, please.

13 (The requested question is read by the
14 Reporter.)

15 THE WITNESS: Okay.

16 Q Do you have any other evidence?

17 A We met with Bill Roach sometime in -- when was that?

18 MR. GORDON FLUKER: It was prior to.

19 A (Continuing.) Probably December or January.

20 Q Of 1975 or 1976? A I month prior to --

21 MR. GORDON FLUKER: 1976.

22 Q December 1975 or January 1976?

23 A Yes. Thank you.

24 We reviewed the plans with him and he suggested
25 that they were inconsistent with the Master Plan. We asked

1 him --

2 Q Excuse me. You say you reviewed the plans. You
3 mean your plans for the Allan-Dean tract?

4 A We reviewed the proposed Allan-Dean plans with him, and
5 his basic comments were the following: There were different
6 factors here. There is obviously now capacity that wasn't
7 here before and it's different than, in fact, when the
8 Master Plan was adopted.

9 We suggested to him that the A.T. & T. location,
10 with the new jobs, and so on, was in fact a different factor
11 than they incorporated into the original Master Plan and
12 suggested to him that the plan was consistent with the
13 principles.

14 I heard him talk about these principles for several
15 years, in terms of going open space, in terms of pedestrian
16 systems, in terms of controlling traffic, clustering and
17 other developments to maintain space. And on that basis
18 alone the plan should be supported.

19 Now he said he had two or three basic problems
20 with it; number one was the First Watchung problem. That
21 was the break line, essentially, trying to hold the Great
22 Valley because it tied into the National Park.

23 I suggested to him that that was a nice thing to
24 do, since I lived in Springfield and the Expressway was over
25 my house. But, in fact, I thought development could occur

1 if it was managed properly beyond the First Watchung and into
2 the Great Valley and that, in fact, because of the Expressway
3 and because of A.T. & T. and the new activity in the area,
4 that the plan should reflect that.

5 To that extent the plan is certainly inconsistent.
6 The Planning Commission is certainly inconsistent in their
7 resolutions with the factual situation, with things that
8 have occurred over the last several years. To that extent
9 I think they're -- well whatever I said they were.

10 Q Well, did --

11 A (Continuing.) Showing bad faith.

12 Q Well, even assuming what you said adds up to poor
13 judgment, do you go further in that and charge the Somerset
14 County Planning Board with bad faith?

15 A Yes.

16 I think to the extent they haven't properly carried
17 out their duties in terms of the new inputs and new informa-
18 tion and what's in fact happening. Yes, I think certainly
19 they're carrying on in bad faith and improperly, as well.

20 Q In addition to what you've already testified to,
21 do you have any other evidence to support the suggestion of
22 bad faith on the part of the Somerset County Planning Board?

23 A No, sir.

24 Q I show you a document entitled "Sewerage System
25 Reports: Somerset County, N.J." and ask you if that is the

1 document cited in your sources on Page 30 of D-76 for
2 identification.

3 A I assume it is. I did not specifically review this one.

4 MR. ENGLISH: May I inquire of Mr. Fluke, if
5 he's reviewed this.

6 MR. GORDON FLUKE: Not personally, no.

7 MR. ENGLISH: Or, Mr. Fluke, did you review
8 the "Water Supply and Distribution Manual"?

9 MR. GORDON FLUKE: Personally, no, I did not.

10 MR. ENGLISH: Did you personally review the
11 "Somerset County Master Plan of Land Use"?

12 MR. GORDON FLUKE: I did not review that one
13 either.

14 MR. ENGLISH: All right. Thank you.

15 BY MR. ENGLISH:

16 Q Now, Mr. Rahenkamp, would you be good enough to
17 look at the map in the back, please.

18 MR. HILL: I apparently don't have that map.
19 Maybe Mr. Roach took it out, showing further
20 evidence of --

21 MR. ENGLISH: That I may say on the record
22 is an illustration of the phony nature of the
23 Plaintiff's contentions in this case.

24 Q Mr. Rahenkamp, now that we're serious again, are you
25 looking at the map from the back of the Sewerage System

1 Report of the Somerset County Planning Board, which map is
2 entitled, "Master Plan-Sewered Areas"?

3 A Yes, sir.

4 Q And does that map indicate in some fashion areas
5 which it plans to remain unsewered?

6 A Yes, sir.

7 Q And what is the relationship of the Allan-Dean
8 property in Bernards Township to the indications on that map
9 for sewers?

10 A It indicates about 80 to 90 per cent of the tract is
11 planned to remain unsewered.

12 MR. ENGLISH: Off the record.

13 (Discussion off the record.)

14 MR. ENGLISH: Back on the record.

15 We'll break for lunch at this point.

16 (LUNCH RECESS: 12:05 P.M.-1:30.)

17 MR. ENGLISH: Back on the record.

18 BY MR. ENGLISH:

19 Q Mr. Rahenkamp, would you be good enough to look at
20 Page 29 of your proposal, which is D-76 for identification.

21 A (Witness complies with Counsel's request.)

22 Q Now I see there four different figures for "Value
23 per dwelling" and these are for different kinds of dwelling
24 units. Would you be good enough to tell me what the signifi-
25 cance of those figures is.

1 THE WITNESS: On the "Value per dwelling" or
2 on the whole numerical run?

3 MR. ENGLISH: Both.

4 A Well, the "Value per dwelling" -- these were assumptions
5 we used to try and get some sense out of what the cash flow
6 impacts would be on the Town and on the School District,
7 based on these four development patterns.

8 Q Well, is it fair to say that you assumed that the
9 typical single-family detached dwelling you were proposing on
10 one-third acre lots or the equivalent, would cost approx-
11 imately \$100,000?

12 MR. HILL: Excuse me.

13 That's on three acres. It's a third of a
14 unit per acre. It's three-acre lots.

15 MR. ENGLISH: I'm sorry. I stand corrected.

16 On three-acre lots.

17 A (No response.)

18 Q Was it your assumption or estimate that the cost
19 of a single-family unit, a detached dwelling on a three-acre
20 lot, would be approximately \$100,000?

21 A It could be that, yes.

22 We did not do the market study.

23 We accepted the market study given to us by the
24 J. M. people.

25 Q In other words, these figures for "Value per

1 dwelling" were not arrived at by your organization?

2 A No.

3 MR. HILL: Excuse me.

4 To clarify the market study you're referring
5 to, that is the Gobar report, of which you have a
6 copy, Mr. English.

7 THE WITNESS: I should say these four numbers
8 on the "Value per dwelling" may or may not be
9 exactly the numbers in that report.

10 What we were trying to do was establish
11 reasonably rounded-off numbers in order to get a
12 reasonable idea of what the tax implications
13 would be or what the cash flow implications would
14 be.

15 MR. ENGLISH: All right. Thank you.

16 THE WITNESS: May I --

17 MR. ENGLISH: Excuse me. Go ahead.

18 THE WITNESS: There's just one footnote I'd
19 like to add -- one additional thing: These are
20 based on today's dollars.

21 So these values obviously would change as
22 inflation or various other factors changed, as
23 well.

24 We tried to take today's tax rates in the
25 Town, today's costs in the Town, in order to

1 establish these numbers.

2 MR. ENGLISH. All right.

3 Q Well, then, do I understand it to be your view
4 that by the time these houses are built the prices might
5 well be higher than what is suggested on Page 29?

6 A They would certainly vary. Whether or not they're
7 higher depends on inflation and a whole string of other
8 things.

9 Q Now in preparing your proposal for the Allan-Dean
10 Corporation, which is Exhibit D-76 for identification, did
11 you give any consideration to the effect of your proposed
12 project on the regional air quality?

13 A No.

14 Q In the course of or as a result of your examina-
15 tion and analysis of the Allan-Dean site, did you make any
16 determination as to how large a lot would be necessary per
17 dwelling unit if there were no sewers provided?

18 A We did some analysis of it.

19 Our preliminary findings were that a three-acre
20 lot would be insufficient and it would be probably larger
21 than that for a conventional septic system.

22 However, there are new technological systems to
23 treat on-site sewerage effluent. So that may have to be
24 adjusted accordingly.

25 Our feeling was there should be simply no septic

1 on this site at all, period.

2 Q All right.

3 Now would you be good enough to look at your
4 proposal, D-76 for identification, the map called "Recommend-
5 ed Traffic Improvements", which I think appears between Pages
6 18 and 19.

7 A (Witness complies with Counsel's request.)

8 Q Do I correctly interpret this map to indicate by
9 those wheels which have spokes but no rim to identify into
10 sections where road improvement would be necessary to handle
11 the traffic generated by the proposed development of the
12 Allan-Dean tract?

13 A Both by the proposed development and increased traffic
14 loads, even if it didn't have some bad site lines.

15 Q Is it part of your proposal that these improvements
16 as shown on that map, be paid for by Allan-Dean Corporation
17 or by somebody else?

18 A Usually, in our experience, it would be ^acombined effort
19 in that we certainly are impacting those intersections and,
20 therefore, should bear a fair portion of the additional cost.

21 In some cases, however, these areas probably should
22 and would require upgrading, in any case, and therefore we
23 would expect there would be additional public funding
24 incorporated as well.

25 For instance, the interchange and resolution of

1 202-206 and 287 was not very well done, and most particularly
2 for right turns and certainly should be upgraded. So we
3 would anticipate some of that work ought to be done by us
4 or with us, and that a portion of it, as well, should be
5 undertaken by the State.

6 Q Are there any you would identify as being primarily
7 the financial responsibility of Allan-Dean Corporation?

8 A I think each one of the intersections would have to be
9 reviewed and evaluated, with both the Town Engineer and
10 ourselves, as well as the Town Planner and the State Planner,
11 to see what was the appropriate formula.

12 We did not -- we certainly said to the client that
13 he ought to acknowledge and be ready to stand behind his
14 fair share of the road improvements. No question about that.
15 And that would be off-site, as well, and not only those
16 abutting the site.

17 Q Now do you acknowledge the right and duty of
18 Bernards Township to determine where and how to distribute
19 its population growth?

20 A No, I don't. As a matter of fact -- no, I don't think
21 that's consistent with the planning parameters, as I under-
22 stand them in the State of New Jersey.

23 MR. ENGLISH: All right.

24 I have no further questions of either witness.

25 Mr. Hill.

1 MR. HILL: Since I can ask them all the
2 questions I want at my leisure, by picking up the
3 telephone, I have no questions at this time.

4 (Whereupon, the hearing is adjourned.)

5
6 I, FRANK ANTHONY, the officer before whom the
7 foregoing depositions were taken, do hereby certify that the
8 witnesses whose testimony appear in the foregoing depositions
9 were duly sworn by me, and that said depositions are a true
10 record of the testimony given by said witnesses; that I am
11 neither attorney nor counsel for nor related to or employed
12 by any of the parties to the action in which the depositions
13 are taken; and further that I am not a relative or employee
14 or any attorney or counsel employed by the parties hereto,
15 or financially interested in the action.

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18 _____
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