



EnviroNews

EnviroNews

Monday

Tuesday

Wednesday

Thursday

Friday

Archives

Subscribe

Action Alerts

Audio Reports

Calendar

Job Postings

Legislation

Library

Links

NewsStand

Search

About Us

Free Email Lists

Support Us

020812

.....

TABLE OF CONTENTS

~~~~~

- {\*} COURT DECISION WEAKENS NEPA JURISDICTION
{\*} DELAWARE DREDGING FOES GET BOOST FROM LATEST STUDY
{\*} DELAWARE BAY HARVEST OF OYSTERS CAN RESUME
{\*} SANDSTORM: DEBATE SWIRLS OVER MERITS OF BEACH REPLENISHMENT
{\*} PINELANDS GROUP BUSY ON PLAN FOR SNAKE AREA
{\*} ALERT FROM MACARTHURWOODS.COM
{\*} CAPE MAY CO TO OFFER MONEY AND LAND TO DEP FOR LAND SWAP
{\*} DEVELOPMENT SITE PLAGUED BY BROKEN GLASS, THERMOMETERS
{\*} DEP REISSUES OPEN-FIRE BAN
{\*} OOZE CLEANUP MONTHS AWAY
{\*} HIGH LEAD FOUND IN DRINKING WATER AT CAMDEN SCHOOLS
{\*} CUMBERLAND FREEHOLDERS CONSIDER COUNTY PARK SYSTEM
{\*} TOP BIOLOGIST: HALF OF ALL SPECIES MAY BE GONE BY 2100
{\*} HOUSEHOLD POLLUTANTS DISRUPTING FISH GENES

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COURT DECISION WEAKENS NEPA JURISDICTION

Date: 020811
From: http://www.nytimes.com/

U.S. SEEKS TO LIMIT CONSERVATION LAW

By Katharine Q. Seelye, New York Times, August, 9, 2002

Washington - The Bush administration is arguing that a major environmental law does not apply to the vast majority of oceans under United States control, a move that environmentalists say could allow military maneuvers, oil and gas pipelines, commercial fishing, ocean dumping and scores of other activities to escape public environmental review.

In a federal court case in Los Angeles that involves the testing of a new type of sonar system by the Navy, the Justice Department said that the National Environmental Policy Act of 1969 - landmark legislation that requires federal agencies to review the environmental implications of their projects - did not apply beyond the nation's territorial waters, which traditionally extend three miles from shore.

That view is being challenged by the Natural Resources Defense

Council, which asserts that in addition to the territorial waters, the act covers all activity within the nation's "exclusive economic zone," which extends 200 miles from shore.

A decision in the case is expected later in the summer.

Environmentalists say that barring application of the act in these zones would open up the oceans to unregulated activity that could damage them and destroy marine life.

In addition to the sonar project, which they say could disorient and kill whales and dolphins, they say other unregulated activity would include commercial fishing for depleted species, proposals for liquified natural gas plants and pipelines, and other energy projects.

Offshore oil and gas drilling would not be affected by the administration's position because another law, the Outer Continental Shelf Lands Act, specifically requires that the environmental law apply to such activity.

At issue is the National Environmental Policy Act, often referred to as the Magna Carta of environmental law. Signed by President Richard M. Nixon on Jan. 1, 1970, the act requires all federal governmental actions to be reviewed and analyzed for their effect on the environment.

In an indication of the importance of the matter, the White House Council on Environmental Quality convened with ranking officials from five agencies and departments to discuss the implications of the Justice Department's position both before the department filed its brief and then again this week, administration officials said. They plan to discuss it further in September.

Administration officials said there was little disagreement at the meeting, which was first reported today by The Times-Picayune of New Orleans, about the administration's approach. And the Justice Department has argued in the sonar case that federal agencies should decide case by case whether to apply the National Environmental Policy Act in the oceans.

But e-mail messages written before the meeting suggested that officials from the National Oceanic and Atmospheric Administration disagreed with the Navy.

One message written by a Navy official hailed the "good news" that the Justice Department agreed with the Navy, "over NOAA objection," that the environmental law "does NOT extend beyond the limits of our territorial waters."

Administration officials said that the Justice Department position and the meeting did not represent a change of policy, but environmentalists disagreed.

"This is a major policy change," said Andrew Wetzler, a lawyer with the Natural Resources Defense Council in Los Angeles. "For the first

time, the White House is considering stepping in and seeking to impose the Navy's restrictive view of the statute on the entire federal government."

The Navy has long believed that the act does not extend to activities conducted within the nation's "exclusive economic zone," which stretches 200 miles off all coastal waters and thus covers more than one million square miles off all American coasts, including those of Alaska and Hawaii. The Navy appears to be the driving force behind the Bush administration's discussion of whether to apply that concept to all federal activity in the zone.

Administration officials believe that the environmental act is too restrictive, that it spawns nettlesome lawsuits and that most ocean activity is already regulated by an executive order signed in 1979 by President Jimmy Carter, according to administration officials and internal e-mail correspondence that was obtained by environmental groups opposing the administration's view.

Environmental groups assert that the Carter executive order is too weak to guarantee enforcement. They say it does not provide for lawsuits or public review, meaning that an array of damaging activities could take place far out at sea without public knowledge or recourse.

Michael Jasny, a senior policy analyst at the Natural Resources Defense Council in Los Angeles, said that the National Environmental Policy Act "depends on public comment and public scrutiny and judicial review for its effectiveness, and if you do away with it, all of that would be lost - we'd have no public accountability" about military and industrial activities in the oceans.

Tim Eichenberg, a lawyer with Oceana, a group in San Francisco dedicated to preserving the oceans, called the executive order "a very poor cousin" to the policy act.

"The executive order doesn't provide for public input or any analysis of alternatives and it doesn't allow for judicial review - there is no recourse for the public," he argued.

Administration officials said that their position in the California case did not represent a change of policy. They said that the National Environmental Policy Act, signed into law before the United States established its exclusive economic zones, was never intended to apply to the ocean beyond the territorial waters and did not apply now.

But an internal Navy document contradicts that view, noting that the Justice Department and the Council on Environmental Quality in the Clinton administration "pressed to apply N.E.P.A. worldwide."

Senator John Kerry, the Massachusetts Democrat and chairman of a subcommittee on oceans and fisheries, issued a statement saying: "I am incredulous that the Bush administration may actually be considering rolling back central environmental protections of our oceans and marine environment. The National Environmental Policy Act is the

cornerstone of protection for our citizens and natural resources - and new limits on the law would have profound impacts on coastal issues from fisheries management to marine protection to ocean dumping."

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[Top](#)

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DELAWARE DREDGING FOES GET BOOST FROM LATEST STUDY

Date: 020811

From: <http://www.courierpostonline.com/>

DREDGING FOES GET BOOST FROM LATEST STUDY

By Lawrence Hajna, Courier-Post Staff, August 10, 2002

A study released Friday by environmental groups maintains the proposed deepening of the Delaware River poses "more serious environmental consequences" than the U. S. Army Corps of Engineers has maintained.

The 37-page report rehashes most of the same arguments opponents have used in the past to oppose the project.

Its release suggests environmentalists don't believe their fight against the project is over despite a recent study raising serious questions about the project's economic justifications. The Army Corps is re-evaluating the project.

The Delaware Riverkeeper Network and National Wildlife Federation called for a new environmental review by an independent agency. Maya K. van Rossum of the Delaware Riverkeeper Network said "major outstanding environmental issues continue to plague the project."

The report's executive summary maintains the Army Corps "made a poor and incomplete assessment of the project's full environmental impacts," including the effect dredging would have on aquatic life and levels of salt from the ocean in the bay and river.

But Army Corps spokesman Richard Chlan said most of the environmental concerns had been previously reviewed by the Corps and by other state or federal environmental agencies.

"Basically, all of the items have been addressed or are being addressed further," he said.

The study maintains the Corps needs to identify new environmentally safe disposal areas for dredge spoils because land-disposal sites that had been earmarked have been purchased by local governments or are in the process of being purchased.

But Chlan said the primary disposal sites along Raccoon Creek between Gloucester and Salem counties are still available. The Corps has recommended these sites to the project's local sponsor, the Delaware River Port Authority, which has yet to acquire the properties.

The Army Corps also needs to address the impact blasting of bedrock in the Marcus Hook, Pa., area would have on the endangered shortnose sturgeon, the study maintains.

The National Marine Fisheries Service has approved a Corps plan to restrict the timing of blasting to minimize impact on sturgeon and to use technologies to scare fish away during blasting periods, Chlan countered.

The study maintains the Army Corps has not adequately addressed the impact of dredging on salinity levels in the bay and river. Chlan said the Corps has concluded that this would not be a problem, but is now conducting more computer modeling in conjunction with the Delaware River Basin Commission.

In June, the federal General Accounting Office released a report that raised questions about the Corps' estimated economic benefits of a deeper channel, particularly to oil refineries that are supposed to be the prime beneficiaries.

The GAO did not delve much into the environmental aspects of the project, but observed that the Army Corps had obtained most of the approvals it needed from state and federal environmental agencies.

The Army Corps has has estimated the cost of deepening the river's 40- foot shipping channel by five feet at \$311 million. The Corps estimates that costs to maintain the deeper channel for 50 years will add more than \$100 million to the price.

\* \* \*

Reach Lawrence Hajna at (856) 486-2466 or [lhajna@courierpostonline.com](mailto:lhajna@courierpostonline.com)  
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[Top](#)

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#### DELAWARE BAY HARVEST OF OYSTERS CAN RESUME

Date: 020811

From: <http://www.app.com>

By Kirk Moore, Staff Writer, Asbury Park Press, 8/09/02

Trenton - The harvest of oysters can resume in Delaware Bay, after three rounds of testing found no sign of an unusual bacteria outbreak that sickened several shellfish consumers in other states, New Jersey environmental officials said yesterday.

State environmental Commissioner Bradley M. Campbell said Cumberland County watermen can go back to work today in a section of the bay that was closed July 29.

Oystering was shut down there after illnesses caused by the bacteria *Vibrio parahaemolyticus* were traced to oysters shipped from Delaware Bay.

None of those illnesses were fatal. Officials of the state Department of Environmental Protection noted *Vibrio* bacteria occur naturally in warm marine waters, but usually not in New Jersey, a fact they attributed to hot weather and warmer water.

*Vibrio* bacteria are more common in the Gulf of Mexico, where they occasionally cause problems. Experts say cooking oysters kill all bacteria, but southern oysters with *Vibrio* can infect diners when consumed uncooked on the half shell.

Typically *Vibrio* cause gastrointestinal symptoms, but some species of the bacteria can cause fatal complications in people with liver disorders or depressed immune systems, health experts say.

Two such cases involving elderly men were reported last month in the Washington, D.C., area, and health investigators were tracing oysters the men purchased from the city's wholesale seafood market.

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[Top](#)

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SANDSTORM: DEBATE SWIRLS OVER MERITS OF BEACH REPLENISHMENT

Date: 020811

From: <http://www.app.com/>

By Samuel P. Nitze, Staff Writer, Asbury Park Press, 8/11/02

Long Branch - When the U.S. Army Corps of Engineers began pumping sand onto the beaches of Monmouth County eight years ago in hopes of protecting vulnerable seaside communities from storm damage, a perennial debate over the costs and benefits of beach-building was born.

Supporters say beach replenishment has exceeded expectations, protecting oceanfront properties and infrastructure while creating wide, popular beaches that generate millions of dollars in additional tourism revenue.

Critics argue that beach replenishment has inflicted heavy damage on ocean habitat and wildlife, that it impedes recreational activities

such as diving, fishing and surfing, and that public access to the beaches - beaches paid for with public money - has been inappropriately restricted.

This summer, the beaches of Elberon, among the last in Monmouth County to remain untouched by replenishment and among the next in line to receive new sand, have become a focal point in the debate.

Elberon, the southernmost neighborhood in Long Branch, is part of a stretch of coastline often described as the Elberon-Loch Arbour reach, which extends from Takanassee Lake to Deal Lake. The reach is meant to be the final leg of a 21-mile, \$210 million beach replenishment project extending from Sea Bright to the Manasquan Inlet, the largest such project in the world, according to the Army Corps of Engineers.

The project began in 1994 in Sea Bright and Monmouth Beach and continued in phases, covering everything but the Elberon-Loch Arbour reach. Work on the final leg of the project has been held up for years, largely because Deal, Allenhurst and Loch Arbour, the other municipalities in the reach, have yet to sign agreements with the state Department of Environmental Protection as required before the Corps of Engineers can begin the replenishment work, said John Garofalo, manager of the DEP's bureau of coastal engineering in Toms River.

Faced with these delays, the DEP, the Army corps and the city of Long Branch have agreed to proceed with beach replenishment in Elberon even if the other towns continue to hold off on signing agreements with the state, Garofalo said. Elberon would become its own separate project if the other towns aren't ready to join in.

Nearly \$4.5 million in funding, to cover the Elberon project and renourishment of beaches that received new sand during earlier phases, is nearing approval in Congress, according to Rep. Frank Pallone Jr., D-NJ. The Elberon project will likely go out to contract in the spring, setting the stage for the Army corps to begin pumping sand sometime next summer, Pallone said.

That prospect, welcomed by Long Branch city officials, has met with stiff opposition from an increasingly vocal coalition of environmental groups, surfers, fishermen, and advocates for greater public beach access.

#### COALITION'S CONCERNS

Leaders of the coalition have asked that the DEP hold public hearings before proceeding with the last phase of the project. They argue that with a little more planning and a little more foresight, the DEP and Army corps could reduce the amount of sand brought in with an eye toward preserving at least some of the underwater wildlife, rock reefs, fishing holes and scalloped swimming beaches that arc from jetty to jetty along the Elberon-Loch Arbour reach.

Members of the coalition say they do not oppose protecting waterfront properties and infrastructure through beach replenishment. But, they

say, adequate protection could be achieved with greater sensitivity to the environment and consideration for recreational beach-users such as surfers, divers and fishermen.

"We're not opposed to the sand, we're opposed to the wholesale one-size-fits-all engineering project that treats every beach, every community, every jetty the same way," said Jeffrey R. Williams, national legal counsel for the Surfers Environmental Alliance and a resident of Loch Arbour.

"If there's any way of learning a lesson from the errors that the Army Corps of Engineers has made in the entire rest of the Monmouth County coastline, this is the place to correct it. It's the last chance of not having the same drastic results occur."

Williams used the phrase "drastic results" to refer to what he views as unnecessary destruction of wildlife, reduction in surf break, and obliteration of jetties that create swimming beaches and attract fish.

But there is some dispute about his and the coalition's charges, particularly as they concern the environmental impact of beach replenishment.

The Army Corps of Engineers commissioned a study, released last year, that essentially said that the marine wildlife affected by the new sand recovers within six months. Anthony Ciorra, the Army corps project manager for the Sea Bright-to-Manasquan beach replenishment project, said the results of that study flatly contradicted the assertions of the environmental groups.

"The position of the corps is we stand by the findings of the report, which showed that the resources recover," he said. "And in association with that project we have implemented an unprecedented monitoring program, one of a kind so far, worthy of a project of this magnitude."

#### IS ACCESS SUFFICIENT?

Coalition members say public beach access is another issue that deserves attention from the state, preferably in the form of public hearings, before Elberon receives new sand.

To qualify for beach replenishment, a municipality must sign an agreement that includes a plan for providing public access to the new beaches, which are paid for with the public's money. The federal government covers 65 percent of the cost, leaving the remaining 35 percent to be divided between the state and the municipality.

Advocates for public beach access say many municipalities have shown a disturbing willingness to go against the spirit of their public-access agreements. And as private property owners and developers take over more and more of the waterfront, the public's right to walk along any beach between the water and the mean high water mark has suffered, said Ralph Coscia, a member of the executive committee of Citizens' RIGHT TO ACCESS BEACHES.



The coalition, of which CRAB is a member, has argued that Long Branch's public-access plan, filed with the state in 1996, is hopelessly out of date and should be revisited before new sand is pumped in.

Long Branch, praised in years past for being a city with more accessible beaches than most Shore communities, has come under increasing scrutiny as plans for redevelopment along the waterfront progress. The city's arrangement with the Promenade Beach Club, granting the club a private access point for its members, has become a particularly sore point with the group.

As for Elberon, the coalition has argued that limited parking, poorly marked access lanes, and public roads made to look like private drives have reduced public access.

Such tactics are common up and down the Shore and lead to a general lack of understanding among the public about what its rights are, said Coscia, of CRAB.

"It's just being made unnecessarily difficult to reach the beach," Coscia said. "The public is totally confused about what it can and can't do, where it can and can't go. People don't want to trespass or go where they aren't allowed to go, but we want to know where we can go."

These matters should be taken up in public hearings before beach replenishment goes forward in the area, said Brian Unger, an Elberon resident and a member of the Surfers' Environmental Alliance steering committee.

"Why is there no state policy on this, and why doesn't the state take a comprehensive look at this like other coastal states?" he said. "The state has absented itself from the debate, and I think it's acting irresponsibly."

Long Branch Mayor Adam Schneider has said parking is an issue of great concern to his administration. He said his administration would look into providing clearer signs indicating public-access lanes and beach-fee rules.

But, he said, there was plenty of access. There are more public access points in the city than ever, spread out along the coastline, and anyone who wants to use the beach in Long Branch should have no trouble, he said.

"The argument that there is not enough public access in Long Branch just doesn't match the facts; it never has," Schneider said. "You have private property rights and public access rights, and those can conflict. They have to be managed and worked, and it's not necessarily easy. But we've made it clear that public access to the beach is a priority."

SIDES AIR DIFFERENCES

Schneider added that beach replenishment has been good for the city, protecting waterfront property, allowing the city to hold more waterfront events, drawing record numbers of people to the city's beaches, and making the city more appealing to potential developers and investors.

He said he hopes the Elberon replenishment project isn't held up further.

"Someone could argue that beach replenishment shouldn't happen anywhere, but once a decision is made to do it, what are we waiting for?" he said. "If we're ready to go, and we virtually are, why should Long Branch have to wait while Loch Arbour and Allenhurst are making their minds up?"

In its efforts to have the Elberon beach replenishment project put on hold until the public has had more opportunity to debate its merits, the coalition has sent letters to the Attorney General's Office and is gathering signatures on a petition.

The group has had some recent successes, largely through meetings with DEP officials and others set up by Pallone.

After a recent meeting at Pallone's office, attended by DEP Commissioner Bradley M. Campbell, Sen. Joseph A. Palaia, R-Monmouth, and others, a tentative agreement was reached on a proposal to reconfigure a flume and jetty at Deal Lake in a manner more acceptable to surfers and fishing groups.

The groups also raised concerns about beach replenishment along the Elberon-Loch Arbour reach, and Campbell urged the coalition to submit specific recommendations for the replenishment project, according to a press release from Pallone's office.

Garofalo, of the DEP, said last week that he welcomed the prospect of working more closely with environmental and recreational groups, though he has stopped short of endorsing public hearings. He said the meeting at Pallone's office left him optimistic that the other towns in the Elberon-Loch Arbour reach may join Long Branch in the replenishment project before next summer.

Pallone said he, too, was encouraged by the fledgling rapport between environmental and recreational groups and the state DEP. He said requests that the state review Long Branch's public-access plans and consider changes to the replenishment project seemed reasonable.

But, he said, such consideration needn't slow the Elberon project any further.

"The point is there's no reason why these plans couldn't be looked at again with specific recommendations in mind," he said. "But there isn't any reason to postpone it. There's plenty of time."

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[Top](#)

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PINELANDS GROUP BUSY ON PLAN FOR SNAKE AREA

Date: 020811

From: <http://www.phillyburbs.com/>

By Paul Leakan, BCT staff wrier, [pleakan@phillyBurbs.com](mailto:pleakan@phillyBurbs.com)

Burlington County Times, August 11, 2002

Pemberton Township - The state Pinelands Commission is working on a comprehensive plan devised to address a population of protected snakes at a housing development in Evesham.

Scientists with the commission found numerous threatened northern pine snakes and an underground nest at the Sanctuary development off Hopewell Road in late June.

During the commission's meeting Friday, Pinelands Executive Director Annette Barbaccia said the commission staff is working with the state Attorney General's Office and the state Department of Environmental Protection to determine what action to take regarding the pine snakes.

Barbaccia said a decision is imminent.

"This is a very important issue for the commission and its staff members," she said. "...We intend to come back with a more comprehensive approach to deal with the snakes."

Two years earlier, the commission engaged in a lengthy legal battle with the developers and owners of the Sanctuary, as well as a coalition of environmental groups, after the site was determined to be a habitat for endangered timber rattlesnakes.

Carleton Montgomery, executive director of the Pinelands Preservation Alliance, urged the commission to hold the line on future development at the Sanctuary until an in- depth, scientific survey of wildlife is performed onsite.

"The developers are not the victims here," Montgomery said Friday. "The only victims here are the Pinelands (Comprehensive Management) Plan and the wildlife."

The Pinelands panel plans to review the issues surrounding the Sanctuary so that it can avoid getting into similar situations with other development projects.

"Sanctuary has already been a black eye for us," said Commissioner Leslie Ficaglia of Maurice River, Cumberland County. "I don't want it to get any blacker."

Barbaccia released five permits earlier this month, allowing the developers to move forward with plans to build five homes onsite. The developers have received township approvals for the parcels in question, she said.

Scientists found a dead juvenile pine snake at the site last October. At the commission's request, the developer has agreed not to seek permits for 10 parcels in the area where the snake was found, according to Barbaccia.

The commission halted construction at the Sanctuary in 1998 after timber rattlesnakes were found. The developer, who had completed 103 homes by that time, sued in an attempt to overturn the decision.

In November 2000, the commission approved a settlement that permits the owner of Sanctuary to build 197 homes at the site. In exchange, the site owner agreed to sell land to the state and to Evesham and to pay for various measures intended to protect the snakes.

On Friday, Barbaccia said that people and other animals have created holes in special fencing that was installed onsite in order to protect the snakes. "I don't think it's working as well as had been hoped," she said.

Officials with the Pinelands Commission and the state DEP's Endangered Species Program are studying and monitoring the rattlesnakes.

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[Top](#)

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ALERT FROM MACARTHURWOODS.COM

Date: 08 Aug 2002  
From: "janet" {[janet@macarthurwoods.com](mailto:janet@macarthurwoods.com)}

Alert! from macarthurwoods.com

Petitions - macarthurwoods.com now features an online petition service! If you haven't already completed a petition, please fill out the petition form online at <http://www.macarthurwoods.com/petitions>

A petition letter will be sent on your behalf to the Mayor, Commissioners and NJ representatives calling for the total preservation of a rare urban forest in Haddon Township, NJ. The 25 acres of woodland are threatened by a Township plan to develop athletic fields jeopardizing one of the last remaining old growth forests on the East Coast.

Please circulate this email to anyone who maybe interested in the

petition. Thanks!

Sincerely,  
Janet Goehner  
Jacobs [janet@macarthurwoods.com](mailto:janet@macarthurwoods.com)

[Top](#)

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CAPE MAY CO TO OFFER MONEY AND LAND TO DEP FOR LAND SWAP

Date: 020811  
From: <http://www.pressofatlanticcity.com>

COUNTY OFFERS DEP \$500,000, 9 ACRES IN SWAP FOR CAMPUS SITE

By W.F. Keough, Staff Writer, (609) 463-6710, [WKeough@pressofac.com](mailto:WKeough@pressofac.com)  
Press of Atlantic City, August 10, 2002

Cape May Court House - County officials are offering the state \$500,000 - money to be used to purchase land for open space - in exchange for state approval to build a community college campus on Green Acres land.

A Green Acres diversion hearing on the county's proposal - the third in the last year - will be held at 10 a.m. Monday.

Previous hearings were considered incomplete because the state's Department of Environmental Protection found fault with the county's assessments for the cost of replacing the parkland incomplete and low.

The latest appraisals have established a \$490,000 value for the land.

Cape May County Administrator Stephen O'Connor said the county would offer the DEP nine acres of land and \$500,000 - money that will be used to target other open-space purchases.

Officials expect that the DEP will not accept the land swap - given that the proposed land was bought with taxpayer dollars and protected against development. The parcel is along Route 9 north of the county zoo in Cape May Court House.

"There's nothing that says that it can't be done, but we recognize that the DEP considers it bad public policy," O'Connor said of the land offer.

County officials say the offer to set aside money for future open space purchases will be more agreeable to the state. The offer also mirrors an earlier Green Acres diversion granted to Ocean City school officials this summer for construction of a new high school.

Jeff Tittel, director of the Sierra Club's New Jersey chapter, said the county's pursuit of the environmentally sensitive site is misguided and unfair to both taxpayers and prospective students.

"With all the time and aggravation, why don't the freeholders just pick another site," Tittel said. "If they had, then Cape May County's residents would be attending a college there this fall."

Cape May County and Atlantic Cape Community College are partners in building a branch campus on Court House-South Dennis Road. Freeholders approved the project three years ago, but environmental roadblocks - from endangered species to coastal building restrictions - have delayed construction.

Environmentalists and some neighbors of the project also are fighting the project.

County officials say the Green Acres diversion permit is the final hurdle before construction can begin on the 65,000-square-foot building. Construction costs, initially estimated at \$12 million, have grown to more than \$15 million, in large part due to delays.

[Top](#)

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DEVELOPMENT SITE PLAGUED BY BROKEN GLASS, THERMOMETERS

Date: August 9, 2002

From: Third RiverBank Association <[thirdriverbank@yahoo.com](mailto:thirdriverbank@yahoo.com)>

AN ACRE OF BROKEN THERMOMETERS SOME CONTAINING MERCURY FOUND AT SITE OF FORMER SCIENTIFIC GLASS COMPANY IN BLOOMFIELD, NEW JERSEY

On August 7, nationally recognized expert on environmental contamination, Mr. Robert Spiegel, easily spotted at least an acre of thermometers and mercury just on the surface of the land as he walked the site of the former Scientific Glass company where Leo Realty Company, etal. is proposing building 124 townhouses. (Broad and Liongate, north of Bay). While samples were taken to confirm the mercury, Mr. Spiegel has no hesitation saying it is clearly mercury.

Mr. Spiegel was invited to the site by the Bloomfield Third Riverbank, Association, Inc., a neighborhood group who has been protesting the proposed development of townhouses on this site for several years. Concerned that the developer plans to build on a flood plain of the Third River, a river lined with many houses whose yards are eroding away, the BTRA has been asking the government to intercede and stop the development. During Hurricane Floyd the area around this site was heavily flooded, with homeowners sustaining thousands of dollars worth of damages. It is well-documented, however, that Floyd was only one of many terrible floods visited on this area.

The BTRA has been frustrated in its attempts to not only be kept apprised of the of the 2-year remediation process underway at the site, but to get the authorities to enforce safety procedures on the books such as fencing, tarping contaminated areas, washing truck tires, etc... techniques designed to contain contaminants to the site

and protect the public health and safety. And the BTRA has been confused because in spite of Scientific Glass employees saying thermometers with mercury were dumped on the site, the DEP has claimed they were unable to pin the location of the dump site. The work by Mr. Spiegel solves the puzzle.

Ironically, the Bloomfield Planning Board has one more meeting on August 22 where it will finish hearing the 2nd application submitted by Leo Realty to build 124 units on what is now confirmed to be a mercury contaminated site. The applicant was turned down in a close vote on an application submitted last fall to the planning board for 115 units. Soon after the denial, the newly-elected Bloomfield administration intervened in the legal process allowing the developer to increase the density on the site to 124 units.

On Tuesday night, August 6, the environmental expert Doug Stewart, representing Leo realty in front of the Bloomfield Planning Board, said that he was confident that the remaining 9 testing sites to be reviewed by the Department of Environmental Protection would be cleared probably by the Fall and the developer could move forward on his townhouse project.

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Nick Joanow  
BTRA 973-748-6379

Susan Hebert  
BTRA 973-748-6462

Bob Spiegel  
<http://www.geocities.com/thirdriverbank>

Support the Greenway: A great way for Bloomfield!  
Keep the "field" in Bloomfield, for our families, our floodplain, our future.

[Top](#)

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DEP REISSUES OPEN-FIRE BAN

Date: 020811  
From: <http://www.pressofatlanticcity.com/>

By Pat Arney, Staff Writer, (609) 272-7204  
Press of Atlantic City, August 10, 2002

Trenton - The state Department of Environmental Protection has reissued a ban on open fires because of the continuing drought.

DEP Commissioner Bradley M. Campbell signed the order Thursday, the department announced in a news release.

"The prolonged drought conditions heighten our concerns about the potential for forest fires," Campbell said in the release. "As a precautionary measure, I am prohibiting open burning statewide to guard against uncontrollable wildfires."

Since the end of June, most parts of the state have received less than two inches of rain while reservoir levels continue to decline, the release said.

The following exceptions are not included in the open burning prohibition: outdoor barbecues; permits authorized for religious ceremonies; and under certain conditions, agricultural open burning and campfires.

The latter two exceptions are conditioned upon obtaining a permit from the state Forest Fire Service.

The restrictions apply statewide, the order said. All other drought restrictions remain in place.

[Top](#)

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OOZE CLEANUP MONTHS AWAY

Date: 020811  
From: "Bob Spiegel" {[Raritan1@aol.com](mailto:Raritan1@aol.com)}

By Bill Bowman, Gannett New Jersey  
Published in the Home News Tribune, 8/09/02

South Plainfield - Removal of a black substance oozing from the soil in Veterans Memorial Park and a significant quantity of asbestos tiles buried near the Bound Brook probably won't begin for about four months and could cost more than \$100,000.

That was the word yesterday from James Johnston of Cranford-based PMK Group, the borough's environmental consultant. Johnston said it will take about two more months to complete testing in the park and develop a remediation plan to submit to the state Department of Environmental Protection. Then, he said, it could take another two months for DEP to approve the plan.

PMK will probably recommend removal of the black substance and asbestos tiles and other remediation measures, Johnston told the Borough Council.

Johnston gave the council an update yesterday on what his company is



doing and what it has found so far. Among the results:

The black ooze, which so far has mystified environmental officials, is as shallow as six inches and as deep as four feet in different parts of the park. An area found to contain "marginally high" concentrations of polychlorinated biphenyls (PCBs) is an anomaly, Johnston said, and does not pose a substantial health hazard.

While they do not know what the black substance is, tests have determined that it is not hazardous waste.

A large quantity of stacked asbestos tiles extends underground about 10 feet to 12 feet into the park from the banks of the Bound Brook.

The park was closed in mid-July after Robert Spiegel, president of the Edison Wetlands Association, a nonprofit environmental group, discovered the asbestos. The federal Environmental Protection Agency told borough officials about the black substance late last year. Although tests determined there was no imminent health hazard, the borough decided to ask PMK Group to investigate and create a cleanup plan.

Johnston said the company's main task is to quantify the amount of the black substance and asbestos that needs to be removed. That, he said, will play a major part in determining the cleanup's cost.

It is plausible that it could cost more than \$100,000, he said.

The borough is applying for grants to help pay the cleanup cost, he said.

PMK will also probably recommend that the PCB-contaminated area also be excavated and the soil removed, Johnston said. The company will probably recommend that a fourth area that contains pieces of broken asbestos tiles mixed into the soil at a depth of about six inches be capped, he said.

Johnston said he was at a loss to say what the black substance is.

"At some point it looks like it could be some sort of roadway material," he said. "But it doesn't match up with anything close enough to be able to say what it is."

PMK will take some more soil samples and will take some ground water samples before preparing its final recommendations, he said. Johnston said he does not expect to find anything in the water.

Mayor Dan Gallagher agreed to Spiegel's recommendations that signs at the park be changed to say potentially hazardous substances and that the Bound Brook be tested for contaminants.

"I think we should do that," Gallagher said of the water testing suggestion.

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[Top](#)

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HIGH LEAD FOUND IN DRINKING WATER AT CAMDEN SCHOOLS

Date: 020811

From: <http://www.newsday.com/>

Associated Press, August 11, 2002

Camden - An environmental report warns the health of city students could be at risk due to high lead levels found in drinking water at seven public school buildings.

Lead levels were so high at one building that a consultant recommended an immediate switch to bottled water. The buildings include two elementary schools and a church where the school district leases space for preschool.

Ingesting lead can cause liver and kidney damage and affect mental and physical development. It is especially dangerous to children and fetuses.

Federal guidelines say water containing 15 parts per billion of lead poses a health danger.

According to the report, the Jerrothia Riggs Center, which houses adult education program, had 414 parts per billion. The two elementary schools had about 20 parts per billion.

Community leaders have called on the district to remedy lead problems.

The July 10 report was prepared for the district by an environmental testing firm. Its findings come at a time when the city is beginning to remove more than 3,000 potentially hazardous water lines in homes.

The district already provides bottled water in some schools, and Superintendent Annette D. Knox said more may be added.

Camden has an antiquated water system, built when it was common to use lead pipes and pipes with joints soldered with lead. Over time, lead can leach into the water.

Knox said the problem rests with the city, but a spokesman for the city said officials were unaware of any lead pipes leading to schools.

State Environmental Commissioner Bradley Campbell said the state was aware of problems with the schools' water and would help correct them before classes start next month.

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[Top](#)

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CUMBERLAND FREEHOLDERS CONSIDER COUNTY PARK SYSTEM

Date: 020811  
From: <http://www.pressofatlanticcity.com/>

FREEHOLDERS CONSIDER COUNTY PARK SYSTEM

By Brian Uzdavinis, Staff Writer, (856) 794-5113  
Press of Atlantic City, August 9, 2002

Bridgeton - Cumberland County officials are looking into creating a countywide park system.

"We're in the early, early stages," Deputy Freeholder Director Jeffrey Trout said during a work session Thursday. "But these are amenities that we have to have."

Board members spoke supportively of the idea, and the ecotourism and economic development advantages it could promote.

The county has no parkland of its own aside from the 90-acre county fairgrounds in Millville.

Several of the county's municipalities do have public parks, but the county itself lacks the unified system of parks that many other counties throughout the state possess, public information officer Glenn Nickerson said.

A county park system also could involve a partnership with Bridgeton's Cohanzick Zoo, which could allow the facility to expand in the future, Trout said.

Trout said it was too early to say where exactly the county might look to create the new parks.

[Top](#)

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TOP BIOLOGIST: HALF OF ALL SPECIES MAY BE GONE BY 2100

Date: 020811  
From: <http://www.nationalgeographic.com/>

Mitch Tobin, Arizona Daily Star, August 9, 2002

The world faces a "bottleneck of overpopulation and wasteful

consumption" that could drive half of Earth's species to extinction in this century, eminent biologist Edward O. Wilson told more than 2,000 ecologists meeting in Tucson this week.

"We're in the end game all around the world," said the

Pulitzer-Prize winning scientist from Harvard University. "The greatest challenge, I believe, is to raise the quality of life of people everywhere while also pulling through the rest of life with us before we come out the other end."

Wilson, considered one of the world's most influential and eloquent thinkers on endangered species issues, said "hot spots" for biological diversity tend to be in the same parts of the developing world where poverty has created "oppressed, land-hungry people with no other place to go."

He estimated that a one-time payment of \$28 billion could protect the 25 most biologically rich areas in the world, along with the cores of tropical jungles in the Amazon, Congo, and New Guinea. The amount is one-tenth of one percent of the world's economic output in a single year, he pointed out.

Wilson, delivering his remarks during the joint annual meetings of the Ecological Society of America and the Society for Ecological Restoration, said the roughly 1.6 million species cataloged by scientists so far represents just a fraction of the total number of species on the planet.

He said estimates of the total number of species range from an "improbably low" 5 million to as many as 100 million. Most of the unknown species are insects and microbes, said Wilson, a noted authority on ants. Some critics have derided the warnings about biodiversity loss by Wilson and environmentalists as doomsday scenarios that have been exaggerated to further a political agenda.

In *The Skeptical Environmentalist*, statistician Bjorn Lomborg has disputed Wilson's claim that 27,000 to 100,000 species are becoming extinct every year.

Lomborg argues that in the next half century, the world might lose only about 0.7 percent of its species. He also takes issue with one of Wilson's most influential theories: the relationship between the size of habitat and the number of species present.

In the 1960s, Wilson argued that on islands, a 90 percent reduction in habitat causes the number of species present to decline by half. Since then, the rule has been widely applied to non-island ecosystems and used to argue that island-like patches such as U.S. national parks are too small to support broad biological diversity.

But Lomborg says that in numerous cases, such as Brazil's Atlantic rain forest, habitat has been drastically reduced in size while few, if any, species extinctions have occurred. In a response last year to Lomborg's book, Wilson and other scientists said the chapter on

biodiversity "is so seriously and systemically flawed that we cannot consider it to be scientifically credible."

In Tucson, Wilson urged the biologists and other scientists to take action in promoting the need for biodiversity preservation. "A civilization able to envision God and the afterlife and embark on the exploration of space, for heaven's sake, can surely find a way to save the ecological integrity of this planet," he said.

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[Top](#)

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#### HOUSEHOLD POLLUTANTS DISRUPTING FISH GENES

Date: 020811

From: <http://news.nationalgeographic.com/>

National Geographic News, July 29, 2002

Scientists have long known that some "endocrine-disrupting" chemicals in the environment disturb normal sexual reproduction and development in animals. A new study shows the impact appears to be greater in fish, which are susceptible to damage from many more common household pollutants than previously thought.

Researchers from the University of Maryland Biotechnology Institute and its Center of Marine Biotechnology said the increased vulnerability is related to unique physiological mechanisms in the hormone production system of fish.

As a result, harmful compounds in human pollutants interact directly with sex genes in the brain of fish rather than with estrogen receptors in other tissues, the researchers explained.

The results were reported today at the annual meeting of the Society for the Study of Reproduction in Baltimore.

The findings, the scientists warned, have serious implications for the sexual reproduction and development of fish populations in the Chesapeake Bay (and presumably other bodies of water), where surging development in the region is leading to increased discharge of polluting compounds from millions of homes, gardens, and garages.

A study showing that many common household chemicals hurt sexual reproduction and development in fish is troubling news for the Chesapeake Bay and other waters near heavy urban development.

With thousands of miles of shoreline and an average depth of less than 30 feet, the Chesapeake Bay is considered a prime habitat for fish spawning and hatching.

"I would not say that [the problem] is severe enough that any population is becoming completely mono-sexed," said John Trant, an associate professor at the Center for Marine Biotechnology in Baltimore. "However, because the Bay is so important as a nursery, chemical-induced perturbations of the reproductive and developmental processes could lead to severe consequences."

#### CHEMICAL "DISRUPTERS"

The research findings were based on two and a half years of lab experiments at the Center of Marine Biotechnology. The scientists found that compounds in a wide range of detergents, plastics, pesticides, medicines, and even thalates (responsible for "new car smell") disrupted the sexual development of juvenile zebra fish.

All of the environmental pollutants were tested at concentrations that can be found in the Chesapeake Bay system.

The scientists discovered that many more classes of environmental chemicals than suspected are functioning as endocrine-disrupting chemicals, and these chemicals are interacting directly with genes that are critical for reproductive success.

Unlike most animals, many fish produce two forms of a gene responsible for the enzyme aromatase, which in turn makes estrogen. One form of aromatase is in the ovaries; the other is in the brain.

The study results suggest that direct chemical disruption of the brain aromatase gene, which directly affects production of brain estrogen, may be a key mechanism behind the endocrine-related disturbance of normal reproduction and development in fish.

The researchers first found that the differential expression of the brain aromatase gene was associated with sex differentiation. "It became clear that compounds that affect this gene will thereby affect sex and sexual behavior in fish," said Trant.

In other words, the researchers found that the endocrine-disrupting compounds can regulate the aromatase gene in the brain, affecting more than a fish's sex.

"What is dangerous is that in-between stuff," said Trant. "You might get males who do not display the correct behavior. In order to mate with a female, he may have to court her, build a nest, chase, or show some dominance. So, even if the concentration of these disrupting compounds in the water are not sufficient to completely reverse their sexual physiology, small adjustments in their behaviors would be equally fruitless."

#### BROADER IMPLICATIONS

A growing number of scientists theorize that endocrine-disrupting compounds in the water behave chemically like hormones in fish tissues and cells.

When compounds such as polychlorinated biphenyls, dioxins, certain plasticizers, and some detergent additives are in streams or rivers, groups of fish, birds, frogs, and other animals are sometimes found to be all male, or all female, or are partially both sexes in their genitalia.

Historically, scientists have suspected actual estrogens or chemicals that mimic estrogens in pollution as the causes of the "gender-bending" effects on fish.

Estrogen (or estrogen-like) molecules dock onto a structure called an estrogen receptor in the cells of the liver, ovaries, fat, breast, brain, bone, and many other target tissues in man. The activated receptor initiates a series of changes into action related to sexual physiology. Many of the pollutants, such as PCB's, some pesticides, and petroleum products in the Chesapeake waters, are recognized as estrogen molecules by fish and human cells.

"That's why scientists have focused there," said Trant. "But, this is worse than we thought before. This is not simply toxicology. It is interfering with the reproduction of the adults, and potentially skewing sex ratios of the populations."

The research team reported that the aromatase gene expression in zebrafish was changed by multiple classes of pollutants such as estrogen mimics (or xenoestrogens, such as surfactants in detergents and pharmaceuticals), arylhydrocarbons (PAH's and benzo(a)pyrene), peroxisome proliferators (pharmaceuticals and plasticizers), and herbicides (atrazine).

"For people looking for a magic bullet of why productivity of the Chesapeake Bay is down, this is not it," said Trant. "There are probably many causes. But this is certainly affecting the reproductive health of animals that spawn here and the developmental health of animals that are raised in the Chesapeake Bay."

Scientists have just been looking too narrowly at estrogen mimics, said the researchers. They added that it's almost certain that the multiple compounds are affecting all the fish in the Bay and beyond, not just zebrafish in the laboratory.

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Today's Issue Edited by Tina Bologna - [bologna@gsetnet.org](mailto:bologna@gsetnet.org)

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[Top of Page](#)

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