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COUNCIL ON ENVIRONMENTAL QUALITY

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BOARD MEETING

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January 17, 2007
9:30 a.m.

100 Veterans Memorial Highway
Hauppauge, New York

B E F O R E

LARRY SWANSON, Chairperson

ACCURATE COURT REPORTING SERVICES, INC.
6 FRANCES LANE
PORT JEFFERSON, NEW YORK 11777
631-331-3753

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

3

4 MICHAEL KAUFMAN, Vice Chairperson

5 LANCE MALLAMO (NOT PRESENT)

6 VIVIAN VILORIA-FISHER, Legislator

7 JIM BRAGG

8 JOYCE GRIGONIS

9 MARY LAURA LAMONT

10 BRIAN TYMAN

11 ENRICO G. NARDONE

12 MARY ANN SPENCER

13 GLORIA G. RUSSO

14 LANCE MALLAMO (NOT PRESENT)

15 DANIEL PICHNEY

16 LAUREN ELIZABETH STILES

17 JOHN E. POTENTE

18 STEVE BROWN

19 JOY SQUIRES

20 RICHARD MARTIN

21

22 A L S O P R E S E N T:

23 LIURETTA FISCHER

24 DOMINICK NINIVAGGI

25 WALTER DAWDIAK, JR.

1 Council on Environmental Quality

2 MR. SWANSON: Like to call
3 the meeting to order. First thing
4 is the minutes, to review the
5 minutes of March 15th, 2006 --
6 October 18th, actually, and
7 November 9th. Did anybody read
8 them?

9 MR. KAUFMAN: I've read
10 several of them.

11 MR. SWANSON: I've read
12 March and October. Okay, I have a
13 correction for the March 15th
14 meeting minutes. On page 37, at
15 the top of the page, fourth line
16 down, the word "substance" should
17 be "subsidence." All right. Do
18 we have a motion to approve the
19 March 15th minutes with that
20 correction?

21 MR. KAUFMAN: I'll make a
22 motion to approve.

23 MR. SWANSON: Second. All
24 in favor?

25 (No response.)

1 Council on Environmental Quality

2 MR. SWANSON: Motion
3 carries.

4 March 18th minutes. Any
5 comments? Do we have a motion?

6 MR. KAUFMAN: I'll make a
7 motion to accept March --

8 MR. SWANSON: 18th.

9 MR. KAUFMAN: Okay.

10 MR. SWANSON: I'm sorry,
11 October 18th.

12 MR. KAUFMAN: October 18th.
13 I'll second.

14 MR. SWANSON: Okay, we have
15 a second. All in favor?

16 MS. STILES: I haven't read
17 these minutes.

18 MR. SWANSON: Okay. So
19 five, four -- how do you vote?

20 DR. POTENTE: I didn't see
21 the minutes.

22 MR. SWANSON: Pardon?

23 DR. POTENTE: I'm

24 abstaining.

25 MR. SWANSON: You're

1 Council on Environmental Quality

2 abstaining. So we've got one,
3 two, three, four, five. Does that
4 pass?

5 And the November 9th, 2006
6 minutes.

7 MR. NARDONE: I'll make a
8 motion, because I saw those.

9 MR. SWANSON: Okay. Do we
10 have a second?

11 MR. KAUFMAN: I'll second
12 it.

13 MR. SWANSON: All in favor?
14 (No audible response.)

15 MR. SWANSON: We've got
16 four. Carry the day.

17 MR. KAUFMAN: I'll abstain
18 on that one.

19 MR. SWANSON: It won't
20 carry it. Okay. So we'll table
21 those minutes, is that okay, until
22 everybody has the opportunity to
23 read the November 9th minutes.

24 Now, I'd like to make a
25 comment, Jim, about minutes, and I

1 Council on Environmental Quality

2 have a request. These three
3 minutes, sets of minutes, comprise
4 over 600 pages of these papers,
5 and nobody is going to sit down
6 and review these things in the
7 detail that they probably should
8 be. I'd like to make a request
9 that we go back to the Legislature
10 and ask them to reconsider the
11 need for us to have verbatim
12 notes, and see if we can't go back
13 to the more traditional types of
14 minutes. It's a tremendous waste
15 of time and energy and money, I
16 think, to do this, and we're not
17 getting anybody to read them in
18 the first place to see if they're
19 correct or not. So that would be
20 my request.

21 Yes?

22 MS. STILES: With all due
23 respect, I really disagree with
24 that. I just think that we do
25 need to have verbatim minutes, and

1 Council on Environmental Quality

2 I can give you one example. On
3 October 18th, I had a
4 communication back and forth with
5 one of the Suffolk County
6 Attorneys, and those verbatim
7 minutes were needed to resolve an
8 issue later on, and if we just had
9 some chicken scratch notes we
10 really wouldn't have been able to
11 resolve that. And I also think
12 that in terms of if the CEQ is
13 ever -- if the County is ever sued
14 over SEQRA recommendations and the
15 Legislature adopted them, verbatim
16 minutes provide the County with a
17 much stronger defense in a lawsuit
18 because it would show all the
19 things we considered and we talked
20 about, and if you're not having
21 verbatim minutes, it leaves it
22 much more subject to someone
23 else's interpretation of what we
24 said, rather than what we actually
25 said. So I just think that even

1 Council on Environmental Quality

2 though it is a tremendous, you
3 know --

4 MR. SWANSON: Well, they're
5 worthless now because they're not
6 approved. And there are errors in
7 them, and, you know, you can say
8 that they're there, but, in fact,
9 they are not substantially correct
10 in many cases.

11 Yes?

12 DR. POTENTE: I have read
13 the minutes in the past. I didn't
14 just get to read this set of
15 minutes, so maybe we should just
16 be more conscientious about
17 reading the minutes. I do feel
18 that they are important.

19 MR. SWANSON: I'm not
20 saying do away with minutes, I'm
21 saying do away with the verbatim
22 minutes.

23 DR. POTENTE: I think
24 verbatim minutes are important as
25 well.

1 Council on Environmental Quality

2 MR. KAUFMAN: Without
3 saying whether I agree or
4 disagree, I will point out one
5 thing. Actually, a couple things.

6 While I do agree with
7 Lauren as to the importance of
8 having verbatim minutes,
9 especially in a litigation
10 situation -- that's my training as
11 an attorney coming out -- but I do
12 know that prior to a couple of
13 years ago, we used to have pretty
14 good minutes in terms of catching
15 the flow and the various aspects
16 of the discussion. It wasn't
17 just, you know, "This was
18 recommended and this was the
19 reasons why, and this was the vote
20 count." There was actual -- you
21 could actually reconstruct part of
22 what was going on.

23 Second off, it was a little
24 bit more free flowing at the
25 committee when we did not have

1 Council on Environmental Quality

2 verbatim minutes. I'm not talking
3 about people saying things off the
4 record or anything like that.

5 And, in fact, we used to
6 tape record it, if I remember. We
7 could reconstruct those minutes as
8 necessary. But it's something
9 I've noticed that it's just not as
10 easy-going, if you will and
11 sometimes not as constructive, you
12 know, when we have to wait for
13 each other to be recognized.

14 If there is a default
15 position on this, it would be that
16 tape recordings could be made on
17 this, which, again, was the past
18 practice whenever something came
19 up. I'm just throwing that out.

20 MR. SWANSON: Anyway, ask
21 Legislator Gloria Fisher if she
22 can review it. Besides, I
23 understand there's no money in the
24 budget to do it anyway.

25 Okay. Moving right along,

1 Council on Environmental Quality

2 just reminding everybody there is
3 a public portion of this meeting,
4 and if you have anything to say,
5 please feel free to interrupt and
6 we'll try to get you on the
7 record. With regard to the
8 mosquito discussion, we'll
9 withhold all that until the end of
10 the meeting.

11 Jim, do you have any
12 recommended Type II actions that
13 you want to call to our attention?

14 MR. BAGG: Basically, the
15 packet's straightforward. It
16 ended off the year and started off
17 the year, so there's a lot of
18 SEQRA resolutions in there. We're
19 finalizing in SEQRA, and
20 everything else is pretty much
21 administrative. So if you have
22 any questions, I can pull the
23 respective resolution, but I think
24 they're fairly straightforward.

25 MR. SWANSON: Okay.

1 Council on Environmental Quality

2 Anybody have any comments on the
3 Type II action?

4 Yes, Lauren.

5 MS. STILES: It's not on
6 the Type II, it's on one of the
7 unlisted in the pamphlet.

8 MR. SWANSON: In the
9 packet?

10 MS. STILES: In the packet,
11 yes. It's the third one on the
12 first page. It's the sale of
13 County real estate. Do you know
14 what that is?

15 MR. BAGG: Basically --
16 which number is it?

17 MS. STILES: 2554. It's
18 the third one on the left.

19 MR. BROWN: 2560, too.

20 MR. KAUFMAN: Do you
21 recognize from the coding tax laws
22 and numbers for the property?

23 MS. STILES: Well, it's in
24 Brookhaven, I know that much.
25 That's about it.

1 Council on Environmental Quality

2 MR. BAGG: Sale of County
3 real estate pursuant to Section
4 72-H of the general municipal law.
5 It deals with District 200,
6 Section 211, Block 3, Lot 01. It
7 says "Whereas Section 72-H of
8 general municipal law permits the
9 sale of real property between
10 municipal corporations, State of
11 New York, Town of Brookhaven
12 requests that the County convey
13 this parcel," and it's been
14 conveyed to the Town of
15 Brookhaven.

16 MR. BROWN: Is it being
17 sold to the Town of Brookhaven or
18 is it being --

19 MR. BAGG: Well, that's one
20 of the problems here. They say
21 it's a sale.

22 MR. BROWN: All right.

23 MR. BAGG: It may be
24 conveyed for a dollar.

25 MR. BROWN: Okay.

1 Council on Environmental Quality

2 MR. BAGG: In the past, CEQ
3 has reviewed the sale of parcels,
4 and we do have auctions.

5 MR. BROWN: All right.

6 MR. BAGG: And the
7 Department of Real Estate actually
8 came to the CEQ and said, "We
9 cannot possibly do SEQRA on all
10 these particular items. We
11 understand they're unlisted
12 actions, we understand that there
13 are certain requirements, but we
14 don't have the manpower to do it."
15 So they're not doing it. We're
16 saying it's an unlisted action.
17 They said, "If we do get sued and
18 it goes to court, and the court
19 says you have to do SEQRA, we'll
20 go back and do it for the one
21 parcel instead of the thousands of
22 the parcels that the County does."
23 And that's the reason behind it.

24 MR. BROWN: So it's going
25 to the Town. It's going from the

1 Council on Environmental Quality

2 County to the Town.

3 MR. BAGG: That's correct.

4 MR. KAUFMAN: Just to let

5 some of the members know, I

6 believe that the Planning

7 Department has a policy to take

8 certain environmentally sensitive

9 parcels that are owned by the

10 County and not put them into

11 auction situations. If they're on

12 the water or near a nature

13 preserve or something like that,

14 say South Setauket Woods,

15 etcetera, the County comes into

16 possession of them, they will not

17 transfer them out into an auction

18 process. They will occasionally

19 send it over to the Town if the

20 Town makes a request or something

21 like that.

22 MR. BROWN: Well, from my

23 understanding -- and I'll give you

24 an example -- the Mastic Beach

25 area or the Mastic/Shirley area --

1 Council on Environmental Quality

2 these are properties that were
3 taken due to tax liens because
4 they want buildable lots.

5 MR. KAUFMAN: Yes.

6 MR. BROWN: And what's
7 happened is that there has been an
8 agreement between the County and
9 the Town, instead of auctioning
10 them off, to preserve them and
11 basically, instead of just keep
12 doing this auction, tax sale
13 auction, tax sale, because you
14 can't build on them anyway.

15 MR. KAUFMAN: Also, when
16 they appear on the master lists
17 and things like that.

18 MR. BROWN: Right.

19 MR. KAUFMAN: So there is a
20 culling process on this so that
21 not all properties are going into
22 the auction process.

23 MR. SWANSON: Okay, any
24 other comments?

25 Yes.

1 Council on Environmental Quality

2 MS. STILES: Sorry.

3 MR. SWANSON: That's okay.

4 That's why we're here.

5 MS. STILES: The
6 resolutions on the second page
7 having to do with Gabreski
8 Airport. Sorry, my fault on this.

9 MR. SWANSON: Okay.

10 MS. STILES: So when you
11 take a vote on it, sorry it's so
12 screwed up.13 MR. SWANSON: Okay. We
14 understand that. Any other
15 comments?

16 (No response.)

17 MR. SWANSON: Do we have a
18 motion?19 MR. KAUFMAN: I'll make a
20 motion to accept staff
21 recommendation.22 MR. SWANSON: Second? No
23 second? Okay, we have a second.
24 All in favor, with the exception
25 of Lauren recusing herself on --

1 Council on Environmental Quality

2 MS. STILES: It would be
3 2,568, 2,569 and 2,570.

4 MR. SWANSON: All in favor
5 of, please say aye.

6 ALL: Aye.

7 MR. SWANSON: Opposed?

8 (No response.)

9 MR. SWANSON: Okay, motion
10 carries.

11 Liuretta. You're about
12 the only thing on the agenda
13 besides mosquitoes this month. I
14 don't know if that's planned or
15 what.

16 MS. FISCHER: Well, we've
17 got six acquisitions for you today
18 in six different towns.

19 MR. SWANSON: There was an
20 additional one in the packet; is
21 that not correct?

22 MS. FISCHER: I'm not sure.
23 Jim? There should be six?

24 Okay.

25 The first one before you is

1 Council on Environmental Quality

2 a one-acre property in the San
3 Remo Riviera area of Smithtown, up
4 by the Nissequogue River. We're
5 looking to acquire this under our
6 SOS open space component. This is
7 one of those low-lying areas near
8 Nissequogue that we've been trying
9 to acquire properties along. And
10 I just want to make a notation on
11 the map that you have in your
12 packet. The piece that we're
13 acquiring in orange is shown over
14 here. The parcel to the east
15 actually is also owned by the Town
16 of Smithtown. So there will be a
17 connection between all the parcels
18 that we're either trying to
19 acquire or that we've acquired in
20 this area. In fact, we came to
21 you, I think last meeting or the
22 meeting before.

23 MR. KAUFMAN: I actually
24 know this property pretty well.
25 It's something very worthwhile.

1 Council on Environmental Quality

2 The County had a program out there
3 to try and acquire, as Liuretta
4 was saying, these low-lying areas,
5 and this particular area is right
6 next to Nissequogue River
7 wetlands, and it's one of the
8 last, if you will, open spaces
9 that are left in that particular
10 San Remo area. I think it's
11 important in terms of storm water
12 control and things like that
13 where we had the development of
14 that area, because right now
15 Nissequogue is heavily impacted.

16 MS. FISCHER: This is on
17 our master list, too, as an area
18 for acquisition.

19 MR. SWANSON: Liuretta,
20 just out of curiosity, who owns
21 the property to the north of
22 Riviera docks that's outlined in
23 yellow?

24 MS. FISCHER: That's owned
25 by the San Remo Homeowner's

1 Council on Environmental Quality

2 Association.

3 MR. SWANSON: Okay. And
4 that's not to be developed?

5 MS. FISCHER: Yes. At this
6 point. But, you know, they use it
7 for recreational purposes at this
8 time, but I don't know in their
9 bylaws if there's a caveat not to
10 develop it, per se.

11 MR. SWANSON: Dr. Potente?

12 DR. POTENTE: I'll make a
13 motion.

14 MR. SWANSON: We have a
15 motion to accept.

16 MS. STILES: Second.

17 MR. SWANSON: We have a
18 motion to second. All in favor?

19 ALL: Aye.

20 MR. SWANSON: Motion
21 carried.

22 MS. FISCHER: The second
23 one before you today is the Greens
24 Creek Addition, the Dutchman
25 Mooring property in the Hamlet of

1 Council on Environmental Quality

2 West Sable, Town of Islip. This
3 is a 16.6-acre acquisition south
4 of Montauk Highway along Greens
5 Creek, including substantial title
6 and freshwater wetlands. The
7 County has bought a number of
8 pieces to the south of here, past
9 and south of the marina showing on
10 the southern portion of the map.
11 As well as pieces to the north
12 along the Stream Carter that flows
13 into Great South Bay. So this
14 doesn't add to our holdings along
15 this important corridor.

16 MR. SWANSON: Do you have a
17 motion?

18 MS. STILES: Motion to
19 second.

20 MR. SWANSON: A second.
21 All in favor?

22 ALL: Aye.

23 MR. SWANSON: Opposed?

24 (No response.)

25 MR. SWANSON: Motion

1 Council on Environmental Quality

2 carries.

3 MS. FISCHER: Thank you.

4 We're going all over the
5 county today. The next one is in
6 the town of Southampton in the
7 Seatuck Creek watershed area.
8 This was identified as an area
9 that we wanted to acquire parcels
10 along in Master List 2 again. So
11 this is starting and hopefully
12 continuing our emphasis of
13 acquisitions in this area. This
14 is south of Sunrise Highway. If
15 you know where the merger of
16 County Road 111 and the Sunrise
17 is, this is just east of where you
18 come off of and around 111 and
19 onto Sunrise. So it's an
20 important watershed area for
21 Seatuck Creek, as well as, you
22 know, adding to our core area,
23 which is just north of the road.
24 It's north of Sunrise there.

25 MR. SWANSON: Okay, do we

1 Council on Environmental Quality

2 have a motion?

3 MR. KAUFMAN: I'll make a
4 motion.

5 MR. SWANSON: Second?
6 Second by John.

7 MR. SWANSON: All in favor?

8 ALL: Aye.

9 MR. SWANSON: Opposed?

10 (No audible response.)

11 MR. SWANSON: Motion
12 carries.

13 MS. FISCHER: The fourth
14 acquisition is a piece of property
15 along Saw Mill Creek in the town
16 of Riverhead. It's a 2.5-acre
17 lot. Again, this was on our
18 Master List 1 area, an area that
19 we highlighted for acquisition.
20 This Saw Mill Creek flows into the
21 Peconic Bay area, along the north
22 shore of Peconic Bay near Flanders
23 Bay area at the mouth of the
24 Peconic River. At least a good
25 portion of the property is

1 Council on Environmental Quality

2 freshwater wetlands adjacent to
3 one of the ponds that is connected
4 into the creek itself.

5 MS. STILES: Make a motion?

6 MR. SWANSON: Make the
7 motion, and Ms. Stiles has a
8 second.

9 MS. LAMONT: Can I ask a
10 question on this?

11 MR. SWANSON: Yes. You
12 second it, too. Go ahead.

13 MS. LAMONT: Yes. The Town
14 would like to know on the EIS, the
15 percent, that it was saying that
16 this land would be used for
17 passive recreation and habitat
18 management purposes. The Town
19 would like to know what those
20 habit management purposes mean.

21 MS. FISCHER: That would
22 include clearing areas that might
23 get overgrown or if there's issues
24 with water flow and, basically,
25 it's just to maintain what we have

1 Council on Environmental Quality

2 there and to maintain it in a way
3 that fosters its health.

4 Including the health of the stream
5 corridor itself. So if there's
6 any impediments or any kind of
7 issues with flooding or, you know,
8 overgrowth in an area such as
9 phragmites or things like that,
10 that's what it would be geared
11 into. Passive recreation would
12 include hiking trails. Very low
13 activity use of the site.

14 MS. LAMONT: All right.

15 And it abuts County land that's
16 already preserved? It's defined
17 in the green area?

18 MS. FISCHER: Yes. This is
19 off Elton Street.

20 MS. LAMONT: That's
21 correct. I haven't seen the sign,
22 but people have told me just
23 yesterday that there's a sign in
24 there that says the land's for
25 sale. But it seems that you

1 Council on Environmental Quality

2 already --

3 MS. FISCHER: We either
4 just closed or we're closing on
5 that at this very moment. So it's
6 imminent.

7 MS. LAMONT: Okay. Thank
8 you.

9 MR. SWANSON: Okay, we have
10 a motion that was seconded. All
11 in favor?

12 ALL: Aye.

13 MR. SWANSON: Opposed?

14 (No audible response.)

15 MS. FISCHER: The fifth one
16 is, again, in our Mastic/Shirley
17 area. This is a small piece, but
18 important near the Sheep Pen Creek
19 area along the southern area of
20 Narrow Bay. And this was also on
21 our Master List 2. Again, a very
22 important area to the County for
23 acquisition.

24 MR. BROWN: I'll make a
25 motion.

1 Council on Environmental Quality

2 MR. SWANSON: A motion. Do
3 we have a second?

4 MS. STILES: Second.

5 MR. SWANSON: We have a
6 second by Ms. Stiles. All in
7 favor?

8 ALL: Aye.

9 MR. SWANSON: Opposed?

10 (No audible response.)

11 MR. SWANSON: Motion
12 carried.

13 MS. FISCHER: And the last
14 one is the Bird property in
15 Emerald Estates in the town of
16 Huntington. This area you've
17 become familiar with. We've
18 brought you a number of proposed
19 acquisitions in this area, as you
20 can see. This is one of the last
21 ones. I think one of the last two
22 pieces that we need to connect
23 this entire acquisition together.
24 And it's 2.36 acres in Green Lawn.
25 This is being acquired by the

1 Council on Environmental Quality

2 County alone, but the Town will be
3 involved in doing trails and
4 access to the property from the
5 Northern Christian City church
6 property that we acquired last
7 year with the Town of Huntington.
8 So this will be a partnership in
9 use.

10 MR. SWANSON: But not in
11 purchase.

12 MS. FISCHER: Not in
13 purchase.

14 MR. SWANSON: Would you
15 like to comment?

16 MS. SQUIRES: No, I think
17 Liuretta covered it well. It's
18 well done.

19 MR. SWANSON: Okay. A
20 motion?

21 MR. KAUFMAN: I'll make a
22 motion to second it, and just a
23 quick question.

24 MS. SQUIRES: I'll make the
25 second.

1 Council on Environmental Quality

2 MR. KAUFMAN: I'll make a
3 motion to adopt it. Unless you
4 make that.

5 Liuretta, just one quick
6 question. Did some of the
7 properties in this area come
8 before us maybe a half a year ago
9 or something?

10 MS. SQUIRES: Yes.

11 MS. FISCHER: As I said,
12 this is one of the last two
13 parcels of this entire area that
14 we're putting together for this
15 acquisition.

16 MR. SWANSON: We have a
17 motion, we have a second. All in
18 favor?

19 ALL: Aye.

20 MR. SWANSON: Opposed?

21 (No audible response.)

22 MR. SWANSON: Motion
23 carried.

24 MS. FISCHER: Thank you.

25 MR. SWANSON: All right. I

1 Council on Environmental Quality

2 don't know what we're going to do
3 next month if we get this mosquito
4 package out of the way, but I'd
5 just like to go on. In your
6 packet, there is a note sent by --
7 okay. I guess I'm the only one
8 that got that. There's a note
9 from Walter Dawydiak. And for the
10 purpose of everybody, I will read
11 it. It says: "Thanks for
12 forwarding the CEQ
13 recommendations..." these are the
14 recommendations, presumably, from
15 the work session on January 4th.
16 "...You are both doing a
17 tremendous job on an exceptionally
18 difficult program, and the effort
19 is much appreciated. For
20 tomorrow" -- that's this meeting
21 -- "...we'd like to make some very
22 brief prefatory comments on the
23 Department of Environment's role
24 in Wetlands Stewardship,
25 aduenticide setbacks, and cancer

1 Council on Environmental Quality

2 data. The County Attorney will be
3 there to discuss health versus
4 nuisance. We are certainly not
5 going to haggle about relatively
6 minor issues in CEQ
7 recommendations. However, we
8 wanted to make you aware of a few
9 potentially significant requests
10 for clarification from the County.

11 1) We would suggest that
12 CEQ memorialize the approval of
13 the 'mitigation' and 'thresholds
14 for future SEQRA' which are
15 already in the Plan. Could we
16 propose a new sentence, at the end
17 of the first full paragraph in
18 'SEQRA Compliance,' as follows:
19 'To the extent that they are not
20 superceded by the recommendations
21 below, the CEQ fully supports the
22 mitigation measures identified in
23 the FGEIS, as well as the FGEIS
24 thresholds for future
25 environmental review.'"

1 Council on Environmental Quality

2 So when we get to that
3 section, we'll want to come back
4 and look at those suggestions.

5 "2) Page two, a
6 clarification: 'Duties of DEE
7 should include: 1)Overall
8 supervision of Vector Control and
9 Health Department Vector Control
10 activities with respect to marsh
11 restoration activities.' (I.e.,
12 DEE would not oversee all
13 operations, such as health
14 emergency-related work).

15 3) Page 2-3, clarification
16 of nomenclature: 'Wetlands
17 Stewardship Committee' should be
18 used (not Wetlands Management
19 Committee or Screening Committee).

20 4) Page 6, item 4a:
21 'Maintenance' is define (sic) as
22 'no alteration of marsh
23 hydrology.' We suggest 'no
24 material alteration,' or 'no
25 alteration of pre-obstruction

1 Council on Environmental Quality

2 marsh hydrology.'

3 5) Page 6, item 5: SEQRA
4 should not automatically be
5 initiated on receipt of any new
6 info on methoprene. We recommend
7 that the FGEIS Addendum
8 (Supplement) be cited: '(At any
9 time), the County could commence
10 additional environmental review
11 based on substantial new technical
12 information. On an annual basis,
13 the CEQ will review Annual Plans
14 of Work and make a recommendation
15 with respect to SEQRA to the
16 Legislature..." and then he says
17 he hopes this will help.

18 DR. POTENTE: I prepared a
19 little something I'd just like to
20 pass around to the members as
21 well. Make copies and give that
22 to everybody.

23 MR. SWANSON: Joy.

24 MS. SQUIRES: I'd like to
25 make a comment and commend Jim

1 Council on Environmental Quality

2 Baggs for taking five hours of us
3 sitting here and putting it into
4 seven pages. I thought that was a
5 rather extraordinary undertaking.

6 MS. VILORIA-FISHER: I
7 second that.

8 MR. BAGG: I have to say
9 that Michael Kaufman did help me.

10 MS. SQUIRES: Secondly, I'd
11 like to just ask a favor of you,
12 Jim. We had the information that
13 you had sent via e-mail, which I
14 analyzed. We have a new one in
15 the packet, which I haven't gotten
16 a chance to read.

17 MR. SWANSON: We'll get to
18 that. We're not ready --

19 MS. SQUIRES: Would you
20 explain the changes?

21 MR. SWANSON: We're not
22 ready yet.

23 MS. SQUIRES: Thank you so
24 much.

25 MR. SWANSON: John.

1 Council on Environmental Quality

2 DR. POTENTE: I received
3 this in the mail as well, and I
4 had a number of comments to make,
5 and as I was going over it, there
6 were so many comments that I had
7 to make that I thought it might
8 have been easier just to offer an
9 alternate compromise thread
10 because I thought many of the
11 things that should have been voted
12 on were already put in the body of
13 this draft, where they should have
14 actually been things that we were
15 voting on yes or no. And, also, I
16 thought that the views between one
17 and two were so far apart that
18 there was really no moderation
19 there. And I also thought that
20 there were a number of issues that
21 weren't covered here.

22 So in lieu of just making
23 so many changes myself, I simply
24 prepared two pages that we may be
25 able to consider as some sort of a

1 Council on Environmental Quality

2 compromise between the two views
3 that are in the draft. I went to
4 a great effort to try and cover
5 everything that was already
6 covered here as well, on these two
7 pages. So if we could just take a
8 minute to read these two pages and
9 see if this may be considered as
10 an alternative to this.
11 Hopefully, it covers everything
12 that's in there as well.

13 MR. SWANSON: Okay. What
14 we're going to do first is, the
15 County wants to make some comments
16 with regard to some of the things
17 that Walter had written.

18 DR. POTENTE: Okay.

19 MR. SWANSON: So I want to
20 hear those. And then we're going
21 to take the document that Jim
22 presented to you-all, and we're
23 going to go through in sections
24 and vote on individual sections of
25 it. And as appropriate, if you

1 Council on Environmental Quality

2 want to bring up things dealing
3 with those individual sections
4 that you think were not covered or
5 need to be modified, we will try
6 to accommodate you. Is that okay?

7 DR. POTENTE: I thought
8 that the body of it and not just
9 the voting section needed massive
10 alteration.

11 MR. SWANSON: Okay, well --

12 DR. POTENTE: But I would
13 like to consider, you know, maybe
14 we can have the choice between
15 utilizing either one. We can
16 simply read through mine in two
17 minutes.

18 MR. SWANSON: Okay.

19 DR. POTENTE: And maybe we
20 can have that option.

21 MR. SWANSON: Okay.

22 Walter, do you want to go ahead
23 and make a few closing comments?

24 MR. DAWYDIAK: Yes. Thank
25 you, Dr. Swanson, members of the

1 Council on Environmental Quality

2 CEQ. I'm joined by Ken Shaw,
3 Dominick Ninivaggi, Dave Tongis,
4 Amy Ukatz, and I believe that
5 Jenny Kahn is coming, although I
6 don't see her here.

7 MS: SQUIRES: She's in the
8 Health Department hearing down in
9 the meeting room.

10 MR. DAWYDIAK: Oh, she said
11 she'd be here a little bit late.
12 Thank you.

13 Thank you, Dr. Swanson, for
14 reading my comments. These were
15 points of clarification primarily
16 for the County that will hopefully
17 help you. The one thing we would
18 request is that you add a sentence
19 to the effect of, "The basic
20 findings, the basic mitigation and
21 thresholds for future SEQRA as set
22 forth in the FGEIS are acceptable
23 as a starting point subject to the
24 additional recommendations that
25 you develop." For the purposes of

1 Council on Environmental Quality

2 the Legislature, it would be very
3 helpful to us if we at least had
4 an endorsement of the basic
5 fundamental mechanics of the
6 Vector Control program as proposed
7 in this FGEIS.

8 I just wanted to take one
9 moment to respond to a few
10 questions that were raised at the
11 prior CEQ meeting that I have
12 answers for. There were issues
13 about whether the County Executive
14 and the Department of Environment
15 were committed to the Wetlands
16 Stewardship program and the
17 Wetlands Stewardship Committee.
18 Commissioner Gallagher has sent
19 you a letter. She apologized for
20 not being here. Amy is here on
21 her behalf, but I'll just
22 summarize if I could, that the
23 Environment Department is
24 committed to overseeing the
25 stewardship program as well as the

1 Council on Environmental Quality

2 stewardship committee. And she
3 said a lot of nice things about
4 CEQ and its long-term plan in that
5 letter, which you should have from
6 Jim Bagg. And we have extra
7 copies that Kim Shaw will
8 distribute for you.

9 There's a lot of discussion
10 about aduaticide, and I think
11 there may have been a little
12 confusion in terms of setbacks,
13 and I just wanted to emphasize
14 that the language that Jim Bagg
15 drafted for purposes of CEQ
16 discussion is fine with us. The
17 status quo is a hundred feet from
18 open water and 150 feet from
19 freshwater wetlands, and the
20 long-term plan acknowledges that
21 status quo. Any proposed change
22 would be reflected in annual
23 plans, and those annual plans
24 would, in turn, indeed be reviewed
25 by CEQ, so we sort of spiraled off

1 Council on Environmental Quality

2 a little bit about will nuancing
3 happen, if, when and why. It's
4 kind of an academic question. I
5 think everybody should be
6 comfortable with the language in
7 the plan and the language that Jim
8 Bagg drafted.

9 There was a question for
10 Amy Ukatz, I believe it was
11 Mr. Brown had asked for some
12 cancer data. Amy has done this
13 exercise. I think it was e-mailed
14 to Jim. We have extra copies for
15 the CEQ. Some cancers in the
16 Mastic/Shirley, Brookhaven area
17 were higher, some were lower. As
18 Amy stated last meeting, this type
19 of data is not the right type of
20 tool for assessing risks, but the
21 question was asked. It was a fair
22 question, and we provided it. Amy
23 can answer any questions you may
24 have. I know you have a lot on
25 your agenda, so I don't want to

1 Council on Environmental Quality

2 belabor this issue.

3 Jenny will be here to
4 discuss the health versus nuisance
5 issue in a short while, I
6 understand, so when you get to
7 that, we can turn it over to
8 Jenny, and I just want to thank
9 you for all of your patience,
10 support and guidance throughout
11 this process. I think it's made
12 this document tremendously
13 stronger, and we appreciate your
14 time and are here to answer your
15 questions. Thanks.

16 MR. SWANSON: Thank you.
17 Are there any public comments?

18 MR. MACALEEVY: Yes.

19 MR. SWANSON: Please
20 restrict your comments to
21 something new.

22 MR. MACALEEVY: I will,
23 Mr. Chairman. It's something
24 that's been omitted, from what I
25 can understand here, and even

1 Council on Environmental Quality

2 though you might think I'm a pizza
3 delivery guy, and I have some --

4 MR. SWANSON: Please
5 identify yourself.

6 MR. MACALEEVY: My name is
7 Bob Macaleevy. I started the
8 original Citizens Advisory
9 Committee to this program, and
10 there are some issues, and
11 specifically -- I'm taking from
12 the document that the County
13 prepared -- the risk assessment.
14 I've only made something like ten
15 copies, and I hope that the
16 members of the Committee would
17 look at these there. There are
18 three. I'll be very fast.

19 The first one, the first
20 document, it's a reproduction of a
21 page from the risk assessment of
22 the adulticide spraying. The
23 first page says that there's no
24 problem. The second one that I
25 point out to you is pregnant women

1 Council on Environmental Quality

2 and fetuses were not addressed.
3 Were not addressed. So if you
4 approve the adulticide, you're
5 saying you don't care about the
6 pregnant women and fetuses. Maybe
7 I misunderstood the bureaucratic
8 language here.

9 The next page, one of the
10 assumptions that we were told by
11 the consultants is that the fetus
12 is protected by a barrier, but,
13 however, the pesticide from the
14 woman's blood doesn't get into the
15 fetus, placenta barrier so-called,
16 but that's not the case. I'll
17 first point out that it's a
18 dangerous neurotoxin. The Federal
19 Government -- I'm sorry, the third
20 page is the report of the Federal
21 Government. In their autism
22 study, they asked specifically for
23 the effect of pesticides,
24 neurotoxins on autistic children.
25 As you know, we've got a plague

1 Council on Environmental Quality

2 going on in this county, and I
3 think the County should be very
4 careful.

5 The fourth page is the
6 Article 21. Pesticides have
7 gotten through the placenta
8 barrier to affect the fetus. This
9 is not taken into account. The
10 assumption was made the placenta
11 barrier prevents pesticides
12 getting into the fetus.

13 The next page, two
14 resolutions passed by the Citizens
15 Advisory Committee. One is to
16 look into the effect of pesticides
17 on -- in combinations of
18 pesticides on the developing
19 fetus. That's the second one
20 here. You can read it. This was
21 passed. We sent this on to the
22 consultant, and as far as I know,
23 there was no action. Just one
24 peculiar thing that the Veteran's
25 Administration found when they

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2 were trying to decide what was
3 causing the Gulf War Syndrome,
4 they did studies where they
5 exposed animals to pesticide,
6 neurotoxin pesticides. They did
7 them when they put deet on first.
8 What they found from the animal
9 studies is that the concentration
10 of pesticides in the brain of the
11 animals was a hundred times
12 greater when they were first
13 exposed to the deet. So deet
14 dissolves the brain blood barrier,
15 and it's a very dangerous
16 situation. The State Health
17 Department was very cautious
18 about deet. The County Health
19 Department -- we brought this up
20 to them -- decided not to deal
21 with it.

22 So you can't expect
23 pregnant women, put on deet, and
24 then hit them with the adulticide
25 because there's a hundred times

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2 increase in the pesticide in the
3 brains of the adult, and God knows
4 what goes on with the fetus.
5 Parkinson's disease without
6 question is caused by pesticide
7 exposure. I might have some other
8 documentation here. The County
9 doesn't deal with synergistic
10 effects. Synergistic effects is
11 you put in one pesticide, you get
12 one unit of problems, neuro and
13 the brain, you put in another one
14 you get one, you put in two of
15 them together you get four to a
16 hundred times more. They did not
17 deal with the synergistic effects
18 of the adulticide and any other
19 pesticides.

20 The next segment, here is
21 something from the Centers for
22 Disease Control that says that
23 spraying is ineffective to control
24 dengue fever. But we are spraying
25 it here. You have a copy of that

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2 right there. The second page, a
3 professor from Cornell said that
4 when they spray agriculturally,
5 and that's very directed, only
6 1/10th of 1 percent of the
7 pesticide hits the target. The
8 rest goes out and affects the
9 environment.

10 The last page is a copy of
11 the minutes prepared by the County
12 that says, in essence, they don't
13 know how many mosquitoes are
14 killed when they spray. You can
15 read that one for yourself. We
16 had a discussion about that. So
17 now we have no assessment of the
18 risk to the next generation of
19 human beings in this county, the
20 innocent, those that we have to be
21 protecting. We also do not know
22 how effective mosquito spraying is
23 concerned. How can you go forward
24 in approving anything unless you
25 deal with these issues?

1 Council on Environmental Quality

2 MR. SWANSON: Can you
3 please summarize?

4 MR. MACALEEVY: And I'll
5 leave this to be copied for the
6 members. This is a review of some
7 of the Parkinson's studies, and
8 you see, as usual, that the guys
9 who work for the pesticide
10 companies, so-called independent
11 consultants, are saying, "Forget
12 about it, there's no problem
13 whatsoever." I'll ask you -- this
14 is from the newspaper in Chicago,
15 if we can have that. So I'm
16 saying that as a taxpayer in
17 Suffolk County, I don't believe
18 that the County should put me in
19 jeopardy for future lawsuits
20 because somebody's going to come
21 along and say, "Hey, we see the
22 autism going up, we see all of
23 these disabilities going up, these
24 guys are spraying, I'm going to
25 take you to court." You won't

1 Council on Environmental Quality

2 pay. Well, as taxpayers you will,
3 but all the taxpayers will be
4 paying for this. We asked the
5 County to look into the liability
6 that is falling on the County
7 government and, therefore, the
8 taxpayers if they continue these
9 practices. And let me say in
10 fact, nothing was done.

11 Mr. Chairman, this aspect
12 of the program is clearly
13 incomplete, and I don't see how
14 you can approve these adulticide
15 sprayings unless you deal with the
16 next generation of human beings.
17 Thank you very much.

18 MR. SWANSON: Thank you.
19 Does anybody else want to speak
20 from the public about the Vector
21 Control program?

22 MR. MARINO: Where we
23 are --

24 MR. SWANSON: Please
25 identify yourself.

1 Council on Environmental Quality

2 MR. MARINO: Yes. I'm
3 Frank Marino, a homeowner,
4 actually, on Patasquash (phonetic)
5 Creek in Mastic Beach for 37
6 and-a-half years. Actually, I
7 lost a son to leukemia, and I'm
8 wondering what your cancer data
9 would show about that, but that's
10 not why I stood up. I'd love to
11 talk to you about that. The
12 reason why I asked to speak is
13 that the Town has taken certain
14 steps in their discharge of storm
15 water directly, in effect, into
16 Patasquash Creek. In their
17 wisdom, they have a catch basin
18 about three blocks away from
19 Patasquash Creek, then it goes
20 underground and ends on Riviera
21 Drive and is expected to run
22 across the grass, 25 feet of it
23 maybe, eventually into Patasquash
24 Creek. So I'm wondering about the
25 County's role in protecting, you

1 Council on Environmental Quality

2 know, what we do. And you can
3 imagine Mastic Beach and coastal
4 areas for crabbing, you know, for
5 the kids coming off the docks and
6 fishing for snappers at the right
7 time and the clamming is gone.

8 But I'm wondering about your role
9 in addressing the Town's actions,
10 Town Highway Department, I guess,
11 whoever planned that, you know,
12 disposal, so to speak, or
13 discharge of storm water, runoff
14 on the roads, again, catch basin
15 three blocks away, pipe runs and
16 ends onto the grass, if you will.
17 I thought it was some kind of
18 other system, but I found out in
19 the end that it isn't. But the
20 water basically comes up through a
21 sewer drain, and then over the
22 grass and into Patasquash Creek.
23 And the address I'm referring to
24 is Riviera Drive and West Forest
25 Road. And that may be happening

1 Council on Environmental Quality

2 all over the place, I imagine.

3 And I did read something
4 about the deed, but I'm just
5 wondering about this organization,
6 this County's role in addressing
7 that kind of issue, which is
8 environmental in nature and
9 affects the mosquitoes. And so
10 we -- by the way, I won't give the
11 fella's name away, but we have one
12 of your people who recognizes the
13 problem and has promised to
14 address on a week or every other
15 week basis to come down and
16 actually spray this collected area
17 of water on the ground because he
18 recognizes the potential there for
19 eggs growing. I mean, without his
20 help, what would we do as
21 citizens?

22 MR. SWANSON: Are you
23 saying a private citizen?

24 MR. MARINO: No, I'm saying
25 one of your Mosquito Control

1 Council on Environmental Quality

2 Commission folks who recognizes
3 there's a problem here. This
4 water comes up in pools on the
5 road and on the side of the road
6 and onto the grass area, and he's
7 done us, basically, a very -- he's
8 made a contribution to our safety
9 by recognizing the problem and
10 taking it on his own to address
11 that issue, because he recognizes
12 it as an issue. No one else will.
13 A few years ago I did try to get
14 Stony Brook and some of the DEP
15 people to address it, and they
16 came down and said, "Yeah, the
17 Town should never have designed a
18 system like this." Other than
19 that, I mean, as a citizen coming
20 to this kind of meeting, I
21 appreciate the opportunity to
22 bring that to your attention. I
23 mean, what does the County do to
24 address the Town's lack of proper
25 planning? And in this case, it

1 Council on Environmental Quality

2 addresses entirely the issues
3 you're talking about, mosquitos,
4 because standing water will, you
5 know, of course, breed mosquitos.

6 There is, by the way, a
7 catch basin that would be the west
8 side of this road that also
9 overflows, so they come around,
10 and you can see that they've
11 sprayed some kind of chemical
12 because it colors the water there
13 in a different way. You can see a
14 purplish look to it. Because
15 chemicals on the standing water --
16 because it comes up on both sides
17 of the road, the water, when the
18 catch basin is full three blocks
19 away.

20 MR. SWANSON: Thank you.

21 Mr. Brown?

22 MR. BROWN: I gave you my
23 name and my phone number. I don't
24 work for the Town, I am the
25 Chairman of the Conservation

1 Council on Environmental Quality

2 Advisory Council, and we have
3 worked diligently in those areas
4 trying to correct some of the
5 storm water issues that are
6 directly going into the creek
7 itself, as well as standing water
8 in certain areas. We've gotten a
9 lot of grant money to do work over
10 there, which we have done, Beaver
11 Dam Road being one of them. The
12 end of Beaver Dam Road, and in an
13 area such as this, you know,
14 obviously, it's a big town, so,
15 you know, we need to have that
16 identification. If this is an
17 area that's a problem, I'm going
18 to suggest that when you call me,
19 I will give you a number for our
20 environmental division, which is
21 John Turner. It is a highway
22 issue, okay? Two separate,
23 distinct divisions within the Town
24 of Brookhaven. Highway is
25 elected, supervisor's elected.

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2 Two separate people. So what I've
3 done pretty much in between is
4 I've worked between both of them
5 to try to correct those problems.
6 Sometimes it's very difficult.
7 But if we're identifying an issue
8 here that you have storm water
9 that's sitting in an area or going
10 directly into a creek, you know,
11 one of our things is to make sure
12 they don't go into a creek, they
13 do go into a grassed area, because
14 in a grassed area it filters
15 through the ground and it eats the
16 nitrogen level up to the grassed
17 area. That's a good process, it's
18 not a bad process. You know,
19 standing water is a different
20 scenario.

21 And you made a comment
22 which kind of, like, concerns me
23 when you say that somebody comes
24 over and they start spraying in an
25 area that's got water sitting.

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1 I'm not sure if that's a proper
2 way to handle that or not, and I'm
3 not sure if that's the healthier
4 way to handle that or not. That's
5 one of the reasons why we're here
6 talking about this, you know,
7 pesticide spraying and what type
8 of programs are in place or should
9 be in place. I'm a firm believer,
10 and I've been pushing it all
11 along, I think there's a more
12 natural way to handle mosquitoes,
13 you know, and I think that in an
14 area such as yourself, you know,
15 maybe putting up purple martin
16 houses, that type of scenario, you
17 know, as a natural way to
18 eradicate mosquitoes is probably a
19 better alternative, in my opinion.

20
21 Now, I mean, the County's
22 going to tell you certain things
23 what they feel is effective and
24 what isn't effective. But, you
25 know, we're using all of this as

1 Council on Environmental Quality

2 tools to try to eradicate mosquito
3 problems, especially the South
4 Shore.

5 And I do have one question
6 for Amy, who gave me the cancer
7 map. And I had asked for a map,
8 okay, which showed me these areas,
9 the cancer clusters, and I wanted
10 an overlay map of their spray.
11 Okay? Which I don't think I have
12 here. Is that correct, Amy?

13 MS. UKATZ: You don't have
14 a map, no. What I said I would do
15 was provide the data that's from
16 the State Health Department. The
17 zip code data off the State Health
18 Department Web site.

19 MR. BROWN: Well, what I
20 was actually looking for is I was
21 looking for the map of the Suffolk
22 County Health Department spraying
23 program. And, basically, what I
24 wanted to do is I wanted to
25 compare in terms of -- and I used

1 Council on Environmental Quality

2 these areas in specific because
3 they're South Shore areas which
4 are, in my opinion, sprayed more
5 because of the large amounts of
6 mosquitos, and I wanted to see if
7 those areas that are sprayed more
8 are higher levels of cancer.

9 That's what I was looking to see.

10 MS. UKATZ: Right.

11 MR. BROWN: And that's
12 actually what I need for me to
13 make an evaluation or anybody else
14 to make an evaluation and say,
15 "You know something, this area is
16 sprayed three times more and the
17 cancer rate in this area is three
18 times more." And all I'm saying
19 is, I just want to do a
20 comparison. I didn't say it is or
21 isn't or whatever it might, but it
22 is another tool that we should be
23 utilizing, in my opinion, in this
24 form, to say, "You know something?
25 You know, they're spraying five

1 Council on Environmental Quality

2 times more in this area and the
3 cancer rates are five times less."
4 You know, it could go in that
5 direction. I don't really know
6 what the answers are. Until I see
7 that map and that overlay, I don't
8 think we can really determine
9 that. And that's what I was
10 looking for.

11 MR. SWANSON: To comment
12 further on the storm water issue,
13 one of the things, I think, that
14 we were hoping would come out of
15 this plan we've been discussing is
16 that there would be a more
17 unified, more controlled plan
18 dealing with a mosquito problem,
19 rather than every individual
20 trying to cut deals with various
21 people, private pesticides cutting
22 deals and so forth, which in all
23 likelihood would end up being
24 tremendous overkill and probably a
25 lot more pesticides going into the

1 Council on Environmental Quality

2 environment rather than if we had
3 a structured control program like
4 is being discussed. So that's one
5 thing with regard to what you have
6 raised.

7 Second is the US EPA is
8 currently requiring all of Long
9 Island to go and review their
10 storm water management program,
11 and each town or village is being
12 required specifically to look at
13 their own properties and to make
14 sure that they are now compliant
15 with U.S. Federal regulation. And
16 so by 2008, I think, actually, the
17 program is supposed to be
18 completely put in place and,
19 hopefully, a lot of the storm
20 water problems that you may be
21 experiencing now will be
22 remediated by then. I'm not sure
23 whether Brookhaven Town is on a
24 schedule or not, but certainly
25 they're very active in doing what

1 Council on Environmental Quality

2 they're required to do.

3 MR. MARINO: All right. I
4 just want to say two things. We
5 as homeowners would want to know
6 that the County is monitoring the
7 Town of Brookhaven's efforts. We
8 do not have confidence that
9 they're terrific in Code
10 enforcement or that they're
11 terrific in the way in which they
12 follow through on things. This
13 issue that I've raised would never
14 have been addressed by them unless
15 I, as a homeowner who lived across
16 the way from it, actually began
17 the phone calls. And that's just
18 been our experience. Others may
19 have had different experiences.

20 The second thing I want to
21 mention is, the person who came to
22 help us was with the Mosquito
23 Control Commission, he recognized
24 that this is wrong. He recognized
25 that the planning -- you know, the

1 Council on Environmental Quality

2 storm water issue was one of
3 faulty planning and was looking to
4 assist us. That only happened one
5 season. All of the other years
6 that I'm there we had to rely on
7 the efforts of the Mosquito
8 Control Commission. And we have
9 regular networks of phone calls
10 being made to make certain that
11 everybody understood we can't
12 leave our house today because the
13 mosquitoes are out of control, you
14 know, and we try to give that kind
15 of help.

16 Again, it's our grass roots
17 efforts that have caused some
18 improvement in our quality of life
19 down there, so, I mean, we're glad
20 for your help.

21 MR. DAWYDIAK: If I can
22 just add to your comments, Larry.
23 You're right about the Phase II.
24 The Phase II storm water
25 initiative has the Town

1 Council on Environmental Quality

2 accountable to the State

3 Department of Environmental

4 Conservation, so if you have

5 particular issues, the State DEC

6 would be the proper regulatory

7 agency with respect to the storm

8 water and the mosquito control.

9 Your tributary contributes
10 to the Ford River?

11 MR. MARINO: No, it's
12 Patasquash Creek. It's just --
13 that would be west of Ford River.

14 MR. DAWYDIAK: Just west.
15 Okay. Never mind my second
16 comment.

17 MR. KAUFMAN: Dominick
18 Ninivaggi is here. Are you aware
19 of this particular problem, and
20 have you been undertaking any
21 monitoring and/or control efforts
22 in that particular area?

23 MR. NINIVAGGI: I'm
24 Dominick Ninivaggi from Suffolk
25 County Vector Control. I'm the

1 Council on Environmental Quality

2 superintendent. I'm not
3 personally aware of this
4 particular problem. You know,
5 this may have been reported to the
6 local foreman for the area, and,
7 you know, he may have directed the
8 crews there to keep an eye on this
9 particular spot and larvae sizes
10 if necessary. We run into these
11 sorts of problems periodically
12 throughout the county where there
13 are various structures and, you
14 know, drainage areas that are not
15 ours, you know, but are either not
16 functioning properly or might not
17 be designed for mosquito control
18 in mind. And what we generally do
19 is we work with the town, for
20 instance, that's involved in this,
21 and we try to work with them to
22 remediate the situation.

23 Sometimes, for instance, if the
24 town wants to reroute drainage,
25 we'll work with them, we'll let

1 Council on Environmental Quality

2 them go and get the permitting,
3 and then we'll do the work. So we
4 try to work in a cooperative basis
5 with whoever is managing the storm
6 water to address the issue.

7 This sounds like a case
8 where, you know, it sounds like
9 some long-term solutions should be
10 put in place, and we're
11 larviciding until such time as a
12 long-term solution could be put
13 in.

14 MR. MARINO: We have no
15 confidence that a long-term
16 solution is coming, to be honest
17 with you. I'm there 37 and-a-half
18 years, you know, and nothing at
19 all, and I -- you know, I called
20 up and down the ladder, you know,
21 as best as I could, you know,
22 being willing to do that, you
23 know, but I wonder sometimes about
24 my neighbors, you know, "Why
25 haven't you had a stronger protest

1 Council on Environmental Quality

2 about this," to be honest.

3 Because on a regular basis,

4 whenever you have heavy, heavy

5 rain, the catch basin which is, I

6 think at Cranberry, but anyway,

7 the location is West Forest Road

8 and Riviera Drive on the west side

9 of Patasquash Creek in Mastic

10 Beach.

11 MR. SWANSON: All right.

12 We're going to move along.

13 MR. MARINO: Thank you.

14 MR. SWANSON: I'd just like

15 to make a comment that

16 Mr. Atkinson wrote a letter a

17 month and-a-half ago or so,

18 questioning whether I should vote

19 because of me doing work on the

20 Ford River. The County hasn't

21 gotten off the dime to decide

22 whether I'm in conflict or not, so

23 I will be recusing myself from the

24 votes today. So we will move

25 ahead now and begin to discuss and

1 Council on Environmental Quality

2 vote on draft recommendations that
3 were generated following our
4 January 4th meeting.

5 Yes.

6 MR. NARDONE: I just wanted
7 to make a comment on a
8 conversation we started before the
9 public comments. I'd second Joy's
10 comments about commending these
11 guys on this draft and summarizing
12 five hours of meetings, but in a
13 way I think it was an unfair and
14 impossible task to assign to any
15 one person or two people, and I
16 think the document reflects that;
17 that in many ways I feel it didn't
18 accurately reflect our
19 conversations. It includes things
20 that I don't remember us talking
21 about. I feel it left some things
22 out, and in the future, if we
23 encounter this again, and maybe
24 it's just best that we don't, but
25 if we do, maybe we should assemble

1 Council on Environmental Quality

2 a committee so that we have a
3 couple different views involved in
4 this, because we got this on
5 Friday, and I feel like it's a lot
6 to ask to just sort of come to
7 terms with this document from this
8 meeting, and I hate to even
9 suggest taking more time on it,
10 but, you know, I started to go
11 through it and, again, I saw
12 Dr. Potente's comments. I feel
13 like it needed a complete
14 reorganization in some ways, and
15 he either had more time or more
16 ambition than I did that he came
17 up with something, but that's just
18 a recommendation for the future,
19 that we try to do it more as a
20 group.

21 MR. SWANSON: Well, we did
22 do it as a group. We had a
23 special work session.

24 MR. NARDONE: A drafting
25 committee, we'd have more -- a

1 Council on Environmental Quality

2 couple people together.

3 MR. KAUFMAN: Just to let
4 you know, this came out of Jim's
5 notes. I worked on this with Jim,
6 but this came out of Jim's notes.
7 And we tried to reconstruct it as
8 best we could. We discussed it to
9 try to figure it out. And we also
10 acknowledge fully that it's a
11 draft. If we missed anything,
12 that's what we're here for today.

13 MS. VILORIA-FISHER: I was
14 hoping that we could just take a
15 minute to read Dr. Potente's
16 notes. Because I've been trying
17 to peruse this, but people have
18 been talking and, you know, I
19 think this requires more attention
20 than multi-tasking.

21 MR. SWANSON: Okay.

22 MS. VILORIA-FISHER: So if
23 we could just take a quiet, you
24 know, couple of minutes to read it
25 so that we can --

1 Council on Environmental Quality

2 MR. SWANSON: Okay. And
3 that would be a good opportunity
4 for our stenographer to take a
5 break.

6 (Whereupon, a short recess
7 was taken.)

8 MR. SWANSON: All right.
9 This meeting's called to order
10 again.

11 MR. BROWN: The overlay of
12 this map that I was looking for?

13 MR. SWANSON: Yes.

14 MR. BROWN: I'm going to
15 request that that be included in
16 the final form, and I would say we
17 not vote on it until we actually
18 see it.

19 MR. SWANSON: Okay. Okay,
20 we're going to move forward. What
21 I would like to do is take the
22 draft document which reflects the
23 discussion that we had for five
24 hours on January 4th, and go
25 through that, and then look at

1 Council on Environmental Quality

2 Walter's comments and also John's
3 comments and see whether we can
4 come to some census on these
5 things. I'll remind you again I'm
6 going to be running the meeting,
7 but I will not be voting on the
8 issues that come up.

9 MS. SQUIRES: Larry, could
10 I ask a question? Can't you vote,
11 and then if it is so deemed -- I
12 am not a lawyer, but can't you
13 vote, and then if it's so deemed
14 that your vote doesn't count --

15 MR. SWANSON: No.

16 MS. SQUIRES: No? Okay.

17 MR. KAUFMAN: Nice try.

18 And you should be an attorney, but
19 that seems not to be an available
20 situation.

21 MR. BAGG: In response to
22 your question, if the courts deem
23 it, you may have to come back and
24 do it all over again.

25 MS. SQUIRES: Okay.

1 Council on Environmental Quality

2 MR. BAGG: It's the same
3 thing with Mr. Kramer's votes.

4 MR. SWANSON: Do you want
5 to go through another five years
6 of this?

7 MS. SQUIRES: No.

8 MR. SWANSON: Okay. The
9 first thing we want to look at is
10 the general statement regarding
11 SEQRA compliance. I'll read it
12 for the record, and we will also
13 supply you with a copy of this
14 document. Just before I do read
15 it, let me point out that the
16 underlying sections are
17 suggestions that have been made by
18 various members to be added, and
19 the crossed-out sections are
20 recommendations for removal from
21 the original document. Looking at
22 the SEQRA compliance, "The CEQ
23 having participated in the
24 scoping, FGEIS preparation, public
25 hearings and having reviewed and

1 Council on Environmental Quality

2 considered the relevant
3 environmental impacts, facts and
4 conclusions, as well as discussed
5 the balance between the relevant
6 environmental impacts and public
7 health (social) considerations,
8 recommends that the procedural
9 requirements of SEQRA have been
10 satisfactorily (sic) met. The
11 council commends the Departments
12 of Environment and Energy, Health
13 Services and Public Works and the
14 county as a whole for the
15 tremendous effort and expense that
16 was undertaken during the SEQRA
17 process to ensure that all of the
18 relevant impacts and issues were
19 reviewed and debated. It is also
20 noteworthy that the original plan
21 as drafted has evolved and been
22 substantially changed as part of
23 an open process to take into
24 account and implement steps to
25 avoid or minimize adverse impacts

1 Council on Environmental Quality

2 as revealed during the review
3 process.

4 The CEQ further makes the
5 following recommendations to the
6 Legislature and County Executive
7 with respect to the FGEIS and
8 minimization of impacts."

9 Yes.

10 DR. POTENTE: Are we going
11 to go paragraph by paragraph in
12 these comments?

13 MR. SWANSON: Yes.

14 DR. POTENTE: I would just
15 like to say that I'm not
16 comfortable to say that all the
17 relevant impacts have been
18 substantially changed to avoid
19 adverse impact. If that
20 statement's going to be in there,
21 I think the CEQ as a whole should
22 vote so that we all agree that
23 that's true.

24 MR. SWANSON: Well, we are.

25 DR. POTENTE: Okay.

1 Council on Environmental Quality

2 MR. SWANSON: We're going
3 to vote on this paragraph.

4 DR. POTENTE: Oh, okay.

5 MR. SWANSON: Okay?

6 DR. POTENTE: Oh, okay.

7 MR. SWANSON: So one of the
8 things I'd like to do is have
9 somebody introduce this as
10 something that we want to forward
11 to the Legislature, and then we'll
12 second it and open it for
13 discussion.

14 MS. VILORIA-FISHER: Can I
15 just ask a question.

16 MR. SWANSON: Yes.

17 MS. VILORIA-FISHER: Were
18 you reading the last sentence of
19 the first paragraph?

20 DR. POTENTE: Yes.

21 MS. VILORIA-FISHER: "It is
22 also noteworthy"?

23 DR. POTENTE: Yes.

24 MS. VILORIA-FISHER: It
25 says "to avoid or minimize." I

1 Council on Environmental Quality
2 have no problem with that
3 sentence.

4 DR. POTENTE: I do.

5 MR. SWANSON: Okay.

6 Lauren?

7 MS. STILES: Just as a
8 suggestion, there are certain
9 parts of this paragraph, and I'm
10 sure it's going to happen in
11 future paragraphs, where a section
12 of it is fine and there's no
13 problems with it, but then there
14 are other things that are
15 problematic, so I think it might
16 be easier for us to agree on
17 something if we can separate out
18 the different sections of
19 paragraphs. Like, for example,
20 some of the more specific
21 recommendations that we may vote
22 on later on apply to this very
23 first paragraph where you say that
24 all of the relevant impacts and
25 issues were being debated. I

1 Council on Environmental Quality

2 think that there is some ongoing
3 debate and perhaps all of the
4 impacts haven't been reviewed and
5 debated as necessary. Some of the
6 later things that we're going to
7 vote on would seem to indicate
8 that. So can we do the specific
9 and then the general, rather than
10 doing the general things first?

11 MR. BAGG: Well, basically,
12 you're saying that if the
13 specifics haven't been reviewed
14 and debated, why are they all in
15 the following paragraph?

16 Basically, that is part of the
17 debate, is the recommendations we
18 set become part of that debate and
19 decide to put on the record.

20 MR. SWANSON: I think
21 there's also an issue here of the
22 fact that you may not agree that
23 they have been debated or they're
24 not debated to your satisfaction,
25 but, in fact, they have been

1 Council on Environmental Quality

2 debated.

3 MS. STILES: No, what I'm
4 saying is that if you look at the
5 suggestions and the things we have
6 raised as issues to vote on
7 internally, that whole meeting we
8 had last time, there were certain
9 things that we're going to vote
10 yes or no on to say, you know,
11 this hasn't been addressed or not,
12 and if you vote on a block text
13 kind of thing to say everything
14 has been addressed, then we're
15 done on with that paragraph. Why
16 don't we just end the meeting
17 right there?

18 MS. VILORIA-FISHER: It
19 doesn't say it's been addressed.

20 MS. STILES: "To ensure
21 that all of the relevant impacts
22 and issues were reviewed and
23 debated."

24 MR. SWANSON: They were.

25 MS. VILORIA-FISHER: They

1 Council on Environmental Quality

2 were.

3 MR. KAUFMAN: SEQRA

4 requires a hard look be taken at a
5 lot of this stuff, and some people
6 might think that probably a hard
7 look has been taken, some people
8 may not feel that way. My
9 suggestion on this is if there is
10 a second position on all of this,
11 on this particular paragraph, that
12 a quick sentence be drafted that
13 some of the members disagree and a
14 voice vote be taken on it to solve
15 that particular problem on the
16 voting aspect. That's what I was
17 talking about the last time,
18 having everyone's votes recorded
19 so that everyone's voices are
20 heard.

21 MR. SWANSON: Mr. Brown.

22 MR. BROWN: Last month,
23 didn't we discuss about taking
24 Wetlands Management out of the
25 whole Vector Control process, and

1 Council on Environmental Quality

2 you thought they were developing
3 another wetlands or environmental
4 group for wetlands?

5 MR. SWANSON: It was
6 mentioned, yes.

7 MR. BROWN: Well, we're
8 voting on this right now saying
9 it's the Council of Environmental
10 Quality's recommendations
11 concerning the Vector Control and
12 Wetlands Management.

13 MR. SWANSON: That's the
14 title of the document.

15 MR. BROWN: Should that not
16 change if it's not going to be
17 Wetlands Management?

18 MR. SWANSON: I don't know
19 that it's our purview to ask that
20 the whole process be thrown out
21 the window.

22 MR. BROWN: That's not what
23 I'm asking.

24 MR. SWANSON: Yes, it is.

25 MR. BROWN: No. What I'm

1 Council on Environmental Quality

2 asking is that if we're voting on
3 a recommendation concerning Vector
4 Control and Wetlands Management,
5 then what we're saying is that
6 we're accepting this document as a
7 Vector Control and Wetlands
8 Management. Is that correct or
9 not?

10 MR. BAGG: Basically,
11 Larry, I think the FGEIS, the name
12 of the document is Vector Control
13 and Wetlands Management. One of
14 the recommendations the CEQ can
15 make as part of the EIS process is
16 that the two can separate, and
17 that's a recommendation, and you
18 might want to add here saying
19 that, "The following
20 recommendations if implemented, to
21 minimize," and you might want to
22 revise that to say that, "The
23 process together with these
24 recommendations will help to
25 minimize impact." And part of

1 Council on Environmental Quality

2 that, you can recommend that
3 Vector Control and Wetlands
4 Management be separated as a
5 recommendation.

6 MR. BROWN: We did do that,
7 correct?

8 MR. SWANSON: We did, and
9 it's in the next paragraph or the
10 bottom of page 1.

11 MS. SQUIRES: I move this
12 paragraph be submitted to the
13 Legislature and a vote be taken on
14 this paragraph.

15 MR. LAMONT: I second that
16 motion.

17 MR. SWANSON: All right.
18 Any further discussion?

19 MS. LAMONT: One question.
20 "...to avoid or minimize..." I
21 would like to see "avoid" removed.

22 DR. POTENTE: I second
23 that.

24 MR. SWANSON: All right.

25 Yes?

1 Council on Environmental Quality

2 MS. STILES: I'd like to
3 specify that all of the relevant
4 issues and impacts being -- I
5 think we need to clarify that it's
6 somehow subject to our additional
7 recommendations, because there are
8 recommendations that relate to
9 lack of full analysis.

10 MS. SPENCER: I understand
11 what you're saying because you
12 don't want them to realize that
13 there's a blanket statement giving
14 them carte blanche to do what they
15 have been doing, but what we're
16 responding to is the paragraph
17 saying that there wouldn't be a
18 SEQRA process. And we looked at
19 it, and based on our hard look at
20 it, now these are our findings in
21 the follow paragraph. It states
22 that yes, from. And we have to
23 say that we did take a hard look
24 in the SEQRA process. And the
25 first paragraph states that.

1 Council on Environmental Quality

2 MR. KAUFMAN: But if she
3 disagrees with that -- and I'm not
4 trying to read into your position
5 or anything, but if you disagree
6 that we've taken a hard look at
7 everything, it was my concept
8 originally that, you know, a
9 sentence or two be drafted that
10 you maybe disagree and, you know,
11 if you have --

12 MR. BAGG: That's crazy. I
13 can't be having paragraphs with
14 who votes what or what. You can
15 have a minority report submitted,
16 I assume.

17 MR. KAUFMAN: That's
18 possible.

19 MR. BAGG: A majority
20 report and a minority report.

21 DR. POTENTE: Can I just
22 mention that in order to avoid any
23 leanings one way or the other
24 about how we all may feel, what I
25 did -- and maybe we can just refer

1 Council on Environmental Quality

2 back and forth to what it was that
3 I did in the compromise draft -- I
4 simply removed any indications and
5 just stuck to the facts, and the
6 statement that I had is a very dry
7 statement that covers everything.

8 "The CEQ, having recommended a
9 positive statement declaration in
10 2002, having participated in the
11 scoping process, having reviewed
12 the GEIS, having posted public
13 hearings and having reviewed the
14 environmental impact submits that
15 the procedural requirements of
16 SEQRA have been met."

17 I think that that may be a
18 statement that we may consider
19 just to cover that.

20 MR. SWANSON: All right.
21 We have an existing motion on the
22 floor, and it's been seconded.

23 MS. VILORIA-FISHER: I just
24 wanted to comment on what John
25 just said. Actually, you do

1 Council on Environmental Quality

2 acknowledge that we have reviewed
3 it and that's the part of a
4 language that we had in the last
5 paragraph. However, I also think
6 that having worked together and
7 seeing the responsiveness, and I
8 have seen responsiveness on the
9 part of the County departments, I
10 think it's good to have that kind
11 of acknowledgement, and I just
12 think that it's part of a quality
13 product to acknowledge the work
14 that has been done and Lauren was
15 having a problem with "reviewed
16 and debated," and nobody can say
17 that we have not debated.

18 MS. STILES: I'm not saying
19 that we haven't debated.

20 MS. VILORIA-FISHER: And
21 the review is also something
22 that's in John's language. We
23 have reviewed and we have debated.
24 There can always be more review
25 and there can always be more

1 Council on Environmental Quality

2 debate, but I think that we need
3 to get off the dime, and we do
4 make recommendations of the rest
5 of the body of this document so
6 certainly I hope that there is
7 support for the motion to move on
8 this paragraph.

9 MR. SWANSON: Mary Ann?

10 MS. SPENCER: Mr. Chairman,
11 am I correct in assuming that we
12 are voting on the motion taking
13 out the words "avoid or"?

14 MR. SWANSON: That's been a
15 suggestion.

16 MS. SPENCER: Okay. Then I
17 would like to further suggest
18 another sentence, that it reads
19 "...To ensure that relevant
20 impacts and issues were reviewed
21 and debated," taking out "all of
22 the..." so it would say "that
23 relevant impacts and issues were
24 reviewed and debated."

25 MR. SWANSON: Any objection

1 Council on Environmental Quality

2 to that modification?

3 MR. BAGG: Where are we on
4 this?

5 MS. SPENCER: Okay, up one
6 more. Where it says
7 "...undertaken during the SEQRA
8 process to ensure that relevant
9 impacts and issues were reviewed
10 and debated..."

11 MR. KAUFMAN: Yes, I don't
12 think that violates --

13 MR. BAGG: I agree. I
14 agree.

15 MS. SQUIRES: We need a
16 capital C on "counsel." Jim,
17 capital C on "counsel."

18 MR. SWANSON: Okay, I'd
19 like to call a motion on this
20 particular paragraph. All in
21 favor?

22 (Various: Aye.)

23 MR. SWANSON: Opposed?

24 Mr. Brown opposed and
25 Ms. Stiles is opposed, and

1 Council on Environmental Quality

2 Dr. Potente opposed, and Swanson
3 abstains. So the motion carries.
4 Is that correct? One, two, three
5 four, five.

6 DR. POTENTE: Maybe I
7 would -- what was the final
8 sentence that we did vote on? Is
9 Mary Ann's sentence what we voted
10 on, on that?

11 MR. SWANSON: Yes.

12 DR. POTENTE: Included in
13 that?

14 MR. BROWN: Changes taken
15 place.

16 DR. POTENTE: Okay. Then
17 I'll go along with that.

18 MS. SQUIRES: Oh, all
19 right. You didn't understand what
20 we were actually voting on.

21 DR. POTENTE: I didn't
22 realize --

23 MS. SQUIRES: And they
24 amended it.

25 DR. POTENTE: So it's the

1 Council on Environmental Quality

2 amended version. Okay, fine.

3 That's fine.

4 MR. SWANSON: So Stiles is
5 opposed.

6 MR. DAWYDIAK: If I could,
7 this is where my sentence fits in,
8 and it might be easier to deal
9 with it now. "To the extent that
10 they are not superceded by the
11 recommendations below, the CEQ
12 fully supports the mitigation
13 measures identified in the FGEIS,
14 as well as the FGEIS thresholds
15 for future environmental review."

16 We just want a statement on
17 the record that all this stuff,
18 which is good stuff, that you're
19 not specifically speaking to in
20 terms of alterations and
21 deviations should also be endorsed
22 by the Legislature. I think it's
23 pretty straightforward, but for
24 the record, we would like to have
25 that in place.

1 Council on Environmental Quality

2 MR. SWANSON: Okay. So you
3 want an addition to what we just
4 voted on --

5 MR. DAWYDIAK: Yes.

6 MR. SWANSON: -- that says
7 "...To the extent that they are
8 not superceded by the
9 recommendations below, the CEQ
10 fully supports the mitigation
11 measures identified in the FGEIS,
12 as well as the FGEIS thresholds
13 for future environmental review.."

14 MR. DAWYDIAK: I took the
15 "F" out. I think it's actually
16 the GEIS that identified it.

17 MR. BAGG: So it's
18 everything. GEIS, FGEIS and all
19 comments received.

20 MR. SWANSON: Anybody want
21 to make a motion that we add all
22 this statement?

23 MR. KAUFMAN: I will make a
24 motion that we add this statement.

25 MR. SWANSON: Do we have a

1 Council on Environmental Quality

2 second? You're seconding it?

3 (No audible response.)

4 MR. SWANSON: Ms. Stiles
5 seconded it. Any discussion on
6 this addition?

7 Yes.

8 MS. STILES: The reason I
9 want it in is because it actually
10 acknowledges that the
11 recommendation is not superceded,
12 which is, I think, exactly what I
13 was trying to add to the first
14 paragraph, so I agree with Walter.

15 MR. SWANSON: Wow. All
16 right. So we have a motion on the
17 floor. Seconded. All in favor of
18 adding the sentence to the first
19 paragraph?

20 ALL: Aye.

21 MR. SWANSON: Opposed?

22 (No response.)

23 MR. SWANSON: No
24 opposition?

25 MS. SPENCER: I abstain.

1 Council on Environmental Quality

2 DR. POTENTE: I abstain.

3 MR. SWANSON: Okay, we've
4 got three abstentions.

5 DR. POTENTE: Four.

6 MR. SWANSON: Four
7 abstentions. The motion still
8 carries. You got the abstentions?

9 (No audible response.)

10 MR. SWANSON: All right.
11 Moving right along.

12 MR. BAGG: Those who
13 abstained.

14 MS. SPENCER: I abstained,
15 John --

16 MR. SWANSON: John, and I
17 have to abstain.

18 Next we'll look at the
19 paragraph dealing with the
20 "Architecture and Wetlands
21 Management." And it reads:
22 "Article I of the Suffolk County
23 Charter, Environmental Bill of
24 Rights states that it is the
25 'Policy of Suffolk County to

1 Council on Environmental Quality

2 conserve and protect its natural
3 resources including its wetlands
4 and shorelines and the quality of
5 its environmental and scenic
6 beauty.' It is therefore the
7 prime objective of the county to
8 make marsh ecology and health the
9 number one priority in any
10 long-term wetlands management
11 plan. Vector control management
12 objectives to minimize mosquito
13 propagation through physical
14 alteration and manipulation of
15 marsh areas should become only a
16 secondary consideration and
17 implemented only when it is
18 determined not to adversely affect
19 marsh ecology and health. It
20 should be noted that the Long-Term
21 Wetland Management procedure has
22 been revised to reflect this.
23 Since Best Management Practices
24 (BMPs) may not be the 'best'
25 option in every situation, the

1 Council on Environmental Quality

2 terminology should be changed from
3 'BMPs' to 'wetland management
4 tools.'"

5 Do we have a motion to
6 accept this?

7 MR. KAUFMAN: Just to get
8 it out on the floor, Mr. Chairman,
9 I'll make a motion.

10 MR. SWANSON: Okay. Do we
11 have a second? We have a second
12 by Ms. Squires. Now it's open for
13 discussion.

14 Yes.

15 DR. POTENTE: It's a good
16 paragraph. I mean, I like it, but
17 as soon as we start to enter into
18 the realm of BMPs, this may be as
19 good a time as any to discuss
20 this. I think that we've been
21 inching along in recognition of
22 the fact that a lot of these
23 Wetland Management practices need
24 to be taken out of the domain of
25 the division of Vector Control and

1 Council on Environmental Quality

2 brought under each member of the
3 board. And moving along in that
4 direction, at this stage of the
5 game, we're really left with best
6 management practices, which are
7 now called Wetland Management
8 tools. But we just have some
9 loose change in a can. That's all
10 we have. We have no plan. And
11 even the Wetlands Screening
12 Committee, which was established
13 as being molded around, we still
14 don't even know what that Wetlands
15 Management Committee or Wetlands
16 Stewardship Committee is going to
17 be composed of. It's still in its
18 formative stages. It's still in
19 its infancy.

20 What we need to do is
21 actually designate or recommend
22 that a Wetlands Management
23 Committee be put in place or
24 Wetlands Management plan be
25 established so that we have a plan

1 Council on Environmental Quality

2 and a committee to look at it and
3 review and come back. So at this
4 stage of the game, I think it
5 would be good to look at the
6 proposition. I don't mean to get
7 off track upon approving this
8 paragraph, but I think that this
9 would be the point in time to
10 start to consider the first item
11 that I have, and that means
12 recommending to the County
13 Legislature that all of these
14 Wetlands Management activities be
15 removed from this plan and a new
16 plan be established, and in order
17 to relay any fears that
18 Legislator Fisher may have, that's
19 not to say that everything is
20 garbage canned. The work that has
21 been done merely needs to be
22 shifted over to the Department of
23 Energy, then have them organize
24 it, develop a plan, and then come
25 back to the CEQ, and it should

1 Council on Environmental Quality

2 undergo SEQRA at that stage of the
3 game. And that's my
4 recommendation.

5 So I can go along with
6 this, but I think immediately
7 following this, maybe this would
8 be a good time to look at the
9 first item that I have for up or
10 down vote.

11 MR. SWANSON: Okay. But
12 also recognize that I think the
13 next paragraph very specifically
14 says what you buy, that the
15 management must go under DEE
16 Department.

17 DR. POTENTE: A full plan
18 must be assembled and a full
19 committee must be assembled for
20 full SEQRA review, the entire
21 plan. And if we start to nit-pick
22 on the subsequent pages, it's too
23 premature to even do that to
24 consider these BMPs, because we
25 don't know how they're going to be

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2 used yet. We can't just throw
3 them in a pool and say, Okay,
4 somehow, somewhere in the future
5 they'll be used. We need to know.
6 These BMPs are very dangerous
7 things.

8 MR. SWANSON: Okay.

9 DR. POTENTE: I think that
10 it's too premature to even look at
11 the next couple of pages because
12 we don't know what the Wetlands
13 Management Committee may have in
14 mind for them. We need to
15 actually see that ahead of time.

16 MR. SWANSON: Okay. It
17 does say they have to draft a
18 strategy, and we've also
19 recommended that what they call
20 the over-arching goal of the
21 Wetlands Management Committee be
22 changed significantly to emphasize
23 preservation and protection as
24 opposed to manipulation.

25 MR. KAUFMAN: There's a

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2 problem with, John, what you're
3 suggesting in terms of SEQRA. And
4 I'm not classifying myself as the
5 SEQRA expert around here, but I
6 know the procedural history of all
7 of this. This is a GEIS. And
8 this is what I was trying to tell
9 you earlier. A GEIS ordered by
10 the County Legislature, in this
11 particular format, the GEIS, if
12 you look at the rules and
13 regulations, says that you have to
14 have an analysis of what you're
15 going to be trying to accomplish
16 on a global basis inside your
17 identified area and what kind of
18 work you want to have done in a
19 general way. That's what the
20 County tried to do, and that's
21 what they were ordered to do.

22 There's a second component
23 to this. Frankly --

24 DR. POTENTE: Can I comment
25 on the first component?

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2 MR. KAUFMAN: Let me just
3 finish for a moment.

4 DR. POTENTE: Okay.

5 MR. KAUFMAN: This is the
6 way the County kind of ordered it,
7 and this was the scoping aspect of
8 it, also. We're bound by the
9 scoping that occurred back in
10 2002, and this is part of what
11 occurred and this is part of what
12 implemented in here. There's also
13 another part of this. In a GEIS
14 context, and looking at the BMPs,
15 you can look at them maybe in two
16 separate ways. One of them, as
17 you're trying to suggest, is part
18 of available techniques in an
19 operational standpoint, and you
20 put that into the Department of
21 Energy and Environment, and I have
22 no problem with that. But in
23 terms of the architecture of the
24 problem, it's my opinion that you
25 have to have these tools described

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2 in and made available to the
3 Department. The Department can
4 design it in an operation sense
5 for an individual marsh what it
6 wants to do.

7 But in a GEIS context,
8 which is more what we're looking
9 at, you have to have it in there.
10 You can't move those tools;
11 otherwise, you have nothing of the
12 GEIS itself. You're, basically,
13 not taking a hard look. SEQRA
14 requires a hard look be taken at
15 anything that we do, so if we're
16 doing a marsh management plan, how
17 do we manipulate the marsh? How
18 do we manage the marsh? These are
19 the classic marsh techniques.
20 Some of them I don't like, some of
21 them you don't like. But you have
22 to have them in there. That's the
23 core of the way you were meant to
24 analyze them. How the operations
25 run them is something else. And

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2 that, I agree with you, we have to
3 exercise extreme caution on that.

4 DR. POTENTE: My response
5 is this, Mike. Your first comment
6 on FGEIS is established to look at
7 the plan, and I agree. However,
8 there is no marsh management plan.
9 Tell me what this marsh management
10 plan is. It was OMWM, but now
11 we've moved away from OMWM, so
12 we're just left with pieces. I'm
13 saying we do, in fact, need an
14 FGEIS on the marsh management
15 plan.

16 MR. KAUFMAN: No, if you
17 look at the document itself --

18 DR. POTENTE: Why are you
19 contradicting yourself, Mike? You
20 just said that we need the FGEIS
21 on a plan.

22 MR. KAUFMAN: I --

23 DR. POTENTE: I'm saying
24 you're putting the cart before the
25 horse because you're making an

1 Council on Environmental Quality

2 FGEIS on no plan, but then we're
3 going to go and develop the plan
4 after we've done the FGEIS.
5 You're doing it in reverse.

6 MR. KAUFMAN: John --

7 DR. POTENTE: You need the
8 plan, then you do the FGEIS.

9 MR. KAUFMAN: Remember how
10 this thing is organized, though.
11 There's a generic component to it,
12 and then there's a long-term
13 management plan. You're
14 submitting that the long-term
15 management plan aspect is
16 incomplete. If you look at the
17 actual documents --

18 DR. POTENTE: You're
19 backpedaling.

20 MR. KAUFMAN: No, I'm not.

21 MR. SWANSON: Okay, let's
22 move on.

23 Lauren.

24 MS. STILES: I just kind of
25 am a little concerned about what

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2 Mike was saying about SEQRA, and I
3 think you said that we have to
4 have these tools in there. I'm
5 not really sure where you get that
6 out of SEQRA. Because it seems
7 like we have the tools without the
8 instructions. Why put the tools
9 in --

10 DR. POTENTE: Exactly.

11 MS. STILES: -- until you
12 know what you're going to do with
13 them? How are they useful to
14 anyone?

15 DR. POTENTE: Exactly.

16 MR. KAUFMAN: I think SEQRA
17 says that you have to analyze the
18 tools in a generic way. Again,
19 focus on the word "generic." You
20 have to look at the impact of the
21 individual tools --

22 MS. STILES: Where does
23 SEQRA say you have to look at the
24 tools generically?

25 MR. KAUFMAN: That's the

1 Council on Environmental Quality

2 hard look, and that's what the
3 case law says.

4 MS. STILES: But the hard
5 look is hard look at the impact.
6 You can't know the impact from a
7 tool if you don't know how or
8 where you're using it.

9 DR. POTENTE: Exactly.

10 MS. STILES: You know, I
11 know you're saying it's generic.
12 It's not in SEQRA that you have to
13 put the tools in. I think that it
14 really makes no sense to put tools
15 in somewhere when you don't know
16 how you're going to use them.

17 DR. POTENTE: How do you
18 even know what the tools are?

19 MS. STILES: I'm not saying
20 throw out the body of work that
21 has been done and the research
22 that's been done. I'm not saying,
23 you know, chuck it in the garbage.
24 Keep it and put it into a
25 comprehensive wetlands plan that

1 Council on Environmental Quality

2 details where these things are
3 going to be used and how they're
4 going to be used, not just here's
5 the tools.

6 MR. BAGG: Floor?

7 MR. SWANSON: Yes.

8 MR. BAGG: A generic is a
9 general overview of a process or
10 program. It's not an EIS on
11 specific sites or specific stuff.
12 So, in essence, this project or
13 plan that's originated by the
14 Legislature has been reviewed as
15 part of the FGEIS. Your review
16 process has said although these
17 are tools, as part of the generic
18 process, you identify where there
19 may be adverse impacts and require
20 specific supplemental SEQRA review
21 in the future. You've identified
22 those tools which may have adverse
23 impacts, depending on wetlands and
24 everything else, and you've said
25 that in the future, you cannot

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2 perceive without undergoing a
3 total SEQRA review on project
4 specific entities. And, in
5 essence, you've done that in the
6 generic. You've said these things
7 are not carte blanche, you're not
8 giving the authority to proceed
9 willy-nilly with these things,
10 anywhere you want to go; that
11 there are specific adverse impacts
12 associated with them, and that
13 wherever you want to implement
14 these things, they need further
15 SEQRA review on a specific case by
16 case basis, and that's part and
17 parcel of the process in the
18 generic review phase.

19 Don't throw those tools out
20 to begin with. You identify them
21 as having potentially adverse
22 impacts and singling in on them as
23 needing specific SEQRA review in
24 the future before anything is
25 done.

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2 MR. SWANSON: John.

3 DR. POTENTE: I completely
4 agree with what Lauren said, and I
5 disagree with what Jim's saying
6 right now. We are not looking for
7 specific instances. We are, in
8 fact, looking for the general uses
9 of these tools throughout the
10 marsh lands of Suffolk County, and
11 we don't have that in this plan.
12 If you have a marsh that has this
13 condition, we may utilize these
14 tools because this is going to
15 help this marsh in this matter.
16 In this particular case we may use
17 these tools. We just grabbed at
18 random that are remnants of OMWM
19 and thrown those in and say, "Here
20 now, do the best you can with
21 them." We don't even have the
22 GEIS. There is no GEIS because
23 there is no overall plan. If
24 you've got five different
25 scenarios, the different marshes

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2 that Suffolk County can fall into,
3 how are you going to deal with
4 this marsh in a general situation,
5 not specifically, but if you have
6 a marsh that is in good condition,
7 has a few ditches and it's
8 isolated here, here's another
9 marsh that's constricted, how are
10 we going to deal with it? It
11 doesn't even start to begin to
12 discuss that. We should use these
13 tools here and these tools here.
14 It doesn't say that.

15 Lauren is correct. She's
16 just saying, "Here, we went to a
17 hardware shop, we closed our eyes,
18 we took some things off the shelf,
19 we throw it in, now we're calling
20 that a GEIS." That's no GEIS.

21 MR. SWANSON: Joy?

22 DR. POTENTE: We need the
23 GEIS.

24 MS. SQUIRES: I call to
25 vote on this.

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2 MR. SWANSON: Okay. Vote's
3 been called on this particular
4 paragraph.

5 DR. POTENTE: I would like
6 to make a comment on the
7 paragraph. I agree with the
8 paragraph. It's okay. The
9 underlying portion, I would like
10 to see that last underlying
11 statement removed. The rest of
12 the paragraph is okay. And then
13 we should proceed with discussion
14 on that underlying sentence.

15 MS. SQUIRES: What do you
16 want to do, John?

17 DR. POTENTE: I just want
18 to delete or cut that underlying
19 statement from the paragraph. The
20 rest of the paragraph is good,
21 it's fine.

22 MR. SWANSON: Okay,
23 let's --

24 DR. POTENTE: I make a
25 motion that we remove that last

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2 sentence and proceed to discuss
3 that. And the rest of the
4 paragraph is okay.

5 MR. SWANSON: Yes. We'll
6 vote on the existing paragraph
7 with the underlying, and if it's
8 rejected, then we'll come back
9 and --

10 MS. STILES: Sorry, that's
11 not how you did it last time, I'm
12 not sure why you would do it
13 different now.

14 MR. SWANSON: Because it
15 was called.

16 MS. STILES: Someone called
17 the motion earlier, I believe, and
18 then --

19 MR. BAGG: Michael made the
20 motion, Joyce Squires seconded it.

21 MS. STILES: Oh.

22 MR. SWANSON: All in favor
23 of this paragraph as is, with the
24 underlying sentence.

25 MR. BROWN: I think that

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2 she has to amend her motion; is
3 that correct?

4 MS. SQUIRES: I didn't make
5 the motion.

6 MR. BROWN: You made a
7 motion, didn't you?

8 MS. SQUIRES: No, I
9 called --

10 MR. KAUFMAN: I made the
11 motion to put it onto the floor.
12 She seconded it. There's one
13 motion, at this point in time, out
14 there. You're making a second
15 motion, and Joy has requested that
16 the motion be called.

17 MR. BROWN: Who made the
18 motion?

19 MR. KAUFMAN: Originally,
20 me.

21 MR. BROWN: And you're
22 amending the motion?

23 MR. KAUFMAN: Not amending
24 it. It's up or down.

25 MR. SWANSON: It's up or

1 Council on Environmental Quality

2 down at this point.

3 MR. BROWN: Okay.

4 MR. SWANSON: Okay, all in
5 favor of the paragraph as written
6 with the underlying? One, two,
7 three, four, five, six.

8 And opposed? Seven.

9 Okay. The motion failed.

10 Now we'll go back and --

11 MR. BAGG: I have a
12 question. This gentleman over
13 here, would you identify yourself
14 and who you represent?

15 MR. BAGG: You want to
16 write him down?

17 MR. SWANSON: Okay. So,
18 now, does somebody want to amend
19 the paragraph to eliminate the
20 sentence that John was discussing?

21 DR. POTENTE: I will.

22 MR. KAUFMAN: I'll second
23 it.

24 MR. SWANSON: Now we have a
25 motion to accept the paragraph

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2 without the underlying sentence.

3 MS. VILORIA-FISHER: May I
4 just ask a question on the motion?

5 MR. SWANSON: Yes.

6 MS. VILORIA-FISHER: I'm
7 just a little bit confused as to
8 why you want to leave that out,
9 because I thought that it was more
10 in line with what you had been
11 saying inasmuch as the sentence
12 says that the BMPs are not
13 necessarily the best; that we were
14 using more generic terms. So I
15 was just confused as to why you
16 would want to remove that.

17 DR. POTENTE: Because it's
18 a last-minute inclusion here. It
19 just shifts attention on these
20 BMPs, which are included in the
21 plan that we're sending to the
22 Legislature. I think it's
23 confusing and unnecessary. First
24 I would like to clear this
25 paragraph off the table so that we

1 Council on Environmental Quality

2 can proceed, and then we'll
3 proceed on to discussing what
4 we're going to do with the best
5 management practice.

6 MS. VILORIA-FISHER: I
7 thought this was taken out, BMP.

8 DR. POTENTE: We're taking
9 out the terminology, but --

10 MS. VILORIA-FISHER: Yes, I
11 know.

12 MS. STILES: I think he
13 means just to -- I don't mean to
14 put words in your mouth -- to
15 separate the issue. It's a bigger
16 issue than just what we call it.

17 MS. VILORIA-FISHER: Okay.

18 MR. SWANSON: Okay?

19 MS. VILORIA-FISHER: I was
20 just curious because I thought this
21 was more in line with what you had
22 been saying. You just want to
23 take it out at this point, right?

24 MR. SWANSON: Right.

25 MR. BROWN: I think this

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2 issue is going to come up almost
3 every paragraph, and I think the
4 issue is that every time there's a
5 reference to BMPs, some of us are
6 going to be up in arms about it
7 because we want this issue
8 resolved as to what exactly is in
9 or out of the plan, so I think we
10 should address this issue first.

11 MR. SWANSON: Motion on the
12 floor and it's been seconded
13 regarding this paragraph. So at
14 this point, let's deal with that
15 paragraph.

16 All in favor of the
17 paragraph as amended, raise their
18 hand.

19 Opposed? Opposed. No
20 abstentions, and I recuse myself.
21 So the paragraph as modified is
22 accepted.

23 Now we're going to move on
24 to the oversight of the
25 Department of Environment and

1 Council on Environmental Quality

2 Energy. "The council recommends
3 that the Department of Environment
4 and Energy be given the primary
5 responsibility of protecting the
6 county's wetlands. It is
7 important that Wetlands Management
8 be organizationally and
9 functionally separated from Vector
10 Control. The FGEIS addresses the
11 role of DEE with respect to this.
12 In order to properly achieve its
13 newly designated Wetlands
14 Management role, DEE should be
15 assigned or given access to the
16 staff that has expertise in
17 wetland ecology and/or management.

18 DEE should first be
19 required to prepare an in-depth
20 Wetlands Stewardship Strategy
21 before any future marsh
22 restoration projects are put forth
23 for review and implementation.
24 That wetland strategy should
25 include the county's stated

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2 environmental management policies
3 with respect to wetlands, set
4 goals and objectives for Wetland
5 Management strategies and how they
6 relate to county policies and
7 Vector Control. It should also
8 include and specify the steps and
9 procedures a wetland restoration
10 project must go through including
11 New York State D.E.C.
12 requirements, SEQRA review by the
13 CEQ and legislative approval, as
14 well as before and after wetland
15 monitoring protocols so that
16 potential impacts to a given
17 wetland system can be evaluated.

18 Other Duties of DEE should
19 include:

20 1) Marsh restoration or
21 management activities, as well as
22 overseeing operations conducted as
23 part of the long-term plan and
24 overall supervision of Vector
25 Control and Health Department

1 Council on Environmental Quality

2 Vector Control activities.

3 2) DEE should receive all
4 permit applications sent to New
5 York D.E.C. or other governmental
6 authorities by a Suffolk County
7 agency involving wetlands and
8 should be notified of actual
9 commencement of operations.

10 3) DEE should oversee the
11 operations of the Wetlands
12 Stewardship Committee, and should
13 serve as the committee chair."

14 Mr. Kaufman.

15 MR. KAUFMAN: I'll make a
16 motion just to get it out onto the
17 floor so that we can discuss it.
18 I'll make a motion to accept. And
19 then I have one English typo.

20 MS. STILES: I'll second
21 it.

22 MR. SWANSON: Motion
23 seconded and it's open for
24 discussion.

25 Lauren.

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2 MS. STILES: No, go ahead.

3 MR. KAUFMAN: One typo in
4 here. It says "...Other duties of
5 DEE should include..." paragraph
6 1, "...Marsh restoration..." it
7 should, I think, read "supervision
8 and/or oversight of marsh
9 restoration." Otherwise, it
10 doesn't make any sense what
11 they're doing.

12 MS. STILES: Where do you
13 see that again?

14 MR. KAUFMAN: Right here.
15 "...Other duties of DEE should
16 include supervision slash
17 oversight of marsh restoration and
18 management activities..."

19 MS. SQUIRES: Walter's page
20 has a clarification.

21 MR. DAWYDIAK: I do. It's
22 just a point of clarification.
23 It's a legal impossibility for DEE
24 to oversee Health and Vector
25 activities. I think what this

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2 means to say is. "...Supervision
3 of Vector Control and Health
4 Department activities as related
5 to Wetlands Management..." I
6 mean, it's within that context.
7 It's not all viral surveillance,
8 for example, and other health
9 activities.

10 MR. SWANSON: Okay. So
11 Mr. Dawydiak has made a suggestion
12 that would make this more legally
13 acceptable as noted in this
14 sentence: "Overall supervision of
15 Vector Control and Health
16 Department Vector Control
17 activities, with respect to marsh
18 restoration activities."

19 MR. KAUFMAN: I'll amend my
20 motion on that point. Walter's
21 correct on the health emergency
22 aspect, gets taken out of the
23 County.

24 MR. SWANSON: I would also
25 point out, Jim, that as we

1 Council on Environmental Quality

2 finalize this, if this passes, we
3 need to make the three bullets
4 parallel. They're not
5 grammatically correct.

6 Yes, Lauren.

7 MS. STILES: Just have some
8 minor changes. Section 3 on Jim's
9 draft. "DEE should oversee the
10 operations of Wetlands Stewardship
11 committee." I think that gets
12 capitals, Wetlands Stewardship
13 Committee. And the suggestion
14 that Walter made, number two on
15 his list, "overall supervision of
16 Vector Control and Health
17 Department Vector Control
18 activities with respect to marsh
19 restoration."

20 Can we expand that to not
21 just say "marsh restoration" but
22 "marsh alteration activities"?
23 Because I'm just not certain that
24 all alterations of the marsh come
25 under other definitions of

1 Council on Environmental Quality

2 restoration.

3 MR. BAGG: You want to add
4 "restoration alteration"?5 MR. KAUFMAN: No, "marsh
6 management."7 DR. POTENTE: I think
8 "wetlands and marsh management."9 MS. STILES: Right. I just
10 want to make sure that we're not,
11 you know.12 DR. POTENTE: You don't
13 want it just "restoration."14 MS. STILES: That's what
15 I'm saying, I don't want it to be
16 just "restoration." I want it to
17 be better.18 DR. POTENTE: It has to be
19 broader than that.20 MR. BAGG: What do you want
21 it to read?22 MS. STILES: I think "marsh
23 alteration."

24 MR. BAGG: Activities?

25 DR. POTENTE: No, more than

1 Council on Environmental Quality

2 that. It's management.

3 MS. SPENCER: I would say
4 "management."

5 MR. SWANSON: Okay. Did
6 you have another --

7 MS. STILES: Yeah.

8 MR. SWANSON: Okay.

9 MS. STILES: Do we want to
10 make the recommendation that it
11 not necessarily just be Health
12 Department? If we're recommending
13 that we really have a
14 responsibility for our wetlands,
15 do you want to say County
16 activities that are altering
17 wetlands? If, for example,
18 another agency wants to do some
19 serious changes to the wetlands,
20 do we want to recommend to the
21 Legislature that the DEE has a
22 major stake in that?

23 MR. KAUFMAN: Yes.

24 Exactly. They have independent
25 authority to make application.

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2 MS. SPENCER: What's that?

3 I'm sorry.

4 DR. POTENTE: All counties.

5 MS. STILES: Wetlands
6 management. Whatever department
7 it's coming from, like, DEE to --
8 be in charge of the wetlands.
9 That's, basically --10 MR. SWANSON: Gloria, you
11 want to read it?12 MS. RUSSO: All right.
13 We're going to say "overall
14 supervision of all Suffolk County
15 Vector Control."16 DR. POTENTE: It could be a
17 marsh, it could be a wetland
18 management.

19 MS. RUSSO: Oh, I'm sorry.

20 "Vector Control activities
21 and marsh management."22 MS. STILES: I don't think
23 we want to say all Vector Control
24 activities, which is the
25 clarification I was trying to make

1 Council on Environmental Quality

2 earlier.

3 MS. VILORIA-FISHER: With
4 respect to.

5 MS. STILES: Yeah, with
6 respect to marsh management.
7 Right?

8 MS. VILORIA-FISHER: Yes.

9 MR. BAGG: So it's all
10 County Vector Control? I mean,
11 you could have initiative there,
12 not necessarily Vector Control,
13 and it could be County.

14 MS. SPENCER: Right. All
15 Suffolk County agencies.

16 DR. POTENTE: With respect
17 to wetlands and marsh management.
18 That includes wetlands.

19 MR. KAUFMAN: I would just
20 add in the caveat, except for
21 health emergencies. Because there
22 is a separate State law that takes
23 us all out of --

24 DR. POTENTE: That's
25 inherent. You don't need to --

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2 MR. SWANSON: You don't
3 have to say that.

4 All right. John.

5 DR. POTENTE: I'm anxious
6 to get this environmental impact
7 statement, this, as early as
8 possible, and I think this would
9 be the time to do it, not at the
10 tail end of it. I think up front
11 it should be stated that this
12 overall plan needs to be
13 assembled, put together and then
14 undergo an appropriate
15 environmental impact statement.
16 And I'm drawing that out of the
17 first item that I have on my page.
18 Up front, and we can agree with
19 everything that's been going on in
20 that paragraph, in that section,
21 but it should be understood that
22 once they have their set of goals,
23 once they have their organization,
24 once they have all of these
25 things, come back to the CEQ with

1 Council on Environmental Quality

2 this all tied together and undergo
3 an environmental impact statement.

4 MR. SWANSON: And it says
5 that.

6 DR. POTENTE: Where?

7 MR. SWANSON: "It should
8 also include and specify the steps
9 and procedures a wetland
10 restoration must go through" --

11 DR. POTENTE: No, that's a
12 project. That's a restoration
13 project. All of the projects, the
14 plan, not just a restoration
15 project. The entire plan.

16 MR. KAUFMAN: You want to
17 have an EIS --

18 DR. POTENTE: Yes.

19 MR. KAUFMAN: -- for the
20 entire long-term management plan.
21 A second one once the plan is
22 developed.

23 DR. POTENTE: Yes. Well,
24 we're talking about a wetlands
25 management strategy here.

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2 MS. STILES: How is it
3 different from a wetlands
4 restoration plan?

5 MR. BAGG: Well, the
6 strategy, you know, simply can
7 identify how you go about, you
8 know, formulating a wetlands
9 project. The plan actually deals
10 with the areas in the county. You
11 then want to implement that
12 strategy in and move forward on.
13 There's a difference. There's
14 strategy, to some extent, that's
15 general in nature, it establishes
16 danger and objectives, among other
17 things, and then you attempt to
18 implement it. The next step is go
19 out and actually implement it in
20 terms of specific geographic
21 areas.

22 MR. BAGG: What's different
23 between that and a plan?

24 DR. POTENTE: Well, a plan
25 actually has sites and specific

1 Council on Environmental Quality

2 information in it. You've not
3 even got to that point.

4 MS. STILES: This is sort
5 of the argument we had earlier.
6 You're calling this a wetlands
7 long-term plan.

8 MR. BAGG: No, this is also
9 a generic.

10 MR. KAUFMAN:

11 Fundamentally, I think the
12 dispute, if you will, comes down
13 to this. We've got a GEIS that
14 we're dealing with, and that was
15 by legislative fiat. Then we're
16 trying to figure out where SEQRA
17 kicks in. If I may, I think John
18 is saying he wants SEQRA kicked in
19 on the plan itself, okay, on the
20 plan itself, whereas I've been
21 very happy with the individual
22 marsh assessments requiring SEQRA
23 or whatever they want to use, a
24 lot of these BMPs or whatever.
25 I'm saying that on the individual

1 Council on Environmental Quality

2 marsh assessment aspect, they
3 propose an individual project.
4 Okay? We're not talking apples
5 and oranges. When it kicks in,
6 when that further review would be
7 mandated, in that sense, I see a
8 plan as being just that, an
9 overall plan the way the County
10 was trying to describe. In the
11 documents that were presented to
12 us, they talked about trying to do
13 individual assessments, figuring
14 out what kind of strategy they
15 would do, and then in the GEIS
16 they did acknowledge that they
17 would have full SEQRA on any of
18 the individual projects. So I
19 don't think we're losing anything
20 if we kick in later.

21 MR. SWANSON: I think,
22 actually, there's a benefit to
23 kicking in later. It seems to me
24 that we hear an awful lot of
25 times, "Well, this just falls

1 Council on Environmental Quality

2 under the generic impact
3 statement, therefore, we can go
4 ahead and do it." If we let it
5 kick in later, then we get to
6 actually review --

7 DR. POTENTE: Right, but --

8 MR. SWANSON: -- each
9 specific activity.

10 DR. POTENTE: But this plan
11 has that. We can still do that.
12 If we do a full environmental
13 impact statement on a wetlands
14 management plan. You can still
15 have the kick-ins. That's what
16 you're asking for here. You can
17 still have that.

18 MS. STILES: Here's my
19 concern. We have this GEIS, and I
20 keep hearing it's okay to just put
21 the tools in and not have a plan
22 to use them; that'll come later.
23 And I don't really agree with
24 that, but if we are going to
25 accept that, we have to figure out

1 Council on Environmental Quality

2 when the "later" is, and it seems
3 like this is setting out the idea
4 that SEQRA is going to be done on
5 a project specific basis later.

6 But where is the plan before we do
7 the project specific? You know, I
8 want to see something that says we
9 have 35,000 acres of wetlands and
10 20,000 acres of them are damaged,
11 and we're going to fix a thousand
12 acres of them in a year and here's
13 how we're going to do it, and this
14 is our ten-year plan on how we're
15 going to treat our wetlands.

16 MR. KAUFMAN: Well, that's
17 exactly what they want to do with
18 the three-year standoff on all of
19 this to try and establish exactly
20 the type of --

21 DR. POTENTE: But you're --

22 MR. KAUFMAN: -- protocol.

23 DR. POTENTE: -- putting it
24 ahead of the game.

25 MR. KAUFMAN: No, I take

1 Council on Environmental Quality

2 some of your fears that you have
3 on the GEIS aspects of this. I
4 really do. I've had the
5 experience of having this kind of
6 stuff in a GEIS or another impact
7 statement, and you hope that it
8 won't kick in and it sometimes
9 does kick in later on, even if
10 some of the techniques are
11 disfavored. So I do take your
12 fears on all of that, but since we
13 are stuck in the generic sense,
14 like Jim, as to how this stuff
15 gets presented.

16 MR. DAWYDIAK: Just point
17 of clarification on jargon between
18 "plan" and "strategy." The plan
19 is a term of art for the document
20 before you. This was crafted to
21 address the 4,000 acres of idle
22 wetland which are of Vector
23 Control concern. We started out
24 with a big toolbox for the
25 three-year period of initial

1 Council on Environmental Quality

2 implementation. It's been
3 ratcheted back to minimal
4 modifications when it's a benefit
5 to the marsh, being, like, minimal
6 maintenance, culvert replacement,
7 and minor BMPs. The strategy
8 addresses all 17,000 acres.
9 Presumably, it'll be preservation
10 as well as restoration. At the
11 point at which the strategy is
12 adopted in three years there will
13 be another SEQRA process, I'm
14 fairly certain, on the document,
15 insofar as it may change the plan
16 or any other wetland that's
17 brought to you.

18 So I just hope that's
19 helpful. There is a lot of detail
20 in this plan in terms of where
21 Vector Control happens and what
22 can be done to make it better, but
23 it's focused on a narrow sub set
24 of wetlands. Part of what we did
25 is expand that in the upcoming

1 Council on Environmental Quality

2 strategy.

3 DR. POTENTE: The last
4 thing I have to say on this is, I
5 would agree with this section.
6 However, I want to see the
7 inclusion that before even the DEE
8 proceeds, CEQ should be provided
9 with a plan that they've looked at
10 all of the different ways of doing
11 it and have some sort of a plan,
12 and that plan should undergo a new
13 environmental impact statement.

14 MR. SWANSON: Lauren.

15 DR. POTENTE: That's my
16 final word.

17 MR. SWANSON: Go ahead.

18 MS. STILES: Maybe this
19 fixes everything, which would be
20 nice, but it never happens.
21 Walter, the Wetlands Stewardship
22 strategy, is it your intention or
23 DEE's intention, that you might
24 know of, to undergo SEQRA review
25 for that strategy, as if it was

1 Council on Environmental Quality

2 sort of a mini plan that covers
3 all of the wetlands, not just the
4 4,000 Vector Control acres?

5 MR. DAWYDIAK: The strategy
6 will be posed to CEQ, and it will
7 be a new plan. It's not the
8 Vector Control --

9 MS. STILES: Right.

10 MR. DAWYDIAK: -- plan,
11 it's a new environmental
12 initiative where CEQ will pass
13 judgment on SEQRA. Absolutely.
14 You have to undergo SEQRA.

15 MS. STILES: So we're not
16 going to hear in three years, you
17 know, the Wetlands Stewardship
18 strategy doesn't have to undergo
19 SEQRA, it can be approved in a
20 GEIS?

21 MR. DAWYDIAK: No,
22 absolutely not.

23 MR. KAUFMAN: On page 470,
24 that's what Walter is referring
25 to, if I'm understanding

1 Council on Environmental Quality

2 correctly, of the FGEIS "The
3 primary criteria for determining
4 its annual plan of work is not
5 substantially in accordance with a
6 long-term plan." Should be, "The
7 annual plan's compliance with the
8 overall approach of the long-term
9 plan and where specified, failure
10 to use a particular action or
11 major deviation of the importance
12 of specific set of actions."

13 And if I'm reading the
14 language correctly, it's kind of
15 saying what you're saying.

16 MS. STILES: Can you read
17 that again. I'm sorry.

18 MR. KAUFMAN: "The primary
19 criteria for determining if an
20 annual plan of work is not
21 substantially in accord with the
22 long-term plan would be the annual
23 plan's compliance with the overall
24 approach of the long-term plan
25 they are trying to set forth, and

1 Council on Environmental Quality

2 where specified, failure to use a
3 particular action or major
4 deviation of the specific set of
5 actions."

6 And there's some language
7 in here about SEQRA kicking in.

8 MR. SWANSON: John, based
9 on this last set of comments, is
10 your problem taken care of or do
11 you still want to add --

12 DR. POTENTE: I still don't
13 see a plan there. I just don't
14 see it.

15 MR. SWANSON: So can you
16 give us a sentence that you would
17 add into this paragraph that we
18 should consider?

19 DR. POTENTE: Well, I mean,
20 the sentence that I have, number
21 one, if we could add that to this,
22 that would cover it. You can keep
23 what you have and add that. Add
24 that sentence.

25 MR. SWANSON: Okay, tell us

1 Council on Environmental Quality

2 what you --

3 DR. POTENTE: "All proposed
4 new water management activities,"
5 okay, "should not be used."
6 "Should not be used until a
7 Wetlands Stewardship Committee
8 comprehensive management plan is
9 set forth." "Is set forth with
10 appropriate practices and
11 guidelines and shall be further
12 developed under an appropriate
13 environmental impact statement."

14 MS. STILES: This is very
15 similar to what's there. It's
16 just a little bit more detailed.

17 MR. KAUFMAN: If I may?

18 DR. POTENTE: I'll read it
19 again. "All proposed new
20 management practice..." --

21 MR. BROWN: It says "new
22 water management activity."

23 DR. POTENTE: "New water
24 management should not be used..."

25 -- I'm just crossing this out.

1 Council on Environmental Quality

2 "Should not be used until the
3 long-term plan is developed."

4 MR. BAGG: Well, do we want
5 to change that to "strategy"?

6 MS. STILES: Yes. Wetland
7 plan.

8 MR. BAGG: Wetlands
9 Stewardship strategy.

10 DR. POTENTE: Okay.
11 "Strategy and is developed under
12 the auspices of the Wetlands
13 Stewardship Committee's
14 comprehensive management plan."

15 MS. STILES: "Under the
16 auspices of DEE and Wetlands
17 Stewardship Committee"?

18 DR. POTENTE: Okay. Okay.
19 Go ahead. You do it. You see it.

20 "...under the auspices of
21 the DEE and a..."?

22 MS. STILES: "...and the
23 Wetlands Stewardship Committee..."

24 DR. POTENTE: "...and the
25 Wetlands Stewardship Committee..."

1 Council on Environmental Quality

2 okay. So we're crossing out
3 "comprehensive management."
4 "...which shall set forth
5 appropriate practices and
6 guidelines as shall be further
7 developed under an appropriate
8 environmental impact statement..."

9 MR. BAGG: Can you give me
10 that wording before the end of the
11 meeting?

12 MR. SWANSON: Well, no,
13 we've got to get it down.

14 MR. BAGG: No, I understand
15 that.

16 MS. SQUIRES: Which is this
17 replacing?

18 DR. POTENTE: It's an
19 add-on.

20 MR. SWANSON: And where are
21 you adding this, John?

22 DR. POTENTE: What's that?

23 MR. SWANSON: Where is this
24 to be added?

25 MS. STILES: I think it

1 Council on Environmental Quality

2 replaces the first sentence of the
3 last paragraph of that section
4 before -- the first full paragraph
5 on the second page.

6 MR. SWANSON: "DEE should
7 first be required to prepare an
8 in-depth Wetlands Stewardship
9 strategy." You're replacing it
10 with that?

11 MS. STILES: I think it's
12 sort of in the sentence.

13 DR. POTENTE: Yes. Well,
14 no, it's not, because it's saying
15 it requires environmental impact.

16 MR. SWANSON: The existing
17 one is a little more succinct,
18 actually.

19 MS. STILES: The existing
20 one doesn't address future
21 environmental impact statements,
22 though.

23 MR. BAGG: Well, it does
24 say here that that strategy shall
25 include a SEQRA review by the CEQ

1 Council on Environmental Quality

2 as well as legislative approval.

3 So they have to incorporate that
4 into the strategy.

5 MS. STILES: It talks about
6 SEQRA and DEC approval, it's
7 talking about specific wetlands
8 restoration.

9 DR. POTENTE: Right. But I
10 want the overall plan or overall
11 strategy, not just individuals
12 popping up here and there,
13 haphazardly.

14 MR. TYMANN: How about
15 after the word "strategy," you
16 could just say "...which shall be
17 developed under an appropriate
18 environmental impact statement."

19 MR. BAGG: "...which should
20 be developed under an appropriate
21 environmental impact statement."

22 MR. KAUFMAN: That's
23 kicking in the EIS.

24 DR. POTENTE: Yes, that's
25 right.

1 Council on Environmental Quality

2 MR. BAGG: You want to say
3 "development pending SEQRA
4 review," or do you want to assume
5 that this strategy automatically
6 needs an EIS?

7 DR. POTENTE: That's right.

8 MS. STILES: It's fairly
9 obvious that a good chunk of that
10 FGEIS is as far as some of the
11 baseline on the tools, where it's
12 going to be used, how they are
13 used.

14 MR. BAGG: "Which should be
15 developed with an appropriate EIS?

16 DR. POTENTE: That's at the
17 end of the first sentence,
18 "wetlands strategy."

19 MR. BAGG: "Wetlands
20 strategy, which should be
21 developed with an appropriate
22 EIS."

23 MR. SWANSON: Okay, Jim,
24 would you read the paragraph that
25 now has been modified?

1 Council on Environmental Quality

2 MS. STILES: I have one
3 more final change. It's something
4 we discussed earlier. The third
5 line, where it says "future marsh
6 restoration projects," can we
7 change the word "restoration" to
8 "alteration"? It's the third line
9 on the first paragraph there.

10 (Various conversation.)

11 MR. SWANSON: All right,
12 Jim, would you --

13 DR. PETONTE: Read it
14 again, please, Lauren.

15 MS. STILES: "DEE should
16 first be required to prepare an
17 in-depth wetlands strategy."

18 MR. BAGG: "Which should be
19 developed with an appropriate
20 EIS."

21 MS. STILES: "Before any
22 future marsh management projects
23 are put forth for recommendation."

24 MR. BAGG: Thank you.

25 MR. SWANSON: Okay,

1 Council on Environmental Quality

2 Ms. Viloría-Fisher.

3 MS. VILORIA-FISHER: I have
4 two questions. If you look at the
5 second paragraph, "the DEE in
6 conjunction with the Department of
7 Health Services Public Works."
8 That was stricken from the
9 paragraph. However, I'm wondering
10 if, in striking that, we would
11 diminish the ability or inhibit
12 the ability of the Department of
13 Environment to go outside of its
14 department for expertise when it's
15 preparing the Wetlands Stewardship
16 strategy. You know, there are
17 people both in the Health
18 Department and the Department of
19 Public Works that could provide
20 some expert advice or help.

21 MR. BAGG: The sentence
22 before that, it says "DEE should
23 be assigned or given access to the
24 staff that has expertise in
25 wetland ecology and/or

1 Council on Environmental Quality

2 management."

3 MS. VILORIA-FISHER: Right,
4 but I'm wondering if, in striking
5 the next one, we prohibit them
6 from going to them. I just want
7 to make sure that they have the
8 ability to use the expertise in
9 other departments.

10 MR. BAGG: Access to, you
11 know, other departments.

12 MS. VILORIA-FISHER: Access
13 to any department.

14 MR. SWANSON: I don't see
15 that they do, but as originally
16 written, it implies that they have
17 to do that.

18 MS. VILORIA-FISHER: Right.
19 We don't want to say that they
20 have to, but we want to give them
21 the ability to reach out of their
22 own department and use that.

23 MR. SWANSON: I think
24 that's implicit.

25 MS. VILORIA-FISHER: Okay.

1 Council on Environmental Quality

2 I still have a problem with the
3 language that John is suggesting
4 regarding the plan because I feel
5 that as I've read through this and
6 we look at the SEQRA review that's
7 required of all of the wetland
8 management that's already in the
9 plan, I'm satisfied with that, and
10 I feel that the strategy that's
11 outlined here is what the
12 Legislature was asking for.

13 Which, again, we have been
14 spending a great deal of taxpayer
15 money, and although I don't want
16 to put money as the primary focus,
17 but we've spent a lot of our own
18 hours in public review, public
19 comment, and I feel that regarding
20 SEQRA, we have certainly provided
21 the type of hard look and review
22 that we will need as we go project
23 by project or, you know, it was
24 referred to as BMP and talking
25 about going from -- the original

1 Council on Environmental Quality

2 plan had talked about higher
3 levels of BMPs, and it's been
4 expanded to include more projects,
5 and so I feel very satisfied with
6 that. I don't think that we
7 should have to do another EIS on
8 what we've already done an EIS.

9 MR. KAUFMAN:

10 Fundamentally, it's -- I said this
11 earlier -- what level does an EIS
12 kick in on for the secondary
13 review or the labor review. And
14 John, again, is trying to have it
15 put on the wetlands plan itself,
16 whereas, frankly, I want to see it
17 on the individual marsh. Because
18 I think it's just better done that
19 way. Fundamentally, though, the
20 advocate position here, we'd
21 almost be doing an EIS on an EIS.
22 I mean, it's almost like you're
23 doing it a second time on the same
24 stuff.

25 DR. POTENTE: No, you're

1 Council on Environmental Quality

2 not, because there is no plan.

3 MR. KAUFMAN: It's an
4 approach --

5 DR. POTENTE: It's not a
6 plan.

7 MR. BAGG: Vivian, going
8 back to where you are, if I change
9 that sentence "should be assigned
10 or given access to other
11 departments' staff that has
12 expertise," does that answer your
13 concern?

14 MS. VILORIA-FISHER: Yes.
15 I would feel more comfortable.

16 MR. SWANSON: Jim, would
17 you read the paragraph as we now
18 have modified it so we can move
19 on?

20 MR. BAGG: Okay. "DEE
21 should first be required to
22 prepare an in-depth Wetlands
23 Stewardship strategy which should
24 be developed with an appropriate
25 EIS before any future marsh

1 Council on Environmental Quality

2 management projects are put forth
3 for review and implementation.
4 That wetlands strategy should
5 include the County, State and
6 environmental management policies
7 with respect to wetlands, set
8 goals and objectives for wetland
9 management strategy and specify
10 how they relate to County policies
11 and Vector Control. It should
12 also include and specify the steps
13 and procedures wetland restoration
14 projects must go through,
15 including the New York State EEC
16 requirement, SEQRA review by the
17 CEQ and legislative approval, as
18 well as before and after wetland
19 monitoring protocols so that
20 potential impact of given wetland
21 systems can be evaluated.

22 Other duties of the DEE
23 should include..." and then we're
24 substituting the Health Department
25 sentence, and we're changing

1 Council on Environmental Quality

2 Wetlands Stewardship Committee to
3 Capitol Committee.

4 MR. SWANSON: Okay. So I'm
5 going to call a vote, and so if
6 you heard what Legislator
7 Vilorina-Fisher said you should
8 vote no; if not, you vote yes.

9 So all in favor of the
10 paragraph --

11 MS. STILES: You were
12 spending a lot of time fighting
13 about the first sentence of this.

14 MR. SWANSON: Okay.

15 MS. STILES: Where it lists
16 that the individual restoration
17 project must go through New York
18 State EEC requirements, SEQRA
19 review by the CEQ, and I think if
20 you're going to list CEQ
21 requirements, you should also list
22 Federal restoration requirements
23 for wetlands except in certain
24 cases which I don't think is
25 something that --

1 Council on Environmental Quality

2 MR. KAUFMAN: You might
3 want to phrase it slightly
4 differently to just say "other
5 governmental approvals."

6 MS. STILES: Or Federal.

7 MR. KAUFMAN: Don't just
8 say Federal, just "other
9 government approval." That covers
10 everything.

11 MR. PICHNEY: And I just
12 had one small comment for Jim.
13 Rather than say "departmental
14 staff," you should say "County
15 staff." That makes it more all
16 encompassing.

17 MR. NARDONE: That last
18 sentence of the full paragraph.
19 Where it says "management
20 project." It seems like we're
21 getting away from the word
22 "restoration" in other places.
23 "Steps and procedures for the
24 wetlands management project."

25 MR. SWANSON: Thank you.

1 Council on Environmental Quality

2 All right.

3 MS. SQUIRES: I have a
4 question as to what I'm voting on.
5 With all the pieces.

6 MR. SWANSON: You're voting
7 on the paragraph that Jim just
8 read.

9 MS. SQUIRES: Yes.

10 MR. SWANSON: And the two
11 or three sentences on the previous
12 page.

13 MR. BAGG: We're going to
14 put down New York State DEC
15 requirements or --

16 MS. STILES: Maybe just
17 "other governmental agencies."

18 MR. BROWN: "All
19 appropriate agencies."

20 MS. STILES: It's almost
21 like you don't even need to say
22 anything.

23 MR. BROWN: It should be
24 "all appropriate agencies."

25 MR. SWANSON: Okay, Joy.

1 Council on Environmental Quality

2 MS. SQUIRES: I just want
3 to reiterate that I have a problem
4 with that section, and I think
5 that we need to look at the
6 restoration project or management
7 on a case by case basis. We
8 already have that in the plan, and
9 I think that that would be
10 stalling any kind of work that we
11 do.

12 DR. POTENTE: I would like
13 to say that for the sake of
14 expediency, we should include that
15 because we don't want to proceed
16 and make more damage to the
17 marshes than we've historically
18 made, and that's the whole idea of
19 this paragraph. That's what this
20 paragraph is for.

21 MS. SQUIRES: But, John, it
22 goes counter to expedience. It's
23 slowing down the process.

24 MR. SWANSON: Let's move
25 on.

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2 Okay, all in favor as
3 modified?

4 (No audible response.)

5 MR. SWANSON: Okay.

6 Opposed?

7 (No audible response.)

8 MR. SWANSON: Motion
9 carries.

10 And Swanson is recusing.

11 MR. DAWYDIAK: Can I just
12 ask for a clarification? By
13 changing "restoration" to
14 "management," you may have
15 inconsistencies, because there's
16 some Vector Control-based
17 manipulation like hand maintenance
18 and minimal machine maintenance.
19 It could be through mismanagement,
20 and I don't think it's your intent
21 to preclude any of that. Unless
22 I'm misreading.

23 MR. SWANSON: No, I think
24 you're right, so we'll have to be
25 careful with the words in the

1 Council on Environmental Quality

2 thing. I think our concern, in
3 hearing it more and more, is that
4 restoration, as it's been
5 identified previously is, in our
6 view, many people's view, dealing
7 with manipulation, OMWM, etcetera,
8 and that's what we want to make
9 sure is not taking place.

10 MR. BAGG: Well, do you
11 want to keep that word
12 "restoration and management"? Or
13 do you want to do "management
14 slash restoration"?

15 MR. DAWYDIAK: Well, what
16 you're voting on is no management
17 or restoration until the strategy
18 is done in three years, and that
19 precludes any Vector Control.

20 MR. SWANSON: And I think
21 what you're concerned about is
22 what falls under the category of
23 maintenance.

24 MR. DAWYDIAK: Or culvert
25 replacement or other work.

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2 MR. SWANSON: In my mind,
3 maintenance is not restoration.

4 MR. DAWYDIAK: Okay. But
5 when you say "management," an
6 objective observer could construe
7 that as being management.

8 MS. STILES: Should we
9 specify in terms of BMPs what we
10 mean by that? Would that help?
11 Because then it sets forth what we
12 mean by it and what we don't mean
13 by it.

14 MR. SWANSON: We could.

15 MS. STILES: If that makes
16 sense. I think leaving it unclear
17 creates trouble.

18 MR. SWANSON: We can define
19 it. We can have a definition.

20 MR. KAUFMAN: It may be
21 that we can define it as
22 management equals or can include
23 restoration, maintenance, you
24 know, new construction of marshes,
25 for example. It's management

1 Council on Environmental Quality

2 being an overarching concept.

3 MR. BAGG: Well, that's the
4 problem.

5 MR. BROWN: Let me ask,
6 what's the problem with
7 "restoration"?

8 MR. SWANSON: Because as I
9 said before, "restoration," I
10 think, has been construed by many
11 of us as meaning that they can go
12 out and do whatever they want.
13 Because they've said, "We're going
14 to restore it, we want to do good,
15 therefore, we want to restore it."
16 I think the interpretation has
17 been that that is not --

18 MR. BROWN: But by putting
19 in the beginning of this of having
20 no EIS, if they wanted to restore
21 anything they'd have to come in
22 front of us anyway, correct?

23 MR. SWANSON: Yes.

24 MR. BROWN: Well, then,
25 what's the problem with

1 Council on Environmental Quality

2 "restoration"? I'm confused with
3 that. We look to go out and get
4 grant money to restore wetlands
5 all the time. I mean, it's a
6 process that we go through. The
7 County goes through it, the towns
8 go through it. And it's, in my
9 eyes, a good process. I mean, I'm
10 always trying to restore wetlands.

11 MR. SWANSON: Well,

12 "restoration" has been discussed
13 in previous documents as digging
14 holes in marshes and things like
15 that, which --

16 MR. BROWN: That's only a
17 determination of who did the OMWM.
18 I mean, we're talking about one
19 specific site in particular.

20 MR. BAGG: If it says
21 "management," you can't do
22 anything in the marsh until it's
23 been approved.

24 MR. BROWN: That general
25 thing is not saying you can't do

1 Council on Environmental Quality

2 anything in the marsh until you
3 get --

4 MR. BAGG: Right.

5 Including the maintenance.

6 MR. BROWN: Right, yes.

7 MR. SWANSON: Yes, Lauren.

8 MS. STILES: I had
9 originally, when I went with that
10 word "restoration," suggested the
11 word "alteration," which I think
12 is a little bit narrower than
13 "management" --

14 MR. BROWN: I'm concerned
15 about "alteration." I don't like
16 "alteration." I'd rather have
17 "restoration."

18 MS. STILES: Again, I think
19 it would be --

20 MS. SQUIRES: Do you
21 realize we voted on something, and
22 now everybody that's voted isn't
23 comfortable with what they voted
24 on? And I don't know what time it
25 is, but I'm listening to people

1 Council on Environmental Quality

2 not being sure of what they voted
3 on, not like the words that are
4 used after they voted either one
5 way or another. We have to decide
6 which we like and which we didn't.

7 DR. POTENTE: Let's just
8 continue.

9 MR. SWANSON: Yes. Okay,
10 the next deals with Wetlands
11 Stewardship Committee. "The
12 Council commends the preparers of
13 the FGEIS for recommending the
14 creation of the Wetlands
15 Stewardship Management Committee
16 to review all proposed wetlands
17 projects that may have a
18 significant impact on the wetland
19 environment. If the DEE adopts
20 any wetland management tools 5-15
21 as part of their stewardship
22 strategy, the CEQ also endorses
23 the requirement put forth in the
24 FGEIS that any specific wetland
25 project involving wetland

1 Council on Environmental Quality

2 management tools 5-15 must have a
3 supplement to the FGEIS prepared
4 and undergo a full SEQRA review
5 including description of the
6 present environmental conditions
7 of the site, the project
8 description and analysis of
9 potential adverse environmental
10 impacts to the wetland that may be
11 expected."

12 Yes?

13 DR. POTENTE: That sentence
14 is good, but when you say to the
15 FGEIS, now we're talking about
16 FGEIS, two people.

17 MR. BAGG: No, no, no, no.
18 You have an FGEIS, John, now the
19 procedure is if things in the
20 FGEIS are not covered adequately,
21 you do a supplemental. That can
22 be considered an EIS, but it's
23 considered a supplemental to the
24 FGEIS.

25 DR. POTENTE: But we've

1 Council on Environmental Quality

2 approved to have an EIS on the
3 BMPs.

4 MR. BAGG: Well, then, you
5 should say "supplemental."

6 MR. SWANSON: Can we --

7 MR. KAUFMAN: I think his
8 language is stating a specific
9 wetland project. This is where I
10 was advocating having SEQRA kick
11 in on specific projects, 5 through
12 15, that's the actual language
13 that's up there. Plus you have a
14 supplemental EIS.

15 MR. SWANSON: Okay, let me
16 finish the paragraph --

17 DR. POTENTE: All right.

18 MR. SWANSON: -- and then
19 we'll go back.

20 DR. POTENTE: Okay.

21 MR. SWANSON: "However, CEQ
22 is concerned about the stated
23 'Overarching Goals' of the
24 Stewardship Committee. At
25 present, the three goals focus on

1 Council on Environmental Quality

2 'restoration potential,
3 restoration recommendations, and
4 restoration projects.' These
5 goals imply that the committee
6 will be seeking ways to manipulate
7 marshes through such techniques as
8 water management and OMWM. CEQ
9 believes the goal of the committee
10 should be to 'preserve and protect
11 county's marshes' recognizing
12 there will be times when mosquito
13 control will be essential.

14 Further, with respect to the
15 Wetlands Management Committee, the
16 CEQ further recommends the
17 following:

18 1) The committee members
19 should have expertise in wetland
20 ecology and or management so that
21 proper evaluation and analysis of
22 proposed projects can be made.

23 2) DEE should have primary
24 responsibility for the committee
25 including holding meetings,

1 Council on Environmental Quality

2 setting the agenda and staffing.

3 3) DEE should have staff
4 with expertise in wetlands ecology
5 and management in order to provide
6 proper backup to the committee.

7 4) DEE should chair the
8 committee.

9 5) Any agency or entity
10 that initiates a project that is
11 before the committee, cannot vote
12 on that project."

13 All right. Do we have a
14 motion to accept this and move it
15 over to the Legislature?

16 We have a motion.

17 MR. KAUFMAN: I'll second
18 it.

19 MR. SWANSON: And we have a
20 second. Now it's open for
21 discussion.

22 Yes.

23 MR. KAUFMAN: We forgot to
24 put in one thing in here that you
25 had brought up. I just noticed it

1 Council on Environmental Quality

2 now. You had expressed an opinion
3 about trying to cut down some of
4 the Suffolk County agencies that
5 would be participating in this.

6 MR. SWANSON: Well, I think
7 that was handled according to the
8 consensus of the group by saying
9 item 5, any agency or entity that
10 initiates a project cannot vote.
11 That's just how it was handled.

12 Any other comments on this
13 paragraph?

14 MS. VILORIA-FISHER: Yes.

15 MR. SWANSON: Yes.

16 MS. VILORIA-FISHER:

17 Mr. Chairman, I believe that
18 because of the content with this
19 paragraph -- I'll reiterate what I
20 had said about the previous
21 paragraph again, and when we've
22 finished going over all of our
23 additional comments, go back and
24 revisit that previous paragraph,
25 because this is very clear that

1 Council on Environmental Quality

2 there will be a full SEQRA review,
3 including the descriptions of the
4 environment and conditions of the
5 site whenever there is going to be
6 wetlands management, and I
7 reiterate that having another EIS
8 on a full strategy, which I don't
9 think you can do. We have a
10 strategy on a full plan, and I
11 don't believe that we're going to
12 slow down anything that we do and
13 it would be very costly to the
14 County, and it would be very
15 costly in terms of staff and time.

16 So please look at this
17 Wetlands Stewardship Committee
18 paragraph carefully and see that
19 it does address the concerns that
20 were put forth regarding the
21 previous elements. And I might
22 make a motion to reconsider our
23 previous vote.

24 MR. SWANSON: Okay, thank
25 you.

1 Council on Environmental Quality

2 DR. POTENTE: Can I make
3 just a comment that the CEQ has
4 developed into an independent body
5 to review some of the
6 environmental impact to try and
7 avoid future environmental impact.
8 In the past, things were done, and
9 then after they were done we
10 realized our mistakes. And the
11 Legislature is set up to actually
12 act on this. So that's going to
13 be their decision in terms of
14 whether they want to do something
15 because it's financially more
16 suitable or whether it's expedient
17 just to get something done right
18 away to show constituents that
19 we're voting on environmental
20 impact. I still maintain that we
21 should not pass off and condone
22 some activity that has not been
23 proven, that have not been
24 exercised in our marshes and that
25 have not even been thoroughly

1 Council on Environmental Quality

2 thought out. We need to look and
3 we need to have a Wetlands
4 Stewardship Committee collect the
5 information, review the
6 information, discuss the
7 information, and then it should
8 come back to the CEQ, and then we
9 should go over it. We're not
10 losing ground, we're still moving
11 forward. But let's not make a
12 critical mistake of signing off on
13 something before we know what that
14 plan is.

15 MR. SWANSON:

16 Ms. Viloría-Fisher.

17 MS. VILORIA-FISHER: I'd
18 just like to respond to that,
19 because I didn't like the
20 implications that I found
21 underlying your comments. And I
22 will say that this isn't simply to
23 save money, but it's because I
24 believe it is implicative, I
25 believe that we have been looking

1 Council on Environmental Quality

2 at this plan for a number of
3 years, and there will be no
4 action, there will be no action in
5 our wetlands that is not going to
6 go before us again for SEQRA
7 review and that will go before the
8 Stewardship Committee and will go
9 before the Department of
10 Environment and Energy. So I
11 don't like the implication. I'm
12 not pandering to my constituents
13 with this. As a member of CEQ, I
14 am telling you that I disagree
15 with your position on this, based
16 on the merits.

17 DR. POTENTE: And I'm
18 saying I disagree with your --

19 MR. SWANSON: Lauren?

20 MS. VILORIA-FISHER: Yes,
21 but the other implications are
22 unnecessary, I don't like them,
23 and I don't want them repeated.

24 DR. POTENTE: You've
25 already said those things.

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2 MR. SWANSON: Lauren?

3 MS. STILES: Just regarding
4 your concern that we're going to
5 be duplicating everything and it's
6 a waste of resources, I understand
7 that, but I don't think it is,
8 because the fact that we are going
9 to have this Wetlands Stewardship
10 strategy or plan or whatever -- it
11 seems to be called strategy now --
12 coming out in a few years is,
13 like, proof that we don't have
14 anything in our current plan, and
15 we haven't reviewed it in a GEIS.
16 Yes, a GEIS has its useful
17 purposes, and the committee has
18 already agreed that, you know,
19 we'll approve the tools. I didn't
20 like that, but, you know, that's
21 what we've agreed to. But just
22 because you have the tools doesn't
23 mean you've figured out how you're
24 going to use them, and I think to
25 say that we're not going to do

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2 further environmental review on
3 the whole list of plans and we're
4 just going to look at individual
5 projects, we're going to end up
6 with the same exact problem with
7 wetlands that we had with Vector
8 Control during the annual plan
9 every year. There was no
10 long-term review. We knew what
11 their tools were that they were
12 using at the end of the year, but
13 nobody had ever sat down to look
14 at the whole thing, how we're
15 using them, where are we using
16 them and the overall effect.

17 I think right now we've set
18 forth the tools and when this
19 Wetlands Stewardship strategy
20 comes out, it would be entirely
21 appropriate to undergo a new
22 environmental impact review. I
23 don't think it's going to be
24 something as long and expensive
25 and, you know, painful as this

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2 plan, but I do think, you know,
3 just the fact that we don't have
4 it here and we're going to be
5 doing one shows that we need to do
6 it further and further. Suffolk
7 County never sat down and said,
8 "What are we doing with all of our
9 wetlands?" And we're supposed to
10 be one of the most pro-environment
11 counties in the country. I mean,
12 it's shocking to me that we
13 haven't done that, but now we've
14 come to the conclusion we need to
15 do that, which is great, but we
16 need to do that on your SEQRA. I
17 just don't see...

18 MR. SWANSON: Ms. Squires.

19 MS. SQUIRES: I need to
20 clarify to John what DEC's role
21 is. We were not set up as an
22 independent agency. We were under
23 State municipal law. We follow
24 the whole guidelines that
25 established conservation

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2 commission way back into the
3 1970s. A conservation commission
4 serves at the pleasure of its town
5 Board. CEQ is appointed through
6 the Legislature. It is that way
7 throughout New York state. In
8 some instances, environmental
9 management councils, of which we
10 are one, are appointed by the
11 executive body. In this case, CEQ
12 is appointed by the Legislature.
13 We serve to advise. We are
14 offering advice. We're not
15 independent.

16 MR. SWANSON: Thank you. I
17 think we want to move ahead.
18 We're getting off topic a little
19 bit here. So -- yes.

20 MS. RUSSO: Before we do
21 any voting, though, because we
22 struck out the additional
23 underlying line, can we change the
24 wetland management committee
25 paragraph to say BMP --

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2 MR. KAUFMAN: We're back to
3 BMPs, then.

4 MR. BAGG: So in other
5 words, you now want to
6 reinstituted BMPs and take out the
7 wetlands?

8 MS. RUSSO: We have to,
9 because we already voted and said
10 we're not using that last
11 sentence.

12 MR. BAGG: Well, I just
13 want clarification here.

14 MS. STILES: I think what
15 we said last time was that we
16 didn't want it included in that
17 paragraph. We want it here now.
18 Vote on it here now.

19 MS. RUSSO: Well, then,
20 let's vote. I'm just saying we
21 can't leave it the way it stands.

22 MR. SWANSON: Daniel.

23 MR. PICHNEY: For the
24 convenience of the Legislature,
25 can we list all 15 wetlands

1 Council on Environmental Quality

2 management tools as an appendix on
3 this document?

4 MR. KAUFMAN: So they don't
5 have to go surf through this?

6 MR. PICHNEY: Right.

7 MR. BAGG: It's in the
8 FGEIS. I mean, technically,
9 people making recommendations have
10 to read that. You can go to a
11 document and pull out the BMPs.

12 MR. PICHNEY: Well, I'll
13 ask the legislator. Do you think
14 something like that would be
15 necessary?

16 MS. VILORIA-FISHER: It's
17 helpful, but not necessary, and as
18 a member of the Legislature and
19 the chair of the committee before
20 which this will come, I will
21 provide that information myself.

22 MR. PICHNEY: Okay.

23 MS. VILORIA-FISHER: Thank
24 you.

25 MR. SWANSON: Okay.

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2 Gloria, were you satisfied that
3 the way it's worded now should not
4 be changed or do you --

5 MS. RUSSO: Well, no, we
6 either have to say it's BMPs or we
7 have to change BMP to say Wetlands
8 Management Committee.

9 MR. BAGG: Well, I'll do
10 either way, but you have to go
11 back to wetlands management tools
12 and you're going to add that
13 additional information, tell me
14 where you want to add it.
15 Qualify.

16 MR. SWANSON: Where do you
17 want to add it?

18 MS. RUSSO: I'm perfectly
19 fine just saying BMP because
20 that's what the FDA and FGEIS
21 calls them.

22 MR. SWANSON: Okay.

23 MS. RUSSO: Same label,
24 just different continuity.

25 MR. KAUFMAN: Frankly, I

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2 think we'll confuse a lot of
3 people one way or another.

4 MR. BAGG: Okay.

5 MR. KAUFMAN: I fully
6 acknowledge that "wetland
7 management tool" may be a better
8 way of saying it. It's splashed
9 all over the document.

10 MS. VILORIA-FISHER: We
11 have to change the vote to amend
12 it.

13 MS. SPENCER: I'll make a
14 motion.

15 MR. KAUFMAN: I second it.

16 MR. SWANSON: Who made the
17 motion?

18 MR. KAUFMAN: Mary Ann.

19 MR. SWANSON: Oh, Mary Ann.
20 Will you amend the motion?

21 MR. KAUFMAN: Sure.

22 MR. SWANSON: To go back to
23 using BMPs?

24 MR. KAUFMAN: Yes.

25 MS. RUSSO: Okay.

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2 MR. SWANSON: Motion to
3 amend. All in favor?

4 (No audible response.)

5 MR. SWANSON: Opposed?

6 (No audible response.)

7 MR. SWANSON: Swanson has
8 abstained.

9 MR. BAGG: Wait a minute.
10 Who made the motion?

11 MR. KAUFMAN: Mary Ann made
12 the motion, I seconded it, Larry
13 recused, and it looks unanimous.

14 MR. BROWN: Wow. Must be
15 getting around lunch time.

16 MR. SWANSON: SEQRA and
17 Wetland Management.

18 "1) The Wetlands Screening
19 Committee should have the ability
20 to request full review and SEQRA
21 compliance on management tools" --

22 MR. BAGG: It would be BMPs
23 now.

24 MR. SWANSON: -- "BMPs
25 outlined by the DEE.

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2 2) If the DEE adopts any
3 BMPs wetland management tools 1-4
4 as part of their stewardship
5 strategy then BMPs wetland
6 management tools 1-4 should have
7 full SEQRA review by Suffolk
8 County if the individual marsh
9 assessment indicates the need, or
10 if the assessment indicates BMPS
11 wetland management tools 1-4 may
12 have possible environmental
13 impacts on case by case basis.

14 3) Wetland health should be
15 the prime objective for any SEQRA
16 review (protection of wetlands).

17 4) If the DEE adopts any of
18 BMPs wetland management tools 2-4
19 as part of their stewardship
20 strategy then 'Maintenance' as
21 defined in BMPs wetland management
22 tools 2-4 needs further
23 clarification:

24 a) No alteration of
25 marsh hydrology, tidal circulation

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2 characteristics, vegetation or
3 animal populations shall occur as
4 part of any maintenance activity.

5 b) Maintenance should
6 involve only existing water
7 features in a marsh and cannot be
8 used to expand any feature.

9 c) Suffolk County can
10 remove blockages/obstructions in a
11 ditch or impairments to tidal flow
12 in a marsh if vegetation or
13 resource values or the existence
14 of a marsh will be damaged, or if
15 insect populations are a threat
16 (identified as a problem through
17 monitoring) or the marsh will be
18 choked off from tidal
19 exchange/water supply. The focus
20 here would be on hydrology, tidal
21 exchange, insect population,
22 resource values, vegetation
23 composition, etc., and marsh
24 population. Suffolk County could
25 also remove blockages/obstructions

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2 if mosquito breeding (sic) would
3 be increased because of the
4 blockage.

5 d) Maintenance cannot
6 expand a ditch network.

7 e) Maintenance shall
8 avoid enhancement of storm water
9 conveyance.

10 f) If a new DEC
11 permit is required for any DEE
12 adopted BMP wetland management
13 tool action in a marsh, copies of
14 the permit application shall be
15 filed with the Department of
16 Environment and Energy and CEQ,
17 along with notice of the time when
18 these actions will be performed.

19 5) If new information
20 concerning adverse impacts of
21 methoprene becomes available then
22 continued use requires new SEQRA
23 review."

24 Do we have a motion?

25 MR. KAUFMAN: I'll make a

1 Council on Environmental Quality

2 motion.

3 MS. VILORIA-FISHER: Before
4 we make a motion, Larry, I just
5 want to look back at the language,
6 because you've been reading it
7 with BMPs and wetlands management.
8 So shouldn't it just be BMP tools
9 if we didn't make that change in
10 the first instance?

11 MR. SWANSON: It should
12 be --

13 MS. VILORIA-FISHER: I
14 know, but it shouldn't be on the
15 record. So every place where you
16 have "wetland management," it
17 should just be "BMP tools."

18 MR. KAUFMAN: I shall make
19 a motion to put this on the floor.

20 MR. SWANSON: Have a
21 second?

22 (No audible response.)

23 MR. SWANSON: We have a
24 second from Legislator
25 Viloría-Fisher.

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2 MS. STILES: Can we
3 separate it into separate
4 sections, just so that it goes a
5 little bit smoother? Like, where
6 it says number one, we vote yes or
7 no, number two we vote, just to
8 keep it a little bit, you know...

9 MR. KAUFMAN: All right, I
10 don't have a problem with the
11 architecture of that. Larry's
12 leaving for a moment.

13 All right. Let's look at
14 number one. Anyone have any
15 comments on it? But before we get
16 there, just want to say one thing.
17 This is oriented towards some
18 oddity, if you will, that occurs
19 in the plan or the EIS, I don't
20 remember which one it is. BMPs 10
21 through 15, or maybe it's 11
22 through 15, automatically get full
23 SEQRA review. 5 through 10, or 5
24 through 9, get optional review if
25 wetlands screening gets, like,

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2 five votes or something like that.

3 It was my opinion, when I brought
4 this up at the work session, and
5 no one objected to it, that they
6 should have full ability. There
7 should be a discounting of both.

8 MR. DAWYDIAK: Point of
9 clarification. 5 through 9 get a
10 full SEQRA. Stewardship review is
11 optional.

12 MR. KAUFMAN: Okay.

13 MS. VILORIA-FISHER: So
14 SEQRA's required on 5 through 9.

15 MR. DAWYDIAK: SEQRA's
16 still required on 5 through 9.
17 Notice gets sent to stewardship,
18 and stewardship can meet and vote
19 if they decide to.

20 MS. STILES: Is it the
21 Wetlands Screening Committee or
22 the Wetlands Stewardship
23 Committee?

24 MR. DAWYDIAK: Stewardship
25 should be the correct jargon

1 Council on Environmental Quality

2 throughout.

3 MS. STILES: We don't have
4 a Wetlands Screening Committee
5 anymore?

6 MR. DAWYDIAK: That's
7 obsolete jargon.

8 MR. KAUFMAN: So we'll put
9 it down as obsolete. So it will
10 read, then, "The Wetlands
11 Stewardship Committee."

12 MS. RUSSO: Switch this to
13 "shall."

14 MR. KAUFMAN: "Shall."
15 Anyone have a problem with the
16 word "shall" as opposed to
17 "should"?

18 MR. BROWN: I'll make a
19 motion to accept that.

20 MR. KAUFMAN: Any other
21 comment on number one?

22 MR. SWANSON: No. That's
23 the motion by Kaufman, seconded by
24 Brown?

25 MR. BAGG: Motion by

1 Council on Environmental Quality

2 Brown -- no, you made it.

3 MR. KAUFMAN: Yes, I'll
4 amend it to include my motion to
5 substitute "stewardship" and the
6 word "shall."

7 Legislator Fisher.

8 MS. VILORIA-FISHER: If the
9 FGEIS already calls for full
10 review and SEQRA compliance, then
11 this is not necessary. I'm
12 reading it here. SEQRA is
13 required, it says, in the plan or
14 nonplan. So I don't think we need
15 to include this recommendation.
16 So I'll make a motion to strike
17 number one.

18 MR. KAUFMAN: I'll withdraw
19 my motion.

20 MR. BROWN: Let me ask a
21 question. Are we talking about
22 wetlands management now?

23 MR. KAUFMAN: In the FGEIS,
24 it clearly says that SEQRA is
25 required.

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2 MR. BROWN: Right.

3 MS. VILORIA-FISHER: 5

4 through 15.

5 MR. KAUFMAN: 5 through 15.

6 Okay? But there was an oddity in
7 there that I had noticed about the
8 Stewardship Committee and a voting
9 pattern that was --10 MR. BROWN: It was
11 inaccurate, but she corrected you?12 MR. KAUFMAN: Well,
13 whatever it's called. It's not
14 inaccurate in terms of the vote of
15 the Stewardship Committee, but I
16 don't have a problem with getting
17 rid of this paragraph. It's no
18 big deal.19 MS. VILORIA-FISHER: Do we
20 have a motion?21 MR. KAUFMAN: Yes. Call to
22 vote on eliminating paragraph one.23 MS. VILORIA-FISHER: Yes.
24 Are we voting right now?

25 MR. KAUFMAN: This is a

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2 motion right now by this side of
3 the table to eliminate paragraph
4 one because it is duplicative.
5 Okay? It was improperly brought
6 forth and seconded. I withdrew my
7 previous motion.

8 MS. RUSSO: I second it.

9 MR. KAUFMAN: Okay. Gloria
10 seconded it.

11 All in favor?

12 (No audible response.)

13 MR. SWANSON: We'll move on
14 to item two. If the DEE adopts
15 any BMPs 1 through 4. Do we have
16 a motion on this one on?

17 MR. KAUFMAN: On this one,
18 I was the one who came up with the
19 idea. I'm not sure where I got
20 the word "adopt" from. I thought
21 it was more usage. I want to have
22 SEQRA review available for 1
23 through 4 just in case the
24 individual marsh assessment
25 indicates a need. It could be

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2 that there's something odd going
3 on with, say, a reversion or
4 something like that, or it could
5 be that you won't know that
6 there's a problem with doing
7 maintenance until you're actually
8 in there and you see that you need
9 to have further review. I just
10 wanted to have it in there as a
11 protection.

12 MR. SWANSON: Aren't two of
13 the things that are in 1 through 4
14 serve no action?

15 MS. VILORIA-FISHER:
16 Question. I'm referring to the
17 third line of number two. It says
18 "should have full SEQRA review by
19 Suffolk County if the individual
20 marsh assessment indicates the
21 need." Who would be determining
22 that? Because the marsh isn't
23 going to indicate it. Somebody
24 has to indicate it. Is it DEE or
25 the Stewardship Committee?

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2 MR. KAUFMAN: Either one.

3 MS. VILORIA-FISHER: But
4 we're not stating who should be
5 indicating that.

6 DR. POTENTE: I thought the
7 assessment was done.

8 MS. VILORIA-FISHER: Not on
9 1 through 4.

10 MR. KAUFMAN: Yes,
11 Legislator Fisher is correct.
12 Stewardship does not look at 1
13 through 4. It doesn't presume to
14 be more innocuous, if you will. I
15 know several marshes, for example,
16 that if we do reversion on that,
17 there's going to environmental
18 impact, and it may be that they're
19 being choked out or whatever. So
20 I don't know that 1 through 4
21 necessarily have in innocuous
22 impact. I'm simply saying it
23 should be available. Not
24 mandated. It should be available.

25 MS. RUSSO: Are we saying

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2 DEE shall have the discretion to
3 determine that BMP 1 through 4 had
4 a possible environmental impact.
5 DEE, if they use BMPs 1 through 4,
6 will have the discretion for a
7 full SEQRA review if they feel
8 that that particular BMP 1 through
9 4 may have a possible
10 environmental impact on a case by
11 case basis.

12 MR. KAUFMAN: Yes. That
13 works for me.

14 MR. SWANSON: Okay. Yes.

15 MS. STILES: It says if DEE
16 adopts or decides to use BMPs 1
17 through 4. Isn't Vector Control
18 going to continue to use 1 through
19 4 for the next three years, and
20 are we saying now that Vector
21 Control has to go to DEE to do
22 these? I want to make sure the
23 process is clear. I'm not
24 expressing an opinion either way.
25 I want to make sure the process is

1 Council on Environmental Quality

2 clear for the County.

3 MR. KAUFMAN: I believe
4 that the County will be
5 undertaking maintenance
6 activities. I don't think that's
7 prohibited in the plan at this
8 point in time. They'll also be
9 getting independent DEC permits
10 for that.

11 MS. STILES: Can we clarify
12 if they will be using that, the
13 plan I like.

14 MR. DAWYDIAK: Mike, I like
15 your initial line the best because
16 it implied that at the point that
17 the strategy has sufficiently
18 gestated to a point where we know
19 more about a marsh and the
20 Stewardship Committee has adopted
21 that element of knowledge as being
22 appropriate and valid, then the
23 Stewardship Committee can review 1
24 through 4 if they're determined to
25 be significant potentially. So

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2 Vector Control, indefinitely for
3 the three-year period, can use 1
4 through 4 with the restrictions
5 identified in the plan until such
6 time as the stewardship program
7 determines otherwise. That's how
8 you wrote it, I believe.

9 MR. SWANSON: Legislator
10 Viloría-Fisher.

11 MS. VILORIA-FISHER: But
12 the question here -- Lauren, I
13 don't mean to put words in your
14 mouth -- in the very first part of
15 the sentence, where it says "if
16 the DEE adopts BMPs" 1 through 4.
17 And I think her question is, 1
18 through 4, in that particular
19 sentence, where's the role of
20 Vector Control here?

21 MR. DAWYDIAK: Well, the
22 way that the sentence is written
23 is as part of a stewardship
24 strategy, so my read of this is,
25 at some point two or three years

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2 down the road, when a stewardship
3 strategy begins to be developed,
4 it will be formally incorporated.

5 MR. KAUFMAN: That's the
6 difference in words between "uses
7 now" and "adopts later."

8 MS. VILORIA-FISHER: But if
9 I may, if we work on what Gloria
10 was saying, if we were to take
11 three of the words and say, "If
12 the DEE adopts any BMPs, tools 1
13 through 4 as part of their
14 stewardship strategy, then BMPs 1
15 through 4 should have full SEQRA
16 review by Suffolk County if the
17 DEE determines that that
18 individual marsh indicates the
19 need." Put "DEE determines at
20 that point." So, Walter, that
21 would be after the process is
22 moving, then DEE can make that
23 determination.

24 MR. DAWYDIAK: That sounds
25 exactly right.

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2 MS. VILORIA-FISHER: So
3 we'll put that later in the
4 paragraph.

5 MR. SWANSON: Lauren.

6 MS. STILES: It's just that
7 we've gone through so many
8 versions of what we're doing or
9 not doing in the future, I think
10 the reason that this wasn't
11 specified on 4 and not the rest is
12 because we've talked about what's
13 going on 5 through 15 elsewhere.
14 So if we include it in here, I
15 think that's going to confuse the
16 situation because 5 through 15 are
17 already going to undergo
18 additional SEQRA, so we wouldn't
19 want to make it contingent on DEE
20 adopting it or approving it. You
21 know what I'm saying? And it
22 seems to be that this is talking
23 about when it's going to be used
24 individually, so maybe what we're
25 trying to say here is, first

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2 there's an implication that we're
3 asking the DEE to look at 1
4 through 4, which I'm not sure
5 we've clarified elsewhere.

6 Because essentially, the
7 CEQ is adopting 1 through 4 right
8 now by adopting this plan. So if
9 we're asking the DEE, in their
10 long-term wetlands plan -- I'm
11 sorry, in their wetlands strategy,
12 whatever we're calling it now, if
13 we're asking them to look at 1
14 through 4 again, and then we're
15 saying, "If you adopt these, we
16 want you to have the right to look
17 at them." I'm not really sure
18 that that's useful. I think it's
19 very confusing.

20 MR. KAUFMAN: I would say
21 my original intent on all of this
22 was making it available even
23 earlier than stewardship. Making
24 it available tomorrow, if
25 necessary. We may just find that

1 Council on Environmental Quality

2 certain of these activities have
3 impacts that we may find that
4 reversion has -- no action may
5 have impacts. I don't know who
6 the proper authority is, but I
7 suspect probably DEE is the best
8 one that we started off with, and
9 then it gets kicked up to us. But
10 I think it should be available as
11 soon as possible, because I don't
12 think 1 through 4 are necessarily
13 totally innocuous.

14 MS. STILES: Right. I
15 totally agree with you, but then I
16 guess the question I had
17 originally, but how does DEE know
18 about it? Are we requiring that
19 Vector Control provide notice?
20 Because right now they're not
21 involved in 1 through 4.

22 MR. KAUFMAN: To put it
23 bluntly, this is one of the
24 questions Jim and I talked about a
25 little bit. We're not sure how

1 Council on Environmental Quality

2 to, if you will, micromanage this
3 and set up exact procedures. This
4 was more, we were trying to get
5 general options as based upon what
6 we had all discussed in the work
7 session as based upon his notes.
8 So once micromanaging and nailing
9 it down exactly, there may be need
10 for some wiggle room at this point
11 in time. These are
12 recommendations. You know, I
13 don't know how Dominic would
14 communicate to DEE. Maybe he does
15 an EIS. Maybe he does
16 documentation, I don't know, but I
17 think somehow or other there needs
18 to be some protection there.

19 MR. SWANSON: John.

20 DR. POTENTE: This is where
21 I'd like to introduce number four
22 that I have down here. It seems
23 to go along with this. This
24 maintenance of BMPs 2 and 3, and
25 there's questions that are

1 Council on Environmental Quality

2 hovering over this. Should it be
3 done? When should it be done? Is
4 it good? Is it bad? You know,
5 where are we going with this? So
6 this whole subject is up in the
7 air, and this is one of the
8 reasons that this should be
9 included in an overall
10 environmental impact statement to
11 where does this maintenance of
12 this fall into place in terms of
13 what's already there. And what
14 I'm saying is the original Vector
15 Control must submit a of existing
16 structures, which is very easily
17 done, and ditches they wish to
18 maintain. This is not a big thing
19 to do. This information is
20 available. To maintain -- and
21 such a list may be subject to a
22 review by the CEQ.

23 MR. SWANSON: Isn't that
24 micromanaging Suffolk County?

25 DR. POTENTE: Larry, we've

1 Council on Environmental Quality

2 gone over this. Look at our
3 agenda the last two years. That's
4 all we're doing. And as long as
5 everything looks okay it's not
6 micromanaging. It's micromanaging
7 if there are instances where --

8 MR. KAUFMAN: John, I beg
9 to differ. We judge projects that
10 are brought to us and structures,
11 for example, actions, as they're
12 classified under SEQRA. That's
13 what we're dealing with. We're
14 not micromanaging, telling them
15 exactly how to go out and do this
16 step, followed by this step,
17 followed by this step.

18 DR. POTENTE: Forget the
19 micromanagement. We want to look
20 at what is going on in all of
21 these marshes in Suffolk County.
22 Is this good or is this bad? Have
23 we decided on that from an overall
24 plan that a Stewardship Committee
25 has looked at? No.

1 Council on Environmental Quality

2 MR. SWANSON: I don't have
3 a list, for example, of all --

4 DR. POTENTE: That can be
5 provided.

6 MR. SWANSON: -- sewer --
7 and I really think that we're
8 going over the top with this
9 particular --

10 DR. POTENTE: What about
11 the ditches themselves?

12 MS. STILES: I see a
13 difference between maintaining a
14 culvert and a bridge and
15 maintaining a ditch that has
16 naturally -- or a storm that is
17 filled in quite extensively, and I
18 think that if we -- perhaps the
19 place to look at that, like, where
20 are the ditches that we're
21 maintaining, shouldn't we be in
22 the wetlands stewardship
23 strategies. Maybe it should have
24 been in this GEIS, but it isn't,
25 and we can't undo it, so maybe it

1 Council on Environmental Quality

2 needs to be looked at by this
3 Wetlands Stewardship Committee in
4 their strategy and by the DEE in
5 the future. Maybe we request that
6 they look at that. Especially
7 that you need a list of where all
8 the ditches are and which ones are
9 we going to maintain, which ones
10 are we going to let go. I mean,
11 that's what the stewardship plan
12 should be about, what's going on
13 in our wetlands.

14 DR. POTENTE: And those are
15 BMPs 2 and 3.

16 MS. STILES: 2 and 3,
17 right. BMP 1 is no action
18 reversion, and I said earlier that
19 might require SEQRA, but that's
20 not the case at all. Leaving
21 things alone never requires SEQRA.
22 Even if it might be bad for the
23 environment, it's not an action.

24 MR. KAUFMAN: Well, that's
25 why I'm saying it's "may." That

1 Council on Environmental Quality

2 was the language, "may." Maybe
3 there's a policy choice. I don't
4 want to see Obidia's Creek or
5 Obidia's Marsh die because a
6 culvert's blocked or something
7 like that. I'm just saying there
8 may be a policy choice up front.

9 MR. SWANSON: Okay, let's
10 move on with this. I'm not sure
11 that we ever actually got a motion
12 to adopt this. Was there a motion
13 made?

14 THE COURT REPORTER: Not to
15 adopt.

16 MR. SWANSON: Okay.

17 MR. KAUFMAN: I'll make a
18 motion.

19 DR. POTENTE: For what?

20 MR. SWANSON: To adopt
21 paragraph 2. And we need a
22 second. Mike made the motion. Do
23 we have a second?

24 MR. NARDONE: Yes.

25 MR. SWANSON: Okay. Any

1 Council on Environmental Quality

2 other further discussion?

3 John.

4 DR. POTENTE: I would like
5 to include that the existing
6 ditches, that Vector Control
7 submit a list of existing ditches,
8 which is BMPs 2 and 3, which are
9 included in this item. BMPs 2 and
10 3, a list of existing ditches be
11 submitted and may be subject to an
12 independent review by DEE.

13 MR. BROWN: You want to put
14 that in here?

15 DR. POTENTE: Yes. In that
16 paragraph.

17 MR. SWANSON: Gloria.

18 MS. RUSSO: Wouldn't it be
19 Wetlands Stewardship strategy go
20 to Vector Control because they
21 know what they're doing with the
22 marsh lands?

23 MR. BAGG: That's part of
24 the stewardship strategy.

25 MS. RUSSO: Yes. That's

1 Council on Environmental Quality

2 what I'm thinking.

3 DR. POTENTE: Yes, but this
4 is just stressing the importance
5 of it. I would like to see a
6 division of Vector Control submit
7 that.

8 MR. SWANSON: Do you want
9 to make a formal motion to --

10 DR. POTENTE: Yes.

11 MR. SWANSON: -- insert
12 that?

13 DR. POTENTE: Yes.

14 MR. KAUFMAN: Add that in?

15 DR. POTENTE: Yes.

16 Correct.

17 MR. KAUFMAN: As a second
18 part of the sentence?

19 DR. POTENTE: Correct.

20 MR. SWANSON: Okay. Would
21 you amend your motion?

22 MR. KAUFMAN: I'm willing
23 to amend my motion if I understand
24 what's going on. We've got
25 paragraph 2 sitting here right

1 Council on Environmental Quality

2 now. John wants to add in his
3 paragraph number 4 at the end of
4 paragraph 2.

5 DR. POTENTE: Correct.

6 MR. KAUFMAN: I don't have
7 a problem with putting that in
8 there. So I will amend my motion
9 to include that.

10 MR. SWANSON: Okay.

11 Second?

12 MR. NARDONE: Second.

13 MR. SWANSON: All in favor?

14 (No audible response.)

15 MR. SWANSON: Opposed?

16 (No audible response.)

17 MR. SWANSON: Legislator
18 Viloría-Fisher opposes and Swanson
19 is recused.

20 MS. STILES: We have
21 another one.

22 MR. SWANSON: Oh, we do?
23 Oh, I'm sorry, Viloría-Fisher
24 opposes and Swanson recused.
25 Okay?

1 Council on Environmental Quality

2 Moving on to three,

3 "Wetland health should be the
4 prime objective for any SEQRA
5 review." Isn't that already
6 implicit in what we've already
7 said?

8 MR. KAUFMAN: Well, it is
9 implicit, but I think it should be
10 stated up front.

11 MR. BAGG: I think you
12 already stated that in the
13 original recommendation.

14 MR. KAUFMAN: I will just
15 point out one thing. A long time
16 ago, it was not necessarily in
17 there. That's why I get very
18 jumpy about it.

19 MR. BROWN: Well, it's in
20 there now, right?

21 MR. BAGG: Yes.

22 MR. BROWN: So we don't
23 need it.

24 MR. KAUFMAN: Motion to
25 omit.

1 Council on Environmental Quality

2 MR. SWANSON: We have a
3 motion to omit number three. We
4 have a second by Mr. Potente. All
5 in favor?

6 (No audible response.)

7 MR. SWANSON: Opposed?

8 (No audible response.)

9 MR. SWANSON: Motion
10 carries. Swanson abstains.

11 Okay, item number four.
12 This is the definition of
13 maintenance. Motion to accept the
14 definition of "maintenance."
15 Okay, and Mr. Kaufman made a
16 motion, Legislator Viloría-Fisher
17 seconded. Discussion?

18 Yes. Lauren.

19 MS. STILES: Number 4 C, it
20 says "County can remove
21 blockages/obstructions," blah,
22 blah, blah, "if insect populations
23 are a threat (identified as a
24 problem through monitoring.)"
25 This kind of goes to the issue of

1 Council on Environmental Quality

2 Vector Control believes anything
3 could be a threat. If this was
4 intended to be some kind of
5 restriction on when blockages can
6 be removed in order to somehow
7 protect the marsh, I don't think
8 that's specific enough language to
9 do that. A threat as identified
10 by who?

11 MR. KAUFMAN: There was no
12 attempt, you know, to maneuver
13 this or anything. I was looking
14 at it in terms of a breeding
15 population sitting over there that
16 may produce mosquitoes, and if the
17 County wants to larvicide. That
18 was the concept when I used the
19 word "threat." And, again, I
20 qualified it by saying as
21 identified as a problem through
22 surveillance.

23 MS. STILES: Right.

24 MR. KAUFMAN: So if you
25 don't like the word "threat" --

1 Council on Environmental Quality

2 MR. BROWN: Then throw it
3 out.

4 MS. STILES: Well, the word
5 there, "threat," the next page,
6 the last sentence of that section
7 says Suffolk County can also
8 remove blockages, obstructions.
9 Do you want to just somehow put
10 that into where it says "threat"
11 and replace the word "threat"?

12 MR. BAGG: There are
13 thresholds in the plan at DIS, I
14 believe, that the operations will
15 be conducted.

16 MS. VILORIA-FISHER: Yes.

17 MR. BAGG: So maybe you
18 should stick to what the plan
19 states.

20 MR. KAUFMAN: That's the
21 way it was set up.

22 MS. STILES: I think that
23 this was intended to somehow alter
24 the way it was laid out in the
25 plan. I recall the last

1 Council on Environmental Quality

2 discussion.

3 MR. KAUFMAN: Again,
4 there's no intent. This is just
5 the way I write. This a
6 paragraph that I had written and
7 Jim looked at. No intent to sway
8 anything.

9 MR. SWANSON: Are there any
10 concrete changes? If not, I call
11 a motion.

12 Vivian.

13 MS. VILORIA-FISHER: Oh,
14 I'm sorry, one question about what
15 you said earlier regarding all
16 agencies. Did you want that
17 language in there?

18 MR. BROWN: "Appropriate
19 agencies."

20 MS. VILORIA-FISHER: In
21 letter F, "appropriate agencies"?

22 MR. BROWN: "Appropriate
23 agencies," correct.

24 MR. BAGG: Where are we,
25 now?

1 Council on Environmental Quality

2 MS. VILORIA-FISHER: On
3 page 4, for F.

4 MR. SWANSON: We're not
5 there yet.

6 MS. VILORIA-FISHER: Oh, I
7 thought we were talking about the
8 whole piece.

9 MR. SWANSON: No.

10 MS. VILORIA-FISHER: Oh,
11 we're still on 3? Oh, sorry.

12 MR. BAGG: We're on 4.

13 MS. VILORIA-FISHER: Right.
14 That's all part of 4. I was
15 referring to F on number 4.

16 MR. BROWN: There's no
17 changes to 4, right? Up to C.

18 MR. SWANSON: There hasn't
19 been any made yet, through C. And
20 Legislator Viloría-Fisher is
21 recommending a change to F.

22 MR. BAGG: And that change
23 is, again?

24 MS. SQUIRES: Could you
25 give us the wording?

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2 MR. BAGG: We're just
3 changing "appropriate agencies."

4 MR. KAUFMAN: It's a new
5 governmental permit.

6 MS. STILES: It's a new
7 permit?

8 MR. KAUFMAN: Yes.

9 MR. SWANSON: Okay. John.

10 DR. POTENTE: Just on C,
11 just to clear that up, because
12 that's really loose. "If insect
13 populations are a threat." That's
14 so subjective. Can we put, "to
15 determine that insect populations
16 cause a medical emergency"?

17 MR. KAUFMAN: That's the
18 whole CDC/WHO thing, and that
19 really begs the question of when
20 you apply larvicide and
21 adulticide. This was not where I
22 was trying to go with maintenance
23 or anything like that.

24 DR. POTENTE: Okay. Well,
25 maybe we can just tighten that up

1 Council on Environmental Quality

2 a little bit. "If insect
3 populations pose a medical
4 emergency." Then you're saying
5 everything else gets reviewed, and
6 I don't necessarily know if
7 everybody concurs with that. And
8 we're back to this whole disease
9 and public nuisance type of
10 argument.

11 MR. SWANSON: We can't
12 totally tie the County's hands.
13 And I'm telling you I'm going to
14 mention this again when we get to
15 the spraying. If we don't allow
16 the County to have some sort of
17 formal control program, all chaos
18 is going to break out in this
19 county when people start doing it
20 on their own. And I think it's
21 nice that we're putting controls
22 on these things on the County. On
23 the other hand, we can't go over
24 the top or this county's going to
25 be a mess. And that's where we're

1 Council on Environmental Quality

2 going right now.

3 MR. DAWYDIAK: Larry, can I
4 make a suggestion that this just
5 be broadened to say, "In
6 accordance with the conditions
7 that are restrictions in the
8 plan"? I mean, the plan sets
9 forth when you can maintain the
10 ditches. It's got be a critical
11 ecological reason or there's got
12 to be a public health reason with
13 no harm done to the marsh and the
14 overall footage is strictly
15 limited. So all that stuff's in
16 the plan. I don't think it needs
17 to be repeated.

18 MR. SWANSON: I think
19 that's a good idea.

20 DR. POTENTE: Where do you
21 want to put that?

22 MR. DAWYDIAK: Just strike
23 out C and say, "Suffolk County can
24 remove blockages/obstructions in
25 accordance with the conditions and

1 Council on Environmental Quality

2 restrictions outlined in the
3 plan."

4 MS. STILES: Well, then,
5 what's the point of this
6 recommendation at all? I mean,
7 we're obviously recommending the
8 plan as a whole, and these are the
9 differences, right?

10 MR. SWANSON: This is just
11 trying to further clarify
12 "maintenance."

13 MR. KAUFMAN: Further
14 clarify the definition of
15 "maintenance."

16 MR. DAWYDIAK: If I could
17 just point out one potential
18 inconsistency as an objective
19 reader, A and C are potentially
20 inconsistent because removing a
21 blockage, by definition, alters
22 hydrology. So saying no
23 alterations --

24 MR. KAUFMAN: "No material
25 alterations"?

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2 MR. DAWYDIAK: "No material
3 alterations" is good. I think
4 that's what I suggested.

5 MR. SWANSON: Okay. That's
6 to A?

7 MR. DAWYDIAK: To A.

8 MR. SWANSON: Okay. All
9 right. A suggestion has been made
10 by Mr. Dawydiak to modify C so
11 that it essentially reads that
12 "Suffolk County can remove
13 blockages/obstructions in a ditch
14 or impairments to tidal flow
15 according to" --

16 MR. BAGG: "In accordance
17 to the restrictions identified in
18 the FGEIS again."

19 MR. DAWYDIAK:
20 "Conditions," not "restrictions."

21 MR. KAUFMAN: To the extent
22 that A still exists, "no material
23 alterations of marsh hydrology," I
24 can accept that on the motion.

25 MR. SWANSON: Lauren.

1 Council on Environmental Quality

2 MS. STILES: I just have a
3 question. The whole idea of
4 maintenance has always kind of
5 been presented to us, like, you
6 know, if there's a sudden kitchen
7 sink falls into a ditch and you
8 need to maintain it or something
9 like that. Okay, so maybe there's
10 a clog in a ditch that has very
11 temporarily altered the hydrology
12 and it has caused this blockage,
13 but I think that this language,
14 you know, allowing alteration of
15 the hydrology, you can have a
16 ditch that's entirely filled in
17 through natural processes, and now
18 you're saying, "Well, you can kind
19 of alter it. It's not really a
20 big deal. You can unclog it
21 because it's maintenance."

22 MR. KAUFMAN: Well, that's
23 why I put "A" in there, that I
24 didn't want to see, in the guise
25 of maintenance, any fundamental

1 Council on Environmental Quality

2 change to a marsh one way or
3 another. And that's why I put in,
4 as amended by Walter, no material
5 alterations for hydrology or
6 anything in there. If you're
7 going to do maintenance,
8 maintenance should be a strict
9 thing. It shouldn't go, maybe,
10 towards OMWM and it shouldn't go
11 towards the Bay Keeper. It
12 shouldn't go total messing around
13 with the marsh and it shouldn't go
14 total reversion. It is what it is
15 at that point in time, until that
16 marsh is further assessed. My
17 point on this was, I didn't want
18 to see maintenance be used in the
19 guise of anything else, and I'm
20 trying to make sure that there are
21 limiting factors in here.

22 MS. STILES: Well, if what
23 you're saying is to keep the
24 status quo, then why is it
25 altering hydrology? If you're

1 Council on Environmental Quality

2 altering hydrology, you're not
3 keeping the status quo.

4 MR. KAUFMAN: No, I'm
5 saying no alteration of hydrology.
6 But, you know, if a kitchen sink
7 drops in there or say there's a
8 storm event and a ditch gets
9 blocked off, that could be
10 maintenance. But if it's five,
11 ten years in the past, that's not
12 going to be real maintenance.
13 Again, you're looking at storm
14 events. You're looking at just
15 the normal rack stuff that gets
16 put into a marsh. You're looking
17 at, maybe, collapse of a ditch or
18 something like that, and say it's
19 a ditch that conveys a lot of
20 tidal water. If it's more of an
21 immediate situation, that's what
22 this is oriented towards.

23 MR. SWANSON: Yesterday, I
24 was out on Old Neck Creek and
25 natural processes had floated a

1 Council on Environmental Quality

2 log in front of the culvert that
3 was going from one side of the
4 railroad berm to the other.

5 Totally natural process. What it
6 was doing was creating a stagnant
7 pond where mosquitoes potentially
8 could breed this coming spring. I
9 would certainly hope that the
10 County would be able to go and
11 remove that piece of wood that was
12 blocking it due to natural
13 processes without having to get an
14 EIS done. And I think we're
15 really getting to the point of
16 making this whole situation
17 absolutely asinine. Control is
18 one thing, but to get to the point
19 where we're absolutely tying the
20 hands of the County so that they
21 cannot do what is necessary to
22 protect the public health and at
23 the same time protect our marshes,
24 it's just very poor environmental
25 policy, and governmental policy as

1 Council on Environmental Quality

2 well.

3 DR. POTENTE: I don't think
4 anybody is arguing that.

5 MR. SWANSON: I think you
6 are. I think it's getting to that
7 point.

8 DR. POTENTE: No, no. The
9 main concern here is where marshes
10 are naturally silting in and
11 trying to recover themselves.
12 That's the focus of the concern.
13 Not all this accessory stuff with
14 logs and railroad ties and things
15 like that.

16 MR. SWANSON: I just heard
17 that something's recovering
18 naturally or something natural
19 happens we can't modify it.

20 DR. POTENTE: Well, it's
21 pretty well covered under number
22 four. Let's see what these
23 ditches look like. Let's all
24 become familiar with what these
25 ditches look like and what's

1 Council on Environmental Quality

2 taking place, and then we can
3 assess it. We can't really assess
4 it blind.

5 MR. KAUFMAN: That's three
6 years in the future, though.
7 That's the problem.

8 MR. BAGG: In addition to
9 that, this log incident could have
10 happened yesterday. I mean, you
11 can present all the additions you
12 want and in a year, you don't have
13 them, so it's not on your plan.

14 MR. KAUFMAN: Marshes are
15 not a static thing. They change
16 from day to day to day.

17 DR. POTENTE: Mechanical
18 blockages like that, don't confuse
19 the issue. Nobody's arguing that.

20 MR. KAUFMAN: No, but,
21 John, then let's look at the --

22 DR. POTENTE: Well, let's
23 include it so that we can know
24 what --

25 MR. SWANSON: Let's go.

1 Council on Environmental Quality

2 MR. DAWYDIAK: I have
3 something that might be helpful to
4 you here on this. If you get to
5 the point where machine work is
6 required for maintenance slash
7 reconstruction, a permit
8 application goes in anyway because
9 it's hard to know when DEC
10 considers something maintenance
11 that doesn't require a permit
12 versus reconstruction, where it
13 does. So it seems like the kind
14 of things that you would be
15 concerned about here in
16 maintenance are things that are
17 going to trigger a permit
18 application, and permit
19 applications you'll go all over
20 the place anyway. So I think that
21 maybe that addresses some of your
22 concerns that these things are not
23 going to get a look.

24 MR. SWANSON: Okay.

25 MS. STILES: Can I ask a

1 Council on Environmental Quality

2 question.

3 MR. SWANSON: Yes.

4 MS. STILES: Looking at F,
5 the changes state if a new permit
6 is required, this is for any
7 DEE-adopted wetlands management
8 tool? Are we saying any
9 DEE-adopted BMP or are we saying
10 any BMP?

11 MR. KAUFMAN: I would say
12 "action," which is the way I
13 already have it.

14 MR. BAGG: I think here it
15 should be saying, "If a new permit
16 with the appropriate agency is
17 required for any action in a
18 marsh, copies of the permit
19 application shall be filed with
20 the Department of Environment and
21 with CEQ, along with the notice of
22 timely action performed." I mean,
23 that's what you want.

24 MS. STILES: Right. I was
25 trying to make sure we weren't

1 Council on Environmental Quality
2 limiting it to DEE-adopted
3 permits.

4 MR. SWANSON: Okay. We're
5 okay?

6 MS. STILES: Uh-huh.

7 MR. SWANSON: All right.
8 Anything else on this?

9 (No audible response.)

10 MR. SWANSON: All in favor
11 of section 4?

12 MR. BAGG: I have a
13 question here, Larry. Qualify
14 number (sic) C.

15 MR. KAUFMAN: It says
16 "Suffolk County can remove
17 blockages/obstructions in a ditch
18 or impairments to tidal flow in
19 accordance with" --

20 MR. BAGG: -- "conditions
21 and restrictions identified in the
22 FGEIS." But what do you want to
23 do with the rest of that
24 paragraph?

25 MR. SWANSON: It goes.

1 Council on Environmental Quality

2 MR. BAGG: Now, how about
3 sections D, E, F in there?

4 MR. SWANSON: There were no
5 questions raised.

6 MR. BAGG: But you have to
7 kind of lead into that. So you
8 want to say that Suffolk County
9 could also remove blockages, or do
10 you just want to keep that --

11 MS. VILORIA-FISHER: Keep
12 the language the same.

13 MR. BAGG: Okay.

14 MR. SWANSON: All right,
15 all in favor?

16 (No audible response.)

17 MR. SWANSON: Opposed?

18 (No audible response.)

19 MR. SWANSON: Mr. Potente
20 and Stiles opposed, and I am
21 recused.

22 All right. Subsection 5.
23 "If new information concerning
24 adverse impacts of methoprene
25 becomes available then continued

1 Council on Environmental Quality

2 use requires new SEQRA review."

3 DR. POTENTE: We're going
4 to be expressing this later. Why
5 don't we just remove it from here?

6 MR. SWANSON: Okay. So we
7 can remove it from here?

8 DR. POTENTE: Yes.

9 MR. SWANSON: All right.
10 So we all agree to make a motion
11 to remove 5? Okay, Gloria seconds
12 it.

13 All in favor of removing 5?

14 (No audible response.)

15 MR. SWANSON: Opposed?

16 (No audible response.)

17 MR. SWANSON: Five is
18 removed, and I recuse.

19 All right, would you like a
20 break?

21 (Whereupon, a short recess
22 was taken.)

23 MR. SWANSON: Thank you for
24 being patient. I know she would
25 like to have a lunch break, but as

1 Council on Environmental Quality

2 I told her, I'm afraid if we did
3 have a lunch break I would lose my
4 quorum, and that we would be
5 resuming this again next month,
6 and that's not to anybody's
7 benefit. So we'll move on to use
8 of BMP Wetland Management Tool
9 Techniques.

10 MR. BROWN: Where's our
11 quorum?

12 MS. RUSSO: We don't have a
13 quorum.

14 MR. SWANSON: So we have
15 two views in this CEQ View
16 Number 1, which reads "The BMPs
17 form a toolbox of techniques
18 available for possible use in a
19 marsh. CEQ favors retention of
20 the BMP tools in the plan with the
21 following caveats:

22 1) BMPs 9 and 13 should not
23 be undertaken in an existing
24 wetland, but may be constructed as
25 a new feature in a reclaimed marsh

1 Council on Environmental Quality

2 or restored dredge spoil area.

3 2) BMP 11 shall be subject
4 to the previous restriction, but
5 also care should be taken to avoid
6 erosion at the mouth of channels
7 causing marsh edge slumping.

8 Changes in tidal circulation and
9 retention time should be carefully
10 analyzed.

11 3) None of the techniques
12 can be used as part of the OMWM
13 strategy.

14 4) BMP tools form part of
15 the toolbox that can be used both
16 for marsh restoration and
17 management, and for insect
18 control."

19 It's suggested that the
20 next sentence be deleted.

21 "Each distinct area, as
22 long as the BMP tools are fully
23 reviewable and assessed from an
24 environmental impact standpoint."

25 It's a weird, strange

1 Council on Environmental Quality

2 sentence.

3 MR. KAUFMAN: He did it.

4 MR. SWANSON: All right.

5 We'll have to modify that last
6 sentence.

7 MR. KAUFMAN: That's also a
8 View Number 2.

9 MR. SWANSON: There's a
10 View Number 2, but we're going to
11 look at View Number 1 now.

12 MR. BAGG: Now, how about
13 the first sentence in here? What
14 are you going to do for that first
15 paragraph here?

16 MR. SWANSON: Well, that
17 first sentence really could
18 probably be the introduction to
19 View Number 2.

20 MR. BAGG: Well, that was
21 modified. That was the mistake
22 that I did. I guess one of the
23 members suggested corrections to
24 support Number 2, but the BMPs in
25 the FGEIS and wetlands plan

1 Council on Environmental Quality

2 composed almost all physical
3 actions in the marsh for both
4 marsh management, restoration and
5 insect control, period. And then
6 you have View 1 and View 2.

7 MR. KAUFMAN: Yes. I would
8 agree with Jim on that. The way I
9 originally --

10 MR. SWANSON: What are you
11 agreeing to?

12 MR. KAUFMAN: What Jim was
13 just saying. The original
14 sentence should stay in, and the
15 bit about wetland management tools
16 should be removed and should
17 probably go into CEQ View
18 Number 2. I think that is more
19 clear.

20 MR. SWANSON: All right.
21 So do we have a motion on View
22 Number 1? We have a motion from
23 Mr. Kaufman. Do we have a second?

24 (No audible response.)

25 MR. SWANSON: We have a

1 Council on Environmental Quality

2 second by Mr. Brown. It's open
3 for discussion.

4 Yes.

5 MR. KAUFMAN: The way I set
6 this up, in cooperation with Jim,
7 was we took Jim's notes and tried
8 to figure out which way some of us
9 had seen it, because I did a
10 presentation on the BMPs, and the
11 way that I understood and Jim
12 understood some of the other views
13 over there. I tried to summarize
14 the views opposite from mine in
15 CEQ View Number 2. View Number 2
16 may be deficient in some of the
17 view points. It's just I tried to
18 sketch it out. I also knew that
19 this was a draft and would likely
20 change. I fully anticipate a
21 split on this particular aspect.
22 Some of us I believe are probably
23 going to go with View Number 1,
24 and some of us will go with View
25 Number 2. I just say list it and

1 Council on Environmental Quality

2 who wants to go with 1, who wants
3 to go with 2, rather than trying
4 to change them extensively.

5 For example, John may not
6 agree with View Number 1. He may
7 say Number 2, but I don't think
8 that he should put View Number 2
9 into View Number 1, if you
10 understand what I'm saying.

11 MS. VILORIA-FISHER: We
12 would have a majority and a
13 minority opinion?

14 MR. KAUFMAN: I think
15 that's the probable way it will
16 come out. But at this point, it
17 could change.

18 MR. SWANSON: Okay, John,
19 you had a question or a comment?

20 DR. POTENTE: Just one
21 small question. You're making the
22 distinction for a reclaimed marsh.
23 I've just heard so much talk that
24 if there's a ditch in the marsh
25 and the marsh was disturbed and we

1 Council on Environmental Quality

2 need to go reclaim it, that could
3 almost entail any marsh on Long
4 Island. So on one hand we're
5 saying we're going to leave the
6 existing wetlands alone, but we're
7 only to go in there and tamper
8 with the reclaim marsh. So how
9 are we going to resolve that?

10 MR. KAUFMAN: You may be
11 correct. When I came up with this
12 language, Jim and I talked about
13 it. Jim came up with the restored
14 dredge spoil area --

15 DR. POTENTE: That's fine.

16 MR. KAUFMAN: -- and there
17 was no problem with that. A
18 reclaimed marsh, I think you know
19 my feelings on this one. I don't
20 want to see --

21 MR. SWANSON: What is a
22 reclaimed marsh?

23 MR. KAUFMAN: That's just
24 the point. I don't know --

25 DR. POTENTE: Why don't you

1 Council on Environmental Quality

2 just scratch that out?

3 MR. KAUFMAN: It can be
4 taken out. Take it out.

5 MR. SWANSON: So a new
6 feature in a marsh.

7 MR. BAGG: Right. Well,
8 new feature in a restored dredge
9 spoil area.

10 MR. KAUFMAN: Right.
11 Right. That works.

12 MR. NINIVAGGI: I would
13 like to provide some
14 clarification, provide some
15 perspective on this aspect.
16 Management Tool 9 is a small fish
17 reservoir. If we would like to
18 get biological control of
19 mosquitos in salt marshes, we do
20 need fish habitat. So if you take
21 that, basically, out of the
22 toolbox by saying you can never
23 put it in an existing marsh, which
24 is very broad, then, basically,
25 you're really taking that tool

1 Council on Environmental Quality

2 away, and it's a very important
3 one. Same thing with 13, which is
4 tidal channels. Very often you do
5 need tidal circulation for the
6 health of the wetlands, and if you
7 can't put a tidal channel in an
8 existing wetland, which, again, is
9 a legal term --

10 MR. KAUFMAN: I don't think
11 13's right.

12 MR. NINIVAGGI: I'm sorry,
13 13 is -- what I meant, 11 is tidal
14 channels. As part of a good
15 overall strategy for a marsh, it
16 may need additional tidal
17 circulation and you would take
18 that tool away.

19 MR. SWANSON: Dominick,
20 tidal marshes evolved about
21 7,000 years ago, and they've
22 survived quite nicely without us
23 doing anything to them. So how do
24 you --

25 MR. NINIVAGGI: Well, for

1 Council on Environmental Quality

2 one thing, we've done a lot of
3 things to our marshes in Suffolk
4 County, as you know. Besides the
5 ditch system, there's various
6 tidal restrictions, development
7 around, there's lots of things.
8 So, yes, it's true that before the
9 Europeans got here, they got along
10 pretty well, and even the Indians
11 did modify --

12 DR. POTENTE: Can we move
13 along? This isn't --

14 MR. NINIVAGGI: So it's not
15 really a good argument to say that
16 the marshes survived fine without
17 our help and they can do so in the
18 future, because we've changed the
19 marshes, and we've changed the
20 landscape.

21 But just getting back to
22 this, one of the things I might
23 suggest is by basically saying
24 that you could only use these
25 small fish reservoirs and tidal

1 Council on Environmental Quality

2 channels if you're, basically,
3 constructing a new marsh, which
4 sounds like what you're saying
5 here. I think this really should
6 be done on a case by case basis.
7 And you might even consider that
8 the most appropriate place for
9 these things is often going to be
10 in places that are fragmites areas
11 where we're not having native
12 vegetation or an existing
13 unvegetative area, which there are
14 plenty of, and, again, you would
15 be minimizing your disturbance to
16 existing vegetation.

17 So maybe instead of taking
18 these out completely, what you
19 want to do is recommend that they
20 be done with a minimum of
21 disturbance to the native marsh
22 grass.

23 MR. SWANSON: Okay, John.

24 DR. POTENTE: This is
25 something that the Wetlands

1 Council on Environmental Quality

2 Stewardship Committee is going to
3 do, and they're going to make
4 these decisions. We're going to
5 lay the responsibility with them,
6 so let them decide.

7 MS. SPENCER: My CEQ View
8 Number 3, which kind of got bumped
9 into View Number 2, which was that
10 all of this should be determined
11 by the DEE so that all of us don't
12 sit here and go back and forth on
13 it. So that's really View 3.

14 MR. KAUFMAN: You realize,
15 though, one thing. Even though
16 there's going to be SEQRA control,
17 this is going to be inside a GEIS,
18 and these two techniques will be
19 available, and it is possible we
20 will have -- we will have removal
21 of substrate and things like that.
22 Even with all the careful controls
23 that are in here. It's entirely
24 possible. You never know. That's
25 why I was jumping at it.

1 Council on Environmental Quality

2 DR. POTENTE: Not in View

3 2.

4 MR. SWANSON: Okay.

5 Legislator Viloría-Fisher.

6 MS. VILORIA-FISHER: But I
7 agree with what Mary Ann just
8 said. When you look at the
9 oversight that we're going to have
10 on the practices, especially 10
11 through 15 or 9 through 13. You
12 have the Stewardship Committee,
13 you have DEE, you have SEQRA, you
14 have DEC permits. So I think
15 we're guilty of redundancy again
16 here.

17 MR. SWANSON: Okay. So
18 there's a motion on the table
19 that's been seconded. We can vote
20 it up or down.

21 MR. KAUFMAN: I'll withdraw
22 the motion, and John and Vivian
23 bring up a very good point on --
24 and Mary Ann, on 9 and 13. I
25 would -- all the caveats we want

1 Council on Environmental Quality

2 on 11.

3 MR. SWANSON: So what are
4 you doing here?

5 MR. KAUFMAN: I'm going to
6 let someone else make a motion on
7 this one, if they want to amend
8 Number 1 and 2. I'm still of the
9 opinion that I'm very jumpy about
10 9, 13 and 11.

11 MR. BAGG: Larry, what was
12 said is that all of the BMPs are
13 going to be reviewed by the
14 Stewardship Committee and be
15 evaluating the wetlands strategy.

16 MR. SWANSON: So we don't
17 need anything.

18 MR. BAGG: So, in essence

19 --

20 MR. SWANSON: So CEQ View
21 Number 1 out.

22 MR. BAGG: Well, 1 and 2,
23 because it's going to be reviewed
24 later.

25 MR. SWANSON: Well, we have

1 Council on Environmental Quality

2 to agree on that.

3 MR. BAGG: Right.

4 MR. SWANSON: Right now,
5 View Number 1 was on the table.
6 Vote it down.

7 DR. POTENTE: In that case,
8 we would just leave that first
9 sentence: "Management tools
10 should be removed from the FGEIS
11 and should be determined by the
12 DEE."

13 MR. BAGG: Well, it's in
14 the FGEIS, and the FGEIS says that
15 the Stewardship Committee will
16 review them and come up with a
17 strategy. What's next?

18 DR. POTENTE: But once
19 again, I will say that once they
20 are reviewed, that they should
21 undergo a GEIS.

22 MR. KAUFMAN: No.

23 DR. POTENTE: If that's
24 already settled, then fine.

25 MR. BROWN: I make a motion

1 Council on Environmental Quality

2 to remove View 1.

3 MR. SWANSON: Okay, the
4 motion has been made to remove
5 Number 1.

6 DR. POTENTE: I'll second
7 it.

8 MR. SWANSON: We have a
9 second by Dr. Potente. All in
10 favor?

11 (No audible response.)

12 MR. SWANSON: Opposed?

13 MR. KAUFMAN: I'll abstain.

14 MR. SWANSON: One
15 abstention Mr. Kaufman and one
16 recusal Swanson.

17 CEQ View Number 2.

18 MS. VILORIA-FISHER: I'll
19 make a motion to omit it.

20 MR. SWANSON: A motion has
21 been made to omit it.

22 MR. BROWN: Second.

23 MR. SWANSON: Second by
24 Mr. Brown. Any discussion?

25 (No response.)

1 Council on Environmental Quality

2 MR. SWANSON: All in favor
3 of removing CEQ View Number 2?

4 (No audible response.)

5 MR. SWANSON: Opposed?

6 MR. KAUFMAN: I'll abstain.

7 MR. SWANSON: One
8 abstention Mr. Kaufman and one
9 recusal Swanson.

10 Moving on to the Public
11 Health Aspects.

12 DR. POTENTE: Are we
13 leaving that first sentence
14 outside of the View 2?

15 MR. BAGG: No. We don't
16 have to.

17 MR. BROWN: The whole
18 section's stricken; is that
19 correct?

20 MS. SPENCER: I want to
21 make sure that first sentence is
22 still in there.

23 MR. BAGG: Yes.

24 MS. SPENCER: Then I make a
25 motion that the "...use of BMP

1 Council on Environmental Quality

2 Wetland Management Tools and
3 Techniques..." the first sentence
4 remains. The BMPs should be
5 removed.

6 MR. KAUFMAN: No.

7 MS. VILORIA-FISHER: No.

8 MS. STILES: She's making a
9 motion.

10 MR. BAGG: Go ahead, go
11 ahead.

12 MS. SPENCER: I'm just
13 reading the sentence. "From the
14 FGEIS and wetlands plan and should
15 be determined by the DEE."

16 DR. POTENTE: I second
17 that.

18 MR. SWANSON: Okay,
19 Legislator Viloria-Fisher.

20 MS. VILORIA-FISHER: No
21 offense, Mary Ann, I don't think
22 it seems logical to remove BMPs
23 when we've been talking about them
24 in all of our comments. They are
25 part of the FGEIS, they're part of

1 Council on Environmental Quality

2 what we're discussing --

3 MS. SPENCER: Okay.

4 MS. VILORIA-FISHER: -- and
5 they're already determined within
6 what we're discussing.

7 MS. SPENCER: What I really
8 mean, then, is that their use
9 should be reviewed and determined
10 by the DEE. I appreciate that.

11 MR. SWANSON: Okay, is that
12 okay, Legislator Viloría-Fisher?

13 MS. VILORIA-FISHER: Well,
14 can you say what you want to say
15 precisely?

16 MS. SPENCER: All right.
17 The use of the BMPs should be
18 determined by the DEE.

19 MR. SWANSON: All right.
20 We have a motion that's been made.
21 Do we have a second?

22 MR. BROWN: I'll second.

23 MR. SWANSON: Yes,
24 Mr. Nardone.

25 MR. NARDONE: I was going

1 Council on Environmental Quality

2 to suggest an addition to another
3 line.

4 MR. SWANSON: Go ahead.

5 MR. NARDONE: I would like
6 to see us go a step further and
7 say with regard to these BMPs, at
8 least 6 through 9 and 11 through
9 15, the one that constitutes OMWM,
10 that we have taken a look at them
11 and we feel that they have not
12 been substantiated as Vector
13 Control and that we're reserving
14 judgment on their use as
15 restoration techniques until the
16 DEE takes a look at them as purely
17 a restoration tool. This is an
18 issue of putting them in the
19 toolbox or nothing in the toolbox.
20 They can be in the toolbox for
21 future use if DEE thinks they
22 belong there, but I think that
23 there's a lot of us who feel that
24 the information that's been
25 presented does not substantiate

1 Council on Environmental Quality

2 it. It's been countered by the
3 State, it's been countered by
4 scientists who have said these
5 things don't work, and the one
6 sort of long-term official study
7 that's out there sponsored by the
8 Fish & Wildlife Service, among
9 others, says it doesn't work out
10 here.

11 MR. SWANSON: Mr. Kaufman.

12 MR. KAUFMAN: I would
13 counter that by saying that these
14 are the classic techniques that
15 you use in any kind of a marsh
16 operation, whether it's
17 restoration or Vector Control.
18 Individual techniques, literally
19 they are almost the entire sweep
20 of what you do. When they're
21 combined together in an OMWM
22 strategy, I think we're united
23 around this table in saying no, we
24 don't want to see that. I
25 disagree with you in terms of

1 Council on Environmental Quality

2 number 6 through 15 as being not
3 properly analyzed. When they've
4 been analyzed as part of OMWM, I
5 agree that they are deficient. I
6 don't like OMWM, I do not believe
7 that OMWM has been properly
8 analyzed, I think that there's a
9 deficiency of data out there, but
10 the techniques themselves, I worry
11 about just, again, chopping them
12 out each time. That's why I
13 say --

14 DR. POTENTE: He didn't
15 chop them out.

16 MR. NARDONE: If they're
17 proper restoration techniques,
18 then let DEE tell us that and let
19 them research the state of science
20 on these tools and restoration
21 techniques. Because all the
22 scientists I've talked to have
23 said that this is a very
24 complicated field; that restoring
25 marshes is relatively in its

1 Council on Environmental Quality

2 infancy, and that success is
3 different up and down the coast
4 and that there's a lot to learn
5 about it. So if the DEE does a
6 review that they are the suite of
7 tools that you say they are, then
8 let them put them back.

9 MS. VILORIA-FISHER: Could
10 we, Enrico, maybe use Mary Ann's
11 sentence, and then add something
12 else, if you'd like?

13 MR. NARDONE: Yes.

14 MS. VILORIA-FISHER: If we
15 were to say, "The use of BMPs
16 should be determined by the DEE
17 and" --

18 MR. NARDONE: I think it
19 should be "evaluated."

20 MS. VILORIA-FISHER: Okay.
21 Evaluated. And then add that
22 number three that had been there,
23 none of the techniques can be used
24 as part of the OMWM strategy?
25 Would that fulfill what you're

1 Council on Environmental Quality

2 looking for?

3 MR. KAUFMAN: That kind of
4 approach, we do have that.

5 MS. VILORIA-FISHER: I
6 don't know.

7 MR. NARDONE: The term
8 "OMWM" is not really being used,
9 so that's easy to get around that
10 by saying we're doing this
11 progressive --

12 MS. VILORIA-FISHER: But
13 since you had used it, that's why
14 I suggested it.

15 MR. SWANSON: Jim has a
16 suggestion.

17 MR. BAGG: You might put
18 down, "The use of BMPs should be
19 evaluated by the DEE within the
20 wetlands management strategy," and
21 then you might want to say that
22 BMPs 6 through 15 are questionable
23 in terms of their use for Vector
24 Control.

25 MR. NARDONE: I didn't say

1 Council on Environmental Quality
2 "questionable," I said
3 substantiated by the FGEIS.
4 MR. BAGG: All right.
5 Well, that's fine.
6 MR. KAUFMAN: I would not
7 be able to go that far.
8 MR. BAGG: I would.
9 MS. STILES: Mary Ann made
10 a motion, and you were nodding
11 your head when Enrico was
12 speaking. Have you amended your
13 motion to do that, or are we --
14 MS. SPENCER: I accept that
15 amendment.
16 MS. STILES: Okay. I
17 second that.
18 MR. SWANSON: Jim, now,
19 read what you have.
20 MR. BAGG: "The use of BMPs
21 should be evaluated by the DEE
22 within the wetlands management
23 strategy. The use of BMPs 6
24 through 15 are not substantiated."
25 I don't know what else you want to

1 Council on Environmental Quality

2 say.

3 MR. NARDONE: "As Vector
4 Control technique or marsh
5 restoration technique by the
6 FGEIS."

7 MR. KAUFMAN: I would not
8 be able to vote on that.

9 MR. SWANSON: Well, it's up
10 to you.

11 Okay, we have a motion
12 that's been put on the table by
13 Mary Ann, amended by Mr. Nardone.
14 It's been seconded, and all in
15 favor say "Aye."

16 (No audible response.)

17 MR. SWANSON: Opposed?

18 (No audible response.)

19 MR. SWANSON: Legislator
20 Viloría-Fisher is opposed, as is
21 Mr. Kaufman.

22 MS. SQUIRES: And I am.

23 MR. SWANSON: Oh, and --

24 MS. SQUIRES: To the
25 wording of the last portion.

1 Council on Environmental Quality

2 MR. SWANSON: -- Ms.

3 Squires.

4 Okay. Now we're going to
5 move on to the Public Health
6 Aspects. And I would just like to
7 remind everybody that part of the
8 SEQRA process is, in fact,
9 considered Public Health. And
10 we'll emphasize again that as much
11 as we may want not to use
12 pesticides, that if we don't have
13 some kind of controlled program by
14 the County, that, in fact, there
15 are going to be lots of
16 independent operators out there
17 doing things that are going to be
18 far worse and totally out of
19 control, and as a consequence, I
20 think we want to think very
21 seriously about some of the
22 proposals here.

23 Yes.

24 MR. NARDONE: Can you just
25 explain to me what sort of

1 Council on Environmental Quality

2 controls are those in the
3 contractors? What regulations
4 they're using pesticides?

5 MR. SWANSON: I ought to
6 let these guys say. Dominick, can
7 you explain the control, briefly,
8 that you have on private pesticide
9 operators?

10 MR. NINIVAGGI: None.

11 MR. BROWN: That's not
12 true. Actually --

13 MR. NINIVAGGI: They have
14 to be licensed.

15 MR. NINIVAGGI: No.
16 Suffolk County has no control
17 whatsoever over what private
18 parties do. The regulation of
19 pesticides is pre-empted by the
20 State and vested in the State DEC,
21 so Suffolk County has no say
22 whatsoever over what homeowners,
23 for instance, use around their
24 property.

25 MR. SWANSON: I'd just

1 Council on Environmental Quality

2 relate one other thing about when
3 I was out yesterday on the Ford
4 River. I talked to a private
5 homeowner, and he informed me
6 that, in fact, he had used private
7 pesticide applications for various
8 things, including mosquitoes, and
9 he said one of the things that
10 disturbed him, when he asked the
11 people spraying, you know, "What
12 are you using?" The response was,
13 "You don't want to know."

14 MR. KAUFMAN: They can use
15 chemicals that the County has
16 committed not to use.

17 MR. SWANSON: So I just lay
18 that out on the table as we
19 consider this public health issue.

20 MS. VILORIA-FISHER: Larry,
21 can I just say something.

22 MR. SWANSON: Yes.

23 MS. VILORIA-FISHER: I just
24 want to say that I was on the
25 Homestead Task Force. It was a

1 Council on Environmental Quality

2 task force that I put together to
3 try to reduce the use of
4 fertilizers and pesticides on the
5 part of the residences and private
6 applicators, and because we are
7 pre-empted by State law from
8 having those restrictions as a
9 county, and I have to tell you
10 it's challenging at best to try to
11 get residential application
12 committed to reduction. It's just
13 really, really difficult to try to
14 get that reduction. So I
15 wholeheartedly agree with Larry
16 that if we're going to have
17 control of application, we have to
18 be able to give our county the
19 tools to apply what is necessary
20 in a reasonable manner so that we
21 don't have ad hoc applications by
22 residents of Suffolk County and by
23 private applicators who will put
24 as much as they have to put in
25 order to get the result so that

1 Council on Environmental Quality

2 their client calls them back.

3 MR. BROWN: I agree with
4 part of that, but the fact here is
5 that you do have private
6 applicators going out there, and
7 no matter how much you're spraying
8 you're going to have mosquitoes,
9 and they're going to hire private
10 applicators to do it. I fully
11 agree with what you're saying. I
12 mean, the whole concept is that
13 somebody that's regulating a golf
14 course in terms of fertilizer,
15 they're using less fertilizer than
16 somebody's using in their
17 backyard. There are controls that
18 are in place, but until, like,
19 those people that are going out to
20 Home Depot and buying the
21 chemicals that they're pouring all
22 over the place to stop -- it's
23 going to continue to do that, and
24 whether we allow the County to
25 spray or not, it's still going to

1 Council on Environmental Quality

2 happen. We have no control over
3 that. The best part of that
4 process, in my opinion, is
5 education. And personally, I
6 don't think that the County does
7 appropriate education when it
8 comes to pesticide spraying, and I
9 don't think that the towns do
10 appropriate education when it
11 comes to saying "Get rid of your
12 standing water," and keep banging
13 it into them in terms of what
14 needs to be done. The person that
15 is educated doesn't do a lot of
16 these things.

17 MR. SWANSON: Steve, I
18 think one of the really
19 outstanding parts of this document
20 is, in fact, the education
21 section.

22 MR. BROWN: Right, right.
23 Which we pushed to be part of the
24 document.

25 MR. NINIVAGGI: I would

1 Council on Environmental Quality

2 certainly agree that education is
3 very important and we encourage it
4 and everything. I don't think
5 that it's really fair to say that
6 the things we do fail to reduce
7 homeowner use of pesticides or the
8 need for homeowners to feel like
9 they have to treat these areas.

10 Because there's no question
11 particularly that the larvicide
12 program is extremely effective in
13 reducing the numbers of mosquitos
14 that reach residential areas. All
15 you have to do is compare, for
16 instance, in previous years when
17 we were not able to use methoprene
18 versus now. You'll see, in many
19 places, in order of magnitude,
20 fewer mosquitos reaching
21 residential areas. And if there
22 are ten times fewer mosquitoos
23 reaching residential areas, I
24 think it's fair to say that those
25 people are going to feel less need

1 Council on Environmental Quality

2 to use pesticides.

3 We had a situation in
4 Oakdale this year where, for
5 regulatory reasons, we were not
6 allowed to larvicide for the first
7 part of the year, and you can see
8 a very large increase in the
9 number of mosquitoes compared to
10 historical levels. Certainly this
11 program will never cause the
12 extinction of a single mosquito
13 species in Suffolk County, but I
14 don't think we should throw up our
15 hands and say that what we do
16 doesn't accomplish a lot of good.

17 MR. SWANSON: Let's move
18 on.

19 MR. BROWN: I didn't mean
20 to say that. What I was saying,
21 basically, I think, is the best
22 preventative to people going out
23 and spraying on their own is an
24 education program on how to
25 eliminate mosquitoes in their

1 Council on Environmental Quality

2 backyard and that type of nature.

3 MS. VILORIA-FISHER: Even
4 inform people that spraying is
5 being done I think is part of the
6 education.

7 MR. BROWN: Right.

8 MS. VILORIA-FISHER:
9 Whether the County is doing it in
10 your neighborhood or another
11 neighborhood.

12 MR. BROWN: Right.

13 MR. SWANSON: Okay.
14 Reading what we have here, "Title
15 6 NYCRR Part 617.7 (c) (vii) of
16 the SEQRA rules and regulations
17 identifies 'The creation of a
18 hazard to human health' as one of
19 the criteria that may indicate a
20 significant adverse impact on the
21 environment and as such should be
22 analyzed in an EIS. The FGEIS
23 discussed the legal framework for
24 Vector Control in terms of New
25 York State Public Health Law and

1 Council on Environmental Quality

2 how it applies to Suffolk County
3 and Vector Control. State Public
4 Health Law outlines the need to
5 'Protect the public from Vector
6 borne disease' including
7 mosquitoes as well as identifies
8 'Any accumulation of water in
9 which mosquitoes are breeding or
10 likely to breed, is hereby
11 declared to be a nuisance.' The
12 CEQ recognizes the need to
13 suppress mosquitoes for disease
14 control purposes and acknowledges
15 that in some areas where large
16 numbers exist in populated areas,
17 nuisance control may be (sic)
18 desirable.

19 In order to minimize
20 adverse impacts on the
21 environment, the CEQ recommends
22 that an annual review of available
23 pesticides be conducted
24 independently and the results of
25 this review should be reported to

1 Council on Environmental Quality

2 the DEE and CEQ. Furthermore, the
3 Division of Vector Control should
4 continue to explore and utilize
5 alternate control measures and
6 continue minimizing the use of
7 chemical pesticides wherever
8 possible as they have done in the
9 past."

10 And then we move on to the
11 adulticide and pesticides. So are
12 there any questions about our
13 initial paragraph with regard to
14 Public Health Aspects?

15 MR. NINIVAGGI: I'm not
16 quite sure what you mean when
17 you're talking about the "annual
18 review of available pesticides."
19 Are you interested in knowing what
20 materials are out there in the
21 marketplace that we might use or
22 are you interested in what we have
23 in mind, which is already in the
24 plan of work?

25 MR. SWANSON: I think we're

1 Council on Environmental Quality

2 interested in knowing how the
3 pesticide market has changed, what
4 new is available, what the
5 potential impacts from the new
6 materials may be, and what has
7 been learned about the products
8 that are currently on the market
9 and that you are using so that one
10 of the pesticides that you're
11 using shows up in the next six
12 months to be an absolute disaster,
13 we would like to know that next
14 year so that we can consider
15 whether or not it should continue
16 to be used.

17 MR. NINIVAGGI: That sounds
18 reasonable. And I think that one
19 of my concerns in this whole
20 process has been that if new
21 materials that are better than
22 what we currently use, that have
23 become available, we should have a
24 way of getting them into the
25 program.

1 Council on Environmental Quality

2 MR. SWANSON: Yes. Okay,
3 so do we have a motion to pass on
4 this paragraph on Public Health
5 Aspects?

6 MR. KAUFMAN: I'll make a
7 motion just to get it on the
8 table.

9 MR. BROWN: Second.

10 MR. SWANSON: Motion
11 seconded by Mr. Brown. Any
12 comments on it?

13 Yes.

14 MR. NARDONE: In that last
15 paragraph, in the last sentence in
16 the first paragraph, I think there
17 are some areas that are
18 unnecessary.

19 MR. SWANSON: "CEQ
20 recognizes the need to suppress
21 mosquitoes for disease control
22 purposes and acknowledges that in
23 some areas where large numbers
24 exist in populated areas, nuisance
25 control may be desirable"; is that

1 Council on Environmental Quality

2 correct?

3 Okay. Fine. Yes, Lauren.

4 MS. STILES: I have a
5 grammatical correction. Where it
6 says "'Protect the public from
7 Vector borne disease' including
8 mosquitoes as well as identifies,"
9 with the capital P.

10 MR. BAGG: That's taken
11 right out of the law, and it
12 starts off with a P, capital P.

13 MS. STILES: Right. You
14 put it in the quotes to show that
15 it was a capital and there was a
16 change in there.

17 MR. BAGG: Okay.

18 MS. STILES: And then
19 change "as well as" to "and
20 identifies"? It's very confusing
21 enough.

22 MR. BAGG: Where are we,
23 now?

24 MR. KAUFMAN: Underneath
25 the word "protect."

1 Council on Environmental Quality

2 MR. BAGG: Yes.

3 MR. KAUFMAN: The next
4 line, go a little bit to the left
5 and it says "as well as
6 identifies," and she wants to move
7 that, the words "as well as" and
8 put in the word "and."9 MR. SWANSON: Okay. Any
10 other changes?11 MR. NARDONE: Brackets are
12 needed, not just for "protect,"
13 but on the second line, too.

14 MR. BAGG: Okay.

15 MR. SWANSON: All right.
16 With those changes, call the
17 motion. All in favor?

18 (No audible response.)

19 MR. SWANSON: Opposed?

20 (No audible response.)

21 MR. SWANSON: Motion
22 carries unanimously, with the
23 exception of Swanson, who recuses.24 All right. Now, let's move
25 on to Adulticide Application of

1 Council on Environmental Quality

2 Pesticides. "Adulticide
3 applications should be recorded as
4 to location, type of pesticide
5 used and amount of pesticide used.
6 The triennial report, as called
7 for in the FGEIS, should show an
8 analysis and evaluation of the
9 adulticide data from the point of
10 view of minimizing the need for
11 such spraying. Wherever possible
12 more environmental friendly
13 chemicals should be used."

14 Do we have a motion to pass
15 this on?

16 MR. BROWN: I'll make a
17 motion.

18 MR. SWANSON: Motion by
19 Mr. Brown.

20 MS. VILORIA-FISHER: I
21 second.

22 MR. SWANSON: Second by
23 Legislator Viloria-Fisher.

24 Questions?

25 Yes, Lauren.

1 Council on Environmental Quality

2 MS. STILES: Another
3 grammar correction. The last
4 sentence, "wherever possible more
5 environmentally friendly"?

6 MR. SWANSON: Anything
7 else?

8 Mr. Potente.

9 DR. POTENTE: I'd just like
10 to add to that.

11 MR. SWANSON: Yes.

12 DR. POTENTE: I think the
13 CEQ should make a decision on
14 whether or not we're going to --
15 I'll just read number 5. "The
16 FGEIS and LTP have failed to make
17 an appropriate distinction between
18 mosquito control to prevent
19 disease and mosquito control to
20 abate nuisance. We find that this
21 distinction is necessary to
22 properly inform decision making
23 between the application of both
24 larvicides and pesticides."

25 I would like to put that

1 Council on Environmental Quality

2 motion forward for a vote to see
3 if we want to include that in this
4 recommendation.

5 MR. SWANSON: Okay. So you
6 want to modify this paragraph
7 by --

8 DR. POTENTE: Well, the
9 paragraph is okay. Just add this.

10 MR. SWANSON: Okay.
11 Mr. Kaufman.

12 MR. KAUFMAN: I disagree on
13 that one. And this may be a
14 fundamental disagreement. Reading
15 the laws that are out there, State
16 and County Public Health laws all
17 call conditions leading to
18 mosquito infestation to be a
19 public health problem. Regardless
20 of whether pathogens have been
21 detected and they allow the County
22 to reduce the pool of mosquitoes.
23 This is based on the WHO and CDC
24 guidelines, which push towards
25 doing control prior to pathogen

1 Council on Environmental Quality

2 detection. This establishes these
3 guidelines, which the County and
4 State laws are based upon. These
5 establish an overall framework for
6 Vector Control, if you will, for
7 controlling bugs. It's,
8 basically, source control prior to
9 the introduction of disease. I
10 don't love it, but I do agree with
11 the way the County has presented
12 what's the old term "nuisance
13 control" and adulticide.

14 I do think that there is a
15 continuum of control. I do think
16 that there is, essentially, when
17 you have large populations of
18 mosquitoes, there are threats to
19 public health, whether they are
20 threats from the bugs themselves
21 prior to introduction of disease
22 or if the potential for disease is
23 there. And I don't think that we
24 can, any longer, keep the old
25 distinctions that we have in

1 Council on Environmental Quality

2 there, and I also do not think
3 that they have failed to make an
4 appropriate distinction. You may
5 agree or you may disagree on that
6 point, but I think that they have
7 made an appropriate distinction,
8 again, based upon the WHO and CDC
9 guidelines, being mosquito control
10 to abate nuisances. We all talk
11 about it in the old way, maybe
12 this is control, but I think that
13 the County presentation is fully
14 in conformance with the lessons
15 that have been learned since 1910.

16 MR. SWANSON: Legislator
17 Viloría-Fisher.

18 MS. VILORIA-FISHER: I
19 think I could vote on the motion
20 as it currently appears, and then
21 Dr. Potente could add that next
22 sentence as a separate motion.

23 DR. POTENTE: We did that.
24 We did that already, didn't we?

25 MR. SWANSON: No, we

1 Council on Environmental Quality

2 haven't.

3 MS. VILORIA-FISHER: No.

4 You made a motion, I made a
5 second. We didn't vote on that.

6 DR. POTENTE: Oh, oh, oh.
7 I thought we did that.

8 MR. SWANSON: Not yet.
9 I'll call the motion on accepting
10 the existing paragraph. All in
11 favor?

12 (No audible response.)

13 MR. SWANSON: Opposed?

14 (No audible response.)

15 MR. SWANSON: Unanimous,
16 with the exception of Swanson, who
17 abstains.

18 All right. Now, we have a
19 motion, presumably, by Dr. Potente
20 to add the paragraph that he was
21 suggesting. Do we have a second?

22 MS. STILES: I'll second.

23 MR. SWANSON: It was
24 seconded by Ms. Stiles. Any
25 discussion?

1 Council on Environmental Quality

2 Yes.

3 DR. POTENTE: One comment.

4 Well, it's two, actually. You
5 mentioned the public health law,
6 which is all well and good, but
7 bear in mind that the whole idea
8 of SEQRA is to review and update
9 existing laws and provisions, and
10 we have the right to make this
11 proposal, to make some things
12 clear. That overrides the public
13 health. And in terms of a
14 distinction there, I just want to
15 read this one sentence that came
16 from the National Park Service,
17 who works very closely with
18 Dr. Howard Ginsberg, the
19 entomologist who's been working
20 with Vector Control on Long
21 Island, and the National Park
22 Service, in its comments, which
23 were omitted from Volume 2, which
24 actually belongs in there, and it
25 says "The executive summary states

1 Council on Environmental Quality

2 it was impossible to differentiate
3 control of mosquitoes for health
4 benefits as opposed to usage
5 curtailment."

6 And then the National Park
7 Service goes on to say "It is the
8 opinion of the National Park
9 Service based on consultation with
10 Dr. Howard Ginsberg that this
11 statement is clearly incorrect. A
12 mosquito control program that is
13 designed to curtail nuisance
14 problems would not be an
15 appropriate approach to managing
16 mosquitos."

17 So I just thought I'd
18 mention that.

19 MR. SWANSON: Okay, we have
20 a motion on the floor, and it's
21 been seconded.

22 Yes.

23 MS. VILORIA-FISHER: I just
24 wanted to mention that they are
25 different. There is a

1 Council on Environmental Quality

2 distinction, I agree with you,
3 John, on that. But I feel that
4 that distinction has been
5 addressed. There were a number of
6 questions at public hearings
7 regarding that. I made a great
8 deal of notes as I read through
9 this, and it was referenced many
10 times. And there's one particular
11 quote on page 18, which is: "The
12 long-term plan has consistently
13 determined that it is functionally
14 properly..." here it is. This is
15 the progressive nature of the
16 public health law. The law
17 requests that infestations of
18 mosquitoes that result in large
19 numbers of people receiving many
20 bites are clearly not a, quote,
21 unhealthy situation. Healthy.
22 Even if no specific disease is
23 transmitted. They count the
24 public health law all positions
25 leading to mosquito infestation

1 Council on Environmental Quality

2 as, quote, public health nuisance,
3 regardless of whether or not
4 pathogens have been detected.

5 Although in other parts of the
6 report they did make the
7 distinction, they also felt that
8 it is in promoting good health
9 that you have mosquito control,
10 even if it's not a disease borne.
11 Even if it's not a Vector disease.
12 So based on that, I can't support
13 the motion.

14 MR. SWANSON: Okay.

15 Lauren.

16 MS. STILES: Sort of
17 similar to what I said last time
18 we were discussing putting
19 something like this on the agenda
20 for today. I really think that
21 it's plainly obviously two
22 separate things and whatever kind
23 of justification for not making a
24 real distinction, whether it's
25 something in State public health

1 Council on Environmental Quality

2 law or some kind of scientific
3 jargon, I think that when this
4 plan is presented to the public
5 and when spraying is done and
6 notice is given to the public, I
7 think that we have to be honest
8 about why we're spraying, and I
9 think any spraying event is going
10 to be a benefit if there is an
11 event, and it might also be a
12 benefit to disease prevention, but
13 there's always the primary
14 motivation for it, and I think
15 every spray event will have both
16 benefits coming from them, but I
17 think we have to be honest with
18 the public and just tell them,
19 "We're spraying because this is a
20 really bad nuisance area." And if
21 we're ashamed of that and we don't
22 want to admit it, then maybe we
23 shouldn't be spraying that.

24 MR. KAUFMAN: In the
25 document, the FGEIS, as it's set

1 Council on Environmental Quality

2 up right now, I think they make it
3 pretty clear that operationally,
4 they're going to be looking at two
5 standards. They're going to be
6 looking at both disease
7 infestation or transmission or
8 cycling or however you want to
9 phrase it, and they have also come
10 up with a standard or criteria
11 when they're actually going to be
12 doing this. I think that they're
13 being very honest in this program
14 operationally, the way they're
15 describing it. If they get New
16 Jersey light traps, or whatever,
17 the CDC traps, etcetera, and they
18 get a certain number, okay,
19 they're saying straight out in
20 there that this is a trigger for
21 nuisance control in the absence of
22 disease transmission. I don't
23 think that the County would be
24 lying to the public or anything
25 like that.

1 Council on Environmental Quality

2 MR. SWANSON: Okay. The
3 motion has been made and seconded.
4 All in favor of the motion raise
5 their hands.

6 MS STILES: To include the

7 --

8 MR. SWANSON: Yes, to
9 include John's paragraph. All in
10 favor?

11 Okay, we've got one, two,
12 three, four, five, six. Six for.

13 Opposed? One, two, three.
14 Three opposed.

15 Abstentions?

16 MR. KAUFMAN: Actually,
17 there's four.

18 MR. SWANSON: Four against.

19 MR. BROWN: One abstention.

20 MR. SWANSON: One
21 abstention and one recusal. All
22 right?

23 DR. POTENTE: That means
24 what?

25 MR. SWANSON: That means

1 Council on Environmental Quality

2 that John's two sentences are
3 included.

4 DR. POTENTE: Can I
5 continue? In the section on
6 public health, number 6, "The CEQ
7 does not agree that the
8 mathematical modeling of the risk
9 assessment of adulticides absolves
10 these pesticides from potential
11 harm to human health or
12 environmental impacts. Due to
13 past and ongoing release of
14 scientific research implication
15 organophosphates and pyrethrins as
16 neurotoxins and carcinogens, the
17 CEQ does not espouse the safety of
18 these adulticides."

19 Now, remember, in that
20 statement, I am not saying that we
21 need to ban pesticides or the use
22 of them. I'm just saying it is
23 our position that we are not
24 endorsing the safety of them, even
25 though it may be implied in this

1 Council on Environmental Quality

2 FGEIS.

3 MR. SWANSON: Are you
4 making a motion?

5 DR. POTENTE: Yes. I make
6 the motion to include Number 6 in
7 this paragraph on adulticide.

8 MR. SWANSON: Do we have a
9 second?

10 MS. STILES: Second it.

11 MR. SWANSON: Okay. Call
12 the motion. All in favor?

13 (No audible response.)

14 MR. SWANSON: Opposed?

15 (No audible response.)

16 MR. SWANSON: One, two,
17 three, four.

18 Joy, did you vote?

19 MS. SQUIRES: No.

20 MR. SWANSON: Are you
21 abstaining?

22 MS. SQUIRES: Yes.

23 MR. SWANSON: Okay. Three
24 against and one abstention. Two
25 abstentions and one recusal. It

1 Council on Environmental Quality

2 passed.

3 DR. POTENTE: All right.

4 The next one, 7, it looks like
5 it's been taken care of. That was
6 already in. We've already done
7 that.

8 MR. SWANSON: Do you want
9 to do it --

10 DR. POTENTE: No. This is
11 all included under the heading of
12 "Adulticide." These are
13 paragraphs that would go
14 underneath "Adulticide
15 Application."

16 "The following potential
17 correlations with aerial
18 adulticide spraying warrant
19 further independent studies:
20 Asthmatic reactions, breast
21 cancer, cancer hot spots, autism,
22 and effects upon human fetuses."

23 I make a motion that we
24 include that motion as an
25 advisory.

1 Council on Environmental Quality

2 MR. BROWN: I second it.

3 MS. SQUIRES: Where are
4 you?

5 MR. KAUFMAN: Who's going
6 to fund this?

7 MS. STILES: It's a
8 recommendation.

9 DR. POTENTE: It's a
10 recommendation. It doesn't have
11 to be followed.

12 MR. SWANSON: Well, I
13 think, John, there were
14 independent studies. Really what
15 you're saying is you want the
16 County to do this.

17 DR. POTENTE: No. Well,
18 independent.

19 MR. SWANSON: The County is
20 going to fund it, then. It's not
21 independent of the County. I
22 mean, it's going to be funded by
23 the County.

24 MR. KAUFMAN: It's going to
25 be funded by the County, right.

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2 DR. POTENTE: It's a
3 recommendation.

4 MR. SWANSON: Okay.
5 There's a motion on the table. Do
6 we have a second?

7 MR. BROWN: I second.

8 MR. SWANSON: Second by
9 Mr. Brown.

10 MS. SQUIRES: Did you
11 remove "independent"?

12 DR. POTENTE: No.

13 MR. SWANSON: He just
14 raised it as an issue.

15 All in favor?

16 (No audible response.)

17 MR. SWANSON: Opposed?

18 (No audible response.)

19 MR. SWANSON: And
20 abstentions?

21 (No audible response.)

22 MR. SWANSON: Spencer
23 abstains, Swanson recuses.

24 John, go ahead.

25 DR. POTENTE: Number 9, in

1 Council on Environmental Quality

2 terms of the threshold, I found
3 that the thresholds that were in
4 here were very weak and were at a
5 hair trigger level. I'll just
6 read the sentence. "Adulticides
7 should not be applied to abate
8 nuisance unless the following
9 thresholds are exceeded: When
10 female mosquitoes from
11 human-biting species exceed 250
12 per trap night in a New Jersey
13 trap or when female mosquitoes
14 from human-biting species exceed
15 500 per night in a CDC light
16 trap."

17 And on the second page, I
18 gave a little bit of an
19 explanation to that, and the
20 explanation is: "In order to
21 minimize the potential health
22 impacts on the general population
23 of Suffolk County, yet provide
24 possible nuisance relief to those
25 requesting spraying in heavily

1 Council on Environmental Quality

2 populated mosquito areas, the
3 thresholds provided in the CEQ
4 recommendation are proposed."
5 And, of course, it goes without
6 saying, "The Division of Vector
7 Control will retain, for the time
8 being, the ability to spray
9 adulticides in a Medical
10 Emergency."

11 So this is trying to make
12 more of a distinction where
13 spraying may happen a little bit
14 too quick but still allowing in
15 areas where it is heavily
16 infestated.

17 MR. SWANSON: Is this a
18 motion?

19 DR. POTENTE: Yes, that's a
20 motion.

21 MR. SWANSON: Do we have a
22 second? Are you seconding?

23 MR. BROWN: No, I had a
24 question.

25 MR. SWANSON: Oh, okay.

1 Council on Environmental Quality

2 MR. BROWN: I'll second.

3 MR. SWANSON: Okay,

4 Mr. Brown seconds.

5 MR. KAUFMAN: Right now,
6 what are the numbers of New Jersey
7 traps and CDC?

8 DR. POTENTE: New Jersey is
9 25 and the CDC is --

10 MR. KAUFMAN: One hundred.

11 DR. POTENTE: One hundred.

12 MR. KAUFMAN: Basically,
13 you're doing it in order of
14 magnitude of ten and an order of
15 magnitude of five.

16 DR. POTENTE: Correct.

17 MR. SWANSON: And what
18 basis?

19 DR. POTENTE: Well, the way
20 I had figured this is that they
21 were using a landing rate of one
22 per minute on the pamphlet. If
23 you go one per minute, in 60
24 minutes there's 60 per hour, and
25 over an eight-hour night, that's

1 Council on Environmental Quality

2 480 mosquitoes using the crude
3 hand technique, which is very
4 subjective. So these traps are a
5 little bit more definitive, and
6 that's what I came up with.

7 MR. KAUFMAN: I understand
8 you're trying to have an abundance
9 of caution on this, and I was one
10 of the first people to push forth
11 standards to be put in place for
12 nuisance control. But frankly, I
13 think you're putting them a little
14 bit too high. I've been in
15 mosquito-infested areas. And I'm
16 not talking the South Shore of
17 Long Island. I've been a lot of
18 places where both disease is
19 present and where it's not, and
20 I've slept under tents and
21 mosquito netting, and things like
22 that, and I've seen the bombers
23 buzzing around, etcetera.
24 Frankly, I think you're putting
25 the standard too high. I don't

1 Council on Environmental Quality

2 have a problem with maybe pushing
3 the standard up a little bit, but
4 essentially, this neutralizes
5 anything that the County would be
6 able to do. I mean, it's
7 strangling them.

8 DR. POTENTE: I don't think
9 it is. They were using a landing
10 rate of 60 mosquitoes in an hour
11 over an eight-hour night. That's
12 480 mosquitoes over an eight-hour
13 trap night. I have 500 percent.

14 MR. NINIVAGGI: To make a
15 point there, I don't know how
16 you're trying to relate landing
17 rates to trap counts that way, but
18 the way you're doing it is
19 completely and totally
20 inappropriate.

21 DR. POTENTE: I don't think
22 so.

23 MR. NINIVAGGI: Unless you
24 could cite a reference on how one
25 per minute corresponds to, I

1 Council on Environmental Quality

2 guess, a nightly total, I don't
3 see how you can do that. You,
4 basically, come up with a number.
5 Basically, you just want a higher
6 number, and you haven't really
7 said anything about why you came
8 up with that particular number.

9 MR. SWANSON: Lauren.

10 MS. STILES: I don't have
11 the original document in front of
12 me, but does the one per minute on
13 your pant leg have a reference?

14 MR. NINIVAGGI: It's a
15 general standard in the industry.
16 But that's not the point. The
17 point is, we're being asked to
18 come up with a higher number here.
19 Mr. Potente has proposed a higher
20 number, and I think it's incumbent
21 upon him to justify it.

22 DR. POTENTE: I justified
23 it.

24 MR. SWANSON: Anybody else
25 have a comment?

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MS. SQUIRES: Isn't this something that should be decided by DEE?

MR. SWANSON: I certainly don't think it should be decided by CEQ.

MS. STILES: I do think that it's very arbitrary the way it's set right now. I know you're saying it's an industry standard, but just the way the testing is done, it's just very arbitrary. Perhaps it's CEQ's role to say that the standard is unacceptable if it's too arbitrary and there's no real justification for it, and a clearer standard that is more protective of the environment needs to be developed, like, immediately.

MR. SWANSON: I would suggest you modify a clearer and better justified standard be adopted. I don't think you want

1 Council on Environmental Quality

2 to be as negative, perhaps.

3 MS. STILES: I'm getting
4 pretty negative today. I don't
5 know.

6 MR. KAUFMAN: This was
7 battled out at the TAC
8 extensively, as I remember. We
9 had a lot of scientists over
10 there, and the basic concept that
11 came out you needed to have an
12 actual operational standard out
13 there. Something that could be
14 monitored by both the authorizing
15 agencies and also followed by some
16 sort of a protocol by Vector
17 Control. Literally, you have to
18 have something; otherwise, we're
19 just going to be in more of this
20 mess.

21 MR. SWANSON: Why don't you
22 make a motion to have the standard
23 reviewed and report back to the
24 CEQ.

25 MS. STILES: Fine. I'll

1 Council on Environmental Quality

2 make that motion.

3 MR. SWANSON: All right.

4 MS. STILES: It needs to be
5 not arbitrary. I think it's
6 arbitrary right now. I think
7 there's hardly a wetland in
8 Suffolk County that you could
9 stand in with shorts on and not
10 get bit by one mosquito a minute.

11 MR. SWANSON: Okay. But
12 we actually have a motion on the
13 table. John, are you willing to
14 accept her motion?

15 DR. POTENTE: Uh-huh. Yes.

16 MR. SWANSON: So you
17 withdraw yours?

18 DR. POTENTE: Yes.

19 MS. STILES: Amended.

20 DR. POTENTE: Amended.

21 MR. SWANSON: All right.
22 So you have it down, Jim?

23 MR. BAGG: "Standard for
24 the nuisance control should be
25 reviewed and a report given to

1 Council on Environmental Quality

2 CEQ."

3 MR. SWANSON: Okay. Do we
4 have a second for that?

5 DR. POTENTE: I'll second.

6 MR. SWANSON: We have a
7 second by Dr. Potente. All in
8 favor?

9 (No audible response.)

10 MR. SWANSON: Opposed?

11 (No audible response.)

12 MR. SWANSON: Abstentions?

13 (No audible response.)

14 MR. SWANSON: Three
15 against, one recusal.

16 One last one, John?

17 DR. POTENTE: Yes. Just
18 that the OMWM be provided --

19 MR. DAWYDIAK: That will be
20 provided.

21 MR. SWANSON: Second?

22 MS. STILES: No. Actually,
23 I have a question.

24 MR. SWANSON: Let's get a
25 second. Do we have a second

1 Council on Environmental Quality

2 for --

3 MR. BROWN: I'll second it.

4 MR. SWANSON: Seconded by

5 Mr. Brown.

6 Lauren?

7 MS. STILES: Just because
8 I'm someone that has actually read
9 a lot of the old surveillance
10 tapes from Vector Control, and
11 it's a tremendous amount of
12 documentation and paperwork, I do
13 not want a photocopy of it mailed
14 to me. Is there a way that we can
15 say that we'd like this
16 electronically available to CEQ or
17 something like that? Because it
18 would be a lot of wasted resources
19 to make that many photocopies.

20 MR. KAUFMAN: Is this from
21 Number 10?

22 MS. STILES: Uh-huh.

23 MR. KAUFMAN: I will amend
24 my motion that the annual date may
25 be sent by mail or electronic

1 Council on Environmental Quality

2 means.

3 MR. SWANSON: I don't think
4 that belongs in this kind of
5 report.

6 MR. BAGG: I mean, if you
7 want to say that you want to have
8 something here, maybe you should
9 say, "The annual date for
10 surveillance for Vectors for
11 Suffolk County should be
12 summarized and made a part of the
13 yearly Vector Control report."
14 And, then, basically, if you want
15 to make the data available for
16 Dominick fine, but having all
17 these reams of data in there,
18 who's going to look at it and
19 who's going to be able to
20 interpret it?

21 MR. SWANSON: Nobody reads
22 our minutes.

23 MR. BAGG: If you want to
24 include the annual plan from the
25 year before and some other stuff,

1 Council on Environmental Quality

2 that's fine.

3 MR. BROWN: Give the vote
4 quick.

5 MR. SWANSON: All right.
6 So --

7 MR. BROWN: What did we do
8 with that? Did we change that
9 motion or --

10 MR. KAUFMAN: Whatever he
11 said is good enough for me.

12 MR. BAGG: It should be
13 summarized and included as part of
14 the yearly Vector Control.

15 MR. BROWN: Mike, are you
16 going to change that?

17 MR. KAUFMAN: Yes, I am.

18 MR. SWANSON: And a second
19 by Mr. Nardone.

20 All in favor?

21 (No audible response.)

22 MR. SWANSON: Opposed?

23 (No audible response.)

24 MR. SWANSON: Two opposed
25 and one recusal.

1 Council on Environmental Quality

2 Okay. Moving on to the
3 Larvicides Methoprene Use. Two
4 views.

5 "CEQ View #1.

6 1) Methoprene has been
7 approved for use by the E.P.A. and
8 the New York State D.E.C.; in
9 fact, the D.E.C. did additional
10 SEQRA review of methoprene and
11 found it is acceptable for use in
12 New York.

13 2) No significant negative
14 environmental impacts have been
15 proven to exist, despite some
16 recent research. Several peer
17 reviewers of the FGEIS questioned
18 the validity of these recent
19 reports and the fact that results
20 could not be reproduced.

21 3) The low actual
22 operational dose recorded on the
23 marsh in field use studies tends
24 to lessen possible environmental
25 impacts. In addition, actual

1 Council on Environmental Quality

2 applications occur in areas
3 different from where some studies
4 found impacts.

5 4) Nontarget biologic
6 impacts appear low.

7 5) Nonetheless, use of
8 methoprene should be assessed as
9 part of the triennial report and
10 earlier if credible concerns are
11 developed. The county should
12 nonetheless have the goal of
13 reducing its use over time."

14 Do we have a motion to pass
15 this on to the Legislature?

16 MR. KAUFMAN: I'll make
17 that motion.

18 MR. SWANSON: Do we have a
19 second?

20 MR. BROWN: I'll second.

21 MR. SWANSON: Second by
22 Mr. Brown. Open for discussion.

23 Lauren.

24 MS. STILES: Sorry. Can we
25 vote on these one by one again?

1 Council on Environmental Quality

2 Because some people might --

3 MR. KAUFMAN: No.

4 MS. RUSSO: No.

5 MS. STILES: I thought it
6 would make it easier.

7 MS. RUSSO: I do want to
8 add one little thing here. If
9 we're parsing out so many detailed
10 parts of the FGEIS, I feel the
11 larvicides and methoprene use may
12 be also underneath the Public
13 Health Aspect where we're saying
14 annual review may be conducted
15 independently and the result of
16 this review reported to DEE and
17 CEQ. Not only are they going to
18 do studies of new insecticides
19 that come out, but they're also
20 going to be reviewing studies of
21 new --

22 MR. SWANSON: So you would
23 get rid of 5?

24 MS. RUSSO: The whole
25 thing.

1 Council on Environmental Quality

2 MR. SWANSON: One through
3 five?

4 MS. RUSSO: The whole
5 entire thing.

6 MS. VILORIA-FISHER: I
7 agree with you. I second that
8 motion.

9 MR. SWANSON: Wait a
10 minute. We have another motion.

11 MS. VILORIA-FISHER: Oh, we
12 have another motion. Sorry.

13 MR. SWANSON: All right.
14 So any other discussion on this?
15 You can vote it down if you want,
16 and then we'll take up Gloria's
17 suggestion or we can modify the
18 initial --

19 MS. SQUIRES: Who made the
20 original motion?

21 MR. SWANSON: Kaufman.

22 MS. SQUIRES: Do you want
23 to change the original motion?

24 MR. KAUFMAN: I think this
25 issue is controversial enough I

1 Council on Environmental Quality

2 tried to list the two views and
3 see what they were. I think it's
4 just up or down.

5 MS. SQUIRES: Can we take
6 the apostrophe out of
7 "Larvicide's" since this is --

8 MR. KAUFMAN: I didn't
9 spell that.

10 MS. SQUIRES: -- simple
11 plural. And can we take the "r"
12 out of "methoprene"?

13 MR. KAUFMAN: My English is
14 better than that.

15 MR. SWANSON: Okay. So
16 done.

17 Okay. John.

18 DR. POTENTE: I'll be able
19 to finish up those last four? I
20 mean, we can make --

21 MR. KAUFMAN: I think they
22 should go with View Number 2.

23 DR. POTENTE: Well, if
24 we're just going to scratch the
25 whole thing --

1 Council on Environmental Quality

2 MR. SWANSON: We're not
3 voting on scratching it at this
4 point.

5 DR. POTENTE: Oh. Okay.

6 MR. SWANSON: Yes.

7 MS. VILORIA-FISHER: In
8 support of Gloria's motion, many
9 of these points are made in the
10 FGEIS itself, and so, again, we
11 have a redundancy. We're just
12 stating what has already been
13 stated, and so it's not a
14 recommendation that's different
15 from what has been already been
16 stated. It seems to be that most
17 of us look at the body of the
18 report. I'm looking at one page
19 that says exactly the same
20 language.

21 MR. KAUFMAN: With all due
22 respect, some of the people at
23 this table disagree with what the
24 report has said, and I think that
25 this is going to be a fairly

1 Council on Environmental Quality

2 controversial issue, so I tried to
3 set it up as that some people will
4 agree with it and some people
5 don't. Frankly, if we just have
6 CEQ View Number 2 presented,
7 that's possible, but I think it's
8 more clear if we set it up the way
9 I've set it up. With emendations
10 as needed.

11 MS. VILORIA-FISHER: So
12 Number 1 is saying that we agree
13 with the report.

14 MR. KAUFMAN: Essentially.
15 And I think some people will go
16 with View Number 2 with some of
17 John's stuff that I'm seeing over
18 here with View Number 2.

19 MS. VILORIA-FISHER: Okay.
20 I didn't think that that was the
21 charge that we were doing today.
22 I thought that we were enunciating
23 what places which were different
24 with the report, rather than
25 restating what the report has.

1 Council on Environmental Quality

2 You know what I'm saying?

3 MR. KAUFMAN: I hear what
4 you're saying. I'm just saying
5 that this is interesting enough of
6 an issue that restating it is
7 important.

8 MR. BROWN: Mr. Chairman?

9 MR. SWANSON: Yes.

10 MR. BROWN: I have to
11 leave. Sorry I can't stay and
12 finish the whole report.

13 MR. KAUFMAN: Grab some
14 methoprene on the way out.

15 MR. SWANSON: This will
16 make my job easier. I applaud
17 your leaving.

18 MR. BROWN: That will make
19 your job easier. Well, maybe I
20 should stay longer.

21 MR. SWANSON: Thank you
22 very much.

23 MR. BROWN: Thank you.

24 (Mr. Brown leaves the
25 room.)

1 Council on Environmental Quality

2 MS. STILES: I see exactly
3 what you're talking about here,
4 and would it make sense since View
5 Number 1 goes along with the plan
6 entirely or will this deter from
7 the plan at all? The GEIS? Do
8 you want to just vote up or down
9 on Number 2 to save some time
10 here?

11 MS. VILORIA-FISHER: That's
12 what I was thinking.

13 MR. BAGG: Well, you've got
14 a motion on the table.

15 MR. SWANSON: You've got a
16 motion on the table.

17 MR. BAGG: You can vote
18 against Number 1 or take it out.

19 MR. KAUFMAN: If we do
20 that, if we're going to do View
21 Number 2 up and down, then I do
22 think we should add John's 11
23 through 14 into that.

24 MR. SWANSON: All right.
25 Let's get rid of Number 1. Vote

1 Council on Environmental Quality

2 it down if you want to vote it
3 down. Motion's on the table.
4 I'll call the vote.

5 All in favor of View
6 Number 1 say so. Raise their
7 hand.

8 MS. RUSSO: Staying there
9 or getting it out?

10 MR. SWANSON: Keeping it.
11 Opposed?

12 (No audible response.)

13 MR. SWANSON: With the
14 exception of Mr. Kaufman, it's
15 rejected. Swanson recuses.

16 Okay, we have View
17 Number 2.

18 "1) Large negative
19 environmental impacts are likely,
20 and the chemical has long term
21 impacts.

22 2) Nontarget impacts are
23 large.

24 3) The county
25 misinterpreted marsh restoration

1 Council on Environmental Quality

2 (sic) and improperly discounts it.

3 4) There are dangerous
4 impacts on endocrine receptors
5 beyond impacts on mosquitoes."

6 Do we have a motion to
7 accept View Number 2?

8 MS. VILORIA-FISHER: Motion
9 to omit it because it puts the
10 County in a very precarious legal
11 position by making this kind of
12 statement. You're saying that
13 there are dangerous impacts to
14 health -- it's just very
15 dangerous, and I say we take this
16 out.

17 MR. SWANSON: Okay. We
18 didn't have a motion.

19 MS. VILORIA-FISHER: My
20 motion is to omit it.

21 MR. SWANSON: Your motion
22 is to remove it.

23 MR. KAUFMAN: I'll second.

24 MR. SWANSON: Do we have a
25 second?

1 Council on Environmental Quality

2 MR. KAUFMAN: I'll second
3 it just to get it on the table.

4 MR. SWANSON: Okay. Any
5 discussion?

6 Yes.

7 MS. STILES: I think that
8 the fact that we might be
9 susceptible, if you think we might
10 be susceptible to some kind of
11 legal liability, then this is the
12 place that we need to truly
13 address it, and if these type of
14 activities might cause the County
15 to be sued, then maybe we
16 shouldn't be doing it? Do you
17 know what I'm saying? I don't
18 think the fact that we might get
19 sued --

20 MS. VILORIA-FISHER: That's
21 not the point. There could be
22 suits either way.

23 MS. STILES: Right.

24 MS. VILORIA-FISHER: But as
25 people who are working as short

1 Council on Environmental Quality

2 shrift and then you're
3 recommending that the Legislature
4 adopt it, if there were to be a
5 suit and the Legislature has
6 adopted this kind of language,
7 this would be supporting a suit
8 against the County. Suits will
9 occur whether or not you recommend
10 it. But I certainly don't believe
11 that there's enough scientific
12 evidence one way or the other. I
13 just don't think that we should be
14 doing this. As a positive action,
15 I don't believe we should be doing
16 this.

17 MR. BAGG: I think it's
18 pointed out. I mean, one of the
19 things that comes down to this, is
20 this product has been reviewed by
21 the EPA and the New York State DEC
22 and approved, and they've
23 evaluated the impact. Now, if
24 somebody doesn't like their use,
25 maybe they should go sue those

1 Council on Environmental Quality

2 organizations, all right? In this
3 case, the County is an end user.
4 It's like you go to a grocery
5 store, buy a product and I sue you
6 because you're using a product
7 that's on the shelf. I mean, if
8 you feel that vehemently about not
9 using the product, then maybe you
10 should consider a lawsuit against
11 New York State DEC and the EPA.

12 MR. SWANSON: Mr. Nardone.

13 MR. NARDONE: Wasn't deet
14 approved by EPA when Suffolk
15 County decided not to use it?

16 MR. SWANSON: Deet was used
17 long before EPA existed.

18 MR. NARDONE: Right, but it
19 was on the books as approved when
20 Suffolk County decided to stop
21 using it.

22 MR. BAGG: But ultimately,
23 they sued the Federal Government
24 to get it off the list.

25 MS. STILES: We can't

1 Council on Environmental Quality

2 abdicate our responsibility just
3 because someone else set a case,
4 and they haven't looked at it.

5 MR. BAGG: They have looked
6 at it.

7 MR. KAUFMAN: This reflects
8 the fundamental split, if you
9 will. And John's stuff in there
10 also shows a split. I don't know
11 that we're going to be able to
12 come to a resolution.

13 MR. SWANSON: I think we've
14 asked to continue to be updated in
15 various reports. I think now it's
16 even gotten down to annual as
17 opposed to triennial. And the
18 County has to have some tools to
19 be able to do its job.

20 Mr. Pichney.

21 MR. PICHNEY: Yes. I think
22 there are valid points. We need a
23 lot of this inflammatory language.
24 If looked at, say, Number 4 for
25 example, you could say there are

1 Council on Environmental Quality

2 impacts on the developmental
3 receptors of the insect
4 infestation that were not fully
5 stated in the plan. What we're
6 trying to do is to inform the
7 Legislature of other things or
8 additional studies that might not
9 have been dealt with in the plan
10 or were given short shrift, so to
11 speak. I don't know if there's
12 time to do it now. Each one of
13 these four points should be looked
14 at by their author and go into the
15 core of what they're trying to say
16 rather than using the most
17 inflammatory language.

18 MR. SWANSON: Is it
19 adequately covered in the existing
20 plan that we're trying to get out
21 here. That was your point
22 originally.

23 Yes.

24 DR. POTENTE: Can I --

25 MR. SWANSON: Wait a

1 Council on Environmental Quality

2 minute.

3 Lauren.

4 MS. STILES: I'm sorry.

5 I'm not remembering who originally
6 suggested this language, but I
7 there's a way to get our point
8 across with science not a hundred
9 percent in either direction
10 without getting inflammatory, so I
11 might suggest changing the
12 language so that instead of saying
13 "large negative impacts are
14 likely," you could say something
15 like "negative environmental
16 impacts may be likely and that
17 chemicals may have long-term
18 effects."

19 MS. RUSSO: That's what I
20 just read over here.

21 MR. NARDONE: Right.

22 MR. KAUFMAN: Curiously,
23 that --

24 MR. SWANSON: Wait a
25 minute.

1 Council on Environmental Quality

2 Yes.

3 MS. STILES: There's a way
4 to get the point across that we're
5 not a hundred percent certain that
6 it's the absolute safest thing in
7 the world without being very
8 inflammatory and seeming to
9 entirely write it off.

10 MR. SWANSON: John.

11 DR. POTENTE: I was just
12 going to ask, Mike, you're the one
13 that wrote this up, right?

14 MR. KAUFMAN: Yes, but you
15 should know where the language
16 came from.

17 DR. POTENTE: Yes. Nobody
18 who has problems with methoprene
19 and be inflammatory about it. I
20 think that --

21 MR. KAUFMAN: The language
22 actually comes from the Bay
23 Keeper's letters and some other
24 people's letters.

25 DR. POTENTE: Well, what

1 Council on Environmental Quality

2 Lauren just said, something just
3 informing the Legislature that
4 there is a problem with methoprene
5 is sufficient.

6 MR. SWANSON: I think John
7 is correct. If we just had a
8 cautionary note to the
9 Legislature. And we were not
10 supposed to be using the Bay
11 Keeper's stuff.

12 MR. KAUFMAN: No, I just
13 thought this was well said, that's
14 all.

15 MR. SWANSON: Did you have
16 specific wording that you wanted
17 to get out there?

18 MS. SQUIRES: Yes. I agree
19 with her that it's a
20 responsibility issue, of ours, to
21 just admit that there may be
22 problems. And that covers our
23 butt.

24 MR. SWANSON: Okay. Lauren
25 you want to make a motion?

1 Council on Environmental Quality

2 MS. SQUIRES: I reworded
3 it.

4 MR. SWANSON: Oh, you've
5 got --

6 MS. SQUIRES: Yes. I said
7 "Nontarget impacts are possible.
8 The County may have misinterpreted
9 research and improperly discarded.
10 There may be dangerous impacts,"
11 and I put an emphasis on "impacts"
12 on mosquitoes.

13 MR. SWANSON: I don't think
14 that they misinterpreted it. I
15 think that's a judgment call any
16 time anybody reads anything, and I
17 don't know what the other thing
18 is, but I think that statement is
19 just wrong, but --

20 MS. SQUIRES: Take that and
21 rephrase it.

22 MR. SWANSON: Yes.

23 MS. VILORIA-FISHER: Again,
24 I go back to the document on
25 page 413. Quote, "There is some

1 Council on Environmental Quality

2 risk elevation with the use of
3 pesticides." Further down the
4 page, "It is true that pesticide
5 use should not be considered to be
6 risk free."

7 So I don't think we need to
8 reiterate what's in here. The
9 document never said that pesticide
10 use is risk free. We know that
11 it's a chemical that kills things,
12 there's going to be risk
13 associated with it. I don't think
14 we need to reiterate that, and I
15 certainly don't think that we need
16 to underscore it. I think it's
17 honest.

18 MR. SWANSON: Yes.

19 MS. STILES: I don't think
20 that we are reiterating it. I
21 think that that's a general
22 statement to pesticides, and this
23 is a very specific statement to
24 methoprene, which I personally
25 don't think that the GES fully

1 Council on Environmental Quality

2 addressed it, so rather than
3 saying "Don't use methoprene,"
4 just informing the Legislature and
5 the public that there are other
6 questions out there that we should
7 address in the future.

8 MS. VILORIA-FISHER: See, I
9 don't think that's our charge. I
10 disagree with that.

11 MR. SWANSON: Walter.

12 MR. DAWYDIAK: Larry, I
13 proposed some language in my
14 e-mail to you, and it was really
15 taken directly from the
16 supplemental EIS, and I think it
17 may be helpful. "At any time the
18 County could commence additional
19 environmental review based on
20 substantial new technical
21 information. On an annual basis,
22 the CEQ will review annual plans
23 of work and make a recommendation
24 with respect to SEQRA to the
25 Legislature."

1 Council on Environmental Quality

2 We could add to that a
3 statement that all pesticides
4 carry risks and the body of
5 literature on methoprene continues
6 to grow and we should watch it
7 carefully. I mean, we stand fully
8 behind our risk assessment and our
9 FGEIS. There is no flaw that's
10 been uncovered with any of the
11 analysis. A couple of new studies
12 were cited and we responded to
13 them, and nobody has said, "Your
14 response is wrong because A, B and
15 C." People are just worried. And
16 it's good to be worried, but it's
17 not good to be unnecessarily
18 alarmist and inaccurately.

19 MR. SWANSON: So --

20 MS. RUSSO: We address that
21 on page 5.

22 MR. SWANSON: Pardon?

23 MS. RUSSO: We address that
24 on page 5 at the bottom. When I
25 addressed that, the annual review

1 Council on Environmental Quality

2 was all available to be conducted
3 independently, so the deet on
4 methoprene will come under that
5 year, because every year they're
6 going to be available.

7 MR. SWANSON: Okay. It's
8 been suggested by Gloria that
9 we've already actually had that
10 under Public Health Aspects; that
11 it will be reviewed. Maybe
12 somebody would just like to make a
13 motion that the CEQ remains
14 concerned about the continuing use
15 of methoprene and leave it at
16 that.

17 MR. KAUFMAN: I'll make
18 that motion.

19 MR. SWANSON: Second?

20 MR. NARDONE: Second.

21 MR. SWANSON: All in favor?

22 (No audible response.)

23 MR. SWANSON: Opposed?

24 (No audible response.)

25 MR. SWANSON: Exemption.

1 Council on Environmental Quality

2 What do you call that?

3 MR. KAUFMAN: Recusal.

4 MR. SWANSON: Abstention.

5 You're abstaining?

6 (No audible response.)

7 MR. SWANSON: Okay. We've
8 got one abstention.

9 All right. We have one
10 last issue, Buffers.

11 DR. POTENTE: Whoa, whoa,
12 whoa, whoa. I had those four
13 items.

14 MR. SWANSON: No. I think
15 we've covered it in generalities.

16 DR. POTENTE: I make a
17 motion that we discuss Number 11.

18 MS. STILES: Second. I
19 think that we should be able to
20 discuss it. It's completely
21 relevant to what we were just
22 going over.

23 MR. SWANSON: Make a
24 motion.

25 DR. POTENTE: Well,

1 Council on Environmental Quality

2 methoprene should be restricted
3 from use in our tidal wetlands.
4 We keep asking for annual review
5 year after year after year, and
6 from what I can see, there is
7 already enough information to do
8 something. I'm not calling for
9 the banning of methoprene because
10 it still may have some uses, but
11 in our tidal wetlands, West Nile
12 Virus has not been found in our
13 tidal wetlands. They found a
14 mosquito someplace in Deer Park
15 that was a salt marsh mosquito.
16 There is sufficient information
17 that is coming out in the
18 scientific literature on
19 methoprene, and I have information
20 under the larvicides for
21 methoprene that I've provided for
22 you just as a small sampling of
23 the many papers coming out showing
24 the damage that methoprene does.

25 I make a motion that it be

1 Council on Environmental Quality

2 restricted in our tidal wetlands
3 where West Nile Virus is not
4 taking place and where it has
5 collateral damage on infestations.

6 MR. SWANSON: Do we have a
7 second?

8 (No audible response.)

9 MR. SWANSON: We have a
10 second.

11 Yes.

12 MR. KAUFMAN: John, I
13 really believe that what the
14 County did in the FGEIS really
15 discounts a lot of what Horscht
16 and his compatriots were saying.
17 I am concerned about methoprene.
18 They may, indeed, be on to
19 something. But at this time, I
20 don't see adequate research at
21 this point in time to start
22 restricting its use heavily in all
23 situations. A lot of the research
24 was not necessarily done in tidal
25 wetlands, it was not reproducible,

1 Council on Environmental Quality

2 which is very much of an issue for
3 me, and the scientists that I have
4 talked to about it seem to
5 discount it. I just don't know
6 that we can micromanage them that
7 heavily in the absence of real
8 data. An abundance of caution,
9 yes. But they told us previously
10 that methoprene, they have to use
11 it in the salt marshes. That's
12 where it's supposed to go. Not in
13 the open water. Not in the open
14 water, and that was a point
15 brought up at the work session.
16 But I don't know --

17 DR. POTENTE: But the
18 papers --

19 MR. KAUFMAN: And if it's
20 carefully distributed, I don't
21 think that it's as much of a
22 problem on the wetlands.

23 DR. POTENTE: Papers that
24 are coming out are scientific,
25 peer-reviewed journals. These are

1 Council on Environmental Quality

2 credible studies that are coming
3 out, and it's the salt marshes
4 that has my concern, and I'm
5 making a motion.

6 MR. SWANSON: Okay. Did we
7 get a second on that?

8 MS. STILES: Yes.

9 MR. SWANSON: Oh, yes.
10 Okay.

11 All in favor?

12 (No audible response.)

13 MR. SWANSON: Opposed?

14 One, two, three, four. Any
15 abstentions? One abstention.

16 Motion passes. One
17 recusal.

18 MR. BAGG: Are we going to
19 put that in?

20 MR. SWANSON: Yes.

21 DR. POTENTE: I'll skip the
22 next and I'll just go to
23 Number 13. It's a larvicide that
24 is being used on private land,
25 land that people own, they happen

1 Council on Environmental Quality

2 to have ponds in their backyard,
3 then they should have the
4 prerogative of giving the
5 permission to the Division of
6 Vector Control whether or not they
7 want these pesticides or
8 larvicides applied on their
9 private property. Now, I make the
10 motion that permission from
11 property owners be obtained for
12 larvicide use on your own private
13 land.

14 MS. VILORIA-FISHER: I
15 second that.

16 MR. NINIVAGGI: Could I
17 provide some technical information
18 on the implications of that?

19 MR. SWANSON: Briefly.

20 MR. NINIVAGGI: Basically,
21 a very small breeding area on
22 private property, if a landowner
23 refuses treatment, can cause
24 infestation on large areas of
25 surrounding property, leading to

1 Council on Environmental Quality

2 an increased need for the use of
3 adulticides. So what this
4 restriction would have the effect
5 of doing is making us even more
6 dependent on adulticides than we
7 are now and actually increasing
8 pesticide use. In addition, you
9 should know that public health law
10 is specifically worded to prevent
11 exactly this kind of thing. And
12 that's why public health law
13 allows Vector Control access to
14 private property.

15 DR. POTENTE: SEQRA
16 overrides public health law.

17 MR. NINIVAGGI: No, it
18 doesn't.

19 MR. BAGG: SEQRA actually
20 says that if you negatively impact
21 public health and it's a
22 significant impact, it has to be
23 discussed.

24 MR. KAUFMAN: Yes.

25 MS. STILES: Don't you have

1 Council on Environmental Quality

2 to get a public health declaration
3 to override SEQRA.

4 MR. BAGG: Well, I'm just
5 saying SEQRA is a significant
6 impact on the SEQRA. Public
7 health impacts are.

8 MR. KAUFMAN: Remember what
9 SEQRA is, though. SEQRA is
10 talking about, actually, actions.
11 It's done underneath or as part of
12 a number of laws established under
13 the general constitution of the
14 State and the various laws out
15 there. So SEQRA does not override
16 State law. State law is one-way.
17 You can't go beyond that State law
18 or you can't do something in
19 contravention of that. That's the
20 reason you go through a SEQRA
21 process.

22 MR. SWANSON: Lauren.

23 MS. STILES: Just as a
24 suggestion, because I, growing up
25 in Nassau County had neighbors

1 Council on Environmental Quality

2 that were, like, lunatics that
3 never drained their pool and it
4 was horrible sometimes, and I
5 think that there are plenty of
6 times that that happens here in
7 Suffolk County, too, and if that
8 landowner refuses to have Vector
9 Control come in and put one of
10 those dunks in the pool, that can
11 create a serious problem. I think
12 it's the inherent power of
13 government to protect the
14 neighbors, so I think permission
15 should be attempted from the
16 landowner, and I'm not sure if
17 that's the current policy that you
18 try to knock on their door, see if
19 they're home, something like that.

20 MR. NINIVAGGI: Yes, it is.

21 MS. STILES: I think the
22 concern that John has is that
23 people have fish ponds and other
24 things that they might not want
25 Vector Control just busting in and

1 Council on Environmental Quality

2 starting some larvicide. Or
3 children's kiddie pools or
4 something like that. So maybe
5 there's a way to amend it to say
6 it should always be attempted or
7 something like that.

8 MR. SWANSON: What is your
9 policy now?

10 MR. NINIVAGGI: Standard
11 procedure is to go to the
12 property, see if the homeowner is
13 home. We do communicate with
14 homeowners, and we use persuasion
15 to the maximum extent possible.
16 However, we do have the authority
17 under public health law, which we
18 exercise with great discretion and
19 extremely rarely.

20 MR. SWANSON: Okay. I'm
21 going to call the question. All
22 in favor with this amendment,
23 raise your hand. All in favor?

24 (No audible response.)

25 MR. SWANSON: Opposed?

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2 (No audible response.)

3 MR. SWANSON: Motion is
4 defeated. One recusal. Sorry,
5 John.

6 DR. POTENTE: That's all
7 right.

8 MR. SWANSON: All right.

9 MR. DAWYDIAK: Chairman
10 Swanson?

11 MR. SWANSON: Yes.

12 MR. DAWYDIAK: Can I just
13 make one comment if I could, for
14 one minute, on the motion on
15 Mr. Potente's Number 11
16 restriction of methoprene in salt
17 marshes?

18 MR. SWANSON: Yes.

19 MR. DAWYDIAK: I mean, up
20 until now, we've agreed with some
21 things and disagreed with others,
22 but I think this one is
23 substantive and significant enough
24 that for the record, we need to
25 flesh out the implications of what

1 Council on Environmental Quality

2 CEQ has actually done today.

3 Number one, you're recommending a
4 policy which is likely to result
5 in increase use of adulticides,
6 which has been demonstrated to
7 have potential nontarget impact
8 where none of the work that we've
9 looked at, either in terms of risk
10 assessment or literature, has
11 demonstrated any impact of
12 methoprene. Second, and I say
13 this with all due respect, the
14 recommendation is not based on any
15 citation to information on the
16 GEIS or FGEIS. We have ample
17 documentation, we have national
18 scientific experts, we have risk
19 assessors, we have people who have
20 gone through the information bit
21 by bit, part per trillion by part
22 per trillion and document.

23 What you've recommended in
24 this body is a policy decision
25 based on caution, which is fine,

1 Council on Environmental Quality

2 but I respectfully submit that
3 that's not your role; that your
4 role was to review the information
5 in the FGEIS and cite where it was
6 incorrect. So I'm going to make
7 the same comments at the
8 Legislature. I just wanted the
9 record to reflect that.

10 MR. SWANSON: Let me make
11 another statement about that.
12 This an is integrated program.
13 Parts fit together in order to
14 reduce the overall impact. If you
15 eliminate the use of methoprene in
16 the salt marsh, the result is
17 going to be a factor of five to
18 ten more mosquitoes reaching the
19 residential areas, which is going
20 to result in more use of
21 adulticides by Vector Control and
22 more use of pesticides by
23 homeowners. So you think that
24 you're protecting the environment
25 somehow, but, in fact, you're

1 Council on Environmental Quality

2 doing the opposite by doing this.
3 You're actually resulting in more
4 human exposure of pesticides to
5 people than with the policy of
6 using methoprene. And when we did
7 the overall assessments of the
8 program, we assumed that we would
9 be allowed to continue to keep
10 salt marsh mosquitoes at
11 imaginable levels.

12 All the other impact
13 assessments, there may be problems
14 with them because now, we're going
15 to have to deal with a lot more
16 mosquitoes.

17 MS. GRIGONIS: There's no
18 other alternative than methoprene?
19 You can't use BTI?

20 MR. SWANSON: We do use
21 BTI. We use more BTI than
22 methoprene in the salt marsh.
23 However, BTI does not work in
24 every situation. The way the
25 program works is we look at the

1 Council on Environmental Quality

2 situation and we use the
3 appropriate material for that
4 situation. BTI is preferred for
5 various reasons. However, it
6 would be inappropriate and
7 wasteful and foolish to use BTI
8 when you know it's not going to
9 work.

10 MS. GRIGONIS: Such as?

11 MR. SWANSON: Such as, in
12 late season, when the larvae reach
13 a late stage, they're much less
14 susceptible to BTI, while they're
15 very susceptible to methoprene.

16 MS. GRIGONIS: Why is that?

17 MR. DAWYDIK: BTI is --

18 MS. GRIGONIS: I know what
19 BTI is.

20 MR. SWANSON: BTI has to be
21 ingested by the larvae. When they
22 get particularly to stage four,
23 they stop feeding, so they can't
24 ingest the BTI. In addition, in
25 general, the salt marsh

1 Council on Environmental Quality

2 environment is a very difficult
3 environment to use BTI because
4 there are a lot of particles in
5 the water that compete for
6 ingestion with the BTI particles.
7 BTI works in the salt marsh in a
8 lot of situations. It's an
9 excellent material. We've been
10 using it since 1982, but the idea
11 that it solves every problem with
12 mosquito larvae is simply not
13 true, and we have done extensive
14 analysis in our program when we
15 used only BTI and then when we
16 added methoprene to the program,
17 and we demonstrated very
18 convincingly that adding
19 methoprene to the program resulted
20 in very large reductions in salt
21 marsh mosquitoes.

22 MS. STILES: I just think
23 that the response of Vector
24 Control is fine. I mean, you're
25 going to clearly have your chance

1 Council on Environmental Quality

2 to say this to the Legislature
3 many times between now and the
4 time they voted, and I think we
5 just want to finish up because
6 we'd all like to be out of here.

7 And there was one more on
8 John's compromise list that was
9 number 14 on the bottom there. I
10 changed it a little bit from what
11 you have wrote there. It says,
12 "Mosquito dynamics in the
13 ecosystem were not adequately
14 explored in a GEIO. The CEQ
15 recommends that the role and the
16 natural predation of mosquitoes in
17 naturally functioning wetlands
18 should be studied by the Wetlands
19 Stewardship Committee in the
20 Wetlands Stewardship Strategy."

21 This is just something
22 we're asking the Wetlands
23 Stewardship Committee to take a
24 look at.

25 MR. SWANSON: That's your

1 Council on Environmental Quality

2 motion?

3 MS. STILES: Uh-huh.

4 MR. SWANSON: Second?

5 (No audible response.)

6 MR. SWANSON: All in favor?

7 (No audible response.)

8 MR. SWANSON: Opposed?

9 (No audible response.)

10 MR. SWANSON: Three

11 abstentions and one recusal. The
12 motion carries.13 MR. BAGG: Can you give me
14 that wording.15 MS. STILES: Sure. Can we
16 ask her to read that back?17 MR. BAGG: When we get done
18 we'll write it down.19 MR. SWANSON: All right.
20 The last issue is Buffers.21 "1) When Vector Control is
22 applying adulticide near a wetland
23 or body of water, but does not
24 intend to actually treat the
25 wetland, to the greatest extent,

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1 possible buffers should be kept to
2 avoid possible drift into wetlands
3 or water bodies, in order to
4 prevent possible impacts on these
5 structures."
6

7 Do we have a motion?

8 MR. KAUFMAN: I'll make a
9 motion.

10 MR. SWANSON: Second?

11 MS. SPENCER: I will.

12 MR. SWANSON: We have a
13 second by Ms. Spencer.

14 Any discussion?

15 Yes.

16 MS. STILES: I think I
17 might have been the one that
18 suggested this language or
19 something close to it, but it
20 doesn't read the way I had
21 intended. I don't know if someone
22 else presented this, but it should
23 read "When Vector Control is
24 applying adulticides near a
25 wetland or open body of water, but

1 Council on Environmental Quality

2 does not intend to actually treat
3 the open body of water." Meaning
4 we intend to treat the wetlands
5 but not the entire Great South
6 Bay. "To the greatest extent
7 possible, buffers should be kept
8 to avoid possible drifts into open
9 water bodies in order to prevent
10 possible impact."

11 MR. SWANSON: Okay. Any
12 other comments on this?

13 Yes, Mike.

14 MR. KAUFMAN: Her changes
15 are fully acceptable. That's what
16 we were discussing.

17 MR. SWANSON: Okay. Call
18 for a vote. All in favor?

19 (No audible response.)

20 MR. SWANSON: Opposed?

21 (No audible response.)

22 MS. VILORIA-FISHER: I have
23 to abstain because I wasn't here
24 at the meeting.

25 MR. SWANSON: Okay. One

1 Council on Environmental Quality

2 abstention and one recusal.

3 Item Number 2, "The plan
4 report now appears to want to
5 lessen such buffers, which right
6 now are 100-150 feet. CEQ
7 believes the buffers are
8 necessary, though it more nuanced
9 applications are proven to avoid
10 nontarget impact/drift, CEQ will
11 be willing to consider such
12 evidence as part of the long term
13 strategy."

14 Do we have a motion to
15 accept that?

16 MR. KAUFMAN: I'll make a
17 motion.

18 MR. SWANSON: Second?

19 Second by Ms. Stiles.

20 Yes.

21 MS. VILORIA-FISHER: On the
22 motion, we had a lot of discussion
23 about this at our work session,
24 and I thought this is what Vector
25 Control said, that if it's only

1 Council on Environmental Quality

2 when drift is involved that they
3 get closer to the --

4 MR. KAUFMAN: No. The
5 actual document, if I remember
6 correctly, has several places
7 wherein they mention that buffers
8 exist right now, but they want to
9 try and reduce those buffers where
10 possible. And there's actual
11 language in there. If those guys
12 are not saying anything, they were
13 probably correct.

14 MR. DAWYDIAK: It said that
15 alteration to buffers would be
16 possible, potentially, in the
17 future, but we have no objection
18 to this language.

19 MR. SWANSON: Okay. I'll
20 call the motion. All in favor?

21 (No audible response.)

22 MR. SWANSON: Opposed?

23 (No audible response.)

24 MR. SWANSON: Motion?

25 MS. SQUIRES: We're done?

1 Council on Environmental Quality

2 MR. SWANSON: We're done
3 with this, yes. And I recuse.

4 Yes.

5 MR. BAGG: Since we've been
6 through this and the motion's
7 carried, I mean, I can't be
8 sending someone across the street
9 with a motion to every one of
10 these things. I mean, are you
11 just going to include these in
12 your recommendation to make a
13 blanket --

14 MR. SWANSON: Yes.

15 MR. BAGG: -- motion to
16 approve --

17 MR. SWANSON: Yes.

18 MR. BAGG: Well, then
19 you've got to still have a
20 separate motion to approve your
21 recommendations as modified and
22 just sending it across the street,
23 because I'm not sending all these
24 motions and each one of these
25 votes.

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2 MR. SWANSON: Okay. So
3 what you're saying is what you'd
4 like to have is, based on the
5 individual recommendations, that
6 we want an overall approval --

7 MR. BAGG: Yes. Of this
8 document or these recommendation
9 as modified and amended today.

10 MR. KAUFMAN: I disagree on
11 this. My concept from the start
12 of all of this was this was where
13 we were all going to be going on
14 records. I did not want to have
15 any of the differing voices in CEQ
16 just be possibly, if you will,
17 overwhelmed. If there was a
18 majority or minority split,
19 whatever it was, it was. But I
20 wanted those views to be out there
21 and possibly listed. So, for
22 example, if Lauren lost all
23 those --

24 MR. SWANSON: It's in the
25 record.

1 Council on Environmental Quality

2 MR. KAUFMAN: I understand
3 that. No one's going to read the
4 record. Just as we don't read the
5 minutes, no one's going to read
6 the record, okay? Frankly --

7 MR. BAGG: So I'm going to
8 prepare a resolution of each of
9 these, and I'm going to put
10 motions down for every one of
11 these votes.

12 MR. KAUFMAN: No, just put
13 down the vote count, is my
14 opinion. But I think, for
15 example, where Lauren lost on a
16 vote and where I lost on a vote,
17 you know, I want the vote count
18 listed.

19 MR. BAGG: I mean, but
20 you've approved all these things,
21 so, in essence, CEQ has approved
22 these recommendations as amended.

23 MR. KAUFMAN: The document
24 I can live with, but the actual
25 vote counts, I think, should be

1 Council on Environmental Quality

2 recorded.

3 MR. SWANSON: Lauren.

4 MS. STILES: I mean, they
5 vote all the time. Why don't we
6 just tell the Legislature we voted
7 on these things individually,
8 there was some dissent, but here's
9 what we have, each individual
10 thing, and then just put it all --

11 MR. SWANSON: One
12 comprehensive report. And there's
13 no reason why they can't be
14 referenced to the minutes.

15 DR. POTENTE: I make a
16 motion that the changes be made as
17 one motion.

18 MR. SWANSON: Okay. We
19 have a recommendation it be done
20 as one motion, you second it.

21 All in favor?

22 MS. RUSSO: Repeat your
23 motion.

24 DR. POTENTE: That Jim Bagg
25 write up the changes as one

1 Council on Environmental Quality

2 motion.

3 MR. SWANSON: And it's been
4 seconded. All in favor?

5 (No audible response.)

6 MR. SWANSON: Opposed?

7 (No audible response.)

8 MR. SWANSON: One opposed
9 and no abstentions and one
10 recusal. Okay, thank you very
11 much.

12 Now, we've got several
13 other items of business very
14 quickly. We need to elect
15 officers, and we need to approve
16 the 2007 CEQ meeting calendar.

17 MR. DAWYDIAK: One other
18 issue, if I could. I apologize,
19 but there's been no determination
20 of mitigating impact to the
21 maximum extent practicable.

22 MR. SWANSON: I've handed
23 that to Jim. We will incorporate
24 it in the final.

25 MR. BAGG: I think it's in

1 Council on Environmental Quality

2 there. However, that is a
3 decision that's part of the
4 binding statement of the
5 Legislature. They have to define
6 that. That's not CEQ that has to
7 define that pursuant to that.

8 MR. DAWYDIAK: I just don't
9 want the Legislature to send it
10 back to you. I don't want to do
11 this again.

12 MR. BAGG: Well, I don't
13 think Counsel thinks that SEQRA's
14 been met.

15 MR. DAWYDIAK: I would like
16 your resolution to exactly track
17 languages 6 NYCRR, 617.11 b, I
18 think it is. That's all that I
19 have.

20 MR. BAGG: It's here.

21 MR. SWANSON: I will recuse
22 myself.

23 (Chairman Swanson leaves
24 the room.)

25 MR. KAUFMAN: Chairman

1 Council on Environmental Quality

2 Swanson has recused himself for a
3 moment on this. We've got a
4 technical issue here. Part of our
5 duty under SEQRA, which we were
6 dealing with last month, was
7 release of the actual document,
8 the FGEIS, plus the rest of the
9 documents to the Legislature,
10 along with our recommendations.
11 We had tabled it last month
12 pending both receipt of DEC
13 comments, which we felt were
14 integral to the process, and we
15 also had wanted to try and get the
16 work session done and find out
17 where we stood on all of this
18 stuff. At this point in time, we
19 are now essentially at the end of
20 the process, aside from Jim having
21 to do the draft. According to
22 SEQRA and according to the County
23 charter, we are required to take a
24 vote at this point in time on this
25 particular issue of release of the

1 Council on Environmental Quality

2 FGEIS plus associated documents
3 and release of the Vector Control
4 Wetlands Management Long-Term Plan
5 and Environmental Impact Statement
6 to the Legislature, along with our
7 comments, and that's the vote that
8 we have to take. That's a formal
9 thing that we have to do.

10 MS. VILORIA-FISHER: I'll
11 make a motion.

12 MR. KAUFMAN: Do we have a
13 second?

14 (No audible response.)

15 MR. KAUFMAN: I'll call the
16 vote, then. All in favor?

17 (No audible response.)

18 MR. KAUFMAN: Anyone
19 against?

20 (No audible response.)

21 MR. KAUFMAN: Any
22 abstentions? Recusal.

23 MR. BAGG: Can I have a
24 clarification? Because we're
25 doing two things at once here. He

1 Council on Environmental Quality

2 wants this thing considered as
3 part of motions and you're doing
4 something else, and I don't have
5 enough brain power to take care of
6 everything.

7 MR. KAUFMAN: Well, motion
8 carries, by the way.

9 (Chairman Swanson re-enters
10 the room.)

11 MR. SWANSON: Let's move
12 on. We have to elect officers for
13 this year and we have to approve
14 our calendar, so nominations for
15 Chair and Vice Chair are in order.

16 MS. RUSSO: I make a motion
17 to nominate Larry for Chairman and
18 Mike Kaufman for Vice Chairman
19 again.

20 MR. SWANSON: Second?

21 MS. SQUIRES: I'll second
22 that.

23 MR. SWANSON: Vote. All in
24 favor?

25 (No audible response.)

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2 MR. SWANSON: Opposed?

3 You're opposed?

4 MS. VILORIA-FISHER: Me?

5 No.

6 MR. SWANSON: Abstentions?

7 (No audible response.)

8 MR. SWANSON: Okay. Thank
9 you very much.

10 Now we have to approve the
11 calendar. Generally, our meetings
12 are on the third Wednesday of the
13 month, with the exception of the
14 December meeting. Sometimes we
15 have conflicts with the
16 Legislature, and when those arise,
17 Jim will have to notify us, but if
18 there's no problem with this,
19 entertain a motion to have the
20 meetings scheduled and posted in
21 this manner at this point.

22 All in favor? Or we need a
23 motion.

24 MS. STILES: Before a
25 motion, I'm fine with the dates,

1 Council on Environmental Quality

2 but is there any way we could have
3 some not 9:30 a.m. meetings?

4 Because it eats up my entire
5 workday, and I'm sure there are
6 other people here that agree. And
7 I know many deliberative bodies
8 have morning meetings. Sometimes
9 they have morning meetings,
10 sometimes they have evening
11 meetings for working people.

12 MR. SWANSON: Well, we have
13 to be considerate of our staff.
14 You've got to remember that most
15 of the meetings now take place at
16 the Legislature, and that means
17 Jim has to come in. His workday
18 starts at 9:00, he has to pack up
19 the materials and take it over to
20 the Legislature, so to accommodate
21 work hours of Suffolk County, I
22 think we probably ought to stick
23 with 9:30.

24 MS. STILES: Just so you
25 guys know, I'm using 12 vacation

1 Council on Environmental Quality

2 days a year to be here, really.

3 MR. KAUFMAN: I'm the same
4 way, Lauren.

5 MR. NARDONE: We didn't get
6 copies down here of the schedule,
7 if there's any floating around.

8 MR. KAUFMAN: It was in the
9 packets.

10 MS. SPENCER: Not in ours.

11 MR. KAUFMAN: Not in yours?

12 MR. SWANSON: So, Jim, the
13 workday for Suffolk County?

14 MR. BAGG: 9:00 o'clock.

15 MR. SWANSON: And you don't
16 pay overtime to have somebody come
17 in here at 8:30, right?

18 MR. BAGG: No. I mean, the
19 meetings were scheduled for 9:30
20 simply to allow the members travel
21 time coming to work to avoid rush
22 hour.

23 MR. SWANSON: There's been
24 some members that would prefer to
25 do it at 9:00.

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2 MS. STILES: No, no. Just
3 if we could have even just one or
4 two meetings a year in the middle
5 of the whole entire day.

6 MS. VILORIA-FISHER: Like,
7 have some at 4:00 o'clock in the
8 afternoon?

9 MS. STILES: Something like
10 that, yes.

11 MR. KAUFMAN: Well, figure
12 maybe 1:00 o'clock or something,
13 because we all have schedules.

14 MS. STILES: 1:00 o'clock
15 is still -- maybe 4:00.

16 MS. RUSSO: I have a
17 situation like Lauren was just
18 saying. It's just that because of
19 the Vector Control project being
20 so continuous and so long. I
21 mean, I'm assuming that we will go
22 back to two hours long.

23 MR. SWANSON: Ordinarily,
24 they end at 11:00.

25 MR. BAGG: Most of the

1 Council on Environmental Quality

2 meetings were ended by noon.

3 MS. RUSSO: Yes. And then
4 I'm fine with the morning.

5 MR. BAGG: And it depends
6 upon the agenda.

7 MS. STILES: I'm holding
8 you to the noon.

9 MR. BAGG: Well, I mean,
10 let's just do it and not argue so
11 much.

12 MR. KAUFMAN: You should
13 see the line at John's office
14 right now.

15 MR. SWANSON: All right.
16 Do we have a motion to adjourn?

17 MR. BAGG: Is this schedule
18 approved?

19 MR. SWANSON: This schedule
20 is approved.

21 DR. POTENTE: I'll make a
22 motion to adjourn.

23 MS. STILES: Second.

24 MR. SWANSON: Would you
25 withdraw that? I'm not going to

1 Council on Environmental Quality

2 do Historic Service.

3 MR. PICHNEY: I understand
4 that, but just five minutes for a
5 nomination.

6 DR. POTENTE: I'll withdraw
7 it.

8 MR. SWANSON: Yes. I want
9 to nominate Mary Ann Spencer to be
10 Chair of the Historic Trust
11 Committee.

12 MS. STILES: I'll second
13 it.

14 DR. POTENTE: I second the
15 motion.

16 MR. SWANSON: All in favor?

17 (No audible response.)

18 MR. SWANSON: Now --

19 MS. VILORIA-FISHER: I'm
20 sorry, Larry. On this schedule,
21 if Jim could check this, we had a
22 legislative meeting on April 24th,
23 so usually the week before is the
24 committee meeting, and that would
25 be April 18th. So we'll

1 Council on Environmental Quality

2 double-check on that, okay, Jim?

3 MR. BAGG: Yes, that is
4 correct, all right? I'm hoping to
5 hold the meeting across the street
6 when there is no legislative
7 meetings. However, when there is,
8 we'll hold them here.

9 MS. VILORIA-FISHER: Okay.
10 All right.

11 DR. POTENTE: I'll make a
12 motion that we adjourn.

13 MR. SWANSON: Okay.

14 MR. DAWYDIAK: Larry, last
15 order of business on Vector
16 Control.

17 MR. SWANSON: No. We're
18 through, Walter.

19 MR. DAWYDIAK: We really
20 want to avoid lawsuits and repeat
21 sending this back. I just want to
22 make sure the procedural language
23 is correct. If it's not voted on
24 by CEQ, they are going to just --

25 MR. BAGG: It's a

1 Council on Environmental Quality

2 requirement of the Legislature.

3 MR. SWANSON: He says it's
4 a requirement of the Legislature.

5 MR. BAGG: The Legislature
6 has to make those findings, not
7 CEQ.

8 MR. DAWYDIAK: It would be
9 helpful if you made a
10 recommendation, but it's your
11 meeting.

12 MR. BAGG: I think CEQ's
13 recommendation is, they feel it
14 meets the requirements of the law.
15 However, the Legislature has to
16 put this in their findings
17 statement when they adopt that
18 finding statement.

19 MR. DAWYDIAK: SEQRA has a
20 procedure on a substantive
21 requirement. Right now, your
22 resolution deals with the
23 procedural but not the
24 substantive, and it's just missing
25 from my read, and I say this with

1 Council on Environmental Quality

2 all due --

3 MR. BAGG: Well, SEQRA
4 doesn't allow for CEQ. They're
5 not even in the law. This is
6 something additional as to SEQRA.

7 MS. VILORIA-FISHER: Well,
8 Jim, you're preparing the
9 resolution, right?

10 MR. BAGG: Yes. If you
11 want me to put that in, I can
12 still fix that.

13 (Whereupon, the proceeding
14 was concluded at 2:24 p.m.)
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C E R T I F I C A T E

I, MICHELLE SCOTTI, a Notary Public in
and for the State of New York, do hereby
certify:

THAT the witness whose testimony is
hereinbefore set forth, was duly sworn by me;
and

THAT the within transcript is a true
record of the testimony given by said witness.

I further certify that I am not related,
either by blood or marriage, to any of the
parties in this action; and

THAT I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 17th day of January, 2007.


MICHELLE SCOTTI

