

LEGISLATIVE HISTORY OF R.S. 13:9A-1 to 13:9A-10
"Wetlands Act"

1969, A768 - Mrs. Margetts

This is an earlier bill. It passed Assembly, died in Senate Committee. The bill had no statement.

L. 1970, Chapter 272 - A505 OCR

Introduced February⁹ by Margetts [& 14 others].

Bill had statement - original bill only (cop. enc.)

Amended by Senate Committee (cop. enc.)

Approved November 5, 1970.

1) Governor Wm. T. Cahill

The Need for a Rational Policy regarding Riparian Lands. Sept. 23, 1970. (cop. enc.)

2) Richard J. Sullivan. - *located w/ Gov. statement above in board press release*
Memorandum to Chairman and Members of Natural Resource Council. Sept. 23, 1970 (cop. enc.)

[The Natural Resource Council is part of the Dept. of Environmental Protection. R.S. 13:1D-3(b)]

3) Statement of Governor Wm. T. Cahill on the Wetlands Act.
Nov. 5, 1970 (cop. enc.)

4) Clippings from V.F.--Wetlands (cop. enc.)

5) Other State Statutes.

Connecticut

Preservation of Tidal Wetlands. Connecticut Gen. Stat. 1969
Supp. Title 22, Sec. 22-7h to 7o (1969).

Maine

Wetlands. Rev. Stat. Ann. Title 12, Sec. 4701 to 4709
(1967, amended 1969)

See also: Johnson v. Maine Wetlands Control Board
250 A 2d 825 (1969).

Maryland

Wetlands. Ann. Code of Md. 1957, v. 6 1970 Int. Suppl.
Art. 66C, Sec. 718 to 731 (1970).

New Hampshire

Tidal Waters. N.H. Rev. Stat. Ann. Ch. 483-A:1 to 4-b
(1970).

Rhode Island

Coastal Wetlands. General Laws of Rhode Island 1956
Pocket Suppl., Title 2-1-13 to 2-1-17 (1965).

- 6) N.J. definition of state-owned tide-flowed lands.
O'Neill v. State Highway Dept. 50 NJ 307 at 322
(1967).

CHAPTER 272 LAWS OF N. J. 1970

APPROVED 11/5/70

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 505

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 9, 1970

By Assemblywoman MARGETTS, Assemblymen KEAN, DICKEY, VREELAND, MORAITES, VANDER PLAAT, PFALTZ, McDONOUGH, KIEHN, Assemblywoman FENWICK, Assemblymen COBB, SCHLUTER, WOODSON, CRANE and THOMAS

Referred to Committee on Agriculture, Conservation and Natural Resources

[AN ACT authorizing the Commissioner of Conservation and Economic Development to regulate dredging, filling, removing or otherwise altering or polluting coastal wetlands, providing procedures for the issuance and recording of such orders and for affected owners of lands to contest the application of such orders to their lands, and prescribing for violation thereof.] *AN ACT concerning the protection of natural resources in coastal wetlands, providing for the designation by the Commissioner of Environmental Protection of certain coastal wetlands after public hearing, and requiring permits from the commissioner prior to the dredging, removing, filling or otherwise altering or polluting coastal wetlands.*

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. a. The Legislature hereby finds and declares that one of the
2 most vital and productive areas of our natural world is the so-
3 called "estuarine zone," that area between the sea and the land;
4 that this area protects the land from the force of the sea, moderates
5 our weather, provides a home for water fowl and for $\frac{2}{3}$ of all our
6 fish and shellfish, and *[assist]* *assists* in absorbing sewage dis-
7 charge by the rivers of the land; and that in order to promote the
8 public safety, health and welfare, and to protect public and private
9 property, wildlife *[and]* *a* marine fisheries *and the natural
10 environment*, it is necessary to preserve the ecological balance of
11 this area and prevent its further deterioration and destruction by
12 regulating the dredging, filling, removing or otherwise altering

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

13 or polluting thereof, all to the extent and in the manner provided
14 herein.

15 b. The ***[commissioner]*** *Commissioner of Environmental Pro-*
16 *tection** shall, within ***[1 year]*** *2 years** of the effective date of
17 this act, make an inventory *and maps** of all tidal wetlands within
18 the State. The boundaries of such wetlands shall generally define
19 the areas that are at or below high water and shall be shown on
20 suitable *maps, which may be** reproductions or aerial photographs.
21 *Each such map shall be filed in the office of the county recording*
22 *officer of the county or counties in which the wetlands indicated*
23 *thereon are located. Each wetland map shall bear a certificate of*
24 *the commissioner to the effect that it is made and filed pursuant to*
25 *this act. To be entitled to filing no wetlands map need meet the*
26 *requirements of R. S. 47:1-6.**

1 2. The Commissioner ***[of Conservation and Economic Develop-**
2 **ment]*** may from time to time, for the purpose of promoting the
3 public safety, health and welfare, and protecting public and private
4 property, wildlife and marine fisheries, adopt, amend, modify or
5 repeal orders regulating, restricting or prohibiting dredging,
6 filling, removing or otherwise altering, or polluting, coastal wet-
7 lands. For the purposes of this act the term "coastal wetlands"
8 shall mean any bank, marsh, swamp, meadow, flat or other low land
9 subject to tidal action ***[or coastal storm flowage on or along any**
10 **and every shore front along the Atlantic ocean,]*** in the State of
11 New Jersey ***[and any shore front]*** along the Delaware bay and
12 Delaware river, Raritan bay, Barnegat bay, Sandy Hook bay,
13 Shrewsbury river including Navesink river, Shark river, and the
14 coastal inland waterways extending southerly from Manasquan
15 Inlet to Cape May Harbor, or at any inlet, estuary or tributary
16 waterway ***[along the shores of the State of New Jersey]*** *or any*
17 *thereof**, including those areas now or formerly connected to tidal
18 waters whose surface is at or below *an elevation of 1 foot above*
19 *local extreme** high water, ***[as the commissioner reasonably deems**
20 **necessary to affect by any such order in carrying out the purposes**
21 **of this act; except that the]*** *and upon which may grow or is*
22 *capable of growing some, but not necessarily all, of the following:*
23 *Salt meadow grass (Spartine patens), spike grass (Distichlis spi-*
24 *cata), black grass (Juncus gerardi), saltmarsh grass (Spartina*
25 *alterniflora), saltworts (Salicornia Europaea, and Salicornia big-*
26 *elovii), Sea Lavendar (Limonium carolinianum), saltmarsh bul-*
27 *rushes (Scirpus robustus and Scirpus paludosus var. atlanticus),*
28 *sand spurrey (Spergularia marina), switch grass (Panicum vir-*

29 *gatum*), tall cordgrass (*Spartina pectinata*), hightide bush (*Iva*
30 *frutescens* var. *oraria*), cattails (*Typha angustifolia*, and *Typha*
31 *latifolia*), spike rush (*Eleocharis rostellata*), chairmaker's rush
32 (*Scirpus americana*), bent grass (*Agrostis palustris*), and sweet
33 grass (*Hierochloe odorata*). The* term "coastal wetlands" shall
34 not include any land or real property subject to the jurisdiction of
35 the Hackensack Meadowlands Development Commission pursuant
36 to the provisions of P. L. 1968, chapter 404, sections 1 through 84
37 (C. 13:17-1 through C. 13:17-86).

1 3. The commissioner shall, before adopting, amending, modi-
2 fying or repealing any such order, hold a public hearing thereon
3 in the county in which the coastal wetlands to be affected are
4 located, giving notice thereof to each owner having a recorded
5 interest in such wetlands by mail at least 21 days prior thereto
6 addressed to his address as shown in the municipal tax office
7 records and by publication thereof at least twice in each of the 3
8 weeks next preceding the date of such hearing in a newspaper of
9 general circulation in the municipality or municipalities in which
10 such coastal wetlands are located.

11 Upon the adoption of any such order or any order amending,
12 modifying or repealing the same, the commissioner shall cause a
13 copy thereof, together with a plan of the lands affected*, *including*
14 *reference to the filed wetlands map or maps on which the same are*
15 *shown** and a list of the owners of record of such lands, to be re-
16 corded in the office of the county clerk or register of deeds, where
17 it shall be indexed and filed as a judgment, and shall mail a copy
18 of such order and plan to each owner of record of such lands af-
19 fected thereby.

1 4. a. For purposes of this section "regulated activity*" includes
2 but is not limited to draining, dredging, excavation or removal of
3 soil, mud, sand, gravel, aggregate of any kind or **depositing or*
4 *dumping therein any** rubbish or similar material **or discharging*
5 *therein liquid wastes**, either directly or otherwise, and the erec-
6 tion of structures, drivings of pilings, or placing of obstructions,
7 whether or not changing the tidal ebb and flow. "Regulated activ-
8 ity" shall not include **continuance of commercial production of*
9 *salt hay or other agricultural crops or** activities conducted under
10 section 7 of this act.

11 b. No regulated activity shall be conducted upon any wetland
12 without an ***[order]*** **permit**.

13 c. Any person proposing to conduct or cause to be conducted a
14 regulated activity upon any wetland shall file an application for an
15 ***[order]*** **permit** with the commissioner, in such form and with

16 such information as the commissioner may prescribe. Such appli-
17 cation shall include a detailed description of the proposed work
18 and a map showing the area of wetland directly affected, with
19 the location of the proposed work thereon, together with the names
20 of the owners of record of adjacent land and known claimants of
21 rights in or adjacent to the wetland of whom the applicant has
22 notice. All applications, with any maps and documents relating
23 thereto, shall be open for inspection at the office of the Department
24 of ***[Conservation and Economic Development]*** **Environmental*
25 *Protection**.

26 d. In granting, denying or limiting any ***[order]*** **permit** the
27 commissioner shall consider the effect of the proposed work with
28 reference to the public health and welfare, marine fisheries, shell
29 fisheries, wildlife, the protection of life and property from flood,
30 hurricane and other natural disasters, and the public policy set
31 forth in section 1. a. of this act.

1 5. The Superior Court shall have jurisdiction to restrain viola-
2 tions of orders issued pursuant to this act.

1 6. Any person having a recorded interest in land affected by any
2 such order **or permit**, may, within 90 days after receiving notice
3 thereof, file **a** complaint in the Superior Court to determine
4 whether such order **or permit** so restricts **or otherwise affects**
5 the use of his property as to deprive him of the practical use thereof
6 and is therefore an unreasonable exercise of the police power be-
7 cause the order **or permit** constitutes the equivalent of a taking
8 without compensation. If the court finds the order **or permit** to
9 be an unreasonable exercise of the police power, the court shall
10 enter a finding that such order **or permit** shall not apply to the
11 land of the plaintiff; provided, however, that such finding shall
12 not affect any other land than that of the plaintiff. Any party to
13 the suit may cause a copy of such finding to be recorded forthwith
14 in the office of the county clerk or register of deeds, where it shall
14A be indexed and filed as a judgment.

15 The method provided in this section for the determination of the
16 issue shall be exclusive, and such issue shall not be determined in
17 any other proceeding.

1 7. No action by the commissioner under this act shall prohibit,
2 restrict or impair the exercise or performance of the powers and
3 duties conferred or imposed by law on the State Department of
4 ***[Conservation and Economic Development]*** **Environmental*
5 *Protection**, the **Natural** Resource ***[Development]*** Council
6 and the State Mosquito Control Commission in said Department,
7 the State Department of Health, or any mosquito control or other

8 project or activity operating under or authorized by the provisions
9 of chapter 9 of Title 26 of the Revised Statutes.

1 **8. Nothing in this act or any permit issued hereunder shall*
2 *affect the rights of the State in, or the obligations of a riparian*
3 *owner with respect to, riparian lands.**

1 ***[8.]*** **9.** Any person who violates any order by the commis-
2 sioner, or violates any of the provisions of this act, shall be liable
3 to the State for the cost of restoration of the affected wetland to
4 its condition prior to such violation insofar as that is possible, and
5 shall be punished by a fine of not more than \$1,000.00, to be collected
6 in accordance with the provisions of the Penalty Enforcement Law
7 (N. J. S. 2A:58-1 et seq.).

1 ***[9.]*** **10.** This act may be cited as "The Wetlands Act of
2 1970."

1 ***[10.]*** **11.** This act shall take effect immediately.

15 The method provided in this section for the determination of the
16 issue shall be exclusive, and such issue shall not be determined in
17 any other proceeding.

1 7. No action by the commissioner under this act shall prohibit,
2 restrict or impair the exercise or performance of the powers and
3 duties conferred or imposed by law on the State Department of
4 Conservation and Economic Development, the Resource Develop-
5 ment Council and the State Mosquito Control Commission in said
6 Department, the State Department of Health, or any mosquito
7 control or other project or activity operating under or authorized
8 by the provisions of chapter 9 of Title 26 of the Revised Statutes.

1 8. Any person who violates any order by the commissioner, or
2 violates any of the provisions of this act, shall be liable to the
3 State for the cost of restoration of the affected wetland to its
4 condition prior to such violation insofar as that is possible, and
5 shall be punished by a fine of not more than \$1,000.00, to be collected
6 in accordance with the provisions of the Penalty Enforcement Law
7 (N. J. S. 2A:58-1 et seq.).

1 9. This act may be cited as "The Wetlands Act of 1970."

1 10. This act shall take effect immediately.

STATEMENT

This bill is designed to safeguard one of the most vital and productive areas of our natural world, the estuarine zone, between the sea and the land. This area protects the land from the force of the sea, moderates our weather, provides a home for waterfowl and for $\frac{2}{3}$ of all our fish and shellfish—valuable for food and sport and assists in absorbing sewage discharge by the rivers of the land.

This bill is also designed to equip the Commissioner of Conservation and Economic Development with broad power to control the development of New Jersey's estuarine area. It further includes adequate provisions to enable owners of affected lands to obtain redress against what they believe to be unreasonable action taken by the commissioner on behalf of the State.

FISCAL NOTE TO
ASSEMBLY, No. 505

STATE OF NEW JERSEY

DATED: MAY 7, 1970

As amended, Assembly Bill No. 505 is an act authorizing the Commissioner of Conservation and Economic Development to regulate dredging, filling, removing or otherwise altering or polluting coastal wetlands.

The Department of Conservation and Economic Development estimates that enactment of this legislation would require a State expenditure of \$350,000.00 in each of the fiscal years 1970-71 and 1971-72.

After the study is completed, the department estimates a base staff at \$100,000.00 in salary, and other administrative services of \$100,000.00 for rent, equipment, services, consultants, et cetera, will be required as an ongoing expense to the State to administer the program. When the Federal program that is presently being considered by the Federal Congress becomes operative, State expenditures could be reduced accordingly.

The department further states that even though the legislation calls for work on these 250,000 acres to be completed in 1 year, based on the experience in the Hackensack Meadowlands, no less than 2 years should be allowed for this work.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

September 23, 1970

THE NEED FOR A RATIONAL POLICY REGARDING RIPARIAN LANDS

New Jersey's riparian lands, the lands now or formerly flowed by the tides, and which include shore lands and meadowlands, constitute one of our most valuable and irreplaceable natural resources and a keystone of the State's School Fund. Such lands, based on legal doctrines going back to King Charles II of England, are owned and held by the State for the common good unless and until they are sold to private persons. These lands constitute a vital link in the very delicate food chain upon which all life must depend. Their importance is most apparent in the life cycle of fish, shellfish, and water fowl; but experts are convinced that the area where the land meets the water has consequences on all life.

New Jersey's coast from Sandy Hook around into Delaware Bay is fringed by riparian lands and wetlands bordering the bays and estuaries. Such lands are complex aquatic areas where fresh river waters meet the sea. Many valuable fish and shellfish spend all or part of their lives in these waters; they also serve as nurseries, spawning, and feeding grounds for many types of marine life. It has been estimated that about 70% of the fish caught for sport or food are dependent at one time or another in their life on the natural qualities of riparian lands and estuarine waters. In addition, clams, oysters, shrimp, crabs and lobsters are nurtured in our bays, inlets, and lagoons.

Estuaries act as buffers against the ravages of violent storms, provide harbors and transportation routes for commerce, serve as a means of flood control, act as water purifiers, and provide natural barriers against wind and water erosion.

In addition, they offer a wide array of recreational opportunities for fishermen, swimmers, boaters, canoeists, water skiers, hunters, and naturalists. Their preservation or destruction affects the quality of human life.

It is apparent that partly through oversight, and partly because of lack of knowledge of the extent and nature of the State's interests, the spoliation of our riparian heritage has taken place in the name of development. Unfortunately, the destruction of these lands by dredging, filling and draining may be irreversible. The State of New Jersey is now at the crossroads regarding the future of the riparian lands. We are faced with some hard decisions, but it is clear that our duty is decisively to act to protect these irreplaceable resources before it is too late. Although at several junctures in the State's history studies were undertaken or requested to be undertaken as to the lands owned by the State, little or no progress was made. We must immediately define these lands, determine the State's rights and develop new criteria for determining when, if ever, and under what conditions further 'development' or sale of these lands will be permitted and what factors may properly be given consideration in questions of possible hardship or necessity.

On April 22, 1970, Earth Day, I approved as Chapter 33 of the Laws of 1970 a bill creating the Department of Environmental Protection. That department is charged with the responsibilities of conserving our natural resources, promoting environmental protection, and preventing present and future environmental degradation. The functions of the Division of Natural Resources were changed with this in mind. The specific policies developed and administered by Commissioner Sullivan, subject to the constitutional and statutory obligations of the offices of Governor and Attorney General, concerning riparian lands will be designed to insure that the department's charter purpose of restoration, protection, and enhancement of the environment will be fulfilled.

Of equal concern to me has been the policy of the State in its valuation of riparian lands for sale or lease. An examination of the record shows that such lands have consistently been sold and quit-claimed for an arbitrary figure which does not reflect fair consideration. It is my belief that the State is constitutionally required to give due regard to fair consideration. For example, studies and reviews instituted at my request indicate that land in the Hackensack meadowlands in their undeveloped state now sell for \$10,000 to \$60,000 an acre. Some of this land had previously been quit-claimed by the State at the arbitrary sales prices and later had to be re-purchased in condemnation cases for public purposes by the State for much greater amounts. These greater amounts were paid out of public funds contributed by the taxpayers. Better planning and foresight might have saved our taxpayers large sums of money. Parenthetically, this does not mean that equitable considerations may not be taken into account in appropriate instances.

The value of the State's riparian lands in this area can at once be seen as significant to the School Fund and the State. Therefore, it is our intention to encourage the leasing of such lands, where development is appropriate, rather than outright sale, so that the School Fund may share in any appreciation of the value of these lands and at the same time afford assurance that such development will not be at variance with our environment.

If, in fact, the State of New Jersey owns the riparian lands and holds them in trust for the School Fund, we have an obligation to see not only that the land is properly utilized where a sale or lease is indicated, but also that fair consideration is received by the State. In some cases, it may well be that such lands should not be conveyed. For instance, traditionally the Governors of this State have refrained from considering grants bordering the ocean beaches of this State.

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD J. SULLIVAN, COMMISSIONER
TRENTON

23 September 1970

TO: CHAIRMAN AND MEMBERS NATURAL RESOURCE COUNCIL

FROM: Richard J. Sullivan
Commissioner

As you are aware, since my appointment I have been extremely concerned with the procedures for the disposition of all riparian matters, including applications for grants, permits and licenses for waterfront development, affidavits of non-interest, and quit-claim deeds. These procedures have a profound effect on those lands now or formerly flowed by tides, and therefore have a critical role in determining the future of one of our most valuable and irreplaceable natural resources.

The Governor has directed that a thorough review of the entire matter of riparian grants and the extent of the State's interest in riparian lands be made in order to determine the environmental and economic implications of riparian applications on the welfare of the State. This review is now complete. The Governor will soon announce a new policy concerning the treatment of riparian applications. It is therefore incumbent upon this Department and the Council to develop new procedures for the disposition of these applications which will implement the Governor's policy, and protect the State's interest in these lands.

It is necessary that the procedures outlined below be observed in your future deliberations so that I will be able to review favorably the minutes of the future Council meetings:

1. All business of the Council must be conducted at a regular meeting, at which a quorum, of at least seven (7) members, shall be present.
2. A proposal can be approved only when at least seven (7) members present at a meeting vote in favor of the action.
3. Notice of receipt must be given to all parties interested in riparian applications and they should be afforded an

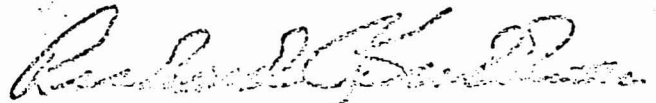
opportunity to be heard by the Council. All meetings of the Council at which statutory business is to be conducted are open to the public.

4. The primary duty of the Council and the Department is to protect the interest of the State in riparian lands, and thus to protect, restore, and enhance the environment. Given the ecological importance of riparian lands, no conveyances, permits or leases should be approved by the Council without first determining that the proposed action is in the public interest. In considering applications, the Council should apply the rule that the burden of proof that the proposal is in the public interest is to be borne by the applicant. The applicant shall be obligated to demonstrate that harmful ecological effects will not result from the proposed project. In order that all relevant information is available to the Council to aid in making these recommendations, the Council should not approve any application until approvals and clearances are received from interested departments, agencies, divisions, and bureaus. Field inspection by Department personnel will be used whenever necessary to refute or substantiate allegations by the applicant in this regard.
5. Permits to fill or otherwise modify riparian land must not be issued unless a conveyance or a license for the use of the land has already been made. The Council should use the same tests, established in point 4 above, to determine whether a permit should be issued. The primary questions to be asked are: Will the issuance of this permit serve the public interest, and will ecological damage result from the work described in the permit application? Dredging permits and licenses should not be issued to private interests for the extraction of raw materials to be used for building or construction, where the work involved is simply an exploitive mining operation. In cases where licenses are in effect for such mining operations the required annual permit should be denied where legally permissible.
6. If the Council determines that it is in the public interest to make a conveyance, to the extent practical a lease should be preferred over an outright grant.
7. Leases or grants should be based on fair market value. Fair market value is defined as what a willing purchaser would pay to a willing seller, taking into account, where water access is involved, the value of the non-riparian uplands with ownership of the riparian interest and without it.

8. Denials of any riparian application should be acted upon promptly, and written notification of the denial sent to the applicant. No letters of approval of applications should be sent until the application is approved by the Attorney General and the Governor. Requests for tentative processing fees should be made at the time the application is made to the Council.

The Council should adopt new regulations to guide their future actions on riparian applications. These regulations should reflect the points made above, and should also take account of the recent changes in the practices of the Army Corps of Engineers in granting dredging and construction permits. The new Corps standards call for an evaluation of the environmental effects of any proposed project. The regulations drafted by the Council should deal in greater detail with the procedures to insure adequate consideration of the ecological effects of all types of riparian applications.

I look forward to working closely with you in the future.



Richard J. Sullivan
Commissioner

STATEMENT OF GOVERNOR WILLIAM T. CAHILL ON THE WETLANDS ACT

November 5, 1970

I am signing today "The Wetlands Act of 1970." This law will have a far-reaching effect on the preservation of one of our most valuable natural resources, the coastal wetlands. It is one of the most significant environmental bills ever signed in this State. New Jersey's coast from Sandy Hook to Delaware Bay is fringed by wetlands bordering the bays and estuaries. Such lands are complex aquatic areas where fresh river waters meet the sea. These lands forge vital links in the food chain, and thus are necessary for the continuation of all forms of life, including man.

In addition to their food-producing role, the wetlands act as buffers against the ravages of violent storms, serve as a means of flood control, and provide natural barriers against wind and water erosion. In a state as crowded as ours, with bricks and paving expanding every day, these unspoiled areas provide a tranquil retreat away from the tumult and insults of urban life. We must find a way to balance our real need for tranquility and open areas with the need for essential development. This law provides the balancing mechanism we have needed for so long.

To preserve our fish and shellfish resources, as well as other forms of life, we must protect the wetlands.

Despite the importance of the wetlands to the quality of all our lives, they are being destroyed at an alarming and potentially disastrous rate. The destruction of the biological and aesthetic value of these lands has reached crisis proportions. This statute will ease that crisis.

On September 23, 1970 I announced a new policy concerning the State's interest in and the future disposition of riparian lands. The new Wetlands Act is an important complement to the policy on riparian lands since it will allow the State some measure of control of the entire ecosystem where the sea meets the land.

The coastal area is important both ecologically and economically to the State. The popularity of these coastal areas has resulted in a paradox which this law will resolve. Visitors and new residents are attracted to this region because of the opportunities for recreation offered by fish, wildlife, and unpolluted waters. Yet the developments which house and feed this new population destroy just those features of the environment which first attracted it.

One legal mechanism for achieving harmony with our environment is "The Wetlands Act of 1970." This legislation has generated much interest, discussion, concern, and some confusion. My intention today is to clear up some of the confusion.

The thrust of this law, and of the subsequent orders which will be adopted, is to protect the State's endangered tidal marshlands. The intention is not to prohibit all future development, or to confiscate private property for public purposes. It is, rather, to allow in the future an orderly development consistent with the ecology of the wetlands.

The lands to be regulated will be only those which meet both the tests established in the act. Regulated lands must have growing on them, or be capable of supporting, biologically valuable grasses, and these lands must also be below the line one foot above local extreme high water. A substantial amount of land may pass the one foot test, but will not be subject to regulation since it does not support the requisite vegetation, and hence is not within the purview of the statute.

I am cognizant of the fact that concern has been expressed relative to these tests and the extent of land which this act will encompass, but at this juncture, no one can accurately project the magnitude of the affected areas. Consequently, it is my belief that a review of the geographic scope of this act should await

mapping. At that time, we will have factual information to determine whether amendments to the act in this regard are advisable.

The first section of the act directs the Commissioner of Environmental Protection to map and inventory the wetlands before adopting orders controlling these lands. He need not, however, map all the wetlands within the State before issuing the first order. I have directed the Commissioner to determine those areas most gravely affected. Upon this determination, he will develop a priority list, and map the wetlands in order of that priority.

After completing the map and inventory of a particular area, the Commissioner shall comply with the Act's requirements of public notices and hearing before adopting any orders. Until orders for a particular area become effective, after the mapping and hearings, development may proceed without Departmental approval. Therefore, it is to everyone's advantage that the mapping be undertaken and concluded within a matter of months.

Orders regulating land use will specify those uses which are not subject to regulation.

A second class of land uses would be those which may only proceed after a permit has been obtained as provided in the act. A third class of land use will be those which the Commissioner finds to be so detrimental to the ecology of the wetlands that they must be prohibited.

The act further provides a remedy for persons who may believe that the operation of the statute takes their property without compensation. Such persons may apply to the Court for a ruling that their land is unaffected by the act.

I am also mindful that there may be need for certain technical clarifications of the new law. This can be accomplished within the time mapping of the wetlands must be undertaken. I have asked my personal counsel to work with the staff of the Department of Environmental Protection and prepare any necessary changes which might improve or clarify this new law and its efficient administration.

This law is a new approach to the protection of New Jersey's wetlands and even its riparian lands. The struggle to protect our endangered environment for future generations must be waged without fear of innovation. We can no longer afford to tolerate apathy or inactivity in the attempt to protect our natural resources which are held in public trust for the enjoyment of all the people of the State. This act, like the creation of the Department of Environmental Protection and the formulation of the new riparian policy, represents decisive action by this Administration to safeguard the environment for ourselves and for future generations.