
Public Hearing

before

ASSEMBLY ENVIRONMENT, SCIENCE AND TECHNOLOGY COMMITTEE

ASSEMBLY BILL No. 1099

(Authorizes bonds for \$450 million for hazardous site cleanups, related water supply projects, loans for underground storage tank upgrades and cleanups, construction of subaqueous pits and containment island for dredged materials)

LOCATION: Committee Room 16
State House Annex
Trenton, New Jersey

DATE: April 22, 1996
2:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Steven J. Corodemus, Chairman
Assemblyman John E. Rooney, Vice-Chairman
Assemblyman Francis L. Bodine
Assemblyman David W. Wolfe
Assemblywoman Barbara W. Wright
Assemblyman Reed Gusciora
Assemblyman Robert G. Smith

ALSO PRESENT:

Jeffrey T. Climpson
Lucinda Tiajoloff
Office of Legislative Services
Aides, Assembly Environment, Science and Technology Committee



Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey

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ASSEMBLYMAN STEVEN J. CORODEMUS (Chairman): I'm pleased to start this public hearing on Assembly Bill No. 1099, which authorizes \$450 million in bonds for hazardous site cleanups, related water supply projects, loans for underground storage tanks, uprights and cleanups, construction of subaqueous pits, containment islands for dredged materials, etc.

I should say at the onset that there are several bills in the process now of related subject matter. Specifically, ACR-56, which is a bill that I sponsored with Senator Bennett, and there is some overlapping jurisdiction and purpose in those bills. Subsequent to the release of ACR-56 from the Hazardous Waste Committee, meetings have transpired between the administration and the Treasury, DEP, etc., and I suspect that somewhere down the line these bills -- the moneys and the purposes of these bills will be reallocated, specifically with regard to the remediation of hazardous discharge sites.

It was not the intent of me, as a sponsor, or the other sponsors, to have duplicative purposes, but you may be -- you should not be surprised, rather, to see down the line that one portion of this bill at hand, A-1099, may be deleted in favor of supporting the same type of project within ACR-56 or its Senate companion.

We have witnesses here on this bill from around the State and in the State, outside of the State. Some of them are on pressing timetables, so I ask you to bear with me. This bill is very important to the first two witnesses, specifically, because this bill has to do with dredging; it's providing valuable funding for dredging.

The Committee knows that my other hat, as Chairman of the Dredge Material Management Team-- We've been dedicating some time now to identification of nonocean disposal, short-term disposal of waste material -- the dredge material coming out of Newark Bay and other sites around the State of New Jersey. But like any other project, it requires funding. We're hoping that this bill will provide the necessary funding.

Rather than delay the timetable of the witnesses, it gives me great pleasure to call two friends from the New York Shipping Association, Jim Capo and Greg Storey, to testify on this bill first.

JAMES A. CAPO: I have written testimony.

ASSEMBLYMAN CORODEMUS: We'll take that.

MR. CAPO: I'll just summarize, in the interest of time.

ASSEMBLYMAN CORODEMUS: Okay.

MR. CAPO: Good afternoon, Mr. Chairman and members of the Committee.

ASSEMBLYMAN CORODEMUS: Welcome.

MR. CAPO: I thank you for the opportunity to allow us to speak today on Assembly Bill No. 1099.

As the Chairman indicated, my name is James A. Capo, and I'm the President of the New York Shipping Association. We represent the port employers of New York and New Jersey. Our 75 member companies are ocean carriers, marine terminal operators, and other maritime businesses in the port, 90 percent of whom operate in the Port Elizabeth/Port Newark area in the State of New Jersey.

I will not dwell on the numbers that you will hear today about the value of the port. Suffice it to say, we are a \$20 billion activity that also provides key support to many industries, ranging from manufacturing to tourism.

We are disturbed at the imminent threat that the dredging crisis poses to the port and to the State, and I will speak to that in a moment.

For the record, however, we do fully support A-1099. It's a forward looking, long-term proposal that helps ensure the survival of New Jersey's gateway to the global markets.

It also recognizes that the port is critical to the future of New Jersey, and at the same time it acknowledges that a commitment by New Jersey is critical to the future of the port. We believe it to be a wise and responsible measure, and we commend you for your actions.

The port is our physical link to international commerce, but its importance doesn't stop there. Mr. Chairman, there is a grossly inaccurate perception that seems to haunt this whole dredging issue, and I'd like to just take a moment today to address that. And that is the idea that the Port of New York, and really, the Port of New Jersey, is one major industry, and that tourism, as an example, is a separate major industry, and these are industries whose interests are almost diametrically opposed, and one can't survive without the expense of the other.

In our opinion, the two industries largely overlap. As I know you know, the primary customer base for the Jersey Shore is the rest of New Jersey, which includes our port, and if the port is hurt, the tourism industry's consumer base is hurt. And without a port, the environment will suffer as

hundreds of thousands of out-of-state trucks jam the highways hauling consumer goods in from distant seaports like Norfolk and Halifax.

So, in order to have a port, dredging must take place regularly, and that means there must be a way to dispose of the mud that is dredged up. We understand that some of this mud bears pollution from years gone by. Most of this is in microscopic traces, and the risk, if any, is highly arguable.

It is interesting to note, for example, that Category III mud, which is considered too contaminated for ocean disposal, is entirely legal for use ashore as a final cap at a landfill site.

But the controversy that has been created over this trace pollution has made dredging disposal highly controversial and even more expensive, and that's why this bond measure is extremely important to us.

So, while I strongly support this bill, I must point out that it does not deal with the immediate crisis. Dredging in the port has virtually ground to a halt. We're silting up and we're losing cargo to other ports. And worse, we are in danger of losing our long-term future as a load center. The shipping industry of tomorrow will consist of only a handful of load centers and a great many tiny feeder ports. There will be nothing in between.

So we urge you to recognize that the dredging needs must be met and quickly. If they are not, then all that will be left of our world-class port will be the bickering over who caused its demise.

I thank you very much.

ASSEMBLYMAN CORODEMUS: Thank you for coming, Greg and Jim.

Jim is also a member of the Dredge Material Management Team, and Jim really exemplifies many of the members of the Team, and also the industry, in that most of the participants in the industry are not the initiators of the pollution, they're the victims of the pollution. The ships and the port businesspeople are not the ones who contaminated the sediment that is now plaguing their industry.

But I commend your support of the bill today and look forward to working with you on a continuing basis to resolve the problem.

MR. CAPO: Thank you.

ASSEMBLYMAN CORODEMUS: Any questions of the witnesses?

ASSEMBLYMAN SMITH: Just one.

ASSEMBLYMAN CORODEMUS: Go ahead, Bob.

ASSEMBLYMAN SMITH: I'm sure you reviewed the bond issue. Is there sufficient funds in the bond issue to solve the problem?

MR. CAPO: We think-- That's somewhat difficult to answer, because we really don't have experience with containment islands and some of the other things. From what I understand, we think today that there is.

ASSEMBLYMAN SMITH: Thank you.

ASSEMBLYMAN CORODEMUS: Well, not to contradict my witness's testimony, I don't think there is enough money in the bond bill for all the answers to the problem. I think that there is enough money to get things going down the path, but there is not enough to solve it entirely, because this problem is really insolvable, in that it's not just a fixed quantity of sediment that we deal with. It's something that is going to be going on, on

an ongoing basis, to the tune of estimates of, I think, five-million cubic yards a year of silt coming down the rivers -- the Hudson, the Passaic, the Hackensack rivers -- into the basin, and this continually has to be remediated, disposed of--

ASSEMBLYMAN SMITH: Well, maybe I'm phrasing the question in an inarticulate way. My understanding of the problem is that it's almost at crisis proportion. We're being out competed by the other ports around the United States--

MR. CAPO: That's correct.

ASSEMBLYMAN SMITH: --that if we don't do something quickly, this port area will shortly be irrelevant to shipping in the United States. The question is, is there enough money -- can it be put into the field quickly enough so that we do not become irrelevant as a port?

MR. CAPO: Let me answer that question as you have rephrased it. The bill, as I understand it, really addresses many of the long-term issues, and I would agree with the Chairman that on a long-term basis, there probably isn't enough money in there, because I don't think we understand, exactly, what future expenditures we would need because this is a new area.

On the short term, if we could execute some of these things very quickly, I think there would be enough funding, for instance, to move ahead if we could get some of these things on-line very quickly.

ASSEMBLYMAN SMITH: How quickly does it need to be done?

MR. CAPO: Well, it needed to be done yesterday. I mean, from our perspective, we're at a very serious crossroads here. I have members of New York Shipping who are ocean carriers, who we know today are calling at

Halifax as a result of their inability to get into the port. We have one of our major terminal operators, who is operating a railroad, losing business. So it is a crisis here today.

ASSEMBLYMAN CORODEMUS: If I was sitting on the other side of this bench next to Jim and Greg and waiting for just that one more permit from DEP, and to start this episode, really, getting off of the mark -- because Jim is absolutely right, we should have been dredging yesterday.

Thank you, gentlemen.

MR. CAPO: Thank you.

Assistant Commissioners Richard Gimello and Lewis Nagy.

Welcome.

ASSIST. COMMISSIONER LEWIS NAGY: Thank you.

ASSIST. COMM. RICHARD GIMELLO: Thank you.

ASSISTANT COMMISSIONER NAGY: Good afternoon, Chairman Corodemus and members of the Committee. Thanks for the opportunity to appear before you today to add DEP's support for this piece of legislation.

I'm Lew Nagy, Assistant Commissioner for Policy and Planning, and my role today will be to talk on those aspects of the legislation that regard dredging. With me is Assistant Commissioner Rich Gimello, who will talk to the cleanup section of the legislation.

ASSEMBLYMAN CORODEMUS: Lew, you don't have the Orion permit with you, do you?

ASSISTANT COMMISSIONER NAGY: It will be here shortly.

ASSEMBLYMAN CORODEMUS: Oh, great.

ASSISTANT COMMISSIONER NAGY: I recognize, probably better than most people think, how important dredging is to the State of New Jersey. Prior to joining DEP, I was an economic development director for 15 years, so the importance of jobs and the fact that ships and businesses may need to call on other ports or completely move out of the State is very near and dear to me. The fact that money and time loss with ships sitting at sea is an important business aspect that relates to dredging and their ability to use our harbor.

However, I appear before you today simply to say that solutions are easier to talk about than they are to implement. This bill goes a long way to provide much needed funding for the implementation of solutions. DEP supports the effort.

DEP also supports the continued exploration of all environmentally sound, economically viable, and realistic solutions to the disposal of dredged material. There are many initiatives underway to address these issues. The Department of Environmental Protection is actively involved as a partner in all of those efforts.

DEP staff has worked toward streamlining the permit process, allowing, to the best of our ability, all viable solutions. We recognize that some of them, like reprofiling, are stopgap measures while permanent disposal options are being worked on, but we are open to all solutions to the dredging problem.

We continue to be open to these solutions. We need creative thinking -- businesswise, legislatively, environmentally, and from the public.

We can no longer stand toe to toe and point a finger at one another and find fault. We must stand side by side in finding solutions.

I hope that this bill will find a quick path through the legislative process to the Governor's desk and to the voters. The sooner funds are available for permanent solutions, the sooner these solutions will be put into place.

The one thing that I must stress and I can't say enough is the word flexibility. I urge you to allow flexibility in terms of what kind of or what type of disposal projects can be constructed. Without flexibility within the bill, we are hamstrung to implement what could potentially be some of the most creative, cost effective, and environmentally safe solutions.

Thank you.

Now Assistant Commissioner Gimello will address cleanup funds.

ASSISTANT COMMISSIONER GIMELLO: Thank you, Lew.

Good afternoon, Mr. Chairman and members of the Committee. As the Chairman noted in his opening comments, there are a number of proposals working their way through the Legislature that have been discussed with members of the administration, the Chairman, and others about how to fund New Jersey's Site Remediation Program. We're very fortunate in this State to have one of the most successful site remediation programs in the country, and to date and historically, the remediation of sites for which there are not responsible parties, those sites on which the State of New Jersey spent public funds, have been supported by two bond issues, General Fund revenues, New Jersey Spill Fund, and 15 percent of all the Superfund dollars released in

this nation. The combination of those funds has enabled New Jersey to lead the way in site remediation.

Those funds are and will, over the next year or so, be fully authorized, and this program is in need of additional dollars, not only for projects, but also for the administration of the program. We have been and will continue to seek the support of the Legislature for funding, and like Assistant Commissioner Nagy, my watchword for today is flexibility, as well. This is obviously one piece of the pie, and we would encourage your support of it, in combination with some of the other measures that the Chairman was talking about.

Included in this bill is also some grant moneys and some loan moneys for underground storage tanks. As you know, both the State and Federal government have set a deadline of 1998 for compliance and upgrade of existing underground storage tanks. Large players in the underground storage tank arena are doing very well in upgrading and meeting that legislative mandate; however, there are a number of small operators and home owners who are finding it more and more difficult to step up to that deadline. The dedication of \$75 million for loan programs to assist those who are without finances will go a long way to assuring the continued potable nature of the groundwater here in the State of New Jersey.

While we encourage your deliberation to support this concept and hope, in combination with the other measures that the Chairman talked about, we'll be able to continue to fund the State of New Jersey's remediation program.

Mr. Chairman, I thank you.

ASSEMBLYMAN CORODEMUS: Thank you, Commissioners.

We are -- Senator DiFrancesco and Senator Bennett, the other bill -- we are also entertaining other amendments that had been recommended by the various industries concerning, specifically, the grants versus revolving loan fund. We, of course, would like to see as much of the revolving loan fund as possible to keep the fund flush with money and, perhaps, using the grants only for the orphan sites.

Many of the companies already have expended millions of dollars to upgrade the tanks, and I think it would be unfair to have a grant to another competing business, where they could have used their assets -- their capital assets.

So that's an amendment that has been suggested. We haven't seen it in writing. I would be amenable to entertaining that.

This bill does not conclude here. There is another stop in Appropriations, which might be an appropriate place to address that, and then the process continues down the line.

I'd also like to thank the Department for their help. They have been the backup for the Dredged Material Management Team throughout. Lew, and the Commissioner, and Beverly Fedorko in the back, and most important, Barbara Marshall -- she's not here today. She's our real backbone. So we thank you for your help.

Any questions from the Committee on the Commissioner's statement?

ASSEMBLYMAN SMITH: Yes.

ASSEMBLYMAN CORODEMUS: Assemblyman Smith.

ASSEMBLYMAN SMITH: Commissioner Nagy, I'm trying to understand the issue. I'm trying to evaluate what is the position of the State of New Jersey with regard to the disposal in the sites defined by this bill and by this bond issue, should it be passed. As I understand it, we seem to be somewhat ambiguous, and I need your clarification.

I understand that the Governor had directed that the DEP not allow Category II dredge spoils in the mud dump, that disposal permits are not issued by DEP. Is that correct?

ASSISTANT COMMISSIONER NAGY: Disposal permits are issued by DEP, if that was part of the question.

ASSEMBLYMAN SMITH: No, I'm talking about with respect to Category II spoils.

ASSISTANT COMMISSIONER NAGY: As I said earlier in my remarks, a number of solutions are necessary. As the Chairman pointed out, the volumes of dredge material that need to be disposed of require that we look at all of the options. The Governor has permitted us to look at all of the options that would be available to us.

ASSEMBLYMAN SMITH: Well, I'm further confused then, because I had understood that the Governor's policy was that Category II spoils would not be permitted in the mud dump, but yet there is a letter to the EPA saying, "Please go to the pass/fail system that exists around the rest of the country," and that would allow Category II spoils to go to the mud dump.

What I would like to know is, what is the policy of the State of New Jersey on that issue?

ASSISTANT COMMISSIONER NAGY: We have not had one application that was turned down because a dredge material could not go to the ocean. The mud dump area, located six miles off the Sandy Hook area, has been historically used as a dredge disposal dumping site. The site is at the point that it is filled to capacity, using the guidelines the EPA has set up. Other alternatives are necessary. Until we come up with a full scale plate of alternatives, the ocean is only one of the sources for disposal of dredged material.

ASSEMBLYMAN SMITH: All right. You know, I'm a lawyer--

ASSEMBLYMAN CORODEMUS: If I may, Assemblyman, maybe I can give you the answer. I don't know if you got the answer to your question.

ASSEMBLYMAN SMITH: What is the policy of the State of New Jersey with regard to Category II dredge spoils?

ASSEMBLYMAN CORODEMUS: They can answer that.

ASSEMBLYMAN SMITH: Are we allowing it to be disposed of at the mud dump, yes or no?

ASSISTANT COMMISSIONER NAGY: There is no capacity at the mud dump right now, so it--

ASSEMBLYMAN SMITH: But what is our policy? Suppose there was capacity, we would allow it?

ASSISTANT COMMISSIONER NAGY: I think we'd have to use our preference on a site-by-site evaluation of the contamination in the dredged material and make an evaluation at that time.

ASSEMBLYMAN SMITH: Well, there is a proposal to expand the mud dump, so capacity is really not the question. I'm trying to understand what our State policy is. We have the Governor publicly saying -- at least I believe her public position is that Category II spoils should not go to the mud dump, but then she's written to EPA saying go to the pass/fail system that exists over the rest of the country, and that would allow Category II spoils to go to the mud dump.

I've tried to ask that question three different ways, and for whatever reason, I don't think I'm getting the answer. Maybe it's just that I'm not hearing properly. It's basically a very simple question. Can you give me the simple answer?

ASSISTANT COMMISSIONER NAGY: This is a very complex issue. It has many components to it. The policy of the State of New Jersey is to evaluate each dredging application as it comes to us. Part of the dredging application is the disposal facility. We don't have one application in front of us right now that has ocean disposal as part of that dredging application, so we have not turned down any application.

ASSEMBLYMAN CORODEMUS: Let me try something.

ASSEMBLYMAN SMITH: I'm sorry I couldn't get the answer, Mr. Chairman. I tried my best.

ASSEMBLYMAN CORODEMUS: Let me try not answering your question, too. (laughter) Because the question is complicated, let me just throw some facts on the table, and maybe you can understand why there is an impossibility to give you a laser answer to that question.

Disposal of dredged material in the ocean is permitted by the Corps of Engineers. The Corps of Engineers recently told us that there is zero to a negligible capacity at the mud dump for any disposal of Category II material. There are no permits that have been denied currently as a result of application for Category II material.

So, with those three facts on the table, perhaps you come approximate a little closer to an answer.

ASSEMBLYMAN SMITH: Not that much, but I appreciate the effort.

ASSEMBLYMAN CORODEMUS: All right.

Thank you. Are there any other questions for the Commissioners?

(no response)

Thank you, gentlemen.

ASSISTANT COMMISSIONER NAGY: Thank you, Mr. Chairman.

ASSISTANT COMMISSIONER GIMELLO: Thank you, Mr. Chairman.

ASSEMBLYMAN CORODEMUS: John Holtz, New Jersey Petroleum Council.

JOHN HOLTZ: Thanks, Mr. Chairman.

I'm John Holtz, the Associate Director of the New Jersey Petroleum Council.

ASSEMBLYMAN CORODEMUS: Welcome.

MR. HOLTZ: Thank you.

With me is our Executive Director, Jim Benton, who you know as well.

ASSEMBLYMAN CORODEMUS: It's nice to have you here.

MR. HOLTZ: Just for background and introduction to the Committee, we represent the oil companies that operate in New York Harbor, which is the busiest oil-handling harbor in the United States. The facilities that surround New York Harbor and the ports of New Jersey and New York literally supply the energy needs for not only New Jersey and New York, but the entire Northeast. If you drive a car or a truck, if you heat your home in the wintertime, you probably felt the impact of the petroleum industry's presence in New York Harbor.

And it doesn't just stop there with gasoline or heating oil or aviation fuel, but we also ship and transport the variety of petrochemical feedstocks that result in hundreds of everyday products that everyone here in New Jersey uses, everything from aspirins to umbrellas. That's why the New York Harbor is such a vital link in our energy supply network for the Northeast.

Mr. Chairman, you have been at the forefront on this issue, and we commend you before your Committee members for the work you're doing before another committee, your Dredge Materials Management Team.

ASSEMBLYMAN CORODEMUS: Thank you.

MR. HOLTZ: You've done a yeoman's job and continue to do so.

We're here to support your bill today, A-1099. We think it's an appropriate response to helping provide the financial foundation for the long-term dredging needs of our New York Harbor.

If you'll permit me one little comment; that is, it's getting hard to tell the short term from the long term anymore, because things seem to drag on and on and on. But the fact of the matter is, certainly from our industry's perspective, as long as people need transportation fuels, as long as industry needs to be fueled, as long as people continue to live in homes that need to be heated in the winter -- especially after the winter we just had -- 10, 20, 50 years down the road we're still going to be using New York Harbor. We're still going to need to dredge the channels and the berths in order to get those energy supplies in and out, and that's why we need the funding base that your bill -- your bond fund -- would propose.

And in response to something Assemblyman Smith brought up earlier, with Greg Storey and Jim Capo, while it may not be every dollar and cent that we need, it does complement nicely an initiative that has been introduced in Washington by Congressman Bob Franks to provide a Federal source of funding for dredge projects here in New Jersey and nationwide. Combined, this State initiative with the Federal initiative, we ought to be able to get some of these projects moving, and we look forward to that happening.

So we give you our support today for the bill, and we pledge to continue to work with you before your other task force on the short-term and the long-term projects.

ASSEMBLYMAN CORODEMUS: Not to catch you off guard, but could you paint a picture for us, what it would be like trying to transport the petrochemical merchandise into this metropolitan area if you were unable to transport it by ship?

MR. HOLTZ: Well, let me answer your question with another illustration, something that happened a couple of years ago in 1994. Actually, it's a crisis that didn't happen because of our ability to use New York Harbor to bring oil in and out.

Back in October of 1994, raging flood waters down in Texas severed the Colonial Pipeline. Now, that pipeline represents one-third of our daily supply of gasoline and heating oil here in New Jersey. Government officials, the press, everybody was expecting an energy shortage because of that. In fact, there were predictions of long gas lines and cold homes that winter.

But the fact of the matter is, we didn't have an energy shortage in October of 1994 because the oil industry was able to launch its own navy of marine vessels to come into New York Harbor and increase marine shipments to keep those supplies up and make sure that we didn't have anybody going without gasoline or heating oil.

That's how vital our port is. I mean, you know, there are 30 billion gallons a year of petroleum that comes through that harbor -- in and out of that harbor -- and we depend vitally on getting here. If one-third is coming by pipeline, the other two-thirds has to come through the harbor.

ASSEMBLYMAN CORODEMUS: I think Texas is number two in-- They're really a dwarf number two compared to the volume that we import.

MR. HOLTZ: You're absolutely correct. We're at 30 billion gallons a year. They're closer to 8 billion gallons. The perception is that Texas is the oil state. With the port of Galveston that's true, but really, 1 out of every 10 barrels comes through New York Harbor.

ASSEMBLYMAN CORODEMUS: Thank you, John.

Any questions, gentlemen?

Assemblyman Wolfe?

ASSEMBLYMAN WOLFE: Yes, I just have a question. I'd like to know, ideally you would unload the petroleum at the dock?

MR. HOLTZ: That's correct.

ASSEMBLYMAN WOLFE: Are you able to do that now?

MR. HOLTZ: Not entirely. There has been a dramatic increase in the practice called lightering. Now, lightering is an accepted practice in the petroleum industry. It is the practice of off-loading petroleum from a larger vessel to a shallower draft vessel, where you can't get in.

But what is happening is, because those vessels can't get into their berths, we've had to do a lot more lightering at the harbor, which is something that the industry does not want to do. It increases the risk of spills. The more you handle something like petroleum, the greater the chance of an accident occurring.

To give you an example of how dramatic an increase that has been, there has been about a 70 percent increase in the amount of lightering that is going on in New York Harbor, directly related to dredging, to the tune of almost 1 billion gallons of additional lightering going on right now. That's a difficult situation.

And why is that happening, Assemblyman Wolfe? Well, because we've got berths where they need at least 36 feet of draft -- 36 feet of space to come in -- and they're measuring 20 feet. So there is a lot more lightering going on.

Other practices that are going on are, a terminal may use a neighboring terminal to off-load there and then truck it back and forth, or through a local pipeline, but there is additional handling going on, to answer your question.

ASSEMBLYMAN WOLFE: With the dredging that has been proposed, would that eliminate this practice, or would it still be necessary to continue it?

MR. HOLTZ: Well, there are immediate needs, and you heard the previous speaker say, "We need it yesterday," and that's absolutely true. We call it a backlog. We have a backlog that probably dates to 1989 at some of the facilities -- the oil handling facilities.

There are the longer-term needs, which Assemblyman Corodemus' legislation addresses. It's clear that once we get out of this current backlog, this current crisis, we're going to need a permanent, reliable, safe disposal facility -- a containment island, subaqueous pits, upland options. But right now there is nothing happening, quite frankly.

JAMES BENTON: We've got, generally speaking, 12 facilities in the harbor that are at various stages of considering their dredging application. And I think their needs can best be characterized as maintenance needs and also capital needs. Obviously, the maintenance needs are the beginning -- the entry -- and the capital needs are long overlooked but hopeful additions to their overall needs. It varies from marketer to marketer.

ASSEMBLYMAN WOLFE: Thank you.

ASSEMBLYMAN CORODEMUS: Thank you for probably the most accurate testimony on lightering. Some people take great liberties in this

dredging arena and say that lightering was a phenomena of the dredging crisis. We've had testimony of the other team that this lightering was the practice and continues to be practiced, and I appreciate the fact that because of the dredging crisis, it's been increased, but clearly, split loads coming in on different ships that have to be distributed to different points. Some docking facilities will never be able to accommodate the large transport vessels, so lightering is important.

Assemblyman Smith?

ASSEMBLYMAN SMITH: Three quick ones: What would you estimate to be the value of the capital investment that the petroleum industry has for facilities that are impacted by the dredging problem?

MR. HOLTZ: The value of the capital investment? I don't know that I can answer that question for you directly, but let me see if I can answer it in a different way. I don't have that number for you.

You know, Jim mentioned that there are 12 facilities, and we surveyed 10 of those facilities recently, Assemblyman Smith, to find out what kind of dollars and cents were involved there. Those facilities pay a total of more than \$19 million annually in taxes to support local governments in Middlesex, Union, and Hudson counties.

ASSEMBLYMAN SMITH: Local property taxes?

MR. HOLTZ: Local property taxes.

Their payroll, in just those 10 facilities -- and mind you, there are 62 oil-handling facilities in New York Harbor, not all of them come forward. Many are sitting on the sidelines, waiting to see what is going to happen with

the dredging situation, but the 10 that we did review, and they are among the largest, have a payroll that amounts to over \$64 million annually.

They pump about \$86 million a year into the local economy in those areas -- Middlesex, Union, Essex, and Hudson counties -- by purchasing goods and services from other businesses around there, but their costs have increased, as well. Assemblyman Corodemus has heard that, time and again, that as the result of dredging they have had to spend anywhere from \$500,000 to \$3 million more a year to work around the mud.

But you know the facilities. They are the Bayway Refinery--

ASSEMBLYMAN SMITH: We're not talking tens of millions. We're talking, probably, in the billions.

MR. HOLTZ: That's correct.

ASSEMBLYMAN SMITH: That actually is pretty close to the answer to what I'm trying to get to.

Tell me about the lightering. You said that we're doing a billion gallons a year of lightering, as a practice. What does that cost the industry?

MR. HOLTZ: Well, according to-- I'll give you one example. The Chevron refinery in Perth Amboy is an asphalt refinery. They tell me it's costing them about \$2 million to \$3 million a year just in lightering -- additional lightering.

The Citgo facility up in Linden, almost \$2 million additional in lightering.

ASSEMBLYMAN SMITH: Okay.

MR. HOLTZ: And you know what, that can trickle down to taxpayers. The Chevron refinery is the largest supplier of asphalt to the State

of New Jersey. According to their records, it is costing the State Transportation Trust Fund an extra \$2 million a year to fill potholes and to pave roads because of dredging mud in their berth.

ASSEMBLYMAN SMITH: Interesting. And, by the way, there is no question that the impact on the economy is enormous, associated with your industry and associated with the dredging problem.

But the reason I asked those two questions leads to the third one, and that is, in light of the huge capital investment that the petroleum industry has in these facilities that are directly impacted by the dredging problem, in light of the extra costs that the petroleum industry pays because of the need to do lightering, because you cannot move your facilities through these channels that are now filled in, should the petroleum industry have some financial responsibility to help the taxpayers of New Jersey do the dredging? I mean, should this all be totally public dollars to do it, or should the industry have some responsibility, as well?

MR. HOLTZ: Assemblyman Smith, the industry is paying for the dredging. When Citgo or Bayway or Chevron or Shell clean out their berth, they're paying for it. They're paying for it in \$170,000 per test to determine the level of contamination. They're paying for it in terms of \$50 or \$100 per cubic yard to dispose of that material. They're paying for the permits. They are paying.

ASSEMBLYMAN SMITH: For their berths.

MR. HOLTZ: And they will ultimately, I'm sure, pay in some respect for the use of these facilities. I would argue that if the State of New Jersey can bend over backwards with taxpayers' dollars to keep a hockey team

from moving to Tennessee, then we can certainly try and keep the industry alive in New York Harbor.

ASSEMBLYMAN SMITH: I wouldn't touch that half of the comment with a 200-foot pole, but the flip side of that is that they are investing in cleaning out the berth -- their immediate area. Do they have some responsibility to the channel? I posed that question hypothetically because certainly, if there are many hands -- many financial hands to contribute to the problem -- that makes it a lighter job and a better job and a faster job and a more efficient job for everyone.

MR. HOLTZ: They are paying at the Federal level into the Harbor Maintenance Trust Fund, along those lines.

ASSEMBLYMAN SMITH: Thank you.

ASSEMBLYMAN CORODEMUS: I might also add that in the grand scheme of things, should this bond bill become a reality and some of the subaqueous pits become constructed or other upland disposal sites become available, the applicants -- perhaps the Petroleum Council's constituent members -- will be paying a tipping fee for disposal of this, and the cost to the taxpayers might be a wash in that it will be a revolving fund, whatever is taken out of the bond fund to construct the pits would be returned by way of a tipping fee. That's the general idea. So maybe it will not be a tax burden to the taxpayers, with the exception of the interest costs, and maybe that, too, will be factored into the tipping fee. That is yet to be seen.

Any other questions?

Assemblyman Bodine.

ASSEMBLYMAN BODINE: Yes, Mr. Chairman, thank you.

I have a question. You mentioned that the berth was 20 feet in depth. That's almost unusable, isn't it? Twenty feet? What kind of draft do these normally need? You said 36 feet.

MR. HOLTZ: That particular facility needs 36 feet.

ASSEMBLYMAN BODINE: What's the depth of the channel right now?

MR. HOLTZ: The channel?

ASSEMBLYMAN BODINE: Yes.

MR. HOLTZ: The channel is at 40 feet.

ASSEMBLYMAN BODINE: It is?

MR. HOLTZ: Yes.

ASSEMBLYMAN BODINE: Is the proposal to make the berths equal to the channel -- 40 feet?

MR. HOLTZ: Well, the facilities decide what their particular needs are based on the vessels that come to call. The one I suggested was 36 feet, and their latest sounding showed them at 20 feet, so they can't use it.

ASSEMBLYMAN BODINE: Is that for oil?

MR. HOLTZ: That is for oil.

ASSEMBLYMAN BODINE: It is.

What's the status of the double hulls? Will that have any impact? I realize it's for safety. The last I heard, the oil companies were fighting it because it would be additional costs. Would that have any impact on the berths?

MR. HOLTZ: The double hull vessels are being phased in over a 20-year period under the Oil Pollution Act. They are larger vessels, in general. They probably would not come all the way in.

ASSEMBLYMAN BODINE: So that would still require some lightering?

MR. HOLTZ: Yes.

ASSEMBLYMAN BODINE: Is the double hull and a supertanker one and the same?

MR. HOLTZ: Well, you can have a double hulled supertanker.

ASSEMBLYMAN BODINE: You do?

MR. HOLTZ: Yes. A lot of the vessels that are still operating are of the previous generation that are coming into the harbor now.

ASSEMBLYMAN BODINE: So even so, you're still going to have to have some lightering because they cannot come into the channel.

MR. HOLTZ: And keep in mind, a lot of the movements in the New York Harbor are of smaller vessels than the ones you are describing, because you are moving from berth to berth, oftentimes, and you are taking fuel out of a refinery area over to a terminal on the New York side. So there are a lot of intraport movements, as well. It's not strictly just oceangoing vessels coming in.

ASSEMBLYMAN BODINE: I have one last question. What are your thoughts about going beyond 40 feet? Is there a need to go to a 45-foot channel?

MR. HOLTZ: The shipping industry has talked about needing to go beyond 40 feet.

ASSEMBLYMAN BODINE: The reason I ask, I know that the proposal is for the Delaware River, from Philadelphia to the -- what is it, the bridge to the ocean, or whatever -- to go 45 feet, and I just wondered if you needed the same thing.

MR. HOLTZ: They're talking about the same thing up in New York Harbor, aren't they?

ASSEMBLYMAN CORODEMUS: There are two different things going on. You might need greater depth -- 45 or 50 feet -- if you are talking about bulk cargo vessels that are carrying heavy materials. But the other phenomenon is the container ships are also being designed for a larger capacity. The more boxes you put on a ship, the less crew you need, the less overhead everyday. The cost of the ship is capitalized over the number of trips they make. So they would like to have, ideally, 40 feet -- 45 or 50 feet. That's pretty deep. It would be great to have it, but every time you go that extra 4 or 5 or 10 feet, you drive the dredging costs up and the volume disposal exponentially. When you are talking about dredging a Federal shipping lane and the berthing facilities down to 45 feet, that dredging hurdle becomes that much higher now.

But if we have the storage capacity and we have the money now to do it, then anything is possible.

Any other questions of the witnesses? (no response)

Gentlemen, thank you.

MR. HOLTZ: Thank you.

ASSEMBLYMAN CORODEMUS: Next I would like to call Michael Karlovich, from Tosco and Bayway Refinery.

Actually, the Bayway Refinery is really a hero and an exemplar for the industry, because they were really one of the first people to develop and get permitted upland disposal of dredged material, and it took them some time to-- Actually, they probably wrote the regulations for your permit, Mike, to do the project.

Welcome.

MICHAEL KARLOVICH: We'll never admit to it.

Thank you very much, Chairman Corodemus, and good afternoon, distinguished members of the Committee.

Just for a background, in case you are not familiar with our facility: I work for Bayway Refinery, which is now owned by Tosco, formerly owned by Exxon, which sold it in 1993 -- on April 8, as a matter of fact, just a little over three years ago.

Just by way of answering some of your questions, Assemblyman, I'll mention some of what we contribute to the local economy. We had more than \$2.5 billion in sales last year. We provided employment directly for our 950-thereabouts employees, plus a number of contractors who are on-site. The payroll is approximately \$65 million a year, and we also had a study done -- Exxon, our predecessor, had a study done in 1992 by Rutgers, which showed that we had an indirect employment factor of roughly five to six for our employees, so that's about 5000 or 6000 indirect jobs.

All of our raw materials and a large volume of our finished products -- gasoline, heating, and diesel oil -- are brought to and from Bayway via water. In 1995, our refinery was the ultimate destination for 226 oil

tankers, representing just slightly less than 5 percent of all ships calling at the port.

In addition, we used more than 1500 barges to ship various consumer products to fuel terminals along the East Coast -- primarily the Northeast. As Chairman Corodemus mentioned earlier, we were very fortunate in that we came up with some innovative ideas, and we worked with the New Jersey DEP, the U.S. EPA, the Army Corps, and we have gone to the measure of storing sediment upland, both in 1993 -- November 1993 -- and again last summer -- July of 1995 -- we put some sediment upland.

Also in 1995, we came up with another idea of leveling the bottom of our berth, which the DEP and Army Corps permitted. That was a real cost saver there.

Some people ask us, why do you go out and-- If you can dredge while everyone else is silting in, like your competition, why should you be out there pushing to get this dredging issue settled? We see it as a public policy issue that not only affects the shippers, but it also affects consumers. In that it's not a sexy issue, not many people in the public are paying attention to it, but if you eat food, if you drive a car, and if you wear clothes, you ought to be thinking about dredging in this port, because all these commodities and products come in, and then again, our exports go out via Port Newark and Elizabeth.

In fact, the record will show that last year the shipping -- and this is not our business, but in the container side of the business -- the exports were up last year, in 1995, as we participate in the global economy.

So we see it as important across the board. It's a public policy issue, and part of it goes to what Chairman Corodemus mentioned earlier: The port operators generally are not responsible for the contaminants of concern that are present in the port. In a sense, they are being held hostage. Their hands are tied, and they're watching some of the cargo that would have went to Newark go to other ports.

In our case, we have increased our shipping into the port. We are also having four ships built to specifications so they can come into Bayway without lightering, because we can't wait while this public policy debate goes on. We're expecting our first ship to be delivered later this year, in the third quarter. That will be built so it can shuttle between Point Tupper in Nova Scotia, where we currently have rented facilities, where we bring in the VLCCs, or the very large crude carriers, that were mentioned earlier by John Holtz. That is a deepwater port, roughly a 70-foot draft, and we have storage up there, and then we have ships that we currently charter that run back and forth in a shuttle between Point Tupper and Bayway.

So we're replacing those charter ships with new ships, but we still want to see the dredging get done. We spent a lot of money going upland. Leveling was more in line with what we like. It came out to be about in the range of \$110 per cubic yard to store materials upland, and that doesn't include having to move it later, because it's clean enough to be used as fill, which we have done.

In summary, this legislation, as was mentioned earlier by John Holtz, goes hand in hand with Federal legislation by Congressman Franks, and we see the leadership by both Chairman Corodemus, who is sponsoring this,

and Senate President DiFrancesco as really important to the overall economy of the region -- you've heard all the numbers of what the port contributes. But we, as a singular company, want to see the region continue to prosper, and one way to do that would be to move this bond issue forward. We would appreciate your support on it. I'll be glad to answer any questions, if there are any.

ASSEMBLYMAN CORODEMUS: Thank you.

Any questions? (no response)

Thank you, Mike.

MR. KARLOVICH: You're welcome.

ASSEMBLYMAN CORODEMUS: I have three more witnesses signed up: Arthur Maurice, Jim Leonard, and Eric De Gesero. Are there any other witnesses here to testify? (no response)

At the conclusion of today's hearing, the record will be kept open until May 10, for the submission of other statements. We do have statements here from the New York Shipping Association to support their testimony and add to their testimony. We have a statement from the Port Authority of New York and New Jersey, which I believe is also in support of the bill.

I'll take next, Arthur Maurice, who tripped me on the way into the meeting room today. I don't know if that was intentional, but-- (laughter)

ARTHUR J. MAURICE: Thank you, Assemblyman. On behalf of our 14,700 members at the New Jersey Business and Industry Association, we want to thank you for your sponsorship of the legislation.

We just would like to emphasize, and you heard several figures this afternoon, the fact that there was \$62 billion in consumer goods that go

through the ports of Elizabeth and Newark. For our members, this issue is as important as the Transportation Trust Fund that you know for the past 10 years has become a priority for the Legislature.

So we feel as strongly, we hope that this issue will sit as important for you, as well.

Thank you.

ASSEMBLYMAN CORODEMUS: Thank you.

I acknowledge NJBIA's support, and I appreciate that, and I know many of the other witnesses here to testify are also in support.

Just to get back to an issue that Assemblyman Smith raised earlier about the policy and such. Because of the permitting requirements for this dredging arena, largely in the Federal arena, that the Corps has to permit these projects, the biggest problem that we have had is the disposal of Category III material. Category III material has really been the most troublesome -- that is, the home we have to find for this dredge material, particularly with the subaqueous pits, particularly with the upland disposal sites we're looking at; enlargement of the mud dump; either enlarging the footprint that the DEP has suggested or increasing the volume vertically; that the Army Corps might be thinking about is of importance, provided that you are narrowing your focus only on Category II material.

The dredging needs of the immediate port in Port Newark and Elizabeth are ostensibly Category III material and of such capacity that it exceeds the disposal criteria at the mud dump for Category II material, so even if we could move the goalposts -- pass/fail, or whatever testing criteria they

change -- it exceeds the capacity, and we have to look for a home for Category III material.

So I sense there is some urgency, and I support the BIA and the State Chamber in joining us in looking to find a solution, but the solution must be holistic. It has to be for Category III and Category II, but I appreciate your support.

MR. MAURICE: Thank you, Assemblyman.

ASSEMBLYMAN CORODEMUS: Any questions of the witness?
(no response)

Thank you.

Would you take over? We have two more witnesses. (addressing Assemblyman Rooney)

ASSEMBLYMAN ROONEY: The next person to testify is Jim Leonard, from the State Chamber.

Jim, if you have written testimony, you don't have to read it all, especially when it is that thick. I still have a bill pending, so I just want to remind you.

JAMES F. LEONARD: Especially on days when you have an awful lot of bills to take care of, we try to be as quick as possible. Thank you for your time.

Again, I'm Jim Leonard, with the State Chamber. I want to thank the Committee for taking this issue up. The Chamber supports Assembly Bill No. 1099 as the first serious, long-term solution to the problem of dredging. We also commend the Chairman for his leadership.

However, one of the things that the State Chamber would like to make very clear and echo some of the comments that have been made before, Assembly Bill No. 1099 will be, quite frankly, irrelevant unless we are able to solve the short-term problem. Assembly Bill No. 1099 is an excellent long-term approach to the problem.

Attached to my testimony, you'll find correspondence from a State Chamber member. The company is called Hydropress. One of the challenges that the Chairman gave out to all of the participants on the Dredge Management Team, and he has constantly gone on throughout the State talking to people and challenging them to say, "Come up with a solution." Well, we were able to get a hold of Category III materials, which are the most toxic materials, provided them to Hydropress, and Hydropress, at their own cost, did an analysis of the materials, ran it through their decontamination process and analyzed the materials at the conclusion of their process.

Now, right now, Hydropress takes material from municipalities, sludge material, and turns that into top soil. One of the things we found at the conclusion of this test was that Category III dredge materials can, in fact, be taken from the port, dredged, and run through their process. It is one of the viable short-term approaches that, quite frankly, we'd like to see the Committee take a serious look at. That is why I provided the test results, so that someone can't say, "Well, it sounds like a good idea, but prove it." There are the test results to prove it. We've provided the materials to EPA and DEP, who are in the process of looking at it as well.

Hydropress has also said that they would be willing to do a demonstration project at your convenience. You can test the materials before

we put them through the process; you can test them at the end. We'll invite anyone who you would like, all parties concerned.

Again, we commend this Committee for taking this issue up. Assembly Bill No. 1099 is a very viable long-term approach. We hope you pass it out of Committee, and we hope you take seriously into consideration what we have offered today.

Thank you, Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Jim, do you have any idea of cost per--

MR. LEONARD: Right now we're in the process of running a cost analysis to see-- They're trying to compare the costs with the municipal sludge that they currently use. One of the things they did say was there are a number of items that appear in the dredge materials that don't appear in the municipal sludge and vice versa, so they will have that for me by the end of the week, and I'll provide that for you.

ASSEMBLYMAN ROONEY: Okay, thank you.

Does anyone else have any questions? (no response)

Thank you again.

The next presenter is Eric De Gesero, from the Fuel Merchants Association.

ERIC De GESERO: In deference to time, Mr. Vice-Chairman, I've kept my prepared testimony very brief, and I will even abridge that.

While most of the thrust of today's hearing will rightfully center on the need to dredge the port, FMA urges the Committee not to lose focus on another important aspect of the bill, namely, the dedication of \$75 million of

the proposed bond act to assist underground storage tank owners in the remediation and the upgrade of their tanks.

FMA's members face a 1998 deadline to comply with stringent State and Federal regulations concerning USTs.

For years, many of our members have faced reluctance from traditional lending institutions, making it virtually impossible to secure the necessary funding to comply with the requirements of the law. The average FMA member owns two sites that still must be upgraded and supplies gasoline to seven sites that still must be upgraded. Clean-up costs, on average, are running a little above \$100,000 per site; although, some FMA members are averaging a couple of hundred thousand per site, and a few of our members have encountered \$1 million sites and above. Essential equipment upgrades also average a little over \$100,000 per site.

Please keep in mind that it is more than just the corner gas station that is impacted by these rules. Numerous government facilities as well as marinas and other commercial entities must be in compliance by December 1998.

The pool of funds made available by this legislation, in conjunction with other proposals currently being considered, will go a long way to help protecting our drinking water resources.

I would like it to be clear that none of these proposals currently being considered by the Legislature constitute a giveaway or any other type of preferential treatment, as some in the coming months may contend, to small businesses.

Simply, A-1099 will give the people of New Jersey the choice of whether or not they wish to sanction low-interest loans -- and FMA is very clear in that we only desire loans, no grants at all for any private sector entity -- to assist small businesses, as over 40 other states have similar loan funds, in their desire to safeguard New Jersey's precious resources.

Thank you, Mr. Vice-Chairman.

ASSEMBLYMAN ROONEY: Thank you very much.

Any questions from the Committee?

ASSEMBLYMAN SMITH: Yes, a couple of questions:

How big is the problem in New Jersey, financially?

MR. De GESERO: I would say, if I could put a ballpark figure on it, Assemblyman, in the hundreds of millions. There was a report issued last fall, the State is on the hook -- just the State, not counties, not municipalities, the State itself -- for between \$100 million and \$200 million, for just the State DOTRs and things of this sort.

ASSEMBLYMAN SMITH: Now, the amount of money in this bill is \$75 million, or has it been reduced?

MR. De GESERO: Well, there is talk that there will be \$75 million here, but that will be pulled out of this and merged with some other proposals that are currently being considered by the Legislature.

ASSEMBLYMAN SMITH: Are there any limitations on the size of the loan that any individual operator can receive?

MR. De GESERO: Not that I know of, although that would probably be something, since both this is a bond act and the other initiative would be a constitutional dedication of 6 percent of the corporate business tax,

both would need to be resolved further in implementing legislation. We're simply -- these would simply provide a pool of funds, and the dotting of the *I*'s and the crossing of the *T*'s would come later.

ASSEMBLYMAN SMITH: Okay. And in that crossing *T*'s and dotting *I*'s, you have no idea of what interest rate would be provided, other than it would be a, quote, "low interest rate"?

MR. De GESERO: A, quote, "low interest rate."

ASSEMBLYMAN SMITH: All right. What happens if one of the borrowers defaults? Who gets the property?

MR. De GESERO: I think Commissioner Gimello gets it, and it becomes part of the Publicly Funded Site Remediation Program. That's why, by trying to help assist small businesses, by keeping them in business, affording them the loan to upgrade, the State -- specifically, the Public Funded Site Remediation, which the Assistant Commissioner spoke of before -- will keep from having to bear that burden after December 1998.

ASSEMBLYMAN SMITH: Okay, thank you.

MR. De GESERO: Thank you.

ASSEMBLYMAN ROONEY: Thank you, Mr. Smith.

Any other questions? (no response)

At this point, if there is no other testimony to be heard, the public hearing portion of this meeting is closed. Anyone may still submit documentation up until May 10 in order to be included in this public hearing.

So the public hearing on Assembly Bill No. 1099 is closed. Thank you very much.

(HEARING CONCLUDED)