

NJ
10
p777
1986p

PUBLIC HEARING

before

ASSEMBLY ENVIRONMENTAL QUALITY COMMITTEE

The Hazardous Discharge Program

April 1, 1986
Room 403
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John O. Bennett, Chairman
Assemblyman Robert W. Singer, Vice Chairman
Assemblyman Robert C. Shinn, Jr.
Assemblyman Byron M. Baer

ALSO PRESENT:

Mark O. Smith
Office of Legislative Services
Aide, Assembly Environmental Quality Committee

Hearing Recorded by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625

NT
10
P777
17854

PUBLIC HEARING

before

ASSEMBLY ENVIRONMENTAL QUALITY COMMITTEE

The Hazardous Discharge Program

April 1, 1986
Room 403
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John O. Bennett, Chairman
Assemblyman Robert W. Singer, Vice Chairman
Assemblyman Robert C. Shinn, Jr.
Assemblyman Byron M. Baer

ALSO PRESENT:

Mark O. Smith
Office of Legislative Services
Aide, Assembly Environmental Quality Committee

Hearing Recorded by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625



TABLE OF CONTENTS

	<u>Page</u>
Richard T. Dewling Commissioner New Jersey Department of Environmental Protection	1
Dr. Marwan Sadat Acting Director Division of Waste Management New Jersey Department of Environmental Protection	34

* * * * *

(Hearing Transcribed by J & J Court Transcribers)

ASSEMBLYMAN JOHN BENNETT (Chairman): Call the meeting of the Assembly Committee on Environmental Quality to order. Today is the date of public hearing on the status of the Hazardous Discharge Program in the State of New Jersey.

We will later in the day be considering a bill, A-2290. That bill is not the subject matter of the public hearing and we will not deal with it at this point in time.

I would like to welcome the Commissioner here today. I'm hopeful that today will be informative to the members of the Committee as well as to the public in the first step of an ongoing process to have a continual education with respect to the status of not only the hazardous discharge cleanup sites in the State of New Jersey, but also the status of the financial aspects of those cleanups. I have prior to today's hearing received a letter from the Commissioner, and it's my understanding that with respect to the specifics of cleanup programs that we will have information available today with respect to the Superfund sites, but that the specifics of the non-Superfund sites are being compiled and put together and will be available to be presented to the Committee at a later time. And that what I'm hoping today, while I'm sure that we will all have questions, what I'd like to do is when we do get to that question and answer period, if the answers are not available what we'll do is ask the staff of the Committee to keep that question so that we will then be able to formally present it to the Department and in due course would be able to receive the reply to some answers that may or may not be readily available today.

Without further introduction I'd like to welcome you, Commissioner, and your staff here today and I'll turn the program over to you so that you can start.

C O M M I S S I O N E R R I C H A R D T. D E W L I N G: Fine. I appreciate the opportunity of coming here this morning to brief you on an update of where we are on the Superfund program. With me this morning is Dr. Jorge Berkowitz on my left and Robin O'Malley (phonetic) on my right. Jorge, as you know,

basically is heading the hazardous waste program and Robin is my Harvard numbers cruncher for looking at the long-term funding sources that we have to come up with.

There is no significance to the fact that I'm here today on April Fool's Day to discuss with you the Superfund cleanup program. I think what I've tried to do is give you a handout. If you remember originally when we had spoken to your office we were talking somewhere around another couple of weeks before we had all this final. What I wanted to do was give you a briefing and update where we are actually today on the NFL list -- National Priorities List -- on those sites.

I've given you a handout and if I can I'd like to walk you through that and I think that will answer many of your questions and what the long-range funding sources have to be and what we have to identify. If you look at the last page on that handout that I gave you. If you can look at the last page of the handout that I gave you--

ASSEMBLYMAN SINGER: Commissioner, do you have an extra copy of that?

COMMISSIONER DEWLING: Sure. Four or five, whatever you want. Everybody have a copy? This is the last page. This is the one I'm talking about. I want to make sure Mr. Singer--

ASSEMBLYMAN SINGER: Is this like show and tell? Did I do it right, teacher?

COMMISSIONER DEWLING: Joan English will be right here with the slides.

I wanted to work through so that there's a clear understanding, so that we don't get confused in terms of the word -- definition of cleanup, what's not cleanup, and what is being done and the timing for this.

What you have in front of you here are the legislative mandate requirements that we have to go through on the Superfund for time frames for doing certain phases of the study. What is not shown on this graph here is what is known as an IRM, an initial remedial measure. An IRM is an action you take at a site

to remediate those leaking drums, the water supplies that might be contaminated, whatever the case might be. Early last year when we were at the height of the questions of what we were doing, what we were not doing, we indicated that we had shovels in the ground at more than 50% of the Superfund sites, and that's still correct. What we have is that we've had IRMs, initial remedial measures, initial remedial removals at those sites.

When the Superfund list first became prominent the first concern everybody had was to remove the immediate public health threat, take off the 20,000 drums, take off the two drums. Now you must study where the groundwater is contaminated, where it moves, how you treat the soil, what you do with the material. So now you have to go through a process that is known as remedial investigation feasibility study, IRFS. The segments of that process until you get to item number 11, which is a record of decision, known as a ROD, that time sequence is almost two years. From the time you start an IRFS you've got to go through what we call enforcement clearance, which means I've got to give notification to responsible parties, I've got to issue letters out to the world saying -- to other agencies -- we're undertaking this project. If you've got reason to believe -- it's like bands of marriage, why these people should not be joined in marriage, you've got to come back to us and say why these certain things shouldn't happen. We have to establish cooperative agreements with EPA in terms of who is going to pay what share and who is going to be responsible for what. We have to get access to the property.

Along the way are quarters of the year. So those actions only take within that two to three month period. And all of them, if you notice, are not additive. They're ongoing concurrently. Once you start and engage the contractor and you start your remedial investigation and you come out with your report, which is about 12 months, then you've got a public comment period, and then before a decision is made, a record of decision. The record of decision is signed by EPA Headquarters.

not the regional administrator of the EPA. All that must go to EPA Headquarters. So once that record of decision is signed, which is about two years, all right, we would not be able to proceed with what we call the "big D" -- big D meaning big design for the final remediation of the site.

When I talk about cleanup of a site now what I'm talking about is that when we start, we've done the initial remedial removals, the initial remedial measure, whatever nomenclature you want to use for it. We've gone through the remedial investigation. We go through design. We go through the construction, both on site and off site. That process, once that's finished and now we go into the operation and maintenance mode. That total time for that is almost six years. Your design takes about a year and your construction about two years.

At that point in time, at the end of that five and a half to six year period, now you're in operation and maintenance mode, and the question is you could be in that mode for the next ten years after that. At year six, that's the point in time I'm saying that site is cleaned up. Removal of 15 drums or 15,000 drums doesn't clean up the site. It eliminates the immediate public health threat, but the site is not remediated until that point in time all the bricks and mortar have been placed, all the studies have been done, all the designs have been done both on site and off site, and we're now in a perpetual care mode of that site. So it's important you understand that's the litany we must go through for every Superfund site, every site that's on the NPL list.

If you look at the second page in the handout, it says "Summary of Superfund Sites, Obligation, Phase Initiation Dates." If you look at the same categories I just defined to you, says feasibility, design, construction, and then operation and maintenance. The reason we're working on EPA fiscal year, which runs from October to the following September 30th. So EPA '86, pre EPA '86 is all the years prior to just now. EPA '86 ends this October and we start EPA '87 this coming October.

We have ongoing -- if you look at pre '86, 61 feasibility studies. In the top left-hand side under feasibility. This year we have 38 feasibility studies that we will either initiate and start so that by the end of this year we will no longer have any more feasibility studies that we have to start. Notice that existing sites in '88, '89 shows zero. No more new starts. Now, new sites for the Superfund list. We are projecting we will be adding five more new sites every year to the Superfund list. So you will see we will start new feasibility studies in every one of the those years as we project out.

One of the significant factors that you have to recognize is that EPA wants to increase the number of sites on the NPL list, up to 1800. The question here is that EPA has the latitude, absent the State, to add sites to the NPL list. They don't need our approval. They can add any one they want to an NPL list. We have a good working relationship with the EPA and we've got concurrence that we will only do it jointly, that they will not unilaterally add sites to the list.

My concern on unilaterally adding sites to the list, if there's an expectation out there, when you're on a Superfund list automatically you're guaranteed cleanup. That's not true. When you're on the fertile list it says you're eligible for funding. When you're on DEP's Superfund list, which is part of the Federal program, we are committed -- DEP is committed, you are committed -- to finalizing that cleanup with or without Federal dollars. So every site we add to the list increases the long-term liability to the State of New Jersey. It doesn't increase any liability to the Federal government.

So we project over the next five years that we'll add five more a year, and ultimately we'll have about 124 sites.

If you look at the design, pre 1986 how many sites were being designed? Now, when I'm saying designed, the big D. When we had to remove or put water lines in, we had to use small designs. Big D to me means that you're designing the final

remediation for that site and then you're finished with that site. Krysowaty Farm was a very simple site. It took five years. Krysowaty Farm was, put in a new water line and take out of the ground 500 drums. That is the design that you see there.

This year we expect to start, in EPA '86 we expect to start about 12 designs. And you can see as we go up through the years, '86, '87, '88 are the big years for designs and then you'll start tailing off. Lagging designs are construction. You will see lagging there by about a year and a half, notice in EPA '86, '87 we start the big constructions. Starting in EPA '88, which is in October '87, starting in that period of time.

Then you look at the O and M, and again you look at the transition from one location to another and you can see we've broken O and M to three categories; no O and M, where the site doesn't require any remediation; monitoring that you must always do; and then treatment. Meaning most of these involve groundwater treatment. Seventy-eight of the sites will require some level of treatment, 17 will require monitoring, and two will be nothing other than just a final write-off. Now, that's 97 sites. The reason for 97 is because some of the other sites, Cooper Road and one of the others we're not going to require O and M on. They're a special category.

If you were to go to the next page right beyond that and you will see this chart right here. This gives you a feeling for which direction we're going. You can see the dark line being feasibility new starts, we're wiping them out this year. These are Federal fiscal years. The number of design new starts start picking up. The construction new starts start really hitting maximum '88, '89 and then you see long-term treatment operation and maintenance. Treatment is the bulk of the concern we're going to have and that's when you get into the years 1990, 1991, and that long-term treatment could involve as much as 20 years.

The question that we're wrestling with now is how long do you treat? What cleanup level do you go to? What's the acceptable level?

You had once asked me to provide some information so that people could easily understand where we are in each site. And the computer phrase has given us the ability. If you were to look at this pie diagram here, and I've broken it up into quarters. Quarters not meaning fiscal year or anything like that. I'm sorry. Into five parts. You've got initial remedial measure on the bottom, feasibility, design, construction, and operation and maintenance. If you look at the IRM, the initial remedial measures, we've completed 29 initial remedial measures at all the Superfund sites. We have 15 underway right now. The additional ones, that blank area, don't require an IRM. So there is no site on the Superfund list that has not been stabilized. All of them have been stabilized, all the initial immediate public health threats have been eliminated.

Look at the feasibility. Twelve are completed. Fifty-nine are underway right now. Twenty-eight will be started this year. In fact, we just started six last year. Now this is joint, EPA and the Federal government, and ourselves, DEP. They had the lead on some sites and we had the lead. This 28 that has to be started, my commitment out of the 28 is 13. Their commitment is the difference. With their slowdown I can't control their system. But they have expectations, now that they received \$150 million they should be able to fund them and start them this year. One of the things that's held up our starting the feasibility studies was the insurance issue. What we have done just last week is give a ten-year liability and \$10 million cap to start these RIFS. So the feasibility studies this year, our expectation for the 99 sites will either be completed or underway.

Design, in that quarter, in that 1/5 of the pie, notice there's one design complete and two underway. The one complete is Krysovaty Farm. The two underway is D'Imperio and Bridgeport. They're designs. By the end of this year you'll see more designs kicking in here.

Construction, the only site being constructed, very

honestly, is the Krysovaty Farm site.

In O and M we have one small site that we're doing O and M on.

Now, the uniqueness of the system, and we're bound by the Federal system when we're on NPL. We are spending today over \$20 million cleaning up the PJP Landfill. PJP Landfill had a design, is an active big construction, but because it was low on the Federal Superfund list and they wouldn't get to it for another two years. Because of the smoke problem that we had, we initiated an IRM, which included a final cleanup of that site. So we now have to go back, as ironical as it may seem, and do an IRFS to demonstrate to the Federal government in order to get reimbursed that the approach that we're taking is the approach that they would have come up with if they had to follow the full process. So PJP Landfill is being cleaned up, it's under construction, it was designed, but it cannot show on this list. It shows in the black area under IRM. So these are some of the unique frailties of the system when we're having to deal with the Federal output.

For every site on the Superfund list I will have the equivalent of every one of these pie diagrams so that anyone could see at a glance where we are at every site. In this case, Goose Farm, 100% of the IRM, feasibility is 95% complete. So a year from now when I sit here and you and I talk about it. You say, "Dewling, what the heck have you done for the past two years?" On this site I can show you very clearly where we are and what we've done. We'll be doing this on a quarterly basis to give us some idea of which direction we're going.

Let me give you some idea of the funding. On the top page, projection of obligations. Here's where you almost need a crystal ball. If I project out-- The assumptions I'm making is that in 1987 -- remember this is fiscal year '87 -- I've already made the commitment and completed all of my feasibility studies previously. So in October of this year, starting in October of this year, I project 48 new designs during fiscal year '87, which

goes from '87 calendar year to '88. I project in terms of new construction only four. Operation and maintenance, we're talking about monitoring two and treatment two. If you look at the total dollars we're going to require for construction -- total dollars now, regardless of who is paying -- in fiscal year '87 we're talking about starting this October through next October \$74 million. In '88, starting next October, \$334 million. In '89 \$321 million; '90, \$158 million. If you drop down to the bottom and you look at the totals by year, that mirror images what we're saying here in terms of what our needs are going to be.

So the question here is, if I assume for the responsible parties, based upon past record, that of the 99 sites on the Superfund list, 45 of them were identified having responsible party -- I'm suggesting a success rate of 50%-- So in 50% of the 45 sites I'm saying I'm going to get responsible parties. We just signed a \$2 million agreement with Coopers last week to do the RIFS for their site, and they put up a \$2 million bond.

If I subtract out the responsible parties sum from the total of each year, now I come up with a State/Federal share. Normally the State/Federal share is 10% State, 90% Federal. Now, I ask you, whatever assumption I make, it's jello. I don't know which direction the Federal government is going. They now have a blood transfusion to keep the patient alive. So we've got two months reprieve. I don't have a long-term funding source that I know how much Federal dollars we're going to get.

I know that right today of the money you all have given me the Spill Fund is broke. The \$15 million a year, I consider that continuously broke because we're spending the money. Of the \$150 million you gave me at the beginning of this year, I know have \$60 million left, and we have not touched the bond money, the \$100 million bond issue from 1981.

In October '87, in starting in that year, I'm going to need during that year about -- worst case -- could be \$300 million. That's assuming the Federal government gives me

nothing. On the other hand, I can say if the Federal government gives me everything I need, and I only need \$45 million. Both assumptions are wild.

So what we're looking at now is the probability of certain Federal funding sources, the need to have flexibility. What's my probability of getting out of a total \$1.135 billion dollars for the NPL list, almost \$750 million from the Federal government? I don't think it's too real.

What's a realistic assumption, 60% of that? Fifty percent of that, 70% of that, 30% of that? That's right. You know, it's flip the coin. So what we're looking at here is to try to come back to you looking at different scenarios, looking at what has been proposed by Mr. Lesniak, by Dan Dalton, as well as some other approaches, combination of funding sources. You need a built-in flexibility to be able to raise money, to be provided with the money to meet these commitments. How much more opportunity are we going to have to get a bite of the bullet from EPA again? I suggest that this year we'll be able to do it, and probably one more year.

The assumption here is that O and M is not included at the Federal share. Notice that we don't like to use the word O and M any more. We call it treatment. There's an amendment of the Superfund bill that says that EPA will pay for treatment, so if we eliminate the word "operation and maintenance" maybe there's a different assumption we can make here. And the new bill in the Congress says that the Federal government will pay its share of maintenance and treatment. And if you have to treat the groundwater for 20 years that they will pay that.

So the figures are here. These are only for the NPL sites, and it says our total need is \$1.2 billion over the next five years. That is with the anticipation of everything falling into slot. I think we can-- It's in line with what we have said previously in terms of timing, and I think this reaffirms the assumptions that we've had to make -- are anyone's guess. But I think a prudent person has to assume we're not going to get 90%

of all the Federal dollars in every year. I think a prudent person is going to have to assume we're not going to get all the responsible parties paying off. I think it's reasonable to assume 50% of the responsible parties will pay off. And I think it's reasonable to assume we'll probably get about 60% of the Federal bucks.

So what I'm telling you is I probably need, for the NPL sites, over the next five years, about \$500 million of State money. The question now is what options are there for raising that State money? And to raise it all at once, would say the money's there and you're not spending it, I think you need some built-in flexibility combination between looking at some financial options for having some revenue source that is fair-- To those that provide the problem should pay a fair share. And most certainly give us the ability to meet the changing requirements of the Federal match. Because that's what we're trying to do. There's no way, shape or form I would recommend we go our own way and not try to get as much Federal dollars as we possible can.

Most importantly, we're trying to get a reading from the Attorney General as to whether or not the decision that's just been reached on our Spill Fund, requires us to get a declination from the Federal government before we can spend that money. Are we obligated to rank every site with that scoring system, the Miter model? And then if it doesn't make the score, then we can move with our own cleanup money? Are we obligated to put sites on the Superfund list? I don't believe we should be obligated to put sites on the Superfund list. If we feel we can get cleanup with responsible party dollars, as well as with our own dollars, faster then I think we ought to move in that direction. Those are some of the legal issues I don't have an answer to today.

Hopefully this gives you a better feel for where we've been, where we're going, and I think we have to clear the air in

been, where we're going, and I think we have to clear the air in terms of what we're talking about when we say cleanup the sites. I project what we're talking about four or five years ago, how many sites are going to be cleaned up, and we say how many of those sites are going to be strictly in the O and M phase, and you're talking about anywhere between 13 and 28 sites of the 99, cleaned up. That's the scenario I'd paint for you.

ASSEMBLYMAN BENNETT: Thank you, Commissioner. I have a couple of questions.

COMMISSIONER DEWLING: Sure.

ASSEMBLYMAN BENNETT: During this existing fiscal year in the State would you be able to give us a figure as to how many Federal Superfund dollars have been received?

COMMISSIONER DEWLING: So far?

ASSEMBLYMAN BENNETT: Yes.

COMMISSIONER DEWLING: Hardly anything because they've had all their-- I mean, we haven't signed any new feasibility--

ASSEMBLYMAN BENNETT: For this fiscal year, so that would be from July 1st last year.

COMMISSIONER DEWLING: In our fiscal year?

ASSEMBLYMAN BENNETT: Correct.

COMMISSIONER DEWLING: I can't give you the figure off the top of my head, but it's not much.

ASSEMBLYMAN BENNETT: Okay. When Superfund, as far as phase one of this existing Superfund that's kind of winding down, could you give an estimate as to the total number of dollars that we will be expected to receive from that first five year Superfund? Total.

COMMISSIONER DEWLING: I had provided figures before in terms of the total dollars we received in the first phase, yes. Last year we got 1/6 of the national pot, and I can give you the total sums that we had for every year prior to that time, for every phase of the study. I can give you the total dollars that we've gotten out of this total Federal commitment, and the-- I remember the percentage, not the actual dollars. We got 1/6 of

all the national dollars last year.

ASSEMBLYMAN BENNETT: Okay, but that's on a-- That would be for one year. I'm trying to ascertain--

COMMISSIONER DEWLING: I can give it for five years.

ASSEMBLYMAN BENNETT: Right. Is it 100 million? 200 million, 300 million? You know, that, is what I'm looking for.

COMMISSIONER DEWLING: It's over \$100 million.

ASSEMBLYMAN BENNETT: During this existing budgetary year could you -- do you know the number of enforcement actions on the Superfund sites that have resulted in "X" dollars, how many dollars have been recovered from any enforcement on any Superfund sites?

COMMISSIONER DEWLING: If you ask me that question tomorrow I may be able to answer that in a much more positive format than I am now because we're in court right now on a major -- one of the first NPL sites on which there is an offer being made. And the total sums of dollars that have come back for industry going to the final solution have not been that significant. I mean on Lone Pine Landfill we were sued and we won the suit. They tried to stop us from proceeding with the solution. At Price's Pit I think we'll be able to say relatively shortly what the enforcement lead has resulted in terms of total dollars. It will be sizable.

ASSEMBLYMAN BENNETT: Well, Lone Pine suit we didn't recover one dollar.

COMMISSIONER DEWLING: The amount of recovery of dollars throughout the whole program is minimal, minimal. We have spent little time trying to recover dollars because you get to a point that at what point do you decide to recover? During the feasibility? Once the ROD is signed or once you start construction? Any point in time here the responsible party has an option to jump in. What normally has proceeded is that under State or the Federal program you will start the feasibility study absent the responsible parties. Offer them the opportunity to jump in at any time. Before you sign the ROD, say this is our

recommendation for implementation, at that point in time they can jump on the bandwagon and proceed with it. I haven't seen any company do that.

We have, under our lead, about five or six companies where they are paying for the RIFS. I mean several millions of dollars. We have had on non-Superfund sites where we've had responsible parties paying for the feasibility study.

ASSEMBLYMAN BENNETT: I didn't want to mix the two up today because I didn't think that would be fair. What I'm trying to do is limit my questions to the Superfund sites and we will ultimately get to the other sites when we have all that data. What I'm trying to do is look at 98 sites that we have, where the money has come from to date that we've expended on the sites, where the moneys will come from in the future that we're going to expend on these sites? You know, that same process--

COMMISSIONER DEWLING: The future is here.

ASSEMBLYMAN BENNETT: Well, that's where I'm troubled. I mean, we have today evidently under responsible parties or enforcement had minimal collected, minimal amounts, negligible.

COMMISSIONER DEWLING: Yeah, but in the State of New Jersey under the responsible party actions that we've taken so far, and now that we are resolved in terms of sending out the notice letters that was in the courts before, and the demand letters, we have now had more companies come in in the past two months than we've had previously before. I would expect that we would get a higher response rate. I mean, assuming 50% success rate.

Diamond Shamrock is an example, Newark Dioxin. They are spending \$20 million openly. They have done the feasibility study. They're doing design and they'll do the construction. That's an NPL site under our lead, under our conditions, not the Federal conditions. Now that's 20 million that I don't have to recover because responsible parties came.

ASSEMBLYMAN BENNETT: Okay. That's fine.

COMMISSIONER DEWLING: Now, Krysowaty Farm, I don't

know who put the drums in the ground so we have had to pay on that one. But Coopers Company, they've just put up a \$2 million bond to do the RIFS, and that's a Superfund site. So I'm saying to you that in the past two to three months because of our ability to negotiate from a much stronger position than we were able to before, we're getting more responsible parties signing up. If I just look at the Diamond Shamrock, \$20 million, that skews the total sum, but it's only one company.

ASSEMBLYMAN BENNETT: I just-- Going from nothing to \$17 million in a year, it appears to be--

COMMISSIONER DEWLING: As I'm saying, I can go one company, \$20 million.

ASSEMBLYMAN BENNETT: Well, then the next year you've got to come up with 68 million, so I don't want to use it all up in one year. I mean that's from on these figures here -- which is very ambitious. I would be very optimistic and very hopeful that you could accomplish that. I'm troubled that we haven't gotten those figures anywhere near them up to know, but, you know, I'll be optimistic in the next few years.

COMMISSIONER DEWLING: I'll be honest with you. I can get those figures today if you need them. I mean, I have the figures. I didn't bring those specific figures.

ASSEMBLYMAN BENNETT: No, no, no. You're missing what I'm saying. That we have only recovered or had responsible parties contributing minimal amounts up to today, and it appears that we have rather ambitious numbers to be able to collect in the future. I'm hopeful that your figures will hold true, but I'm a little concerned about them.

COMMISSIONER DEWLING: I think you have to look at, it's not an increasing scale. What you're saying here is that when a company commits to design automatically not additional responsible parties. The number of responsible parties-- We're talking about a success rate here of 50%. Of the 45 that -- of the 99 sites we're saying 22 of those will likely pay up. When they're doing feasibility studies, a feasibility study is only a

million dollars. Only. When you go into design and construct, that's when the big dollars kick in. You're not getting additional responsible parties. Once you've got the responsible party at the front end, you're assuming that they're carrying through to completion. So these are not new responsible parties.

Of the original 22, they stay with us, and they carry through to completion. So I'm never getting more than 22 responsible parties in this whole batch. So these dollars increase say that if you do the feasibility study, and my consent order says you implement the design, then you will do the design and pay for it. You will do the construction and pay for it, and that's exactly what we did with Diamond Shamrock. So they only laid out a million and a half to do the feasibility study. Then we did the design; they went to a million and a half. And now they're going to construct. So that's one company, but that would increase the dollars. So I don't-- What you think this shows is that increased responsibility in terms of the responsible parties coming back in. We're starting off with 22 and we're staying with 22. We're not increasing it beyond that.

ASSEMBLYMAN BENNETT: Okay. Do you know if the EPA has recovered any additional dollars from these sites on these Superfund sites in New Jersey? Are we ahead of them in recovery or are they ahead of us?

COMMISSIONER DEWLING: There are two issues here. On one site, the Kin-Buc site they were paid back a certain amount of money as we were paid back some money on that, part of the study. If we get this settlement this week on the case we expect both of us would be paid back for that portion of the study. We have been paid back all the money that we spent initially on Diamond Shamrock.

But if you look at ultimately what one can expect under Superfund, how much money you're going to get back on total dollars, I've heard numbers go from 10 cents to 20 cents on a dollar.

ASSEMBLYMAN BENNETT: In discussing on the Soil Fund,

since I'm in the Legislature I think I've heard about three different figures. The Spill Fund either has 18 million, 30 million or it's broke. I've never heard any other figures but those in seven years. Today we have that the Spill Fund is broke. As of June 30th, 1985 the only audit that we have of Spill Fund -- although the legislation requires an annual audit -- the only audit we've ever had of the Spill Fund since 1977 is the Legislative audit that goes through on the figures. That audit on June 30th revealed a balance of approximately \$30 million. Arguing that it collects between 12 million and 15 million.

COMMISSIONER DEWLING: That's right.

ASSEMBLYMAN BENNETT: And I'll take the low figure of \$12 million in a year would bring us to a figure of \$42 million. Would we be able to have a breakdown as to where that \$42 million was expended?

COMMISSIONER DEWLING: Are you saying obligated or expended? There's a big difference.

ASSEMBLYMAN BENNETT: Committed. I'll even go so far as to commit it.

COMMISSIONER DEWLING: Yes.

ASSEMBLYMAN BENNETT: I would like to have that if it would be possible. Would it be possible to secure from where that \$15 million per year is raised? That's an elusive question that we've always been able to attempt.

COMMISSIONER DEWLING: You mean the source of the dollars?

ASSEMBLYMAN BENNETT: The source.

COMMISSIONER DEWLING: (Nods affirmatively)

ASSEMBLYMAN BENNETT: Okay. With the \$42 million committed, and then we have \$90 million committed out of the \$150 million that was appropriated last year, for a total of \$132 million committed in funds in fiscal '85 because we didn't touch the bond act. We have minimal Fed dollars and minimal enforcement dollars. Yes?

COMMISSIONER DEWLING: When we go into the fiscal year-- When the escalator clause went in last year.

ASSEMBLYMAN BENNETT: Yes.

COMMISSIONER DEWLING: All right. We charge against the Spill Fund continuously for those studies that are non-NPL sites. To keep the escalator in you never let it go back into solvency in a sense. So what we do is we obligate against the Spill Fund. We obligate against the \$150 million simultaneously. On an annualized basis all I had is \$15 million. That's what it brings in to me, between 12 and 15. If you escalated \$15 million. What I'm saying to you, in the calendar year, or in our fiscal year, I will obligate that \$15 million and of the \$150 million that you've given me up to this date, all right, I have obligated everything except \$60 million.

ASSEMBLYMAN BENNETT: Well, that's 90, but we-- But, Commissioner, we had \$30 million in it as of the beginning of the year.

COMMISSIONER DEWLING: No, it was broke at the beginning of the year. In other words we had-- I have to--

ASSEMBLYMAN BENNETT: Well, then, Commissioner, someone is going to have to show that to me because the only audit I have shows--

COMMISSIONER DEWLING: But the audit does cash flow.

ASSEMBLYMAN BENNETT: No, no. It specifically doesn't just have cash flow. The audit has the claims against the account. In fact, there was like \$34 million in cash, with \$4 million of claims. I believe it was something like that. It has the claims and the obligations. Not just the cash flow.

COMMISSIONER DEWLING: I will get that for you.

ASSEMBLYMAN BENNETT: And it shows 30 million that we started the year off with. Now, I don't-- I hope that we're not going to see that we're committing the same--

COMMISSIONER DEWLING: You're not double bookkeeping. You're not double bookkeeping, I assure you.

ASSEMBLYMAN BENNETT: I should have, unless I see

somewhere its differences, I should have committed from two sources \$132 million from July 1, 1986 until today.

COMMISSIONER DEWLING: If your assumption that I had 30 to start with is correct, yes.

ASSEMBLYMAN BENNETT: Okay.

COMMISSIONER DEWLING: What I'm saying to you is that when we make the obligation, the commitment, in the Commissioner's office, that goes over to Treasury, and that may take another 30 days to 45 days to finally reach the Spill Fund show of commitment. I mean, I commit it, the day I sign--

ASSEMBLYMAN BENNETT: I understand.

COMMISSIONER DEWLING: --the contract, and I'm saying to you is that my assumption is that on July 1 this year all I had now was my money available to me on a continuing basis, and I always deliberately keep that Spill Fund broke.

ASSEMBLYMAN BENNETT: But that Spill Fund is now not in Treasury anymore, right? That Spill Fund is now in--

COMMISSIONER DEWLING: It was just transferred over to us this year.

ASSEMBLYMAN BENNETT: Correct. So we're optimistic in the Legislature, now that we gave you that tool that we'll be able to have -- we won't have those delays and more and that from the time you commit it, downstairs can immediately commit it also. I've been troubled with the-- And it's not DEP, let me preface that, but I've been very troubled with the accountability of the Spill Fund over the past few years. And I think one of the reasons that the Legislature wanted to get that Spill Fund to the source so it wouldn't have that lag time, so that you in preparing your or any Department or Commissioner would have the availability of knowing what dollars are available to move ahead, and we wouldn't have that delay.

COMMISSIONER DEWLING: Do you have that document--

ASSEMBLYMAN BENNETT: Yes, we have the Legislative audit. I'm hopeful that now that it's in the DEP we're going to have the annual audit as required pursuant to law. But Neil can

get a copy of that available to them.

See, what I would be hopeful is that we're able to whatever -- the \$15 million generated from the Spill Fund, of course, it would be nice to know from where those moneys are basically coming. The additional 60 million, so we have 15 million plus 60 million plus the 100 million, so we have \$175 million in State dollars available as of July 1, 1986. Would that be an accurate statement?

COMMISSIONER DEWLING: On July 1, 1986 I made the assumption, possibly erroneously, I had 150 plus 15, plus the 100.

ASSEMBLYMAN BENNETT: No, because, of the 150 we have 90 committed.

COMMISSIONER DEWLING: No, when I started the year.

ASSEMBLYMAN BENNETT: I'm talking about as we come up to this July 1st. What do we have during, of State dollars that we can anticipate we'll have available.

COMMISSIONER DEWLING: All right. We had the \$100 million bond issue without any question.

ASSEMBLYMAN BENNETT: Right.

COMMISSIONER DEWLING: And the question is what am I projecting is going to be left? In the capital probably 30 to 40 million. It really--

ASSEMBLYMAN BENNETT: I'm sorry. I wrote down-- I must have misunderstood you. I was under the impression we were going to have 60 million.

COMMISSIONER DEWLING: Today. Today I have 60. By July 1st I may only have 30 left.

ASSEMBLYMAN BENNETT: So we'll be committing--

COMMISSIONER DEWLING: That's right. Let me tell what it ties into.

ASSEMBLYMAN BENNETT: Limiting my vocabulary.

COMMISSIONER DEWLING: I have been trying for four months to give EPA money, all right, on a reverse letter of credit to fund prefinancing of their projects. Now, I can wipe

that off if they accept that, or now that they got a, you know, a rebirth and now they're going to come back with some money. I mean, I don't know which direction EPA is going. It could be of the \$150 million, zero in terms of obligation that I have left, or I could be left with \$30 million. What I got approved from the budget people were that I can commit against the 100 million without them selling bonds because the cash flow is in the \$150 million pocket. So even if I have to loan EPA money to keep the projects going, I can tap into the \$100 million from my standpoint of a commitment, it's not an expenditure of dollars, but I can commit those dollars. They will-- If they have to come up with that cash, because the cash flow is completely different than the obligation and commitment, they will borrow the cash from the 150 million general obligation to pay back any cash outlay under the bond requirements.

There are three separate bank accounts. What you're doing is borrowing from one to pay the other. But there are no duplicate charges of one project against all the accounts.

ASSEMBLYMAN BENNETT: I just think it would be very helpful to us as the dollars-- In fact, it will help to complete your pie, if you would, that not only would we be aware of what the status of different work is, or the stages of the different work are on the projected sites, but from whence the money is coming to accomplish or pay for those. I think that's the only way that the Legislature can then intelligently deal with what future funding sources should be made up of and what the amounts of those should be.

I notice that what we have done here for fiscal year '87 for Federal dollars, if I'm reading this correctly, is 101 million 65, on the Superfund sites this is?

COMMISSIONER DEWLING: No, on the bottom?

ASSEMBLYMAN BENNETT: Yes.

COMMISSIONER DEWLING: 266, '88. Oh, I'm sorry, '87. 101, right.

ASSEMBLYMAN BENNETT: And yet our budget, if I read it

correctly, which is distinctly possible that I do not, says that we will be receiving, we are budgeting \$35 million from Federal sources.

COMMISSIONER DEWLING: Where do you see the 35?

ASSEMBLYMAN BENNETT: That's not here on your paper. That's in the Governor's budget that was submitted to the Legislature, has the figure \$35 million from Federal sources for our cleanup program.

COMMISSIONER DEWLING: The federal share, again, when we had to go back and look at all the numbers, and the timing sequence have changed drastically in the past three months, primarily because of the delays in the Federal program. So what we've had to do is look at which projects will fall and which projects will not fall. We have kept moving and the Federal government has not. So we may be in the position, this year, to get money that we didn't expect to get because we're that far ahead of the power curve. Don't worry about-- I don't understand it after ten years in it. I mean, it's just-- The budget sequence is absolutely unbelievable.

ASSEMBLYMAN SHINN: Mr. Chairman, can I interject just a question to help me a little bit?

ASSEMBLYMAN BENNETT: Yes.

ASSEMBLYMAN SHINN: When you encumber funds--

COMMISSIONER DEWLING: Excuse me?

ASSEMBLYMAN SHINN: When you encumber funds what process do you have to the Treasury to tell them that's encumbered?

COMMISSIONER DEWLING: I have to sign a document, all right? That obligates that money and then they will put that money aside and wait for the cash flow.

ASSEMBLYMAN SHINN: Okay. So with the State audit-- Seems that we're finding cash balances instead of encumbered balances and that's why we show a significant balance and you show zero balance, right? The difference is the encumbrance?

COMMISSIONER DEWLING: That's right. I mean, we faced

the same problem, if you remember, with the water bond issue. I mean, we committed to a project, but the money hasn't gone out yet. The PJP Landfill, there's \$20 million put aside for that project. The cash flow on the Spill Fund is not going to show \$20 million. It's going to say we always have to pay that at account, but I have committed all the dollars for putting the fire out. Three million dollars came out of the Spill Fund. But the cash flow-- The contractor hasn't been paid yet. So you may show a balance. I show zero.

ASSEMBLYMAN BENNETT: I understand that now.

ASSEMBLYMAN SHINN: Now, the balances that are in the accounts, the--

COMMISSIONER DEWLING: Are cash flow.

ASSEMBLYMAN SHINN: I assume someone is investing those balances. Do they accrue to the fund balance or do they go into surplus?

COMMISSIONER DEWLING: I don't have an answer to that. I don't know.

ASSEMBLYMAN SHINN: Could you check on that because you've got 30 million average cash balance? You ought to have 3 million interest at the end of the year historically.

ASSEMBLYMAN BENNETT: The interest is supposed to stay in the fund.

ASSEMBLYMAN SHINN: Where's the invested funds? They're supposed to accrue back to the funds?

ASSEMBLYMAN BENNETT: Correct.

ASSEMBLYMAN SHINN: We ought to be getting, if we have an average cash balance--

COMMISSIONER DEWLING: Marwan has indicated to me that according to the law, they're invested for research under the Spill Fund.

ASSEMBLYMAN SHINN: Research from the Spill Fund.

COMMISSIONER DEWLING: Yes, there is money--

ASSEMBLYMAN SHINN: To find out what that balance is you mean?

COMMISSIONER DEWLING: No. For research projects.

ASSEMBLYMAN SINGER: That's number four on the list if you look here. Mr. Chairman, I've got a couple of questions.

ASSEMBLYMAN BENNETT: Sure. So does Byron. Just one second, because he had asked before Byron. Why don't you--

COMMISSIONER DEWLING: Well, let me give you one quick example. When we cleaned up 140 Thomas Street. Warehouse cleanup, \$4 million. I signed and obligated \$4 million. They may have only paid \$1.2 million. I don't know. So when you get the audit and I do my audit they're different.

ASSEMBLYMAN BENNETT: Well, hopefully we can get away from that because it's very confusing to us, and I can't imagine it wouldn't be confusing to the general public, and maybe if we can make it clear for both the Legislature and the general public we would be able to remove a lot of the uncertainty as to funding sources and the moneys. If that's a goal, I think that would be one we would like to strive for -- to be able to remove that confusion. I am understanding it's basically like writing a check and not having a check clear, basically.

COMMISSIONER DEWLING: That's right.

ASSEMBLYMAN BENNETT: Your bank account may show a balance, but, in fact, when your checks--

COMMISSIONER DEWLING: That's what I'm doing. I'm writing the check without it clearing and I'm writing the check for the full amount of that project when I commit that money. Then as each portion comes in it clears out, but there's still obligated to project. In other words, the escalator stays in the Spill Fund. They project how much money is going to be required in September, October based on the cash flow, based on my obligations and commitments, and then they pay out based on that. So you will show a balance in the Spill Fund and I will show its broke. And under my direction, how I commit it keeps the escalator in, not the cash flow. In other words, if I don't commit against it, the escalator doesn't stay in.

ASSEMBLYMAN BENNETT: I understand. But what I think

would be important to know as we move ahead is that when you are projecting-- I'd like to tie closer together the funding source with projection of the cleanup so that what you are planning on in fiscal year '87 this particular one only has a State contribution during fiscal year of '87 of \$8 million.

COMMISSIONER DEWLING: That's right. Why? Because there's no big construction. It's all design and feasibility study, which the Federal government pays the bulk of.

ASSEMBLYMAN BENNETT: And it says in '88 \$45 million State.

COMMISSIONER DEWLING: That's right.

ASSEMBLYMAN BENNETT: And fiscal year '89 \$32 million. I mean, if you kept on those figures, if we didn't have the other 1100 sites, we would already have enough money to pay for Federal sites, is that what you're saying?

COMMISSIONER DEWLING: What I'm saying to you, though, is how realistic is it for me to assume I'm going to get \$266 million from the Federal government?

ASSEMBLYMAN BENNETT: I don't think very realistic, but that's--

COMMISSIONER DEWLING: That's right. Now you tell me, what percent should I presume? I'll go with whatever percent you tell me, 40, 50, 60? I'm saying to you, if I come up with 60 you'll say well, that should be 50. It's jello. That's why I'm saying to you whatever funding source you come up with has to have that built-in flexibility because I can't tell from year to year how much Federal money I'm going to get. If I'm ahead of the power curve, if I've got designs ready and they're hungry, they'll fund them. If I'm not ready, they'll go to another state. But because we've gotten all the sites on the list up front and because we're up front with the feasibility studies there is no state in the Union as far ahead as we are on feasibility studies. So now that means I'm ready to go with the designs before other states. So I can hit them on design money. But now when we get into construction, now they're going to have

to go into fund balancing. That's a statutory requirement of the Federal Superfund. That's when they will say, "I don't have enough for you in New Jersey. I'm going to bring it to California" whatever the case might be.

But I expect to get at least another two big bites of the apple, this year and next year. But I can't guarantee it.

ASSEMBLYMAN BENNETT: My own personal opinion would be that I would rather see us assuming a larger State responsibility and then if the Feds come by we could adjust whatever our funding source is on the State level so that in subsequent years we would be able to compensate. I'm troubled when we have such a high reliance on Federal and responsible parties which I think--

COMMISSIONER DEWLING: What I'm going to come back with is not a reliance of \$230 million. I'm saying that is highly unlikely. That is the ideal scenario if everything goes right. I'm projecting that won't happen. So what I'm saying to you, we have to come up with, if you add up this. It says \$159 million State share. I am saying to you \$500 million State share. That's my recommendation to you. I'm assuming I'm only going to get about 50 to 60% of the Federal bucks. The State is going to need about \$500 million to complete these projects on this list.

ASSEMBLYMAN BENNETT: If that's all we were going to need I would be very-- Oh, on the Superfund list.

COMMISSIONER DEWLING: On this list.

ASSEMBLYMAN BENNETT: Okay. All right.

COMMISSIONER DEWLING: On this list.

ASSEMBLYMAN BENNETT: I see, on the 98.

COMMISSIONER DEWLING: That's right. Now, because of the breathe of that uneasiness there how much flexibility you need in some sort of funding source? If every time I've got to go back to the well to get approval on these, all right, I can't plan two years down the road. What gives me--

You have no idea what you all have done this past year by giving us the \$150 million. We know can sit down at the negotiating table knowing I've got money behind me. There's no

other state that can do that. I can say, "You don't want to do it, I'll do it. Sign up now or I'm doing it." I don't have to bluff. I can move aggressively without bluffing. Many other states do not find themselves in that enviable position. And responsible parties, major corporations, are now doing things normally they hadn't done before because of all the legal uncertainties, responsibility, and the desire to see if they can get a better deal with EPA. Our policy has been that we will not allow the responsible party to do a segment of it. That we would go out, they would pay into our fund. They would then join us in going out to hire the consulting engineer and there would be a committee approach, a committee of five, where we would have three and they would have two votes. We've done that successfully at a couple of sites already and we think that's the proper way to go.

ASSEMBLYMAN BENNETT: But as of July 1st that 150 is going to be down to 30 million?

COMMISSIONER DEWLING: It could. It could be the 150 million, which is now 60 left, all right?

ASSEMBLYMAN BENNETT: Right.

COMMISSIONER DEWLING: As of today. I could commit 10 million tomorrow if EPA is unable to fund Lone Pine Landfill. Last week I was ready to commit the money. Today EPA is being told, "Spend the \$150 million as fast as you can, guys." So I don't have to spend that 10 million. I was advanced funding loaning them the money. So I would have committed that money. I had to actually take that money and put it in a bank in the midwest in a lockbox so the Corp of Engineers can draw on it. We had to give them a reverse letter of credit. So I would have had to obligate the full amount of the design to put it in a lockbox for them.

ASSEMBLYMAN BENNETT: Commissioner, my only point with respect to that, if the \$150 million has given you a tool in order to be able to have a stronger position on enforcement actions-- Let's forget the Feds for just a second because nobody

in Washington knows what the hell is going to come from down there, much less us trying to figure out what's going to happen. Let's just put them aside for a second and let's try to base our dependency as to where we're going in a New Jersey atmosphere just for the sake of argument. I do not understand how we can conceivably take away that tool that is necessary for you to be able to sit at that table and take ourselves from a negotiating position of \$150 million that we're utilizing for cleanups and very rapidly go down to 30 million, and not come back and ask for more?

COMMISSIONER DEWLING: Because I have 100 million, also, in the bank and all they've got to do is decouple that. I have 100 million today that I haven't even touched that I have approval from Treasury to obligate against. Even without the statutory decoupling. So I still have--

ASSEMBLYMAN BENNETT: We have appropriated at least two times, maybe three times, we've appropriated it.

COMMISSIONER DEWLING: No, the law hasn't been changed to allow--

ASSEMBLYMAN BENNETT: No. We did an appropriations bill from that bond act, passed both houses, signed by two different governors. And I mean I'm sure before we're done we'll do it at least once, probably two more times.

COMMISSIONER DEWLING: Yeah, but if you hadn't-- If you hadn't given us the \$150 million this year I would have been into that money. But the point is--

ASSEMBLYMAN BENNETT: I'm glad that we gave you the 150. I'm upset that you didn't ask for any more for this year.

COMMISSIONER DEWLING: That's \$160 million today that I have in my back pocket when I'm sitting across the table arguing with somebody.

ASSEMBLYMAN BENNETT: Right, but you're not going to have that at the end of the fiscal year.

COMMISSIONER DEWLING: I will have 130 million then.

ASSEMBLYMAN BENNETT: And no further money from the--

And no further money from general appropriations as of July 1, 1986. At the end of this current fiscal year you won't have that. Obviously you won't have that \$130 million.

COMMISSIONER DEWLING: On June 1 -- July 1 of next year--

ASSEMBLYMAN BENNETT: Of next year, right.

COMMISSIONER DEWLING: This coming year, this coming July 1.

ASSEMBLYMAN BENNETT: Okay.

COMMISSIONER DEWLING: I will have \$100 million, correct?

ASSEMBLYMAN BENNETT: Yes.

COMMISSIONER DEWLING: From the bond money. And I'll have whatever residual is left from the 150 I haven't spent.

ASSEMBLYMAN BENNETT: Right.

COMMISSIONER DEWLING: And I will have an additional 15 that's coming in that year from the Spill Fund.

ASSEMBLYMAN BENNETT: Correct.

COMMISSIONER DEWLING: So as a minimum I'm going to have at least \$150 million dollars.

ASSEMBLYMAN BENNETT: And how long will it take you to spend that?

COMMISSIONER DEWLING: If I project out what I'm going to need--

ASSEMBLYMAN BENNETT: This is just Superfund sites. Now that money is not going to be just spent on Superfund.

COMMISSIONER DEWLING: Just Superfund sites. That's right. What I'm saying to you, in--

ASSEMBLYMAN BENNETT: On just Superfund.

COMMISSIONER DEWLING: -- October of next year--

ASSEMBLYMAN BENNETT: Right. October of this year.

COMMISSIONER DEWLING: A year from this October. A year from 1987, October '88.

ASSEMBLYMAN BENNETT: Okay.

COMMISSIONER DEWLING: October '88 I have to have in

place --

ASSEMBLYMAN BAER: Fiscal '88, that's October of '87.

COMMISSIONER DEWLING: October '87, a year from this October is October '87, right? In October '87 I have to have in place the ability to raise or have several hundred million dollars that will allow me to continue the level effort that we have on cleanup. So by that October -- October '87, not October '86 -- somewhere around that time there, I need to have the ability in place, either the taxing ability, or the bonding, whatever the case might be, to provide that source of money for me.

ASSEMBLYMAN BENNETT: Are you telling me that the money that you have, whether it be 160 million or 130 million plus 15, is going to take you into October of '87?

COMMISSIONER DEWLING: You got it. Right. Based on the timing of all these studies coming in. Hard to believe, but it's true.

ASSEMBLYMAN BENNETT: Well, it's hard to believe. The Governor told us that we weren't going to have it that long and then the Commissioner before you told us we weren't going to have it that long. I'm totally baffled as to how we're stretching this money which-- I mean, the Governor in his budget just said at the end of this calendar year--

COMMISSIONER DEWLING: That's right.

ASSEMBLYMAN BENNETT: Now we're extending it for an additional ten months.

COMMISSIONER DEWLING: At the end-- I'm projecting for-- We have gone through in the past six months an upheaval in the Federal Superfund program. Things have come to a screeching halt. This is a dynamic program. It changes.

ASSEMBLYMAN BENNETT: Well, that doesn't make our money last longer.

COMMISSIONER DEWLING: It certainly does. Most certainly does.

ASSEMBLYMAN BENNETT: How does it do that?

COMMISSIONER DEWLING: Because I don't have match money I have to put up against the Federal share.

ASSEMBLYMAN BENNETT: I thought you were going to advance State moneys to be able to continue doing--

COMMISSIONER DEWLING: But for six months the Federal government hasn't moved a project. They haven't moved a project. We've been trying to work out the fiscal arrangements. We haven't moved in the past six months. We're taking our initial remedial measures. We're doing our feasibility studies, but we're not moving with the big designs. Lone Pine is still sitting. Bridgeport, the big one, is still sitting. They're supposed to go, this fiscal year, between now and September 30th, but they were supposed to go in December and they didn't go in December. So when we projected what we would have needed was back in December, now it's six months later.

I can sit here and honestly tell you that this--

ASSEMBLYMAN BENNETT: How do you get a site off the Superfund?

COMMISSIONER DEWLING: Excuse me?

ASSEMBLYMAN BENNETT: How could you get a site off the Superfund?

COMMISSIONER DEWLING: You can't. You know what it takes to get a site-- it takes almost as long to get it off as it did to put it on.

ASSEMBLYMAN BENNETT: Are you sure we want to be trying to get more sites on this list?

COMMISSIONER DEWLING: That's what I said to you. I don't believe, personally, we should condone adding all these sites to the Superfund list. But on the other hand, legally we may be obligated to do that, because of the requirement that we can't spend the Spill Fund money unless we may have to get a declination from the Federal system.

ASSEMBLYMAN BENNETT: You know, maybe New Jersey shouldn't even be lobbying for the renewal of Super Fund.

COMMISSIONER DEWLING: I don't agree with that. I

think we have a responsibility to get as much of the Federal pot as possible. But the sites that are being put on the Federal Superfund list now, if you had a site that scores, you know, up in the 80s and 90s, I think it would be irresponsible for us not to put it on the site (sic). Most of the sites we see now are the margins.

ASSEMBLYMAN BENNETT: Putting it on that list assures us that we're going to have these delays though.

COMMISSIONER DEWLING: Yep. That's the process. That's the legal process. By law you're required to do that.

ASSEMBLYMAN BENNETT: I could call a lot of things, but legal process is not one of the words that I would definitely would use to describe it.

COMMISSIONER DEWLING: It's the administrative process.

ASSEMBLYMAN BENNETT: Much shorter.

COMMISSIONER DEWLING: Excuse me. The administrative process, it's the process we have to go through. To get a site delisted, all right, takes a minimum of one year to get a site delisted. The Kryswaty Farm-- Today I sit here and tell you that we've completed everything. That site will not be delisted for another 18 months because you've got to go out for a public hearing again to say this is what we did, this is how we did it, this is our final-- And you've got to go through at least 12 months of monitoring to make sure what you did--

ASSEMBLYMAN BENNETT: Even the Friedman property took quite--

COMMISSIONER DEWLING: Took three years.

ASSEMBLYMAN BENNETT: To get off.

COMMISSIONER DEWLING: That's right.

ASSEMBLYMAN BENNETT: No, but I mean, is it off yet?

COMMISSIONER DEWLING: Yes.

ASSEMBLYMAN BENNETT: But that took-- I mean, that came out--

COMMISSIONER DEWLING: It was just taken off. It's being petitioned to be off now.

ASSEMBLYMAN BENNETT: And yet the feasibility study came back and said, "No problem."

COMMISSIONER DEWLING: That's right. You know what that says to me? We did a damn good job. One out of 99, you know, we found out, we thought would have been a Superfund site and it wasn't.

ASSEMBLYMAN BENNETT: Well, you can cross that off, say "cleaned up."

COMMISSIONER DEWLING: I don't consider that a cleanup. All right? But the fact is it's off the Superfund list. But I look at Krysovaty as a positive cleanup and there's a simple cleanup. Five hundred drums and a water line, four years. Now you get complex sites, we have responsible parties, God, you're talking six years. Cleanup, the cleanup standard I'm talking about. When we talked about cleanup before we talked about the phase which was the initial remedial measure, and I still say to this date, there is no state that has an aggressive a program as we do in terms of remediating those sites.

ASSEMBLYMAN BENNETT: We have the Spill Fund accounting for where the money has gone, and where it's committed to be going. Could you also include in that the interest that's been accumulated and added to the fund, so that may increase the numbers I think?

And I'm sorry, Byron, I know you had a question and I sort of cut into you.

ASSEMBLYMAN SHINN: Before you leave that subject, let me just add to it. If it was applied to research, Marwan indicated it was applied to some sort of research. Can we have an idea of what research and what results we gained from that?

COMMISSIONER DEWLING: A lot of it went up to NJIT and some of their programs and then some of the treatability studies at Kin-Buc Landfill on the leachate control.

ASSEMBLYMAN SHINN: Just so we have a feel for what it's doing because it's got to be a significant amount of money.

COMMISSIONER DEWLING: I think it's about 300,000 a

year.

ASSEMBLYMAN SHINN: 300,000?

ASSEMBLYMAN BENNETT: In interest?

COMMISSIONER DEWLING: That's the research, 300,000 for research that comes out of the interest on that money.

ASSEMBLYMAN SHINN: If an average fund balance is 30 million it ought to be, you know, you ought to have 10% return on it anyway. It ought to be \$3 million.

COMMISSIONER DEWLING: No, there's no way. I'm saying it goes, how much money is there versus what the commitments are and what have you.

ASSEMBLYMAN SHINN: I was saying an average balance.

COMMISSIONER DEWLING: I will have to get that information for you and separate out the budgeteers and the administrators and the real world. We're dealing with-- We had the same problem last year with Senator Russo on the bond issue for the water supply bond issue. I mean, you know, when you build a house I obligate the money up front. The cash flow was then how much money of the 350 have you spent. The cash flow was only 5 million. I obligated 270 million.

ASSEMBLYMAN BENNETT: But in the meantime-- That's different when the bonds haven't been sold and you don't have the cash. In the Spill Fund you have taxpayers paying real dollars into a fund that's there so it should be collecting some sort of interest and if they're collecting in a year \$15 million, the only point I think Assemblyman Shinn is making is that a \$300,000 interest, someone isn't really -- there's some interest disappearing is, I think, his point.

COMMISSIONER DEWLING: I'll find out for you.

ASSEMBLYMAN BENNETT: Does the administrative cost come out of interest or does it come out of the principal? Do we know?

COMMISSIONER DEWLING: Does the administrative costs come out of anything in the Spill Fund?

D R. M A R W A N S A D A T: It's about \$3 million in

interest which goes back into the fund and the 30 million does account for all of the interest which has been accrued. And the administrative--There is no differentiation between what is being taxed, what is coming in as tax, and what is actually accrued as interest. The administrative fund, if you remember the administrative budget out of the Spill Fund last year was only \$750,000 as was appropriated by the Legislature.

ASSEMBLYMAN BENNETT: In the budget.

DR. SADAT: Beg pardon?

ASSEMBLYMAN BENNETT: As a footnote in the budget.

COMMISSIONER DEWLING: That's correct.

ASSEMBLYMAN SHINN: I guess the other item we really need is some kind of an average daily balance for 1985 so that we can get a handle on what kind of cash is in the account as far as an average daily cash balance for--

COMMISSIONER DEWLING: See that's where-- I'll be honest with you, Treasury controls that. I'd have to find out that from Treasury.

ASSEMBLYMAN SHINN: Yeah, I know. You're going to control it.

ASSEMBLYMAN BENNETT: No, you control Spill Fund.

COMMISSIONER DEWLING: Treasury writes the checks ultimately. We now have it into our Department, and I'm not sure exactly where everything is. My own personal view right now, and I will find out--

ASSEMBLYMAN BENNETT: Byron?

ASSEMBLYMAN BAER: Before I get into questions, I think that accounting should certainly differentiate between encumbered and unencumbered funds, too. The more I try to understand this the more confused I get.

COMMISSIONER DEWLING: And they keep changing the acronyms too.

ASSEMBLYMAN BAER: That helps, too. But I'd like to, in terms of the overview --just talking about the Superfund sites now, the 99 Superfund sites -- get a clear picture of what the

total undertaking is because what I understand so far only covers us part way into that, with completion of some of the sites and so many years into it. I'd like to ask what is your estimate of the total cost of the work, regardless of where the money comes from, for completing the 99 sites, and what's your estimate as to the amount of time?

COMMISSIONER DEWLING: That's the figure at the bottom right-hand side, fourth line up, 1.13 -- it's \$1.1 billion.

ASSEMBLYMAN BAER: That includes all of them? That's not just the--

COMMISSIONER DEWLING: That's the 99.

ASSEMBLYMAN BAER: That's for all 99 then.

COMMISSIONER DEWLING: Right.

ASSEMBLYMAN BAER: Okay.

COMMISSIONER DEWLING: And that's to start the new feasibility studies for the other five.

ASSEMBLYMAN SHINN: But that doesn't include treatment, does it?

COMMISSIONER DEWLING: Right now that would include treatment at \$86 million. If you look at 67 sites in '91, there's \$46 million. Now what you have to--

ASSEMBLYMAN BAER: That's all the work with all those 99. I'm not talking about the additional ones you add in.

COMMISSIONER DEWLING: All right. But now, what you have to understand here is that if you look at \$46 million and \$26 million and \$9 million you come up with \$86 million a year for O and M. That may have to continue for the next 20 years on those sites. That's O and M. I don't know right now what the Federal contribution is going to be for that. Now, that could change tomorrow if they spend money for treatment. But that \$86 million a year will continue until those sites, the groundwater is cleansed to some level that we are saying is acceptable.

ASSEMBLYMAN SHINN: But you don't go beyond fiscal '91 in the Operation and Maintenance?

COMMISSIONER DEWLING: No. I'm saying to you what I'm

trying to project is what my funding needs are going to be for capital investments and for doing what I have to do for O and M.

ASSEMBLYMAN SHINN: I think Mr. Baer's question was a total cost for all the 99 sites for cleanup, and that would have to include 20 year operation money which is--

COMMISSIONER DEWLING: But how do I know it's not going to be five years of operation?

ASSEMBLYMAN SHINN: Yeah, I know.

COMMISSIONER DEWLING: How do I know it's not going to be 25? I'm saying to you you're going to have to look at this in segments of five year increments. For me to project now what I'm going to need the next 15 years would be almost immoral. It really would.

ASSEMBLYMAN SHINN: You just-- Basically what I think you're telling us is you want to go from zero to 150 million in any given year in 3.5 seconds because that's the way you maximize Federal funds.

COMMISSIONER DEWLING: I want to be able-- I want to go to zero to 500 million like that if I have to three years from now.

ASSEMBLYMAN SHINN: Simple. He needs a petty cash flow. All right? No problem.

COMMISSIONER DEWLING: Because if I have to get hurt in those years I have to put the money where our mouth is during those years when we start the big construction. Now, the ideal thing is to get the responsible party to pick up the O and M cost. If the new Federal statute goes through, then I only have to pay 10% of that \$86 million a year -- \$8 million a year. What I'm saying to you, if I had a financial base that gave me by a combination of looking at a revenue source that was flexible enough and had the ability through taxes, whatever the case might be, of bringing in maybe \$50 million a years, and I can project out a 10 year commitment, that's \$500 million. If I had to get funding three years from now I could bond that money real fast and bring the money up. Three years from now if I get more

Federal share, I only need \$200 million, I can do that, too.

So I'm saying to you whatever system we come up with and recommend to you all I can show you what the needs are, but it's so dependent on the Federal government. Do you anticipate you're not going to get any Federal dollars for Superfund? Do you anticipate you'll get no Federal dollars for O and M? If you do that, you have to take that \$86 million and take worst case condition, 20 years, and say I've got a sizable amount of bucks out there of almost \$2 billion just for O and M for the next 20 years. Now it would be immoral for me to say that because I don't think that's-- I think the Federal government is going to have to pay O and M.

ASSEMBLYMAN BENNETT: They didn't the first five years even include it.

COMMISSIONER DEWLING: Hey, look, we've learned a lot in the first five years.

ASSEMBLYMAN BENNETT: We did, but I'm-- We don't know if they did yet.

COMMISSIONER DEWLING: I think they did and I think our legislators in-- You know, I went down there last week to more or less express to them our concern. You know, giving it a two-month breath of life doesn't really solve the problem.

ASSEMBLYMAN BENNETT: No. It gave them two more months to be able to squirm the way out of something.

COMMISSIONER DEWLING: It gave me two more months of taking it into the arm, in the veins. That's it. And then I come over here and you say which direction are you going, and now I'm still in limbo for another two months.

ASSEMBLYMAN BAER: Let me come back to my question. I think we've gotten pretty far afield. I understand-- I'm not talking about where it's coming from, but I -- and I recognize, as you point out, when you get to O and M and you're talking way off into the future the uncertainties become greater. But I don't understand why because they're greater, it makes sense to make no projections or assumptions or estimates as opposed to

making some sort of assumptions or projections or estimates? Because we just don't know where we're going to be, or at least make some projections which give a range. But we're trying to take the longest perspective of the whole thing.

COMMISSIONER DEWLING: How many years do you want me to go out?

ASSEMBLYMAN BAER: You have to make the determination on what assumptions to use.

COMMISSIONER DEWLING: That's what I'm suggesting. I'm suggesting—

ASSEMBLYMAN BAER: That has to be based on what information, incomplete as it may be, that you have. We don't have it. But I don't see how we can just leave it open.

COMMISSIONER DEWLING: I think I'd be misleading you going out beyond five years. I'm saying to you you must-- For us to make a decision for the next 15 years on what the fiscal requirements are going to be you can take any of these things and project them any way you want to project them, and each one's guess is as realistic as someone's guess. I think it would be somewhat irresponsible to project this out beyond five years.

ASSEMBLYMAN BAER: Let me get into something else. Before the court decision on the Superfund, how much of the Spill Fund had been committed to the Superfund sites? How much of--

COMMISSIONER DEWLING: Very little, because in the past years we've worked with the Attorney General's office and what we've done is deliberately not charged NPL sites against the Spill Fund. So we're looking at now how much we may have to pay back the system.

ASSEMBLYMAN BAER: You'll give that breakdown in the material you'll provide.

COMMISSIONER DEWLING: Right.

ASSEMBLYMAN BAER: So how much was for that?

COMMISSIONER DEWLING: I think it primarily dealt with some of the small sites. It's on the order of possibly a couple

of million dollars.

ASSEMBLYMAN BENNETT: The 10% would have been all right, though, right?

COMMISSIONER DEWLING: Yes.

ASSEMBLYMAN BENNETT: On the 90/10?

COMMISSIONER DEWLING: That's right. The 10% share is okay.

ASSEMBLYMAN BENNETT: So if that figure-- You're saying that those other dollars would be in excess of the 10%?

COMMISSIONER DEWLING: (Nods)

ASSEMBLYMAN BENNETT: Okay.

ASSEMBLYMAN BAER: Good point.

COMMISSIONER DEWLING: Say where we took an IRM, something like that.

ASSEMBLYMAN BAER: When you were considering the loan, what sites were designated where that was going to be spent on?

COMMISSIONER DEWLING: Well, off the top of my head there was Lone Pine, there was D'Imperio, there was Bridgeport, and there were about four or five other ones. They were the ones that we had scheduled this year for design.

ASSEMBLYMAN BAER: You'll include that with the other information.

Now, one of the things that I'm not clear on in relation to that is what was the interest that was proposed? At one point I saw it was proposed that no interest. I know that there are other moneys which we, as a State, borrowed from the Federal government which we pay interest on. I understand there was some further discussions and adjustments of that. What was the final word as to what the interest was to be on that?

COMMISSIONER DEWLING: There was no final word. There was no final word. It hasn't been worked out as we sit here right now. What we had talked about is the possibility of working out a reverse letter of credit, because I refuse to put money into their bank without normal banking interest. So they would not go-- They wanted zero interest.

ASSEMBLYMAN BAER: They wanted zero interest while on the other hand in a number of accounts where the State borrows money from the Federal government they pay interest.

COMMISSIONER DEWLING: Our position was we will not put money in a bank account bearing zero interest. We wanted the interest.

ASSEMBLYMAN BAER: Was there a proposed bond agreement?

COMMISSIONER DEWLING: Excuse me?

ASSEMBLYMAN BAER: Did the State develop a proposed loan agreement?

COMMISSIONER DEWLING: Yes.

ASSEMBLYMAN BAER: That's something that will be available to the Committee?

COMMISSIONER DEWLING: It hasn't been filed. I mean, we're still trying to work out the proper wording. There's nothing that's been finalized yet. There is a draft reverse letter of credit that we're trying to work out with OMB and ourselves, but there has been no agreement in terms of whether interest-- We have clearly said to them we will not put any money into a bank without interest. And any loan agreement is not going to reflect interest. That's cooperative agreement with EPA and ourselves. We're not the fiscal people. We will say we will put it in a bank. Now you've got a letter of credit or whatever else, financial document that comes out of there.

ASSEMBLYMAN BAER: So the money hasn't been transferred yet?

COMMISSIONER DEWLING: No, as of today there hasn't been a nickel transferred.

ASSEMBLYMAN BAER: I see.

COMMISSIONER DEWLING: Excuse me. You wanted a list of those projects that were going to be loaned money. Bog Creek Farm design, BROS Landfill construction, D'Imperio design and construction, Kramer Landfill design, Lipari RIFS and design, Lone Pine construction, Montclair/Glen Ridge design and construction, and Swope Oil design.

ASSEMBLYMAN BAER: They were chosen on the basis they were the--

COMMISSIONER DEWLING: They were ready. They're ready.

ASSEMBLYMAN BAER: They were the ones that were ready.

COMMISSIONER DEWLING: They were ready.

ASSEMBLYMAN BENNETT: Just so I understand. Those that you just said are the ones that are contained in the loan agreement that you're attempting to get the Federal government to sign so that you can advance the moneys to continue this operation and in return they would then repay it at such time that there would be a reauthorization?

COMMISSIONER DEWLING: No. We would use that as our match on other projects so we wouldn't--

ASSEMBLYMAN BENNETT: I understand. All right. And to date they have refused to execute that?

COMMISSIONER DEWLING: We haven't agreed upon the financial arrangement for executing it to date. And now -- yesterday -- they said, "We no longer have to execute it because now we have \$150 million" and I have said, "Please, let's go with one project to put the paperwork in place so two months from now we don't start over again." So I've gotten them to agree that we will take one of these sites and work out a final financial arrangements so that we can set up this reverse letter of credit.

ASSEMBLYMAN BENNETT: I understand.

ASSEMBLYMAN BAER: Okay. If they've agreed to that, then you must be very close to an agreement and I think it would be interesting to submit to the Committee that proposed loan agreement.

COMMISSIONER DEWLING: As soon as it's squared away you'll have a copy of it. It's actually a reverse letter of credit.

ASSEMBLYMAN BAER: I see.

COMMISSIONER DEWLING: That's what we're talking about.

ASSEMBLYMAN BENNETT: Do you want to leave and come back to you?

ASSEMBLYMAN BAER: No, just half a second. There was something I wanted to -- before -- something just slipped my mind. I wanted to try to recall before I go ahead. Maybe I'll come back to it.

Now, as I understand it the court decision that created some problems with the State money on the Superfund, doesn't interfere with the State collecting and using that money for non-Superfund sites, is that correct?

COMMISSIONER DEWLING: That's correct.

ASSEMBLYMAN BAER: Of which there are about 1200. How would you rate the collective importance of those 1200? I'm not talking about individually, but taken as a whole, how significant are they in terms of protecting the environment of the State?

COMMISSIONER DEWLING: I think you have to go through the same type of ranking that you go through on the Federal Superfund list, an equivalent ranking. And we're going through that process now.

ASSEMBLYMAN BAER: But I mean if we were to leave that whole business aside and not deal with it, how serious a problem would that be? Not talking about leaving the 1200 out--

COMMISSIONER DEWLING: Serious. Serious.

ASSEMBLYMAN BAER: I would assume. In terms of taking a look at the State's total needs financially, what are the very ballpark cost estimates as to what this is likely to come to?

COMMISSIONER DEWLING: That's what we mentioned to Mr. Bennett before that when we scheduled the hearing originally around the 10th I was going to have both those segments of the pie together. What I've had together so far is the NPL list. We will have NPL list and the non-NPL list to show you a total photograph of optics what we need.

ASSEMBLYMAN BENNETT: I move this date up to fit into the schedule and then they wrote and said, "Sure, they can come, but they can only do the national."

ASSEMBLYMAN BAER: I remember what the question was that I wanted to deal with on Superfund before I left it, and

that is this: We had some legislation which we were acting on, if I recall, to authorize that loan so that the State could undertake that reverse loan to the Federal government.

COMMISSIONER DEWLING: It doesn't require legislation for us to do that.

ASSEMBLYMAN BAER: But that's what I was confused about. It is not necessary to have the Legislature--

COMMISSIONER DEWLING: No, not that I'm aware of. We call-- All we're doing is increasing our share from 10% to 40%.

ASSEMBLYMAN BAER: Didn't I see some legislation on this? No?

COMMISSIONER DEWLING: I'm not aware of anything.

ASSEMBLYMAN BAER: Okay. Anyway, that is not necessary. All right.

COMMISSIONER DEWLING: We've had Dick Standiford down with OMB. I mean, you talk about total frustration-- We're not just dealing with EPA. We're dealing with OMB, we're dealing with Treasury Federal and we're dealing with our fiscal people at this end. Believe me, Dick Standiford is not about to let the State of New Jersey get a raw deal on this. He's the protector of the fund and he's making sure that we get our fair share of any interest or anything like that.

ASSEMBLYMAN BAER: By the way, speaking of authorizations. It's a little off the track, but you made reference earlier to the DEP indemnifying some contractors up to, I think, \$10 million cap.

COMMISSIONER DEWLING: Ten million.

ASSEMBLYMAN BAER: I'm a little puzzled in view of the fact that we were working on legislation to authorize indemnification. What is the relationship of the action that the Department has taken here with that legislation? Was that legislation unnecessary or does the Department have--

COMMISSIONER DEWLING: Most certainly not.

ASSEMBLYMAN BAER: --the authority or is the Department doing this only preliminarily, it can't finalize it until that

legislation is signed or what?

COMMISSIONER DEWLING: We have to take the gamble during the study portion. This is not the contractors or anything like-- This is for the study portion of it. As an example, the radon study up in the State, the contractor won't even undertake the study unless he has some liability guarantee. So in order to get the study off the ground we're asking, from a professional liability standpoint, what is a reasonable amount. And we've gone to the professional societies and what have you. A reasonable amount is 10 years, 10 million. That's all we're offering. This is not for construction. We have preliminarily worked out wording in our contracts where we are taking the liability ourselves so as not to stop everything. Until that legislation passes, you know, we're going to have to put our head in the noose and take these types of chances. We need that legislation badly.

ASSEMBLYMAN BAER: All right. I won't go into the non-Superfund stuff further at this point since it's going to be taken up later. But I do want to just mention that having looked at this very extraordinary cumbersome and lengthy procedure that is statutorily required for the Superfund sites by Federal law, I'll certainly be interested in your thoughts as to how in those sites where the State has greater freedom you would be telescoping--

COMMISSIONER DEWLING: How about a couple months?

ASSEMBLYMAN BAER: --and simplifying -- that sounds great -- the procedures.

COMMISSIONER DEWLING: No, I'm saying cutting the dates shorter by-- I mean, believe me, the State's process, we still are obliged to follow the same protocol relative to giving responsible parties a chance, going out giving notice on these things, going through the design and feasibility study. There's a pool of contractors out there that can do this work. There's a pool of laboratories that can do the work. You know, you just can't fit an elephant into a breadbox, and that's what you're

trying to do. Your constraints are the capacity to get the stuff done on design. The constraints are the capacity to get the laboratory analysis done. This is in the field as a whole. So, you know, you could provide all the money in the world. You can't get that many more contractors out there to do the design work and to do the lab work. There are not that many well drillers out there that are not being employed all around the country. There are not that many laboratories that are, all of a sudden, jumping into the business. Because when Superfund closes down, the work doesn't come into those laboratories. It's almost like an airplane. When you have empty seats when that plane takes off, you've lost the dollars for those seats. If the Federal government kicks in all the money tomorrow, you're not going to make up for the seven months of relaxation. You've lost at least a year in timing of moving these projects.

If there are ten laboratories out there that are doing the work, and they haven't been doing anything for the past three months -- because only 10% of their work is Federal, the rest is all industrial -- they're not all of a sudden going to change their protocol and say, "Hey, the Federal government is now back in business, let's open up the doors." They're going to say, "Hey, I've got to take care of my clients."

ASSEMBLYMAN BAER: I was asking, the first part of your answer, I think, was in relation to the non-Superfund sites. But I'm not sure, as you were discussing more and more the Federal procedure and the Superfund sites, whether there was some confusion about my question.

COMMISSIONER DEWLING: I'm saying maybe we will save--

ASSEMBLYMAN BAER: You're saying even where you're not talking about the Federal Superfund sites, the Federal requirements--

COMMISSIONER DEWLING: The non-Superfund sites.

ASSEMBLYMAN BAER: --the basic structure and time frame set forth by the Federal procedures is pretty much what's necessary for this State and can't be significantly improved on

because it's necessary and makes sense and is the logical way to proceed.

COMMISSIONER DEWLING: You save about six months. So rather than--

ASSEMBLYMAN BAER: Six months over a span of what?

COMMISSIONER DEWLING: The total time.

ASSEMBLYMAN BAER: Six years?

COMMISSIONER DEWLING: Five and a half years. You're talking around five and a half to six years, five years.

ASSEMBLYMAN BAER: That's staggering.

COMMISSIONER DEWLING: Well, think about it. You've got to go through a feasibility study, which is a minimum of 12 to 18 months. You've got to go through a design, which is a minimum of 12 months. You've got to go through a construction, which is a minimum of two years, no matter how you slice it. So what you're talking about is cutting out the bureaucracy in between.

ASSEMBLYMAN BAER: Thank you very much.

ASSEMBLYMAN BENNETT: Thank you, Byron. Bob?

ASSEMBLYMAN SINGER: Two quick questions. First of all, Commissioner, I would appreciate that if we get a listing of all the Superfund sites and their locations, when you refer to some of these--

COMMISSIONER DEWLING: Just happen to have that here, Mr Singer.

ASSEMBLYMAN SINGER: I appreciate that, because when you refer to some of them, unfortunately I'm not familiar with the names and they're meaningless to me. Thank you. I appreciate that.

COMMISSIONER DEWLING: That document just came out and we will have that available. I only brought one with me just to show you and it's a short bio on every site, little map where it is, so you can see if it is in your district, whether you would like it out of your district, whatever the case might be.

ASSEMBLYMAN BENNETT: Most of them are in mine.

ASSEMBLYMAN SINGER: Some light reading for me to do.

My one question I wanted to ask you was concerning additional sites to the Superfund list, you're projecting five new sites a year.

COMMISSIONER DEWLING: Every year, right.

ASSEMBLYMAN SINGER: My concern is looking at the 300 or 400 landfills in the State, what percentage of those you think will end up on the Superfund?

COMMISSIONER DEWLING: I doubt it. You know, I doubt any of those will end up on the Superfund list.

ASSEMBLYMAN SINGER: Even if they are found polluting local groundwater?

COMMISSIONER DEWLING: Because the model requires you to look at the method of impact: air pollution, groundwater, surface water, the whole thing. And the model is directed in such a fashion, I don't think most of them will show up on the Superfund list.

ASSEMBLYMAN SINGER: Okay. So in other words, you are rejecting those landfills, even though they may be polluting--

COMMISSIONER DEWLING: Some of them. I'm just saying some of the worst cases. I'm just saying to you, I think we have-- You know, that's going to be the landfill closure, and the question here is should this-- You know, one could categorize that as groundwater contamination problem as well as any Superfund site. Should any funding source we come up with also address that?-- but that's a different list of sites. But again, no matter what you do there, if you think about it, is you're going to take some remediation to stop it from moving off the site.

ASSEMBLYMAN SINGER: Okay. But then you're projecting the fact that that's really not going to be additional sites to any extent on the Superfund list.

COMMISSIONER DEWLING: But I'm not saying you don't need money to resolve those problems.

ASSEMBLYMAN SINGER: We're not debating-- That's a

total different-- I'm just saying we're talking about the Superfund sites. You don't project that.

COMMISSIONER DEWLING: I doubt whether many of them will make the NPL. We've looked at some of those. I doubt it.

ASSEMBLYMAN SINGER: That's all. I'm finished.

ASSEMBLYMAN BENNETT: Commissioner, I'd like to thank you and your staff very much for coming today. Hopefully that we have started a process that I believe has to be an ongoing one. That the questions that Mark will put together, I think your staff took some of them down, but we'll try to put together some of the questions that we've touched on today to be able to secure additional answers for, and then to continue to proceed. I'm hoping that we can continue the working relationship. I think that is necessary.

You may find that the Committee is, or the Legislature is, somewhat overzealous may be your feelings, but we want to be certain that not only do we provide the sufficient dollars but that those dollars are then going to be utilized to the maximum input, which I'm sure is your goal also, and it's just us to come back to demonstrate that we will be-- We have been very supportive, historically, this Committee and the Senate Committee, in coming up with the dollars necessary that have been asked for and we want to continue to be certain that enough dollars are being asked for in order to complete the job. So I appreciate your coming. I think it's a rather unique situation. I just would like to comment that to have the Commissioner himself sit here for this long and to go through this is something to be commented on, and we're very appreciative that you took the time today that you yourself stayed to answer so many questions.

So I close the public hearing at this point. We do have one additional piece of business that will be outside the public hearing. Thank you again.

(HEARING CONCLUDED)



