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* JOSEPH PILLITERE *
* MEMBER OF ASSEMBLY *

STATE COMMITTEE ON CONSERVATION AND RECREATION

ASSEMBLY COMMITTEE ON ENVIRONMENTAL CONSERVATION

SENATE SUBCOMMITTEE ON
TOXIC SUBSTANCES AND CHEMICAL WASTE

PUBLIC HEARING

STATUS OF HAZARDOUS WASTE DUMP SITES AND
TOXIC SUBSTANCE RESOLUTION IN NEW YORK STATE

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COMMITTEE MEMBERS:

- Assemblyman Alexander B. Grannis,
Chairman
- Senator John B. Daly
- Assemblyman Maurice Hinchey
- Assemblyman John Zagame
- Assemblyman Louis J. Yevoli
- Assemblyman Armand D'Amato

STAFF MEMBERS:

- Weslie Rosen,
Coordinator
- John Connally,
Aide to Senator Daly

* * *

SENATOR DALY: Good morning, ladies and gentlemen. We thought we would proceed rather than wait any further.

I gather we won't have the use of a mike today, so we'll proceed.

I'm Senator John Daly, chairman of the Senate Subcommittee on Hazardous Waste. To my left is Assemblyman Peter Grannis, who is the chairman of the Assembly Task Force on Hazardous Waste.

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2 To my right is Assemblyman John Zagame
3 and Assemblyman Armand D'Amato, who are joining
4 us today.

5 This is the fifth in the series of six
6 hearings throughout the State in order to give the
7 citizens of the State the opportunity to have in-
8 put in what we hope will be a clearly defined and
9 effective State policy in the control of hazardous
10 waste.

11 It's only been in the last year that
12 this has been brought to our attention to such a
13 great degree via incidents such as the Love Canal,
14 which happens to be in my district in Niagara
15 County.

16 Some ways, perhaps, the Love Canal will
17 actually be an asset to the State by giving it the
18 awareness that as soon as necessary in the handling
19 of what we find to be a very serious, potentially
20 catastrophic problem.

21 Hopefully, as a result of these hear-
22 ings and the studies the Legislature and the Ex-
23 ecutive Branch working together, can develop a po-
24 licy for New York State, which, again, will lead
25 the nation.

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2 I may add that we certainly believe,
3 also, that the Federal Government, unfortunately,
4 has been dragging its feet in this very important
5 effort and we would hope that through our efforts,
6 we will also perhaps bring to the Federal Govern-
7 ment's attention, the need to move ahead much more
8 quickly than we are moving.

9 CHAIRMAN GRANNIS: I have just one re-
10 quest.

11 My first request is, if you want to
12 testify today, we ask that you fill out a card.
13 Wes Rosen, the woman in the blue dress, has them,
14 so we know and even if you don't want to testify
15 but would like to be kept up to date on what we
16 have done or are doing in the Joint Task Force
17 Senate Subcommittee work, if you'll fill out the
18 card, we'll make sure you get the information.

19 We have picked these hearing sites with
20 some degree of concern. As John just mentioned,
21 this is the fifth hearing we have had.

22 The first hearings were in Syracuse,
23 which is in Assemblyman's Zagame's district. There
24 is a problem with an abandoned site with thousands
25 of barrels of toxic waste and it highlights a par-

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2 particular problem in waste storage and waste col-
3 lection systems.

4 We had a hearing in Niagara Falls, the
5 home of the Love Canal and several other sites not
6 quite as notorious, but certainly of more concern
7 or possibly more concern in the long run, because
8 they're bigger than the Love Canal. They're now
9 being run by a company that is active and ongoing
10 and if anything happens to that particular company
11 in the future, there will be a site revisited, with
12 thousands and thousands of barrels of some of the
13 most toxic waste on the entire eastern coast of
14 the United States which are being stored there.
15 That could pose a problem.

16 There are two or three major, secure
17 toxic sites on the east coast. One happens to be
18 a site in Senator Daly's district. There is also
19 a site in New Jersey that was written up in the
20 papers yesterday. It has serious problems. There
21 are chemicals stored on the banks of the water-
22 way. We have problems of what to do on those,
23 and those are the problems we are facing in New
24 York and should be cause of the national concern.

25 We have received testimony at three

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2 other hearings we have had saying we ought to
3 wait for the national government to act and we
4 could follow their lead. It's our feeling in New
5 York, that because of the problems, because of
6 the hundreds of toxic sites, because of the
7 peculiar problems of Long Island with contamina-
8 tion of its groundwater, New York State cannot
9 afford to wait. We have to take the lead if the
10 Federal Government chooses not to act. We have to
11 move ahead, set an example and, hopefully, it is
12 our hope the Federal Government will come in with
13 matching money and take over its responsibility to
14 recognize that the wastes that are generated by
15 our industries here are wastes we have accepted
16 from states all over the eastern part of the United
17 States and from as far away as Puerto Rico which
18 come from generating products that have benefited
19 the national economy.

20 We are not setting out to impose a bur-
21 den on our industries where we will make them non-
22 competitive with those in other parts of the
23 country. We have an obligation to the State to
24 protect the health and welfare of New Yorkers and
25 that is what we intend to do through the legisla-

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2 tion that will come out of these hearings and the
3 work we have done with the Joint-Senate groups
4 that are interested in toxic wastes.

5 ASSEMBLYMAN YEVOLI: Distinguished
6 fellow legislators and concerned residents of the
7 Empire State.

8 My name is Lewis J. Yevoli, I reside
9 at 29 Serpentine Lane, Old Bethpage and I repre-
10 sent the 10th Assembly District in the State Leg-
11 islature. I welcome you to Long Island and wish
12 you well in this most important public hearing.
13 Your findings and the resulting legislative efforts
14 that you develop to solve the problem will have a
15 significant impact not only on the health and wel-
16 fare of the people who reside on Long Island but
17 also the State.

18 Several years ago on December 14, 1976,
19 in this very room, a public hearing was conducted
20 by the Subcommittee on Health Care of the New York
21 State Assembly and as a result we were able to
22 elicit the truth and to ferret out the facts as
23 they related to the purity of the local water sup-
24 ply. Thanks to the support of my colleagues in
25 the State Legislature and the cooperation of the

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2 executive branch we were able to obtain the funds
3 and purchased vital laboratory equipment.

4 During the intervening years, every
5 public well has been tested at least once and many
6 wells have been closed down.

7 A legislative report on carcinogenic
8 agents in public drinking water was issued on May
9 7, 1977, and was the basis for very important leg-
10 islation.

11 Unfortunately, the very source of
12 contamination that precipitated the hearing in
13 1976, namely the Hooker Chemical facility closed
14 down in the early '50s, continues to endanger the
15 lives of those who live on Long Island.

16 Long Island, land of landfills and Mt.
17 Trashmores is ever a leaching specter that casts
18 a menacing shadow over all who live in the bi-
19 county area. Unfortunately, the Sword of Damocles
20 is ever present to haunt us and each day brings
21 with it new and grave threats to mankind.

22 Only this very week we were advised
23 that the former site of the Sylvania plant on
24 Cantiague Rock Road in Hicksville where nuclear
25 fuel rods were processed might be the source of ex-

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sessive degrees of radiation and we are awaiting the results of laboratory tests.

One need only read the daily newspapers to learn of an ever increasing number of instances wherein toxic substances and chemical waste sources are indentified.

On Long Long Island, landfills present a clear and apparent danger to one and all. It is not enough to just ban future landfill operations or to close down existing facilities, cover them up with dirt or vinyl sheeting and walk away from a responsibility.

This joint Legislative Committee Hearing has an awesome responsibility! It must bring all of the power and expertise of the State of New York to the task of identifying each and every source of hazardous waste and toxic substances that may have existed in the past, it must register on a current basis present sources of contamination as well as put in place proper safeguards to prevent their doing violence to our way of life.

Last and of equal importance, the State must develop facilities to render harmless hazardous existing waste dump sites as well as process toxic

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2 substances to make them impotent.

3 Without alarming the public, we have
4 the responsibility of making them aware of our
5 findings and identifying the sources of contamin-
6 ation. While it may be true that industry as well
7 as the individual will continue to generate
8 hazardous waste and toxic substances as a by-
9 product, we must be certain that industry not be
10 permitted to export its problem or to turn the
11 waste over to some unknown third party and cleanse
12 their hands of the matter.

13 The law must be very clear and hold
14 them responsible for making certain that the by-
15 products do not pose a threat to society. If nec-
16 essary, government may well have to make sure that
17 regional facilities are available to achieve this
18 objective.

19 The findings of this legislative hear-
20 ing must also underscore the importance of all
21 municipalities being subjected to the same respon-
22 sibility for cleaning up sources of contamination
23 and existing waste dump sites.

24 The longer we wait in the implementation
25 of this program--the greater the danger to ourselves.

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our families and future generations.

I can assure you of the fact that such steps will have my support as an individual and as a member of the State Assembly and that I will work with you for the passage of the necessary legislation.

SENATOR DALY: Mr. Donald Middleton, Regional Director for the Department of Environmental Conservation, will be our first witness.

MR. MIDDLETON: Thank you very much for the opportunity to let me come here today to discuss, in a general way, the problems of toxic wastes, first setting the State prospective in trying to bring it along a little closer to home and focus on Nassau and Suffolk.

People throughout our State have, in recent years, learned firsthand of the impacts of toxic substances on their lives. Mirex in Lake Ontario, acid rain in the Adirondacks, sludge in the New York bight and PCB's in the Hudson River, have severely damaged profitable commercial and recreational fisheries.

The impacts of toxic substances at Love Canal have become a nationwide symbol of

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2 the public health and environmental implications
3 of hazardous waste dumps and discharges, and have
4 shown us in the most tragic ways, how people's
5 lives can be affected by these wastes.

6 Closer to home, where virtually all of
7 our Nassau and Suffolk County water supplies come
8 from our sole source aquifer, some communities and
9 individuals have been forced to stop using wells
10 contaminated by toxic substances. Of the State's
11 population potentially effected by the problem of
12 toxic waste contamination, the major portion re-
13 side in Nassau County and Suffolk County.

14 Here on Long Island, although our
15 problems are not as well publicized as those of
16 Love Canal, we are dealing with perhaps as in-
17 sidious a problem.

18 In addition to pre-existing hazardous
19 waste disposal sites, many direct discharges of
20 toxic material occurred tens of years ago, well be-
21 fore we realized their potential impact. We are
22 now witnessing contamination of our groundwater
23 reservoir, which is caused in great measure by
24 those prior sins.

25 Now, as our knowledge of potential con-

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2 taminant hazards increases and safe contaminant
3 threshold limits decrease as a result, the magni-
4 tude of the problem grows in severity.

5 In recognition of the scope of the
6 problem, our department, in cooperation with the
7 State Department of Health, initiated a State-
8 Wide Study of Toxics in the Environment. The
9 State-Wide study report, which is scheduled for
10 completion later this month, will cover a number
11 of important issues. Many require decisions ef-
12 fecting public policy and commitment of resources
13 to solve problems of past and future disposal of
14 toxic substances.

15 There will be a number of recommenda-
16 tions in addition to the systematic investigation
17 of the in-place toxic problems identified in the
18 study.

19 Commissioner Robert F. Flacke has al-
20 ready testified before your committees in some de-
21 tail about State-wide efforts being made to deal
22 with these problems.

23 Therefore, I would like to concentrate
24 on Long Island problems.

25 First, in December 1976, this depart-

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2 ment initiated a state-wide industrial chemical
3 survey to determine the extent of losses to the
4 environment of an extensive list of chemicals of
5 concern. The survey was completed in March 1978
6 and was used as a basis for setting priorities
7 for initial in-plant inspections and permit is-
8 suance on Long Island.

9 Secondly, in 1976, several chlorinated
10 hydrocarbons--including vinyl chloride, which was
11 utilized at the neighboring Hooker Chemical Cor-
12 poration plant--were discovered in Grumman Corpor-
13 ation wells in Bethpage.

14 Grumman switched to public supplies
15 for its potable water, and proceeded to survey its
16 own activities for current sources of contamina-
17 tion.

18 It was generally found that water was
19 being returned to the ground with about the same
20 amounts of chlorinated hydrocarbons as were al-
21 ready being pumped from the Grumman wells.

22 I might add, here, that Grumman has
23 continued to use their deep wells for various in-
24 dustrial processes and for their air-conditioning
25 needs and this continued use has, in effect, served

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to localize and constrain the contamination and keep it from migrating on downstream along with the regular groundwater flow.

Number three, the Grumman experience triggered an intensive well-testing program by both Nassau and Suffolk Counties, and over a period of about two years, all public wells in both counties were sampled at least once. Several public wells in both counties, fifteen in Nassau County and thirteen in Suffolk County, are currently restricted for use, based on toxic organic guidelines set up by the State Department of Health.

I might mention here that this was the first such program of its kind in the nation. Unfortunately, again, based upon the development of the experience at the Grumman Bethpage plant.

With a special legislative appropriation, an organics laboratory was set up by the department of health at our Stony Brook office to facilitate the well-testing program.

New county laboratory facilities later enabled even further acceleration of the well-testing program. Approximately three thousand samples have been taken since November 1976 and

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2 again, of the nine hundred and ninety-two public
3 wells in both counties, all have been sampled at
4 least once and many in areas of industrial concen-
5 tration have been sampled several times.

6 Number four, concurrent with the well-
7 testing program, the counties initiated door-to-
8 door surveys of industries and commercial estab-
9 lishments to determine possible current discharges
10 of toxic-organic contaminants. This effort was
11 supported in part by this department's local as-
12 sistance program.

13 The Nassau County survey has essential-
14 ly been completed, while the Suffolk County survey
15 is still underway.

16 Where toxic-organic discharges were
17 discovered, permits were issued to initiate control
18 over such discharges and discharges encouraged to
19 store and remove such wastes to authorize disposal
20 locations.

21 Number five. County and State agencies
22 through the Nassau-Suffolk 208 study, were unable
23 to include development of a groundwater quality
24 model in the scope of the study. Later attempts to
25 revise the scope of the study by the addition of

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2 various sub-studies directed at the toxic organic
3 contamination were also rejected.

4 The agencies have not given up and
5 many of these original proposals will be embodied
6 in a new proposal being prepared for EPA approval
7 as part of continuing 208 studies.

8 Number six, one of the most serious
9 public water supply situations occurred in July
10 1979, when about half of the Glen Cove well capac-
11 ity--

12 CHAIRMAN GRANNIS: Not yet. We have
13 not gotten to July 1979 yet.

14 MR. MIDDLETON: I'm sorry.

15 --July 1977, when about half of the
16 Glen Cove well capacity was restricted for use be-
17 cause of toxic organic levels.

18 Glen Cove was forced to buy water at a
19 premium from neighboring water districts until new
20 wells, which replaced a portion of the lost capac-
21 ity, were brought on-line last year.

22 An EPA grant is now being used to
23 demonstrate alternate well-head treatment methods
24 on a small scale at one of the restricted wells.

25 Intensive Nassau County Department of

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2 Health investigation could not identify the source
3 or sources of contamination.

4 Seven. In mid 1977, because of con-
5 cern for the potential impact of leachate on the
6 groundwater, the department reopened considera-
7 tion of a previous approval of the first phase of
8 the Town of Oyster Bay landfill at Plainview

9 Since the town could not assure the
10 department of groundwater protection at this sen-
11 sitive location, since resource recovery alterna-
12 tives were not adequately investigated, and in
13 view of the temporary alternatives available to
14 the town, previous approval was rescinded after
15 a lengthy public hearing.

16 This decision has set the tone for
17 future regional landfill policy, which stresses
18 phasing out of existing landfills with replace-
19 ment by resource recovery facilities with the ex-
20 ception of sites which may be required for resi-
21 due disposal.

22 New landfills are considered to be
23 temporary, with maximized groundwater protection,
24 until the resource recovery facilities are on-
25 line. Liquid waste disposal pits at East End land-

fills are to be phased out.

To the extent possible, closed landfills will be capped to minimize leachate formation.

Number eight. In 1978, several areas with private water supplies were found to be contaminated by toxic organics. While various possible contaminate sources existed, the actual sources generally could not be determined because of the passage of time and limited investigative resources.

Through efforts of this department and other State agencies, temporary water supplies were provided until the towns could provide assistance in bringing in public water supplies.

Number nine. Even though hazardous chemicals are prohibited from all landfills, these chemicals continued to find their way into them.

As recently as last year, sixty or more fifty-five gallon drums of oil and perchlorethylene mixtures were known to have been dumped in Islip's Blydenburgh landfill.

Action is being taken against the responsible parties and the landfill is to be par-

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2 tially capped to reduce the hazard.

3 There is no telling how much more ma-
4 terial surreptitiously enters Nassau and Suffolk
5 County landfills daily.

6 It should be noted that the drums were
7 placed in Blydenburgh landfill by an unregistered
8 industrial waste collector, and appropriate legal
9 action has been taken.

10 However, you should be aware that this
11 is not an isolated problem. We are currently con-
12 sidering denial of one such collector's registra-
13 tion reapplication because of the flagrant viola-
14 tions alleged.

15 Although we have not been able to veri-
16 fy the allegations, the speed runs--speed runs be-
17 ing these midnight runs down the street with open
18 valves on the part of these illegal industrial
19 waste haulers--of some industrial collectors, ap-
20 pear to be somewhat common knowledge in the trade.
21 This is over and above the outright illegal direct
22 discharges by both registered and unregistered col-
23 lectors.

24 Just an aside here. Massachussettes
25 released a study that showed, in their opinion, at

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least seventy percent of that state's industrial waste being illegally disposed of. If you take a very conservative estimate on Long Island, say, thirty percent of the industrial waste being generated in Nassau and Suffolk being dumped illegally, you are talking about hundreds of thousands of gallons a day with a different and unique contamination threat, given our total reliance on an underground aquifer system.

Ten. Over the past year, leaking underground fuel storage tanks have been reported in increasing numbers. Only recently did it become apparent floating gasoline was not the only hazard presented by such leaks. Dissolved benzene, toluene, xylene and other gasoline constituents, because of their relative solubility, present an even greater water quality hazard than perhaps the gasoline itself.

Town and county statutes are being developed--the Town of Islip has enacted a statute--to better regulate storage tank installation in order to minimize this very serious problem.

Eleven. Industry is not the only source of contamination by direct discharge. The

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2 collective impact of disposal of hazardous ma-
3 terials, such as solvents, pesticides and other
4 household chemicals, by private individuals, can
5 also be significant.

6 State legislation to ban hazardous
7 cesspool and drain cleaners has been proposed.

8 The attorney general's office has con-
9 vinced manufacturers of these chemicals to remove
10 their products from the market, pending reformula-
11 tion.

12 Number twelve. One small, but possi-
13 bly significant, aspect of the problem is the in-
14 ability of the regulatory agencies to presently
15 collect and dispose of household pesticides and
16 other chemicals which would otherwise be casually
17 disposed of in refuse, down storm drains, or in
18 back yards. This is a particularly difficult
19 problem in the light of the recent EPA ban on
20 silvex and 245 T, where the ban has been opposed.
21 But the resources to enable the collection and the
22 safe disposal of these materials has not been pro-
23 vided.

24 We're been confronted with the fact
25 that twenty-five thousand outlets, merchandising

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2 outlets on Long Island selling these materials,
3 continue to have them on their shelves and, in
4 essence, most of them would have to voluntarily re-
5 move the products.

6 We have a grand total of two inspectors
7 covering both counties to, obviously, inspect
8 twenty-five thousand stores and that would take
9 years. So we have made an appeal to their various
10 community organizations to go out and take a look
11 and see what's on the shelves and inform these
12 shop owners of the ban and try to get them, volu-
13 tarily, to remove it.

14 Number thirteen. The greatest con-
15 straint to defining the extent and potential im-
16 pact of contamination caused by hazardous waste
17 disposal sites and discharges has and will be in-
18 adequate resources. It is this work that will
19 help to shape our future directions.

20 Projects to determine feasibility of
21 corrective measures cannot even be initiated on a
22 demonstration basis without these resources.

23 A major initial step in this direction
24 was the request of this department for funds in the
25 supplemental budget for groundwater monitoring.

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2 Fourteen. It should be noted that the
3 nearest, acceptable, comprehensive, industrial
4 waste disposal facility, Rollins Environmental
5 Services, is located in southern New Jersey. The
6 costs associated with such disposal are hardly
7 conducive to good disposal practice.

8 Though no one wants such facilities in
9 the back yards, convenient regional disposal facil-
10 ities are badly needed.

11 Fifteen. Special notes should be made
12 of the nature of groundwater flow and contamina-
13 tion. Contaminated groundwater is not of the same
14 relatively transient nature as are contaminated
15 stream flows.

16 We cannot dredge our contamination
17 sources from the aquifers as we can from streams
18 and lakes. Once in the aquifers contamination
19 can persist for tens and hundreds of years.

20 Contaminants now held on soils can con-
21 tinue to be released to the groundwater with each
22 succeeding rainfall.

23 Therefore, investigations and solu-
24 tions will neither be simple nor inexpensive.

25 The federal government has an important

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2 role to play in the management and control of in-
3 active hazardous waste disposal sites. We feel
4 strongly that the nation, as a whole, has benefitted
5 from the chemical technology that industrialized
6 states like New York have developed. The nation,
7 as a whole, should therefore share in the cost of
8 the program to assure protection of public health
9 in the environment from problems created by toxics.

10 Commissioner Flacke has already testi-
11 fied about the need for major federal inputs in
12 several areas.

13 These include, number one, EPA issuance
14 of final regulations quickly and in a form that
15 will insure effective management of hazardous
16 wastes.

17 Number two. Specific federal standards
18 where state programs dealing with inactive sites,
19 to assure that states like New York, with aggres-
20 sive programs to deal with the problem, are not ad-
21 versely affected by the loss of industry to states
22 that are more lax.

23 Number three. High level federal fund-
24 ing for state programs to control toxic problems
25 like abandoned dumps, toxic sediments in the

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2 Hudson and Lake Ontario and contaminated sole
3 source or otherwise significant groundwater aqui-
4 fers, in recognition of the broad scope of the
5 problem and the inability of states to fund state-
6 wide cleanup and remedial programs.

7 Number four. An increase in federal
8 funding for ongoing state regulatory programs.

9 Number five. Raising some part of the
10 federal money for assisting state programs by im-
11 posing fees on generators, on haulers, and disposal
12 site operators across the country. These fees can
13 only be imposed nationally because state imposed
14 fees would only encourage the movement of wastes--
15 and industry, in general--out of that state.

16 Number six. Federal funding to assist
17 in siting of construction of regional hazardous
18 waste collection, treatment and disposal facilities.

19 Number seven. Federal government en-
20 couragement of new technology.

21 Number eight. Increased funding for,
22 and utilization of, federal agency expertise, such
23 as in the United States Geological Survey, to as-
24 sist in solutions to the hazardous waste problem.

25 Number nine. Substantial federal fund-

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2 ing for the states to cope with emergency situa-
3 tions requiring immediate action to assure physical
4 health and safety of residents and provide safe
5 water supplies.

6 This expanded federal commitment, to-
7 gether with the state program I have described,
8 will insure that the health and environment of the
9 people of New York will be protected.

10 I commend you for holding these hear-
11 ings on Long Island, which indicates your commit-
12 tees' sensitivity to the special problems we face
13 in protecting our sole source aquifer, and I thank
14 you for inviting me to participate in the hearing.

15 SENATOR DALY: Mr. Middleton, how much
16 do we know about the quantity of toxic waste that
17 is generated on Long Island?

18 MR. MIDDLETON: 208 study recommended
19 location of two industrial waste treatment facili-
20 ties on Long Island, one in Nassau and one in
21 Suffolk. Didn't target it any further than that.
22 It indicated that these facilities should be able
23 to treat approximately four hundred thousand gal-
24 lons of industrial waste and sludges per day.

25 That's why I got that figure before of

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2 perhaps four hundred thousand gallons.

3 SENATOR DALY: Four hundred thousand?

4 MR. MIDDLETON: Yes.

5 SENATOR DALY: Does that 208 study
6 specify type of treatment or treatments that should
7 be in that waste facility?

8 MR. MIDDLETON: It covered the range
9 of solidification and detoxification and high tem-
10 perature incineration and so forth. But I think
11 a different type of technology has to be tailored
12 to fit the particular industrial waste you're talk-
13 ing about, plus a clearing house where one business
14 could take and use an industrial process of what
15 would be a waste product of yet another industry
16 or business.

17 SENATOR DALY: Who developed the fig-
18 ure? Where did the report get the figure of four
19 hundred thousand gallons a day?

20 MR. MIDDLETON: The report--it was a
21 three and a half year project and spent 5.2 million
22 dollars in various technical consultants in various
23 aspects of the study. I don't know which particu-
24 lar consulting firm. Does anybody know who gener-
25 ated those figures?

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SENATOR DALY: We'll find out.

MR. MIDDLETON: We can get it for you.

SENATOR DALY: When you mentioned a specific violation, as an example of what you think is happening, these unscrupulous people taking advantage of a state of desperation, in many cases, of industry not knowing what to do with waste and taking over this waste at a high cost and then, as you said, getting rid of it, certainly illegally and improperly.

One case you mentioned a sanitary landfill that was put in.

Do you know where that waste originally came from? Do you know who dumped it?

MR. MIDDLETON: In that particular instance, it came from a firm that provides industrial uniforms to various businesses and they use this solution to dry clean, in effect, the uniforms.

SENATOR DALY: One of our considerations that show how desperate we feel the situation is, is to actually not only penalize the person who dumped the waste improperly, but also to penalize the person who generated the waste, on

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2 the basis that if we go back that far when they
3 give that waste to someone, they're going to make
4 sure it's handled properly.

5 What would you think of that approach?

6 MR. MIDDLETON: It makes sense. That
7 whole cradle to grave tracking is only going to be
8 as effective as the restraints built into it. It
9 has to be to the original manufacturer, the person
10 who distributes it, right down to the guy who dis-
11 poses it and the person who treats it.

12 I think, certainly, if there's any way
13 that the manifest system can be tampered with, the
14 will will be there.

15 I think in Jersey, where there has been
16 something of a manifest system, people have simply
17 tampered and falsified manifests and so forth.
18 That kind of protection has to be built in for the
19 program to be effective.

20 SENATOR DALY: Are you familiar with
21 the proposal of the committee, Assemblyman Grannis,
22 Assemblyman Zagame, Assemblyman Yevoli, Assemblyman
23 D'Amato and myself and other senators, to build
24 regional waste disposal sites, have the state build
25 them and bond it? We would have the state build,

1
2 operate and maintain those sites.

3 Are you familiar with that proposal?

4 MR. MIDDLETON: Just in reading the
5 paper that a bill has been advanced in that re-
6 gard.

7 SENATOR DALY: I'd like to know what
8 your opinion would be, whether or not that should
9 be owned and operated by the state, or should we
10 allow private industry to build and operate such
11 a facility? We have not been willing to do it
12 thus far.

13 Say someone was willing to do the job.
14 Do you have any preference as to how that should
15 be put into law? Should it be done by the state?

16 MR. MIDDLETON: I think the authority
17 that's been granted the environmental facilities
18 corporation should be strengthened. The bill
19 should be presented. There's no model that can
20 work best.

21 Probably, the best would be a mix of
22 private and public construction and operation. I
23 think private industry would be more than willing
24 to come in and do that job if they had acceptably
25 pre-cleared sites.

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2 If you could guarantee up the block in
3 Mineola, a five acre parcel would be environmen-
4 tally cleared and all permits delivered up to
5 Rollins, for instance, they would come and build
6 the plant.

7 The real problem they face is finding
8 a place they can successfully build and operate an
9 industrial waste treatment facility.

10 CHAIRMAN GRANNIS: Do you think it
11 would be the preferred route to have private in-
12 dustry do it over government?

13 MR. MIDDLETON: That's tough. It would
14 make sense to provide a public capacity to do the
15 job, where and when private industry couldn't do
16 it.

17 In terms of speed and in terms of the
18 construction of such a facility, private industry
19 would be preferable.

20 I'm quite sure they would do it if
21 they had a place where they would not run into in-
22 surmountable opposition by the community.

23 CHAIRMAN GRANNIS: We have been stung
24 before. It's a problem with the long range stor-
25 age of these. There's a problem with the bonding,

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2 to require a performance bond to maintain the site.
3 You can't get those bonds in perpetuity and some
4 of those chemicals have half lives of hundreds,
5 maybe thousands of years, depending on how they're
6 stored and what kind of access there is.

7 There's not a chance for breakdown be-
8 cause they're stored in drums and underground and
9 if they're packed properly, biological processes
10 won't work to dissolve these.

11 The industry may do it in the short
12 run. What happens fifty or a hundred years from
13 now if the company goes belly up--and that's been
14 sort of the trade we've gone back and forth to
15 make sure the sites remain secure. The money is
16 there to continually pump them out, keep them
17 covered, keep them secure from public access.
18 That's really the trade and I don't think we know
19 the answer.

20 The reason we proposed the bond issue
21 is because it's our feeling that perhaps the pub-
22 lic interest is better served, the long range pub-
23 lic interest is better served, if a state or pub-
24 lic body does it, we can go have our difficulties
25 with finances, and the state is going to be around

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a good deal longer.

SENATOR DALY: The state can't leave the state, basically.

MR. MIDDLETON: I can't pretend to be familiar with the proposal. But we see a system of state guarantees in mixed fashion, without crossing the boundary between public financing and private profit. There might be a compromise in that regard.

I don't know how that can be worked out. Maybe state guaranteed bonding or availability of insurance along those lines.

CHAIRMAN GRANNIS: Using the facilities corporation might be a partial solution.

SENATOR DALY: One of the bottom--when you talk bottom line, you are talking money.

The study on regional sites on Long Island, what was the estimate of costs of building the regional site?

MR. MIDDLETON: I don't believe they got as far as putting a dollar figure on it.

SENATOR DALY: Do you have any feel for that as to what--very honestly, we have gotten costs ranging from ten million to a hundred and

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2 fifty million dollars. That's what a nebulous
3 world we're working in, as far as developing a
4 complete system: solidification, fixation, in-
5 cineration, separation, reclamation, and the
6 whole thing and we are trying very strongly.

7 If you know of any input we can get as
8 to what costs we can estimate, we'd appreciate it.

9 Here we go back to whether or not pri-
10 vate industry could have put up a hundred million
11 dollars, would they be willing to put it up.

12 MR. MIDDLETON: I think it would. I
13 think the Bridgeport plant in New Jersey, Rollins
14 plant, something like forty million dollars stick
15 in my head as to what they paid for it. It was a
16 decade ago.

17 I had a recent conversation with the
18 guy from Merrill Lynch who is involved with market-
19 ing and helping finance construction of these fa-
20 cilities all over the country, and he indicated to
21 to me if an acceptable pre-cleared environmental
22 site was available, any number of companies would
23 come in and construct an industrial waste treatment
24 facility, whether it's for ten million or a hundred
25 million. There's that much profit in it.

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Unfortunately, there's a lot more profit in the illegal disposal.

ASSEMBLYMAN ZAGAME: Just along these same lines, what about if the state was the landlord and owned a piece of property and just rented the site to private industry to operate, Rollins or one of these other companies? How would you view that in terms of the state's ability to maintain control over what goes on in the site?

MR. MIDDLETON: Again, that kind of turnkey approach, if you will, would be an effective one. Again, I think it's not an either/or situation, straight public or straight private. I think if you can match maybe a state landlord rights and some kind of bond guarantee insurance approach to the private industry's ability to get in and build something and run it, that might make for the most effective answer to how we're going to get rid of our industrial waste all over the state.

ASSEMBLYMAN ZAGAME: Yesterday, we held a hearing in Poughkeepsie, and one of the issues that was raised there was the question of drinking water and whether or not it should be filtered.

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2 Do you filter the water here with
3 carbon filtration in Nassau County?

4 MR. MIDDLETON: I don't believe that's
5 done anywhere on Long Island.

6 ASSEMBLYMAN ZAGAME: Is it being con-
7 sidered?

8 MR. MIDDLETON: The federal rules and
9 regulations call for granulated carbon filtration
10 for any water district that serves more than
11 seventy-five thousand customers. That would effect
12 most of the forty-six districts in Nassau and cer-
13 tainly, the Suffolk County Water Authority.

14 They recently estimated that system of
15 filtration treatment at the well head would cost
16 each customer two hundred thousand dollars a year
17 and above and beyond that, it really isn't neces-
18 sary at all on Long Island.

19 Drinking water drunk from surface water,
20 if you're talking about that, this general treat-
21 ment, you're going to hear testimony from the Water
22 Authority, and their opinion isn't going to be each
23 one of the nine hundred ninety-two wells in Nassau
24 and Suffolk.

25 ASSEMBLYMAN ZAGAME: A program of well

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testing. Do you see that as being necessary for the future, for the next few years, to keep monitoring these wells now?

MR. MIDDLETON: That's an ongoing program that is going to continue.

Part of the problem there is, that any number of these toxic substances can be locked in the soil and eventually, through the pressure of rainwater, leachate down into the water and while the well might prove to be clean on Monday, it might not be clean on Wednesday.

That program will have to continue.

ASSEMBLYMAN ZAGAME: You mentioned a special fund to pay for this in the supplemental budget.

Do you think we should have some kind of ongoing funded program for this type of testing so you don't have to rely on supplemental budget each year?

MR. MIDDLETON: The health department's budget has to be expanded to include the ongoing analysis of all public water supplies for organics, certainly on Long Island.

ASSEMBLYMAN ZAGAME: One final ques-

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2 tion.

3 When you have a violator, someone who
4 has broken the law here and dumped illegally, what
5 do you do? Are there civil remedies?

6 MR. MIDDLETON: We can approach it
7 both civilly and administratively. Generally, we
8 proceed criminally or civilly or administratively.
9 Generally, we proceed administratively, because
10 the fines are higher.

11 We recently completed an action against
12 a chemical company in Glen Cove that resulted in a
13 seventy-five thousand dollar fine.

14 They had another fine levied against
15 them by a next door business that had been hurt by
16 their pollution.

17 ASSEMBLYMAN ZAGAME: Is that fine high
18 enough in that case? Did it hurt that company
19 enough?

20 MR. MIDDLETON: I think they have
21 cleaned their act up since. It certainly had a
22 lesson potential for them.

23 CHAIRMAN GRANNIS: A couple of ques-
24 tions on the study the state has been doing and the
25 two counties have been doing on waste disposal

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sites.

How many are in Nassau and Suffolk Counties?

MR. MIDDLETON: You mean illegally?

CHAIRMAN GRANNIS: Straight sites receiving toxic wastes, active and inactive sites.

MR. MIDDLETON: Thirty-four active landfills and you can certainly consider them an in-place source of toxic contamination, either from direct dumping or from contaminants placed into a landfill.

You probably have another thirty plus inactive landfills in Nassau and Suffolk, all of which are contaminated from the leaching down into the water supply.

CHAIRMAN GRANNIS: Are there private sites? Any private sites?

MR. MIDDLETON: Only two or three and they have been since closed down.

A VOICE: We have some demolition sites.

CHAIRMAN GRANNIS: What about sites run by companies for their own wastes?

MR. MIDDLETON: I don't think we have any.

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2 A VOICE: We have none, no.

3 CHAIRMAN GRANNIS: You have made a
4 statement about the amount of waste generated in
5 these two counties.

6 Some of it is sludge, but where are
7 the companies disposing of their wastes now?

8 MR. MIDDLETON: In the Bridgeport
9 plant, the Rollins plant. Some take it up to
10 Connecticut to Sealand, some all the way down to
11 Philadelphia, where it is being legally disposed
12 of.

13 CHAIRMAN GRANNIS: We get very differ-
14 ent testimony.

15 MR. MIDDLETON: The treatment facili-
16 ties, I'm talking about.

17 CHAIRMAN GRANNIS: Certain kinds of
18 waste, but PCB's can't be treated unless it's high
19 temperature incineration. We're not aware of many,
20 if any, effective incineration sites.

21 What about the Rollins site? Do they
22 have a secure landfill as well?

23 MR. MIDDLETON: They have, I think, the
24 whole gamut. They, in fact, were given one of the
25 EPA demonstration approvals to incinerate PCB's and

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2 they have not been able to do it because of com-
3 munity opposition.

4 CHAIRMAN GRANNIS: Are they accepting
5 PCB waste from Nassau and Suffolk industry?

6 MR. MIDDLETON: I don't think we're
7 generating any. They have not been quite able to
8 handle it yet.

9 CHAIRMAN GRANNIS: I'm not sure what
10 handling them means.

11 MR. MIDDLETON: It could be they're
12 putting in secure burial facilities for the time
13 being.

14 CHAIRMAN GRANNIS: Is your survey fine-
15 tuned enough? Do these industries tell you where
16 their disposing?

17 In other words, who is hauling it, what
18 its destination is.

19 MR. MIDDLETON: Whether it gets there
20 or not is the crunch, of course.

21 CHAIRMAN GRANNIS: But you are able to
22 start off the manifest system by knowing where it's
23 supposed to be going?

24 MR. MIDDLETON: We were supposed to con-
25 duct that kind of door-to-door survey as a result

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2 of what occurred in 1976 with the Grumman plant
3 contamination. It's the kind of thing that has to
4 be systemized. It has to be the ongoing part of
5 our regulatory program. That means dollars.

6 Whether it's federal dollars or state
7 dollars, they have to be there.

8 Both of the county health departments
9 recently responded in the crisis-like fashion in
10 improved manpower from various units to conduct
11 this job over the last two and a half years. But
12 that, of course, detracts from other worthwhile
13 protection programs as well.

14 CHAIRMAN GRANNIS: One of the concerns
15 and criticisms that is raised in other hearings,
16 is that there is not a single lead agency respon-
17 sible for toxics. It's divided between state and
18 local health departments and, mainly, the state
19 environmental department and the state transporta-
20 tion department.

21 In a time of crisis, there's no place
22 to turn for a single source of information or a
23 single conduit to reach available resources, per-
24 sonnel resources and financial resources in the
25 state.

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2 Is that a particular problem you are
3 aware of? Who should have that responsibility?

4 MR. MIDDLETON: I think part of that
5 problem is going to be addressed by our new office
6 of toxic substances, which will be a central office
7 in our Albany headquarters.

8 I don't think we had that problem in
9 working together at the Long Island level. But
10 when the crunch came in November of 1976 and when-
11 ever since, I think we have worked very effective-
12 ly with the local and state health departments.

13 Initially, it was a major problem with
14 the absence of certified laboratory capacity to con-
15 duct these examinations, but that's under control
16 now. It's working very well now.

17 There are a number of private certi-
18 fied labs and the state health department lab has
19 been expanded, as has been our state laboratory
20 facility at our Stony Brook office. Additional
21 technicians have been added and more sophisticated
22 graphs and telecommunication systems have been put
23 in.

24 CHAIRMAN GRANNIS: Are you aware of any
25 waste imported into Long Island for in-ground stor-

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2 age and disposal?

3 MR. MIDDLETON: Thank God that hasn't
4 happened, to my knowledge, at least.

5 One of our major problems is, as I men-
6 tioned, lack of investigative resources in that
7 regard. We have one little undercover van that we
8 use for trailing industrial waste haulers and we
9 caught a few of them on occasion, but we know it's
10 going on and it's regularly and we are not able to
11 keep a close investigative oversight on it.

12 CHAIRMAN GRANNIS: You mentioned one
13 other point which is the problem of the pesticide
14 law. Pesticides are banned by the state or federal
15 government.

16 What happened in the New York series
17 of pesticides? Whatever happened to those? Were
18 those collected on Long Island? Were they left in
19 storage rooms in the small shops around the area?

20 MR. MIDDLETON: That was several years
21 ago. I think it was a phase-out. I wasn't around
22 at that point in time, but I think people that had
23 them on the shelves were allowed to sell off what
24 they had and that was it.

25 CHAIRMAN GRANNIS: There was a phase-

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2 out on some and some were outright banned and there
3 was going to be a state program to collect or en-
4 courage, or to require distributors to collect
5 those pesticides and this was not done.

6 So a great many of these things have
7 disappeared, either by disposal or sale or dumped
8 down toilets and sewers. But that's a particular
9 problem.

10 When we have imposed these bans, there
11 has been no mechanism for what happens to the guy
12 that is left with these products on his shelf.

13 MR. MIDDLETON: I know there are a
14 number of state DEC pesticide storage areas in the
15 state. Again, materials are simply sitting there
16 with no real understanding of how they're going to
17 be treated and probably disposed of.

18 A VOICE: The first banning we had, we
19 collected it. We had one at the Farmer Bridge and
20 the state let out a contract to people to come col-
21 lect it and at the time, the high temperature in-
22 cinerator was running at Erie County. It was pack-
23 ed in in a certain way and they carted them out and
24 burned them up there. This time, there's no such
25 thing.

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2 CHAIRMAN GRANNIS: One final question
3 on this story about the Islip dump.

4 Do you have sufficient authority on
5 that matter? You knew what was in that dump and
6 then the town went ahead and decided they needed
7 additional room to add municipal waste and put a
8 hundred tons of additional substances on top of
9 these drums of toxics?

10 MR. MIDDLETON: They were well buried,
11 by the way, by the time we were made aware of the
12 fact they were illegally deposited there.

13 CHAIRMAN GRANNIS: I have the New York
14 Post story in front of me. It looks like one of
15 the statements was that you knew the chemicals were
16 there. Town officials made the decision to go
17 ahead despite requests to not go ahead and they're
18 now looking to the state to dig up those drums and
19 dispose of them.

20 Do you have authority in that kind of
21 case to say that there will be no dumping on the
22 particular site and the emergency authority or
23 standby authority to say no more dumping?

24 MR. MIDDLETON: We would have had.

25 On those barrels, it was a real ques-

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2 tion as to where they were located to begin with,
3 and they were well buried by the time the dis-
4 trict attorney's office brought the action against
5 them. By the time of the final decision, they
6 were buried like a hundred and ten feet--

7 A VOICE: A hundred and forty.

8 MR. MIDDLETON: That decision was made
9 on the basis of a number of considerations.

10 First, on the information, we couldn't
11 find them even if we tried to excavate and if we
12 did find them, they would get crushed in the pro-
13 cess of being ground. It would create another
14 problem in terms of what we do with saturated gar-
15 bage if we could find it.

16 The final decision was made that prob-
17 ably the safest thing to do, was to leave them in-
18 tact and agree they remain intact and had not been
19 ruptured by the original placement and the bull-
20 dozing that went on after they had been dumped,
21 they cap a very large five acre area in terms of
22 providing maximum protection with an impermeable
23 barrier. When the landfill reaches its final ele-
24 vation, it will be capped with the second imperme-
25 able barrier and that will stop downward percola-

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2 tion of those contaminants.

3 We have to have a system of monitoring
4 wells south of that landfill. We know there's a
5 flume of leachate contamination. There has been
6 an ongoing system of contamination, monitoring the
7 flume and its nature and speed.

8 CHAIRMAN GRANNIS: Does the town want
9 the state to pay for them?

10 MR. MIDDLETON: They would prefer the
11 state and the state would prefer the federal govern-
12 ment. But somebody has to get up the dollars to do
13 that job.

14 There's an initial program of well
15 drilling going on right now with the State Depart-
16 ment of Environmental Conservation and the County
17 Health Department. It certainly needs to be ac-
18 celerated.

19 We proposed the addition of a two mil-
20 lion dollar item in the supplemental budget to de-
21 velop that kind of capacity, deep well drilling
22 truck rigs and so forth and the staff to do that
23 kind of job.

24 ASSEMBLYMAN YEVOLI: In the area where
25 we had Hooker and Hicksville, for instance, what do

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2 those tests we had show? Are there abnormal
3 amounts of toxics still in those wells but enough
4 so the wells don't have to be closed?

5 MR. MIDDLETON: We're getting, basi-
6 cally, the same kind of reading out of the
7 Grumman wells, are we not?

8 A VOICE: (Unintelligible.)

9 CHAIRMAN GRANNIS: If you're going to
10 answer from the back, you have to speak up, because
11 the stenographer can't see and it's hard for us to
12 hear and you just make it hard for the stenographer.
13 Really speak up if you're going to do that.

14 MR. MIDDLETON: Basically, they're get-
15 ting the same kinds of readings, the same degree,
16 that can be considered encouraging. It serves to
17 contain the contamination. If there isn't any
18 treatment going on, it's, in effect, recycling.

19 ASSEMBLYMAN YEVOLI: The basic prob-
20 lem came in the leachating pond that existed to the
21 rear of Hooker Chemical and found its way into the
22 water supply.

23 Was there ever any treatment that was
24 done?

25 MR. MIDDLETON: No. During the time

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2 they discharged the vinyl chloride waste, I don't
3 believe there was any treatment.

4 ASSEMBLYMAN YEVOLI: Has anything been
5 done since it was discovered?

6 MR. MIDDLETON: They have since gone
7 to a holding tank process.

8 ASSEMBLYMAN YEVOLI: What exists in
9 that pond has remained and what is it doing at this
10 time?

11 Does it still find its way into the
12 water supply?

13 MR. MIDDLETON: No. In 1974, they
14 went to a contained process, concrete line holding
15 tank operation.

16 A VOICE: They're doing destructive
17 incineration of the waste now.

18 MR. MIDDLETON: We're pursuing the pos-
19 sibility of an action against Hooker to treat the
20 well. In fact, we were in yesterday talking to
21 the attorney general about it.

22 We can mark that legal cause a link of
23 what is coming out of those Grumman wells and prac-
24 tices of Hooker at that time. We can allay the
25 cost to Hooker's doorsteps to get those contami-

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2 nants out, as well as paying for a system of on-
3 going monitoring well constructions and sample
4 analysis.

5 ASSEMBLYMAN YEVOLI: Haven't you seen
6 the results of the tests on all the public wells?

7 If you had to categorize the kind of
8 conditions of Long Island's water supply, what
9 would you say about it?

10 MR. MIDDLETON: I'd say I'm cautiously
11 optimistic about the future purity of the aquifer
12 system on Long Island. Particularly, once the
13 chemical cesspool cleaner ban, hopefully, as soon
14 as possible comes into effect. I think that will
15 be a positive step in the right direction.

16 ASSEMBLYMAN YEVOLI: One last question.

17 It is my understanding--and most peo-
18 ple have identified various sites that we do have
19 aquifers on Long Island that are virgin in the
20 sense they have not been the recipient of any con-
21 tamination whatsoever.

22 Do you think--someone is shaking his
23 head no--but this is what I have been told.

24 MR. MIDDLETON: I don't know anywhere
25 on Long Island that it's crystal, pristine pure,

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2 because those illegal dumpers go all over the
3 place and even out into the middle of the pine
4 barrens.

5 ASSEMBLYMAN YEVOLI: That was the area
6 I was thinking of.

7 MR. MIDDLETON: The last year and a
8 half, we have been marshaling the efforts to pro-
9 tect the central pine barrens of Long Island from
10 Rocky Point down to Flanders, almost coterminous
11 as hydrogeology zone 3, a deep charge aquifer
12 area.

13 Our attempt to preserve the pine
14 barrens is based upon the fact it's probably the
15 largest natural space area on the eastern sea-
16 board, certainly in the metropolitan area. It's a
17 unique ecological area as well as overlying, prob-
18 ably, the greatest pristine water supply remaining
19 on Long Island. It's a relatively separate aqui-
20 fer in that it flows out in an area--begins to
21 flow, instead of north-south, begins to flow in an
22 easterly direction and a development hasn't oc-
23 curred there. There isn't any industry or even
24 private homes out there to speak of, and the water
25 is very, very pure. We want to keep it as pure as

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2 possible.

3 The RCA gift in that regard where they
4 gave the state seven thousand one hundred acres,
5 five thousand--fifty-one hundred in Rocky Point
6 and two thousand in Riverhead, was a critical com-
7 ponent in building what we hope will be a national
8 Long Island pine barrens reserve.

9 We have to call on federal resources
10 if we're going to do that.

11 ASSEMBLYMAN HINCHEY: What else have
12 you done? What kind of actions have you taken,
13 other than those purchases to preserve the pine
14 barrens?

15 MR. MIDDLETON: We're developing a
16 number of different things.

17 First of all, public education pro-
18 grams to get people to understand the unique re-
19 source that is the central pine barrens of Long
20 Island.

21 A number of articles have been pro-
22 duced, LILCO is underwriting a documentary film
23 on the central pine barrens.

24 The New York Conservationists is going
25 to devote an entire issue in February to the pine

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2 barrens. So Long Islanders and New York State peo-
3 ple can see this natural resource.

4 We have identified all the critical
5 areas in the pine barrens that are in imminent
6 threat of development. We know what should be pur-
7 chased in terms of acquisition strategy.

8 Beyond that, a Long Island, waste con-
9 trol system needs to be developed. We have talked
10 about state legislation that can be preserved,
11 something of a takeoff on the Adirondack Park
12 Agency, a Jersey Park Commission.

13 We have asked local government and
14 they have been surprisingly receptive to it, to
15 exercise a greater degree of control and inspec-
16 tion in those areas. We're developing a proposal
17 for Commissioner Flacke, asking that the secretary
18 of the department of interior consider setting up
19 a contingency fund grant to match the RCA gift.
20 That was written off by RCA to the tune of twenty-
21 one million dollars.

22 What we would like to do, is have the
23 secretary of interior recognize that gift and quali-
24 fy it for matching funds and dip into his contin-
25 gency funds, which is something like a hundred mil-

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2 lion dollars, to bring us the ability to deal with
3 those priorities which have an imminent threat of
4 development.

5 We have also modeled federal legisla-
6 tion that will be going up to the governor's of-
7 fice in a month.

8 So there are many things going on.

9 ASSEMBLYMAN HINCHEY: Any specific
10 legislation as far as the state commission or leg-
11 islation is concerned?

12 MR. MIDDLETON: Assemblyman Bianchi
13 had a bill directed and we reviewed it with the
14 Long Island pine barrens test course, and the feel-
15 ing was, we ought to hold off on the state legis-
16 lation until we see what happens with the pro-
17 posed federal legislation, as well as the proposed
18 federal acquisition fund, and if that happens,
19 then we're going to have the dollars, really, to
20 make a state piece of legislation work properly.

21 ASSEMBLYMAN HINCHEY: We're working on
22 a piece of legislation that would relate to your
23 pine barrens, as well as the pine bush around
24 Albany. I would like to send you that.

25 MR. MIDDLETON: Great. Hope to see it.

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2 SENATOR DALY: Thank you very much.

3 Assemblyman D'Amato can introduce the
4 next speaker, but I'm going to hold that honor for
5 myself.

6 The next speaker, of course, is the
7 presiding supervisor of the Town of Hempstead,
8 Alfonse D'Amato.

9 MR. D'AMATO: It's nice to be with you
10 and the other part of the D'Amato family team.

11 I think, number one, you are to be
12 commended for being down here and bringing this
13 hearing to Long Island, where we face some very
14 critical problems.

15 I would be remiss if I said I didn't
16 think that Donald Middleton and his staff have not
17 been doing a great job with the factors that they
18 have to deal with. They have to deal with the in-
19 adequacies of the budget, with the problems of
20 staffing, with the kinds of things that have been
21 developing of recent days, contamination of our
22 drinking water supply and new testing techniques
23 which, prior to recent times, have not even been
24 used.

25 The fact that certain of the toxic

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2 chemical we now consider dangerous, to go back
3 several months ago, we had very little knowledge
4 and we still have, relatively speaking, little
5 knowledge of the long terms effects and what might
6 be declared dangerous or not.

7 I'd like to first make a brief present-
8 tation which we have written and then, possibly,
9 share some thoughts with you.

10 I think your committee today is import-
11 ant. I think the work you're embarking upon, par-
12 ticularly in your efforts to deal with the criti-
13 cal problem of disposal of hazardous waste materi-
14 al in an adequate and safe manner, are of the ut-
15 most importance, particularly here on Long Island.

16 As you know, Nassau County depends
17 solely on its ground water as its drinking water
18 supply.

19 Recent evidence of contamination of
20 ground water due to chemical leaching from both
21 the land disposal sites and from gasoline stations,
22 has brought a very, very serious and ominous note
23 to the fore.

24 The town has demonstrated, Town of
25 Hempstead, its commitment to resource recovery and

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2 construction of a new and innovative recycling fa-
3 cility. This takes the place of the land disposal.
4 It eliminates the leaching of contaminants into
5 our ground water supply system, which has been
6 taking place for years.

7 I believe a similar innovative approach
8 is needed in the area of chemical waste disposal
9 and hazardous materials. We can no longer toler-
10 ate the indiscriminate dumping of chemical wastes.
11 These wastes should be recycled through waste ex-
12 changes which match chemical byproducts with those
13 industries which can use them in their industrial
14 process. This waste exchange concept recognizes
15 that one company's waste is another company's raw
16 material, and this is the kind of innovative thing
17 we need if we are going to make, really, a meaning-
18 ful effort in controlling contaminants.

19 With these waste exchanges, we can re-
20 cycle, we can produce and we can cut the cost of
21 the disposal of hazardous materials. Otherwise, I
22 think we're going to have a difficult time, both
23 municipally and in the private sector, to deal with
24 this problem.

25 So a concerted effort should be made

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2 to isolate them from the main sanitary landfills
3 and the sewerage disposal plants and the illegal
4 dumping that is taking place on a regular basis,
5 because it's cheaper and even those men hired for
6 trucking this material to various disposal sites,
7 there are those, and there may be relatively few,
8 who resort to the dumping right into the ground
9 waters, right into the waters which flow out into
10 our harbors and into our beaches, et cetera, and
11 we must stop it.

12 I note that the Hazardous Waste Man-
13 agement Act of 1978, provided a mechanism for the
14 very sort of cooperation that has worked out well
15 for our town. That is the linking of private re-
16 sources with government help, and allows partici-
17 pation of the private sector in operating them.

18 I don't believe that the state or
19 local government has the capacity, the technical
20 know-how, to attempt and to build to operate the
21 sites in and of itself. I think it's an impossi-
22 ble task.

23 However, with the cooperation of the
24 state, I think it can be done, a joint effort, and
25 that's why I think this bond issue is so impor-

1
2 tant. We will be developing a program where we
3 can have one hundred and fifty million dollars,
4 so that the state--and also charging industry for
5 the disposal of these materials--so that the tax-
6 payers themselves, the homeowner is not called
7 upon to pick up this tab, but those industries
8 which utilize these things will pay. The payment
9 of these bonds, that's the key and that's the way
10 we get the public to support this concept.

11 I think it's imaginative and it's im-
12 portant and long overdue. Most of us, including
13 myself, never had any idea of the serious conse-
14 quences, never thought about the disposal of chem-
15 ical wastes until about a recent time.

16 Love Canal demonstrates so vividly,
17 the kind of consequences that can take place. We
18 must move forward with determination and strength
19 in ending this real threat to our environment.
20 Whether it's upstate or Love Canal or downstate
21 here, we have got the problems and we have the
22 technical ability and, I think, the legislation
23 proposed in making available one hundred and fifty
24 million dollars for this purpose certainly is the
25 way to do it.

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2 I support a bond issue. I think it's
3 long overdue.

4 Let me close by saying this. We in
5 Long Island face a very, very real threat to our
6 drinking water. Anybody who says that we should
7 be optimistic, at this point in time--and that's
8 why I differ from my colleague in government, Don
9 Middleton, and again, I say he's done a terrific
10 job where day by day you don't know what is going
11 to happen next.

12 We have thirteen gasoline stations
13 leaching gasoline, the chemicals, the benzene,
14 which is a carcinogenic, in the ground water sup-
15 ply.

16 I have six wells over in East Meadow
17 which we are monitoring very closely because of the
18 recent spills taking place there.

19 I will depart and digress and say I do
20 not believe the State Department of Transportation
21 is doing a good job. It's a totally inadequate
22 system.

23 When you talk about trying to monitor
24 and getting to do something, it's taken them five
25 or six months to get Exxon to begin to pump gaso-

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line into a sewage disposal system rather than pump it back into the ground, where the benzene is contained therein, and they didn't have the gumption or the wherewithal and, I don't believe, the knowledge to undertake it and I would like to-- and although I reserve the right at times, as I recognize the DEC reserves their right to make their judgment on what we do, the local government--I would still they're far better equipped to handle this kind of situation than is the State Department of Transportation. They're totally inadequate, don't have the money, and the money is there by way of legislation, but they don't have the manpower to get out there and enforce and I don't think they have developed the knowledge and sophistication.

DEC is way ahead of them. Those functions should be transferred to them.

Spills and control of those contaminants. When in thinking about the contamination of our drinking water, there is no relation to the State Department of Transportation as closely linked as Donald Middleton and the environmental people. I think it is important we get a proposi-

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2 tion on the ballot to see to it that the state can
3 aid private industry in selecting the sites and
4 having the public hearing.

5 Somebody has to bite the bullet. No-
6 body is going to come in unless it has the public
7 people there, the government, state and county and
8 town officials, saying this is the site we desig-
9 nate and we're going to support it. I think it's
10 going to be too much to expect for private indus-
11 try to do and we'll have to wait too long a period
12 of time.

13 I thank you for giving me the oppor-
14 tunity for sharing these thoughts with you today.

15 SENATOR DALY: I'm delighted you feel
16 the bond issue is a good idea and you will give it
17 your support. Hopefully, we'll give you that op-
18 portunity.

19 I might add, knowing that I'm also very
20 happy with your emphasizing paying attention to the
21 problem of toxic waste, I convey to you, as an
22 official that comes from an area where a cata-
23 strophic tragedy has occurred, that as a local of-
24 ficial, you have to be up there to truly appreciate
25 it.

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I know my colleagues, Assemblyman Zagame and Assemblyman Grannis were in my district last week and to take a ride around that town and see all those boarded homes and to see the tragedies, the destruction of family--the father says "I want to stay," and the mother says "I want to go--" I'm delighted that your government is taking steps to make sure it never occurs in Long Island.

MR. D'AMATO: I think only by the passage of this kind of farsighted, progressive legislation, can we hope to avoid those kinds of consequences. Maybe not as readily in terms of some of the things we are concerned about with maybe some of the children coming down with various diseases, but I'll tell you this period our drinking water is our lifeline. They'll never build a pipe soon enough or quick enough to get a necessary water to replace that which lies in our wells down below, in our vast resevoir down beneath Long Island, and it is in jeopardy today.

No one should make a mistake about that.

Assemblyman Yevoli knows and I'm very concerned. Right now, we have our water department trying to set up a system of interconnects and I

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2 can tell you that in certain areas in two or three
3 or four wells to go out, the consequences to that
4 community could be very, very serious indeed.

5 When we talk about the industrial
6 growth and capacity and the business growth and
7 capacity, making a place livable without good,
8 clean potable water, we have no ability to do that.
9 So that's so important and that's just one small
10 aspect of what we're talking about and what we're
11 trying to protect here today.

12 So I'm prepared to work for the pass-
13 age of this bond issue. I think it's important not
14 only for Long Island, but for the state.

15 Thank you.

16 ASSEMBLYMAN ZAGAME: I'd like to com-
17 mend you for your farsightedness in the Town of
18 Hempstead for the resource recovery plant you have
19 built and I think we can learn from that, because
20 to my understanding of what really made that go--
21 and there was an article in the newspaper here,
22 Newsday, that what really made it go was the fact
23 there was a guaranteed waste stream for a number
24 of years to the company that's operating that
25 plant.

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2 When we get involved with cooperating
3 between private and public tier in industrial waste,
4 do you think it might be advantageous for us to try
5 to duplicate that and provide that for a certain
6 number of years or indefinitely, that all waste
7 generated in New York State would have to go to
8 three or four approved sites and then the indus-
9 ties that might come in and operate the plants on
10 the sites would be assured of a waste stream?

11 MR. D'AMATO: I believe that would make
12 the difficulties of building and operating these
13 plants much more attractive and make the financing
14 possible, where, otherwise, it might be more diffi-
15 cult. That's the kind of thing we need in the
16 region and further legislation, as you were to move
17 about to actually legislate and require that these
18 plants that operate in your area remove their ma-
19 terials to a particular designated facility.

20 Number one, the transportation of these
21 materials as well as the disposal, bona fide dis-
22 posal is certainly within the realm of the state's
23 prerogative to protect and I think you should re-
24 quire them to use, certainly, sites within their
25 areas and that's the kind of thing, guaranteeing a

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2 certain portion of the waste materials developed
3 in a region to that site, and I think you'll get
4 the large checmical companies and the industrial
5 complexes to pool their resources and develop fa-
6 cilities for their disposal.

7 ASSEMBLYMAN ZAGAME: Right now, you
8 have a twenty year commitment to provide all of
9 the town's garbage to the site in Hempstead where
10 it's being recycled?

11 MR. D'AMATO: Once the plant is certi-
12 fied, although we are disposing right now, twelve
13 thousand tons of garbage a day at the facility, we
14 are under a seventeen year contract to provide a
15 minimum of six thousand tons a week. So that is
16 the basic agreement. We give you at least six
17 thousand tons a week.

18 The fact of the matter is, we'll be
19 operating at about eleven thousand tons a week.
20 We have the right to ask them to enlarge the fa-
21 cility so that we can take up to three thousand
22 tons a day.

23 So I think the same kind of situation
24 whereby you guarantee the state through its bond-
25 ing or the region, if you set it up regionally,

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2 guarantee a site X number of gallons of material
3 to dispose of. That way, they set up the bottom
4 rung. They know what the resources will be to pay
5 their bond indebtedness, to pay their staffing,
6 whatever. I can assure you the bottom fee would
7 not be sufficient for them to operate, but that's
8 how you have to get private industry. But at
9 least it gives them a certain cost factor they can
10 deal with. It makes financing available that other-
11 wise might be very difficult to obtain.

12 ASSEMBLYMAN HINCHEY: I'm really im-
13 pressed with your perception of the urgency of the
14 problem.

15 I would agree with you, particularly
16 as far as the water supply.

17 An island is, obviously, a finite eco-
18 system. There's only so much there.

19 Do you feel, at some point soon, that
20 Long Island, as a whole, is going to have to de-
21 velop an effective land use management plan to con-
22 trol the growth of the Island?

23 MR. D'AMATO: I think that that is so
24 important. We can only support a limited number in
25 terms of population, that is correct.

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2 We kind of have gotten away from that,
3 because we have had a dramatic increase and if you
4 would speak to Mr. Padar and other people in our
5 health department about our water levels, it's
6 gone up.

7 We had the drought years in 1968 and
8 1969, when we were, very, very concerned. Within
9 the recent past ten years, past decade, that water
10 table has gone on very dramatically. But it can
11 turn around and make that kind of situation we ex-
12 perience back in the late '60s, within no time,
13 a reality and salt water intrusion and contamina-
14 tion of our wells.

15 We have great problems with the wells
16 on the city border. Jamaica water has tremendous
17 problems determining the adequacy of supply and
18 quality of that water.

19 Population control, density control,
20 disposal sites. I am concerned and we passed a
21 rather comprehensive law with respect to gasoline
22 stations on the storage of underground tanks, be-
23 cause we have maybe eight hundred of them in my
24 town alone, the Town of Hempstead, eight hundred
25 gasoline service stations.

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2 Now, we require a well be driven so we
3 can monitor those tanks. We have encouraged speed-
4 ier deployment of them. Just in the area of gaso-
5 line service stations underground storage, I'm
6 very fearful.

7 There are thirteen stations that have
8 come to our attention that have leaks.

9 This is just the tip of the iceberg.
10 We have the kind of subsoil conditions in many
11 areas that have rotted throughout these tanks.

12 With poor inventory control and in
13 those service stations which were not company owned
14 and controlled, and we have a small person who
15 dumps twenty or thirty thousand gallons a month.
16 He might have a leak that has been taking place for
17 many, many years. By the time we find out, in cer-
18 tain cases, it might be too late in terms of our
19 groundwater supply.

20 I'm very concerned.

21 ASSEMBLYMAN HINCHEY: Do you think the
22 people of Long Island are prepared to accept the
23 land use management program that would limit the
24 density and so forth, one that now exists in the
25 Adirondacks?

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2 MR. D'AMATO: Yes, I do.

3 When you speak to County Executive
4 Klein with regard to that out in Suffolk, certain
5 areas, Brookhaven, I believe, that certain areas,
6 we have moved to two acre zoning, the pine barrens
7 where RCA had made it a gift to the county and
8 state. Those are the kinds of things people are
9 much more knowledgeable about.

10 I think that we have, again, certain
11 reasons I mentioned. The water supply situation,
12 we don't think is as critical today, at least in
13 the minds of the public, but it is in terms of the
14 quality. But I think when we run into some more
15 problems that are just around the corner with re-
16 spect to the wells which are on Nassau's western
17 border, we have critical problems and I wonder
18 about the life expectancy of those wells.

19 Then we're going to start the short
20 fall that was projected some years ago and we're
21 going to, again, to draw down on that water supply.

22 ASSEMBLYMAN YEVOLI: There's no ques-
23 tion in my mind that your administration in Hemp-
24 stead has been one of the most progressive on Long
25 Island you ought to be commended for that.

1
2 You mentioned before the State Depart-
3 ment of Transportation in terms of the problems
4 you're having with the gasoline leaching into the
5 water supply.

6 What can we do to help with them? I
7 don't know what their rules are in this.

8 Maybe we can straighten it out.

9 MR. D'AMATO: I believe that, honestly,
10 their function is in terms of control of those
11 spills that take place on our public highways, et
12 cetera, except toward the immediacy of cleaning
13 them up, that if the chemical reactions are any-
14 thing that develops, from, let's say, the gasoline
15 station sites or underground tanks, that those
16 police powers be given to the Department of Envi-
17 ronmental Control. I do not believe that the state
18 DOT has the ability, and also the funding source.

19 We talked about the spill legislation
20 that has been set up so that on every barrel of
21 oil, there is a money set aside, that, obviously,
22 you can't give the responsibility without also
23 making the moneys available. I think it makes for
24 better sense. I really do.

25 SENATOR DALY: That, I think, is an

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2 excellent suggestion.

3 One question.

4 Are you generating energy at your
5 solid waste disposal plant?

6 MR. D'AMATO: Yes. As a matter of
7 fact, we project that within a full year--the
8 estimates have been revised several times. We
9 started out with an estimate of about four hundred
10 and fifty thousand barrels of oil that would be
11 saved, the equivalent in terms of energy that would
12 be produced.

13 We anticipate the year's operation
14 will generate two hundred and fifty million kilo-
15 watts of electricity, roughly five thousand bar-
16 rels of oil will be saved annually. We have pro-
17 duced enough electricity, if you said how much oil
18 would it have taken to produce that in excess of
19 a hundred thousand barrels have been saved.

20 When we talk about solid waste recovery,
21 when we talk about the recovery of toxic materials,
22 again, as I mentioned, one person's toxic material
23 can be someone else's product. We can recycle. I
24 think an industry has the capability of doing these
25 things. We have to give them the hand to set the

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2 climate, and that's the kind of thing that would
3 make it possible for New York State to have a re-
4 surgence again.

5 As a result of our production of elec-
6 trical power on site, it makes this project one
7 that, financially, is suitable, instead of paying
8 twenty dollars a ton for burying garbage, and
9 that's what the cost is to bury garbage at a
10 landfill site. Acquisition of the land, payment
11 of bonds, payment of incinerators, which, basical-
12 ly, never operate, and again, it's because, basi-
13 cally, we in government, we went out and hired
14 someone who designed them and built them and we
15 shouldn't have been in that business. But be that
16 as it may, the cost is about twenty dollars a ton
17 to run the landfill site. That's if you want to
18 figure the true cost, and everything.

19 We anticipate that we will reduce that
20 cost in terms of using a resource recovery fa-
21 cility quite substantially and most of the economic
22 benefits being derived in the sale of electric
23 power.

24 In our situation, we get forty percent
25 of the proceeds back gross from the sale of that

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2 electrical power. We earn two, two and a half mil-
3 lion dollars in the first full year. That will be
4 used to reduce the tipping fee. Our tipping fee
5 is about sixteen dollars and thirty cents. I think
6 we will develop an additional capacity that some of
7 the communities both within our region and next to
8 our region, will have the opportunity of using
9 this resource and gaining, again, a further advan-
10 tage, not only for their residents who won't have
11 to operate an antiquated facility but also for our
12 own, in terms of making our operation even more
13 efficient and reducing the cost per ton in the
14 amount of money the taxpayers have to pay.

15 SENATOR DALY: You have given me an in-
16 teresting idea.

17 To handle hazardous waste properly and
18 through incineration is an energy intensive pro-
19 cess. It just dawned on me that down the line,
20 we ought to consider the possibility of obtaining
21 some of that energy we're going to need if we're
22 building sites from the solid waste disposal sites,
23 perhaps located nearby.

24 MR. D'AMATO: It's the kind of thing
25 that, as enthusiastic and optimistic as I might be

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2 with respect to the facility, let no one kid you--
3 and we have had success with this plant. Even
4 those who have detracted and deprecated some of
5 the efforts that have gone into it, I would admit
6 there are some benefits. But it has been charac-
7 terized by some as environmental nightmare, be-
8 cause you see, when you produce electricity, one
9 of the byproducts is steam. It has been charac-
10 terized as the kind of thing that is second to
11 another Love Canal by another critic.

12 The fact we have burned garbage prior
13 to it, and it's the same discharge, absent the
14 fact that we no longer burn the steel, the glass,
15 the aluminum, with the addition of having far supe-
16 rior electrostatic precipitators and devices to
17 wash out the gases, that is completely lost. The
18 fact we have been able to close down our four in-
19 cinerators which were violating all of the state
20 and federal levels closed down as a result of this
21 plant coming down the line and were we to compare
22 the tremendous contamination they put into the air
23 in comparision to this facility, there would be no
24 comparision and the air quality has been proved.
25 In spite of this, there is still an outcry, par-

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2 particularly from anyone who can see or anyone in the
3 immediate proximity of the plant.

4 Let me say that when we talk about a
5 disposal of hazardous material and mixing it into
6 the general solid waste stream, I think you have
7 got to be very careful on this, because you will
8 get these kinds of situations where people, then,
9 say, listen, in order to get rid of some of these
10 materials, you have to have a high temperature burn.
11 I'd say that I think that most of these things,
12 most of the toxic waste that we handle, or the
13 waste materials that we handle, can be eliminated
14 at fourteen hundred degrees farenheit. We burn at
15 about twenty-two to twenty-three hundred. So we
16 can handle that situation.

17 You are going to be dealing with those
18 sensitivities. The minute you tell people it's a
19 hazardous waste plant, the problems we have experi-
20 enced, now, will pale in comparison to what the
21 public outcry will be there. That's why govern-
22 ment has got to show, and the state. The state has
23 to come in and do it. No private corporation could
24 have the ability to come in and get a site and do
25 it on its own. It just will not be.

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2 CHAIRMAN GRANNIS: How about having
3 the state select the site? Nobody wants the site
4 in their back yards.

5 MR. D'AMATO: I think the state along
6 with the county and town officials, I'd say don't
7 give us a veto power. Just listen to us and give
8 us veto power, you'll never get it done.

9 CHAIRMAN GRANNIS: Your energy is sold
10 to LILCO?

11 MR. D'AMATO: Yes.

12 CHAIRMAN GRANNIS: Was that a negoti-
13 ated contract with them? Was there difficulty in
14 negotiating that contract?

15 MR. D'AMATO: All the problems we have
16 had in the area with LILCO--and we have disagreed
17 and had our battles on some things--that they have
18 shown, in this respect, one of the most enlightened
19 policies becoming involved with us in this project
20 and this goes back, now, about six years ago that
21 we started with them.

22 I have had the opportunity of meeting
23 with Florida Power and Light and I would say that
24 LILCO showed a far more energetic, enlightened ap-
25 proach.

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2 So it's always easy to kick a utility,
3 particularly when the public is down on them. But
4 the fact, in this case, they were extremely co-
5 operative and without their saying they're willing
6 to buy that power, there could have been no total
7 recycling effort here in Hempstead.

8 SENATOR DALY: Thank you very much Mr.
9 Supervisor.

10 I'd like to say, anyone who would like
11 to testify, if you just give your name at the
12 desk.

13 A VOICE: This is a public hearing.
14 The problem is, I'm a public citizen on my own ex-
15 pense here.

16 A lot of public officials are here and
17 they come and testify and leave and the public
18 never gets a chance to ask questions.

19 SENATOR DALY: You ask us anything you
20 want when you get up here. We're holding the pub-
21 lic hearing, hopefully, for our benefit in gain-
22 ing knowledge from public officials and citizens.

23 If you are testifying before us, you
24 can ask any questions and we can ask you any ques-
25 tions.

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2 We would be delighted to have you come
3 up and talk to us and give your opinion and ques-
4 tion us, if you like.

5 A VOICE: 10:00 o'clock in the morning
6 is not a public hearing.

7 SENATOR DALY: Last Thursday, we sat
8 until 9:00 o'clock at night.

9 Our next witness will be John V. N.
10 Klein, Suffolk County Executive.

11 MR. KLEIN: Thank you for giving me
12 the opportunity to testify here today.

13 The 1.3 million residents of Suffolk
14 County rely on groundwater as the sole source of
15 potable water. In recognition of this, the
16 United States Environmental Protection Agency has
17 designated Long Island as one of only three sole
18 source aquifer regions in the nation. For decades
19 Suffolk's water supply has been bacteriologically
20 and chemically of superior quality.

21 In 1975, testing by the Nassau County
22 Health Department of water supplies around the
23 Grumman Aerospace Corporation in Bethpage yielded
24 high concentrations of trace organic compounds.

25 There are groups of compounds, pri-

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2 marily man-made, such as chloroform, polyvinyl
3 chloride and halogenated hydrocarbons. Some have
4 been found to cause cancer in experimental ani-
5 mals. Some, such as vinyl chloride are suspected
6 carcinogens in man. All, in large enough doses,
7 are known to cause acute toxic effects in man.
8 Thus, although the long term effects on man of
9 small doses of these compounds are not fully under-
10 stood, we must, as responsible officialis, assume
11 these materials--in whatever quantity we find them--
12 are hazardous until there is more precise informa-
13 tion about their health effects on man.

14 When the results of the testing in
15 Bethpage were known in 1976, the Suffolk County
16 Department of Health Services and the county water
17 authority began testing public supply wells in the
18 western part of the county. Of the six wells
19 tested, four showed higher than recommended con-
20 centrations of trace organics. Although the ini-
21 tial efforts were directed toward community water
22 systems; for example municipal water supplies and
23 private water purveyors serving year-round resi-
24 dents, the testing program was later expanded to
25 cover non-community water systems and private wells.

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2 The non-community water systems include schools,
3 restaurants, office buildings and other water
4 supplies that have at least five service connec-
5 tions and serve more than twenty-five persons on
6 a transient basis.

7 Organic contaminants may originate
8 from many sources, including illegal industrial
9 discharges or accidental spills and commercial
10 and residential uses of products containing the
11 organics. Many of the organic substances even-
12 tually find their way into the groundwater via
13 cesspools, leaching fields, recharge basins and
14 direct percolation through the ground. Our county
15 Board of Health is in the process of developing a
16 new article of the Suffolk Sanitary Code regulating
17 the storage and handling of hazardous materials.
18 This, in addition to our current efforts at con-
19 trolling industrial wastes, should help reduce
20 groundwater contamination from organics.

21 Through the county's testing program,
22 we have taken 1,311 water samples from community
23 water systems, 265 from non-community systems and
24 1,254 from private wells. They have been tested
25 from the most commonly used halogenated hydro-

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2 carbons and on occasion for benzene, toluene and
3 vinyl chloride. Results indicate that the state-
4 recommended guidelines--50 parts per billion for
5 individual substances and 100 ppb for the aggregate
6 have been exceeded in 3.2 percent of the community
7 water systems, in 3.9 percent of non-community
8 water systems and in 5.8 percent of private wells.
9 In addition, detectable concentrations were found
10 in 14.3 percent, 12.3 percent and 24.4 percent of
11 the samples from the above sources, respectively.

12 Wherever we identified these contami-
13 nants in the public water system, the water com-
14 pany was asked not to use these wells but to switch
15 to uncontaminated ones. We were able to do this
16 because of the presence of additional wells in the
17 same wellfields.

18 For private wells, residents were asked
19 not to use the water for drinking purposes and to
20 try to find an alternate source such as bottled
21 water or to connect to public systems. This has
22 been a major difficulty. The cost of connecting
23 homes to the public supply when a group of homes
24 is isolated is prohibitive. However, the joint
25 efforts of the towns involved and the Suffolk

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2 County Water Authority has led to success in some
3 cases.

4 It is difficult to say whether the
5 levels of trace organics we find are higher or
6 lower than they were prviously. Historically,
7 there has been no testing for trace organics any-
8 where in the nation so we have no base line date.

9 I feel as we continue to test our
10 drinking water supplies, we will continue to find
11 organics. That leads to several problems. First,
12 it is essential that we have the proper monitoring
13 capability and the cost of testing for organics is
14 high.

15 Over the past two years, we have used
16 private laboratories in addition to the county's
17 and New York State's facilities. When testing was
18 performed for more than one group of synthetic
19 organics, the cost of testing one water sample
20 ranged from \$150 to \$300. Although we received
21 partial support from the State Health Department,
22 the continuation of our monitoring program, espe-
23 cially for the 60,000 to 80,000 private wells in
24 the county, will impose a tremendous financial bur-
25 den on the county's budget.

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2 I would think, therefore, the unique
3 situation of Nassau and Suffolk being sole source
4 of aquifers would justify aid for our monitoring
5 program.

6 In addition, the lack of standards for
7 trace organics poses another problem. Although
8 there are guidelines, and although the U. S.
9 Environmental Protection Agency is supposed to be
10 developing more certain standards, we really do not
11 know whether there are any safe levels of organics.
12 I hope the state and the EPA can move forward more
13 promptly to develop more precise standards.

14 Finally, I feel it is important that
15 homes and businesses served by private wells be
16 brought under public water supply. Not only for
17 trace organics but for public health and environ-
18 mental safety, it is important that we have the
19 capability to monitor our drinking water supply
20 adequately.

21 I thank you for this opportunity to
22 address you and I want to tank you for having
23 brought this hearing to Long Island, so that we
24 can make our causes known to you.

25 SENATOR DALY: We have been made aware

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2 by your representatives of the serious problems
3 you have here and we thought it was imperative
4 that we come down to Long Island for one hearing.

5 MR. KLEIN: Thank you.

6 ASSEMBLYMAN YEVOLI: County Executive
7 Klein, one very quick question.

8 We discussed this before in terms of
9 the pine barrens in eastern Suffolk County.

10 Do you think it would be safe to say
11 that Long Islanders, or certainly, residents of
12 Suffolk County, would be willing to consider the
13 kind of stringent land use management plan that
14 would be used in the Adirondacks?

15 MR. KLEIN: I must tell you, that I'm
16 not sure I'm as optimistic about the public re-
17 ceptability as was the last witness, Mr. D'Amato.

18 I would say that the attitudinal fix
19 on people is a lot more flexible than it was ten
20 years ago, for a variety of reasons. But I am
21 not sure that the reaction to that, both from the
22 local governmental level--and, I mean, the town
23 and village level--and the people themselves, would
24 be entirely receptive. I think you are running
25 into a home rule issue.

1
2 I know, tangentially, the kind of prob-
3 lem the Adirondack thing brought about and I sus-
4 pect you would find some resistance to that "In-
5 vasion of home rule land use prerogatives."

6 I think it might be rougher sledding
7 than some people think.

8 ASSEMBLYMAN YEVOLI: A way to avoid
9 that would be to do it on a local level. It could
10 be done either on a bi-county level, if that were
11 possible, realizing Nassau has no real jurisdic-
12 tion over the pine barrens.

13 But if there could be a cooperative
14 effort with the villages and towns, perhaps we
15 could develop a plan for future use.

16 I may disagree with some of the speak-
17 ers. I'm certainly not an expert on this subject,
18 but I would say within the next twenty years, the
19 way Long Island's water supply is now going, it's
20 seriously in danger and I think there have been
21 many esoteric plans that have been proposed, piping
22 water from the Hudson River and doing all kinds of
23 things that would cost billions and billions of
24 dollars, and yet, I look at the pine barrens, that
25 may be a pristine source of water that we may all

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2 have to avail ourselves of.

3 So the protection of that area is some-
4 thing we ought all to work jointly to at least ac-
5 complish.

6 MR. KLEIN: I would agree with that
7 one hundred percent. I would also respectfully
8 submit to you that we have in place one of the most
9 effective regional planning agencies in the state,
10 which has recently undertaken and completed one of
11 the largest 208 studies in the nation and for those
12 reasons, I would say, the atmosphere is much bet-
13 ter than it had been in the past. But I just un-
14 derline that I think that it would have to be done
15 with a high degree of sensitivity, that the dis-
16 cussions would have to come from the bottom up
17 rather than from the top down, if it were to have
18 any element of success.

19 But I think the mechanism is there to
20 get that kind of productive discussion going with
21 some ultimate results.

22 ASSEMBLYMAN ZAGAME: Mr. Klein, you
23 have talked about water quality monitoring and the
24 problems you think you'll have in reading the cost
25 in the future.

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2 Can you tell me, in your dealings with
3 the Health Department, did you find you had to
4 wait a long time for samples to return or analysis
5 to be done?

6 MR. KLEIN: What I'm about to give you
7 is secondhand information and that question should
8 probably be answered by a member of the health ad-
9 ministration in Suffolk County.

10 I have not been told of any inordinate
11 delays. I would be very happy, if you think it's
12 important, to get that kind of information on a
13 direct basis.

14 ASSEMBLYMAN ZAGAME: It is, because the
15 Health Department is requesting additional funds
16 for water quality monitoring. The purpose is to
17 expand some of the laboratories.

18 In my area, we have had to wait, par-
19 ticularly with samples from the Love Canal.

20 We would like to know if you had in-
21 ordinate delays in those test results coming back,
22 so we can substantiate the Health Department's re-
23 quest for additional funds.

24 MR. KLEIN: I would be glad to forward
25 that information.

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ASSEMBLYMAN ZAGAME: Just one caveat.

You're not so unique here in that you depend solely on groundwater for your supply of water. There are many areas in upstate New York where, because of private wells and so forth, that is the sole source, probably in most of my district that the groundwater supply there finds its way into the Oswego River, which goes into Lake Ontario.

So the idea of monitoring wells in the County of Suffolk is similar to what we have to do in the County of Oswego. We need state assistance with federal reimbursement to help a lot of different places in New York State that have to do this monitoring New York State in years to come at a pretty substantial cost.

MR. KLEIN: I recognize that and obviously, your scope of responsibility here statewide. You have to forgive a rather parochial point of view when we testify here, but we have to respect that position.

CHAIRMAN GRANNIS: I don't think in this planning process where you're going to have competing interests of small, local municipal

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2 bodies that anybody is going to be in a position
3 to make a decision on long term planning. It was
4 a fairly distinct step in the Adirondacks, but the
5 decision was made because of a long term need and
6 the recognition that local government would not
7 try to limit the growth that the Adirondack plan
8 has adopted.

9 I am familiar with the hostilities and
10 difficulties they had. I'm not sure if it was
11 left up to local governments to work that out, be-
12 cause of the parochial interests, in saying we need
13 to agree, why should we be limited by our neighbor.

14 You saw the map in yesterday's paper
15 about who is going to get the gasoline and who
16 isn't. This scuttled the president's gas ration-
17 ing plan. I'm not sure that planning will provide
18 the protection that might be necessary for gener-
19 ations to come to protect the groundwater, unless
20 it comes from higher authority with cooperation
21 from local authorities.

22 I do understand your position.

23 MR. KLEIN: That is not really my po-
24 sition. If I give that impression, I will apolo-
25 gize.

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2 But I had said to Assemblyman Yevoli's
3 question, that the players must clearly be the
4 state, the region and the localities and that in-
5 cludes the county and the towns. What I'm saying
6 to you, is that fifteen years ago in Suffolk
7 County, there was not only a lack of cooperation
8 between the town and county planning agencies,
9 there was open warfare. Today, that is a reason-
10 ably happy marriage.

11 All I'm suggesting to you, is that if
12 you want to approach that subject, it should not
13 come in the form of a bolt of thunder from Mt.
14 Olympus down to the locals, but that the state,
15 the region, the county and the local municipality
16 should sit down together and weave the fabric of
17 the solution together, because the surest way to
18 kill it is to have some infinite wisdom--and I'm
19 not being facetious--come from Washington or
20 Albany to tell the locals what they want.

21 In fact, if the locals are made a part
22 of it from the inception, I think you will be
23 pleasantly surprised with their willingness to
24 deal with the subject.

25 ASSEMBLYMAN YEVOLI: We are the bene-

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2 ficiaries of a designation "sole source aquifer"
3 by the government and in conversations with the
4 EPA, there seems to be some confusion as to just
5 what we're entitled to, as we now have this desig-
6 nation.

7 I can get no rules or regulations from
8 them.

9 In terms of funding, when questions
10 are raised as to protect our supply, since we have
11 been so designated as a sole source aquifer,
12 again, usually at the other end of the line, there
13 is dead silence.

14 So we are the beneficiaries of this,
15 but if the kind of title that has been bestowed up-
16 on us with nothing behind it. Maybe you know about
17 it.

18 MR. KLEIN: I won't take the time to
19 give you the laundry list of benevolent titles be-
20 stown on us, and there are many.

21 CHAIRMAN GRANNIS: One final tangen-
22 tial question involves the Shoreham power plant.

23 Is that a concern, whether or not the
24 location develops at the Shoreham plant and water
25 is contaminated, would that reach the aquifer and

1
2 the pine barrens? Is that a concern of the county
3 health department?

4 MR. KLEIN: It certainly is.

5 On Tuesday, I spent a full day in
6 Harrisburg talking to people and visiting Three-
7 Mile Island. Without getting into a long disserta-
8 tion, it was probably the most profound experience
9 I have been through in a long time.

10 What took place outside the plant was
11 almost as catastrophic as what took place inside
12 the plant.

13 There was no hazard assessments capa-
14 bility by anybody and clearly, if you project the
15 potential occurrences at Shoreham, the implications
16 are not only in terms of radioactivity, but what
17 you just raised, the issue on the impact upon ground-
18 water.

19 Because the Island is divided by a
20 spine and there's a northward flow and southward
21 flow, if this is on the north shore, it has an im-
22 pact. But that is certainly within our concerns.

23 But for the most part, the flow patterns
24 of sub-surface waters on the north shore are toward
25 the Sound and since this facility is located on the

1
2 Sound, it limits the impact of such an occurrence.

3 CHAIRMAN GRANNIS: Should that func-
4 tion be a state, local or national function?

5 MR. KLEIN: It has to be all three,
6 that planning function, and I made that suggestion
7 yesterday.

8 In terms of total response capability,
9 I think we are in Neanderthal times and I think
10 that was proven in Pennsylvania. I think it must
11 be a tight, precise functional relationship among
12 the three levels of government.

13 CHAIRMAN GRANNIS: Hopefully, we have
14 learned from the Three Mile Island lesson.

15 MR. KLEIN: I hope so.

16 CHAIRMAN GRANNIS: Thank you very much,
17 Mr. Klein.

18 The next witness is Peter Skinner,
19 representing the Attorney General of the State of
20 New York.

21 MR. SKINNER: I am Peter N. Skinner,
22 P.E., Environmental Engineer for the Bureau of En-
23 vironment Protection in the office of the Attorney
24 General of the State of New York. I am in charge
25 of evidentiary reviews for hazardous waste manage-

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2 ment, investigation and litigation, as well as
3 for investigation and litigation in the area of
4 septic tank cleaners and additives, and ground-
5 water pollution.

6 By way of introduction, the Attorney
7 General would like to reiterate his appreciation
8 to your committees for scheduling these hearings,
9 and providing for state-wide discussion of the
10 problems posed by hazardous waste.

11 The Attorney General has, in previous
12 testimony in Albany, April 26th, outlined some of
13 the legal remedies being considered against those
14 who created hazardous dumps. This effort is pro-
15 ceeding, as legal and technical staff are now re-
16 searching the grounds for legal action, even while
17 the Attorney General awaits the decision of the
18 Governor and the legislature on his request both
19 for subpoena power and for the funding necessary
20 to do the job fully and properly.

21 The range of problems posed by hazard-
22 ous chemicals being dumped into the ground; and,
23 by one manner or another, polluting the environment
24 and threatening public health is enormous. Many of
25 these problems have been discussed in previous

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2 testimony. However, it is vitally important to
3 restate, at every opportunity, that landfilling of
4 these wastes is a very dangerous practice in
5 perpetuity.

6 Past dumping practices without such
7 careful oversight have resulted in tragic condi-
8 tions, at Love Canal and elsewhere. Present and
9 future practices must avoid such results. The
10 Attorney General feels that one method to be em-
11 ployed in the future is to impose a moratorium on
12 the burial of synthetic organic chemicals, the most
13 dangerous and persistent of these wastes, and in-
14 stead provide for retrievable safe storage of these
15 chemicals until they can be safely, permanently
16 destroyed; legislation to mandate this procedure
17 is presently being drafted by the Attorney General,
18 working closely with representative of the Legis-
19 lature. At the same time, legislation is also en-
20 visaged to provide for perpetual care of hazardous
21 waste sites, including closure and post-closure
22 monitoring and maintenance, and providing various
23 financial mechanisms; included in the legislative
24 proposal would also be a provision for safe elim-
25 ination and destruction of buried wastes, so that

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sites can indeed be rendered truly safe.

Thus, the Attorney General is proceeding to investigate possible litigation against existing and abandoned sites, and, at the same time is assisting in the preparation of legislation to prevent future Love Canals by providing proper management of these wastes.

Hazardous chemicals have become an ever larger part of our industrial world, and are affecting the people of this state not just through dumping, but by other means. In particular, very dangerous chemicals have been found in septic tank cleaning products which can and do enter drinking water. In a recent case on Long Island, in response to a motion for a preliminary injunction, the Attorney General was successful in gaining the agreement of a major manufacturer of such products, the Janycn Manufacturing Corporation, to stop selling and distributing "Drainz" and "Super Strength Drainz," both of which contain hazardous chemicals which have contaminated Long Island's groundwater and drinking water supply.

While litigation such as this is vital, and will be pursued by the Attorney General to pro-

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2 tect the people and the environment of this state,
3 there is at present an Attorney General program
4 bill already in the Legislature--S. 2382-A, A.
5 3111-A, introduced by Assemblymen Bianchi and
6 Yevoli, with twenty-five sponsors, and by Senator
7 La Valle and three others.

8 This important measure would amend the
9 environmental conservation law to prohibit the
10 sale or distribution of sewage system cleaners and
11 additives which contain certain dangerous chemi-
12 cals such as were found in the Long Island case.

13 The Attorney General feels that passage
14 of this bill is vital.

15 Of course, the problems created by
16 hazardous wastes require both Federal and State
17 efforts, and the Attorney General is committed to
18 working on all levels, with the Legislature and the
19 Governor to see to it that the health and safety
20 of the public are protected for generations to
21 come.

22 CHAIRMAN GRANNIS: You talk about ask-
23 ing the Governor for the subpoena power.

24 The Attorney General does not have sub-
25 peona power to carry out this kind of investigation?

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MR. SKINNER: Under Section 638 of the Executive Law, the particular capability which we feel would be appropriate for the investigation of the hazardous waste dumps in the state, at present, the only, as I understand it--being an engineer, I should be careful of what I say--there are only limited legal remedies available to obtain the documents that we--that are so important to our investigation, and those are not particularly applicable to the 488 sites we have to deal with.

CHAIRMAN GRANNIS: Would you ask somebody in your office to get us a memo on what legal authority you have and don't have and what can come directly through the Governor and what kind of legislative mandates might be required to change your legal authority, if it's a case by case basis or overall subpoena power.

I'm surprised, given the very broad mandates in the State Constitution and State Mandates, you don't have the power to go after the records you need.

Get a legal memo on that.

MR. SKINNER: It exists and we will provide it to you.

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2 CHAIRMAN GRANNIS: I know you are
3 drafting legislation. We have talked about this
4 before.

5 When do you think that legislation is
6 going to be ready, either in final form for presen-
7 tation or draft form, so we could see it?

8 MR. SKINNER: We are presently sched-
9 uled to meet with members of your committee staff
10 to discuss our proposals on Monday, which is at
11 11:30.

12 CHAIRMAN GRANNIS: Final questin.

13 There is a call for a moratorium on
14 the burial of waste. The alternative is above
15 ground storage in secure sites.

16 Is that what your proposal is, until
17 we can develop ultimate disposal technology or
18 techniques or facilities or ultimate disposal?

19 MR. SKINNER: Absolutely.

20 We consider the appropriate method for
21 doing this as properly isolated--I'm sorry--con-
22 crete bunkers which will make it possible to re-
23 trieve the waste and have them burned when the
24 system that you envisioned in your legislation is
25 in place, and also, provide a stockpile of materi-

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2 als which could provide that ongoing supply of
3 waste that is necessary to keep private industry
4 operating such facility with the kind of mater-
5 ials that they need, although it may not be much
6 of a problem.

7 CHAIRMAN GRANNIS: What is your esti-
8 mate of the quantity of toxic waste generated in
9 this date every year, let's say?

10 MR. SKINNER: I don't think I have
11 those numbers at all.

12 CHAIRMAN GRANNIS: The figures are
13 staggering, though.

14 MR. SKINNER: It's a huge amount and
15 looking at the materials coming into the Chemtrol
16 site in Erie County, if we can't generate them,
17 states in the United States can certainly provide
18 them to us in the amounts we don't really want to
19 have.

20 CHAIRMAN GRANNIS: Do you have any
21 estimates in the amount of toxics we export for
22 treatment elsewhere and import for treatment here?

23 MR. SKINNER: I don't think any such
24 efforts have been made. The best place to go for
25 that would be Tom Quinn and his toxics program, and

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2 I hope their long awaited report will be provide
3 that information.

4 CHAIRMAN GRANNIS: I'm as concerned
5 on storing these toxics aboveground as burying
6 these.

7 We went and saw one of these landfill
8 sites. Whether that's safer than storing it in
9 concrete bunkers after it's been shipped around
10 the state and other states in drums, to take it
11 off the drums and put it into the concrete bunker--
12 I don't know what the best solution is.

13 MR. SKINNER: We should look at the
14 radioactive waste situation. The problems that
15 have plagued the radioactive waste management pro-
16 gram for the United States has necessitated con-
17 tinual storage of these radioactive wastes, de-
18 pending on the decision on the geologic deposi-
19 tory or other sites. It's clear to our office that
20 secure landfilling does not represent that perma-
21 nent approach to the problem. It would be inap-
22 propriate to continue that practice when we know
23 full well that relevant technology does exist and
24 with the kind of guidance the legislature is pres-
25 ently putting forth in your efforts, we may have

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those facilities soon.

So to continue on the wrong route would be inappropriate.

ASSEMBLYMAN ZAGAME: I'd like to follow up on Pete Grannis' comments to you about providing us information where there may be a deficiency in the law with respect to your ability to get information.

Maybe you're familiar with the bill in the legislature that has probably generated more controversies than any environmental bill I have seen hit the floor, that would allow DEC to enter property in an emergency situation and do whatever needed to be done to stop, perhaps, a breach in a dike that might be holding chemicals back, which was the case in my district, or some environmental problem.

Do you think that type of legislation would be helpful where you could enter property, do what needs to be done in the way of remedial action and go to court within seventy-two hours under the bill that's bound to get some kind of court order allowing continued surveillance of the site?

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MR. SKINNER: First, from a mechanistic standpoint, it's absolutely necessary. This kind of legislation, although unpopular, is something vitally needed.

Coming from a litigative standpoint, without the necessary evidence to go forward with any kind of enforcement action, we're really powerless. The capability of having the Department of Environmental Conservation and Transportation personnel go on site would be necessary to collect their evidence we would use seventy-two hours later. Without the capability of going on site, we're powerless to collect those data.

It's absolutely necessary.

ASSEMBLYMAN ZAGAME: We are aware the organized crime task force is investigating the potential involvement of organized crime in this industry and you mentioned there may be deficiencies with respect to collecting data.

What about deficiencies on those who are found to violate environmental laws? Are we dealing with the situation where the punishment doesn't fit the crime?

What do you do with somebody who dumps

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ten thousand barrels of PCB's along the highway?
What would be the charge?

Would they go to jail or just get a
fine?

MR. SKINNER: I would prefer to answer
that in specificity by memorandum form. The rea-
son I do that is that I'm an engineer and my
answers would not be as good as what my lawyers
could provide to you.

Our lawsuit on the Mattis case, I think
it's Glen Cove, where seventy-five thousand dol-
lars was recovered as a fine, clearly did not de-
ter them from continuing operations. Their pres-
ent operations they have been significantly bet-
ter in the past. However, it's indicative that
the cost of doing business can certainly cover the
seventy-five thousand dollars fine they received.

ASSEMBLYMAN ZAGAME: That's my con-
cern, that these fines could just be a cost of do-
ing business, if the business is as profitable as
we are told when the dumping is done illegally.
If it's done illegally, the profit is actually one
hundred percent. If you are caught and you pay a
seventy-five thousand dollar fine, it may repre-

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sent only a small portion of what was returned as a profit to that company.

MR. SKINNER: Considering the impact on the state's resources that cannot be replaced, i.e., our groundwater, seventy-five thousand dollars is a drop in the bucket, and the cleansing of the groundwater is a difficult, if not impossible, job.

Once those materials coat the particles of soil that hold groundwater, cleansing it is very, very difficult, if not impossible.

ASSEMBLYMAN ZAGAME: Could you have your attorneys, when they draw up this memorandum, add an addendum as to remedies we should be providing as to your ability to seek a serious penalty for the people who violate the conservation laws, because some of the correspondence I have between the Attorney General and district attorneys and district attorneys and their legislatures in the state seems to tell me that the penalties, right now, don't fit the crime, that this crime of dumping toxic waste should be treated much more seriously than other violations of the conservation law and I'd like to know if we should up the

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2 penalties and see one pays the higher price.

3 MR. SKINNER: One thing I want to
4 stress, is that the development of the data that
5 are necessary to "prove the case," is very, very
6 expensive, and such a program is the kind of pro-
7 gram we ask the Governor to assist us in funding.

8 Our office has been reduced in its
9 appropriations this year and with the future prob-
10 lems that I have already found in our materials
11 that are available on such things as Love Canal
12 and other areas, this kind of investigation has
13 got to go forward to get the kind of proof we need
14 and it's going to have to cost money and whose
15 pocket it comes out of is probably going to be up
16 to you people and I can only stress, and I stress
17 for the Attorney General as well as myself, as an
18 engineer who put together these evidentiary case
19 files, money is going to be needed.

20 ASSEMBLYMAN ZAGAME: Do you have a re-
21 quest for around nine hundred thousand dollars?

22 MR. SKINNER: Nine hundred and fifty
23 thousand dollars.

24 ASSEMBLYMAN ZAGAME: For the purpose
25 of this investigation?

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MR. SKINNER: Yes.

ASSEMBLYMAN ZAGAME: Love Canal or state-wide?

MR. SKINNER: My request covers all. But even with that nine hundred and fifty thousand dollars, getting these cases off the ground is going to have to be done on a very limited number of sites. The amount of legal maneuvering, the lawyers tell me would be necessary, would be quite time consuming and necessitate a lot of efforts and I know that the production of proof will be, a, very difficult; b, necessitate efforts, and that's why cooperation of the other agencies is a key here and thirdly, will necessitate some money to go take other samples where the samples were done improperly or not done at all.

ASSEMBLYMAN ZAGAME: We have spoken about this before and the priorities that can be set by the Attorney General in pursuing these cases. I can see where the Love Canal situation demands most of our attention, but I would hope a good portion of those resources would be applied to pursuing some of those illegal dumps that may

1
2 have been operated by organized crime.

3 I'd like to know if you could get for
4 us the information how that money is proposed to
5 be spent? Is some of it going to be channeled to
6 the organized crime task force or is it going to
7 be used to litigate some of the cases we have
8 heard already in Erie and Niagara?

9 I think the highest priority should
10 go to pursuing those cases that relate to the pos-
11 sible involvement of organized crime, particularly
12 in the southern part of the state.

13 MR. SKINNER: I think it's terribly
14 important and the criteria we are developing in
15 the office to deal with the plethora of sites,
16 four hundred sites we're talking about, we must
17 recognize that very area you find important.

18 I would, however, also indicate that
19 our first and primary area of concern is for pub-
20 lic health. Where any litigation could assist in
21 the development of a remedial program to protect
22 the public health where it's endangered, that's
23 got to receive our first and most important con-
24 cern.

25 Secondly, as I understand it, the

1
2 statute of limitations may also limit certain
3 other kinds of cases and we must be cognizant of
4 those as well.

5 There's going to be pushing and shov-
6 ing, but within the next two weeks, we will have
7 a very good idea of exactly which site will re-
8 ceive our first attention without the nine hundred
9 and fifty thousand dollars, although it will be
10 severely limited in our efforts to go forward and
11 we're going to need all the help we can get.

12 ASSEMBLYMAN ZAGAME: Thank you.

13 SENATOR DALY: I wish you would, for
14 me, get an impression and recommendation and crit-
15 icism from the Attorney General's office on this
16 legislation, which would really attack a problem
17 of that transporter of hazardous waste.

18 Now, one of the things that really has
19 been pointed out to me in our hearings around the
20 state, is that we do have many, unfortunately,
21 "fly by night," unconscionable opportunists who
22 are taking advantage of this hazardous waste situ-
23 atin. They're being contracted by industry, by
24 manufacturers or by the user to dispose of the
25 waste and they're disposing of it very illegally

1
2 improperly and by unhealthful means.

3 One of the pieces of legislation that
4 we are considering is to put on the backs of the
5 user or the manufacturer who has to dispose of
6 that waste, the responsibility to make sure that
7 the waste is disposed of in a proper manner. In
8 other words, for example, this case brought up
9 this morning of the person who put those cans or
10 barrels in the Islip dump, would not only penalize
11 criminally with criminal sanctions, also, I might
12 add, not only the person who did it, but also the
13 person who gave him that waste to be disposed.

14 In other words, what we're thinking is,
15 we will make them responsible for whoever handles
16 this waste after they try to get rid of it and per-
17 haps giving them the possibility of criminal sanc-
18 tions, criminal penalties, that they will be more
19 careful in who they give their waste to and how it
20 is disposed.

21 I would like to get a recommendation
22 from the Attorney General's office for legislation
23 on that nature.

24 MR. SKINNER: The question of secondary
25 liabilities has not been explored by the court in

1
2 great detail and it's an area we have been dis-
3 cussing on a continuous basis for many months,
4 now, and because of the need to develop such a
5 set of case law, we must move forward strongly
6 and we plan to do so after this next two or three
7 week period when we're trying to determine where
8 the best cases lie to protect public health and
9 develop the case law we need to go forward.

10 The need for legislation, of course,
11 I'm not sure whether you can make it retroactive,
12 but it certainly would be helpful to make it a
13 general policy of the state in the future. Of
14 course, we have to not forget that the proposed
15 regulations under the Resource Recovery and Con-
16 servation Act, may well provide that kind of thing
17 as well.

18 CHAIRMAN GRANNIS: When they come out
19 in a year and a half.

20 ASSEMBLYMAN YEVOLI: Peter, I just
21 wanted to tell you, in terms of that assembly bill
22 3111A, you know, we have had many meetings and the
23 Attorney General's department has participated and
24 we thank you for that. We have reached the final
25 stages with the bill. We anticipate it will be on

1
2 the calendar within the next two weeks in both
3 houses.

4 MR. SKINNER: Good.

5 ASSEMBLYMAN YEVOLI: We're optimistic
6 it will pass two houses of the Legislature and,
7 hopefully, it will be on the Governor's desk two
8 or three weeks before we adjourn. Hopefully, we
9 will have a law on the books.

10 MR. SKINNER: Good news.

11 SENATOR DALY: Thank you very much.
12 Thank you and thank the Attorney General for us,
13 also.

14 At this point, we'll take a short
15 break.

16 (Whereupon, a short recess was taken.)

17 SENATOR DALY: Ladies and gentlemen,
18 with your cooperation, we will reconvene with the
19 meeting.

20 Our next person to testify is Mr.
21 Francis Padar who is here in a dual capacity. One
22 of his capacities is representing the Nassau
23 County Department of Health and secondly, as a
24 member of the Conference of Directors of Environ-
25 mental Health Services of New York State.

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2 MR. PADAR: The Nassau County Department
3 of Health has been at the forefront of efforts
4 to identify and abate toxic chemicals in
5 the environment. The Department has long recognized
6 the need for extraordinary efforts to protect
7 our unique and sensitive local environment
8 and its efforts have been supported by traditionally
9 progressive County administrations.

10 Consequently, we have pioneered in a
11 large measure in both the identification and resolution
12 of threats to our air, land, and water resources.
13

14 As far back as 1948, groundwater contamination
15 was discovered from chromium wastes discharged
16 by an aeronautical firm and an industrial
17 wastewater control program was launched which
18 became a model for the current State program. In
19 the 1960s we started a comprehensive groundwater
20 quality assessment program replete with computerized
21 data evaluation.

22 Sewage contamination of our water supply
23 caused by cesspool systems was demonstrated
24 and the Department became the prime advocate for
25 comprehensive sewerage of the County which is now

1
2 realizing full fruition.

3 In 1976 we discovered contamination
4 of our aquifers by synthetic organic chemicals
5 which are suspected human carcinogens. An in-
6 tensive testing program was launched which in
7 eighteen months enabled us, using sophisticated
8 GC/MS laboratory techniques, to sample each of 437
9 public wells at least twice and remove tainted wells
10 from service. Concurrently we launched a door-to-
11 door survey of over 3,135 suspected industrial and
12 commercial establishments to identify sources of
13 groundwater discharges of these chemicals. We
14 found 269 sources and as of now have abated 185,
15 and the remainder are in process of correction.

16 We also conducted a study of consumer
17 products and found 230 household products which
18 contained organic chemicals of concern and also
19 potentially hazardous because through their use
20 and disposal could seriously contaminate the
21 groundwater. This study led to the development of
22 the legislation now being considered by the State
23 Legislature to ban cesspool cleaners containing
24 such toxic chemicals.

25 Since May 1976, we have been experienc-

1
2 ing increasing numbers of spills from underground
3 gasoline tanks totaling 46 confirmed incidents
4 with total discharge to the groundwater of an es-
5 timated 250,000 gallons. Moreover, the Department
6 has discovered that certain gasoline constituents
7 and additives though only slightly soluble, have
8 serious groundwater contamination potential nota-
9 bly from benzene--a known carcinogen and tetra-
10 ethyl lead, a recognized toxicant.

11 We have been instrumental in stimulat-
12 ing the development of field techniques to treat
13 contaminated groundwater segments to remove ben-
14 zene and other gasoline hydrocarbons. In related
15 matters, we have significantly augmented State
16 efforts in recovery operations with a heavy com-
17 mitment of our laboratory resources to test both
18 water and air samples, have provided technical
19 expertise, and tried to motivate more expeditious
20 handling of gasoline spills in general and of the
21 more significant individual spills.

22 For many years we have maintained
23 close control over industrial wastewater discharges
24 and have 38 establishments under SPDES permit
25 over and above the recent program on organic chem-

1
2 icals.

3 The control of industrial waste sludges
4 and residues have been a particularly difficult
5 problem which we are coping with as effectively as
6 our authority and the technical state-of-the-art
7 permits.

8 Other pertinent efforts by the Depart-
9 ment have addressed methane migration in a survey
10 and follow-up of 50 existing and abandoned land-
11 fills, the design of a proposed regulation of
12 hazardous substances which are not wastes under
13 our Public Health Ordinance and the development
14 of proposed regulations to prevent and control
15 gasone spills.

16 This chronology of local identifica-
17 tion and abatement of toxic substances has been
18 presented not only to illustrate the nature of our
19 problems, but also to demonstrate local health de-
20 partment capability and expertise in the identi-
21 fication and abatement of the threat of human
22 health and the environment of toxic chemicals and
23 hazardous substances. Our long and broad experi-
24 ences in the management of environmental quality
25 we believe also qualifies the Department to speak

1
2 authoritatively to the questions posed in the
3 notice of this hearing in the area of program ad-
4 ministration, best available technology, and the
5 scope and content of needed legislation.

6 Our comments address the adequacy of
7 the present response of government to environmen-
8 tal emergencies, the identification and classifi-
9 cation of in-place toxics, as well as the manner
10 of allocating costs for remedial measures and the
11 approaches needed to regulate hazardous wastes now
12 being generated. A series of specific recommen-
13 dations is also provided.

14 The present response by federal, State
15 and local governments to hazardous substances
16 emergencies is inadequate because only limited re-
17 sources and expertise can be mobilized to confront
18 a crisis. The approach of both federal and State
19 agencies is to provide at best only that assist-
20 ance which is beyond local capability and is
21 usually limited to technical consultation and
22 laboratory support.

23 Local programs in turn are shrinking
24 in response to local austerity. The environmental
25 health staff in Nassau County has dwindled from

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2 171 in 1970 to 152 today.

3 This condition persists despite the
4 fact that under the State Constitution, the re-
5 sponsibility for public health protection, in-
6 cluding environmental control, rests with the
7 State. State monetary assistance provided to local
8 health departments of up to 50 percent of local
9 program costs to implement State public health and
10 not responsibility. This local assistance in
11 reality amounts to a payment to localities of only
12 35 cents on the dollar.

13 To make matters worse, while the local
14 environmental control program resources are
15 shrinking, and with it the amount of "matching"
16 State aid, the State is mandating more and more
17 work to implement one new federal environmental
18 program after another, is delegating increasing
19 functions to localities, and, in an ultimate
20 travesty, is not sharing with localities the fed-
21 eral revenue provided for the very purpose of im-
22 plementing federal environmental laws.

23 Finally, there are serious inequities
24 in the administration of local assistance which
25 penalize the more progressive local health depart-

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2 ments.

3 The problems of inadequate appropri-
4 ations at all levels of government prevent the
5 systematic assessment of environmental threats and
6 the design and implementation of both corrective
7 and preventive strategies. Toxic waste emergencies
8 such as Love Canal are merely symptoms of a his-
9 torical failure on the part of government at all
10 levels to recognize their responsibility to proper-
11 ly control hazardous substances. Excursions of
12 PCB's, mirex, synthetic organic chemicals, asbes-
13 tos, mercury, gasoline, radioactive materials, and
14 other hazardous substances will continue to occur
15 unless and until our existing ticking time bombs
16 are defused and new bombs are not created.

17 While the overall environment control
18 programs need substantial infusion of money at all
19 levels of government, there are specific shortfalls
20 which need particular attention at both the federal
21 and State level. Primary among these is the need
22 for toxicological assessment of human risk from
23 human exposure to a large group of toxic substances
24 individually and synergistically. More important,
25 a decision has to be made as to what level of risk

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2 our society is willing to tolerate recognizing that
3 the cost of prevention will escalate dispropor-
4 tionately as the risk is reduced.

5 Another significant need is the devel-
6 opment of laboratory analytical methodologies able
7 to accurately identify all organic chemicals of
8 concern at the trace levels at which they are sig-
9 nificant to health and to generate both govern-
10 mental and commercial laboratory capability suf-
11 ficient to supply the growing needs for emergency
12 responses, as well as for comprehensive investiga-
13 tions and basic program needs.

14 We have also experienced an inability
15 on the part of the State DOT to respond effective-
16 ly in their responsibility to administer the Oil
17 Spill Compensation Fund Article 12 of the State Navi-
18 gation Law.

19 To begin with, staffing is woefully
20 poor with only two engineers and one clerk assigned
21 to the Long Island region where since the beginning
22 of 1979 alone there have been 25 reported gasoline
23 spill incidents. The program is also inadequately
24 organized and administered which prevents a de-
25 cisive and thorough response to these types of

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2 emergencies. The State DEC in turn has one engi-
3 neer assigned to this program in the region to
4 fulfill their assigned role to provide environ-
5 mental assessments and technical guidance. The
6 result is that the local health department must
7 take up the slack at two echelons below the lead
8 agency, performing environmental assessments,
9 stimulating USEPA technical assistance, collecting
10 and analyzing samples of air and water, motivating
11 enforcement of corrective action under DEC law,
12 and both designing and motivating more productive
13 administrative processing and criteria for clean-
14 up operations.

15 In summary the response to toxic chem-
16 ical emergencies by government at all levels is
17 inadequate due primarily to insufficient funding.

18 While we have as a society developed
19 sophisticated analytical tools to better identify
20 problems, we are faced with ever increasing emer-
21 gency episodes but with diminishing resources to
22 perform the needed corrective and preventive ac-
23 tions.

24 The identification and classification
25 of hazardous waste dump sites in Nassau County

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2 represents a problem of different dimensions than
3 in areas with a heavy chemical industry such as
4 Niagara County. We have 15 active landfills and
5 36 which have been closed. These include conven-
6 tional refuse disposal facilities, as well as
7 those which contain building demolition materials
8 and agricultural waste. Many of these have ac-
9 cepted industrial wastes during their operating
10 life which included hospital and nursing home
11 wastes, sewage solids, outdated drugs, and in-
12 dustrial residues which only recently have been
13 placed under regulation.

14 At the Syosset landfill there is evi-
15 dence of disposal by the Hooker Chemical Company
16 after 1965 of an undetermined quantity of waste
17 in drums identified only as coagulated latex and
18 carbon black filter cake.

19 Limited testing of landfill leachate at
20 two landfill sites revealed presence of substances
21 in excess of drinking water standards consisting of
22 barium, cadmium, hexavalent chromium, fluoride,
23 synthetic detergents, iron, manganese, sulfate,
24 and zinc. Organic chemicals were found in one of
25 two sites at which leachate was tested containing

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2 80 ppb of methylene chloride and 130 ppb of tolu-
3 ene which levels exceed the drinking water interim
4 guidelines for organic chemicals in New York State.

5 Tests of wells in vicinity of these
6 sites have not demonstrated migration of toxic con-
7 stituents, although such tests have not been ex-
8 haustive nor, except in isolated cases, installed
9 expressly to monitor the influence of leachate on
10 groundwater quality.

11 Thus while gross contamination from
12 landfilling of hazardous substances is not evident
13 in Nassau County, neither has a comprehensive in-
14 vestigation been conducted.

15 The recommended approach is to sys-
16 tematically study the problem by installation of
17 test wells as typical types and ages of landfills
18 under hydrogeological conditions which prevail. A
19 total of 16 sites should be selected on this ba-
20 sis and with three or four wells at each site.

21 Groundwater should be tested for full
22 range of inorganic substances listed in drinking
23 water standards, as well as for a full spectrum of
24 volatile and non-volatile halogenated hydrocarbons,
25 and for gasoline constituents and additives.

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2 Findings of the study should be eval-
3 uated in terms of the potential threat to water
4 supply aquifers and assessment of available
5 remedial strategies. Investigation should then
6 proceed to other lanfills with similar charac-
7 teristics to those found initially to present a
8 problem.

9 The initial investigation should pro-
10 ceed under a special State appropriation with
11 priority assigned to those localities dependent
12 on groundwater sources of public water supply.
13 Federal legislation should be encouraged to autho-
14 rize such investigations and appropriate necessary
15 funds for the implementation including reimburse-
16 ment to the State for prior work accomplished. An
17 amendment to the RECRA appears to be an appropriate
18 approach for such federal legislation.

19 Where remedial action is required for
20 in-place toxics, the responsibility for corrective
21 action should first be sought from the dumper on a
22 voluntary basis. Tailing this effort, liability
23 of the perpetrator for remedial measures should
24 be southt in courts of competent jurisdiction.
25 As a last resort, funding should be provided by

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2 federal legislation which should also authorize
3 necessary investigative and remedial actions to
4 properly treat and dispose of hazardous wastes
5 uncovered.

6 We do not recommend the taxing of en-
7 tire industry segments today for the failures of
8 their predecessors. There is a need however, to
9 quickly develop the methodologies and administra-
10 tive controls to prevent the creation of future
11 problems of in-place toxics which of itself will
12 sufficiently tax the industry of today.

13 The experience of Love Canal has cen-
14 tered concern on landfills. Planned programs
15 should however include other repositories of toxic
16 chemicals such as stream beds, ponds, lagoons, and
17 groundwater segments. In Nassau County toxic in-
18 organic and organic chemicals have reached the
19 groundwater essentially in much the same manner as
20 other toxic chemicals have found their way into
21 landfills.

22 Collectively, 33 MGD of pumping capaci-
23 ty of public wells have been lost to use because
24 of water quality standards which are exceeded.
25 Analysis of trends indicates that 64 MGD of capa-

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2 city will eventually be lost. The loss represents
3 17 percent of our total pumping capacity.

4 A quality profile of our groundwater
5 has essentially been completed. A detailed as-
6 sessment of contaminated segments needs to be
7 conducted involving hydrogeological modeling, de-
8 velopment and evaluation of alternatives and se-
9 lection of the most cost-effective solution for
10 groundwater management.

11 Investigative and remedial measures
12 should be funded in the same manner as for in-
13 place toxics buried in landfills.

14 A final issue is the prevention of the
15 problem of toxic wastes intruding into our en-
16 vironment and threatening human health. The basic
17 choices are the use of "secure" landfills or de-
18 structive incineration. We do not espouse either
19 as the automatic solution.

20 Instead, we believe that each hazard-
21 ous waste should be evaluated in terms of the most
22 effective manner to neutralize or destroy its
23 deleterious properties which would include chemical
24 treatment, encapsulation, and incineration.

25 Where present technology prohibits any

1
2 feasible solution for a specific waste, then
3 burial in a secure landfill is considered appropri-
4 ate provided that the site is protected, designed
5 to prevent leaching or other excursion, and moni-
6 tored indefinitely.

7 Conditions of the permit for any site
8 may provide for options on the part of the State
9 to later require removal of specific wastes from
10 the burial site when the technological state-of-
11 the-art improves to the point where alternative
12 solutions are acceptable.

13 The following actions are recommended
14 on the part of the State Legislature and the State
15 Administration:

16 1. State monetary assistance provided
17 to local health departments be revised to fund at
18 least 50 percent of total local programs, includ-
19 ing fringe benefits, and that local revenue from
20 other sources including federal grants and service
21 fees be considered part of the local share of pro-
22 gram costs. Inequities in the present finding
23 formula should be investigated and corrected.

24 2. The cesspool cleaner ban now being
25 considered by the State Legislature be adopted with

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2 with provisions to authorize other consumer pro-
3 ducts to be added to those banned by the Commis-
4 sioner of Environmental Conservation.

5 3. The State DOT be required to im-
6 prove its administration of the Oil Spill Compen-
7 sation Fund to permit more expeditious and effec-
8 tive resolution of each spill to include adequate
9 staffing of regional offices, standardized pro-
10 cedures, criteria for clean-up, and a more force-
11 ful approach toward perpetrators of spills.

12 4. A program to investigate and cor-
13 rect potential risks from in-place toxics in land-
14 fills and groundwater segments should be initiated
15 state-wide by legislative action and appropria-
16 tions with priority for implementation assigned
17 to areas dependent on groundwater as sole source
18 of drinking water.

19 5. A state-wide program should be
20 authorized and funded by legislative action to as-
21 sure the safe disposal of toxic chemicals as de-
22 scribed heretofore and other hazardous wastes to
23 be administered by the State DEC.

24 6. A state-wide program should be
25 adopted by the State Legislature for the purpose

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2 of controlling hazardous substances which are not
3 wastes to protect human health and prevent envi-
4 ronmental degradation.

5 That concludes my statement for the
6 Nassau County Department of Health.

7 Would you want me to continue with the
8 other statement?

9 SENATOR DALY: Just sum it up for us.

10 MR. PADAR: The other statement is on
11 behalf of the Conference of Directors of Environ-
12 mental Health Services of New York State, which
13 represents the directors of environmental health
14 of 25 local health departments in the State as well
15 as 10 districts of the health department.

16 Collectively, the conference members,
17 at least, implement environmental health programs
18 of the State Health Department as well as environ-
19 mental quality programs of the State Department of
20 Environment Conservation.

21 We feel uniquely qualified to address
22 both the technical and administrative aspects of
23 control of hazardous substances by virtue of our
24 individual experiences in coping with such prob-
25 lems on a day-to-day basis and on the basis of our

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2 colletive interest which was thoroughly reviewed
3 in a three day meeting of our conference last
4 October and further refined in a recent survey of
5 our members.

6 I will not discuss the technical recom-
7 mendations because they're in the report and they
8 are fairly similar to the Nassau recommendations.

9 But I would like to summarize the ad-
10 ministrative aspects.

11 CHAIRMAN GRANNIS: Further summarize
12 to the extent they're not duplicated in your first
13 statement. We can understand the record.

14 Your statement will be reflected in
15 the full-record of the hearing, so if it's not
16 read, it still will be in the hearing.

17 MR. PADAR: On behalf of the Confer-
18 ence of Directors of Environmental Health Services
19 of New York State, I welcome the opportunity to
20 appear before this joint Senate and Assembly Com-
21 mittees on Environment, Toxic Wastes, and Hazard-
22 ous Substances, which is commended for seeking
23 authoritative viewpoints and recommendations on a
24 vital issue to the health of the residents of New
25 York.

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2 The Conference represents the Direc-
3 tors of Environmental Health of 25 local health
4 departments in the State as well as 10 Districts
5 of the State Health Department. Collectively, we
6 implement environmental health programs of the
7 State Health Department as well as environmental
8 quality programs of the State Department of Environ-
9 mental Conservation.

10 We feel uniquely qualified to address
11 both the technical and administrative aspects of
12 control of hazardous substances by virtue of our
13 individual experiences in coping with such prob-
14 lems on a day-to-day basis and on the basis of our
15 collective interest which was thoroughly reviewed
16 in a three-day meeting of our Conference last
17 October, and further refined in a recent survey of
18 our members.

19 Our assessment of the adequacy of
20 present federal, State, and local response to en-
21 vironmental emergencies is that there have been
22 sufficient episodes of a variety of types in New
23 York to warrant a more formally structured ap-
24 proach to future incidents to coordinate State and
25 local efforts under the leadership of the State

1
2 Departments of Health and of Environmental Conser-
3 vation.

4 Our Conference has made a formal recom-
5 mendation to both State agencies to jointly develop
6 appropriate reference material as well as to de-
7 velop standard operating procedures for all types
8 of spills and excursions.

9 While dissemination of available infor-
10 mation and better coordinated approaches will al-
11 low more efficient use of available expertise and
12 resources, there remains a basic overall lack of
13 sufficient staff and supporting services to pro-
14 vide the minimum essential environmental services
15 to the people of New York. Consequently, the re-
16 peated mobilization of resources to cope with one
17 emergency after another at both the State and local
18 level saps the strength and dilutes the response
19 to basic preventive programs with the net result
20 that the potential is increasing for more frequent
21 and serious environmental excursions in the future.

22 This condition is graphically demon-
23 strated by the relentless reduction in local as-
24 sistance "matching grant" funding by the State of
25 local health departments in recent years which is

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2 a good measure of the trend in size of local
3 health department progrsms.

4 In 1974, the State provided \$98 mil-
5 lion which gradually dwindled to \$65 million in
6 1977. The current allocation is \$66.7 million.
7 The decreasing trend is dramatized by the impact
8 of inflation of approximately 10 percent per year.

9 The reduction in capability of local
10 programs in the area of environmental control has
11 been reduced even more dramatically than the over-
12 all local public health services. Environmental
13 health services are primarily regulatory while per-
14 sonal health services offer diagnostic and re-
15 habilitative services mostly to the economically
16 depressed and the chronically ill.

17 There is an inherent resistance to reg-
18 ulation by society and an aversion by governments
19 at all levels to subsidize programs which will
20 arouse significant segments of their constituency.
21 Unless and until a problem reaches crisis propor-
22 tions, regulatory programs do not fare well in
23 competition for the budget dollar.

24 The problem of inadequate staffing is
25 further compounded by the increase in mandated pro-

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2 grams which local health departments are required
3 to implement as a consequence of comprehensive
4 federal legislation, such as the Safe Drinking
5 Water Act and the Clean Water Act as well as State
6 legislation, such as the Environmental Quality
7 Review Act and the Uniform Procedures Act.

8 The net result is an increasing failure
9 to perform the basic corrective and preventive
10 programs due simply to the lack of adequate re-
11 sources.

12 The severe reduction in environmental
13 budgets of local health departments is paralleled
14 in areas of the State where no local health depart-
15 ment exists. There, the delivery of environmental
16 services is provided directly by the State which
17 bears the full costs with a traditionally lower
18 level of services.

19 The State Departments of Health and
20 Environmental Conservation also assume responsi-
21 bility for environmental control programs in those
22 areas where the locality has abdicated their com-
23 mitment to perform this work in one program or
24 another. Here too, the level of services decline.

25 Local environmental directors and their

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staffs are, nevertheless, extremely dedicated to the correction of local environmental problems and responsive to the total community of which they are a part. Their academic qualifications are equal to those in the State agencies and their experience in program implementation exceeds that of Central office personnel who are more atuned to remote administrative functions. The critical need then is to encourage the growth of enviromental health programs in local health departments.

This can be accomplished by increasing the funding by the State of local health departments' programs, in environmental control through raising the percentage of State Assistance, by crediting service fees collected to the local share of costs, by including fringe benefits as part of the total local program cost in applying the State Assistance, and by eliminating inequities in the system.

Concurrently the State agencies should also augment their environmental services in areas of the State with no local health departments and to provide those services which local health departments are mandated to perform. Revenue to support

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2 such services can be generated by assessing those
3 localities with the same share of costs which are
4 borne by taxpayers in areas served by local health
5 departments.

6 Unless the pump is primed, we will see
7 a further progressive decrease in ability to pro-
8 vide essential environmental services and open the
9 door to more and more toxic emergencies.

10 The fault will clearly lie with the
11 State Administration and with the legislature.
12 Increase in funding of local programs by the State
13 is a bargain up to 100 percent of the cost of such
14 services, recognizing that the responsibility in-
15 herently belongs to the State.

16 The resolution of both technical and
17 administrative problems relating to in-place
18 toxics as well as the control of new sources of
19 hazardous substances, will need the combined re-
20 sources of federal, State, and local governments
21 and a greater commitment by industry.

22 There is a general recognition that
23 the federal government will have to bear the brunt
24 of both designing and subsidizing the overall pro-
25 gram to investigate and remedy the problem of in-

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2 place toxic wastes. It is equally apparent that
3 the substantial lead time required to adopt and
4 implement federal legislation mitigates against
5 an early response to the problem. It is there-
6 fore recommended that the State adopt legislation
7 and appropriate the needed funds to enable an in-
8 terim investigation and resolution of the poten-
9 tially more critical sites. Such sites should not
10 be limited to repositories of buried chemicals but
11 include all conventional as well as special land-
12 fills and contaminated environments such as stream
13 beds, groundwater segments and lagoons.

14 The procedure recommended in the inves-
15 tigation and classification of such "hot spots" is
16 a systematic assessment of adverse quality impair-
17 ment of adjacent air, land, and water segments, and
18 a thorough search for available information on the
19 nature and quantities of substances initially dis-
20 posed, which will enable an evaluation of poten-
21 tial risk and the assignment of priority for the
22 remedial action required. The corrective action
23 where indicated may take the form of excavating and
24 safely disposing of the hazardous wastes in one
25 extreme to merely a monitoring program at the other

1
2 extreme.

3 The overall responsibility for the pro-
4 gram should be assigned to the Department of En-
5 vironmental Conservation with responsibility also
6 provided to the State Health Department to decide
7 on priorities and to establish the limiting cri-
8 teria for environmental quality for the protec-
9 tion of human health.

10 Whenever possible, the direct supervi-
11 sion of site investigation and development of
12 recommended remedial work, should be performed by
13 local health departments which demonstrate capabil-
14 ity and expertise to perform the task.

15 These agencies should be fully funded
16 for the effort expended. The use of State teams
17 recruited for the program or consulting firms will
18 not be cost-effective being less efficient and slow
19 in performing the task.

20 The monies for the program, both in-
21 terim by the State and long-range by the federal
22 government, should be provided by legislative ap-
23 propriation with provisions for replenishing the
24 fund in those instances where the original dumper
25 or the owner of the property accepts responsibility

1
2 or is forced to accept liability by litigation.

3 Provisions of federal law should re-
4 imburse the State for interim work performed.

5 The control of toxic wastes which are
6 generated now and in the future involves a more
7 conventional administrative approach but difficult
8 decisions on technical approaches. Here too, as
9 for in-place toxics, a combined federal, state,
10 and local effort is indicated.

11 The regulation of the treatment and
12 disposal of hazardous wastes is already in process
13 through current provisions of the Safe Drinking
14 Water Act and the proposed regulations of both the
15 Resource Conservation and Recovery Act (RECRA) and
16 the Toxic Substance Control Act (TOSCA). It is ap-
17 propriate that criteria and compliance schedules
18 be adopted on a national level to prevent competi-
19 tion among the States for relocation of industrial
20 plants.

21 The indicated State function at this
22 time is to address the current provisions of Sec-
23 tion 360 of the Environmental Conservation Law
24 which permits the disposal of hazardous wastes in
25 "secure" burial sites. While the concept of se-

1
2 cure landfills is not new, the current provisions
3 of Part 360 are of recent origin.

4 Secure burial sites, such as the Love
5 Canal, are technically viable with some degree of
6 risk which can be offset to a large extent by an
7 accurate record of materials buried, careful con-
8 trols to segregate antagonistic materials, mark-
9 ing of site contents, fencing and security of the
10 site, perpetual maintenance, and continuous moni-
11 toring to assure site integrity and to permit an
12 early alert in event of excursions from the site.

13 There are nevertheless the costs to
14 consider, the sacrifice of the land which can be
15 otherwise put to more beneficial use, and the rele-
16 gation to our progeny of the spoils of our genera-
17 tion with attendant health risks.

18 The alternative is to seek, where costs
19 are not prohibitive, the safe neutralization or
20 destruction of hazardous wastes. In many cases
21 such solutions are technically feasible and reason-
22 able in cost particularly when compared with the
23 cost of perpetual control of a burial site. In
24 such cases the short term solution is most appropri-
25 ate.

1
2 It should be understood too, that the
3 disposal of toxic wastes removed from in-place
4 toxic waste repositories, would also have to be
5 addressed using the criteria for new wastes.

6 There is another aspect of the prob-
7 lem which needs to be addressed--the control of
8 substances which are hazardous but not wastes and
9 not necessarily toxic in their impact on human
10 health or the environment. Gasoline, explosives,
11 and a host of other products of our society are an
12 obviously serious threat when not properly con-
13 trolled.

14 Legislation is needed to authorize
15 regulation of safe generation, processing, storage,
16 transportation, and use of hazardous substances.
17 Oil spill control legislation, certain provisions
18 of the State Conservation Law, as well as other
19 legislation addressing individual substances,
20 tackle these problems piecemeal but they are insuf-
21 ficient to effectively regulate the overall threat.

22 Our Conference membership was virtually
23 unanimous in recommending such legislation.

24 Ideally the federal government should
25 develop and promulgate a broad control strategy in

1
2 this area. State legislation should however be
3 enacted in the interim to authorize the State Con-
4 servation Department to adopt regulations as they
5 are indicated to control such hazardous substances.

6 In summary, then, the response to ex-
7 isting hazardous waste and the prevention of fu-
8 ture threats will require a substantial infusion
9 of State monies to implement present and future
10 programs. Enabling legislation and the appro-
11 priation of adequate funds is needed at both
12 federal and State levels to cope effectively with
13 existing repositories of toxic wastes.

14 The treatment and disposal of toxic
15 wastes generated now will ultimately be effectively
16 regulated by federal programs by a need existing
17 in New York for interim decisions on safe disposal
18 methods. Regulation of hazardous substances which
19 are not wastes should be promulgated by the State
20 in the absence of current federal interest.

21 The leaders of environmental control
22 programs at the grass roots in New York are pre-
23 pared to implement the environmental legislative
24 mandates of the U. S. Congress and the State Leg-
25 islature. They need only authority to act and the

1
2 resources to accomplish the mission.

3 CHAIRMAN GRANNIS: If you would, just
4 highlight the recommendations from this group.

5 MR. PADAR: I might highlight it in
6 this fashion.

7 In those health departments similar to
8 the Nassau County Health Department, the problems
9 I outlined in terms of support and of funding ap-
10 ply. In addition to that, the ten areas--the ten
11 district offices of the State where there are no
12 health departments, these environmental services
13 are provided directly by the State health depart-
14 ment and the State Department of Environmental
15 Conservation.

16 The level of services in those areas is
17 even less than in organized State health depart-
18 ments.

19 But a third category is the problem of
20 where a local health department, for example, de-
21 clines any further responsibility for handling a
22 particular program via be it the State health de-
23 partment or DEC.

24 At that point, the State agencies have
25 to, by law, take over the function and thereto, the

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indication is that the level of services has declined.

CHAIRMAN GRANNIS: Do you have a specific example of where that might apply?

MR. PADAR: I understand New York City abandoned their air pollution control program.

CHAIRMAN GRANNIS: We have proposed having it taken over by the State, but not any longer.

MR. PADAR: I know pieces of the program have been eliminated, some in Erie County and some in Sullivan County.

CHAIRMAN GRANNIS: That was a question of who was going to run the question in New York State and New York City. They found out that by terminating the program, however, they would lose substantial federal aid.

Do you have any other examples?

MR. PADAR: I know some pieces of the program were dropped in an area--I forget the name of the county. I thought it was Sullivan, but I'm not sure.

So that type of thing does occur.

CHAIRMAN GRANNIS: If you could find

1
2 out where those specific examples occurred, it
3 would help, so we're dealing with specifics. It
4 makes it easier for us.

5 SENATOR DALY: While you're doing that,
6 I would appreciate if you would present to us, if
7 you would be so kind, any ideas in writing, where
8 we can avoid duplication. I'm talking about dupli-
9 cation of government, performing the necessary acts
10 of government, to get the hazardous waste problem
11 under control.

12 If you would give some thought to that,
13 give us some of your ideas down the line as to what
14 you think that the county should be doing and what
15 you think the State should be doing, this would be
16 appreciated.

17 Might I say, your testimony is very com-
18 plete and thorough and we thank you for it.

19 ASSEMBLYMAN YEVOLI: Just one question.

20 I don't want to turn this into an ad-
21 versary proceeding.

22 There has to be accuracy of the state-
23 ments in terms of the record.

24 The one I must disagree with was made
25 on the first page. That reads, "In 1976 we dis-

1
2 covered contamination of our aquifers by syn-
3 thetic organic chemicals which are suspected human
4 carcinogens."

5 You know, I was actively involved in
6 this. The discovery was not made by the Nassau
7 County Department of Health. They knew it existed
8 for a two-year period and failed to take any ac-
9 tion whatsoever.

10 That has to be clarified. There was
11 nothing which you proposed at that point and at
12 least you are now considering monitoring all the
13 wells and there seems to be a different attitude
14 based on the statement you made here today. Hope-
15 fully, that is true.

16 But in terms of the accuracy of the
17 statement that was made on the first page, it is
18 inaccurate. In fact, your commissioner of health
19 stood before an assembly health committee and said,
20 in terms of vinyl chloride, he knew it couldn't be
21 breathed into the human system and he knew it
22 couldn't be absorbed through food. But he wasn't
23 so sure if it was contained in the water supply
24 that there would be any danger whatsoever. That is
25 the accurate statement.

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MR. PADAR: I agree with you people.

I thought that was a long since resolved issue and I don't want to take public issue with you on that problem.

I think--

ASSEMBLYMAN YEVOLI: You can't delude the members of this Committee into thinking that the Nassau County Department of Health was in the forefront of that particular situation when, in fact, that was not the case.

MR. PADAR: I don't think that's a true statement. I'm not going to take the time to dispute it, at this time.

ASSEMBLYMAN YEVOLI: One further recommendation I would make.

Certainly, I'm a representative of Nassau County. You have many others. There have been numerous proposals you have made here today and I have to say this in all candor. In the years since we encountered that situation, I have never heard from the Nassau County Department of Health in terms of any recommendations for any legislation or in terms of any recommendations for any funding that could be provided.

1
2 I'll tell you quite frankly, when we
3 go before the New York State Legislature and we
4 meet with the leaders and the various individuals
5 who are involved and we seek funding for programs,
6 it becomes essential that our local officials and
7 our local departments of health back up our posi-
8 tion.

9 So if in fact what is presented here
10 this morning is accurate, and we do sincerely feel
11 that way, we would like letters from you indicating
12 support of the various programs, particularly those
13 for funding we are seeking in the Legislature. It
14 would be quite helpful.

15 MR. PADAR: We'd be happy to provide
16 it.

17 Let me just say one thing, that the
18 problem of encountering synthetic organic chemi-
19 cals in the groundwater a few years ago, illus-
20 trates the kind of problem we have. We're going
21 to find other problems tomorrow.

22 We don't have enough staff to marshall
23 the appropriate group to efficiently and expertly
24 and quickly identify and resolve the problem and
25 the reason is, that we don't have enough resources,

1
2 and the reason for that is we don't have enough
3 support from the federal, state and from the local
4 government.

5 I think that the primary problem with
6 toxic substances--and this is reflected throughout
7 the State--we had a three day meeting about this,
8 of all the directors, of the primary problem, is
9 that local resources where the action is are too
10 thin. We have not been able to afford or have not
11 had the commitment to beef up that program enough
12 if those problems could be resolved, identified
13 and resolved.

14 SENATOR DALY: Thank you, Mr. Padar.

15 Our next witness is Mildred Langone.

16 Ms. Langone represents the Pure Waters
17 Association.

18 MS. LANGONE: PureWater Association of
19 Nassau County.

20 SENATOR DALY: Thank you for taking the
21 time to come before us today.

22 MS. LANGONE: Thank you for the oppor-
23 tunity of being here.

24 As a registered professional nurse,
25 and a mother of four, I regard the addition of

1
2 fluoride to drinking water to be a threat to my
3 children and their children, and, a large part of
4 our population problem.

5 What can be more important than this
6 most precious commodity, water, which already con-
7 tains so many pollutants that special tests have
8 to be made to determine the nature of some of
9 them.

10 If that is not enough, we actually
11 have added to a large part of the country another
12 highly toxic chemical that could not even be used
13 in World Ware I as a poisonous gas because it
14 could not be contained in glass and most metals
15 for more than a few hours.

16 Since fluoride is a highly active ele-
17 ment which readily displaces and combines with
18 other elements in water to form new and potentially
19 harmful compounds, it would seem logical to keep
20 it out and avoid that part of our problem. So
21 little is known about the effects of these new com-
22 pounds.

23 People who live in fluoridated areas
24 may well exceed the 1ppm. set as the recommended
25 dose and may actually exhibit symptoms of fluorosis.

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Since we can inhale the substance and absorb it through our mucous membranes, levels can also exceed the toxic dose to certain sensitive individuals without even ingesting it.

According to an official Canadian report the average adult intake of fluoride from food and beverages, including 1ppm fluoridated drinking water, is between 3.5 and 5.5 mg/day. Not included in this estimate is the additional intake from air, cigarettes, dentifrices, mouth wash and pharmaceuticals.

They point out that there are those in the population at risk even at exposure levels currently regarded by health officials as perfectly safe. These include:

- 1. Individuals in poor health or with sub-optimal nutrition, especially with respect to calcium and magnesium.

CHAIRMAN GRANNIS: Can I interrupt you?

Please speak up and when you're reading, you read very quickly. You make it hard for the stenographer and you make it hard for us to understand. So please speak a little more slowly and loudly and it would be helpful.

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MS. LANGONE: I'm not used to this.
This is my first time.

SENATOR DALY: You're doing well.

MS. LANGONE: 2. Persons residing near
or working in fluoride polluting industries.

3. People living in regions where
goiter is endemic.

4. Persons with kidney impairment and
related disorders.

5. Individuals who drink excessive
amounts of fluoridated water.

Clearly the hazards referred to affects
millions of people.

Those in the population who cannot
tolerate this substance must be penalized for the
privilege of drinking fluoride free water by pur-
chasing and carrying tax supported bottled wher-
ever they go--all in the name of public health.

The main function of the Health Depart-
ment is to protect the welfare of each and every
individual.

Is it my welfare they are protecting?--
or the welfare of patients on kidney machines who
are being treated now in hospitals using deionized

1
2 water because of deaths related to fluoride poi-
3 soning. Even in surprisingly small amounts, long
4 term intake of fluoride, especially with kidney
5 impairment, and produce deleterious changes in
6 blood, kidneys, liver, spleen, nerves and other
7 organs of the body, besides bones and teeth where
8 it continually accumulates cause alterations in
9 structure and composition.

10 Perhaps it is the welfare of the aged
11 in whom there is noted bone fragility and spon-
12 taneous fractures which occur with increasing fre-
13 quency.

14 It might be for the welfare of allergic
15 and hyperactive children, who, because of its low
16 molecular structure fluoride finds its way into the
17 very tissues thereby adversely effecting this sen-
18 sitive part of the population.

19 Or is it the welfare of supposedly well
20 people, according to Dr. Moolenburgh or Holland,
21 who states that side effects range from dull to
22 rather severe--sometimes colicky pains in the
23 stomach--sores in the mouth--very painful white
24 lesions--headache, excessive thirst (only to ingest
25 the poison in greater amounts), also, burning sen-

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2 sation when passing urine, trouble in ment concen-
3 tration.

4 With greater exposure to fluoride,
5 there was noted arthritic like pains. The com-
6 plaints in many cases were so general you could not
7 recognize (as in the case of some practitioners who
8 refused to recognize) it as fluoride poisoning.
9 There was dyspnea, asthma, allergic skin rash,
10 urinary irritation, and spastic colon.

11 Or is it for the welfare of babies, a
12 group for which leading dental authorities of the
13 ADA are now showing concern. They feel fluoride
14 supplementation is unnecessary or actually ex-
15 cessive, and that they may, in fact, be receiving
16 adequate levels from food and formula. They con-
17 tend, "responsible debate should be welcomed when
18 data on a specific subject are open to criticism
19 for any valid reason. Such debate requires us to
20 reassess our present knowledge of a particular sub-
21 ject and helps us to determine what additional re-
22 search is needed. Without the evaluation of this
23 knowledge, the individual practitioner cannot make
24 informed decisions for the best clinical management
25 of his patients."

1
2 Or, was it for William Kennerly, a
3 three year old boy in Brooklyn, who depended on
4 the judgment of his parents and dentist to care for
5 his wellbeing, but, who died in a city clinic as a
6 result of a routine cleaning. He was not given a
7 toxic dose, he just had the misfortune to swallow
8 it. For this, the family was awarded \$750,000.

9 I used to think the job of public
10 health was to protect the people from toxic chemi-
11 cals such as this instead of promoting them.

12 The rhetoric is not reassuring. We
13 are causing damage to the environment and food
14 chain we can ill afford--and, for some, the damage
15 will never be repaired.

16 I do not think that in a free society
17 that we should use the water supply as a vehicle to
18 medicate, for a lifetime, with total disregard to
19 biologic individuality, intolerances that exist,
20 with any substance, diseases for which fluoride is
21 contra-indicated, and to different environment
22 factors causing humans to consume quite different
23 amounts of fluoride.

24 In addition, it is prescribing without
25 consent when there are rational alternatives. I do

1
2 not object to the availability for those who wish
3 to use it, but there should be a freedom of
4 choice for those who do not. And a choice de-
5 nied is a right denied.

6 We must admit the fluoride question is,
7 at least, debatable, and, very much, not the closed
8 issue the proponents would have you believe it is.

9 When doctor disagree, is it not the
10 rational approach to stop the further contamina-
11 tion of our environment with a corrosive element
12 which has never been proven safe, and which has
13 caused inestimable damage to the environment.

14 For this, the taxpayer was beset with
15 the double burden of added revenue and ill health
16 for themselves and for future generations of
17 Americans yet unborn.

18 Thank you for this opportunity.

19 SENATOR DALY: Thank you very much,
20 ma'am.

21 Carol O'Berine, president of the
22 Malverne Environmental Council and Nassau Dis-
23 trict PTA Ecology Chairman.

24 Is Ms. O'Berine in the room?

25 Well, then, we'll go to Father William

1
2 Brisotti, Priests' Councils of New York State on
3 Justice and Peace Committee.

4 FATHER BRISOTTI: I am here to repre-
5 sent the interest and concern of the Justice and
6 Peace Committee of the Priests' Councils of New
7 York State. This group consists of representa-
8 tives of priests' councils of the eight dioceses
9 of the State, Rockville Centre, Brooklyn, New York,
10 Albany, Syracuse, Ogdensburg, Rochester and
11 Buffalo.

12 One of the projects of this standing
13 committee for the past few years has been the or-
14 ganization of a network of priests from every state
15 assembly and senatorial district. Its purpose is
16 to convey to the legislators in Albany the pastoral
17 concern of the committee about certain issues.

18 The New York State Catholic Committee
19 helps the Justice and Peace Committee of the Priests
20 Councils of New York by providing information con-
21 cerning issues and bills in Albany as requested.

22 One of the issues chosen this year for
23 our network is legislation on land use and manage-
24 ment. I am providing copies of our short background
25 statement on the subject. Allow me to quote briefly

1
2 a few sections which are pertinent to toxic waste
3 control.

4 "Public policies on land use affect
5 the quality or potential for life. People are
6 suffering physical disability and economic hard-
7 ship, such as devaluation of property, due to in-
8 adequate management of toxic chemical and radio-
9 active wastes and other industrial pollution.

10 "The right to ownership and use of the
11 land is always subordinate to the 'common good'.

12 "It is a further right of public au-
13 thority to guard against any misuse of private
14 property which injures the common good. By it's
15 very nature private property has a social quality
16 deriving from the law of the communal purpose of
17 earthly goods.

18 "Private property does not constitute
19 for anyone an absolute and unconditional right.

20 "Our leadership in land use must re-
21 flect our recognition of the 'global village' with-
22 in which we live, God's earth which we share in-
23 terdependently with billions of other people. We
24 must work for the 'common good' which includes pre-
25 serving and, if possible, improving the environment

1
2 for those now defenseless generations who will
3 come after us.

4 "Deterioration of the environment
5 leads to diminished potential for human life and
6 the dignity accorded to human persons. It is un-
7 just.

8 "Environmental consciousness is not
9 anti-progress; it simply affirms that the basis
10 of any real progress must be the survival of the
11 people whom this progress is to benefit. Their
12 survival depends on the maintaining of the en-
13 vironment.

14 "Cost benefit--whose cost and whose
15 benefit?

16 "Conflicts must be settled through the
17 legal process: legislation and enforcement.

18 "Rights to a legitimate profit versus
19 responsibility for the common good;

20 "Governance by regulation is often nec-
21 essary to preserve the principle of participatory
22 government.

23 "The social justice teaching of the
24 Church must be part of the crucial debates on land
25 use, as we seek to fashion a new relationship with-

1
2 in the human community in which people can live
3 together justly and productively, within the
4 natural environment which sustains us."

5 I would just like to add, just in lis-
6 tening to all the various testimonies and the dif-
7 ferent kinds of statements about the various types
8 of chemicals, various types of radioactive waste,
9 which is, of course, becoming an issue. It is an
10 issue as far as Brookhaven is concerned and Long
11 Island and will become a greater issue as far as
12 Shoreham and possibly Jamesport.

13 Basically, we're dealing with human
14 fallibility. The decisions we make today, the re-
15 sults, if we made mistakes in our decisions and
16 judgments which we're dealing, the result can be
17 catastrophic.

18 I heard a question before, how much
19 risk will the public tolerate as far as toxic chem-
20 icals. Well, if someone will tolerate my pointing
21 a gun at his head and pulling the trigger, it is
22 still immoral for me to do that, because I have to
23 answer to a higher law.

24 So we're not dealing with that which
25 the people will tolerate and what is being done to

1
2 educate and to deal with the people who perhaps
3 are not able to come to such a hearing as this,
4 are not articulate enough, are not perhaps power-
5 ful enough to be listened to in our State, and most
6 importantly, the risk as far as dealing with radio-
7 active waste and chemical waste, we're talking
8 about sustaining environment which we will be hand-
9 ing to our children.

10 We're talking about something, now,
11 which has great consequences for people who can-
12 not be heard from now.

13 How can they be educated or polled on
14 what they will have to do to live in this world
15 which we'll be handing on to them, and I just want
16 to, as I say, the whole purpose of my being here,
17 is to express the concern of my portion of the
18 religious community of this State on the issue of
19 toxic waste management in the State of New York.

20 I'm happy to be here.

21 Thank you.

22 SENATOR DALY: Thank you, Father, very
23 much.

24 ASSEMBLYMAN ZAGAME: I think we have
25 tried to grapple with the issue you have raised

1
2 about private responsibility and public responsi-
3 bility with this bond issue that's been put to-
4 gether, which would raise 150 million dollars and
5 then assess the cost of paying for those bonds on
6 the industries which generate chemical waste.

7 If this issue is passed by the Legis-
8 lature, it goes to the voters for their approval
9 this fall and groups such as yours would be criti-
10 cal in determining whether or not the public re-
11 ception of the problem is serious enough to war-
12 rant voting for the expenditure of that kind of
13 money.

14 So I hope you'll be watching care-
15 fully for this bond issue, if it does get on the
16 ballot this fall, and really get behind it because
17 that would give it a tremendous push.

18 FATHER BRISOTTI: How would I get the
19 precise information?

20 ASSEMBLYMAN ZAGAME: I have your ad-
21 dress here and I'll see you get it.

22 FATHER BRISOTTI: Thank you very much.

23 SENATOR DALY: Thank you very much,
24 Father.

25 Our next two speakers will be Mr.

1
2 Richard Budd of Atlanta, Georgia, president of
3 Jancyn Manufacturing Corporation, to be followed
4 by Evelyn Hannan of the Merrick Environmental
5 Council.

6 First, we have Mr. Budd, the president
7 of the Jancyn Manufacturing Corporation, which has
8 been mentioned before today.

9 Mr. Budd, we're delighted you would
10 take the time to come all the way from Atlanta to
11 be with us.

12 MR. BUDD: Thank you. I felt it was
13 quite important for me to be here.

14 Mr. Chairman and members of the Com-
15 mittee,

16 I am here today with mixed feelings--
17 appreciation for the opportunity to speak to you
18 directly and frustration over having been con-
19 demned in the past with no opportunity to present
20 my side of the story. I do hope we will be able
21 to correct the situation and to leave you with a
22 balanced view of the facts.

23 Let me begin by observing that a panic
24 psychology has overtaken many of the people of
25 New York--and of other parts of the country.

1
2 It is a case in which all chemicals
3 are suspect in the public mind as being carcino-
4 gens regardless of the facts. Indeed, proof is no
5 longer needed. All that is required to start the
6 legal chain moving is an accusation.

7 Compare this situation with the events
8 in Iran and Cambodia where individuals are able to
9 eliminate competitors of people they don't like
10 merely by accusing them of being enemies of the
11 state.

12 In our case, the results are not so
13 drastic. People don't get killed. All that hap-
14 pens is that small companies are wiped out or
15 products badly crippled or not surviving after be-
16 ing vindicated.

17 This is precisely what is happening in
18 the case of Jancyn Manufacturing Corporation, my
19 small company. Jancyn has developed and is present-
20 ly marketing a highly effective cesspool degreaser,
21 called DRAINZ.

22 Since its introduction, this product
23 has enjoyed an excellent reputation on Long Island
24 where many cesspools and septic tanks are located.

25 Introduced into the cesspool via the

1
2 plumbing system, DRAINZ penetrates the solid grease
3 barrier that prevents liquids from escaping the
4 cesspool to be filtered through the earth and re-
5 turn in purified form to the groundwater supply.

6 About a year ago, DRAINZ was accused
7 of introducing carcinogens into the Long Island
8 groundwater. Paying absolutely no attention to
9 evidence to the contrary, the authorities began
10 what amounted to a witch hunt against my company.

11 None of the charges or legal submis-
12 sions have carried the accusation that the product
13 is carcinogenic, however.

14 In the best James Bond tradition, in-
15 vestigators literally sneaked around the back of
16 my facilities, then located on Long Island, taking
17 pictures and trying to find evidence that we were
18 illegally dumping chemicals into the ground.

19 They went to this trouble, despite the
20 fact that I had invited them to come in through
21 the front door at a time or times of their own
22 choosing, and without advance notice. They ig-
23 nored this invitation, I guess, because it was
24 more fun to spy on us the other way.

25 One result of these activities has

1
2 been the introduction of legislation that would in
3 effect prohibit the use of DRAINZ as it is present-
4 ly constituted. This proposed legislation was
5 drawn up without any input from me or anyone repre-
6 senting me.

7 In its present state, it is ill-ad-
8 vised and could have a far-reaching negative im-
9 pact upon those people of New York who must rely
10 on cesspools for sanitary waste disposal.

11 Before going into the merits of my
12 case, permit me to briefly describe how a cesspool
13 works and what it does. Basically, when waste
14 enters the cesspool, the liquids seep out into
15 the soil and are filtered and purified as they re-
16 turn to the water table. The solids theoretically
17 are supposed to decompose through bacterial ac-
18 tion and restore nutrients to the soil.

19 In actual practice this does not work
20 as well as it should. The draining process stops.

21 In effect, cesspools help nature to
22 recycle and to purify waste products when they
23 operate properly. Functioning properly, then,
24 they are much more desirable than sewer systems
25 which spew waste into the ocean.

1
2 However, fats, grease and other solids
3 enter the system no matter how careful a home-
4 owner might be. These fats solidify and eventu-
5 ally seal the openings through which the waste
6 liquids usually pass.

7 When that happens, the cesspool fills
8 up, creating a critical sanitation problem and a
9 growing economic burden on the homeowner. Under
10 present conditions of high costs of sewer con-
11 struction and waste treatment, cesspools might be
12 the most economical answer.

13 DRAINZ has been proven to be an ef-
14 fective means of penetrating that solid barrier
15 and of allowing the cesspool to return to its
16 normal operation. However, two chemicals that
17 were used in the product-trichloroethane and
18 methylene chloride have had two serious charges
19 levelled at them.

20 First, it is claimed that they are
21 toxic and are carcinogens; and second, that when
22 used by consumers they find their way into the
23 groundwater, thereby polluting it.

24 We refer you to results of research
25 performed by Dow Chemical Company which states,

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2 "Evaluation of results after 24 months of inhala-
3 tion studies with rats underway at Dow Chemical
4 U.S.A. indicates that 1,1,1-trichloroethane and
5 methylene chloride do not produce cancer.

6 "Furthermore, this research shows no
7 indications that long-term repeated exposure at
8 currently accepted levels may be hazardous to man.

9 "These conclusions highlight Dow in-
10 terim reports which have been given to the Nation-
11 al Cancer Institute, the National Institute of
12 Occupational Safety and Health, and the National
13 Institute of Environmental Health Sciences."

14 What do the agencies of New York State
15 offer to contradict these tests?

16 Dow added that the quantities of
17 vapor inhaled far exceeded amounts that could be
18 ingested in water.

19 To our knowledge, these results have
20 not been given any consideration by the legisla-
21 ture of the Attorney General of New York.

22 As for allegations that groundwater
23 has been contaminated by cesspool degreasers con-
24 taining these chemicals, we offer the following
25 in rebuttal:

1
2 It is true that 1,1,1-trichloroethane
3 has been found in selective wells in heavily in-
4 dustrialized areas of Long Island. It is also
5 true that this chemical is very heavily used by
6 industry, including the huge Grumman Aircraft
7 works. It is our contention that the 1,1,1 which
8 has been found originates in industry. It is, and
9 has been, a popular chemical for degreasing vats
10 and for production parts cleaning.

11 This contention is supported by the
12 fact that DRAINZ, the leading cesspool degreaser
13 on Long Island contains both 1,1,1 and methylene
14 chloride.

15 However, methylene chloride does not
16 appear in any of the wells in which 1,1,1 is
17 found. It would require considerable stretching
18 of the imagination to make a case against a pro-
19 duct containing two ingredients where one of the
20 ingredients does not show up at all in contamin-
21 ated water.

22 Further, according to the New York
23 Times of May 6, 1978, the Federally financed 208
24 report says that leakage from cesspools in the
25 208 district drinking water is drawn because of

1
2 impermeable layers of clay.

3 These factors have also been totally
4 ignored by proponents of the ban.

5 At this point, let us state that be-
6 cause 1,1,1-trichloroethane has been found in
7 groundwater, and despite the fact that contamina-
8 tion results from industrial usage rather than the
9 use of DRAINZ, Jancyn Manufacturing Company has
10 voluntarily removed that chemical from its formu-
11 lation.

12 However, it maintains that methylene
13 chloride is not a contaminant and should remain in
14 the formula.

15 If this proposed ban is permitted to be
16 enacted, the economic and health impact on the
17 people of Long Island and other parts of New York
18 State could be immense. Proponents of the ban
19 suggest three alternatives to the use of DRAINZ in
20 treating clogged cesspools:

21 (a) Pumping, and I might add, acceler-
22 ation of the heavy use of sulphuric acid,

23 (b) Hydrofracture

24 (c) Greater care in disposing of fats
25 and greases through the plumbing system.

2 All three alternative are impractical.

3 Here is why:

4 Pumping will empty the cesspool, but
5 it will not clear away the problem of solidified
6 grease inhibiting the normal functioning of the
7 cesspool. Thus, pumping would have to be con-
8 ducted on a regular basis--usually several times
9 a month at a cost of \$80 to over \$100 per "treat-
10 ment."

11 As a consequence of puming, draining
12 eventually stops entirely as coagulation increases,
13 creating a "sealed container" which must be pumped
14 several times a week. In addition, pumping would
15 create another problem--waste disposal.

16 Waste treatment facilities on Long
17 Island are already straining. In Suffolk County
18 they are overloaded. To add to the problem by
19 pumping out thousands of gallons of toxic waste
20 water could produce a serious health hazard.

21 If pumping was the answer, and waste
22 disposal was adequate, and did not also create
23 heavy economic burdens, then logic would then dic-
24 tate that each home have a holding tank for re-
25 moval of waste three times a week.

1
2 Normally accompanying pumping is the
3 dumping of huge quantities of sulphuric acid into
4 the cesspool to dissolve the solid grease and
5 soap curd. This also creates a hazard.

6 One of the side effects of this ex-
7 tremely corrosive acid is that it eats away at
8 the cesspool itself. We can point to hundreds of
9 collapsed cesspools every year resulting from
10 heavy use of acid.

11 Anyone who has seen what a collapsed
12 cesspool can do to a lawn will understand the ap-
13 prehension for the safety of children, women and
14 men who may be on the lawn at the time of a col-
15 lapse.

16 Moreover, no one knows what happens to
17 the acid after it enters the ground. Could it
18 not be polluting drinking water. There is no evi-
19 dence or substantiation that sulphuric acid does
20 not have a deleterious effect on the drinking
21 water either in its original state or under con-
22 version. The effects of sulphur on the environ-
23 ment is well known.

24 For the second "solution" a method of
25 "hydrofracture" was offered to the legislature.

1
2 In all my years in this industry, I
3 have never heard of an air injection method that
4 was practical or effective.

5 Might I suggest you pack heavy sludge
6 in the bottom of an open cup compressed tightly
7 against the ground. Bubble the sludge by inject-
8 ing air through a straw. The sludge will settle
9 down and seal ground pores again. The new waste
10 entering the cup, or the cesspool, at a fast rate
11 will surely overcome any possibility of small
12 seepage, and the cup will overflow. A highly un-
13 known and unproven technique, this cannot be con-
14 sidered viable.

15 The final suggestion--care in disposing
16 of greases--is ludicrous on the face of it. True,
17 pouring grease into the plumbing system will has-
18 ten the clogging of a cesspool, but the clogging
19 will take place no matter how careful a homeowner
20 may be.

21 This is not a solution. Solid parti-
22 cles even under the most careful methods of dis-
23 posals, will eventually coagulate the ground and
24 seal it.

25 We believe that all factors be con-

1
2 considered by legislators before they come to a de-
3 cision on the legislation which is pending. We
4 believe that we have a strong case against such
5 legislation on the grounds that the products re-
6 ferred to will not contaminate the water supply,
7 that they are not carcinogens or toxic, and the
8 imposition of the ban would impose an onerous
9 economic and sanitation burden on the people of
10 New York.

11 That's the end of my statement and I
12 thank you. I'll answer questions, if you want.

13 ASSEMBLYMAN YEVOLI: The only state-
14 ment I would make--I'm sorry I was out of the
15 room. I presume you're Mr. Budd.

16 MR. BUDD: Yes.

17 ASSEMBLYMAN YEVOLI: This legislation
18 came about at the recommendation of the local de-
19 partment of health and department of environmental
20 conversation, the New York State Department of
21 Environmental Conservation and the Attorney Gen-
22 eral's office.

23 There was a great deal of expertise on
24 the last day before this legislation was even pro-
25 posed and I would really have grave reservations

1
2 that all of these individuals involved, all the
3 departments, all the doctors and all of the hydrol-
4 ogists and I can go on and on and on. This was
5 not hastily drawn legislation. An awful lot of
6 thought was given to it. Everyone involved was
7 contacted. This was the consensus of opinion. It
8 was unanimous that this legislation would be
9 adopted into law.

10 I understand why you stand here and
11 say it would have a deleterious effect. I can't
12 accept that, not based on the evidence given to
13 us by all of the departments I have discussed.

14 MR. BUDD: I wouldn't want to debate
15 the thing here, but I would say, in answer to
16 that, I was selected out on this and it happened
17 to be for some reason that I was not given sub-
18 stantiation.

19 As a matter of fact, pending judgment
20 to be made as of today by a judge on whether or
21 not my product would be removed from the shelf or
22 not removed from the shelf. The Attorney General
23 has not given me substantiation prior to the leg-
24 islation being written. You might have it, but I
25 don't. The case will be judged on its merits in

1
2 the future.

3 I contend and I am in disagreement to
4 what you said. I contend this is not substantia-
5 tion. I contend, also, that the individual, if
6 you will, or selected wells that were involved in
7 the situation are contaminated, which I'm freely
8 willing to admit. I do not feel that I, per se,
9 should have been selected and I understand I was
10 given the distinction of going to the Legislature
11 as a product name with Mr. Middleton, in clear
12 view of newspapers and the mention of my product
13 name on a continuous basis, without, again, any
14 substantiation any time in court or any real docu-
15 mentation that I know of, at this point.

16 I might also say the documentation and
17 the test of availability, I'll present at the
18 proper time from Dow Chemical Company will also in-
19 clude to show you what my particular viewpoint is,
20 that the two chemicals being charged by the At-
21 torney General, one of them is used in the food
22 industry. This is sold by major manufacturers,
23 methylene chloride, I'm specifically referring to.
24 The Attorney General ignores this particular piece
25 of evidence, if you will. This has never been and

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2 I don't know if it's available to the Legislature
3 as being knowledgeable and known. Methylene
4 chloride is used in the decaffeinating of coffee,
5 for vitamin pill capsule encasements and it's
6 used for extraction of oils from herbs and spices
7 and whatnot. There's a long list of uses where
8 this particular chemical is used.

9 Shall I not say those little things we
10 eat that we have a popular two names for, little
11 candy things with a casing. They're used to case
12 the candy. You could go on and on and find that
13 I admit the contamination of those wells did oc-
14 cur.

15 I removed the product considered to be
16 the contaminator, which is 1,1,1-trichloroethane
17 That was not satisfactory to the Attorney General.

18 I have been harassed. My accounts have
19 been intimidated. My accounts do not want to ad-
20 vertise any more. My accounts do not know what to
21 do. They don't know if the Attorney General is go-
22 ing to do something to them. My wholesalers are
23 intimidated and I have not had an opportunity to
24 present my particular case.

25 Of all the contamination, a very

1
2 strong factor I brought out here, no methylene
3 chloride was ever found but still the contamina-
4 tion of bringing cesspools additives in their own
5 category to the Legislature is not substantiated
6 fully. It also will not involve the problem to
7 pass one law on one facet of chemical or chemical
8 additives, if you will, when the same identical
9 chemicals are used in a multitude of products,
10 that if the legislators wanted to go into any
11 prestigious store in Long Island or Oswego or any
12 place else and pick up the can and find out what
13 the label on that can states, I think, in most
14 cases, you will find a profuse use of 1,1,1-
15 trichloroethane and you'll find a profuse use
16 of methylene chloride.

17 It is ludicrous, again, to think that
18 a law on cesspool additives is going to stop some-
19 thing from a toxic nature that would be deleterous
20 to the drinking water when all the other products
21 that are not considered to be cesspool additives
22 have an end result dispensing or disbursement into
23 a septic system or cesspool.

24 The legislators know people don't go
25 in and buy paint thinner and various products you

1
2 can find in innumerable quantities on household
3 shelves. If the Legislature passes the law, all
4 those products are going to exist in Nassau and
5 Suffolk. They're going to be purchased by home-
6 owners who have those same two chemicals and they
7 are going to be dispensed with when the man gets
8 through cleaning his paint brush or wall. It's
9 going to go down in the cesspool.

10 There's the argument I present.

11 CHAIRMAN GRANNIS: There was a deci-
12 sion made in Nassau and Suffolk County to ban the
13 use of phosphate detergents which were going
14 through the septic system. They were finding
15 themselves very prominently in the drinking water
16 in Nassau and Suffolk County.

17 The ban of the use of phosphate com-
18 pletely in one county and the phase out in the
19 rest of the state has led to a decrease in that
20 pollutant in the drinking water which came into
21 the septic tank system as well.

22 I don't think I can accept your
23 scientific information on hydrology and how ma-
24 terials go into household use into the drinking
25 water.

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2 MR. BUDD: There's no basic contamina-
3 tion of the basic aquifer of Long Island. The
4 groundwater on Long Island is one of the best in
5 the country. It's on the record. We are going
6 after something individually found to be in con-
7 tamination of wells, where heavy population and
8 density in living is the problem.

9 The detergent ban that happened in
10 1971, the conversion of what they did not have to
11 use in detergents and phosphates didn't stop the
12 general public from using detergents, because if
13 the investigators wanted to investigate it, they
14 will find the detergents are coming from Nassau
15 County.

16 CHAIRMAN GRANNIS: There is a ban on
17 phosphate detergents. We have a ban on phosphate
18 detergents in New York. If they're coming in,
19 they come in illegally.

20 MR. BUDD: The ban is ineffective.

21 CHAIRMAN GRANNIS: It's ineffective,
22 according to the product sold on the shelf.

23 I was part of the enforcement in draft-
24 ing effort on that and I have looked in the depart-
25 ment store shelves. So I know the products being

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sold here say "no phosphate."

MR. BUDD: I appreciate the opportunity to talk here. I won't take up any more of your time.

CHAIRMAN GRANNIS: What's the status of your case? Was there a move for preliminary injunction? You moved into an agreement with him not to sell your product?

MR. BUDD: My product is still on the shelf and continues to be. My product is reformulated.

First of all, let me categorically go through this.

The two products involved, my product was selectively discriminated against, because I am a "cesspool additive." It couldn't change anything if somebody uses the same chemicals. I'm a "cesspool additive."

I saw the ills of what was happening. I spent good money with a scientific force to have my own investigation done and my own conclusions given to me and the conclusions given to me were that for me to try to defend the situation on 1,1,1-trichloroethane would be very difficult,

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2 in view of the fact that the amount of contamina-
3 tion documentation and substantiation that has
4 been given on methylene and 1,1,1 is there.

5 So consequently, I am not making an
6 admission I'm a contaminator. I say, fine, if
7 you see that happening and we do have a problem,
8 because the saturation of that chemical is heavy,
9 why should not I then continue to do that.

10 I voluntarily removed the 1,1,1-
11 trichlorethane. That did not matter to the At-
12 torney General, because the legal expenses I have
13 been put through is exorbitant. The Attorney
14 General, in his press releases, called me a major
15 manufacturer. I am not a major manufacturer. It
16 is a misnomer by the Attorney General, Robert
17 Abrams.

18 CHAIRMAN GRANNIS: That's neither here
19 nor there.

20 MR. BUDD: The point is, I removed
21 the chemical. I continued to have the methylene
22 chloride in the product. There is no methylene
23 chloride in the test that is of any consequence
24 whatsoever in the wells.

25 He forced me in a position where I had

1
2 to condescend on the preliminary injunction to re-
3 move both chemicals. If I didn't I had to come
4 up with more legal fees.

5 I said I'll condescend to your require-
6 ment. Even after that, he still will not allow
7 this thing to settle down. He's going to the
8 press. He went to the press on May 7th before the
9 judge had an opportunity to even make a decision
10 and the judge still has--I know it right now--
11 hasn't made a decision.

12 CHAIRMAN GRANNIS: Is your product on
13 the shelf right now?

14 MR. BUDD: It's on the shelf and it
15 will continue to be there unless a judge tells me
16 that it has to be taken off.

17 CHAIRMAN GRANNIS: I understand.

18 SENATOR DALY: Thank you very much.

19 MR. BUDD: Thank you very much.

20 SENATOR DALY: Our next witness is
21 Evelyn Hannan of the Merrick Environmental Coun-
22 cil.

23 MS. HANNAN: Our organization would
24 like to go on the record, as being adamantly and
25 unalterably opposed to any further contamination

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2 to our environment, whether it be deliberate or
3 accidental. At a time when a water purifier,
4 chlorine is deemed questionable, we are appalled
5 that our legislators could even consider further
6 contamination of our drinking water by the delib-
7 erate addition of another toxic waste chemical,
8 fluoride.

9 It seems ludicrous that Governor Carey,
10 who in the midst of a close primary election, put
11 up ten million dollars in state funds, so all the
12 families on the immediate rim of the Love Canal
13 could pack up their belongings and leave, could
14 possibly condone a deliberate pollution of our
15 drinking water, with a toxic waste like fluoride.

16 We feel that the people who want
17 fluoride should have it in any of the readily
18 available forms, for example, mouthwash, toothpaste,
19 tablets, or dental application, it is their right,
20 but their rights end where ours begin, and to add
21 this to our drinking water would unquestionably
22 deprive those of us who do not choose to ingest this
23 chemical of our rights.

24 Fluoride in the drinking water supply
25 cannot be selective about which faucet it will

1
2 come out of!

3 Since fluorides only claim to fame
4 is supposedly to prevent cavities in children's
5 teeth it seems ridiculous to inflict this kind
6 of poison on people with dentures.

7 However, the osteomalacia and cancer
8 that it causes is a very real fact, and in our
9 opinion, the risks far outweigh the benefits.

10 There are 32,000 known chemical waste
11 dumps in the United States at this time. Please
12 don't make our drinking water supply No. 32,001.

13 I would like to ask a few question,
14 if I may. I have a question on this DRAINZ situ-
15 ation.

16 Mr. Budd alluded to Dow Chemical as
17 his source of saying this is fine and, you know,
18 Dow Chemical has been known to come out and say
19 agent orange was all right too.

20 So I would find that kind of question-
21 able, too.

22 The Cornell Veterinarian Magazine has
23 come out with the study that fluoride is not only
24 a water pollutant but an air pollutant. They have
25 pictures in here of cattle whose teeth have com-

1
2 pletely eroded and are missing and the bones of
3 those cattle are degenerating, as is the case with
4 osteomalacia.

5 So the addition of this to the water
6 supply is questionable to all the people.

7 It also is a killer. It has killed
8 a three year old boy in Brooklyn and the State
9 is paying \$750,000 damages for that boy's death.

10 They had it in North Carolina in the
11 Mouthman Program, which they're trying to push
12 through also.

13 CHAIRMAN GRANNIS: Explain the boy's
14 death in Brooklyn, please. I don't understand.

15 If the City would add it to its sys-
16 tem, it would be a City decision.

17 MS. HANNAN: A three year old boy died
18 of a topical application at the Brookdale Medical
19 Center.

20 CHAIRMAN GRANNIS: It's, then, a medi-
21 cal malpractice case against the dentist.

22 MS. HANNAN: Right.

23 But if this is done under supervision--

24 CHAIRMAN GRANNIS: I just wanted clar-
25 ification on the point.

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2 MS. HANNAN: My dentist took this to
3 the Dental Society at their convention and he
4 questioned it and the answer to it was the boy
5 didn't die from the fluoride. He died because he
6 didn't get treatment quickly enough.

7 Let's face it, if he hadn't had the
8 fluoride treatment in the first place, he would
9 still be here.

10 But getting back to the thrust of the
11 issue, the bill is 1790 and A2598, are the bills
12 to ban fluoride and we would like to ask your sup-
13 port in this, because the situation is drastic.

14 Many studies coming out through Dr.
15 Dean Burke of the National Cancer Institute and
16 Dr. Yamianis, who is also a biochemist and very
17 much into this, and the studies are showing the
18 cancer rate in the areas that are fluoridated
19 artificially, are much higher than those areas not
20 fluoridated.

21 There seems to have been a conspiracy
22 of silence between the press and the media in that
23 their main income comes from the press people and
24 whoever, and this issue should be out in the air
25 and debated, because there are many, many dentists

1
2 and scientists who are adamantly opposed to it.

3 SENATOR DALY: Thank you.

4 MR. BUDD: May I say something else?

5 CHAIRMAN GRANNIS: Yes.

6 MR. BUDD: The Dow Chemical Company
7 has been involved with the agent orange. I do
8 want to clarify that the tests that Dow Chemical
9 Company does and submits to the National Cancer
10 Institute, in my particular case, are standard
11 medical tests and they are bona fide tests.

12 So I just wanted to set the record
13 straight.

14 SENATOR DALY: Thank you, Mr. Budd.

15 Our next witness will be A. A.
16 Guerrera, chief chemist for the Suffolk County
17 Water Authority.

18 Is Mr. Guerrera in the room?

19 CHAIRMAN GRANNIS: We have a statement
20 from Mr. Guerrera that will be included in the
21 record, as will any other statements that were sub-
22 mitted and will be submitted at these hearings,
23 by interested parties.

24 SENATOR DALY: Herbert Goldstein from
25 Massapequa, New York, a chemical consultant.

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Is Mr. Goldstein in the room?

He's gone.

Peter C. Suhr from the LEAF Organization, Lead on Environmentally Aware Future.

Is Mr. Suhr here?

MR. SUHR: Yes.

SENATOR DALY: Good afternoon, Mr. Suhr.

MR. SUHR: I want to thank you all for coming here.

I don't have a secretary to do this, so I have to go through my notes.

I spoke out earlier about the public input. I'm going to speak out more about that.

I'm from a consumer environmental group. We have about 25 or 30 members in our group. We come from Nassau and Queens. We are involved in utility rate reform, air and water pollution and legislative responsibility.

We feel the legislators don't get all the information from different sources and we would like them to have the benefit of more information.

(Whereupon, Mr. Suhr delivered his prepared statement.)

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SENATOR DALY: Do we have a copy? Is that your only copy of the testimony?

MR. SUHR: Yes, handwritten in blue and red ink.

SENATOR DALY: If you'll submit it to us, I will make sure you get it back by return mail.

MR. SUHR: I could type it out and send it to you.

CHAIRMAN GRANNIS: We originally scheduled two sets of evening hearings, one in Syracuse, which has a tremendously sensitive population and one in Niagara Falls. It's a problem, as an environmental lawyer and environmentalist. Back starting in the early 1970s, we have tried to work on evening hearings. The public, we have found on a great deal of effort, doesn't come out for them. You would think they would. It would be easier for homeowners and people that work and students to come to hearings that they have not attended regularly.

So we were going to set up evening hearings and nobody showed.

It's a particular problem, as well.

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MR. SUHR: We need to reach more people.

CHAIRMAN GRANNIS: I think we sent out these hearing notices state-wide.

MR. SUHR: But the average citizen doesn't get it.

CHAIRMAN GRANNIS: We do have records you are welcome to have to receive copies of hearing notices. As a legislator, I have not heard of your group either before.

MR. SUHR: We're new and we're trying to get ourselves together.

CHAIRMAN GRANNIS: You can get on a list to have copies of hearing notices, at least for legislative hearings. They're being held. You send them to the media. Whether they choose to print them, that's up to them.

MR. SUHR: Would it be possible--a lot of senators and assemblymen send little things around to their constituents. Would it be possible to list what hearings--like, if you could list--

CHAIRMAN GRANNIS: There are hundreds of hearings from different perspectives. The list

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2 of hearings of the legislative hearings is six or
3 eight pages long. Every month they come out with
4 different kinds of hearings and there are depart-
5 mental and local hearings. I don't think that's
6 a practical solution.

7 This involves money. We don't print
8 it like the federal government does. We mail
9 those out, it costs you and me money, because my
10 taxes pay for it, too.

11 I think we do the best we can. We
12 have consolidated lists of hearings in the Legis-
13 lature. Those are available.

14 MR. SUHR: Is there some place we can
15 contact? Is there one place that would have all
16 this information?

17 CHAIRMAN GRANNIS: From the Legisla-
18 ture, yes. From every single state agency, too.
19 They develop their own list for their own hearings.
20 There's no point in sending certain people that
21 are interested in the trucking industry notices
22 from the education department or health department
23 about hearings on fluoride, because that's not the
24 interest of their particular association.

25 So I don't think that's a practical

1
2 approach, that the best way is to get on record
3 with those agencies that have hearings and what
4 your group is interested in and I think they do
5 send out periodic notices.

6 MR. SUHR: What do you think we're go-
7 ing to do to get people awake?

8 CHAIRMAN GRANNIS: I think if we could
9 figure out that answer--that's something we are
10 concerned about as you are for a great many dif-
11 ferent reasons and a great many different issues.
12 It takes groups like yours and the people con-
13 cerned about flouride. You can't generate it, we
14 certainly can't.

15 MR. SUHR: I thank all of you for com-
16 ing here. Have a good weekend.

17 SENATOR DALY: Mr. Guerrera from the
18 Suffolk County Water Authority.

19 MR. GUERRERA: Thank you.

20 My name is August A. Guerrera. I'm
21 the chief chemist for the Suffolk County Water
22 Authority.

23 I welcome this opportunity to appear
24 before you to present the views of the Suffolk
25 County Water Authority with reference to the con-

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trol of hazardous wastes in New York State.

The Suffolk County Water Authority is a public benefit, non-profit corporation. It's the largest water utility in the State of New York, with the sole exception of New York City. We are serving 230,000 accounts, which represents an equivalent of 860,000 persons.

We wish to stress the uniqueness of Long Island's geology and hydrology. We realize we're not unique in utilizing, solely, groundwater, as there are other areas in the State that utilize groundwater only.

Where we are unique on this Island, is between Nassau and Suffolk County, we serve two and a half million people with groundwater on an island surrounded by salty water and the maintenance of that balance is a very delicate and very severe engineering problem.

The Suffolk County Water Authority obtains all of its drinking water from groundwater sources utilizing more than 400 high capacity wells located at 150 separate locations. The only source of replenishment to this groundwater supply is precipitation and recharge of that precipi-

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2 tation to the groundwater reserve. The residence
3 time of this water in our underground system is
4 extremely long, being measured in decades or even
5 hundreds of years for the deeper formations. The
6 U.S. Geological Survey has estimated that a drop
7 of rainwater that falls on the center of this
8 island, say, near the groundwater divide you have
9 heard of before, percolates vertically downward
10 to the first aqua cloud and goes outward either to
11 Long Island Sound or to the Atlantic Ocean and may
12 take as long as 800 years to pass the barrier.

13 If we have a problem in the well a
14 hundred feet deep and we know there's an industry
15 that's a potential source of that material and we
16 abandon that well or shut it off and drill a well
17 six or seven hundred feet deep. Drilling that well
18 six or seven hundred feet deep, we're obtaining
19 water that fell as rain two hundred years ago.

20 We know that the Indians didn't dry-
21 clean their moccasins. So if we find a dryclean-
22 ing fluid in a eight hundred foot well on the
23 South Shore of this Island, we know we have some-
24 thing other to look for than contamination on the
25 surface or the activities of men on the surface.

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2 That's what makes the water supply on this Island
3 unique and interesting to develop, because of the
4 long residence time and the very slow movement of
5 groundwater.

6 We estimate the movement as only one
7 or two feet a day. So you get a character in the
8 middle of the Island going out Saturday afternoon,
9 knowing the local regulators don't work on weekends
10 and dumps something overboard. He's leaving a
11 legacy for our children and our grandchildren, be-
12 cause it will take decades before it reaches the
13 groundwater.

14 This would be particularly insidious
15 because the long residence time and the very slow
16 rate of discharge of these systems to the salt
17 water systems.

18 We have heard several times today
19 about the sole source aquifer designation and I'll
20 pass that paragraph by.

21 We in the water supply business, es-
22 pecially in Suffolk County Water Authority, con-
23 sider that the control of hazardous substances and
24 toxic chemicals waste must consist of more than
25 the regulation of dump sites. But we must provide

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2 for an accounting of every chemical from the time
3 of its generation through the storage, their
4 transportation and their ultimate disposal.

5 I have heard this concept enunciated
6 several times today. We need an accounting sys-
7 tem to keep track of every pound of vinyl chloride
8 through its generation, through its manufacture,
9 through the waste generated by that process. Who
10 handles the waste? Who takes it away? Who takes
11 it somewhere else, and who ultimately disposes of
12 it?

13 The Water Authority was a member of
14 the--and you heard their conclusions enunciated
15 also, today--the 208 study. We feel that these
16 problems may be best resolved in a county or bi-
17 county basis.

18 With the waste handling and treatment
19 and disposal facility, perhaps the best place to
20 locate it would be alongside of one of the county
21 sewage treatment plants, which has an ocean out-
22 let.

23 We know that equipment and people both
24 fail. We ought to have a vent somewhere to get
25 rid of some of the stuff we can't handle or that

1
2 becomes too much for us.

3 We feel that preventative measures
4 must be provided other than cleanup techniques or
5 procedures after the wastes have effected the
6 quality of the groundwater. We would rather not
7 treat the groundwater, but we would rather avoid
8 the contamination in the beginning.

9 To accomplish this, we feel that funds
10 must be made available, preferably on a county or
11 bi-county basis, firstly to identify a hazardous
12 waste inventory industry by industry and chemical
13 by chemical.

14 We have heard, again, the trite ex-
15 pression, we need a monitoring program. Well, the
16 monitoring program on this Island is an extremely
17 expensive undertaking and if we decide we're going
18 to drill a well near a particular industry, we
19 should really only monitor that particular well
20 for the chemicals that that particular industry is
21 either generating or developing as a waste, be-
22 cause the cost of analysis--and that's been brought
23 up before by Frank Padar and County Executive
24 Klein--the cost of analysis is substantial. So if
25 you were to come to me and say, I want you to find

1
2 out whether there are any of these industrial de-
3 greasers present, such as trichlorethane or metha-
4 lene, I would have to set up a gas chromatography,
5 that in the process of the deduction, would auto-
6 matically exclude benzene and toluene.

7 If you ask me to look for them, I
8 would have to set up another analysis to look for
9 those with a detector that would not see the
10 chlorinated hydrocarbons.

11 If you say, I want you to look at two
12 classes of compounds, that's one, two, three hun-
13 dred bucks. If you want me to look at three, I
14 have to charge you again. I have to do the whole
15 thing over again with just as much labor as the
16 first time around.

17 We feel after the inventory is made,
18 then, projections should be then made as to future
19 generations of volumes and types of wastes, fol-
20 lowed by the development of a monitoring scheme
21 and the implementation of this scheme based on the
22 sources of these wastes.

23 This is especially critical in that the
24 sampling and analytical procedures are extremely
25 expensive and highly variable, depending upon the

1
2 material being discharged. We feel that a more
3 intensive inventory must be accomplished to iden-
4 tify both publicly and privately owned landfills
5 or other disposal sites.

6 One of the purposes of doing the 208
7 study was when we sampled some of the soup coming
8 out of the bottom of our sanitary landfills, we
9 found contaminants in four digit numbers. But the
10 contaminants we expected to see very large volumes
11 of were not found. Whereas, in other places where
12 we found relatively uncontaminated water, even in
13 residential areas, we did find some of the de-
14 greasers.

15 In contrast to some of the earlier
16 testimony, I do think that cesspool cleaners are
17 a major potential source of contamination to the
18 Long Island groundwater system.

19 We also urge that funds be made avail-
20 able to assist industries in the establishment of
21 waste clearinghouses where the waste of one in-
22 dustry might be exchanged to provide a resrouce to
23 another industry. You have heard that concept
24 enunciated earlier, also.

25 But most import by far, is the pro-

1
2 tection of the drinking water on this Island. We
3 feel regulations concerning the control of the
4 discharge of toxic substances must be more rigid
5 than for the rest of the State of New York, be-
6 cause of a particular susceptibility of our ground-
7 water resources to pollution.

8 SENATOR DALY: Thank you very much.

9 CHAIRMAN GRANNIS: Thank you very much.

10 SENATOR DALY: Is there anyone else
11 who would like to testify?

12 Perhaps, Ms. Pajak, you could share
13 with us some of your thoughts.

14 Thank you for taking the time to come
15 before us and Ms. Pajak, by the way, is also with
16 LEAF, the organization, Lead on Environmentally
17 Aware Future.

18 MS. PAJAK: I'm particularly disturbed
19 about the chemical contamination of our ground-
20 water posed by radioactive and toxic waste dis-
21 charges on Long Island.

22 I'm also disturbed that there is a
23 lack of concern about the disposal and transport
24 of these wastes through Long Island. I feel it
25 is vital to have stringent regulations to prevent

1
2 the transport and discharge of these wastes in
3 sensitive ecological areas.

4 I'm very concerned that there is no
5 attempt by the EPA to stop chemicals like poly
6 vinyl chloride dioxin, organic acids and pesti-
7 cides from entering Long Island's groundwater.

8 Public input is vital to get these
9 regulations passed.

10 Concerning the status of hazardous
11 waste in this State, I also resent the disposal of
12 toxic waste into the open environment. I feel we
13 will be faced with the catastrophe if we allow
14 toxic waste to be disposed of improperly.

15 It will also be a diaster to Long
16 Island's groundwater and farm land to have those
17 toxic wastes unregulated.

18 I want to site examples to get my
19 point across. I don't want any more Love Canals
20 on Long Island.

21 On March 7, 1975 on a farmland in
22 Illinois, there was dumping and burying of hazard-
23 ous industrial waste on land. The contamination
24 of the groundwater from cyanide. The cyanide was
25 kept in 55 gallon drums. This packaging is an

1
2 outrage.

3 In January 1976 in the Rock Mountain
4 area, there were toxic substances, algerin and
5 deldrin discharged into the Rocky Mountain arse-
6 nal. There was resultant contamination of the
7 groundwater.

8 We must not let this occur.

9 There are possibly several Love Canals
10 here on Long Island.

11 There is one company, Hooker Chemical
12 Company, who is allegedly discharging poly-vinyl
13 chloride, pesticides, synthetic latex, poly-
14 urethane, organic acid and monoesters into Long
15 Island's retrudge basin.

16 I feel this is unacceptable for the
17 polluter to use this like an open sewer.

18 We must not let the above incidents oc-
19 cur. It will wreak havoc with Long Island's ground-
20 water.

21 I feel the same way towards the trans-
22 port of radioactive waste in unsuitable containers.
23 I feel that 55 gallon drums are inadequate to store
24 these fiendishly toxic wastes.

25 On several occasions, the integrity of

1
2 the containers were violated.

3 I'm particularly concerned about the
4 routing of those radioactive and other toxic wastes
5 to populated areas. The packaging requirement
6 should be more stringent. These containers are un-
7 satisfactory.

8 I urge you to pass strict regulations
9 for containers to prevent pollution of the environ-
10 ment.

11 If no steps are made to improve the
12 container, then, the waste shouldn't be allowed to
13 go through the populated areas.

14 Our future generations cannot afford
15 to be left without this protection.

16 I also think that the operator should
17 notify the public that the waste is being routed
18 in these areas. If the industry doesn't notify
19 the public, they shouldn't be allowed to transport
20 these wastes.

21 I urge you to act on the above sug-
22 gestions as soon as possible.

23 SENATOR DALY: Thank you very much.

24 I would like to thank my colleagues
25 and all of you for joining us today. We do hope

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2 that as a result of this very intensive search by
3 both houses of the Legislature--and I'll point out
4 that this is a very strong bi-partisan effort and
5 that we have joined forces so that we can be more
6 effective both in our hearings--

7 A VOICE: I have one question.

8 How long will the written record be
9 held open for further comment?

10 SENATOR DALY: I would say it will be
11 about two weeks. We are going to be down here
12 next week in New York City at 270 Broadway. Our
13 next public hearing on this matter will be next
14 Thursday in New York City.

15 So if you could submit the legislation
16 to me, we'll be glad to give you the proper ad-
17 dress, or perhaps you'd like to do it yourself
18 next Thursday.

19 We are trying to come up with solutions.
20 We realize the importance of the matter and we
21 feel, Peter and I both and Maurice and Lou and
22 John, that politics will not play a part in it.

23 CHAIRMAN GRANNIS: That's all. Thank
24 you very much.

25 The hearing is closed.

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(Whereupon, at 2:30 P.M., the hearing
was concluded.)