

Senate Committee on Environment and Public Works Subcommittee
Testimony of Robert Spiegel, Executive Director, Edison Wetlands Association
Tuesday, June 10, 2014

Good afternoon, my name is Robert Spiegel. I am the executive director and co-founder of the Edison Wetlands Association also known as the EWA. Thank you for allowing me to testify today on an extremely important issue, one that deeply impacts public health and environmental quality for all Americans, “Protecting Taxpayers and Ensuring Accountability: Faster Superfund Cleanups for Healthier Communities.”

The EWA is a non-profit environmental organization that was founded in 1989 to protect public health and the environment by cleaning up and restoring hazardous waste sites in New Jersey and beyond. The EWA also owns and operates the last farm in Edison Township, the Triple C Ranch and Nature Center, a natural oasis in the 1450 acre Dismal Swamp Conservation Area. At the Triple C Ranch and Nature Center, our staff, volunteers and interns run community gardens, and teach hands on environmental programs. The EWA has over 1000 members in New Jersey.

The EWA has been working directly on Superfund Sites for over 25 years and we also work to strengthen the public’s understanding of the Superfund process. The EWA accomplishes this by working directly to chair or co-chair at least 12 Community Advisory Group’s (CAG’s) with the public, elected officials, the USEPA and other state and federal agencies. One of the tools we provide to assist communities is the use of environmental engineers and technical advisors to disseminate technical information to communities so they can meaningfully participate in the Superfund Process. The EWA strongly advocates for protective remediation at Superfund Sites and study Superfund laws and regulations. The EWA also assists Environmental Justice Communities in navigating the often-confusing Superfund process.

I started working in 1989 on Superfund issues. I co-founded the Edison Wetlands Association when I was working as a pastry chef in a catering banquet hall. The hall’s ice carver John Shersick came into my bakery because he liked the smell of the baked goods I made. Besides being an ice carver John was a naturalist and hunter. One day he asked me a very strange question, “Do you want to see some green rabbits?” At the time, I baked elaborate cakes and taught martial arts, took care of my family, and pretty much minded my own business, which is a pretty hard thing to do in New Jersey when it comes to the environment. A few days later I followed the ice carver onto the Chemical Insecticide Superfund Site on Whitman Avenue, Edison NJ, and the place reeked of death, decay and rot.

There were homeless people living on the site, children playing there, and people scavenging wood for building their decks. Those people didn’t know that the site was actually a pesticide manufacturer that made among other chemicals, the defoliant used in the Vietnam War, the infamous Agent Orange. I did indeed see green rabbits and I thought to myself, “ If the chemicals turned the rabbits green what were they doing to the children who routinely played on the site?” What I saw that day got me out of the pastry shop and into the world of Superfund and environmental remediation.

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I later found out that green ooze was running down into the parking lot where workers made rolls for all the McDonald's bakeries throughout the Tri-State area. As it turns out many of those workers died of cancer and other illness.

To raise awareness about this serious problem we took to holding impromptu press conferences as well as conducting our own soil samples. The fledgling EWA managed a USEPA Technical Assistance Grant to hire our own experts to review and comment on the EPA site reports. Our advocacy got the attention of those outside our community and the late best selling author Molly Ivins featured our story in her best seller Bushwhacked.

Our many years of advocacy finally paid off when we were able to get the very last of the Superfund trust fund. USEPA Administrator Christie Whitman delivered the funds in an over size novelty check to start the cleanup work herself.

Today thanks to the Superfund trust fund we were able to get the site fully clean and this site was the first in New Jersey to be purchased and preserved with Green Acres open-space money. The EWA even contributed \$500,000.00 from New Jersey Green Acres open space funding to purchase this site for parkland.

I am here today to discuss the shortfalls with the United States Environmental Protection Agencies Superfund Program for so called "Orphan Sites". "Orphan sites" are sites where there is no responsible party or the responsible party does not have adequate resources to conduct the cleanup. These sites are poisoning the American public. The modest fees collected from under the Superfund Program on the chemical industry were collected from 1980 until 1995. Bill Clinton tried twice to reauthorize these modest fees and at its peak the trust fund had 5 billion dollars for "Orphan" Site cleanups around the country. The lack of a dedicated Superfund Trust Fund has also had a rippling effect on sites where there is a responsible party and I will explain why later in my testimony.

The USEPA depleted Trust fund has led to lack of funding, manpower and resources in New Jersey and across the country. Poisoned American towns and cities have an emergency situation with body counts piling up and no funding for all the Superfund cleanup work desperately needed. I also work with poisoned Superfund communities outside New Jersey including at the Lees Lane Superfund Site in Louisville, KY where children continue to play on its chemical slop pits.

The USEPA's priority for those who get cleanup funding is now a race to count the bodies of children and adults at Superfund sites around the country. Only the communities with the highest body count get scarce Superfund dollars allocated by the federal government for the USEPA Superfund Program.

These funding shortfalls did not exist when the Superfund Trust Funds were collected by the United States and available from the modest “Polluters Pays” fees collected from the industries that had caused the problems.

These serious problems are now compounded by severe weather events brought about by climate change. In my opinion, based on over 25 years of experience with the Superfund toxic waste program, the failure to have a well-funded USEPA with a dedicated trust fund for the thousands of leaking Superfund Sites is a direct threat to America’s national security.

My testimony will focus on a few of the over 20 Superfund Sites that EWA works on everyday to cleanup and restore. We also cannot talk about the Superfund Program without discussing the communities directly impacted by those sites.

New Jersey’s rich industrial legacy is both a blessing and a curse for New Jersey families. New Jersey’s industries helped make the nation a powerhouse. This included manufacturing to make bricks and steel that built the nation’s skyscrapers and bridges. It also included the development of synthetic chemicals that were a break through and thought to have had a net environmental benefit by replacing things like whale oil and animal based products thus saving the lives of thousands of animals. New Jersey led the nation in innovation from industries such as the automobile to the development of the pharmaceutical and biotech industries.

This legacy also left behind a sinister dark side partly due to industries poor housekeeping practices along with organized crimes involvement in the waste disposal industry.

New Jersey has at least 114 USEPA Superfund Sites the most in the nation. New Jersey also has approximately 25,000 known contaminated sites including Department of Defense and Department of Energy Sites. New Jersey has the distinction of having the highest population density as well as the highest cancer rates in the country. This problem is compounded by the failure of New Jersey’s Department of Environmental Protection (NJDEP) to provide any meaningful oversight on the remediation of the states contaminated sites. New Jersey has divested itself of most the regulatory oversight of New Jersey’s roughly 25,000 contaminated sites, now letting the polluters self-regulate.

There are also many New Jersey sites that would more than qualify for the Superfund program if the USEPA had sufficient funding to fully undertake its mandate to cleanup the nations worst toxic sites.

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New Jersey's many leaking toxic waste Superfund nightmares continue to pollute our estuaries, wetlands and communities. Without a dedicated trust fund, these Superfund Sites continue to discharge highly toxic chemicals into drinking water wells, surface and groundwater including our homes, parks and schools. Any objective observer can see why New Jersey is the poster child for why we need to reauthorize the modest "Polluter Pays" fees and where the EPA's mission could not be more apparent or necessary.

Congressman Eckhardt's 1979 Waste Disposal Hearings, Survey and final Report show that the chemical industry used the entire United States as its own private chemical dump with no town or city being exempt from industries practices. It's only fair they contribute the modest fees asked to cleanup the national toxic waste nightmare they created.

The Superfund Sites that I'm going to talk about in my testimony are just a few of the many examples that continue to poison New Jersey families and communities throughout our nation. It is clear the USEPA's mission and the legislators who first help draft the Superfund Bill in 1980 never anticipated the magnitude of the problems left behind by many of the nations industrial powerhouses especially in New Jersey's Garden State.

The first site I will testify on is the Cornell-Dubilier Superfund site located in South Plainfield, New Jersey. This site produced cancer causing Polychlorinated Biphenyls (PCBs) Capacitors and oils and dumped massive amounts of capacitors and chemicals including solvents into the adjacent wetlands and streams. Disposal practices at the site in the 1930's and 1940's were responsible for contaminating a vast geographic area including at least one other Superfund Site. The company also may have dumped PCB's at unremediated landfills where children play unaware they are not sports fields.

The site also rendered the 10 mile Bound Brook with the distinction of being the only New Jersey waterbody with a ban on consuming even a single living organism, due to the fact the fish and other biota have PCB's at the highest levels seen in New Jersey's fish. The Bound Brook also traverses seven other towns and children frequently play in the PCB laced brook and subsistence fisherman catch and eat from the Brook, contaminated Spring Lake and New Market Pond. Both the lake and pond host yearly fishing derbies and people regularly consume the poisoned fish that they catch for sustenance.

Recent USEPA's studies show these highly toxic cancer-causing chemicals will continue to discharge for decades, maybe centuries, without the USEPA taking active measures to stop the flow of chemicals from the 825-acre plume into this densely populated residential community. The USEPA cannot stop the groundwater discharge nor do they have the resources to test the hundreds of homes, schools, daycare centers and businesses that sit directly above the

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groundwater plume. This plume has the potential to emit deadly gases that may pose a threat to unsuspecting families.

This problem is similar to the DuPont Public Works Site in Pompton Lakes, NJ where poison gases were discovered by the USEPA to be discharging from a chemical plume into over 450 homes. The scope of the problem in South Plainfield may be much greater than Pompton Lakes but the USEPA does not have the funds to sample the air in the structures located about the plume.

The USEPA has been studying the Bound Brook for 20 years and without dedicated funding, staff and resources the USEPA cannot even finalize the investigation of the Bound Brook and Groundwater (Operable Unit 3 and Operable Unit 4). The information has not been released to the public and the USEPA has no funding to stop the dangerous flow of these cancer-causing chemicals into the many towns that are being impacted along the 10 mile Bound Brook and in the 825 acre toxic groundwater plume under South Plainfield, Piscataway and North Edison. Without dedicated funding for the USEPA to conduct the critical cleanup work needed to address this direct human health and environmental threat, it may take centuries to stop the chemicals actively discharging from this site.

Another Superfund Site cleanup drastically slowed down by lack of dedicated funding is the Horseshoe Road Superfund Site in Sayreville, NJ. This combination of several sites that comprise the Horseshoe Road Superfund Site used a variety of chemicals including roofing tars and incinerated x-rays and computer boards to recover precious metals.

Using our nations wetlands for their private landfills, as many companies have done, the Horseshoe Road Superfund Site has polluted vast areas on New Jersey's longest river, the Raritan. The USEPA was able to clean the uplands area when funding was dedicated to the cleanup. However, vast expanses of tidal and freshwater wetlands along the Raritan River and the Raritan River sediments remain poisoned with deadly arsenic, dioxins and other chemicals. USEPA plans to clean the expansive wetlands and dredge the Raritan River to make it safe again for the commercial crabbers, fishermen, recreational boaters, jet skiers and bird watchers to use. The USEPA has completed all the studies needed to begin the cleanup.

Unfortunately, the USEPA's plan has stalled because the funding is just not available. Now fishermen and crabbers as well as those who walk along the Raritan River are routinely exposed to high levels of chemicals that continue to leach from these chemically soaked wetlands and contaminated sediments.

The last site I'd like to discuss in some detail is the Raritan Bay Slag Superfund Site in Old Bridge and Sayreville, New Jersey.

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The Raritan Bay Slag Superfund Site is an USEPA success story in the making, if USEPA only had the funds to begin the cleanup. The Raritan Bay Slag Superfund site is comprised of several massive toxic lead slag disposal areas indiscriminately dumped along large jetties, beaches and seawalls in the Raritan River and the Raritan Bay. USEPA used a very innovative approach to fast track the investigation of this site due to the impact on the Raritan Bayfront community, the environment and its devastation to Bayfront businesses. The USEPA used their removal branch in conjunction with the remedial branch to fast track the investigation and get to a decision point in only three years.

This approach restored confidence in the federal government and the USEPA and was lightning speed for a Superfund Site. The USEPA was able to use their own divers to gather the information needed to understand how the toxic lead slag had spread and what it was doing in the natural environment of the Raritan River and Raritan Bay. Even with the setback from Hurricane Sandy, the USEPA was able to quickly recover and assess the changes from the hurricane. The USEPA worked with the EWA and the community, bringing all stakeholders together for meaningful community involvement. The USEPA's decision was to clean up all the leaking toxic lead slag and arsenic that had polluted the area's beautiful beaches and bay front communities of Old Bridge and Sayreville.

However, here's when the story takes a very sad turn. In the past, the threat of treble damages was enough to get polluters to do the cleanup the USEPA ordered. If the polluter refused to do the cleanup ordered, the USEPA could do the cleanup and bill the polluter for three times the cost of the cleanup. The USEPA rarely, if ever, used this provision but it acted as the big stick to get recalcitrant polluters to undertake extensive cleanups.

Now that there is no money left in the Superfund Trust Fund, the USEPA does not have the funds to do the cleanup or pursue enforcement treble damages as the USEPA once did. The responsible parties and polluters know that the USEPA cannot undertake this expensive cleanup and that treble damages are just an idle threat.

What these three sites have in common is that with dedicated funding from the USEPA Trust Fund there would be sufficient funding to clean these Superfund Sites. These and many of the country's leaking toxic Superfund Sites would be cleaned up quicker if there were a dedicated source of funds, like the USEPA once had with the Trust Fund fees.

The USEPA is now stuck in limbo on a cleanup that is ready to start and that without funding is not going to be cleaned up anytime soon. These same stories are repeated over and over throughout the state of New Jersey and the country. There is no shortage of examples that demonstrate a need for a well-funded Superfund Program. These funds could only come from a dedicated trust fund financed by fees collected from polluting industries.

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Several Superfund sites not mentioned in my earlier testimony, but equally as important, include the cleanup at the Ringwood Mines Superfund Site and the Bridgewater American Cyanamid Superfund Site. At the Ringwood Mines Superfund Site where the Ramapough/ Lenape Indian Nation has lived off the land for over 300 years, funds are desperately needed to protect and restore the rights of the Native American community. Significant Superfund resources are needed to address the impacts to tribal natural resources. Dedicated Superfund funding for the USEPA Superfund Program would expedite the cleanup of the Ramapough/ Lenape sacred ancestral lands. At the Bridgewater American Cyanamid Superfund Site, over 2 million tons of toxic waste and 27 chemical lagoons are still extremely dangerous and leaking near drinking water supplies. Funding is critical to getting these sites cleaned up in a timely manner.

A stronger, fully funded Superfund program would provide for vastly improved enforcement where the “Polluter Pays” fees are restored. Treble damages requiring the polluter to clean up their site or pay three times the cleanup cost would stop being a hollow threat. The USEPA would have the funds to address toxic waste impacts to human health and environmental national crisis. This is the toxic legacy that New Jersey and all Americans still face. Detractors look at Superfund and see it as a bureaucratic program, and those who call for Superfund’s abolishment have not seen the many Superfund communities throughout the country where cleanups have restored community health and reenergized property and home values.

Recent university studies show a direct connection between the cleanup of Superfund Sites and a reduction in birth defects and childhood illness. In other words where Superfund Sites are cleaned up children are born healthier and suffer from less illness and disease.

When we think about reauthorizing the “Polluter Pays” fees, we must keep in mind that it is only fair that those who caused this problem must pay to clean it up.

Americans should not be forced to decide whether to fund a school, road or to pay for the cleanup of America’s hazardous waste sites. The United States has a host of new problems in the public eye from waste impacting the shores of the United States from the Fukushima reactor to global climate change and rising sea levels. There are certainly no shortages of serious problems that Americans face. Restoring the “Polluter Pays” fees will give us the funds to finally address America’s toxic legacy that continues to poison our country.

Dying from cancer after being exposed to hazardous waste sites sometimes takes years and is not the most glamorous way to die. If only we could get more Superfund Sites to have green rabbits like the CIC did, maybe enough politicians will pay more attention to this issue to reauthorize the “Polluter Pays” provision of this important law that impacts every family and person in the United States and does not care whether you are Republican, Democrat or Independent.