NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

HAZARDOUS DISCHARGE SITE REMEDIATION FUND

1997 ANNUAL REPORT

Presented to:

THE HONORABLE HENRY P. McNAMARA
CHAIR, SENATE ENVIRONMENT COMMITTEE

THE HONORABLE STEVEN J. CORODEMUS
CHAIR, ASSEMBLY ENVIRONMENT COMMITTEE

THE HONORABLE JOHN C. GIBSON
CHAIR, ASSEMBLY AGRICULTURE
& NATURAL RESOURCES COMMITTEE
Hazardous Discharge Site Remediation Fund

1997 Annual Report

In accordance with P.L. 1993, c. 139, the New Jersey Economic Development Authority (the "EDA") hereby submits the Hazardous Discharge Site Remediation Fund (the "Fund") Annual Report outlining the Fund's financing activity for 1997. In addition, this report identifies the amount of funds available for 1998 and highlights legislative action made in 1997 that expanded the scope of the Fund.

1997 Activity

The EDA is pleased to report on the progress of the Hazardous Discharge Site Remediation Fund. In 1997, over $8 million in loans and grants to businesses, private individuals and municipal governmental entities were approved by the New Jersey Department of Environmental Protection (the "DEP") and the EDA for the investigation and clean up of contaminated sites around New Jersey. Of the Fund commitments outstanding in 1997, approximately $10.8 million were disbursed and used to commence work at contaminated sites.

The chart on the following page illustrates the amount of funds available in each category of eligibility for 1997, total disbursements that were actually made from each of these categories during the year, as well as outstanding commitments of the Fund by category. The category allocations were adjusted in September 1997 to reflect the $20 million appropriation made to the Fund through the passage of P.L. 1997, c.234.

\[\text{See addendum for description of the funding categories of eligibility}\]
<table>
<thead>
<tr>
<th>Funding Category</th>
<th>Annual Obligations</th>
<th>1997 Allocations</th>
<th>1997 Disbursements</th>
<th>Outstanding Commitments</th>
</tr>
</thead>
<tbody>
<tr>
<td>*1</td>
<td>15%</td>
<td>$8,203,334</td>
<td>$83,120</td>
<td>$279,095</td>
</tr>
<tr>
<td>*2</td>
<td>10%</td>
<td>$5,468,889</td>
<td>$7,055,650</td>
<td>$3,249,669</td>
</tr>
<tr>
<td>3</td>
<td>15%</td>
<td>$8,203,334</td>
<td>$824,058</td>
<td>$2,855,778</td>
</tr>
<tr>
<td>4</td>
<td>10%</td>
<td>$5,468,889</td>
<td>$317,700</td>
<td>$2,013,356</td>
</tr>
<tr>
<td>5</td>
<td>20%</td>
<td>$10,937,779</td>
<td>$216,128</td>
<td>$274,119</td>
</tr>
<tr>
<td>6</td>
<td>20%</td>
<td>$10,937,779</td>
<td>$954,971</td>
<td>$1,625,962</td>
</tr>
<tr>
<td>7</td>
<td>5%</td>
<td>$2,734,445</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>*8</td>
<td>5%</td>
<td>$2,734,445</td>
<td>$1,326,640</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$54,688,894</td>
<td>$10,778,264</td>
<td>$10,297,979</td>
</tr>
</tbody>
</table>

*As defined in the Act, funds allocated in "catch all" category 8 can be used for financial assistance or grants for the purposes specified in categories 1 through 7. Due to the high level of activity of category 2, all of the funds allocated to category 8 ($2.7 million) were transferred to category 2. In addition, $1.8 million of the funds allocated to category 1 were transferred to category 8 ultimately used by category 2. These monies, which total approximately $4.5 million, are included in the 1997 disbursements and outstanding commitments for category 2.

It should be noted that the $10.8 million in disbursements made in 1997 represent outstanding commitments from 1996 as well as new approvals in 1997. In addition to these disbursements, the current outstanding commitments of the Fund total approximately $10.3 million. It is anticipated that these outstanding commitments will be disbursed by the EDA in 1998.

The statute prescribes a specific method for determining the funding priority of projects that receive approvals from the DEP and EDA. Upon receiving EDA Board approval, applicants have a certain period of time to submit an executed contract for remediation services on the site in order to draw down on the available funds. Private individuals have 90 days to submit this evidence, while municipal governmental entities have 180 days. If the defined period of time should elapse for any reason, the commitment loses funding priority to that of newer applicants. This lower funding priority does not cancel the Fund's commitment to the applicant. If the applicant submits the required evidence at some point after the defined time period has elapsed, the Fund is obligated to honor the commitment if monies are available in the Fund.
The EDA has been receiving progress reports from the investigation and clean up efforts it has funded through Fund. In the City of Elizabeth, for example, a former 200-acre landfill is being converted into a major commercial enterprise. A private developer received more than $3 million in Hazardous Discharge Remediation funding to complete site remediation activities. It then sold the land to a real-estate developer who is building this Metro Mall. The potential economic impact of this $320 million redevelopment effort is expected to create more than 5,000 permanent jobs, 1,700 construction jobs and as much as $4.2 million in new local tax revenues.

The former site of the Modern Container Corporation in Perth Amboy is a good example of how municipalities can use the Fund to help attract redevelopment interest and transform old abandoned industrial sites into new viable ratables, thereby expanding the municipal tax base and creating new employment opportunities. The project received an initial $76,400 grant for its preliminary assessment and site investigation activities. A $123,507 grant for remedial investigation was provided in July 1997. Since receiving the grant funding, the city has entered into a lease with an option to purchase with Tottenville Realty Corp. This developer is willing to do the cleanup based on the results of the remedial investigation and plans to develop an assisted care living facility with a 250-bed capacity on the site.

1998 Available Funds

During 1997, the Act was amended to create two new categories of eligibility which the EDA and DEP implemented in the beginning of 1998. The two categories include matching grants for individuals using innovative technology for remediation and grants and loan guarantees for persons who implement remedial actions including those which require continued institutional controls. Annual allocations were adjusted based on these new categories.

Exhibit A illustrates the obligation of available funds for 1998 into the 10 categories of eligibility and their respective annual percentage shares of the Fund as defined in the statute. At the close of 1997, the Fund had outstanding commitments of approximately $10.3 million that have not yet been drawn upon by applicants. The outstanding commitments, however, are active claims against the $43 million remaining in the Fund for 1997, leaving an effective balance of $33.6 million in the Fund for 1998 and beyond. The historic fund summary is also presented in Exhibit A.

Legislative Action

Last year, the EDA and DEP recommended that the statute be amended to shift funds among all eligible categories as may be needed to meet the public interest. This was due to the dramatic increase in utilization of category 2 which allocates funds for municipal grants and loans. We are pleased to report that legislation was passed in 1997 to allow the EDA and DEP greater flexibility in shifting funds between categories. Under the previous legislation, the EDA and the DEP had the ability to shift funds among the first three categories only. The new legislation enables the EDA and DEP to shift funds among all 10 eligibility categories to meet increased demand.
The legislation also expanded the Environmental Opportunity Zone Act. This act was established to encourage the remediation of contaminated industrial sites by offering limited property tax exemptions. This applied only to properties that were to be used for commercial or industrial purposes. The new law expands the Act to allow contaminated industrial properties to be developed\(^2\) for residential or other productive uses. It also extends the 10-year property tax abatement under the Act to 15 years if an unrestricted or limited restricted use remedial action\(^3\) is used for brownfield sites within an Environmental Opportunity Zone.

New legislation is currently pending which would further enhance the effect of the Hazardous Discharge Site Remediation Fund Program. EDA supports the intent of Senate Bill 775 which would require all applicants, including municipalities, to relate their projects to municipal redevelopment plans or be able to demonstrate that the site has a realistic opportunity to be redeveloped and returned to productive use.

**Conclusion**

A brief Addendum is attached which highlights the history of the Fund and the various categories of eligibility along with Exhibits A. Should you need any additional information about the contents of this report, please do not hesitate to contact the EDA at (609) 292-1800 or the DEP at (609) 633-0719.

\(^2\) Unrestricted use remedial action: Any remedial action that does not require the continued use of engineering or institutional controls in order to meet the established health risk or environmental standards.

\(^3\) Limited restricted use remedial action: Any remedial action that requires the continued use of institutional controls but does not require the use of an engineering control.
ADDENDUM

Fund History

In 1993, the Legislature amended and supplemented P.L. 1983, c.330, formerly known as the "Environmental Cleanup and Responsibility Act" to become the "Industrial Site Recovery Act." The Legislature sought these changes to promote certainty in the regulatory process which would serve to facilitate the remediation of contaminated sites and promote the redevelopment of existing industrial sites around the State. In addition to regulatory reform, the Legislature sought to alleviate the financial burdens that have been imposed on individuals, corporations and municipal government entities that have either voluntarily or involuntarily remediated contaminated sites. This assistance came in the form of a $45 million appropriation from the Hazardous Discharge Bond Act of 1986 to a new fund entitled the Hazardous Discharge Site Remediation Fund (the "Fund") which the EDA jointly administers with the Department of Environmental Protection ("DEP"). The Fund received an additional $10 million from the Economic Recovery Fund in its initial capitalization, and in 1997, the Legislature reappropriated an additional $20 million from the Hazardous Discharge Bond Act of 1986 to the Fund making a total of $75 million available for financial assistance in the remediation of contaminated sites.

The responsibilities associated with administering the Fund have been divided between the EDA and the DEP. Initial contact and proposals for funding are made through the DEP, which has streamlined the environmental review process to provide timely approvals. Once environmental approvals and eligible project costs have been determined by the DEP, the applications are forwarded to the EDA so that eligible parties may access the financing available to them through this Fund.

Upon receiving these applications, the EDA conducts a financial review and forwards them to the Board of Directors with a recommendation for funding. The DEP and EDA have adhered to a strict interpretation of the law in implementing this Fund. As a consequence of this interpretation, the Fund is truly the last resort to finance potential remediations. Applicants do not possess insurance and in most cases have little or no collateral to secure loans made by the Fund. Under normal circumstances, these applications would not meet the EDA's credit criteria for funding. Each Fund application is reviewed therefore in light of the legislative intent behind the program which dictates to the EDA that these more risky loans should be made for the general public good that will be achieved through such remediations.

Funding Categories

As initially defined in the Act, financial assistance and grants from the Fund were provided for the following purposes and obligated on an annual basis in the defined percentages.

(1) Private Loans in Qualifying Municipalities: At least 15% of the moneys are allocated for financial assistance to persons, other than municipal governmental entities, for the remediation of real property located in a qualifying municipality as defined in section 1 of P.L. 1978, c.14 (C.52:27D-178);
(2) **Municipal Grants and Loans:** At least 10% of the moneys are allocated for financial assistance and grants to municipal governmental entities that own or hold a tax sale certificate on real property on which there has been or on which there is suspected of being a discharge of hazardous substances or hazardous wastes. Grants shall be used for performing preliminary assessments and site investigations on property owned by a municipal governmental entity through foreclosure or other similar means, or on which the municipality holds a tax sale certificate, in order to determine the existence or extent of any hazardous substance or hazardous waste contamination on those properties. A municipal governmental entity that has performed a preliminary assessment, site investigation and if necessary, a remedial investigation on a property, may obtain a loan for the purpose of continuing the remediation as necessary to comply with standards adopted by the DEP;

(3) **Private and Municipal Loans for Imminent Threat:** At least 15% of the moneys are allocated for financial assistance to persons or municipal governmental entities for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health or to a sensitive or significant ecological area;

(4) **Private Loans for Voluntary Remediation:** At least 10% of the moneys are allocated for financial assistance to persons, other than municipal governmental entities, who voluntarily undertake the remediation of a hazardous substance or hazardous waste discharge, and who have not been ordered to undertake the remediation by the DEP or by a court;

(5) **Private Loans for Required Remediation:** At least 20% of the moneys are for financial assistance to persons, other than municipal governmental entities, who are required to perform remediation activities at an industrial establishment pursuant to P.L. 1983, c.330 (c.13:1K-6 et al.), as a condition of the closure, transfer, or termination of operations at that industrial establishment;

(6) **Private Innocent Party Grants:** At least 20% of the moneys are allocated for grants to persons, other than municipal governmental entities, who own real property on which there has been a discharge of a hazardous substance or a hazardous waste and that person qualifies for an innocent party grant. A person qualifies for an innocent party grant if that person acquired the property prior to December 31, 1983, the hazardous substance or hazardous waste that was discharged at the property was not used by the person at the site, and that person certifies that he/she did not discharge any hazardous substance or hazardous waste at an area where a discharge is discovered. A grant pursuant to this paragraph may be for up to 50% of the remediation costs at the area of concern for which the person qualifies for an innocent party grant, except that no grant awarded to any person may exceed $1 million; and
(7) **Catch All (Private and Municipal Loans and Grants):** The remaining 10% of the moneys in the remediation fund are allocated for financial assistance or grants for any of the purposes enumerated in paragraph (1) through (6) of this subsection.

During 1995, the Act was amended to create a new category of eligibility which the EDA and DEP implemented in the beginning of 1996. Categories 1 through 6 remained the same. The new categories 7 and 8 are described below:

**Environmental Opportunity Zones:** At least 5% of the moneys are allocated for loans to persons, other than municipal governmental entities, who own and plan to remediate an environmental opportunity zone, for which an exemption from real property taxes has been granted; and

(8) **Catch All (Private and Municipal Loans and Grants):** The remaining 5% of the moneys in the remediation fund are allocated for financial assistance or grants for any of the purposes enumerated in paragraph (1) through (7) of this subsection.

During 1997, the Act was amended to create two new categories of eligibility which the EDA and DEP implemented in the beginning of 1998. Categories 1 through 7 remained the same. The new categories are described below.

**Private Grants for Innovative Technology Cleanup:** At least 5% of the moneys are allocated for matching grants for up to 25% of the project costs for persons or businesses with less than $2 million in net worth who propose to use an innovative technology for a remedial action. Grants may not exceed $100,000;

**Private Grants for Limited Restricted or Unrestricted Cleanup:** At least 5% of the moneys are allocated for matching grants for up to 25% of the project costs for the implementation of a limited restricted use remedial action or an unrestricted use remedial action for persons or businesses with less than $2 million in net worth. Grants may not exceed $100,000. The EDA may use monies allocated in this category to provide loan guarantees to encourage financial institutions to provide loans to persons who may receive financial assistance from the Fund and plan to implement a limited restricted use remedial action or an unrestricted use remedial action; and

**Catch All (Private and Municipal Loans and Grants):** The remaining 5% of monies in the Fund are allocated for financial assistance or grants for any of the purposes enumerated in categories 1-9.

---

4 *Limited restricted use remedial action:* Any remedial action that requires the continued use of institutional controls but does not require the use of an engineering control.

*Unrestricted use remedial action:* Any remedial action that does not require the continued use of engineering or institutional controls in order to meet the established health risk or environmental standards.
# EXHIBIT A

## HAZARDOUS DISCHARGE SITE REMEDIATION FUND SUMMARY
### ALLOCATIONS 1994 - 1998

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Allocations</td>
<td>Disbursements</td>
<td>Allocations</td>
<td>Disbursements</td>
<td>Allocations</td>
<td>Disbursements</td>
</tr>
<tr>
<td>1</td>
<td>$8,250,000</td>
<td>$1,012,875</td>
<td>$8,037,804</td>
<td>$1,025,368</td>
<td>$6,953,117</td>
<td>$1,036,520</td>
</tr>
<tr>
<td>2</td>
<td>5,500,000</td>
<td>19,291</td>
<td>5,358,536</td>
<td>4,406,328</td>
<td>4,635,411</td>
<td>5,326,570</td>
</tr>
<tr>
<td>3</td>
<td>8,250,000</td>
<td>0</td>
<td>8,037,804</td>
<td>250,598</td>
<td>6,953,117</td>
<td>2,376,269</td>
</tr>
<tr>
<td>4</td>
<td>5,500,000</td>
<td>142,485</td>
<td>5,358,536</td>
<td>115,176</td>
<td>4,635,411</td>
<td>395,483</td>
</tr>
<tr>
<td>5</td>
<td>11,000,000</td>
<td>0</td>
<td>10,717,071</td>
<td>77,662</td>
<td>9,270,823</td>
<td>335,098</td>
</tr>
<tr>
<td>6</td>
<td>11,000,000</td>
<td>239,992</td>
<td>10,717,071</td>
<td>1,356,111</td>
<td>9,270,823</td>
<td>1,563,031</td>
</tr>
<tr>
<td>7</td>
<td>5,500,000</td>
<td>0</td>
<td>5,358,535</td>
<td>0</td>
<td>2,317,706</td>
<td>0</td>
</tr>
<tr>
<td>8</td>
<td>N/A</td>
<td>N/A</td>
<td>2,317,706</td>
<td>0</td>
<td>2,734,445</td>
<td>632,250</td>
</tr>
<tr>
<td>9</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>10</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Totals</td>
<td>$55,000,000</td>
<td>$1,414,643</td>
<td>$53,585,357</td>
<td>$7,231,243</td>
<td>$46,354,114</td>
<td>$11,665,221</td>
</tr>
</tbody>
</table>

* Category 2 disbursements
** Excess funded from Category 8

---

1. 1995 allocations are based on the original fund appropriation in 1994 minus all disbursements
2. 1996 allocations are based on the original fund appropriation in 1994 minus all disbursements
3. 1997 allocations are based on the original fund appropriation in 1994 minus all disbursements plus a $20 million appropriation
4. 1998 allocations are based on the original fund appropriation in 1994, plus $20 million appropriated in 1997 and returned unexpended funds, minus all disbursements
5. Outstanding commitments means amounts not yet disbursed on closed financings and approved financings not yet closed
6. Category Key:
   - 1 - Private Loans in qualifying municipalities - 15%
   - 2 - Municipal grants and loans - 10%
   - 3 - Private & municipal loans for imminent threat - 15%
   - 4 - Private loans for voluntary remediation - 10%
   - 5 - Private loans for required remediation - 20% through 1997, 15% in 1998
   - 6 - Private innocent party grants - 20% through 1997, 15% in 1998
   - 7 - Catch all -10% through 1995
   - Private loans for environmental opportunity zones - 5% in 1996 through 1998
   - 8 - Catch all - 5% in 1996 & 1997
   - Private matching grants for innovative technology clean up - 5% in 1998
   - 9 - Private 25% matching grants for unrestricted or limited restricted use clean up - 5% in 1998
   - 10 - Catch all - 5% in 1998