

ASSEMBLY RESOLUTION No. 42

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman KEVIN J. ROONEY

District 40 (Bergen, Essex, Morris and Passaic)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Co-Sponsored by:

Assemblyman Giblin

SYNOPSIS

Urges Argentina to fulfill its Superfund obligations for Passaic River and elsewhere.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ASSEMBLY RESOLUTION** urging the government of Argentina to
2 be a more responsible global corporate citizen and fulfill its
3 Superfund obligations for the Passaic River and elsewhere.
4
5 **WHEREAS**, Beginning in the 1940s, and continuing for several
6 decades, the Diamond Alkali Company (later Maxus Energy
7 Corporation) owned and operated a facility at 80-120 Lister Avenue
8 in Newark, New Jersey that manufactured agricultural chemicals,
9 including the herbicide known as “Agent Orange”; and
10 **WHEREAS**, In 1983, the United States Environmental Protection
11 Agency (EPA) and the New Jersey Department of Environmental
12 Protection found high levels of dioxin, an extremely toxic
13 byproduct of the agricultural manufacturing process, at the 80-120
14 Lister Avenue site and in the Passaic River; and
15 **WHEREAS**, The EPA placed the Diamond Alkali site on the Superfund
16 National Priorities List in 1984, beginning a decades-long effort to
17 clean up the site and ensure the cooperation of responsible parties,
18 such as Maxus; and
19 **WHEREAS**, Subsequent studies showed that the Diamond Alkali site
20 contains a large number of other hazardous substances including
21 semi-volatile and volatile organic compounds, herbicides,
22 pesticides, polychlorinated biphenyls (PCBs), and metals, which
23 affected and continue to affect the soil, groundwater, air, surface
24 water, and building structures at the site; and
25 **WHEREAS**, Contamination from the Diamond Alkali site also affected
26 large portions of the Passaic River, leading to prohibitions and
27 advisories on fish and crab consumption for the tidal Passaic River
28 and Newark Bay; and
29 **WHEREAS**, In 1995, Argentina’s now state-owned oil company, YPF
30 S.A., acquired Maxus, presumably with full knowledge of the
31 environmental liabilities it would inherit with the acquisition; and
32 **WHEREAS**, In March 2016, the EPA announced its Record of Decision
33 (ROD) to remediate contaminated sediments found in the lower 8.3
34 miles of the Lower Passaic River, a part of the Diamond Alkali site,
35 at a cost of \$1.38 billion; and
36 **WHEREAS**, Shortly after the ROD was issued, in June 2016, YPF S.A.
37 placed Maxus into bankruptcy, in an apparent attempt to avoid
38 paying the company’s environmental liabilities; and
39 **WHEREAS**, The bankruptcy proceedings followed a series of
40 transactions in which YPF S.A. allegedly stripped billions of
41 dollars in assets out of Maxus, leaving it unable to pay its share of
42 the Superfund cleanup costs for the Diamond Alkali site, the
43 Passaic River, and other Superfund sites; and
44 **WHEREAS**, While simultaneously attempting to shed environmental
45 liabilities in bankruptcy proceedings, YPF S.A. completed a
46 successful bond issuance in which it raised \$1.75 billion from
47 investors on Wall Street; and

46 This resolution would urge the government of Argentina to be a
47 more responsible global corporate citizen and fulfill its Superfund
48 obligations for the Passaic River and elsewhere.

1 Beginning in the 1940s, and continuing for several decades, the
2 Diamond Alkali Company (later Maxus Energy Corporation) owned
3 and operated a facility at 80-120 Lister Avenue in Newark, New
4 Jersey that manufactured agricultural chemicals, including the
5 herbicide known as “Agent Orange.” In 1983, the U.S.
6 Environmental Protection Agency (EPA) and the New Jersey
7 Department of Environmental Protection found high levels of
8 dioxin, an extremely toxic chemical, at the 80-120 Lister Avenue
9 site and in the Passaic River. Consequently, the EPA placed the
10 Diamond Alkali site on the Superfund National Priorities List in
11 1984. This began a decades-long effort to clean up the site and
12 ensure the cooperation of responsible parties, such as Maxus.

13 In 1995, Argentina’s now state-owned oil company, YPF S.A.,
14 acquired Maxus, presumably with full knowledge of the
15 environmental liabilities it would inherit. In March 2016, the EPA
16 announced its Record of Decision (ROD) to remediate the lower 8.3
17 miles of the Lower Passaic River, a part of the Diamond Alkali site,
18 at a cost of \$1.38 billion. Shortly after the ROD was issued, in June
19 2016, YPF S.A. placed Maxus into bankruptcy, in an apparent
20 attempt to avoid paying the company’s environmental liabilities.
21 The bankruptcy proceedings followed a series of transactions in
22 which YPF S.A. allegedly stripped billions of dollars in assets out
23 of Maxus, leaving it unable to pay its share of the Superfund
24 cleanup costs for the Diamond Alkali site, the Passaic River, and
25 elsewhere.

26 YPF S.A.’s actions will potentially shift the burden of hundreds
27 of millions of dollars in liabilities to other stakeholders, including
28 other potentially responsible parties and the United States
29 government, and sets a dangerous precedent for other Superfund
30 sites. These actions contradict the words of Argentina’s President
31 Mauricio Macri that Argentina is starting an “era of good judgment,
32 respect for the rules, where we try to be better every day. . .” and
33 that “Argentina shows opportunity, for doing good business, taking
34 care of the environment to fight climate change, paying taxes.”
35 Instead of abusing the United States bankruptcy system to avoid
36 paying environmental liabilities, the government of Argentina can
37 be true to the words of its president by fulfilling its Superfund
38 obligations for the Passaic River and elsewhere.