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RACHER & BRAUN^{LLP}**
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**Amy E. Romig
Partner, PLEWS SHADLEY RACHER & BRAUN LLP,
Indianapolis and South Bend, Indiana**

**Before the House of Representatives Committee on Energy and Commerce,
Subcommittee on Environment and the Economy**

**Answer to Additional Questions Following Hearing on “EPA’s Brownfields
Program: Empowering Cleanup and Encouraging Economic
Redevelopment.”**

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD

The Honorable John Shimkus

- 1. Your written testimony identifies several instances where you have helped your clients, who are private shareholders, successfully leverage state or federal brownfields funds to successfully redevelop contaminated properties. How can we incentivize other private investors to sustainably redevelop properties like what you and your clients have been able to get done in Indiana?**

Private investors will sustainably redevelop properties when they believe they may be able to do so in a financially positive manner. In order to assess whether they can make a possible profit on the development, they must be able to assess the potential costs that are associated with environmental conditions at the site in a timely manner. Investors will be incentivized if there is adequate information about a site to allow them to calculate the potential costs of remediation and development. To the extent that cities and towns can develop this information using Brownfields funds, they will stimulate further successful redevelopment by filling in information gaps that developers can use to assess the likelihood of successful and profitable redevelopment.

- 2. What are some of the challenges you and your clients face in trying to get sites redeveloped under either the federal or a state brownfields program?**

One of the largest challenges my clients face in getting sites redeveloped is the delay that is associated with developing brownfields sites. It takes time to work



with the state and local environmental programs to determine (1) what are the contaminants of concern located on the site and to what extent is the property contaminated; (2) what uses are appropriate for the property;¹ and (3) what special conditions may be imposed upon a property that is not remediated entirely and what long-term costs may these conditions impose upon the developer or ultimate owner.²

A. Is there a feeling among private stakeholders that the brownfields program – because of time and money concerns – is not worth it and it would be easier to just buy clean property or greenfields? And if so, what can we do to address that problem?

As discussed above, it takes time to work with state and local environmental agencies to determine what measures must be taken in development as well as what long-term controls may be necessary for Brownfields redevelopment. Furthermore, there is some risk in developing a contaminated property that as you begin construction you'll find that conditions are worse than estimated and additional remediation or construction measures may be required which leads to unanticipated costs. Often developers could invest their money in clean properties and realize a return on the investment much sooner. Furthermore, developers of clean properties do not run the risk of unanticipated environmental costs during development. This leads some private stakeholders to determine that it is not worth it to develop brownfields. However, Brownfields properties are often in profitable locations that may overcome the risks related to both increased time and potential costs. To the extent that the time and potential costs can be reduced through Brownfield funding (providing expertise to the state and local environmental agencies to facilitate and speed up environmental reviews as well as providing money to do environmental studies to reduce the risk of unknown conditions) developers will be incentivized to choose Brownfields redevelopment over developing green properties.

¹ Very often the cost of remediating a property to levels that would make a property appropriate for residential development may be prohibitive, but such properties may be appropriate for other commercial uses.

² For example, special precautions may be necessary for excavation of contaminated soil during construction or the ultimate owner may be responsible for maintaining institutional controls – such as a parking lot that acts as a cap over the site.



3. How does the brownfields program fill in knowledge or information gaps for private developers and how does this help move cleanup and redevelopment efforts forward?

Developers do not like to take on unlimited or unquantifiable risk. The more information a developer has about a property (what are the contaminants of concern, where are the contaminants located on the property; what special measures will be required during and after construction) the more likely a developer will be to develop that property. The Brownfields program provides funding to local governments so that they can pay for the environmental assessments that are critical to develop this information about properties within their jurisdiction. A property about which this information is known is much more likely to be developed than a property about which none of this information exists.



The Honorable Tim Murphy

- 1. Ms. Romig, you practice law in Indiana where there is a great deal of coal-fired generation and undoubtedly plants may have to be closed as a result of this Administration's regulations. Do you see a need in the future for cleanup and redevelopment of these sites?**

The biggest issue that Indiana may face because of the policies and regulations affecting coal-fired generation isn't necessarily the shut-down of those coal-fired plants, but the closure of all of the other manufacturing processes that are dependent upon affordable electricity provided by those plants. Indiana is an energy-intensive manufacturing state. Many of the manufacturing businesses in Indiana are already facing intense economic pressures due to global competition. To the extent that energy prices are increased by even a small fraction as a result of the reduction in affordable coal-fired electrical generation, these plants will likely be shut down and their production (and employment opportunities) will be moved out of the country. This will lead to an increased number of Brownfield sites in Indiana cities and towns. These cities and towns will need assistance through the Brownfields funding programs to deal with these newly closed sites.

- 2. Your written testimony notes that we may need to look at changes to the Brownfields Program that will reduce transactional costs in terms of time and money. Can you explain why that is necessary and give us some examples of what those changes might look like?**

As I discussed above in answer to Chairman Shimkus' third question, it takes time to work with state and local environmental agencies to determine what measures must be taken in development as well as what long-term controls may be necessary for Brownfields redevelopment. The Brownfields program currently provides funding to local governments so that they can pay for the environmental assessments that are critical to develop this information about properties within their jurisdiction. To the extent that additional money can be provided to these cities and towns they will be able to develop more information about their Brownfields inventory. Furthermore, currently the Brownfields program provides money to do the assessments, but does not provide money to educate the officials within cities and towns about how to more effectively run their Brownfields program. Changes to the Brownfields Program that would allow including administrative costs could help educate the people within the cities and towns to allow them to more effectively run their Brownfields programs and would make it more likely that those cities and towns could effectively redevelop their Brownfields.



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Furthermore, state and local environmental agencies face budget pressures that often result in those agencies being understaffed. This can result in long delays in processing and reviewing environmental issues. Any assistance (either in expertise or funding) provided to either state or local environmental agencies would reduce the time (and thus transactional costs) associated with their review of request related to Brownfields sites.