

**Hon. James L. Connaughton Response to Questions for the Record**

Subcommittee on Environment Hearing, Tuesday, March 11, 2025

“Maximizing Opportunities for Redeveloping Brownfields Sites: Assessing the Potential for New American Innovation.”

**The Honorable H. Morgan Griffith**

Under your preclearance permitting proposal for brownfields, would a cursory endangered species habitat review, for species like the blue crawdad or the peaks of otter salamander, be a part of the preclearance?

ANSWER: Yes, and it would likely be more than cursory. For pre-cleared projects in pre-cleared brownfield locations that are zoned for such projects, the “automatic” provisions of the preclearance proposal would legislatively authorize a project to proceed without the need to go through any prolonged environmental permitting or environmental review, including for incidental take permits for endangered species, and without being subject to judicial review. Importantly, the project would still have to comply with all substantive environmental performance requirements and remain subject to reporting, inspection, enforcement and judicial review of any non-compliance during construction and operations. So that means the project sponsor would still hire its own experts and undertake a normal, not cursory, endangered species habitat review. If endangered species are identified the project sponsor would manage the project in accordance with typical practices to avoid take of endangered species. If anything is in doubt, the project sponsor would remain free to speak with the relevant natural resource agency experts for guidance as needed. In addition, the “automatic” preclearance proposal would not apply to and expressly exclude any locations that have been designated as critical habitat. In such cases, the “accelerated” permitting review provisions of the preclearance proposal would apply which would also entail a normal, not cursory, endangered species review.

**The Honorable Nick Langworthy**

Whether it’s a new energy generation project, like advanced nuclear, or an energy load such as a manufacturing facility or data center, brownfield sites often already have transmission infrastructure in place.

1. Mr. Connaughton, given the existing transmission infrastructure on many brownfield sites, how can we better incentivize businesses—whether in energy generation, manufacturing, or data centers—to prioritize brownfield redevelopment to reduce delays in project timelines and take advantage of quicker interconnection to the grid? The Tax Cuts and Jobs Act (TCJA) prioritized Opportunity Zones, driving investment into distressed areas. Many brownfield sites fall within these zones and are ideal for high-power industries like AI infrastructure and high-performance computing. However, despite these advantages, permitting obstacles often delay or complicate projects, hindering their ability to fully realize the potential of brownfield redevelopment. This can have a toll of years and years of red tape just to get a project up off the ground.

ANSWER: Existing transmission and other infrastructure I should be a big advantage for brownfields. Enabling speed to project development and completion is the most valuable incentive you can provide to entice project developers to these brownfields. Passing legislation that allows for immediate and for accelerated project approvals in brownfields will significantly lower project costs, lower the cost of project finance, start delivering revenues sooner, and start producing taxes, jobs, consumer, and community benefits a lot sooner. This includes 1) establishing clear zoning designations for new development, 2) the ability to privately undertake site assessments using certified private experts, without waiting for prolonged government review and approval of assessments that are below specified thresholds of concern, 3) legislative approval of precleared categories of projects in precleared locations as outline in my testimony, 4) implementation of both technology and management improvements to enable either immediate or very rapid electricity system interconnection approval by regional transmission operators and utilities. I agree that the Opportunity Zone law is extremely valuable in this context, but the original designations have proved to be incomplete, in some cases designating the census tract where people live, but not the nearby census tract (often a brownfield) where they work. So I recommend amending the Opportunity Zone law to 1) allow brownfield census tracts that are directly contiguous to existing Opportunity Zones to automatically qualify for OZ incentives and 2) allow Governors to amend existing designations and add new “Infrastructure” designations for brownfield census tracts that support critical infrastructure including for energy, water, military, critical minerals mining and processing, data centers, and semi-conductor manufacturing and supply chain (e.g. equipment and component manufacturing).

2. Mr. Connaughton, given the significant delays caused by these permitting obstacles, especially in New York State, such as the lack of clarity on wetland jurisdiction following the Sackett vs EPA decision, what steps can be taken to streamline the permitting process for brownfield redevelopment projects? For example, you discuss developing a list of “pre-cleared projects” or critical infrastructure. Do you have any suggestions for Congress in directing the creation of this type of list or criteria?

ANSWER: I and some colleagues (including former federal, state, and local policymakers) have prepared a legislative framework and a draft of legislative text recommendations that lay out the specific steps needed to accomplish the “Approve, Build, and Comply” proposal that I highlighted in my testimony. I would be pleased to share this with you and your staff, brief you on its various elements, and answer specific questions you may have.