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**Testimony of Michael R. Goldstein to U.S. House Subcommittee on
Water Resources and Environment**

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Good morning, Chairman Collins, Ranking Member Wilson, and Members of the Committee. My name is Michael Goldstein. I'm the Managing Partner of The Goldstein Environmental Law Firm, a principal of Goldstein Kite Environmental, a past president of the Florida Brownfields Association, and past Chair of the National Brownfields Coalition's Public Policy and Redevelopment Incentives Committee.

It is a distinct honor, and career highlight, to participate in this hearing and to help our Country's elected officials improve on what has been the most important, impactful, and results-producing federal program in my 33 years of practice. While Congress, U.S. EPA, and every state government in the nation, including the great state of Florida, have supported brownfields work since the mid- 1990s, the hundreds of thousands of brownfields across the country require additional resources to tackle. And so do Superfund sites, let's not forget about those either. They, too, present tremendous opportunities for redevelopment. EPA's track record in both arenas – brownfield redevelopment and Superfund redevelopment – is long and distinguished.

My remarks today are informed by over three decades of assisting local governments, neighborhood groups, developers, farmers, growers, manufacturers, energy companies, schools and school systems, entrepreneurs, investors, lenders, and capital providers navigate the complexities, risks, regulations, and expenses of cleaning up, redeveloping, repurposing, and reusing contaminated land – from Brownfields to Superfund Sites to all points in between. I also invest in them personally and, accordingly, have a 360 degree view of what aspects of the federal brownfields program have worked well and where opportunities remain to overcome persistent challenges. Unlike my fellow witnesses, all of whom are deeply credentialed, experienced, and accomplished and who present necessary perspectives, the view I am sharing today is a private sector view and one that is purposefully intended to recommend to this Committee the specific steps Congress can take during reauthorization to move many billions of additional dollars in private capital off the sidelines and reverse decades of disinvestment and despair. The private sector wants to do more – much more – but we need more help from Congress.

First, though, I would like to speak to Florida's Brownfields Program, which was an early leader nationally in encouraging, investing in, and responsibly managing environmental redevelopment. Florida's Brownfield Program was enacted on July 1, 1997, and in the ensuing 28 years has sparked the creation of approximately

90,000 projected direct and indirect jobs and the projected investment of over \$3.188 billion in capital investment in designated brownfield areas. Through February 20, 2025, local governments, upon their own initiative or at the request of developers or other applicants, have designated 613 Brownfield Areas totaling 292,865.41 acres. Over 530 voluntary cleanup agreements have been executed with the Florida Department of Environmental Protection or one of their amazing local partners, Miami-Dade County DERM, Broward County RED, and Hillsborough County EPC. Over 235 brownfield sites have completed cleanup since inception of the program. Florida has accomplished this outstanding result with a mix of economic incentives, including tax credits and tax refunds, a loan guarantee fund, liability protection at the state level, and a streamlined processing for regulatory review and approvals with lots of love and care from specially appointed brownfield coordinators at the state and local level. The Florida model has resulted in a broad portfolio of cleaned up and reused sites but, in my experience, there has been a particular level of success in the category of affordable and workforce housing. Florida has put its thumb on the scale, and appropriately so, for builders of this segment of the market, which is in crisis. I know that's true nationwide. And it's with this in my mind that many of the following recommendations are made. I'm confident, based on the Florida experience, that, if implemented, they will accelerate construction of affordable housing across the country by giving developers and communities the financial and regulatory tools needed to safely and responsibly cleanup and repurpose a sad, vast landscape of abandoned, underutilized contaminated properties.

On the financial side, I recommend three new funding opportunities:

First, as part of a forthcoming tax bill, renew the Federal Brownfield Tax Incentive, which was first passed in 1997 to allow parties who voluntarily investigated and remediated contaminated properties to deduct all cleanup costs on their federal income tax return in the year they spent the money on cleanup. By allowing for expensing rather than requiring remediation deductions to be spread out over ten years, the tax incentive was a powerful driver of private investment in environmental redevelopment. Before it expired in 2012, this deduction was used more than 625 times in more than 40 states. There is already bipartisan support for the restoration of this incentive. The Brownfields Redevelopment Tax Incentive Reauthorization Act of 2025, H.R. 815, was recently reintroduced by Rep. Sherrill (D-NJ) and Rep. Turner (R-OH).

Second, I recommend the creation of a Brownfields Loan Guarantee Program. This program would combine aspects of the DOE Loan Guarantee Program with the New Markets Tax Credits Program to leverage many billions of private sector dollars for early stage, bridge financing of redevelopment projects that are considered too risky for conventional lenders. In my professional experience, there are countless projects that fail in the concept stage because they are caught in an unwinnable position – they're not loan-worthy until the environmental risks are cleared but the environmental risks can't be cleared until loan funding becomes available.

Third, as I noted earlier in my testimony, the brownfields model is a proven vehicle to incentivize and expand affordable housing. Congress has many tools at its disposal to improve the model. To that end, we would like to see:

- an increase of the 4% and 9% Low Income Housing Tax Credit under § 42 of the IRS Code to 6% and 12% for affordable housing built on brownfield sites;

- a stepped-up basis under § 42 of the IRS Code of between 130% to 150% for affordable housing built on brownfield sites; and
- a new, one-time LIHTC in the amount of 80% of cost of the land acquisition and demolition to develop affordable housing built on brownfields.

As Congress seeks to reauthorize the federal brownfields program, there are a handful of other key priorities to consider:

- Meaningfully increase resources and ensure robust staffing at EPA offices. Increasing resources allows what has been a universally recognized and lauded program of success to reach more communities and address more contaminated sites. Robust staffing at EPA program offices and regional offices that keeps projects moving through the remediation process. Delays cost time and money, and adequate staffing helps improve timelines and makes more projects possible.
- Increase maximum grant awards to local government and non-profit applicants to expand the amount of work that each grant award can be used to complete. Many sites require multiple streams of financing to complete remediation, which slows down the timeline for redevelopment. Higher maximum funding levels would allow for faster remediation, and the faster sites can be closed out, the quicker redevelopment can occur, sites can be made safer, more jobs can be created, including in the construction sector, and more tax revenues can be raised increasing services. It's a virtuous circle. Specific grant funding recommendations consist of the following:
 - \$500,000 for the Community Wide Assessment Grant
 - \$1.5 million for the Coalition Assessment Grant
 - \$1 million for the Brownfields Cleanup Revolving Loan Fund Grant
 - \$1.5 million for the Multipurpose Grant
 - Assessment and Remediation Grants at increasing tiers from \$500,000 to \$10 million
- Vastly increase the CERCLA 128(a) grants to state brownfield programs. Since the inception of Florida's Brownfields Program in 1977, the Department of Environmental Protection has been awarded \$17.2 million in 128(a) grant funds. The awarded monies have allowed the Department to continue to build and enhance the Brownfields response program capabilities, as well as to conduct target assessment and remediation work at over 116 sites. Speaking from personal experience as a 128(a) grant recipient, these grants are powerful, effective, and catalytic. In our situation, Goldstein Kite Environmental partnered with FDEP to assess and conduct assessment and remediation of chlorinated solvents contaminated soil and groundwater at a former chemical storage and distribution site that had migrated offsite and impacted a public school. Our investment in this risky site, and FDEP and EPA's co-investment with \$443,648.09 in 128(a) grant funds, is facilitating construction of 515 units of affordable housing and a \$217 million capital expenditure in the southwest Overtown neighborhood of Miami by one of the largest builders in the country, Richman Group. Your state brownfields agencies know where the greatest needs are and how to get the greatest bang for the buck for the American people. They should be entrusted with more resources to do so.

- Increasing flexibility for program users. Eliminating the match requirement for these grants, expanding allowable expenses to include demolition and environmental insurance, and for the first time ever making all such grants available to developers of affordable and workforce housing. That would be a game changer.

And two final recommendations today to contribute to the deliberations in Congress on how to address the seemingly intractable scourge of PFAS in the country's groundwater, drinking water, surface water, soils, sediments, and air. PFAS is commonly referred to as the forever chemical. It's really the *everywhere* chemical, and it's having a monumental impact on brownfields development where the listing of PFAS as a CERCLA hazardous substance raises the specter of possible EPA led cleanups under the National Contingency Plan over decades at great expense.

So, first, I would like to recommend that Congress consider a statutory exemption to CERCLA where a party has voluntarily entered into a brownfield cleanup agreement with a state agency. Such an exemption could provide the assurances described below and, in doing so, reduce the anxiety level that developers, investors, local governments, and community stakeholders might otherwise have when considering the voluntary acquisition, cleanup and redevelopment of a PFAS impacted site:

- (i) immunity from cost recovery claims under CERCLA;
- (ii) immunity from contribution claims under CERCLA;
- (iii) a hold on NPL status for sites being cleaned up under a state brownfields program;
- (iv) immunity from citizen suits under RCRA; and
- (v) and express immunity for lenders who hold indicia of ownership in, or have foreclosed on, a PFAS impacted facility.

Second, Congress should direct EPA to expand its strategic roadmap, which is founded on key goals and objectives – Research, Restrict, and Remediate – by adding a fourth key goal – Redevelop. Objectives within this goal could consist of the following:

- engaging brownfields stakeholders on redevelopment-focused enforcement discretion policies;
- brownfields planning, assessment, remediation, and job creation and training grants specifically targeting PFAS impaired sites;
- administrative initiatives that further defer federal enforcement authority to state environmental officials where responsible parties have entered into binding, enforceable voluntary cleanup agreements; and
- cross-agency collaboration to encourage other federal brownfield partners to allocate human and financial resources to support cleanup and redevelopment of PFAS impaired sites, such as the Department of Energy, Department of Housing and Urban Development, Department of Transportation, Department of Defense, and the Economic Development Administration.

Thank you for your consideration of these remarks, and I look forward to responding to any questions.

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