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Chairman Gibbs, Ranking Member Napolitano and members of the Water Resources and Environment Subcommittee, I first would like to thank you for the opportunity to testify on behalf of Ohio's successful brownfields program. My name is Cynthia Hafner and I serve as the chief legal counsel at the Ohio EPA with 23 years of firsthand experience with Ohio's brownfields.

As some background, in the wake of CERCLA reauthorization in the mid-1980's a new phenomenon of contaminated sites emerged. Developers began fleeing the used and contaminated "brownfield" sites in and near cities and started new businesses in uncontaminated "green fields" in order to avoid the liability and cost of clean-up. In Ohio, this unintended consequence of the industrial revolution was increasing blight in urban cores, moving jobs away from cities, using up precious farmland, and abandoning existing infrastructure while creating the need to fund and build more to the new businesses. Ohio was blessed with a rich industrial history, which resulted in a very large number of brownfields that no one wanted to use. In order to take advantage of reusing the brownfields, the Ohio General Assembly and Governor Voinovich passed a law in 1994 creating the Ohio voluntary cleanup program that provides the tools necessary for stakeholders to clean up and reuse brownfields and preserves Ohio's agricultural land.

**Voluntary Action Program**

Ohio's law became known as the voluntary action program (or VAP). The VAP has resulted in the successful cleanup of numerous properties around the State of Ohio. Ohio has done this through partnerships with many stakeholders including business owners, developers, municipalities, and environmental professionals. This partnership began on day one of the program. Representatives of these and other stakeholder groups participated in the initial development of the administrative rules for the program. The input VAP receives from its stakeholders helps meet vital business development needs of our communities while also being protective of the human health, safety and environment for those communities.

Since its inception, the VAP has resulted in the cleanup of over 484 properties totaling more than 9,251 acres. The VAP approaches cleanup through a privatized system with State oversight focused on setting clear cleanup standards and auditing completed cleanups. Professionals certified by the program are responsible for the investigation and cleanup of a property. This is done without upfront oversight by Ohio EPA. Instead, Ohio EPA reviews documentation after the cleanup is complete and issues a release of liability if the property meets the appropriate applicable standards for its intended use. Program rules

define clear cleanup standards and a clear process volunteers must use to investigate and cleanup property. Cleanup standards must protect public health and the environment from realistic exposure scenarios and relies on existing or planned land uses for the property. Financial incentives in the form of tax abatements complete the suite of tools for folks who are cleaning up sites for reuse and redevelopment.

Because the VAP has been a successful cleanup program for the State, its use continues to be expanded so that more properties can participate in the program. On July 31, 2001, Ohio EPA finalized and signed a Superfund Memorandum of Agreement (MOA) with U.S. EPA for the VAP. The importance of this signed MOA is the reassurance it gives volunteers that U.S. EPA is comfortable that Ohio EPA's cleanup program leads to protective cleanups. In 2007, the MOA was modified to extend federal comfort to sites undergoing RCRA corrective actions. In 2011 and 2012, changes were made to state law to allow brownfield properties with releases from petroleum underground storage tanks (USTs) to use the VAP for cleanup.

To better serve the people of Ohio and stakeholders of the program, the VAP has continually improved over the years. With input from its stakeholders, rule revisions and changes to program procedures have refined the VAP cleanup process. Changes focus on providing flexibility for site investigation and cleanup of property and streamlining document review procedures to be more responsive to the needs of our stakeholders. The evolution and improvement of the VAP could not be accomplished without the valuable input Ohio EPA receives from its stakeholders.

The program seeks feedback from its stakeholders with outreach to certified professionals, environmental attorneys, municipalities, developers and banks. One of the forums for outreach to stakeholders includes periodic state-run brownfield conferences. These conferences are modeled after the national brownfield conference sponsored by U.S. EPA. Interest in brownfield cleanup and redevelopment is demonstrated by attendance figures at Ohio's brownfield conferences. The conference has enjoyed healthy attendance figures over the years with 375 participants at last year's conference. Participants range from the local county economic development professional who may not know a whole lot about brownfields to the experienced environmental professional.

After 20 plus years of the VAP, the program has served as a catalyst for brownfield redevelopment in the State of Ohio. Anecdotally, environmental professionals inform us that for every project that formally submits documentation to the VAP for a release of liability there are about five times as many projects that utilize the VAP rules and standards for property transactions and redevelopment without formal submittals to Ohio EPA. Although these projects do not receive the benefit of a state release of liability, properties are being cleaned up and redeveloped which is an intended effect of the original legislation. The VAP was designed to let its users decide if the transaction required a legal release and if the project needed to be on the radar screen of the agency. The beneficial effect of the VAP reaches far beyond the statistics Ohio EPA reports which are just the tip of the proverbial ice berg.

## **CERCLA Grants**

128(a) brownfield grant funding from U.S. EPA has provided and continues to provide tangible brownfield revitalization benefits to Ohio and its municipalities. Some of these benefits include:

- Targeted Brownfield Assessment (TBA): Ohio EPA provides in-kind services to Ohio municipalities in the form of Phase I assessments, asbestos investigations and Phase II sampling through both the Agency's field unit and contractors. Since 2002, Ohio EPA has completed 81 Phase I assessments, 23 certified asbestos inspections, 86 Phase II sampling events. These have assisted 104 communities (in 57 counties) in Ohio.

We increased the percentage of our grant award used to conduct TBAs from about 25% to 50% of the total award last year. We anticipate we will complete 33 TBAs by the end of this FFY. That is more than twice as many per year as we conducted in previous years. We expect to provide about the same number of TBAs to communities next year.

- 128(a) brownfield grant funds also allow Ohio EPA to provide brownfield funding regional workshops to 2-4 regions of the state each year. These workshops provide detailed information on state, federal and private financial incentives (grants, low interest loans, tax abatements, and technical assistance) available to communities seeking to cleanup and revitalize brownfields. These workshops typically pull in 30-100 local economic development and brownfield revitalization officials from the region in which they are held. These workshops have resulted in several communities receiving incentives that they did not know were available prior to the workshop.
- Grant funding is also used to provide initial and periodic training to the environmental consultants who are licensed to conduct assessment and cleanup in the VAP. This helps ensure that these licensed environmental professionals are up to date on the latest regulations as well as the latest cleanup and assessment technologies.
- Brownfield Technical Assistance to Communities (TA): the grant allows Ohio EPA to provide technical assistance to communities conducting brownfield cleanups. Ohio EPA's VAP is funded by fees, including fees for conducting reviews of technical documents related to cleanups. Because of the funding from the 128(a) brownfield grant, we can provide this type of assistance to communities at no charge. This is a very popular incentive with our Ohio communities and we typically conduct 60-80 of these grant funded projects each year.

In addition to the 128(a) funding from U.S. EPA, 104(k) funding from U.S. EPA for area-wide planning grants and brownfield assessment, revolving loan fund and cleanup grants have also benefited Ohio and its communities. Since 2002, 128 awards totaling approximately \$55.4 million have helped with community planning, assessment and cleanup of brownfields sites within Ohio's communities.

## **State Funding**

Brownfield funding from federal resources makes a significant contribution to Ohio and its communities. Ohio also recognizes the importance of offering State funding to assist with revitalization of brownfield properties within our own communities. Some of these programs include:

- Jobs-Ohio, the privatized economic development arm for the state, offers brownfield funding in the form of grants and loans for projects that will create and retain jobs. They have an annual budget of \$45 million to assist with assessment and cleanup of brownfield projects that commit to job creation or retention.
- Over the past 13 years, the State -- through its Development Services Agency -- has provided approximately \$417 million to assess or cleanup 409 projects. This funding resulted in leveraging nearly \$4 billion in additional local public and private investment.
- Ohio EPA has supplemented the TBA program funded by the 128(a) brownfield grant from U.S. EPA with an extra \$492,000. This funding has assisted an additional 44 projects. The State funds are used similar to Federal funds to provide in-kind services to local communities. State funds are used for projects that do not qualify for federal funding or for projects Ohio EPA considers to be a priority. The State-funded TBA program has often been used to support projects that receive funding from other sources, using the State funding to fill funding gaps for the projects. Although Ohio EPA's funding levels are not as large as some of the other programs, it has served a vital role in keeping a project on track and bring it to completion.

By working collaboratively with our sister state agencies, private sector partners and local stakeholders, we are able to support our local communities with their efforts toward economic prosperity and enhanced quality of life. Additionally, we provide a network of resources so we can be responsive to stakeholders. One of our best collaborations is with the Ohio Development Services Agency and the Ohio Water Development Authority. Collectively, we work to eliminate the blighting impact of brownfields, improve water quality through better infrastructure and provide financing for projects that visibly impact communities. Also, coming this fall, a new tool will be available for Ohio communities to address abandoned gas station properties. With all of these opportunities, the U.S. EPA brownfield grants are still the necessary backbone to the financing structure. Without the brownfields funding received at the local level through 104(k) grants as well as through 128(a) funds, many projects in Ohio would not come to fruition.

A good example of collaborative financing is in Louisville, Ohio near Canton. A former industrial manufacturing site with a sorted history could not be redeveloped without assessment and remediation. By providing first-in funding from the 128(a) program, as well as other state resources, the site was once again valuable to the new oil and gas manufacturing sector. It is now the home of the new Chesapeake headquarters and equipment storage facility. Before brownfield funding it would be just another site with environmental issues.

Again, I would like thank Chairman Gibbs for allowing me this opportunity to present Ohio's successful brownfields program to the committee and would be happy to answer any questions you may have. Thank you.