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THE CONNECTICUT EXPERIENCE: WHAT CAN BE DONE TO SPUR BROWNFIELD REDEVELOPMENT IN THE NEW ENGLAND CORRIDOR?

HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERALISM AND THE CENSUS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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THE CONNECTICUT EXPERIENCE: WHAT CAN BE DONE TO SPUR BROWNFIELD REDEVELOPMENT IN THE NEW ENGLAND CORRIDOR?

MONDAY, MARCH 13, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FEDERALISM AND THE CENSUS,
COMMITTEE ON GOVERNMENT REFORM,
Bridgeport, CT.

The subcommittee met, pursuant to notice, at 1 p.m., at the City Council Chambers of Bridgeport City Hall, 45 Lyon Terrace, Bridgeport, CT, Hon. Michael Turner (chairman of the subcommittee) presiding.

Present: Representatives Turner and Shays.

Staff present: John Cuaderes, staff director; Shannon Weinberg, counsel; and Juliana French, clerk.

Mr. TURNER. If everyone is ready, we will get started. Please have a seat.

A quorum being present, this hearing of the Subcommittee on Federalism and the Census will come to order.

Welcome to the Subcommittee on Federalism and the Census field hearing entitled, "The Connecticut Experience: What Can be Done to Spur Brownfield Redevelopment in the New England Corridor?"

This is the fifth in a series of hearings held on the issues of brownfields and brownfield redevelopment.

Our hearings in D.C. are informative, but the field hearings allow us to reach out to the public and interact with individual communities on a more personal basis, and learn firsthand of their concerns, and their successes and their suggestions.

I'm very pleased with the response to this hearing from the great number of witnesses and the public attendance today.

Before we begin, I want to express my appreciation to Congressman Shays for having us here. As you know, Congressman Shays chairs the National Security Subcommittee of Government Reform, and is known as a leader in the field of homeland security, the war on terror, and supporting our military and men in uniform.

He has looked at issues, the impact on the men in uniform and it's wonderful to have this hearing here, addressing the issue of brownfields.

He has been a leader in the fight to maintain CDBG, and insuring the development of funds and programs that support urban

America, and is a member of this committee as we have tried to look at the issues of cities and urban Americans.

So I appreciate your having us here, and look forward to the testimony from your community as to ways that we can fashion national policy to address these important issues.

I would also express my great thanks to the mayor of the city of Bridgeport, to Mayor Fabrizi, for hosting these proceedings. We appreciate your accommodating efforts in lending your facilities.

We have a great number of witnesses present, and we are here to listen to you. In the interest of time, I will submit my complete comments for the record, a copy of which is available at the press table, and we will move to introducing our witnesses and the testimony, and our opening statements from Congressman Shays.

We have two panels of witnesses before us to help us understand the ground rules we developed. We also hope to hear your ideas for improving and complementing the EPA ground rules program, in order to encourage more aggressive redevelopment.

Our first panel will have our host, Mayor John Fabrizi, of the city of Bridgeport; Mary Sanderson, the Chief of Remediation and Restoration II Branch of the Office of Site Remediation & Restoration of the U.S. Environmental Protection Agency, Region 1; Gina McCarthy, the Commissioner of the Connecticut Department of Environmental Protection; and Mayor Mark Lauretti of the city of Shelton.

On our second panel of witnesses, presenting testimony will be Elizabeth Barton, partner and Chair of the Environmental & Land Use Department, Day, Berry & Howard; Joseph Carbone, president/CEO of the Workplace, Inc.; Robert Santy, president, Regional Growth Partnership; Stephen Soler, president of the Georgetown Land Development Co.; and Barry Trilling, partner in Wiggin and Dana.

I look forward to the testimony of our distinguished panel of leaders.

And I thank you all for your testimony in both preparing for this written testimony and the oral testimony you give today.

As I recognized before, Congressman Chris Shays is chairman of the National Security Subcommittee and is a member of this subcommittee.

We have oversight over EPA in areas of economic development.

And Chairman Shays, I appreciate you having us here.

[The prepared statement of Hon. Michael Turner follows:]

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Congressman Michael R. Turner, Chairman

OVERSIGHT HEARING
STATEMENT BY MICHAEL R. TURNER, CHAIRMAN

Hearing Topic: *"The Connecticut Experience: What Can Be Done to Spur Brownfield Redevelopment in the New England Corridor?"*

1:00 p.m., Monday, March 13, 2006

Bridgeport City Hall
City Council Chambers
45 Lyon Terrace
Bridgeport, Connecticut

OPENING STATEMENT

Welcome to the Subcommittee on Federalism and the Census' field hearing entitled "*The Connecticut Experience: What can be Done to Spur Brownfield Redevelopment in the New England Corridor?*" This is the fifth in a series of hearings held on the issue of brownfields and brownfield redevelopment. Our hearings in DC are informative and helpful, but all too often we only get the inside-the-beltway viewpoint. Field hearings allow us to reach out to the public and interact with individual communities on a more personal basis to learn first-hand of your concerns and suggestions. I am very pleased with the response to this hearing – both from our great number of witnesses and from the public in attendance here today.

Before we begin, I would like to express my appreciation to Mr. Shays for the invitation to hold this hearing in his district. In addition to chairing this subcommittee, I also chair Speaker Hastert's Saving America's Cities Working Group. Mr. Shays is a member of that group as well, and, through his work there, I know that his commitment to brownfields redevelopment and other economic development issues is strong. Mr. Shays, thank you for your leadership on this issue and your commitment to working on issues that aid cities in addressing their economic development challenges, including brownfields.

I would also like to express my great thanks to the City of Bridgeport and to Mayor Fabrizi for hosting these proceedings. We appreciate your accommodating efforts and for sharing your facilities.

In every community across this nation there are abandoned parcels of property marring the faces of our cities and towns. Behind rusted chain link fences are broken windows and crumbling buildings. Beneath the surface there are substances contaminating the local environment, robbing the communities in which they exist of new jobs and other economic opportunities. There are an estimated 450,000 to 1 million of these parcels, known as brownfields, across our nation, contributing to community blight and thus lowering property values and decreasing tax revenues. These sites lay abandoned and unused due to federal environmental laws and regulations that encourage abandonment of contaminated property by creating disincentives for cleanup and redevelopment. Current federal law triggers liability for remediation of contaminated properties once landowners have knowledge of the contamination. If redevelopment begins and contamination is discovered, the owner may be liable for remediation costs. If an owner abandons the property without disturbing the contamination, remediation costs may be avoided. The net effect of these laws and loopholes is the encouragement of abandoning brownfields.

If we are to achieve our goal of restoring these properties to productive use, and redeveloping them into centers of economic and community vitality, we must craft a federal response to a federally created problem. We cannot leave brownfields and abandoned factories as monuments to their once productive pasts. The redevelopment of brownfields will create jobs, new living and shopping choices, and spur the improvement or development of transportation and infrastructure. If we make redevelopment of brownfields more attractive, we can also help reduce urban sprawl and save green space. In my hometown of the City of Dayton, Ohio, over 50 acres of land surrounding our downtown are brownfields that would attract jobs and spur economic expansion -- if the city had assistance in addressing the environmental contamination from past use of the parcels.

In 2002, the President signed the Small Business Liability Relief and Brownfields Revitalization Act of 2001. While the law codified and secured independent appropriations for the EPA's brownfields program, the shining accomplishment of the Act was providing some relief from the daunting amount of potential liability for acquiring and attempting to redevelop a brownfield site. Specifically, the Act limits liability for owners of land that is contaminated by adjoining property as well as for prospective purchasers of known contaminated property. The Act also clarified the CERCLA "innocent landowner" defense and created additional liability relief by forbidding the federal government from intervening at sites being cleaned up under a state program except in certain circumstances. The Act addressed funding and liability issues -- strong first steps in encouraging brownfields redevelopment. The Subcommittee looks forward to hearing from EPA on the effect the brownfields program and new liability relief has achieved in Region I and in Connecticut specifically.

Last Congress, I, along with Chairman Tom Davis, requested that the Government Accountability Office (GAO) study the status of brownfields redevelopment across the nation. GAO's report shows that stakeholders are generally positive about EPA's brownfields program but that additional incentives, such as a tax credit, are needed to spur further brownfields redevelopment and really make a difference in communities across the country.

In December 2005, I introduced H.R. 4480, the "America's Brownfield Cleanup Act," in response to that study. The Act creates a tax credit program to be administered by state development agencies in partnership with state environmental agencies. The program would allocate $1 billion annually in federal tax credits to states according to population. Credits would be allocable to brownfield redevelopment projects where the local government entity includes at least one census track with poverty in excess of 20 percent. Tax credits would be competitively awarded to projects enrolled in a state voluntary cleanup program based on the project's remediation and redevelopment plans. Once awarded, the program would allow up to a 50 percent credit for demolition and remediation costs pursuant to a state-approved remediation and redevelopment plan. The remainder of remediation and redevelopment costs would be deductible or depreciable by the property owner. Redevelopment projects would be given preference based on the extent of poverty, location in a central business district, extent of environmental remediation, and extent of resources committed to redevelopment. The plan also includes incentives for past polluters to participate in redevelopment projects.

The EPA's brownfields program has assisted a number of communities in brownfields assessment and cleanup. Stakeholders are appreciative of the EPA's brownfields program, especially with the easing of the regulatory regime. However, when choosing between brownfields, grayfields, and greenfields for development projects, it still comes down to a cost-benefit analysis. Unless we significantly address the cost of redevelopment and clean up of these sites, the EPA brownfields program will continue to affect only a few thousand sites, leaving a major gap and burdening many communities with land that cannot be redeveloped and that remain a blighting influence.

We have two panels of witnesses before us to help us understand the state of brownfields redevelopment and the impact of the EPA's brownfields program across Connecticut. We also hope to hear your ideas for improving or complementing the EPA brownfields program in order to encourage more aggressive redevelopment.

On our first panel, we will hear from:

- Mayor John Fabrizi of the City of Bridgeport;
- Mary Sanderson, Chief of the Remediation and Restoration II Branch within the Office of Site Remediation & Restoration of the U.S. Environmental Protection Agency Region I;
- Gina McCarthy, Commissioner of the Connecticut Department of Environmental Protection; and
- Mayor Mark Lauretti of the City of Shelton.

Our second panel of witnesses consists of representatives from the Connecticut stakeholder community. Presenting testimony will be:

- Elizabeth Barton, Partner and Chair of the Environmental & Land Use Department at Day, Berry & Howard, LLP;
- Joseph Carbone, President/CEO of The Workplace, Inc.;
- Robert Santy, President of the Regional Growth Partnership;
- Stephen Soler, President of the Georgetown Land Development Company; and
- Barry Trilling, Partner at Wiggin and Dana LLP

I look forward to the expert testimony our distinguished panel of leaders will provide today. Thank you all for your time today and welcome.

#####

Mr. SHAYS. Thank you, Mr. Chairman.

For those of you who are attending this hearing, I am a huge fan of Mike Turner. He was the former Mayor of Dayton and was my Vice Chairman on the subcommittee that I'm still Chairman of.

And, he, when he got here, established the Save America's Cities Working Group within the Republican Conference. And that was huge because not many Republicans tend to represent urban areas, so they don't really focus on them the way they need to. And so what he's done is he's drawn the few that do and others that care about our cities. He has been really a leader in protecting the CDBG fund, and also spearheading brownfields efforts.

Both our mayors know how important, and all our witnesses know how important, brownfield redevelopment is.

But I want to state, once again, that I believe brownfield aid is probably the best way to help cities of almost anything the Federal Government does. And, obviously CDBG is important as well, but brownfields can help rebuild our cities.

We were fortunate to get significant grants in the past, in the Fourth District. We have about $6.4 million that has been provided to the Fourth Congressional District. And I'm very pleased with how private developers and the communities have maximized this benefit.

I'm hoping that Mike, with his good relationship with our conference, and being such a good, outspoken member on urban areas, will be able to continue to move this program forward.

I want to say to all our witnesses here, they are all experts.

And to Mike Turner I want to say, we have two fantastic panels. One's been mayor a little longer than the other, and both have had major challenges, and they've done a tremendous job. We appreciate the work of the EPA, and obviously, our head of the Department of Environmental Protection in Connecticut.

So we're going to have a great hearing.

I would also want to say for the record that I could have any hearing I want in Bridgeport, and I can go anywhere in the district. I wanted it to be in Bridgeport, No. 1, mayor, and I also wanted it to be about this issue, because I really believe that this is a huge issue to which we can make a difference.

And your testimony today will be very valuable.

So thank you all very much for coming.

And, Mike Turner, I love you, and thank you for being here.

[The prepared statement of Hon. Christopher Shays follows:]

Thank you Mr. Chairman,

Thank you Mayor Fabrizi for hosting us in Bridgeport this afternoon, and thank you all for attending.

I'm pleased that Mr. Turner has agreed to have the hearing in the 4th Congressional district.

The Brownfields program is a key ingredient in rebuilding our cities.

> By reusing Brownfields sites we will not only be revitalizing blighted communities,
>
> but also target development in city centers thus avoiding unchecked urbanization on the fringes of metropolitan areas.

These sites, typically in the heart of urban areas, lay idle because no one wants to incur the large costs associated with Superfund cleanups.

As a result, cities are marked by abandoned buildings and vacant lots while developers construct new buildings on what was previously open space in the suburbs.

Through the Brownfields program, EPA and HUD provide grants to help assess contamination costs and devise a marketing strategy to promote cleanups.

Though small, these grants have served as seed money, enabling dozens of communities to leverage millions of state and private dollars to move into actual cleanup phase.

Since the Brownfields program has been around EPA has awarded over $6.4 million in Brownfield grants to the 4th district,

> and $4.8 billion to the Connecticut Department of Environmental Protection to support state Brownfield activity.

For many years I have been dedicated to the revitalization of the Brownfields in the Fourth Congressional District.

> In 1997 I introduced the The Brownfields Economic Revitalization Act of 1997 with Congressman with Jim Maloney.
>
> In the 109th congress I am an original cosponsor of Mr. Turner's bill, **H.R. 4480, America's Brownfield Cleanup Act,** which allows a business tax credit for 50% of expenditures for remediation of contaminated sites.

I am also an original cosponsor of **H.R. 280, the Brownfields Enhancement Redevelopment Act**,

> which authorizes HUD to make grants to eligible public entities and Indian tribes to assist in the environmental cleanup and economic development of Brownfield sites.

In addition, I am also a cosponsor of **H.R. 877,** a bill that expands the federal share of environmental remediation costs.

Mr. TURNER. Mr. Chairman, I appreciate that.

Each witness has kindly prepared testimony which will be included in the record of this hearing. Each witness has also prepared an oral statement, summarizing their written testimony.

There is a timer on the witness table. The green light means you should begin, the red light indicates that your time has expired. In order to be sensitive to everyone's time schedule, we ask the witnesses to cooperate and limit their remarks to a 5-minute time period.

It is the policy of this committee that witnesses are sworn in before they testify. I will now swear in the witnesses. If you will please rise and raise your right hands.

[Witnesses sworn.]

Mr. TURNER. Let the record show that all witnesses have responded in the affirmative.

We will begin with Mayor Fabrizi, of the city of Bridgeport.

STATEMENT OF JOHN FABRIZI, MAYOR, CITY OF BRIDGEPORT, CT

Mr. FABRIZI. Good afternoon, Chairman Turner, and Congressman Shays, and all of the other attendees this afternoon. Welcome to the great city of Bridgeport.

Before I begin my remarks, Mr. Chairman, you described Congressman Shays and the work that he does on the Federal level. I want to say that every issue that you addressed, Congressman Shays has assisted and supported the city of Bridgeport in all of those assets, and he is a true, true friend to the city of Bridgeport.

I want to thank you, Congressman, for hosting the meeting here this afternoon.

I'm deeply appreciative, Mr. Chairman and Congressman Shays, and others, of recognizing the importance of the brownfields issue and having encouraged discussion on this issue by organizing a public hearing here in the city of Bridgeport.

We in Bridgeport have long felt that neither the State of Connecticut nor the Federal Government dedicates enough resources or attention in any form toward brownfield redevelopment, but I have to say that we are extremely grateful for the significant support we have received on both levels, the Federal and State EPA, to date.

Brownfields that are not redeveloped are contributing factors in many of the major problems that not only face Bridgeport, but face Connecticut and the entire country—immense pockets of poverty in our urban centers, highway congestion, the accelerated pace of natural habitat destruction in our suburbs and rural areas, alike, and the escalation of property tax burdens in big cities and small towns.

If we do not keep our commitment to recycling brownfields, I know that Connecticut will never enjoy all the economies and benefits of smart growth, no matter what investments are made elsewhere or laws are changed.

Please note that for Bridgeport specifically, brownfields are the single greatest impediment to meaningful and sustainable improvement of our local economy. This is part of the lasting legacy of our proud industrial past and history, a history in which we served America as an arsenal of democracy through two world wars and

provided a standard of excellence for the world machine through industry.

The impact of brownfields was first identified in Bridgeport about 15 years ago, as we saw many industrial properties that had been a source of economic strength for Bridgeport during the 20th century increasingly being vacated, neglected, and abandoned.

While the city suspected for some time that contamination problems could exist on many of these properties, the adoption and enforcement of new environmental laws brought these problems sharply into focus.

New companies were not moving into many of these properties. Banks were not willing to lend money for the purchase or improvement of these properties. Owners were letting the properties deteriorate and fall into long-time tax delinquency.

The city of Bridgeport has proactively attacked the brownfields problem since the early nineties, a cause that I championed as a city council member, and continue to champion as mayor.

In the mid-nineties, Bridgeport successfully competed to become a U.S. EPA Brownfields Pilot City, only the second in the country to receive that designation. The additional EPA grant allowed us to identify inventory and prioritize over 250 brownfield parcels in Bridgeport. Since conducting this inventory, we have had numerous successes in brownfield redevelopment, both large and small.

When funding has been hard to come by, we have a track record of creativity and resourcefulness.

EPA has repeatedly recognized our need and performance by funding site assessment grants, cleanup grants, and our Brownfields Revolving Loan Fund.

With the limitations are our problems. Here are some.

Staffing. Brownfield projects are labor intensive and time-consuming. We are currently contemplating the hiring of a full-time Brownfields Coordinator.

Inadequate funding is available for site assessments and remediation. The city can only afford to take on a certain amount of this work every year. Inadequate funding is available for demolition activities, often a necessary prerequisite for assessment and remediation.

And liability concerns prevent the city from being more aggressive in obtaining the site control.

What would we like to see the Federal Government do is support Bridgeport's current funding applications to the EPA for 2006. We've proven that we know what to do with the funding when we get it.

Increase assessment grant size when the sites and projects merits it.

Increase the size of cleanup grants.

Change the laws authorizing cleanup grants.

Continue to replenish Brownfields Cleanup Revolving Loan funding for successful communities, and provide for funding for management and monitoring of long-term institutional controls.

I do have much more to say, however, it is in my written testimony.

And once again, on behalf of myself and the entire city of Bridgeport, I offer my sincere thanks to you, Congressman Shays, and es-

pecially to you, Chairman Turner, and all of those who have organized today's hearings.

Thank you so much for considering Bridgeport.

[The prepared statement of Mr. Fabrizi follows:]

Testimony of Mayor John Fabrizi, City of Bridgeport, CT
March 13, 2006

Good Afternoon, and welcome to Bridgeport for all of today's attendees to this Public Hearing. I am John Fabrizi, Mayor of the City of Bridgeport.

I am deeply appreciative that Congressman Shays and others recognize the importance of the brownfields issue and have encouraged discussion on the issue by organizing this Public Hearing.

We in Bridgeport have long felt that neither the State of Connecticut nor the federal government dedicates enough resources or attention in any form towards brownfields redevelopment.

Brownfields that are not redeveloped are a contributing factor in many of the major problems that face Connecticut and the entire country today:

- immense pockets of poverty in our urban centers
- highway congestion
- the accelerating pace of natural habitat destruction in our suburbs and rural areas
- and the escalation of property tax burdens in big cities and small towns alike.

If we do not deepen our commitment to "recycling" brownfields, I know that Connecticut will never enjoy all of the economies and benefits of **smart growth**, no matter what investments are made elsewhere or laws are changed. Please know that for Bridgeport specifically, brownfields are the single greatest impediment to meaningful and sustainable improvement of our local economy. This is a part of the lasting legacy of our proud industrial history, a history in which we served America as the "Arsenal of Democracy" through two World Wars, and provided a standard of excellence for the world's machine tool industry.

The impact of brownfields was first identified in Bridgeport approximately 15 years ago. At that time, we saw many industrial properties that had been a source of economic strength for Bridgeport during the 20th century were increasingly being vacated, neglected or abandoned.

While the City suspected for some time that contamination problems could exist on many of these properties, the adoption and enforcement of new environmental laws brought these problems sharply into focus

- new companies were not moving into many of these properties
- banks were not willing to lend money for the purchase or improvement of these properties
- owners were letting the properties deteriorate and fall into tax delinquency.

The City of Bridgeport has pro-actively attacked the brownfields problem since the early 1990s, a cause that I championed as a City Council member and have continued to champion as Mayor.

In the mid 1990s Bridgeport successfully competed to become a US EPA Brownfields Pilot City, only the second in the country to receive that designation. The initial EPA grant allowed us to identify, inventory and prioritize over 250 brownfield parcels in Bridgeport.

Since conducting this inventory, we have had numerous successes in brownfield redevelopment, large and small. We have expanded city parks, recycled industrial properties, created entertainment venues, and modernized large portions of Bridgeport's waterfront.

With local resources, we have leveraged funding from several federal agencies, and several more State agencies. On one particular project, we assembled a total of $4 Million from eight (8) different sources, including two corporate foundations.

When funding has been hard to come by, we have a track record of creativity and resourcefulness. EPA has repeatedly recognized our need and performance by funding Site Assessment Grants, Cleanup Grants, and our Brownfields Revolving Loan Fund.

Our successes to-date are not enough, however. Brownfields continue to impact our quality of life in neighborhoods, the employment prospects of our residents, and threaten public health in ways that we are only starting to quantify. The financial impact of brownfields is significant. Based on an examination of our current zoning and real estate investment trends, we have estimated that the City forgoes somewhere between $25 Million and $50 Million in property tax revenues every year because more than 400 acres of brownfield sites are not realizing their economic potential. With a municipal budget of less than $450 Million, Bridgeport cannot afford to have its real estate sit so idle and unproductive.

What are the limitations on our progress? Here are some:

- **Staffing**; brownfield projects are labor intensive and time consuming- we are currently contemplating the hiring of a full-time "Brownfields Coordinator"
- **Inadequate funding is available for site assessments and remediation**- the City can only afford to take on a certain amount of this work every year
- **Inadequate funding is available for demolition activities**- often a necessary prerequisite for assessment and remediation.
- **Liability** concerns prevent the City from being more aggressive in obtaining site control.

What would we like to see the federal government do?

- Support Bridgeport's current funding applications to EPA for 2006; **We have proven that we know what to do with the funding when we get it!**
- Increase assessment grant size when the site/project complexity merits it.

- Increase the size of cleanup grants: The present limit of $200K can address only the smallest cleanups.
- Change laws to authorize cleanup grants for qualified private third parties when endorsed by local government. This will insulate cities/towns from liability, while engaging more parties in cleanups and increasing efficiency.
- Continue to replenish Brownfields Cleanup Revolving Loan funding for successful communities.
- Compel more private cleanups through "use it or lose it" laws
- Facilitate communications/between congressional staff and City staff directly involved in brownfield activities.

On behalf of the City of Bridgeport, I offer sincere thanks to Congressman Shays and all those that organized today's hearings.

Mr. TURNER. Thank you.

Ms. Sanderson.

STATEMENT OF MARY SANDERSON, CHIEF, REMEDIATION AND RESTORATION II BRANCH, OFFICE OF SITE REMEDIATION AND RESTORATION, U.S. ENVIRONMENTAL PROTECTION AGENCY

Ms. SANDERSON. Good afternoon, Mr. Chairman, Congressman Shays, members of the subcommittee.

My name is Mary Sanderson, and I direct the Remediation & Restoration Branch in the new England Region 1 Boston office.

I'm here to talk with you a little bit about EPA's Brownfields Program, with which you're all very familiar.

And we are very pleased with what Bridgeport is beginning for us here in the New England office, which began over a decade ago, with Bridgeport, CT, being one of the earliest entrants in tackling these issues.

Nationwide, EPA initially provided seed money to communities to inventory brownfields and assess contamination of brownfields properties. In response to community requests, additional tools were added to the effort. Congress enacted legislation and provided tax incentives to promote cleanup and development of brownfields. Over the years an additional tool has been added. EPA has grants to capitalize revolving loan funds for cleanup. The job training grants were added to promote employment opportunities in brownfields communities—I'll talk more about that shortly. Local governments and non-governmental organizations began to focus on brownfields, looking at local and regional approaches.

The Small Business Liability Relief and Brownfields Revitalization Act—we will call it the Brownfields Law—provided EPA with a clear congressional mandate on brownfields. The law expanded the program, boosted funding levels, expanded the entities, properties and activities eligible for the funding, clarified and strengthened liability protection for certain properties, and provided increased support to State and tribal response programs.

Here in New England, since the start of the EPA brownfields program, $75 million in EPA brownfield grants has been awarded to numerous communities.

For the past 3 years, EPA has awarded approximately $1 million annually to the Connecticut Department of Environmental Protection, to further advance their brownfields program.

As a whole, the State of Connecticut and its communities and nonprofit organizations have received over $24 million in EPA brownfields funding to date.

Bridgeport, one of our first grantees, has a proven track record with all types of brownfields funding, not only for the EPA, but other public and private sources, to deal with brownfields through redevelopment.

EPA invested $1 million to date in assessment grants for the city of Bridgeport to conduct extensive environmental assessment work and inventory sites in their community.

EPA has also invested over $2 million in targeted brownfields assessments throughout Connecticut, as well. These are the single-property assessments that are designed to help communities on a

more direct basis, especially when they do not have EPA assessment grants.

One example that I was fortunate to be able to see this morning is in Shelton, where the EPA's TBA resources were used to assess a portion of Canal Street. This helped to support the cleanup demand to the town of Shelton. This area will soon become part of the Farm and Public Market along the riverfront area.

EPA provides direct cleanup grants of up to $200,000 per site to public sector and nonprofit property owners, to carry out cleanup activities.

Here in New England we are extremely proud of the 50 cleanup grants that have been awarded to date, to the value of $8.4 million, which demonstrates the maturation of the Brownfields cleanup program here in New England, as work moves from assessment to more cleanups. In Connecticut, two of our cleanup grant recipients are nonprofit organizations, Habitat for Humanity and Georgetown Redevelopment Corp., and we look forward to continuing our partnership with the nonprofit community.

The revolving loan fund grants provide State and local governments with capital to make grants for low or no-interest loans to finance brownfields cleanup. The brownfields law provided flexibility in the program, in that it expands properties and activities that are eligible for funding, provided the capability to make sub-grants, as well as loans for cleanup, and streamlined technical requirements, while still ensuring public health and environmental protection.

A number of loans have been made here in Connecticut and several more are being planned.

In addition to assessment cleanup funding, EPA also funds brownfields training, research, and technical assistance.

As communities are cleaning up brownfields, EPA recognizes the need for a work force with environmental cleanup skills. You will hear shortly of the great work that the Workplace has been conducting under this job training program.

The development of successful State programs is essential to ensuring the successful implementation of the brownfields program, since they truly are a funding regulated support group.

This funding is helping States and tribes to develop or enhance their response program, and for structure and capabilities.

Here in Region 1, we work very hard to retain close relationships with our State, since the inception of the brownfields program, and these partnerships are an integral part of our success.

Continuing our success will require ever more interaction and collaboration among all members of the government, the private sector and nongovernmental working organizations.

EPA is dedicated to continuing our efforts to reach out to our partners and build safe and sustainable communities through public and private partnerships.

And one thing that's clear, that notwithstanding all those great efforts, we will never be able to make the program as successful as we can without the funding and know-how of our private sector.

[The prepared statement of Ms. Sanderson follows:]

STATEMENT OF MARY SANDERSON
CHIEF, REMEDIATION & RESTORATION BRANCH
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 1
BEFORE THE SUBCOMMITTEE ON
FEDERALISM AND THE CENSUS
COMMITTEE ON GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES

MARCH 13, 2006

INTRODUCTION

Good morning, Mr. Chairman, and members of the Subcommittee. My name is Mary Sanderson, and I direct the Remediation & Restoration Branch in the Office of Site Remediation and & Restoration in EPA's Region 1/New England. I am appearing today to discuss EPA's Brownfields Program and our efforts in the State of Connecticut, which is located in Region 1.

As you well know, Brownfields are all around us, in the smallest towns and largest cities -- empty warehouses, decrepit factories, vacant corner gas stations, and junk-strewn lots. Brownfields are defined by statute as "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant." These are properties where environmental concerns pose a barrier to reuse. Estimates of the number of brownfields across the country range from 450,000 to more than a million properties.

EPA's Brownfield program began over a decade ago, with Bridgeport, Connecticut being one of the earliest entrants in tackling these issues. Nationwide, EPA initially provided seed money to communities for inventorying brownfields and assessing contamination. In response to community requests, additional tools were added to the brownfields' effort. Grants were made to capitalize revolving loan funds for cleanup. Brownfields job training grants were developed to promote

employment in brownfields communities. A tax incentive was enacted to encourage private sector investment. States, Tribes, local governments and non-governmental organizations began to focus on brownfields, creating local and regional approaches to revitalizing properties.

The national brownfields effort has produced successful results. Since the first grants were awarded, EPA and its grant recipients have performed more than 7,700 assessments. Brownfields grantees have leveraged $7.3 billion in cleanup and redevelopment dollars, leveraging more than 34,000 jobs. Brownfields have proven to be a good public investment, with every public dollar spent on brownfields leveraging about $2.50 in private investment. Brownfields revitalization also produces long-term sustainability benefits, with every acre of brownfields reused saving 4.5 acres of greenspace. The brownfields initiative has become a national effort, linking environmental protection, economic development and community revitalization.

Strong support by President Bush and Congress for brownfields cleanup and redevelopment culminated in the passage of the Small Business Liability Relief and Brownfields Revitalization Act, also known as the Brownfields Law. Signed by President Bush on January 11, 2002, the Brownfields Law provided EPA with a clear congressional mandate on brownfields. The Brownfields Law expanded EPA's Brownfields Program, boosted funding levels, expanded the entities, properties and activities eligible for EPA funding, clarified and strengthened liability protection for certain property owners and provided increased support to state and tribal response programs.

EPA has taken great efforts to implement the new law. EPA developed and published guidelines for the many new grant programs for assessment, revolving loan fund and cleanup grants; state and tribal response program grants; and, research, training and technical assistance grants. These

new programs required application guidelines, funding competitions and selection processes – and they were completed and grants awarded in the first fiscal year following the passage of the new law. EPA has awarded 744 brownfields grants in FY2003 through FY2005 that totaled more than $217 million. More specifically, since the start of EPA's brownfields program, $75 million of competitive EPA brownfield grants have been awarded to, and continue to help revitalize numerous communities throughout the New England region. In Connecticut alone, EPA awards approximately $1 million annually to the Connecticut Department of Environmental Protection (DEP) to further advance their brownfield redevelopment program. As a whole, the State of Connecticut and its communities and non-profits have received over $24 million in EPA Brownfield's funding to date.

EPA'S BROWNFIELDS PROGRAM

Brownfields Grants

I would like to describe the Brownfields Program components in greater detail. Assessment grants provide funding to inventory, characterize, and assess properties; develop cleanup plans; and conduct community involvement activities related to brownfields. Environmental site assessments provide the information that communities and property owners need to move forward with reuse. In fact, up to one third of the sites assessed show little or no contamination, freeing the site for redevelopment through a relatively small public investment. Over the years, EPA has awarded hundreds of assessment grants, generally $200,000 each, to communities large and small. The Brownfields Law expanded the eligibility to new entities such as redevelopment authorities and allowed additional assessment-related activities such as planning to be done by grant recipients. Over the past

three years under the new law, EPA has awarded 446 assessment grants for a total of $102.3 million across the country.

Bridgeport, one of our very first Brownfields grantees, has a proven track record with all types of Brownfields funding, not only from EPA, but from other public and private sources to deal with Brownfields from assessment through redevelopment. EPA has invested $1,000,000 to date in assessment grants for the City of Bridgeport to conduct environmental assessment work and inventory Brownfields sites in their community. In many cases, the environmental uncertainties associated with these properties have been alleviated, clearing the way for meaningful reuse of these former brownfields.

In addition, EPA has the authority to conduct Targeted Brownfields Assessments. These single-property assessments are designed to help communities on a more direct basis, especially those lacking EPA assessment grants. EPA allocated $9.25 million nationally for Targeted Brownfields Assessment (TBA) support in fiscal years 2003 through 2005.

Since the beginning of the program, in New England we have conducted over 100 TBAs in 84 communities throughout the region, with a value of over $6 million. In Connecticut, EPA has conducted 30 TBAs, or nearly one third of all regional TBA work, with a value of nearly $2 million. One example of the assistance the TBA program provides is the former Swan Engraving manufacturing facility in Bridgeport. With EPA's TBA funding as the catalyst, the City of Bridgeport has leveraged assessment and other federal, state, city and private funding for approximately $4 million. This site is now part of Went Field Park, a nationally recognized brownfield to greenfield project. In Shelton, TBA resources were used to assess a portion of Canal Street, which led to a successful cleanup grant to the town of Shelton. This area will soon become part of The Farm and Public Market along the riverfront.

Under its new authority, EPA may now provide direct cleanup grants of up to $200,000 per site to public sector and non-profit property owners to carry out cleanup activities at brownfield sites. In the past three years, EPA has awarded 239 cleanup grants for $42.9 million nation-wide. Here in New England, we are extremely proud of the 50 cleanup grants that have been awarded to date with a value of $8.4 million, demonstrating the maturation of the Brownfields program in New England, as work moves from assessment to cleanup. In Connecticut, 14 cleanup grants have been awarded for $2.5 million, and much of this cleanup work is well underway, laying the groundwork for future housing, open space, and commercial redevelopment opportunities. Two of our cleanup grant recipients in Connecticut are non-profit organizations – Habitat for Humanity and Georgetown Redevelopment Corporation – and we look forward to continuing our partnership with the non-profit community.

The Brownfields Program also supports property cleanup by providing grants to capitalize cleanup revolving loan funds. The Brownfields Revolving Loan Fund (RLF) grants provide state and local governments with capital to make sub-grants or low or no-interest loans to finance brownfields cleanup. The 2002 Brownfields Law was pivotal in the continued success of the RLF program. It provided new flexibility to the program because it expanded properties and activities that are eligible for funding, provided the capability to make sub-grants as well as loans for cleanup, and streamlined technical requirements while still ensuring public health and the environment are protected. Over the past three years, EPA has awarded 59 revolving loan fund grants nation-wide for $72.1 million, and we look forward to even greater momentum in making loans against these grants in the coming years.

A number of RLF loans have been made here in Connecticut. In Stamford, the Blues Brothers, LLC received our region's first loan for $160,000 for the Harley Davidson showroom. In New

Milford, the Town of New Milford received $700,000 for the Century Enterprise Center. In Bridgeport, the Bridgeport Economic Development Corporation (BEDCO) received $350,000 for the Seaview Industrial Park, which is part of $6.8 million in combined federal and state funding to develop a new industrial park, with redevelopment costs estimated at $15 to 20 million. Another loan that is planned for Bridgeport would be the largest in our region to date – a $1.3 million loan for the Northeast Builders Supply & Home Center, Inc. for the 1558 Barnum Avenue property. This loan will fund the cleanup of an abandoned scrap yard so the property can be developed into a light industrial park.

The Connecticut Department of Economic and Community Development (CT DECD) awarded a $160,000 loan from an EPA Revolving Loan Fund grant to the developer of the new Main & Pavilion Shopping Center in Hartford, Public Housing Residents Going Places, Inc. This new shopping center provides needed goods and services to chronically under-served low income residents in the Clay-Arsenal neighborhood in Hartford. On January 13, 2006 EPA was pleased to attend the grand opening of the Save-A-Lot grocery, an anchor in this new shopping center.

Under EPA's brownfields authority, sites contaminated with petroleum are now also eligible for assessment and cleanup grants. The Brownfields Law requires 25% of assessment and cleanup grant funding be directed to sites with petroleum contamination. Indeed, since passage of the Brownfields Law, EPA has awarded 312 assessment, cleanup and revolving loan fund grants totaling $66.4 million for petroleum contaminated brownfields.

The Brownfields Law also broadened the definition of what could be considered a brownfield, thus making mine-scarred lands and sites contaminated by controlled substances (often these sites are

drug labs found in residential areas) eligible for grants. We have seen an increased number of proposals from states, tribes and communities working on these kinds of sites.

In reviewing proposals and awarding grants, EPA has found that brownfields come in a range of sizes and types. Brownfields are often stereotyped as large industrial sites in urban areas. The reality is that the majority of brownfields are small properties like dry cleaners, vacant lots and gas stations. More than half of the grants have gone to communities of less than 100,000 people.

In addition to assessment and cleanup funding, EPA also funds brownfields training, research and technical assistance. As communities engage in cleaning up of brownfields, EPA recognizes the need for a workforce with environmental cleanup skills. To date nation-wide, EPA has awarded 106 job training grants, including 49 grants since passage of the law, resulting in the placement of more than 1,600 individuals with an average wage of $13.00 an hour.

Here in Connecticut, The Workplace, Inc. in Bridgeport has been awarded three job training grants for a total of $550,000. The first grant was to train Bridgeport residents, the second to train residents of the Naugatuck Valley, and the most recent to reach out to the residents of Stamford. EPA also awarded a grant in Fall 2005 to the City of Bridgeport's Department of Social Services to provide technical environmental training to Bridgeport residents that are currently enrolled in the City's food stamp program.

State and Tribal Programs

The high demand for brownfields cleanup and redevelopment in communities throughout the country, coupled with increasingly limited state and tribal resources, makes access to federal funding

critical. The development of successful state and tribal programs is essential to insuring the successful implementation of the brownfields program because they are the environmental regulators of brownfields cleanups.

Under section 128(a) of the Brownfields Law, EPA provides financial assistance to establish or enhance state and tribal programs so they can meet the challenges of brownfields cleanup and redevelopment. In fiscal year 2005, EPA provided $49.5 million to 49 states, 50 tribes, the District of Columbia, and 3 territories (Guam, U.S. Virgin Island, and the Northern Mariana Islands). This funding is helping states and tribes to develop or enhance their response programs' infrastructure and capabilities.

For some recipients, the funding provides an opportunity to create new response programs to address contaminated properties. States and tribes also can use the funds to capitalize a revolving fund for cleanup, purchase environmental insurance, or develop other insurance mechanisms to provide financing for cleanup activities. In addition, the funds can be used to establish or maintain the statutorily required public record, to oversee cleanups, and to conduct limited site-specific activities. Providing financial assistance to states and tribes increases their capacity to meet brownfields cleanup and redevelopment challenges. It also helps to ensure that brownfield cleanups are protective in accordance with federal, state and tribal standards. Here in Region 1, we have maintained close partnerships with our states since the inception of the Brownfield Program, and these partnerships are an integral part of our success.

Liability Protection

A final element of the Brownfields Program focuses on providing important liability protections and clarifications for certain landowners who are not responsible for site contamination. These protections increase comfort and certainty regarding the purchase and redevelopment of brownfields. EPA has worked to clarify federal liability, particularly under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA has streamlined administrative practice and issued guidance and enforcement discretion policies to encourage brownfields cleanup and redevelopment. In fact, many of the protections in the Brownfields Law are essentially statutory codifications of existing EPA enforcement discretion policies.

The Brownfields Law also clarifies the landowner liability protections of bona fide prospective purchasers, innocent landowners and contiguous property owners under CERCLA. To qualify for liability protection, these property owners must satisfy certain statutory requirements. For example, prior to acquiring a property, purchasers must meet environmental due diligence requirements by undertaking "all appropriate inquiries" into the condition of the property. EPA has developed a regulation establishing standards for conducting "all appropriate inquiries." The Agency did this through a collaborative stakeholder negotiated rulemaking. The final rule was issued in November 2005 and goes into effect in November 2006.

The Brownfields Law also provides federal CERCLA liability protection for parties who conduct a cleanup of certain brownfields properties under state response programs. EPA issued guidance that explained which properties currently in the CERCLA system would be eligible for federal liability protection.

CONCLUSION

EPA's Brownfields Program serves as an innovative approach to environmental protection, spurring environmental cleanup, reducing neighborhood blight, generating tax revenues, and creating jobs. Continuing our success will require ever more interaction and collaboration among all levels of government, the private sector and non-governmental organizations. EPA is dedicated to continuing our efforts to reach out to our partners and the Administration is committed to continuing strong funding for the program.

EPA will continue to implement the program to protect human health and the environment, enhance public participation in local decision-making, build safe and sustainable communities through public and private partnerships, and recognize that environmental protection can be the engine that drives economic redevelopment.

Mr. TURNER. Thank you.

Ms. McCarthy.

Mr. SHAYS. I just have to warn you, she has a little bit of a Boston accent.

STATEMENT OF GINA McCARTHY, COMMISSIONER, CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION

Ms. MCCARTHY. Come on. We won't talk about the past.

I appreciate very much the opportunity to be here Mr. Chairman, and members of the subcommittee, and I want to thank you for inviting me to testify today.

I also want to thank Chairman Turner, and also, Congressman Shays, as well as Congresswoman Johnson, for all of their efforts to help focus attention on brownfields redevelopment.

We consider brownfields redevelopment to be a critical component of our efforts to address environmental threats in concert with our efforts to stimulate economic growth, and revitalize the State's urban communities.

Connecticut, like all of New England, has a disproportionate number of contaminated properties that results from our past success as the birthplace of the industrial revolution. There are many under-utilized commercial sites with significant redevelopment potential. At the same time we are facing tremendous growth pressures that are threatening to consume our precious open space.

It is our hope that by working together, we can redirect the development pressures to focus growth where it is most beneficial, and where it is sustainable—in the State's urban areas, where infrastructure exists, where transit is accessible, and where these brownfields sites offer truly a prospect of both environmental and economic success.

Mr. Chairman, I also want to commend your efforts to pass legislation known as the America's Brownfield Cleanup Act.

The creation of a Federal business tax credit for expenditures related to remediation and redevelopment of contaminated properties that bridges some of the gaps in the existing funding. Particularly, I would highlight what Mayor Fabrizi has indicated concerning demolition cost is extremely important. It's the sort of comprehensive approach that we believe could truly remove obstacles to brownfields cleanup.

Today, I would like to give you a thumbnail sketch of what Connecticut does on the brownfield side, and also provide a few recommendations, like the passage of the America's Brownfields Cleanup Act, that we think can really spur brownfields redevelopment along.

In 1985, Connecticut passed the Property Transfer Act, which was a law that brings sellers and buyers together, to disclose, to discuss, and apportion cleanup liability at the time that it makes the most sense—before the transaction is initiated, and provides DEP with a cleanup commitment. The Property Transfer Act helps stimulate brownfields redevelopment by ensuring that buyers are given a full opportunity to take environmental considerations into the cost of the transaction negotiations. It reduces financial uncertainties that can hinder reuse opportunities.

More than 4,300 property transactions have occurred under this program over the past 20 years. This demonstrates that contamination, in and of itself, doesn't prevent the sale or reuse of properties. However, we have a long way to go of it. There are at least 7,000 properties that have been, or are currently being, remediated through Federal and State programs in Connecticut, and we anticipate that thousands more will come up as redevelopment is sparked.

Ten years ago, we also put into place additional tools the Remediation Standard Regulations that provide scientifically sound performance standards to define cleanup end points. It's a flexible approach, a risk-based approach, that allows flexibility, and it provides environmental standards that take into consideration human exposures, and addresses cost effective and safe cleanup end points.

Ten years ago, Connecticut also began licensing environmental professionals—those are LEPs—to oversee environmental investigations and cleanups, and ultimately, to verify that cleanups are accomplished.

More than 300 environmental professionals are now licensed to conduct this activity. Through rigorous education, experience and testing requirements, we believe they are providing high quality service to our communities and to the State.

We would hope that any Federal legislation would treat the expenditures resulting from their remediation work, which is conducted in accordance with the DEP-approved plan, in a similar fashion to any work that the Department undertakes itself.

We believe that Connecticut is in the forefront of using State land restrictions also as a tool to minimize—to eliminate the potential of people in the environment to be exposed to contamination.

Here in Bridgeport, for example, the former Jenkins Valve manufacturing plant was converted into a baseball park, a skating rink, and a museum.

The ballpark was built with $11 million in private investment, $1 million of local funding, and $2 million in State funding.

The project has added 68 jobs to the local economy.

Connecticut DEP and its partners, the Department of Economics and Community Development, and the Connecticut Brownfields Redevelopment Authority, will continue to buildupon these successes, but we need continued support from both private and public investments if we are to speed up the rate of brownfields redevelopment.

We appreciate all of the Federal funding that has been afforded to us. In recent years, the U.S. EPA has awarded over $20 million directly to municipalities and regional organizations. EPA has provided approximately $1 million a year for the last 3 years for Connecticut to support the Department's brownfields work.

Federal tax credits that are being considered, such as those proposed by Chairman Turner, and streamlined Federal grants and loans, are tools that can help leverage these existing resources, and really move brownfields redevelopment along in the State.

We understand the value of the Federal partnerships. We need to continue that and move that forward. We need to invest in our village centers to bring us closer to achieving our goals of environmental restoration, revitalized communities, preservation of open space and farmlands, and sustainable economic growth.

Thank you very much.

[The prepared statement of Ms. McCarthy follows:]

Testimony of
Gina McCarthy, Commissioner
Connecticut Department of Environmental Protection
On **"The Connecticut Experience: What Can be Done to Spur Brownfield Redevelopment Along America's New England Corridor?"**
Before the U.S. House Committee on Government Reform,
Subcommittee on Federalism and the Census
March 13, 2006
Bridgeport, Connecticut

Mr. Chairman and members of the Subcommittee, thank you for inviting me to testify today. My name is Gina McCarthy and I am the Commissioner of the Department of Environmental Protection (DEP) in Connecticut. I appreciate the opportunity to share ideas for restoring and revitalizing the industrial legacy of New England.

I also wish to offer my thanks to Chairman Turner and Subcommittee members, and to Congressman Shays and Congresswoman Johnson of Connecticut for helping focus attention on brownfields redevelopment, an important component of our efforts to address environmental threats in concert with efforts to stimulate economic growth and revitalize urban communities.

I commend your insight in coming to Connecticut for a local hearing. You are correct in your observation that Connecticut, like all of New England, the Northeast, and the Midwest, does bear a disproportionate number of contaminated properties as a result of our regions' common industrial legacy. When you add to that legacy Connecticut's population density and its location between New York and Boston, you can appreciate that there are many underutilized commercial sites with significant redevelopment potential. At the same time, there are tremendous growth pressures that are currently threatening to consumer our precious open land. It is our hope that by working together, we can redirect the development pressures to focus growth where it is most beneficial and sustainable – into the states' urban areas where infrastructure exists, transit is accessible and these brownfields sites offer the prospect of environmental and economic success.

Mr. Chairman, I also commend your efforts to find financial incentive solutions through legislation such as the "America's Brownfield Cleanup Act," H.R. 4480. The creation of a federal business tax credit for expenditures related to the remediation and redevelopment of contaminated properties is an important incentive. It helps private developers that might not otherwise have enough capital to undertake brownfield projects. Allowing credits not just for pollution abatement but also for demolition costs, financial assurance expenses, and utility reconstruction is just the sort of comprehensive approach that could truly remove obstacles to brownfield cleanups.

Today I would like to describe Connecticut's cleanup and finance programs that address liability concerns and help spur the redevelopment of brownfields. I also hope to offer recommendations to continue promoting revitalization as a catalyst for cleanup.

In 1985, Connecticut passed the Property Transfer Act, a law that brings sellers and buyers together to disclose, discuss, and apportion cleanup liability at the time it makes the most sense—before the transaction, and provides DEP with a cleanup commitment The Property Transfer Act helps stimulate brownfields redevelopment by ensuring that buyers are given the opportunity to take environmental conditions into account during the transaction negotiations, in the same way that a potential home buyer is informed of a leaky roof or faulty wiring. Defining what a cleanup will cost and knowing that the cleanup goal is defined allows a property transaction to account both for its impairment and its potential, reducing financial uncertainties that can hinder reuse opportunities.

More than 4,300 property transactions have occurred under this program over the past 20 years, demonstrating that contamination does not in itself prevent the sale or reuse of property. In total, more than 7,000 properties have been or are currently being remediated through federal and state programs in Connecticut, and thousands more are likely to have contamination that will necessitate some clean up.

Ten years ago, Connecticut put into place tools to provide certainty and predictability to owners and redevelopers of contaminated sites as a way to enhance brownfields redevelopment efforts. For example, Remediation Standard Regulations established scientifically sound performance standards to define cleanup endpoints that are protective of human health and the environment. The Remediation Standard Regulations allow a flexible approach that has tiered, risk-based cleanup levels that consider environmental setting and human exposure so that the most cost-effective, yet safe cleanup can be implemented.

Additionally, ten years ago Connecticut began licensing environmental professionals ("LEPs") to accommodate the increasing numbers of properties needing cleanup. The role of the LEP is to oversee environmental investigations and ultimately verify that cleanups are accomplished that meet state cleanup standards. The work of LEPs allows CT DEP resources to focus on setting and ensuring compliance with cleanup standards, providing guidance, and reviewing those cases that are not amenable to private sector oversight. Rigorous education, experience, and testing requirements have been put into place to ensure a pool of highly qualified LEPs

To date, the state has licensed more than 300 LEPs. Continuing education requirements and collaborative education efforts between CT DEP and the LEP's professional organization ensure that these private sector environmental professionals are kept up to date on the latest trends in technology, policy, and regulation.

Given Connecticut's continued and expanding reliance on LEPs to support our state cleanup efforts, it is our hope that H.R.4480 will treat the expenditures resulting from remediation work conducted by LEPs in accordance with a DEP approved remediation

plan in a similar fashion to the work that DEP conducts itself, so that all legitimate DEP approved remediation efforts are appropriately and fairly considered.

Connecticut has also been in the forefront of states using land use restrictions as tools to minimize or eliminate the potential of people and the environmental to be exposed to contamination. Such approaches have been safely and effectively integrated into redevelopment projects in Stratford, Bridgeport, Norwich, New London, and throughout the state. Here in Bridgeport, the former Jenkins Valve manufacturing plant was converted into a baseball park, skating rink and museum. The ballpark was built with $11 million in private investments, $1 million of local funding, and $2 million in state funding. This project added 68 jobs to the local economy.

CT DEP can and will continue to build upon and improve its cleanup programs, but significant increases in both public and private investments are necessary if we hope to successfully speed up the pace of brownfields redevelopment. Different types of funding mechanisms may be needed for properties that have public values such as recreation space and transit centers, while certain privately financed projects may be better served by federal or state tax incentives.

Connecticut appreciates the federal funds devoted to brownfields, especially the support for local action. In recent years the United States Environmental Protection Agency ("EPA") has awarded over $20 million directly to municipalities and regional organizations. EPA has provided approximately one million dollars per year for the last three years to Connecticut for this department's Brownfields work. The commitment of EPA and its New England Regional Office has been outstanding. However, increased support to spur actual remediation is needed. Federal tax credits, such as those proposed by Chairman Turner, and streamlined federal grants and loans, are tools that will help leverage the financing and cleanup work of existing federal and state brownfield programs.

In concert with our state brownfields partners, the Department of Economic and Community Development and the Connecticut Brownfields Redevelopment Authority, Connecticut has spent more than $40 million in recent years redeveloping urban sites through direct financing. In 2001 state law was enacted enabling the Brownfields Redevelopment Authority to promote tax increment financing and tax credits. These financing tools help a project's cash flow by allowing resources to be used immediately. Highlights of the state's direct financing efforts include more than 50 significant projects that have converted contaminated industrial mill sites into regional retail centers, riverfront parks, and vibrant light industrial incubators close to highways, as well as scrapyards into global research centers.

The components of Connecticut's clean up program are in place and ready to accommodate the hard work of making contaminated properties safe and attractive for reuse. While cleanup is the Department of Environmental Protection's goal, we recognize that the land's value and revitalization, not the clean-up obligation, is the biggest driver for brownfields redevelopment.

Federal partnership with state and local government can help catalyze cleanup and revitalization that is the heart of safe communities, job retention and creation, and stabilized and growing tax bases. The community planning and infrastructure restoration and investment that is at the core of successful brownfields projects in Connecticut are fundamentally well served by state authorities and local implementation. However, national solutions and incentives are also critical if we are to substantially expand these successes.

Investing in our urban and village centers brings us closer to achieving our goals of environmental restoration, revitalized communities, preservation of open space and farmlands, and sustainable economic growth.

I look forward to working with Congress and Connecticut's General Assembly to continue the success of brownfield revitalization in Connecticut and the region.

Thank you for your attention and for this opportunity to comment. Mr. Chairman and members of the Subcommittee I am happy to respond to any questions you may have.

Mr. TURNER. The Honorable Mark Lauretti.

STATEMENT OF MARK LAURETTI, MAYOR, CITY OF SHELTON, CT

Mr. LAURETTI. Good afternoon, Mr. Chairman, Congressman Shays, members of the subcommittee.

Thank you for your invitation to testify this afternoon on the critical issue of brownfield redevelopment, and to provide local officials with an opportunity to discuss impediments which affect our ability to address brownfield-related issues.

I'm going to also echo the same comments and sentiments of the speakers before me, because I think that once you work in this area and spend a significant amount of time trying to affect a brownfields remediation project, you tend to experience the same types of things.

In the city of Shelton, which is located in Fairfield County, we are a community which has made the transition to a 21st century economy, but one that still has remaining brownfield issues, which are remnants of a heavy industrial use, which were prevalent along our Housatonic River and Naugatuck River Valley.

Beginning in 1991, the city of Shelton embarked on an ambitious program of downtown revitalization and we have made significant strides in working in partnerships with the U.S. Department of Environmental Protection, the Connecticut Department of Environmental Protection, and the Connecticut Department of Economic and Community Development.

Our efforts have embraced the concept of a public and private participation, and a meaningful citizens' participation. Our efforts involve local and regional officials, and have made important strides toward cementing ongoing relationships. I would add that the Federal Government has made important strides as well. However, several issues still persist which require your attention.

Given our commitment to smart growth and the desire to put abandoned properties back to work, it is inconceivable that brownfields redevelopment is not a national priority. Funding levels are meager at best and communities without experienced staff have little opportunity to access the current programs of the U.S. EPA. While some meaningful regional collaboration has been fostered, such as our own Naugatuck Valley pilot, funding remains a major impediment to timely progress.

The newer funding initiatives that have been offered by the U.S. EPA are excellent in the ability of communities to access remediation funding; however, these programs are also underfunded and offered only once annually.

Programs that have developed experience and capacity are hampered by the lengthy application and review process. We applaud our own Region 1 officials for their efforts to provide excellent technical assistance and timely responses to every request we make. They are hampered, however, by limits of funding and processes which are not conducive to fast track.

One program that stands out as being user-friendly is the EPA Targeted Assessment Site program. This program combines a simple, user-friendly application with timely decisions, and very meaningful technical assistance to local and regional site evaluations.

It is difficult to conceive that there is no comprehensive registry of brownfield sites after all the time and investments that have been made to launch national brownfields awareness. This should be made an immediate priority. Congress should consider a requirement that the U.S. EPA create this program, fund it properly, and implement it over the next several years. Considerable field work has been accomplished which could immediately be folded into this program, and speaking for our community, our information is ready to be shared with Federal, State, and regional officials.

In respect to the committee's interest in obtaining input concerning House bill 4480, our community's position is as follows: Every tool possible should be employed to attack the issue of sites that are dormant due to historical contamination.

The proposal included in this legislation to offer tax credits is appropriate and should prove to be a valuable weapon in the arsenal of tools which will be needed to make real progress in addressing the estimated number of sites needing attention in Connecticut and nationally.

This is not the only approach to be used. Government needs to find ways to lower the costs associated with brownfield remediation. This will create the truest form of incentive for private entrepreneurial expertise to effect a positive change, and one that will benefit all. I would respectfully suggest, however, that the offering needs to be user-friendly to both large and small developments, and to communities that have institutionalized programs, and those that lack staff capacity.

The private businessman is the best vehicle to use in trying to expand the tax base through brownfield remediation and we must allow them to do that.

The extent of brownfield problems has been described as a federally created problem due to the Superfund law that was passed in 1980. This is true in some respects. As a result of that law, an environment has been created that discourages owners to find out if their property is contaminated. This has promoted owners of such property to abandon them, along with general reluctance to sell properties, for fear of liability and the associated cost.

Brownfields are defined as an abandoned or under-utilized property that is not redeveloped due to the fear of real or perceived environmental contamination.

The current brownfields law, the Small Business Liability Relief and Brownfields Revitalization Act of 2002, provides some protection against liability but does not address the high redevelopment costs associated with redeveloping brownfield sites and does not provide enough of an incentive for voluntary action.

The current brownfield program has done a good job of redeveloping what someone described as less problematic sites that are either not that contaminated or in places that are highly desirable. However, with the current level of resources, the overall magnitude of this important issue can never be resolved.

Let's mention something about how sprawl has affected many States and how brownfield remediation can help reduce sprawl.

There is no question that new private investment is naturally inclined to seek out opportunities that will allow them to realize a

reasonable return on their investment and to minimize their risk. Brownfields should become the preferred area for new private investment using financial incentives such as tax credits to reawakening these forgotten neighborhoods. Once this has started, pressure can be reduced to develop pristine open spaces and our valuable farmlands for new private investments.

Current EPA programs are a step in the right direction but additional tools are sorely needed to foster more development outside the U.S. EPA, particularly private sector funding. Incentives included in legislation similar to House bill 4480 can certainly improve the climate for attracting new and private investments in our urban centers, or to sites possessing urban characteristics.

While we share the hope to use these financial incentives, we also hope that the Federal Government recognizes that their noneconomic development activities, such as parks and public spaces, also contribute greatly to community rebuilding and that programs and financial assistance should be tailored for those sites, which contribute indirectly to the economic development as well.

We hope that the additional legislation which complements House bill 4480 would be the motivation for owners of cold storage sites—sites that are held onto by the current owners with no intention of selling or redeveloping the land—to start cleaning up the properties and eventually sell or redevelop the site for themselves.

Again, on behalf of the city of Shelton, please accept our thanks for providing us with the opportunity to support national initiatives which will truly lead to smart growth.

[The prepared statement of Mr. Lauretti follows:]

City of Shelton
54 Hill Street
Shelton, Connecticut
06484

Reference: Subcommittee on Federalism and the Census
Congressman Michael R. Turner, Chairman

Testimony of Mayor Mark Lauretti,

My name is Mark Lauretti and I am the Mayor of the City of Shelton. Thank you for your invitation to testify this afternoon on the critical issue of Brownfields Redevelopment and to provide local officials with an opportunity to discuss impediments which affect our ability to address Brownfields related issues.

The City of Shelton is located in Fairfield, County Connecticut. We are a community which has made the transition to a 21st Century economy but one that still has remaining Brownfields issues which are remnants of the heavy industrial uses which were prevalent along our Housatonic River Valley and our Naugatuck River Valley. Beginning in 1991 the City of Shelton has embarked on an ambitious program of downtown revitalization and we have made significant strides working in partnership with the United States

Department of Environmental Protection, the Connecticut Department of Environmental Protection, and the Connecticut Department of Economic and Community Development. Our efforts have embraced the concept of public and private participation and meaningful citizen participation. Our efforts involve local and regional officials and we have made important strides towards cementing ongoing relationships. I would add that the Federal government has made important strides as well, however, several issues still persist which require your attention.

Given our commitment to smart growth and the desire to put abandoned properties back to work it is inconceivable that Brownfields redevelopment is not a national priority. Funding levels are meager at best and communities without experienced staff have little opportunity to access the current programs of the US EPA. While some meaningful regional collaboration has been fostered, such as our own Naugatuck Valley Pilot, funding remains a major impediment to timely progress.

The newer funding initiatives which have been offered by the US EPA are excellent in the ability of communities to access remediation funding; however, these programs are also under funded and offered only once annually. Programs that have developed experience and capacity are hampered by the lengthy application and review process. We applaud our own Region 1 officials for their efforts to provide excellent

technical assistance and timely responses to every request we make. They are hampered however by limits of funding and processes which are not conducive to a faster track. One program that stands out as being user friendly is the EPA "Targeted Site Assessment" program. This program combines a simple user friendly application with timely decisions and very meaningful technical assistance to local and regional site evaluations.

It is difficult to conceive that there is no comprehensive registry of Brownfields sites after all of the time and investment that has been made to launch National Brownfields awareness. This should be made an immediate priority. The Congress should consider a requirement that the US EPA create this program, fund it properly and implement it over the next several years. Considerable field work has been accomplished which could immediately be folded into this program and speaking for our community our information is ready to be shared with Federal, State, and Regional officials.

In respect to the Committee's interest in obtaining input concerning H.R. Bill 4480 our community's position is as follows. Every tool possible should be employed to attack the issues of sites that are dormant due to historical contamination. The proposal included in this legislation to offer tax credits is appropriate and should prove to be a valuable weapon in the arsenal of tools which will be needed to make real progress in addressing the estimated number of sites needing

attention in Connecticut and nationally. This is not the only approach to be used. Government needs to find ways to lower the cost associated with Brownfield remediation. This will create the truest form of incentive for private entrepreneurial expertise to effect a positive change; one that benefits all. I would respectfully suggest however that the offering needs to be user friendly to both large and small developments and to communities that have institutionalized programs and those that lack staff capacity.

The private businessman is the best vehicle to use when trying to expand the tax base through Brownfield remediation. We must allow them to do it!

The extent of the Brownfields problem has been described as a federally created problem due to the Superfund law that was passed in 1980. This is true in some respects. As a result of that law an environment has been created that discourages owners to find out if their property is contaminated. This has promoted owners of such properties to abandon them, along with general reluctance to sell the property, for fear of liability and their associated costs. Brownfields are defined as abandoned or underutilized properties that are not redeveloped due to the fear of real or perceived environmental contamination.

The current Brownfields Law, the Small Business Liability Relief and Brownfields Revitalization Act of 2002 provides some protection against liability but does

not address the high redevelopment costs associated with redeveloping Brownfield sites and does not provide enough of an incentive for voluntary action.

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Let's mention something about how sprawl has affected many states and Brownfield remediation can help reduce sprawl. There is no question that new private investment is naturally inclined to seek out opportunities that will allow them to realize a reasonable return on their investment and to minimize their risks. Brownfields should become the preferred areas for new private investment using financial incentives such as tax credits to reawaken these forgotten neighborhoods. Once this has started pressure can be reduced to develop pristine open spaces and our valuable farmlands for new private investment.

Current EPA programs are a step in the right direction but additional tools are sorely needed to foster more development outside of the US EPA, particularly private sector funding. Incentives, included in legislation similar to HR 4480 can certainly improve the climate for attracting new private investment in our urban centers or to sites possessing urban characteristics.

While we share the hope to use these financial incentives we also hope that the federal government recognizes that other non economic development activities, such as parks and public spaces also contribute greatly to community rebuilding and that programs and financial assistance should be tailored for those sites, which contribute indirectly to economic development as well.

We hope that additional legislation which compliments HR 4480 would be the motivation for owners of cold storaged sites — sites that are held onto by the current owners with no intention of selling or redeveloping the land — to start cleaning up the property and eventually sell or redevelop the site themselves.

Again on behalf of the City of Shelton please accept our thanks for providing us with the opportunity to support national initiatives which will truly lead to "Smart Growth".

Mr. SHAYS. Thank you.

Mr. TURNER. Thank you very much for your preparation, and the insight that you gave us today.

I will begin a round of questions, starting with Mr. Shays.

Mr. SHAYS. I understand, Mr. Chairman, that the mayor needs to leave, at the very latest, by 2 p.m., so we'll get you out of here.

Mr. FABRIZI. I called the office so I have as much time as you want now.

Mr. SHAYS. To make it simpler, with the mic, I'll just go down and you can answer down the line.

Bridgeport got the first grant, assessment grant. I think there were two in New England for $250,000. It was an assessment grant. I am interested to know—one of the good things about that assessment grant was that—assessing the properties—was that we realized that some properties weren't as dirty as we thought they were, so then people actually came in and started to develop these properties. Others had some costs in cleaning up. So the question I have is basically, has Bridgeport assessed most of its properties and now are we at the point where we need to be doing more on the cleanup of them? And I would like to ask each of you, Mayor Lauretti, as well, but also, our two experts from the Federal and State government to speak to the issue of assessment versus cleanup.

And I'll just throw out another one, since you will pass the mics back. I'm hearing Connecticut has 700 sites. How many are we actually able to assess and how many are we able to clean up? In the New England area, about how many sites do you think there might be and are we able to clean them up?

So let me throw all those questions out to the panel.

Mr. FABRIZI. Thank you.

The initial EPA agreement allowed us, the city of Bridgeport, to identify, inventory, and prioritize over 250 brownfield parcels just in the city of Bridgeport alone.

And since conducting that inventory, we've had numerous successes in brownfield redevelopment, both large and small, by expanding parks, recycling industrial properties, modernizing larger portions of Bridgeport to the waterfront.

But again, in response to the question, the successes to date are not enough and brownfields continue to impact the quality of life in the neighborhoods, the employment prospects of our residents, and threaten public health in ways that we are only starting to quantify.

But the financial impact of the brownfields is significant—and our examination is based on our current zoning and real estate investment trends. We've estimated that the city foregos somewhere between $25 and $50 million in property tax revenues every year because more than 400 acres of brownfield sites are not realizing their economic potential.

Mr. SHAYS. So is the issue there that you need more money to clean up, to help developers clean up? Is the city taking ownership of some of these properties?

Mr. FABRIZI. The city has taken ownership to some properties.

I have to tell you that we can't afford to continue to allow our real estate to sit idle.

One thing that we did just recently that was—in some folks' mind—termed controversial, per se, we used a State statute that's 5 or 6 years old to allow a private developer to use his own funds to clean up property at the tune—I understand that 7 or 8 years ago, the city could have bought this property for next to nothing, or foreclosed on it, we would have assumed back then, a $7 or $8 million liability cleanup, where somebody else had purchased the property and has done $4 million worth of cleanup and has $1 million more to go that the city has forgiven through council resolution to forgive some of those past property taxes. That's very similar in nature to the property tax credit that the mayor of Shelton mentioned before, and so did Ms. Sanderson, I believe, and also, Commissioner McCarthy.

That's one way to help with private developers as far as the Federal tax income credit is concerned—takes away the controversy of having people make bold decisions here. But we will continue to make them as we go along.

We have identified, thanks to EPA and the State, we have identified an inventory of properties. Now it's money to clean them up. But here in Bridgeport, we can use a person full-time to do that and we're strapped under our budget. That's how much of a focus needs to be put right here at home, in the city of Bridgeport.

You're talking 400 acres.

Mr. SHAYS. Thank you very much.

Mr. FABRIZI. Thank you.

Mr. SHAYS. Ms. Sanderson.

Ms. SANDERSON. A couple of points. One is a great number of cleanup grant applications to see the program ensure that it is moving from assessments toward cleanup. We have seen that scale start to tip.

With regard to the number of sites, I wish I had an answer to that. I don't so we'll just keep looking. The nationwide estimates are about half a million to a million brownfield sites. We probably have more than our 10 percent share, given the history of the area, so there are potentially 100,000 sites out there to be assessed.

One statistic I think is interesting is the assessment program finds one-third of the sites are not contaminated. So it very much does look at that perceived contamination, as well as actual. On the other hand, we certainly may find some very contaminated sites as well.

In terms of inventories, we do give funding to our States, and to our communities, to develop those inventories. And I think, in the spirit of local solutions and regional solutions to things, I don't know that EPA is trying to drive that so much as give the tools to the communities looking at those inventories and prioritizing those.

Mr. SHAYS. Could you put the mic a little closer to you.

Ms. SANDERSON. My last thought is, it is seed funding. We do realize that there could be an easy answer, sure, you know, more money for cleanup. But, as you realize, certainly, to balance the whole thing in terms of how much do you fund. And so, we work very hard on the partnerships. But you heard our seed funding, you heard our targeted brownfield assessment. To jump start that—or givebacks. And partnerships with developers——

Mr. SHAYS. Let me just interrupt you. Our time is very precious here. I'll just ask you a followup question.

Can you think of a more important program, or would you put this under EPA's, one of it's more important programs? How would you rate this program?

Ms. SANDERSON. Top priority, unequivocally.

Mr. SHAYS. It gets a good return on the dollar, correct?

Ms. SANDERSON. Absolutely.

Mr. SHAYS. Let me ask you to pass it on.

Ms. MCCARTHY. Let me just advise you that under the Property Transfer Act, we have already looked at 4,300 properties. So we already know that those properties are moving forward. There is potentially, at this point, 7,000 in the system.

Mr. SHAYS. 7,000, not 700.

Ms. MCCARTHY. Yes. We have focused—and we have funding available at the State level that focuses—on assessments. We believe that it's extremely important to try to provide certainty to developers who are looking to redevelop these properties. That is absolutely key.

Right now, I think we are also falling short on the actual cleanups. I think that on the State level, municipalities are struggling to move properties forward that have economic potential, but the demolition costs can really get in the way. There are certain costs that are always associated with the redevelopment of these projects that, simply, there is no funding source to turn to.

Mr. SHAYS. Do we have a lot of different gradations for describing the brownfield site? And first, do we rate them under certain categories?

Ms. MCCARTHY. No, we don't differentiate them.

We know that they're either mildly contaminated or heavily contaminated. The assessment provides an opportunity to get a sort of a feel for what it is.

Mr. SHAYS. So we basically categorize it by the dollars and cents—it's going to cost so much to clean up.

Ms. MCCARTHY. I think if you're in Connecticut and you're looking at a piece of property in an urban area, whether it's been looked at or not, you put it into the brownfield site, you put it in the contaminated site, because you're concerned about the history in the State.

Mr. SHAYS. The assumption is it's a brownfield site, a dirty site, but clearly, not a Superfund site.

Let me just, I want to make sure that the chairman has a chance to talk to the mayors before they go.

Yes.

Mr. LAURETTI. Any specific area that you want me to touch on? I've got several questions with respect to sites, and the number of sites. So any specific areas?

Mr. SHAYS. Tell me, from your standpoint, anything you would want to qualify from what you've heard so far, or emphasize on the answers so far?

Mr. LAURETTI. We have done to completion—and to the point where a property becomes productive—several sites in our community, particularly in the downtown area. You have to do multiple

things—not just focus onsite assessments—to be successful, and we have an ongoing program.

Mr. SHAYS. Do you spend a lot of your own city dollars to do this?

Mr. LAURETTI. We have. We have put some city money into the equation.

Mr. SHAYS. You have almost 4 million square feet of office space, correct? Close to that?

Mr. LAURETTI. Correct.

Mr. SHAYS. It's huge. It's very much a suburban community city, but you have a lot of residential areas. Those are clean.

So was your emphasis at the beginning to deal with the clean sites? Are you taking the clean site dollars to help fund the dirty site areas?

Mr. LAURETTI. Actually, it's a combination of things. You try to leverage every dollar that you can from every area that you can, not only from some of your tax revenue, but try to get private developers into the equation, to fund some of the remediation, in particular.

I think that as the approval process becomes more streamlined, and there is clarity as to what needs to be done with the site, you will get that outside interest.

I mean, obviously, it has to be monitored—you can't give them a free hand—but there has to be an incentive for people. We, in government, have to be a catalyst to making that happen.

Mr. SHAYS. The bottom line is—and this is my last point—you are not going to get this done without the third party, the developer, actually—the individual owning the property ultimately is going to have to bear a lot of the cost, but they know what it costs, because you had an assessment, they know the risks. But the market must then be able to support it; is that a pretty fair assumption?

Mr. LAURETTI. That's a pretty fair assumption.

Mr. SHAYS. Thank you very much.

Thank you, Mr. Chairman.

Mr. TURNER. Mayor Fabrizi, first, I'll tell you why I'm going to ask you the questions that I'm going to ask you. I'm going to give you an opportunity for a commercial in the middle of our hearing.

Mr. SHAYS. Good man.

Mr. TURNER. In addition to the opportunity to learn about the differences between the various programs that occur in each State and the effectiveness of our Federal programs—how they are working, how they can be improved—what comes out of a hearing like this, in addition to where it is locally, your words are taken down, as you can see, and transcribed, and become part of the Federal record.

It's we, as a committee, who help form policy on the Federal level, and to help advance legislation.

On the CDBG issue, we had six hearings. From those hearings, we heard from representatives from all over the country. We took their testimony and we put together a 75-page report that passed over our full Committee on Government Reform on a bipartisan basis that listed some of the problems of CDBG, but also, some of the great things about CDBG.

On the issue of ground use, we are also going to be doing the same. In addition to your testimony today, we will be doing a report of the subcommittee that will go to the full committee. And, hopefully, we will have some insights as to framing the issue, some of the successes that we are having, and then some of the solutions that are going on in various communities. And I tell you that, because the next questions that I'm going to ask you will seem like you've already addressed them, but again, I want to give you an opportunity to give us a commercial that we can use in this record to put in our report as to why brownfields are important.

So with that, the two mayors can do this, I'll start with you, Mayor Lauretti, since you have the microphone.

If you can talk about the issue of economic development in urban areas, because almost all of the literature that we have, everybody who testifies, everyone agrees that the largest impediment to economic development in urban areas, areas that have been developed where you're doing redevelopment, is the issue of the availability of land.

Because you have the availability of land, and then brownfield as an opportunity, it would seem to lend itself that, if you had the proper tools, and the proper funding, that brownfields could be an excellent fuel for economic development in the community.

If you can tell us about that, it will be an opportunity to see what can happen if you had the resources for development in your community.

Mr. LAURETTI. I don't think there is any question about it, that brownfields redevelopment is an excellent economic opportunity for any municipality and State. And I think we're proving that in Shelton.

But, as I said earlier, you have to do several things that run parallel with one another, it can't just be one thing, because once the clock keeps ticking, you lose your economic cycles, and then investment opportunities are not conducive to get the other part of the equation in motion.

What we did many years ago, probably going back 12, 13 years ago, was establish a master plan for our downtown area that borders the Housatonic River, and we are now 10, 12 years later, starting to see the fruits of everyone's efforts, both the Federal Government, and the State's participation financially, as well as the taxpayers in the city of Shelton, because now we've got private development at the table in a big way that is just incredible.

In the next 3 to 5 years, people are going to be in awe of what goes on along the Housatonic river and the city of Shelton from an economic development standpoint. And we are that far along because we had a plan, and we made commitments, and we fulfilled our commitments, and we're continuing to drive the issue.

So I think that, from an economic standpoint, you've got to look at that and make that part of what drives your economic engine for your municipality.

Mr. TURNER. Before our recess, I'll ask the second part of the question, and that is, once we establish that funds, once available to you, would result—funds available to you for demolition, cleanup would result in land development, and therefore, economic growth, the sources of those funds become an issue. And I think many

times there is pressure on local governments to participate at a higher level of economic development when your tax structures are not set up for economic development purposes, and the basic functions, the services that you have to provide to your residents at the local level are just so important.

You talked a minute ago about the financial squeeze that the cities have, the decisions that you have to make, and making certain that you fund the services in the community.

Mr. LAURETTI. Well, that's the balancing act that every local official has to do. And the process is ongoing.

As an example, many years ago, we invested a lot of city money into open space purposes. But we've also, at the same time, invested our resources into the infrastructure of our downtown, where all the brownfields are located.

And I keep going back to the point that you've got to give the private entrepreneur the opportunity to fit into the equation. And a lot of it has to do with the process, and how long the process takes, and is it reasonable, and is it cost effective.

As an example, we have several locations right now in the downtown area that have had ongoing contamination, and to sit there and do nothing allows that contamination to keep affecting the environment. But when you have someone that wants to invest in that property, now you say to them, OK, you can do that, but you're going to have to do many, many things that are just cost ineffective, so that person goes away.

And it's almost kind of like a defeated logic that you have here, because it's OK to let the property sit there and contaminate a river, but when someone wants to come in and do something, you tell them "well, listen, you've got to monitor it for 30 years, so do that, and we'll give you the approvals."

And I've got to be very frank about this, because this is the real life that we experience, and it is about the environment, it's about people's health, but it's also about the money. And you can't lose sight of that. So we've got to find a happy medium where everything can coexist.

Other things that we've done and established in our master plan is we've adopted an anti-blight ordinance that allowed us to take down properties that could become firetraps and locations for illegal activity, for drug transactions, places for homeless, and you name it, it occurs there. So the anti-blight program that we have has served us well and we've done that in conjunction with brownfields remediation.

That's where we've had a real strong advantage in being able to move it along a lot quicker than a lot of people anticipated.

Mr. TURNER. Mayor Fabrizi, the first issue, the issue of the availability of land being restricted, for economic development for your city, have value for brownfields redevelopment, and make a difference in making productive land available, utilized.

And then also you talk about the funding pressures that you have as a city, the competing interests providing basic services, and also, trying to fund some of these great opportunities.

Mr. FABRIZI. Those are all the right questions to ask, as far as frustrations and issues and concerns go.

Bridgeport is made up of 17 square miles, 16 square miles are built out on, there is not much available land at all.

With the other part of the chemistry, you have over 250 parcels identified as brownfields sites, totaling almost 400 acres, with lost revenues, lost job potential, and everything that goes along with that, it gets seemingly more frustrating each and every day.

When developers are knocking on your door to either build or rebuild, or redevelop or invest, and you just don't have the property to identify, to put these parcels together, mainly because of the cost to clean up and remediate these properties—that's where it's come up time and time again, regarding remediation, regarding developers, regarding what can we do as far as tax credits, or an invite to those who are investing their money, or who are going to.

And we took a page out of Shelton's book and New Haven's book as far as anti-blight is concerned. And we know that these properties also invite detractors to the quality of life—regardless if it's homelessness, if it's blight, if it's illegal activities.

But also, in addition, you talk about balancing the budget. Every year we are faced with increasing costs—if it's health costs that are spiraling out of control, if it's utility costs, but now, we have to take into consideration what senior center do we close, what firehouse do we close, how many police and fire recruitment classes do you hold off. So the impact is severe.

Mr. TURNER. My next question is, in 2002, the Brownfield Remediation Act that was passed, providing opportunity for some liability relief for potential purchasers who were looking to redevelop property.

It also changed some of the tax treatment of the expenditures and provided for some relatively small grant programs that you both discussed today.

Many critics of those programs—they are not critics in terms of saying that this should not have been done, but they are critics in terms of the volume of commitment that has been involved—say that the new tax treatments and the small grants have allowed people to invest in those pieces of property that have the least amount of contamination.

We are finding in the assessments grants, when the assessment was done, others have not been contaminated, but some we all know are, and they remain there, abandoned, and robbing the economic potential, and also are a blighting influence on the properties around them. We've all invested in infrastructure, and we continue to invest in infrastructure to support them, and our school systems, our police and fire is lost.

Would you please talk for a moment about the need for additional funding, because we hear many times of the sites that are worse. There is an understanding of the extent of the contamination exceeding the value of the property. Even when it's cleaned it will be a negative.

Since, it's a federally created issue, really, you have this issue of this negative dollar being invested.

Can you speak about that for a moment?

Mr. FABRIZI. I certainly can, because we've experienced it in the city of Bridgeport each and every day.

And we have what I term as active and inactive brownfields.

An active brownfield, GE corporation, which is a big plant has 60 some-odd acres. However, by law, they have to have 142 buildings to house 12,000, I believe, during the war time. And they were big manufacturing here in Bridgeport. And I truly believe they keep their property up. But to demolish those buildings, the environmental concerns, I know will be in the hundreds of million of dollars, I think. I'm not an expert there.

So why does a big company, with a great asset, just continue to maintain the status quo? But by maintaining the status quo, this allows the city of Bridgeport, or other active economic development, to come in and revitalize the property, and expand our tax base.

I think on the Federal level, especially with companies in that respect, something needs to be done as far as pushing them along, and just maintaining property for 30, 40, 50 years, inactive where a company has gone out of business, like Remington, owed $7 million of back taxes, and transfers the property to an LLC, and other places like that. Those are the frustrations that we see all the time.

Mr. TURNER. Mayor Lauretti, if you can just talk about the issue of—a lot of the properties, at this point, are properties that do not have excessive contamination, many of them have light contamination. Speak for a moment, if you will, about those properties, and you don't have to be specific if you don't want to, but of the need of the properties that exist in your community, where you know there is real—not a Superfund site—but there is real contamination. The cost of decontamination exceeds the value of the property once it's cleaned, but if that property is available, it would be a great economic opportunity.

Mr. LAURETTI. I actually believe we have gotten to the point where we have been able to reverse that negative trend just through the site assessment program that we have received through the EPA and Region 1. I made in my comments earlier how helpful those were.

When you are able to demonstrate to the private entrepreneur that the costs associated with bringing a property back, to produce an economic benefit, both for the tax rolls, and for the entrepreneur, that serves as a great stimulus to get people interested. And we are actually seeing that happen now in an area that is historic, like many cities along the east coast that have been old industrial hubs for hundreds of years, and 100 years ago, that have laid fallow over the last 40, 50 years, just because of the contamination.

So I think that things like that—and I again need to emphasize how important it is to clarify the regulatory process, because we don't want to regulate any property out of the equation—we want to make sure that there are opportunities to be able to understand just what it is that we can do, and if there are other uses, if they are not economic, but are there other uses that these properties could contribute to the surrounding area that will help reduce the economics of an area.

And I mentioned in my opening comments about how it's important to establish walking areas, and green belts, and public gathering places that could serve those uses. They do provide a real benefit to the vitality of any strong economic area.

So I think that we can't focus on just one thing, we have to focus on multiple issues, when you're looking at an area, particularly from an economic standpoint, if the site has strong economic potential, then that means that the surrounding sites around it have the same type of potential, as well.

So it's the big picture that we have to try and see when we are drafting legislation to help get past this brownfield remediation issue. So I've become a big fan of the site assessment program, that's yielding big benefits for us.

Mr. TURNER. Ms. McCarthy, Connecticut has a tax credit program—we are going to let both mayors to exit. I appreciate your time.

Mr. LAURETTI. I have a little bit more time. I can stay.

Mr. TURNER. Thank you.

The taxpayer program, you mentioned this, bill 4480, which is the brownfields bill that is proposed. In that tax credit bill, we have a requirement that for taxpayers to be eligible for the tax credit, they must go through the voluntary action program. Is there such a requirement under Connecticut's tax credit program? And how does the Department of Economic Development work in conjunction with you on making certain that the extent of the cleanup and the remediation works?

Ms. MCCARTHY. Again, our hope is that we could look at the language of the legislation, make sure that it recognizes the full range of cleanups that are ongoing—both at the Federal and State level—because we have something in our system. We allow both publicly funded cleanups as well as private cleanups that are overseen by licensed environmental professionals. So it's not completely clear to us that the bill as it's currently crafted would allow a tax credit to the full range of cleanup activities that are being done on properties in Connecticut.

So that's one of the things that we would like to make sure that it happens, because we do believe that tax credits are a terrific opportunity to bring the brownfields redevelopment to happen.

Mr. TURNER. My question is the Connecticut Tax Credit Program.

Ms. MCCARTHY. Oh, I'm sorry.

Mr. TURNER. I was asking how is your experience in the coordination between the Department of Economic Community Development and its tax credit program and your voluntary action program.

Ms. MCCARTHY. My apologies.

Actually, we have a very good team that meets on our brownfield development efforts. I would say that the coordination is very good. Part of the challenge that we face, I think, is that it's often reactionary.

If someone comes into the system and wants to clean up a brownfield, it's an opportunity for us to get together and marry the various tools, including tax increment financing, which I think holds a lot of promise for urban brownfields redevelopment.

And I guess the problem that we have is that there are many sites out there that just are not on the radar screen, for a variety of reasons. And we have not put together a proactive team that

would be working with local communities to try to key those up for redevelopment opportunity.

That's the next discussion for us.

Mr. SHAYS. Can I ask you a question for a second?

Just talking about the proactive team—is the success or failure basically dependent on the approach of the communities, the mayors who run them? Are some towns really quite aggressive and doing particularly well, and others just simply are not aware of what they could be doing?

Ms. MCCARTHY. I think that it's fair to say that's one of the factors.

There are some Mayors, obviously, some that are with us today, that are very aggressive and understanding all of the benefits that are out there that they can take advantage of. But there are others that are not.

But when you're looking at brownfields redevelopment in an urban area, there are two things that need to be done. One is you have to keep the obstacles, or the costs, to develop any open spaces very high.

In an area like this, every piece of property is very valuable, and you're trying to drive development in the urban areas. So if you're zoning, and if you're conservation development plans in this community are strong, you will take some of the open spaces off the list of development.

And the second thing you need to do is really work hard to make it attractive to develop in the urban areas. And I think you need to understand, and I'm sure we all do, that's not just about the contamination issue, you know.

A city—there are many cities that do very well in brownfields redevelopment. They address the security issues, the lighting issues, the transportation issues, the transit issues, the education issues, because it's all about whether or not that site is marketable, what is its economic potential. Then the brownfields—the contamination area—is manageable and you can put together the right tools to make that happen.

But I think you're absolutely right when you raise the issue that many of the crew is gone, and we are at the next level of development where we really need to put our heads together, because it's not clear that they have the kind of economic strength they need to get over the contamination part without additional incentives from the public sector.

Mr. SHAYS. One of the points, you're really suggesting that from the EPA standpoint, there is really two benefits here.

One benefit is cleaning up a dirty site. The other one is a policy that I think is inherent to both the State and Federal Government, and that is that we are looking to see the development back in our urban areas, so we are not continuing to sprawl, make things work better, and so on.

Mr. LAURETTI. If I may, I'd just like to expand on the Commissioner's point. I think it's a good one, because we've been able to do that in our community by leveraging the CDBG block grants program that you have to do public infrastructure improvements, which eventually foster economic development. You send a signal to private development that, you know, you've made a commitment,

and that certain things are going to happen, and that's why it's important for government to be the catalyst. I really believe that this is the role that we need to play.

So while there may be an indirect approach, it still gives you the same net result.

Mr. SHAYS. Thank you for that.

I would like the EPA to just respond to the added incentive of wanting to get people back into urban areas.

Is that a policy that is intuitive on the part of both the Environmental Protection Department, or agencies, or am I thinking it should be, but it isn't part of the policy?

Ms. SANDERSON. We have a very active, strong program that is growing. We are doing more and more as we have more success.

A key partner for us is our smart growth office, and the investment in the resources that they also have. We have to really take a hard look at those development opportunities.

So that has been more mainstream for us.

Mr. SHAYS. So is that a "yes."

Ms. SANDERSON. Yes.

Ms. MCCARTHY. Yes.

Mr. SHAYS. Thank you.

Mr. TURNER. Ms. Sanderson, concerning Connecticut's Department of Environmental Protection programs, under the voluntary mediation program, I have two questions for you.

One, it says that the responsible parties may not be a party to the covenant not to sue.

And I'm not certain that is unique in Connecticut, or is that something that you see region-wide?

The second thing is that Pennsylvania has just entered into an agreement with EPA. What is your experience in looking to providing States with a broader program?

Ms. SANDERSON. It does vary. I'm familiar with the program in Massachusetts. They have a program that——

Mr. TURNER. It varies.

Ms. SANDERSON. I believe that is very much driven by State law.

Mr. TURNER. Concerning the responsible parties.

Ms. SANDERSON. Yes.

I'm sorry, your second question was?

Yes, Pennsylvania, exactly.

We do not have formal memorandums of agreements with our States. What we have, and what we found has worked in New England so far—and we are always looking for new ideas—is we have cooperative agreements with our States that have the conditions of what they use their funding for, and how they work together. That has worked for us well here in New England.

We have the advantage of proximity, and being familiar with each other from other programs. So we do depend very heavily upon our State voluntary cleanup programs, and that is a term and condition of our cleanup grants. We feel so secure in our State cleanup programs, we actually defer that piece to them as a condition of those cleanup grants.

Mr. TURNER. Ms. McCarthy.

Ms. MCCARTHY. I actually worked in Massachusetts before Connecticut. Both of them are the same.

Mr. TURNER. What about grants.

Ms. MCCARTHY. We actually have an agreement with EPA Region 1 on our corrective actionsites, where we work in alignment with one another, in which we coordinate the cleanup of those sites. It's a fairly new program, but so far, it seems to be working very well.

It's very clear that the regulated community appreciates the fact that we are trying to standardize from the cleanup levels and the process to get there, and our reviews, so that it's conducted in a timely way.

I raised the issue of certainty before as being critical. This increases the certainty, so that if you're expending funds, you're getting to a finish line that is recognized at both the Federal and State levels.

The more we can coordinate that, the better off we're going to be.

Mr. SHAYS. I would like to know the best thing about this program and the worst.

Ms. MCCARTHY. Start with me.

Mr. SHAYS. Yes.

Ms. MCCARTHY. The best thing about the brownfields program is I think it's gotten a lot of visibility at the Federal level.

The cleanup of brownfields, to me, is absolutely vital if you're going to maintain urban areas that people want to live in. You're going to be able to protect the open spaces, and the farmlands that we all want to protect. I think it's absolutely vital for quality of life that we move forward on this.

I believe the money toward assessments has been very valuable. I totally agree that brownfields inventories is probably one of the weak links, is that it would be great to have a much better understanding, so that you actually have sites up there that developers can come and choose from and understand.

Mr. SHAYS. I'm going to come back to that.

So the worst is the inventories?

Ms. MCCARTHY. And the simple fact that we have this many sites, and so few staff to oversee them in moving forward, is a significant problem.

We have to generate that kind of enthusiasm in the private sector. We have to expand our ability to oversee these sites.

Mr. SHAYS. I want to know the best and the worst from your understanding.

Then I want to come back to what that tells us.

Ms. SANDERSON. I would say the best is it forges partnerships, and it is not top down. It really tries to provide grant funding to communities without dictates and allows regional solutions, which is somewhat different from other programs.

Mr. SHAYS. And worst.

Ms. SANDERSON. The Federal process of getting Federal funding can be cumbersome, and we have tried to chip away at that process, and we can probably continue to do more.

Mr. SHAYS. I'm going to just come back and react to what you said, but I'd like the mayor to respond.

Mr. LAURETTI. The best is the final remediation of the site and the worst is getting there.

Mr. SHAYS. That's really helpful.

Staff of Bridgeport had a huge benefit in that there were some sites that nobody wanted to touch, and just having an assessment, the developers, the owners of the property, in some cases, realized that it wasn't as heavy lifting as they thought. So I felt like the assessment was, we got a big payback in some cases, because some properties started to move just by the assessment, and nothing else.

So what I'm wrestling with is whatever dollars you have, it is better to do more assessments of more properties, given that logic; or now that we've identified so many sites, is the problem that we've identified, thanks a lot, but we need help in cleaning it up?

Maybe you can respond to that.

Mr. LAURETTI. I think a little common sense needs to be employed with respect to that.

Site assessments are essential and necessary in understanding the nature and the cost associated with the nature of the remediation. And the ones that make sense, you should absolutely do.

Ms. MCCARTHY. I think, given the age of some of these programs, the assessment has been very useful, but right now we have to go to cleanup.

Mr. SHAYS. OK, but what you said, though, is that the inventory isn't there, which tells me that the assessment hasn't been as good as I thought it was.

Ms. MCCARTHY. I think the assessments have been done, but we haven't found a great way of developing a list and getting that available.

Mr. SHAYS. It's not that the assessments haven't been done.

Ms. MCCARTHY. Many have been done. We don't do a great job in organizing those.

Mr. SHAYS. Who should be doing that, the State or the Federal Government?

Ms. MCCARTHY. I think it's done at different levels but it would be very useful if we could coordinate it.

Mr. SHAYS. If this committee were to make a recommendation—that's one of the things that this committee does, it basically attempts to determine what the problem is, and what are the solutions recommended to a variety of municipalities—so who should be doing that coordination?

Ms. MCCARTHY. Well, if you're offering the Federal Government, it would be a great place to coordinate that activity.

Mr. SHAYS. It mandates the States or local governments.

Ms. MCCARTHY. Well, I know EPA has given grants to have this happen at the local level, and I know they've tried to spur the State to get involved in these activities. We agreed that it needs to be done.

Mr. SHAYS. It needs the coordination.

Ms. Sanderson.

Ms. SANDERSON. We have seen many more applications for cleanup grants and for revolving loan grants. So one thought would be looking at some of the fixtures made to the loan program, and to reward successful grantees who have gotten revolving loan grants. You made a loan, you certainly have the opportunity ahead of you to have supplemental funding for the application process, and reward high performance.

Mr. SHAYS. I just want to thank our witnesses for your comments. I appreciate it a lot. It's great to have you here.

I appreciate you coming from Boston and Hartford.

Mr. TURNER. I thank all of you for participating, for your insights today.

I want to give you one last opportunity, if something occurred that you want to respond to. We are finished with our questioning, if you have some statement that you want to make, this is your opportunity.

Ms. MCCARTHY. Could I just make one final pitch for the bill, actually, that is proposing to look at this in a comprehensive way?

I'm serious. The world doesn't dissect things the way Government does. To go into a brownfields site and say the only thing we can deal with is the hazardous waste component, but we can't deal with the demolition, of the asbestos, of the lead, of the pesticides—that's not how the real life works. So if we could really look at this as a more comprehensive approach, it really makes ultimate sense I think to all of us, even us bureaucrats.

Mr. TURNER. Thank you for that.

Anything else? If not, we will turn to our second panel.

Our second panel includes Elizabeth Barton, Joseph Carbone, Robert Santy, Stephen Soler, and Barry Trilling.

We are now on our second panel of witnesses.

Before you begin your prepared remarks, the red lights indicates your time has expired, the yellow light indicates when you have 1 minute left to conclude your remarks.

It is the policy of this committee that all witnesses be sworn in before they testify.

Will you please rise and raise your right hands.

[Witnesses sworn.]

Mr. TURNER. Let the record show that all witnesses have responded in the affirmative.

We will begin with Ms. Barton, partner of Day, Berry & Howard. Ms. Barton.

STATEMENT OF ELIZABETH BARTON, CHAIR, ENVIRONMENTAL AND LAND USE DEPARTMENT, DAY, BERRY & HOWARD, LLP

Ms. BARTON. Thank you.

Mr. Chairman, Congressman Shays, members of the subcommittee, I thank you for the opportunity to appear before you today on the topic of brownfields redevelopment in Connecticut and the new England region.

My name is Elizabeth Barton. I am a partner with Day, Berry & Howard, Connecticut's largest law firm.

In addition to our five Connecticut offices, Day, Berry & Howard has offices in New York City and Boston.

I chair the Environmental and Land Use Development at Day, Berry & Howard and have been practicing in the environmental and land use area for over 20 years.

I am resident in Day, Berry & Howard's Hartford office.

I am presently the Secretary of the Connecticut Chapter of the National Brownfield Association, a member of the National Brownfield Association's Advisory Board, and a Co-Chair of the

Government Affairs Task Force of the Connecticut Business and Industry Association's Environmental Policies Council. I have been a member of the Board of Directors of the New England Council and also the International Council of Shopping Centers for many years. My experience in the brownfield arena is as counsel to the universe of stakeholders, including owners, developers, lenders, and governmental entities.

I have been extremely fortunate in that my experiences in the brownfields arena span the full spectrum, from the very large urban properties—specifically, to Brass Mills Shopping Center Mall, in Waterbury, CT—to the small parcels being developed by nonprofit organizations.

I also am working on a true public-private partnership with the Fairfield Metro Center, in Fairfield.

Brownfields redevelopment, as I think many of the people have spoken to it today, have acknowledged is a win-win for all State owners.

I applaud the efforts of this subcommittee. The emphasis today is on job creation, job retention, both of which directly rely on economic health and more progress.

I would like to touch on several points. It is real estate development, with unique challenges, that carry additional budget line items. Brownfield projects are real estate projects. There is a need to make it economically viable to pursue the brownfield redevelopment completion. There are direct economic incentives such as grants, loans, and tax credits, but also, the lack of predictability translate into additional project costs.

These are three significant impediments, the lack of coordination, the continuing liability, and the lack of finality to the plan.

A second point, unfortunately, for all of us trying to address these issues, it is not a one size fits all situation. A specific brownfields property where it might cost more for remediation than the value—some might benefit most from either tax credit measures such as that provided in H.R. 4480 or incentives that encourage and facilitate the assemblage of clean and not so clean properties. The latter, however, may require greater employment of resources to better address concerns about the predictability and finality of the process and any residual liability for the owner or developer of the site. Development actually requires us to look again into very hard public policy. We need to address those.

We need to get more properties to the market, and we need to get more developers interested.

We need to realize from the Connecticut transfer experience that we need a clear and reasonable end point.

Thank you again for the invitation to be here today, for your continued support for the brownfields redevelopment.

Thank you.

[The prepared statement of Ms. Barton follows:]

Testimony of Elizabeth C. Barton, Esq.
Partner, Day, Berry & Howard LLP, Hartford, CT
"The Connecticut Experience: What Can be Done to Spur Brownfield Redevelopment Along America's New England Corridor?"
Before the U.S. House of Representatives Committee on Government Reform
Subcommittee on Federalism and The Census

March 13, 2006
Bridgeport, Connecticut

Mr. Chairman and members of the Subcommittee, I thank you for the opportunity to appear before you today on the topic of brownfield redevelopment in Connecticut and the New England region. My name is Elizabeth Barton. I am a partner with Day, Berry & Howard, Connecticut's largest law firm. In addition to our five Connecticut offices, Day, Berry & Howard has offices in New York City and Boston. I chair the Environmental and Land Use Department at Day, Berry & Howard and have been practicing in the environmental and land use area for over 20 years. I am resident in Day, Berry & Howard's Hartford office. My practice, like the practice of Day, Berry & Howard, is national in scope, with a primary focus being New England. I have been very fortunate in that my experiences in the brownfield arena span a full spectrum, from the very large, private redevelopment of an abandoned industrial, urban property by a widely respected national retail developer to the small, underutilized contaminated parcel being redeveloped by a local nonprofit community organization. While these projects can differ significantly in scope, a number of the challenges they face as brownfield redevelopments are the same.

I testify before you today as an individual who firmly believes brownfield redevelopment is a win-win for all stakeholders and essential to the economic vitality of our region. I applaud the efforts of this Subcommittee to understand and then address the impediments to brownfield development that still exist today. While there is ample evidence of government's commitment at the federal, state and local levels to brownfield redevelopment, the successful brownfield project in Connecticut, as elsewhere, is still more of an effort and an exception than it should be. I share the commitment to making Connecticut and New England ever more conducive to the investigation, remediation and productive reuse of our brownfield properties, many a legacy of an industrial past that is an integral part of the fabric of our country as well as our region.

I am presently the Secretary of the Connecticut Chapter of the National Brownfield Association, a member of the National Brownfield Association's Advisory Board and a co-chair of the government affairs task force of the Connecticut Business and Industry Association's Environmental Policies Council. I have been a member of the Board of Directors of the New England Council and also the International Council of Shopping Centers for many years. My experience in the brownfield arena is as counsel to the universe of stakeholders, including owners, developers, lenders, and governmental entities.

As the Subcommittee accurately notes, even without the benefit of a comprehensive national inventory, it is safe to assume that Connecticut is among those states with a disproportionate share of these unproductive sites. The emphasis today in Connecticut is on job creation and retention, both of which rely on economic growth and sustainable development. Connecticut's economic health and the enhanced cleanup and redevelopment of the unproductive sites within its borders are inextricably linked.

In my testimony, I would like to touch upon several topics of continuing critical importance to brownfield redevelopment. Brownfield redevelopment first and foremost should be seen as what it is, that is, a type or subset of real estate development. It is real estate development with unique challenges that carry additional budget line items. We have spoken for years about the need to "level the playing field" to assure brownfield redevelopment. The reality is that effective competition with greenfield and out of state locations actually requires a demonstrable "edge" for the brownfield site. Topics of relevance to giving this edge include streamlining the development process, predictability and finality. Since brownfield projects are real estate projects and the real estate projects that get built are profitable projects, the common driver behind all of these topics is the need to make it economically viable to pursue the brownfield redevelopment to completion. In the real estate development realm, this viability can come in the form of direct economic incentives, such as grants, loans and tax credits, but also, since time delays and a lack of predictability translate into additional project cost, viability is enhanced with the constructive coordination of regulatory involvement, clearer limitation on and definition of liability for those involved, and finality when it comes to addressing historical site conditions.

The actions of agencies such as the United States Environmental Protection Agency, the Connecticut Department of Environmental Protection and Connecticut's economic agencies in making loan and grant funding available for brownfield redevelopment are commended and should continue; they facilitate brownfield redevelopment. Current efforts toward making these direct financial tools more flexible and transparent as to who and what costs are eligible and when are critical to maximizing their benefit. In Connecticut, where there has been a resurgence of an emphasis on, and the integration of, comprehensive and responsible land use planning, there is a need likewise for the reassessment and continuing evolution of public policy and regulation impacting, direct and indirectly, brownfield redevelopment. H.R. 4480 and several bills before the Connecticut General Assembly this session reflect a realization of this need for continual reassessment and evolution.

We now have, and should take advantage of, hindsight into how the multiple funding mechanisms have or have not worked in furthering brownfield redevelopment. Each of these mechanisms, at a minimum, is ripe for a cost/benefit analysis as a step toward an informed reassessment of the best use of available, but understandably limited, funding. As the brownfield redevelopment area continues to mature, we need to ask how can we assure we are getting the most from our public dollars.

Part of the challenge we face stems from the fact that one size does not fit all when attempting to identify and then address impediments to a brownfield cleanup and redevelopment. Where the value of a specific brownfield property, once remediated, is less than the cost of remediation, the incentives that will spur redevelopment likely differ from the incentives that will make or break

the redevelopment of a former manufacturing site in the midst of residential development or even other commercial or mixed use properties. The former might benefit most from either tax credit measures such as that provided for in H.R. 4480 or incentives that encourage and facilitate the assemblage of clean and not-so-clean properties (thereby spreading the cost of investigation and remediation and resulting in an acceptable cost per acre developed). The latter, however, may require greater employment of resources to better address concerns about the predictability and finality of the process and any residual liability for the owner or developer of the site. Each stakeholder in a brownfield redevelopment has a discrete level of risk tolerance. If this risk tolerance can be accommodated or, in the alternative, revised upward due to public policy and regulatory involvement, the project will likely move forward.

A successful brownfield project is not necessarily one dependent upon public funding. The reality is that even where such funding would be available, private parties may opt to not pursue it, if only because of the process involved in securing the funding. Connecticut's 20 years of experience with its Transfer Act gives insight into how the private sector works when it comes to transactions involving contaminated properties. While there have been significant amendments to this program over the years, a large measure of its success at getting parties in a transfer of a covered property or business to focus on relevant environmental conditions is attributable to the negotiation and allocation of obligation and risk among the private parties, that is, without the direct involvement of the regulators. The success of this program, which is usually applicable to any brownfield redevelopment, can only be enhanced to the extent we can give more clarity to the extent of liability to investigate and remediate and to how and when this liability will be satisfied. Statutory provisions such the 2002 federal legislation and the third party liability legislation passed by the Connecticut General Assembly last session lessen the uncertainty as to the allocation of, or at least help in the effort to bracket, this liability. Should the purchaser and the developer of a brownfield site be viewed differently from the potentially responsible party? Without the actual or perceived inflexibility in other regulatory schemes, i.e., RCRA corrective action and closure, which currently do not expressly deal with brownfield redevelopment, where on-site sources of contamination and continuing offsite releases are being addressed by a brownfield redevelopment, should the purchaser or developer be required also to disprove to a certainty any linkage between potential off-site contamination and historical activities at the brownfield site? In a state like Connecticut, fortunate to have a wealth of land which borders significant and valued waters, should the purchaser or developer of such land be required to "chase" any potential historical contamination into waters bordering a site, particularly where there are likely multiple historical uses and potential sources for such contamination?

What keeps an owner of a brownfield from either remediating and redeveloping it on his or her own or, in the alternative, transferring it to someone else toward this same end? Assuming this owner is not in the business of remediating and redeveloping contaminated properties, he or she is typically looking to transfer this liability to the greatest extent possible. However, the owner realizes that with such a transfer he or she could remain liable to third parties. Hence, during negotiation of such a transfer, much attention is given to mechanisms to assure the complete and timely satisfaction of the liability or risk being transferred.

Connecticut has (and should tout) its brownfield successes, large and small, for profit and not for profit. However, the experience in other states might suggest ways to maximize these successes

in number and type. There is an actual or perceived opportunity to coordinate public agencies (and multiple offices within these agencies) involved in a brownfield investigation and redevelopment. A bill introduced this session at the Connecticut General Assembly – Raised Bill No. 5685, entitled An Act Concerning Brownfields – would create an Office of Brownfield Remediation and Development within the Connecticut Department of Economic and Community Development. Connecticut's Commissioner of Environmental Protection Gina McCarthy has recently appointed her Department's first Brownfields Coordinator. The Connecticut Department of Environmental Protection, Connecticut Department of Economic and Community Development and Connecticut Development Authority have gotten together in an effort to work collaboratively on economic development, including brownfield development. But can even more be done to coordinate process under otherwise independent programs both within and among these and other agencies? A framework that, rather than adding layers, streamlines and promotes the consistency of the outcomes of these regulatory processes as they apply to brownfield redevelopment is needed. A single point of agency contact, with an ability to facilitate the review and permitting of brownfield related activities, would be a welcomed priority.

I previously referenced Connecticut's Transfer Act. Especially as these properties are now changing hands, some for the third or fourth time, the absence of a clear and reasonable end point in the Transfer Act process can frustrate this activity. Without knowledge of an endpoint (including the conclusion of any agency audit period), parties struggle to identify remedial work that any agency or subsequent purchaser or major tenant could conceivably see as yet to be done and then quantify its cost, a step in the negotiation which is significantly handicapped by the absence of greater predictability. Often, for example, the parties cannot identify the amount and term of security to support the allocation of responsibility between the parties. Because a brownfield redevelopment may be undertaken, not by the potentially responsible parties, but rather by those seeking to implement a well defined investment strategy, there is generally only a greater need for clarity and finality. On the flip side, even the otherwise potentially responsible seller requires this clarity and finality since his or her control of the property could be transferred with the risk.

Connecticut's increased focus on how we grow and the most appropriate use of an aging infrastructure dictates only a greater need for special recognition and priority for the cleanup and redevelopment of its brownfield sites. We must identify and make the most of creative and different ways to leverage public monies and directly address identified impediments to brownfield redevelopment that still remain. Adopting the slogan heard at last week's rally at the State Capitol in support of legislation for the funding of statewide transportation improvements, we must all pull together to "Keep Connecticut Moving."

Thank you again for the invitation to be here today and for your continued support of brownfield redevelopment. Mr. Chairman, I would be happy to respond to any questions any member of the Subcommittee may have.

Mr. TURNER. Mr. Carbone.

STATEMENT OF JOSEPH CARBONE, PRESIDENT/CEO, THE WORKPLACE, INC.

Mr. CARBONE. Thank you, Mr. Chairman, Congressman Shays.

I'm Joe Carbone. I am president of the Workplace, Inc. We act as the regional work force in southwestern Connecticut. From the standpoint of work force development, we cover the town of Beacon Falls, CT.

I get the opportunity here today to not get into kind of the fine print of brownfield sites, but sort of a nice ancillary kind of a program.

The Workplace has received two Federal competitive grants, and participated in a third one that provides occupational skills. It is actually a program that began about 5 years ago. We have two completed projects. I have a third project under way right now in Stamford, CT.

As part of my testimony, I have given you information and reports really breaking down all the work that has been done in the two areas and also work that has been under way so far at the Stamford region.

From the standpoint of jobs—and that is what our business is all about—there is a very, very clear distinction between both the nature of the jobs that are being marketed in the environmental health area in this region and the wages that comes with them.

We are talking very clearly about jobs, jobs that are really at the point of a career and can grow as years go on, and opportunity for further education that can lead to increasingly better real kinds of opportunities, careers for people.

I am here today to say that we are offering our continued support for jobs. About $2 million a year has been allocated in the bill, and there have been anywhere from 10 to 12 sites each year that have been designated to receive it.

In our region of Connecticut—I just want to give you an idea, I just took some numbers here from the completed sites, which is the Bridgeport project and the Valley project, and we are looking at the cost here of the combined sites, a $400,000 grant; and they were entered into the program; 103 people entered, actually were trained; 19 of them did complete. These numbers are much greater than the usual trend in the American work force—90 percent completion. And in terms of the number of people that entered employment, we are looking at 87 percent, an average wage of $13.81 per hour.

It is not just a case of something that can lead to a career track. For a very small part of the package, there is a great return. These opportunities for training, these are people who reside in the designated areas that are brownfields. Sometimes it appears to be something negative. By the way, a number of them became misplaced, because they worked in factories that were vacated and they are picking up an opportunity which would result from the cleanup that is going on, or has been going on, and will go on in the future.

In terms of opportunity, it is great; good for our region. And I guess the important point that I want to at this point leave you

with is that most people really didn't recognize the opportunities, the field of environmental opportunites that is out there. We don't have difficulty taking people from training to employment and to employment again in these higher wage kind of jobs.

To the extent that you can either continue or increase that, the opportunities are greater. I think we are feeding into a sector of the workforce where there is clearly a growing need, not just here in our region, but across the State, and certainly, across the northeast, as well.

The last point I want to make here is that as hard as we worked in the field of brownfields redevelopment, our job is to bring that work with us.

I would really be remiss in sitting here today if I didn't thank you. The gentleman in front of me, seated to your left, he has been a great friend of workforce development in southwestern Connecticut.

I have been here at the Workplace now for 10 years, actually 10 years as of next week, and I have been engaged in an effort to try to build and kind of build our current workforce system to not just make it larger, but to service more people, to actually service those that are part of our system even better.

[The prepared statement of Mr. Carbone follows:]

Leon Bailey, *Chair*
Denise T. Davidoff, *Vice Chair*
Joseph M. Carbone, *President and Chief Executive Officer*

350 Fairfield Avenue
Bridgeport, CT 06604

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www.workplace.org

March 7, 2006

Michael R. Turner, Chairman
Subcommittee on Federalism and the Census
Committee on Government Reform
B-349A Rayburn House Office Building
Washington, DC 20515-6143

Dear Mr. Turner:

This is in response to your request for written testimony in advance of the March 13 hearing in Bridgeport on Brownfields redevelopment in Connecticut.

The WorkPlace, Inc., Southwestern Connecticut's Workforce Development Board, has participated in three EPA grants to provide occupational training in environmental remediation as part of Brownfields projects.

Detailed outcomes of these projects – completed in Bridgeport and the Naugatuck Valley, currently underway in Stamford – are included, below. Overall, these Brownfields training projects have been among the most effective in our experience – they provide intensive and highly relevant training, resulting in a high rate of employment for graduates. They launch people into jobs with good pay and career potential.

As you consider potential improvements which would encourage Brownfields redevelopment, we would like to see continued support for training as part of the package. The scope of training could be expanded to cover advanced topics and a broader range of environmental fields. Connecticut could develop an industry initiative focused on Brownfields redevelopment and environmental controls, and a broader training agenda would facilitate investment in workforce development for this industry.

This approach would lend itself well to the creation of an "Environmental Health & Safety Academy", working in partnership with employers to provide continuing education and skills development through incumbent worker training. This would provide a vehicle for workers to keep up with the latest technology and techniques in this growing field.

Thank you for this opportunity to provide input.

Sincerely,

Joseph M. Carbone
President and Chief Executive Officer

THE WORKPLACE, INC.

Leon Bailey, *Chair*
Denise T. Davidoff, *Vice Chair*
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The following sections provide of the outcomes (summary statistics) of Brownfields programs operated by The WorkPlace, Inc. and the goals of the newest Brownfields grant:

1. Bridgeport Brownfields Training Pilot Project
2. Naugatuck Valley Brownfields Training Project
3. Combined Bridgeport and Naugatuck Valley Brownfields Training Projects
4. Goals of the Stamford Brownfields Project.

Section I – Bridgeport Brownfields Training Pilot Project

Amount of Award: $200,000 - Leveraged Funds: $36,000 - # of Training Cycles - 3
Participants Entering Training – 49
Participants Completed Training – 44 (Training Completion Rate – 90%)
Participants Entering Employment – 38 (Entered Employment Rate of those who entered training – 78%;
Entered Employment Rate of those that completed training – 86%)
Participants returning to school for advanced training – 2
Average Hourly Rate - $13.46 (all with benefits)

Section II – Naugatuck Valley Brownfields Training Project

Amount of Award: $200,000 - Leveraged Funds: $42,000 - # of Training Cycles - 3
Participants Entering Training – 54
Participants Completed Training – 46 (Training Completion Rate – 85%)
Participants Entering Employment – 40 (Entered Employment Rate of those who entered training – 74%;
Entered Employment Rate of those that completed training – 87%)
Participants returning to school for advanced training – 1
Average Hourly Rate - $14.16 (all with benefits)

Section III – Combined Bridgeport and Naugatuck Valley Brownfields Training Projects

Amount of Award - $400,000 - Leveraged Funds: $78,000 - # of Training Cycles - 6
Participants Entering Training – 103
Participants Completed Training – 90 (Training Completion Rate – 87%)
Participants Entering Employment – 78 (Entered Employment Rate of those who entered training – 76%;
Entered Employment Rate of those that completed training – 87%)
Participants returning to school for advanced training – 3
Average Hourly Rate - $13.81(all with benefits)

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Section IV – Goals of the Stamford Brownfields Project

Amount of Award - $141,746 - Leveraged Funds: $57,500 - # of Training Cycles - 2
Participants Entering Training – 40
Participants Completed Training – 36 (Training Completion Rate – 90%)
Participants Entering Employment – 33 (Entered Employment Rate of those who entered training – 83%;
Entered Employment Rate of those that completed training – 92%)
Average Hourly Rate - $15.00(all with benefits)

Other Considerations:

1. Competitive Bid;
2. Trainer is Woman Owned Business;
3. Development of Curriculum in consultation with Businesses doing Brownfields remediation;
4. Leveraged use of WIA services;
5. Leveraged funding from corporate community for:
    a) CDL Training with Hazardous Waste Transport Provision
    b) Licensing Fees
    c) Medical Testing
    d) Other (Clothing, work shoes, etc.)
6. Serving most in need residents living in Brownfields areas;
7. Liaison with Municipal Boards, Community Based Organizations, Faith Based Organizations, local companies involved in Brownfields remediation;
8. Advanced Education as a goal and positive outcome;
9. Opportunities for continued education for those obtaining employment after training
10. Establishment of local academy.

Mr. SHAYS. I believe in what you are doing.
Mr. CARBONE. And I thank you.
Mr. SHAYS. Thank you.

STATEMENT OF ROBERT SANTY, PRESIDENT, REGIONAL GROWTH PARTNERSHIP

Mr. SANTY. My name is Robert Santy, and I am president of the Regional Growth Partnership [RGP].

RGP is a non-profit economic development organization comprised of public and private sector members in 15 towns in south central Connecticut.

We perform a variety of functions in our region—Connecticut being one of the two States in the Nation that lacks county government. I will come back to that in a few minutes. For example, we support transportation initiatives such as the expansion of our local airport, increased train stations, and infrastructure improvements for our highways.

Mr. SHAYS. Do you have a counterpart in the greater Bridgeport, Stamford area?

Mr. SANTY. I would say—and BRBC, are similar, but they don't have the same economic development functions. Metro Hartford Alliance and—are more similar to what we do.

Mr. SHAYS. Got you.

Mr. SANTY. We provide a variety of services to our towns. In our region, we provide our local economic development offices with support ranging from grant writing to networking opportunities and we seek ways for our region to work together.

We are a small State, made up of small communities. Our average town size is about 25 square miles. So really, our towns need to work together, if they are to achieve the economic grout that we need to achieve as a State.

One example of what we have done for our region is our brownfields development program, and of course, on the other side of that one is greenspace preservation and smart growth. And RGP has been a leader on these issues for several years.

RGP has been working on brownfield projects for almost 10 years. We have been the recipient of $1.25 million in grant dollars from the State Department of Economic and Community Development to conduct site assessments on properties in our 15 towns.

To date we've done phase I, II or III assessments on over 85 sites in our 15 communities, and these investigations have assisted municipalities and private property owners to expand, purchase, sell or lease their buildings. In every case, the project has been stalled due to the lack of funding to complete the necessary testing and would not have proceeded were it not for our funding.

In addition to State funding, RGP has been the recipient of two Federal EPA grants. In 2000, working in conjunction with our council and government, we secured a $200,000 assessment grant. And in 2003, RGP was awarded a million dollar revolving loan fund. And we are currently working to close our first loan under that program in the city of Meriden.

However, even with our successful track record, it has been difficult for our organization to obtain funding. We have a great partnership with both EPA and the State DEP, and the Department of

Economic and Community Development, but actually, qualifying for Federal funding has been an issue for us. We had to expend a considerable amount of money to pay attorneys to work with our Council of Governments, and get an opinion from our Attorney General, to argue that we, in fact, qualified as a political subdivision in the State, which is the requirement under Federal statute.

In other States, of course, with governments, this would not be as big an issue, but there are also issues, I think, in other States.

We hit a similar block recently in talking to the National Park Service about Groundwork USA and becoming a groundwork trust, which is funded with EPA dollars. And although in other States Groundwork USA has worked with the counties and regional planning agencies, they have not worked with a regional not-for-profit organization to perform similar functions.

We are convinced that a regional entity advocating and managing brownfields redevelopment should be eligible for these programs and is probably one of the most efficient organizations to administer them.

Our 15 towns clearly have limited resources. You spoke earlier about Bridgeport and Shelton taking advantage of these programs, other towns that don't. There are certainly towns that cannot afford the administrative burden of some of these programs, so we hope we address that by doing it on a regional basis, and working with our towns.

I mentioned earlier we are close to closing our first EPA revolving loan fund loan in the city of Meriden. The important EPA program was considered essential for our region in order to have access to the remediation dollars, which, as we know, are difficult to identify in brownfield projects.

The RFL funding was a perfect fit for the Meriden site. There were no complicated financial issues, however, the process that we had to undergo to get to the point of drawing up loan documents has taken us a year-and-a-half. Difficulties arose due to a pending lawsuit against a potentially liable party, which required detailed opinions from many lawyers regarding the Superfund.

Additional problems arose when we realized much of the contamination was petroleum, instead of hazardous waste, and our application was for hazardous waste. So we weren't able to do the petroleum cleanup because our dollars were dedicated to hazardous waste, something Commissioner McCarthy mentioned when she said maybe we can broaden some of these definitions.

Fortunately, these issues have been worked out, but as I mentioned, the process has taken us a year-and-a-half, and we are just about to close the loan.

I'd also like to turn for a moment to your bill, Mr. Chairman, H.R. 4480, which is co-sponsored by two Connecticut Congressman that I am aware of, Congresswoman Nancy Johnson and Congressman Shays. And I would just say, in the interest of time on that, that again, it is a toolbox that needs to be full in order to do the stuff effectively.

And I would say that most of the low hanging fruit, to use a phrase that comes up again and again today, probably has been dealt with, and we deal with a lot of smaller sites, with a lot more difficult issues. And the more options we have, both on assessment

remediation and redevelopment, as far as financing for those functions, the better off we are. So we would welcome new tax credit legislation at the Federal level.

Thank you for the opportunity.

And I'd be happy to answer your questions.

[The prepared statement of Mr. Santy follows:]

Statement of Robert Santy
President, Regional Growth Partnership

before the
U.S. House of Representatives
Committee on Government Reform
Subcommittee on Federalism and the Census

My name is Robert Santy and I am President of the Regional Growth Partnership or RGP. RGP is a non-profit economic development organization comprised of public and private sector members in 15 towns in South Central Connecticut. We perform a variety of functions in our region, Connecticut being one of two states in the nation that lacks county government. For example, we support transportation initiatives such as the expansion of our local airport, increased train stations, and infrastructure improvements for our highways. We provide our local economic development offices with support ranging from grant writing, to networking opportunities, and we seek ways for our region to work together. As a small state which practices home rule, it is important to the competitiveness of our region for our towns to consider an area larger than their one town.

A good example of a priority regional issue is brownfields development and the other side of the coin, greenspace preservation and smart growth issues. RGP has been a leader on these issues for several years.

RGP has been working on brownfields projects in our region for almost 10 years. We have been the recipient of $1.25 million in grant dollars from the State of Connecticut to conduct site assessments on properties in our 15 towns. To date, we have completed Phase I, II, and III's on over 85 sites in our region. These investigations have assisted the municipalities and private property owners to expand, purchase, sell, or lease their buildings. In every case, the project had been stalled due to lack of funding to complete the necessary testing and would not have proceeded if it were not for our funding. In recent years, RGP has changed the program from grants to a loan program in order to revolve the funding.

In addition to State funding, RGP has been the recipient of two EPA grants. In 2000, working in conjunction with our Council of Governments, we secured a $200,000 Assessment Grant (which was closed out in 2005), and in 2003, RGP was awarded a million dollar Revolving Loan Fund. We are currently working to close our first loan in the City of Meriden for $500,000.

However, even with our successful track record, it has been difficult for our organization to obtain funding. Although EPA Boston has been very supportive of our program, actually qualifying to become a grant recipient was difficult. We had to expend a considerable amount of money to pay attorneys to work with the Council of Governments and the Attorney General of Connecticut to argue that we are an "arm" of the COG, which in Connecticut is considered a political subdivision of the State. In other states, efforts to work regionally would not be so difficult.

Another example of our difficulty in working with federal agencies is Groundwork USA, which is a program funded by the National Parks Service and the EPA. Although in other states Groundwork USA has worked with counties and regional planning agencies, they have not worked with a regional non-profit organization performing similar functions. We are convinced that a regional entity advocating and managing brownfields redevelopment for community gardens, public parks, greenways, and other similar projects, is the most efficient use of this program in our region. Our 15 towns with limited resources and staff support cannot participate in these programs on an individual basis. We suggest that some language be adopted to address the anomaly in Connecticut's governmental structure. We know that regional solutions make sense, but many regional organizations are not political subdivisions and therefore are not eligible. While we recognize the need to have some measure of whether an organization legitimately represents a particular geography, that can be achieved while still broadening eligibility criteria.

As mentioned earlier, we are close to closing our first EPA RLF loan in the City of Meriden. This important EPA program was considered essential for our region in order to have access to remediation dollars which, as we know, are difficult to identify in brownfield projects. The RLF funding was a perfect fit for the Meriden project. There are no complicated financial issues to resolve and the remedial action was already completed and approved by the State. However, the process we have had to undergo to get to the point of drawing up loan documents has taken a year and a half. Difficulties arose due to a pending lawsuit against a potential liable party which required detailed opinions from many lawyers regarding Superfund Law. Additional problems arose when we realized much of the contamination was petroleum contamination instead of hazardous waste which is how our funding was categorized. When we requested our funding be used for petroleum, EPA replied that the funding cannot be changed, nor could we apply for supplemental funding to close the loan since we had not closed a loan to date. Fortunately, these issues have been worked out, but as I mentioned, the process has taken a year and a half. The program administration can be overwhelming and costly, and certainly not a program which our individual towns can administer themselves. I understand many changes have been made to the program in recent years, however, more improvements must be made statutorily to make the funding more attractive to developers, and shorten the time it takes to close a loan.

Chairman Turner's bill HR 4480, which is co-sponsored by Connecticut Representative Nancy Johnson, would create a federal environmental remediation tax credit for 50 percent of the qualified remediation expenditures paid. We support this important

initiative. Programs that help fill our "tool box" are essential to offer to developers who are making decisions whether to redevelop a brownfield or an increasingly scarce greenfield. In many instances of brownfields development in our communities, the "low hanging fruit" has already been plucked. We have been left with the harder, more complicated sites that need more assistance, funding, and creative solutions. Tax credits, together with other creative solutions such as TIFs, limiting liability, or assessment programs similar to the one we have managed, will all work toward making these difficult sites easier to redevelop and in turn save our open space.

Thank you for the opportunity to address you today.

RGP

Possible expanded eligibility language for EPA grant programs

The following language is taken from regulations governing Economic Development Administration Investment Assistance found at 13CFR 301.2.

An Eligible Applicant that is a non-profit organization must include in its application for Assistance a resolution passed by (or a letter signed by) an authorized representative of a general purpose political subdivision of a State, acknowledging that it is acting in cooperation with officials of such political subdivision.

Or, this language referring to organizations that have developed a plan under federal law that has been approved by the federal Economic Development Administration. Such a plan will have been developed with strong local and regional input, and will have the endorsement of the local governments that were a party to the plan.

An Applicant is eligible for assistance under this chapter if they have a Comprehensive Economic Development Strategy with a brownfields redevelopment component that has been prepared and approved in accordance with 42USC3162.

Mr. TURNER. Mr. Soler.

STATEMENT OF STEPHEN SOLER, PRESIDENT, GEORGETOWN LAND DEVELOPMENT CO.

Mr. SOLER. Thank you, Chairman Turner and Congressman Shays, for inviting me to testify before this Committee on such an important topic.

For the record, my name is Stephen Soler. I'm president of the Georgetown Land Development Co., the owner and developer of a 55 acre wire mill in the Georgetown section of Redding, CT, a town of about 8,500 people, so it's not a big city. I've been in the brownfields business for well over 10 years and have developed about 50 properties.

Our development plan calls for the reuse of this property, if you will. They will have about 416 residences, about 350,000 square feet of commercial space.

Mr. SHAYS. How much commercial?

Mr. SOLER. About 350,000 square feet of commercial space.

It will create 1,500 jobs, 1,500 jobs that have not existed there since 1959, which it gets to one of the points the State of Connecticut is trying to stimulate job retention, job creation.

The purpose of my testimony today is to talk about the process we went through, and how coordinated State and Federal resources make complex redevelopment a reality.

The most important point I could make in this testimony is that this process could be replicated and used as a model throughout the United States. But first, a little bit of history to understand how we got to where we are.

In 2000, the town of Redding, a town of 8,500 people, wrote about $1 million in taxes.

They watched a large, thriving complex. Under the leadership of the first selectman, they knew something had to be done, so they enlisted the services of a Connecticut architect and planner, Patrick Pinnell, and listened to him on what could happen.

Pinnell suggested that this would possibly become a new village. By taking some of those historic buildings and integrating it into the existing area, that you could create a new town center. But there was a problem. Nobody knew how much it was going to cost to clean up the property. There was wild speculation, it was $30 million, it was $50 million, and that gets to the point about getting assessments done.

Pinnell advised the town, and we listened to what he had to say.

One of the problems that has faced brownfields, I think it's probably the largest problem that's faced brownfields, is the fact that secured creditors refuse to take title to these properties. You heard from the Mayor that there are a lot of properties that they can't take on the liability. Those secure creditors include banks and tax holders. There are taxes that are past due that are owed to cities and towns. I primarily purchased those properties by buying the mortgages and taxes, so I kind of knew how to go about doing this.

In 2002, I made a proposal to the town to repurchase the outstanding taxes for about $1 million. And part of our agreement with the town was to involve them in the planning process, and also to make available to them remediation information. We were

going to investigate the site, and make that information available to the public, so that people knew what was going on. And I think that's also a big issue, that people have no concept of what's really going on. And when you do get that information out there, you sort of break down that barrier, what is really going to happen, and what people think is going to happen.

Based on our development plan, the former wire mill, we bought those taxes in 2002, September 2002, negotiated the deed from the owner, who no longer wanted it, and in March 2003, acquired the mortgage from the bank.

To put that into perspective, the bank put $26 million, and to further complicate the problems, it was the Commercial Bank of Kuwait, go to the local bank and buy the mortgage.

We spent the better part of 2003 stabilizing the property and completing the environmental investigation. And in October 2003, we had a planning session which involved the town. We had over 1,000 residents attend that Charrette.

Many of the ideas that came out of the Charrette were given to us by local residents and stakeholders.

Mr. SHAYS. Just to stop you for a second.

Mr. Chairman, this was an amazing thing to watch, because the developer had a concept, he came forward with a concept, invited the whole community to come in, and then was receptive to amend, change, adjust, based on good suggestions of the residents.

I have to tell you, it was one of the more impressive things that I've seen since I've been in government.

Mr. SOLER. It was a pretty impressive process.

At any point in time, they didn't know what was going to happen at the end of the week.

There was some consensus that was built as to what could happen, and it all started with Pinnell's initial drawings, initial ideas.

Mr. SHAYS. Let me ask you, you also had different groups of people to go to, and they could make a suggestion, and the artist, on the spot, would kind of conceptualize and draw, and let people know what this would look like, based on their suggestions.

Mr. SOLER. It was a very proactive Charrette. We had about 50 people working for us during the Charrette process.

So that, as a group that was dealing with the transportation issues, they had some concerns that they wanted to raise. We had transportation professionals, they were transportation planners, engineers. They could actually solve and answer that question right then and there.

What that also did was it took a lot of the problems that we normally faced with large scale developers off the table because people got the answer to their question right away.

Mr. SHAYS. We'll get him back up here later to see it.

Mr. SOLER. The Charrette input, for the record, included information from U.S. EPA, Connecticut DEP, local planning and zoning officials, historic preservationists, the National Park Service, and various departments of Connecticut DOT who were working with us on reactivating the train station that was closed, and that train station would provide service to Grand Central Station.

The plan, after we had done the Charrette, was presented to the town in June 2004, or just about 8 months later, and in September

2004, we received unanimous approval with no appeal. That's a unique accomplishment for any development that tries to go through the process in the State of Connecticut. And we expect to break ground on the project next month.

Because of the process that's on the record, we undertook that in 2000, and the results of that process, the U.S. EPA awarded the town of Redding the National Award for Smart Growth Achievement in the Small Communities categories. And to put that in perspective, most of the recipients were from the west, with the exception of a project in Orlando, FL.

In addition, EPA has provided a tremendous amount of support, both in brownfields assessments and brownfields grants.

And this past January, the project received a sustainable design, design project designation, from the U.S. Treasury, which will enable the project to take advantage of tax exempt bond financing for the development. And it's only one of four projects in the country to receive that recognition.

Most important, though, it shows that the efforts of EPA to promote brownfield development, they're not only taking root in the urban areas, but they're also taking root in the suburbs. Not all the brownfields exist in the urban core. In fact, many brownfields exist in suburban environments. And it's good to know that to provide those suburban environments the ability to tap the resources that the urban core and that the cities get, as well.

This all begs the question, how do you take our model and adapt it to cities and towns where so many brownfields are?

We believe it can happen with the following factors: One, cities and towns need professionals, and they think EPA is working hard to provide that resource for them.

Two, States need to be more proactive, with a regulatory framework that streamlines the process. And I believe Connecticut, under the direction of Commissioner McCarthy, shall become a model for brownfields development.

And at the Federal level, in addition to existing financial tools available to brownfield sites, there needs to be brownfields tax credit legislation that's targeted to a very specific geographic area. It shouldn't be for every site.

I think the best method for increasing the capital is for Federal policy to reflect the critical importance of revitalizing American cities and towns, now impaired by an industrial legacy. I think tax credit legislation is arguably the best, most straightforward method of creating an equity pool to achieve this goal, and is vital to ensuring that this becomes a reality in communities who need it, just as it's become a reality for the residents of Georgetown.

Thank you for giving me the opportunity to speak at this session. I'll be happy to answer any questions.

[The prepared statement of Mr. Soler follows:]

TESTIMONY BEFORE THE U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FEDERALISM AND THE CENSUS
MARCH 13, 2006

STEPHEN M. SOLER, PRESIDENT
GEORGETOWN LAND DEVELOPMENT COMPANY, LLC

Brownfields in the 50 States: *Are State Incentive Programs Capable of Solving America's Brownfields Problem?*

It is my privilege to address the Honorable Members of the Subcommittee on Federalism and the Census. I am particularly enthusiastic about this committee's commitment to redeveloping our nation's Brownfields.

My company, the Georgetown Land Development Company, LLC, (GLDC) is the owner and developer of the former Gilbert & Bennett Wire Mill in the Georgetown section of Redding, Connecticut. GLDC is somewhat unique in that we are a socially conscious real estate development firm, which integrates smart growth ideals with sustainable green development principles.

The former Wire Mill GLDC is currently developing is a 55 acre Brownfield with more than 35 buildings that were used in the manufacturing process. The project is adjacent to Route 7, a major Connecticut artery that runs between Danbury and Norwalk. The property also has the Danbury spur of Metro North running along side it and the Norwalk river running through it. We are transforming the site into a mixed use, pedestrian friendly, transit oriented development that will include 416 residential units, more than 350,000 square feet of Commercial/Retail space and create more than 1,500 permanent jobs, as documented by the University of Connecticut's Center for Economic Analysis.

The Wire Mill project earned Redding, Connecticut the Smart Growth Award for Small Communities from the US EPA and is one of only 4 developments in the country to earn a designation from the US Department of Treasury as a Qualified Green Building and Sustainable Design project.

What I would like to talk about today is the process we went through to get this point and how coordinating public involvement while integrating transportation with planning has worked for this project. We expect to break ground in April, evidence that if you develop consensus, large complex projects can get done relatively quickly.

The most important point I can make today is that GLDC's process can be replicated and used as model across the United States.

In 2000 the Town of Redding enlisted the services of Connecticut architect and planner Patrick Pinnell to help them understand what could happen with this site. He focused the Town on the possibility of redeveloping the Georgetown section into a village environment or "town center". He suggested using "New Urbanist" or "Traditional

Neighborhood Development" principles. We listened to what Pinnell advised the Town and studied his recommendations. In 2002 we made a proposal to the Town of Redding to purchase the outstanding tax liens secured by the Wire Mill and, as part of our presentation, suggested a development that created a traditional neighborhood. We also agreed to hold a Charrette, which would involve the Town in the planning process. This process included making known to the public the results from a full environmental investigation of the site. We were awarded the liens, closed in September of 2002 and acquired the deed to property from the previous owner in October 2002.

We spent the better part of the following year stabilizing the property, doing the preliminary engineering work needed for the Charrette and completing the environmental investigation of the site. In October of 2003 we held a week long Charrette, attended by over 1,000 residents, which resulted in a conceptual plan. This plan included ideas and suggestions from many of those who participated.

The Charrette process included input from the US EPA, the National Park Service, CT DEP, local planning and zoning officials, historic preservationists, land use stakeholders, various departments from ConnDOT and many others. US EPA and CT DEP officials discussed the environmental characterization findings and how a suggested remediation plan could be integrated with the development. The National Park Service discussed ways for the Weir Farm historic site's maintenance facility and archives to remain a tenant. The ConnDOT officials specifically discussed the transportation segment of the development. Early on in our planning process we identified that the reactivation of the former Georgetown train station would be a critical component to the success of the project. Furthermore, we looked for ways to accommodate the Norwalk to Danbury bus line and plan for a pedestrian friendly village atmosphere while accommodating vehicles. The Charrette was very instructive and gave us a solid framework for the Master Plan.

The interactive nature of the process continued as we worked closely with US EPA, CT DEP, ConnDOT, the Town of Redding and many local residents from throughout the area. From these discussions we engaged some of the most talented development professionals in the State of Connecticut to develop a Master Plan. That plan was presented to the Town of Redding in June of 2004. Our lead architect, Dave Beem with Roger Ferris and Partners in Westport, Connecticut coordinated this effort with architectural, engineering and law firms from all over Connecticut. Some of these firms included architects from Bienfeld Architecture (South Norwalk), Fasey-Smith Architects (Wilton), and Perkins Eastman (Stamford) and engineers from Fuss & O'Neill (Manchester), Tighe & Bond (Shelton) and Fitzgerald and Halliday (Hartford), as well as attorneys from Brody, Wilkinson and Ober (Southport), Shipman and Goodwin (Hartford) and Wake, See, Dimes (Westport). Our plan was referred to the Towns of Wilton, Weston and Ridgefield as well as The Southwestern Regional Planning Agency (SWPA) and the Housatonic Valley Council of Elected Officials (HVCEO). In September of 2004 we received unanimous approval with no appeal – a unique accomplishment for any development of this size.

With that local approval in hand we met with State agencies and started the approval process at the State level. Based on comments from these agencies, in June of 2005 we revised the plan, had the change approved by the Town of Redding and submitted our

application to the State Traffic Commission for a Major Traffic Generator Permit, a permit needed to start construction on a project of this size.

It was because of the process the Town of Redding undertook early in 2000 and the results that came about from that process, that the US Environmental Protection Agency awarded the Town of Redding the National Award for Smart Growth Achievement in the Small Communities category. This award was one of only 6 granted in 2005. The national recognition this project has earned speaks to the process and its result. More important, it shows that the efforts of the US EPA to promote Brownfield development is taking root -- not only in urban areas but in suburban locations as well. The fact that Best Practices are catalogued, information on development trends and processes are shared and organizations supported with US EPA grants are able to communicate with each other is a testament to the process.

There is still much to do on our redevelopment of the former Wire Mill but the planning process has prepared the way for this development's success. We are currently getting our final approvals from various departments at Connecticut DEP and expect to be on the agenda next month for the State Traffic Commission for our Major Traffic Generator Permit. This permit includes designs for a relocated rail crossing as well as the reactivated Georgetown Train Station, a critical element of making the "village" work.

In April we will be breaking ground on the expanded Town of Redding Waste Water Treatment Facility, which will be financed by the US Department of Agriculture Rural Development Loan program. Without wastewater treatment there is no development. Although this essential component is being financed by the USDA, many developers had been unaware that USDA programs could assist in any way with Brownfield redevelopment. We owe thanks to the US EPA for encouraging the USDA to attend Brownfield conferences to showcase their programs and demonstrate how and where they work.

Next month we expect to start demolition of non-essential and unstable structures thanks in part to Small Cities Community Development Block Grant, a HUD program administered by the State of Connecticut Department of Economic and Community Development, announced by Governor M. Jodi Rell on Friday February 17. Later this year we will use bond proceeds from our allocation of Green Bonds for demolition, remediation, infrastructure and commercial development. These Green Bonds are part of the special designation we received from US Treasury, which designated our development as a Green Building and Sustainable Design project. This designation included a referral from US EPA to confirm aspects of our application. It represents another of the many State and Federal programs needed to make a complex Brownfield development, like the Wire Mill, viable. We earned the Green Building and Sustainable Design project designation in January of this year because of the project's commitment to environmentally sound policies and practice, including the creation of alternative energy on site and constructing LEED certified buildings planned for the development.

The model we have developed and our experience has taught us that Best Practices, when used in a transparent public/private partnership, work. Integrating environmental remediation with economic development and transportation planning is critical to the success of any project.

We also believe that the 450,000 or so Brownfield sites that exist throughout the country will be difficult to redevelop at best. Developers over the past ten years have identified and "cherry picked" the best sites. The next ten years will be a new era of Brownfield development when the most challenging and difficult sites are the only ones left. Using various aspects of our model, creating a true public/private partnership and "stacking" State and Federal resources, is the only way many of these sites will get developed.

US EPA has done a tremendous job setting the stage for redevelopment of these sites. The fact is however, that for successful reuse of these sites to move forward, developers will need Capital, Capital and Capital: Political Capital, Intellectual Capital and Financial Capital. The Political Capital, in many cases, already exists. It comes from very real frustration -- people being sick and tired of being sick and tired. The intellectual capital has initially been provided by US EPA. They have worked hard to lay the groundwork by educating cities and states about the Brownfield process and by providing various tools to economic development professionals. The Financial Capital is the most difficult to obtain. Financial risks demand a return proportionate to the risk. In situations where the risk is real, or even perceived, a higher financial reward will be required.

The best method for increasing the flow of capital is for federal policy to reflect the critical importance of revitalizing America's cities and towns, now impaired by an industrial legacy. Providing federal tax credits is arguably the best, most straightforward method of creating an equity pool to achieve this goal.

Respectfully submitted,
Stephen M. Soler
President
Georgetown Land Development Company, LLC

Mr. TURNER. Mr. Trilling.

STATEMENT OF BARRY TRILLING, PARTNER, WIGGIN AND DANA, LLP

Mr. TRILLING. Thank you, Mr. Chairman, for inviting us here today.

I'm Barry Trilling. I'm a partner in the Stamford, CT, office of Wiggin and Dana. I also chair the Legislation and Policy Committee of the Connecticut chapter of the National Brownfield Association, and the Government Affairs Committee of the local chapter of the National Association of Industrial Office Properties, which had the pleasure of hearing Chairman Turner speak back in February, about H.R. 4480.

I work both in Connecticut and elsewhere in the country——

Mr. SHAYS. Just lower it down a bit.

Mr. TRILLING. I've had judges tell me that I wear out their court reporters. I appreciate the admonition.

I work in properties all over the country, as well as here in Connecticut.

Success stories about brownfields get a lot of press attention. Yet hundreds and, perhaps, thousands of small, commercial and real estate projects that would result in cleanups in the use of contaminated properties have failed due to bureaucratic and international barriers. In addition, we seldom hear about the properties not available for cleanup and redevelopment, because of the owners' fears of unending liability if they allow those properties to come on the market.

Here are two examples: An idle finishing business in Elmhurst was put up for sale. It's a dilapidated property. Site remediation costs about $150,000. Prospective buyers show interest in this transaction, but remediation and environmental insurance costs proved too high. The property thus remains unremediated and undeveloped.

In another instance, a New Haven County building construction supply business wants to expand and move its operations near its current site. It finds suitable a long-out-of-use munitions plant, for which it would pay about $1 million. But potential cleanup and insurance premiums could cost more than $300,000, killing the deal.

Current governmental assistance programs either have too many barriers to entering or take too long to use in these transactions. What would make these deals work, resulting in brownfield revitalization?

All 50 States have adopted some form of brownfields remediation and developed a program, and the Federal Government has more than 20 such programs administered by more than half a dozen agencies.

Your committee has already heard how many of these programs have been working. All of these programs require enforcement agencies to welcome and to nurture private sector cleanup efforts. The old command and control micromanagement attitude, suspicion and cynicism, just doesn't work.

Here in Connecticut, for example, the Department of Environmental Protection Commissioner Gina McCarthy is working to

make her agency more "user friendly," and EPA has provided resources for brownfields revitalization in every one of its regions.

Mr. Chairman, Representative Shays, my remarks—my written remarks—describe both Federal and Connecticut grants and loans for site assessment for remediation and redevelopment. Government funding programs, however, often create bureaucratic mazes that real estate developers would just rather avoid.

These programs also depend largely on the government, rather than private sector initiatives, and political pressures which may outweigh the projects' own merits. And State agencies, with overlapping mandates, frequently don't work well with other further deterrents to revitalization.

Connecticut, with the creation of the Nutmeg Coalition, has begun to confront these issues, and our General Assembly has also begun to create a one-stop shop for brownfields remediation and development. Still, smaller brownfields sites, with low levels of contamination, such as I have described, have difficulty in obtaining insurance. The premiums on smaller cleanups are disproportionately large and frequently unaffordable, in the context of a project.

Further, we need reforms, both Federal and State liability schemes, to encourage the original responsible parties to participate in revitalization and to encourage them to make their brownfield sites available for restoration. Under Pennsylvania's Act 2, for example, any party that contributes to any extent to cleanup, meeting State standards, receives protection from liability under State statutes, even the PRP's, and they are coming to the table for remediation of sites.

Legislation such as H.R. 4480 is a good step. It has tax credits for up to 50 percent for demolition and environmental remediation. It would be even stronger if its credits also applied to insurance costs. Other, more traditional forms of financing cannot match direct tax credits.

Further, legislation would also result in more properties for development, and encourage the current owners to participate in site assessment, cleanup, and the redevelopment process.

If owner liability relief were available, who knows what additional sites my clients may have been able to revitalize.

Thank you, and I appreciate the time.

[The prepared statement of Mr. Trilling follows:]

Testimony of Barry J. Trilling, Partner, Wiggin and Dana, LLP, Stamford, CT on "The Connecticut Experience: What Can be Done to Spur Brownfield Redevelopment Along America's New England Corridor?" Before the U.S. House of Representatives Committee on Government Reform, Subcommittee on Federalism and the Census

March 13, 2006
Bridgeport, Connecticut

Thank you Mr. Chairman and members of the Subcommittee for providing this opportunity to present the views of a "brownfields practitioner" on the subject of creating incentives for the cleanup and redevelopment of New England's contaminated properties. I am Barry Trilling, a partner in the Stamford, Connecticut office of Wiggin and Dana, a law firm serving Connecticut for more than 70 years. I work both in Connecticut and elsewhere in the country on the redevelopment of properties challenged by environmental contamination.

A cradle of manufacturing and industry, Connecticut serves as home to a significant number of abandoned or partially used industrial properties. Plagued or stigmatized by either real or perceived environmental contamination, these legacy properties constitute Connecticut's "brownfields." Factories and mills that once made clocks, pins, thread, hats, buggies, guns, military ordnance, metal products, aerospace components, and other products in plants throughout the state now lay idle and unused, suffering from the specter of environmental contamination. The redevelopment of these brownfield properties not only presents a significant economic opportunity for private developers, but also serves important public functions, including expanding the State's economic base, revitalizing towns and cities, reducing suburban "sprawl," and leaving prized undeveloped "greenfields" undisturbed.

I approach problems of brownfields development in Connecticut from my experience working to clean up contaminated properties since the mid-'70s when I was an attorney at the U.S. Justice Department supervising the Love Canal litigation and from my more than 13 years in Pittsburgh, Pennsylvania, working to clean up and redevelop contaminated sites in that Rust Belt state. I also speak from the perspective I've gained from my almost 15 years of membership in the National Association of Industrial and Office Properties (NAIOP), a 13,000 member organization made up primarily of the owners and developers of commercial and industrial properties, and from my having chaired NAIOP's national environmental committee. I had the privilege to present testimony on behalf of NAIOP to other congressional committees with regard to brownfields legislation and to serve as NAIOP's representative on a Federal Advisory Committee Act committee convened by the U.S. Environmental Protection Agency ("U.S. EPA") to negotiate rules governing the standards of appropriate inquiry for innocent purchasers of contaminated properties. I also currently serve as the Chair of the Legislation and Policy Committee of the Connecticut Chapter of the National Brownfields Association.

Here in Connecticut we have experienced many significant successes in brownfields development. These include the North Colony Street Industrial Park in Meriden, winner of the prestigious Phoenix Award from the U.S. EPA for reclaiming more than 15 acres in an industrial brownfield; the Harbor Yard development in Bridgeport that resulted in the cleanup of soils and groundwater that contained metals, solvents, and other dangerous substances, and the creation of a job and revenue creating Ballpark and Arena at Harbor Yard; and Adriean's Landing, a significant redevelopment of approximately 47 brownfield acres in downtown Hartford. Other major projects "in the works" include the Georgetown project in Redding in which a "new urbanist" community will be built on the site of the remediated Gilbert and Bennett wire mill, and the Fairfield Metro Center which will house a new train station and retail complex on an old industrial site. Although these success stories of large projects garner a lot of media attention, hundreds (and perhaps thousands) of smaller commercial and real estate projects that would result in the cleanup and reuse of contaminated properties cannot go forward because of bureaucratic and financial barriers, as I will describe in more detail below.

Every state in the Union has adopted some form of brownfields remediation and development program. In addition, the federal government has recognized the importance of brownfields revitalization through more than 20 programs administered by various agencies. These include the U.S. EPA, the federal Department of Housing and Urban Development, the Economic Development Administration of the U.S. Department of Commerce, the Army Corps of Engineers, the Small Business Administration, and even the U.S. Department of Agriculture. This panoply of programs demonstrates the federal government's recognition of the importance of brownfields cleanup and revitalization.

Most obviously, these programs hope to achieve environmental cleanup and protection of public health. They also restore jobs and a tax base to struggling cities. This combination of desirable effects in turn discourages suburban sprawl and the destruction of greenfields and makes cities more livable and desirable places to inhabit. But most important to me, and unquantifiable, these programs restore hope to the people who live in the communities experiencing the cleanup and reawakening of their formerly contaminated and idle sites.

To assure that the emergence of state and federal brownfields revitalization programs has a real and palpable effect, however, both federal and state environmental enforcement agencies must adjust their cultures in order to welcome and nurture private sector efforts to clean up these properties. In particular, these agencies need to abandon "command and control" micro-management and an attitude of suspicion and cynicism.

We have seen a "sea change" in the attitude of agencies in many states, such as in Pennsylvania, where the Department of Environmental Protection serves as a key member on "Brownfield Action Teams." Here in Connecticut, Department of Environmental Protection Commissioner Gina McCarthy is working to make her agency more "user friendly" for parties who wish to clean up and revitalize brownfield properties and has appointed a Brownfields Coordinator to take personal responsibility for facilitation of those efforts.

Similarly on the federal level, EPA has provided resources for brownfields revitalization in each of its regions and has entered into memoranda of understanding with various states to defer federal enforcement where state agencies take the lead in supervising the cleanup of properties. I am pleased to report that tomorrow, March 14, 2006, the National Brownfields Association, in conjunction with NAIOP, will convene a "TriState Brownfields Best Practices" Conference at the Graduate Center of the City University of New York in Manhattan. At this conference, brownfields stakeholders from Connecticut, New York, and New Jersey, along with state and federal regulators, will discuss the change in government attitude needed to achieve successful brownfields revitalization.

Much more needs to be done, notwithstanding the progress we have experienced, particularly since enactment of the Small Business Liability Relief and Brownfields Revitalization Act of 2002, which provided much needed relief for innocent purchasers of contaminated properties and increased funding for brownfields cleanup. Of paramount importance are financial incentives and the availability of insurance products for smaller brownfield properties to enable them to compete with pristine sites for development.

Brownfields raise issues with regard to contamination, government regulation, and community relations, among other concerns, which greenfields do not. It thus comes as no surprise that programs designed specifically for use at brownfields address financial requirements unique to these properties. Properties not stigmatized by real or perceived contamination do not require the expense of undertaking invasive site assessments, preparing remedial plans, implementing cleanup, and obtaining insurance against residual environmental liabilities. In addition, the cost of financing brownfields commonly exceeds that for other sites because investors and lenders believe they assume a higher risk which justifies a higher return. Hence, lenders commonly require at least a 25% equity investment in a brownfields project.

Recognizing the need to "level the playing field" for brownfields, both the State of Connecticut and the United States government offer grant and loan programs for brownfields site assessment, remediation, and development. These include programs administered by the Connecticut Brownfields Redevelopment Authority (CBRA) and the Connecticut Department of Economic and Community Development (DECD), as well as the federal agencies I have already mentioned. The DECD administers programs for the enhancement and development of communities, business, and housing, including federally funded Community Block Grant Programs which developers can use for brownfields revitalization. The CBRA's programs target for-profit owners and developers. Most federal funding sources, however, limit eligibility to municipalities, quasi-governmental organizations, and, on occasion, non-profit entities. For-profit entities sometimes can apply for federal funding as subgrantees, but only if local and state governments or governmental organizations manage and distribute the funds as subgrantors.

These governmental programs often create bureaucratic mazes that real estate developers would rather avoid. Also, as one might expect, these programs may suffer from difficult local political pressures, which may carry more weight than the environmental and redevelopment merits of a project. Further, developers often must surmount barriers erected by and between governmental agencies with sometimes conflicting and overlapping responsibilities. The Commonwealth of Pennsylvania has tried to address these problems with its Brownfield Action Teams. In

Connecticut, we've begun to confront these difficulties with the creation of the Nutmeg Coalition, an organization made up of DEP, DECD, CBRA, and our Homeland Security Agency. Legislation has also been introduced in our General Assembly to create a "one stop shop" for brownfields remediation and development.

Compounding the problem, smaller brownfield sites with lower levels of contamination face difficulty in obtaining environmental insurance: the premiums on smaller cleanups are disproportionately large and frequently unaffordable in the context of a project. Our Connecticut Chapter of the National Brownfields Association currently is exploring ways to make insurance more affordable for these sites.

Regardless of what we do to make governmental agencies more efficient, productive, and user-friendly for brownfield revitalization projects, the best way to clean up and redevelop contaminated properties is to unleash the creative energies and abilities of the private sector. If an entrepreneur could make as much or more money cleaning up and developing a contaminated property as he or she could on a greenfield, we would see more brownfields development and fewer public dollars spent on these activities. Legislation such as "America's Brownfield Cleanup Act," H.R. 4480, constitutes a positive step in this direction.

As currently worded, the bill's proposed Brownfields Tax Credit Program would provide tax credits for up to 50% of demolition and remediation costs incurred pursuant to an approved remediation plan. ***I respectfully suggest that adding language to extend the tax credit to include insurance costs would contribute to overcoming the difficulty of obtaining insurance for smaller sites.*** Developers could sell these transferable credits to third parties, including banks, resulting in the creation of a "secondary" market in brownfields development. The bill's allocation of credits to states on the basis of population assures equity in the program's implementation. In sum, the tax credits would generate capital toward project costs, stimulate private investment, and result in a cleaner environment.

H.R. 4480, or similar legislation, would go a long way to encourage private sector developers to take up brownfields revitalization projects by providing incentives that other, more traditional forms of financing cannot match. In this way, the bill directs private conduct to achieve the public good.

I suggested earlier that the failure to develop brownfields does not garner media attention. I'll limit myself to two examples where H.R. 4480 would have made a difference. I represented the nearly bankrupt owner of a defunct metals finishing business with a building that lay idle atop real estate burdened with historical contamination. We tried to sell the property, but it needed about $150,000 in environmental remediation. Although we had several prospective buyers for this approximately one million dollar transaction, the cost of remediation and environmental insurance proved too high and the property remains on the market, awaiting cleanup and development. In another instance I represent a business that wants to relocate its industrial operation within the urban neighborhood it has occupied for about 50 years. It found a suitable property, a former munitions plant that had been idle for several years, for which it was willing to pay more than one million dollars. Potential cleanup liability that could amount to more than $300,000 due to the property's former munitions manufacturing activities, scuttled the

transaction, and my client was forced to look elsewhere. In both of these transactions, if the provisions of H.R. 4480 had been in effect and the tax credits available, I can say with a high level of confidence that the parties would likely have consummated these deals, resulting in *privately-financed* environmental remediation, the creation of jobs, and the extension of each community's tax base.

Thank you once again for the opportunity to present these remarks

(To obtain further information on brownfields revitalization in Connecticut, please see "The Wiggin and Dana Manual on Legislative, Regulatory, and Financial Assistance Tools for Brownfields Development in Connecticut," which can be found at: http://www.wiggin.com/pubs/articles_abstract.asp?ID=933337142004.)

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May 10, 2006 Supplement to

Testimony of Barry J. Trilling, Partner, Wiggin and Dana, LLP, Stamford, CT on

"The Connecticut Experience: What Can be Done to Spur Brownfield Redevelopment Along America's New England Corridor?"

Before the U.S. House of Representatives Committee on Government Reform, Subcommittee on Federalism and the Census

In my March 13, 2006 appearance before the Subcommittee on Federalism and the Census in Bridgeport, Connecticut I testified that Connecticut's current state tax credit program does not meet all the needs for brownfield development in Connecticut. Your letter and e-mail have expressed an interest in learning more about why I have reached that conclusion. I hope this supplement to my testimony will explain why I believe we need broader legislation, applicable to more sites, and easier to implement than the program we currently have in Connecticut.

Connecticut's Urban Site Investment Tax Credit Program (USITCP) provides dollar-for-dollar corporate tax credits for private brownfield investments. This is a complex program that requires the involvement of Department of Economic and Community Development (DECD), the Department of Environmental Protection (DEP), and local government entities, as well as the private investor that seeks to obtain the benefits of tax credits. Given its scope, the program necessarily aims to attract major projects, *i.e.*, those involving millions of dollars of investment, and its benefits do not as a practical matter reach most brownfield development in the state.

Rather than a self-implementing program, the USITCP requires a rigorous review for eligibility, including a demonstration that investment in the selected property will return it to a viable business condition where it can sustain new economic activity, increase employment, and generate additional tax revenue to the State and the municipality where the property is located. DECD predicts the additional tax revenue by relying on an econometric model to estimate economic and fiscal impacts of the investor's project. The

projected tax revenues must exceed a target threshold, and the total credits allowed may not exceed the cumulative increase in tax revenue. Within this limitation, an investor in a USITCP project may receive a dollar-for-dollar corporate tax credit on a yearly basis over a ten year period of up to 100% of its investment, up to a maximum of $100 million. To participate in the USITCP, a community must (1) have an Enterprise Zone; (2) have been designated a Distressed Municipality under Connecticut General Statutes § 32-9; or (3) have a population in excess of one hundred thousand.

A taxpayer may invest funds in a USITCP project either directly or indirectly through an investment fund. Direct investments must equal or exceed $20 million. Eligible investment funds must (1) have a minimum asset value of $60 million; (2) be established for the specific purpose of making investments under this program; and (3) be managed by a Certified Fund Manager. There is no minimum investment threshold for indirect investments made through an eligible investment fund. The aspect of this program that distinguishes it from others, both in Connecticut and elsewhere, consists of its allowing project investors to assign the credits authorizing their sale to other taxpayers in the state.

The first project to use the USITCP involved the state's agreement to give $40 million in tax credits to the United Kingdom-based liquor giant Diageo. Diageo agreed to move its U.S. headquarters from Stamford to Norwalk, thus preempting its threatened move to Westchester County, N.Y. Diageo qualified for a five-year tax abatement in which it will be required to pay only 20% of its taxes. State authorities anticipate that Diageo will invest more than $100 million in capital associated with the project in Connecticut while the City of Norwalk looks to additional tax revenues of more than $21 million and the creation of 1,000 new jobs. State officials have projected combined state and local tax revenues for the project to amount to $83 million over the next 10 years. According to DECD, the Diageo deal requires more than a dollar of new tax revenue for each dollar in breaks given, as well as the creation of new jobs.

Controversy around the Diageo deal has led to the introduction of legislation which would require the program to provide eligibility for smaller companies, assure greater legislative oversight over large deals, and require a third-party review of deals that offer

companies more than $20 million in tax breaks. Use of this program necessarily involves political issues and the cumbersome process that politics requires.

As I have described the USITCP above, this program differs significantly from the self-implementing, and largely "non-political," federal tax credit legislation introduced by Representative Turner, which will have broad applicability to thousands of brownfield sites around the country. The USITCP has its proper place in the universe of financial assistance tools available to provide incentives for brownfield development. Programs that offer streamlined and more broad-based tax relief available to small and medium sized projects are urgently needed to address hundreds of thousands of sites across the country which cannot benefit from programs such as Connecticut's Urban Site Investment Tax Credit Program.

Mr. TURNER. Thank you.

The type of training in the area of brownfields, both assessment and remediation, has to be very technical. I was wondering how the costs for people were dealt with, with respect to this or other types of training that might be provided.

Mr. CARBONE. In this case, I would say it's probably a bit more expensive, probably somewhere between $4,000 and $5,000 per person, but that's inclusive of the administrative charge along with that. But in terms of outcome—it's what's important here—you're looking at $14 an hour, which is really wages that would start at that, but a real potential is still much higher. And if continued education took place, opportunity into other areas of environmental health, that would even bring it a lot higher than that. It's really a small amount of money for a person to be a starter of this.

And also the fact that there is not much question as to training as to whether or not employment is there. As I mentioned before, it did open our eyes to the very rich vein of opportunities that I think many of the parties who work for our system have neglected to really see it there. But it's there, meaning we are talking about environmental health. It's a much broader field than some of the fields that we're talking about here today, including like inspection of restaurants. That's all part of environmental health. So once you kind of get your foot in the door, it opens opportunities into the field.

But in terms of how it compares to other training, it might be a bit more expensive. But again, it's meeting the jobs for the wages that we're talking about.

Mr. TURNER. Each of you have not had the benefit of each other's testimony as you were preparing to testify. And, Mr. Carbone, you were probably not aware, in the written testimony that an issue that was raised was the availability of personnel to conduct assessments, and to conduct environmental remediation, both from the standpoint of the expertise, but also from the standpoint of lowering the overall costs and increasing competition. So I'm certain that your efforts not only provide the economic ability for the people who have participated but also have an impact on what is needed in providing the expertise for each of these groups to be able to accomplish what is necessary.

Mr. CARBONE. Yes.

It might also serve to increase the number of training providers in the field. And there are not many at this point in Connecticut that can do that well.

But I think we are beginning to see the undercurrent of some economic activity, where for-profit operators see the potential here. And that will begin to drive down the per unit cost. It always works that way. I think we can all be positive to see that these for-profit operators will recognize this opportunity here. And I think we will see that happen by the next round of actual training that takes place here.

Mr. TURNER. Mr. Trilling, as another example of "great minds think alike," your comment to me about including the costs of environmental assurances was not the only one I had received on the bill last time. And as a result of the number of people like yourself who are practitioners and have had experience with that, the bill

does include a qualified remediation expense for financial assurances, including insurance.

Mr. TRILLING. I second what everybody said about demolition, and costs, as well.

The insurance ambition in the last 2 to 3 years particularly has become acute, and I commend you for looking at it.

Mr. TURNER. You being, again, a practitioner, what we are greater aware of is the extent to which the insurance products are playing a role in encouraging lenders to become comfortable when coming to the table, so that's a capital issue for the redevelopment project itself, after remediation is complete.

Mr. TRILLING. The lenders are concerned not so much about their own liability anymore. There is State legislation to protect them. But they are always concerned about the security of the collateral and the ability of the borrower to pay. Insurance product provides that assurance. That bolsters the lenders' ability to provide their share of the money.

Mr. TURNER. To the attorneys, I'm very interested in the issue, looking at Connecticut's not to sue provisions, including responsible parties as a prospect to that process. I wonder if you will, if you could speak about incentives that you believe that we should be undertaking at the Federal and State level.

And there's one last thing, and that is it is my belief—and I would like your thoughts on this—that those properties that are the worst, that have the worst contamination, are probably not undertaking the assessment process because of the owners' desire not to know, and not to have others know, the contamination that needs to be remedied.

So if you would speak about incentives to bringing the responsible parties to the table in this process, do you think it might work. And the second aspect, how the assessment process impacts those properties that are the worst; the disincentive for people to come to the table.

Mr. TRILLING. I've only been here 3 years.

The first thing I would look at is the Brownfields Revitalization Law of 2002, which, in one provision, restricts EPA enforcement actions, sites that have been cleaned up pursuant to State programs. So if the State program provides liability relief for the PRP, for the owner, then that's going to encourage more insights into the program. Regrettably, here in Connecticut, we still don't have that recognition.

At the very least, States should encourage the owners to come forward, participate in assessments, and evaluations. There is no cookie cutter. Every State has its own problems. But I think we need to be creative in trying to address this to bring these properties to the table.

Mr. TURNER. In Pennsylvania, are PRP's eligible for relief?

Mr. TRILLING. Yes, they are. Act 2 applies. Act 2 is the remediation standard statute, essentially, and it applies to all cleanup programs, whether voluntary or involuntary. And anyone participating in that program can get relief, including if an owner voluntarily comes to the table and meets the standard.

The Pennsylvania attitude was—clean is clean and I don't care who's involved. If you clean it up, it's done.

Mr. TURNER. Ms. Barton, I'll wait for you to get your microphone, and I'll restate your questions: The first one, of course, being the issue of incentives to bring the task polluter to the table, and the second being the assessment process, is there a disincentive for the worst properties?

Ms. BARTON. I think that there definitely is a disincentive. And I'm not sure if it's necessarily for the worst property.

Often the properties with respect to the issue, the owner doesn't quite know what to do. And then the fear of stepping into traffic without knowing what might be the final phases in response to what was found.

But they're going to want help, basically, without any sort of strings attached, should they find a circumstance—a real estate development project makes it not worthwhile. And then you have the property owner saying, "What do I do now? I now have this information about my site." So I think it is a disincentive.

I do think, by the way, some of the recent developments will, hopefully, be of some assistance in that regard in dealing with contingent liability. And I think it's getting some of the larger companies, in particular, to step back, and perhaps reexamine whether an approach of putting an incentive that is no longer used is the best thing to do. So we still need more incentives.

Mr. TURNER. Could you comment on Connecticut's tax credits program and the bond termination program. I'm going to tell you again why I'm asking it, and hope I don't confuse you.

In the first draft of the Federal Tax Credit Program that I proposed, one of the criticisms that we received of it was that the taxpayers were awarded by a State development agency, because the focus was on redevelopment, but the remediation was coordinated by the State EPA. And those who were involved in EPA remediation programs wanted to make sure that there was a lane.

So what we did was, we required the State development agency that still evaluates the projects for award, that a project must be part of the voluntary action program in order to be able to get the tax credits, thereby making it at least coordination, if not cooperation.

How is it working here? And what have we learned from it?

Ms. BARTON. I don't think there really is that linkage. In making that statement, I'm not conveying criticism. I just think they're separate programs. I think they are programs that are not into it anymore.

The economic development program, the programs involved, I don't think we truly have an incentive program, like the tax credit program.

But while the programs that the economic development agencies are responsible for will make reference to and rely upon an outcome of a program, and require it to be in compliance with DEC, we do not have in Connecticut the sort of voluntary action programs, remediation programs that I and Barry have said they have in many other States.

We do have what, to a large degree, functions as our program, clearly not voluntary—the transfer program that Commissioner McCarthy referenced. And that program was very, very effective,

and it works really well, I think primarily because it has limited public sector involvement.

The public sector dictates the filing, dictates as Commissioner McCarthy says. They have to look at the properties. And there is a process that you have to go through. It's largely between the buyer and the seller.

While there is a statute, two statutes, actually, that refer to voluntary remediation, the reality is, those are not statutes that are used anywhere to the degree that is used in other States where there are very well-developed voluntary remediation programs. There is a bit of a disconnect.

We have the building blocks, but through these people that Barry referenced, the agency coming together and having a coalition, and proposing legislation, and we still have work to do.

Mr. TURNER. Thank you.

Mr. SANTY. Could I make a comment?

I just want to comment that was not a tax credit program. The State has an urban remedial action grant program that's administered jointly by the Department of Economic and Community Development, partnered with Environmental Protection. And before a grant is made under that program, both of those departments need to agree to move forward. So you might want to take a look at that statute as an example.

Mr. SHAYS. Thank you.

I would like you to assess, it seems to me that we have seen some very real progress under the brownfields programs. But is it a success because there is just a lot of low-hanging fruit, or has it been a success because the Government has provided noticeable incentives?

The difference between whether a property is developed or not is obviously what kind of attorney you've got. Does a little bit of action make a big difference in return? Or my assumption is that if brownfields were a mystery, we didn't know how many we had, the particular type, or what its liability was, and so really we were able to then take the easy ones, and now we've got a lot of more difficult ones on the books. Help me understand the environment.

Can I start with you?

Ms. BARTON. Sure.

I think, unfortunately, it gets back to circumstances with reference to the tool box. The tools that are needed are not the same.

I think in some instances money does play a key role, and it's critical, makes a difference whether or not the project goes forward. But truly, if you look at some of the success stories—and I think you're right, we've had some very, very good success stories in our State—but if you look at the success stories, and Steve said, what the end needs to work is everyone is on board with respect to the project.

Mr. SHAYS. If everyone is on board, or that it's easier to do a brownfields cleanup in Stamford, CT, versus Bridgeport, because the property is worth more, the return—you're going to get a better rent, so to speak—return on investment, the site that Mr. Soler has is an awesome site and it's around tremendous wealth. And I'm wondering, if that's the case, or——

Ms. BARTON. Well, I think it depends. The reality is that there are some properties that are not going to be developed, no matter what you do.

Mr. SHAYS. Right.

Ms. BARTON. Yes.

Mr. SHAYS. And would they tend to be closer to a Superfund site? The site's location maybe not being as economical?

Would it be basically that the cleanup is more intense, and the liability greater?

Ms. BARTON. I don't think it's so much the cleanup, quite candidly. I believe its time has not come yet in terms of the economic viability, the particular location.

But the reality is if you have a cleanup scenario, while it may be more challenging in getting the incentive to work, the reality is that with money, and commitment, and resources, you can address it. Beyond that, I think that it is definitely going to be beneficial from the perspective of the investment needs. But not all projects require the money. For other projects, it's just a need to get everybody going in the same direction.

Mr. SHAYS. That last response to me is encouraging because that's doable.

Ms. BARTON. Absolutely, absolutely.

Mr. SHAYS. It's doable within even the financial restraints we have.

Let me ask Mr. Carbone to respond. I'm assuming, Joe, that you have an opinion.

Mr. CARBONE. No.

Mr. SHAYS. He's been involved in so many good things.

You also speak as a former Deputy Commissioner of the Connecticut Department of Economic Development, so this is right up your alley.

Mr. SANTY. And brownfield redevelopment is about development, there's no question about it. I don't think there is any doubt that we're all alone and continuing here. Some projects were easier, and they're getting tough. Both the size of the project—more the size of the project than the types of remediation that are necessary. But there were none that were easy.

And I think I go back to Joe's comment, that all of these are really development projects. They all require a return.

As to your point about Stamford or Bridgeport, harkening back to the days when I was with the State, there were multiple properties there. All of them had environmental issues on them, and yet, clearly, that was the deal that was going to go in Stamford.

Mr. SHAYS. Ultimately UBF.

Mr. SANTY. Ultimately the UBFs, yes.

So I do think location makes a big difference, but, more importantly, people in Connecticut are very concerned about the way the State is growing. And I think we have an opportunity, to follow on Elizabeth's comment, to talk about brownfields and land preservation, because they are only sides of the same coin. And if we put $1 into protected land, which our suburban communities and our rural communities more and more do, why shouldn't we put a dollar into brownfields redevelopment and get that investment back in our cities at the same time?

And that's one way of getting the public to understand why you do this.

Mr. SHAYS. I'm going to put it in my own words—a developer, if he is going to develop half a million dollars of square foot of commercial office, better he do it in an urban area.

So your point, and I'm hearing, you're saying to me, that in spending money for brownfields, in a sense, indirectly you've almost put up money to preserve open space.

Mr. SANTY. Correct. Getting the public to understand that's critical. They don't necessarily see the connection, but they don't like what's occurring in their urban communities. So that's one way.

Mr. SHAYS. I believe in my suburban areas, when I'm helping in Bridgeport, Stamford and Norwalk, and obviously, a site like Soler has, which is already there, is already a part of an old community, that's contaminated.

Mr. Soler, maybe you can respond as well.

Mr. SOLER. My comment really would be geared more toward higher leverage of the dollars and what happens when you leverage the dollars and it's put into perspective.

The first Federal agency that jumped on board was the EPA and they provided us with a site assessment.

Mr. SHAYS. You're talking about your site here.

Mr. SOLER. At our site in Georgetown. Because the EPA came to the table, that allowed all the other Federal agencies to come to the table. They like to work with each other. EPA tends to be the first one.

I figured you were going to ask this question, so I wrote down some of the agencies that we're dealing with to put this in perspective.

We received a targeted brownfield assessment from EPA, a cleanup frame from EPA; obviously, in the town of Redding, a $72 million allocation of tax exempt bonds from the U.S. Treasury; $550,000 of CDBG funds to demolish the property; $5 million from the U.S. Department of Agriculture to build a wastewater treatment facility because Redding is a rural community; we will probably get about $3 million of tax credits using the Historic Tax Credit Program through the National Parks Department of the Interior; and $3 million in tax credits from the Department of Energy, primarily through different energy efficiencies that we're going to use.

Mr. SHAYS. Did you know that in the beginning?

Mr. SOLER. Yes.

Mr. SHAYS. When you started out, you anticipated, to make this project succeed, you'd have to do all of this?

Mr. SOLER. Yes.

We knew that if we started with the EPA—and that's leveraging the dollars—that people could really put on paper like this, that $100,000 targeted brownfields assessment got us to where we are, and all these other programs, because every other Federal agency came to the table.

Mr. SHAYS. Now, you live in the area of the sites, correct?

Mr. SOLER. I live in Cos Cob.

Mr. SHAYS. But the bottom line is you develop all over the country.

Mr. SOLER. I develop property from Miami to Boston, yes.

Mr. SHAYS. Mostly——

Mr. SOLER. Brownfield sites, that's all I do. And mostly, they've been small. I have a working knowledge of small sites.

Mr. SHAYS. I don't call this one small.

Mr. SOLER. This is not a small site. This is a once-in-a-lifetime opportunity. But that should speak to how you leverage dollars.

But more important than that, when EPA makes an investment, sometimes you don't see the real impact of that investment.

When EPA made the investment on a targeted assessment for the Jenkins Bell property, look what happened. People now started to quantify the risk and they could start seeing the light.

Mr. SHAYS. What I'm hearing you say is that having the Department of Environmental Protection get involved as a promoter, in a sense, of the project, it's a message to people around you that what is viewed as the most difficult part, you have that agency at the table.

Mr. SOLER. Yes. Having EPA at the table, at the same time. This happened during our Charrette. We had Connecticut DEP at the table. People realized that those two agencies were there, talking in unison, saying this can happen.

The thing of Beth's comment—to bring all those stakeholders, those various groups together, is important, because at the end of the day, it's a real estate transaction, and it has to have an intrinsic value. Otherwise, no one is going to do it.

But there are properties that are going to get built. There are properties that are marginal, that with the right incentives, with using some of these tools that are out there, they can get done. But it's not easy.

Mr. TURNER. Thank you.

Mr. SHAYS. Mr. Trilling, before you answer the question I asked, is Mr. Soler more unusual, or are there a lot of folks like him that have over 10 years in development this expertise.

Mr. TRILLING. There are a number of prominent brownfields developers who specialize in these properties and Mr. Soler is probably the best of those. The way he works with communities, the way he works with government, the way he integrates, he has this whole holistic approach to development. It really shows the best creative side of the private sector.

Mr. SHAYS. My purpose for asking, though, is if you don't have that expertise, you have some disadvantages.

Mr. TRILLING. You've got problems if you don't.

And I'd like to speak to the unsexy problems.

Atlantic station, in Atlanta, another sexy project.

Here in Connecticut——

Mr. SHAYS. It's good where we introduce sex into our hearings.

Mr. TRILLING. I'm trying to avoid getting myself in real trouble.

Ms. BARTON. You're dead.

Mr. TRILLING. The projects I'm talking about, they're not sexy. I'm talking about getting developers to promise—the Steve Solers in this world who don't specialize in brownfield, or don't have that expertise, who right now do as Bob Santy mentioned he has to do in order to get grants, hire extensive experts and lawyers—you

know, I'm trying to talk myself out of a job here—but right now, the process is too expensive, it's too complex, it's too sophisticated.

What you do by things like H.R. 4480, which provides simple tax credits if you meet certain standards, allows the mom and pop developer to go out and start becoming a part of this process.

As Beth has pointed out, as Bob has pointed out, brownfields properties are a subset of real estate development; and the private sector knows how to deal with real estate development.

Allow that creativity of a mom and pop developer to go out, find a property, use their own money to clean it up. You're going to have a turnaround in cities like Bridgeport, and Milford, and Shelton, and all the other towns that don't have perhaps a huge tax base that these other sites do that attract these projects. It's the making this a mainstream idea that will turn around our cities, free up our resources, and protect our other resources.

I don't mean to use hyperbole, but I'm going to. Other than winning the war on terrorism, I don't think there is a more important task that the government has than restoring our cities. Restoring our cities will cure a host of social problems. We can help eliminate poverty, we can make our cities more livable. We can bring people back in. You make them more livable by increasing tax bases, creating jobs, making them safer, making them places where people want to live.

Mr. SHAYS. Wouldn't it be great—excuse me, it's a bit of a digression—but in a Presidential debate, instead of talking about whether a Senator earned three Purple Hearts, or a President hasn't properly fulfilled his National Guard duty, that you had a public debate about this issue?

And believing that we can't see success in Iraq, or the Iraqis can't see success, it's not lost on me the opportunity cost of billions and billions of dollars, and we're really debating hundreds of millions, if that.

Mr. TRILLING. You're preaching to the choir, as far as I'm concerned, at least to me.

And, again, I take some missionary zeal in this because I've seen projects I've worked on that were laying idle, unused, where there was blight in the neighborhood, and having turned those around, creating new businesses, including small business opportunities, and new jobs, seeing the hope in people's eyes. You can't get paid enough for that.

Mr. SHAYS. Well, one of the values of this hearing for me has been, at this point here, is we are not going to have a world to live in if we keep doing what we're doing. And if we can tie this effort to a strong environmental movement, it can make a world of difference.

I want to thank you all for your testimony. You're all experts on this.

And if I could, Mr. Chairman, just ask if there is any point that needs to be put on the record that we haven't put on the record? I find sometimes those last points tend to be sometimes the most important.

Yes.

Mr. SANTY. Thanks for the opportunity. Two points. One is, I have some language that might be helpful in meeting the eligibility standards of the program. And it's not attached to my testimony.

Mr. SHAYS. I'd just like to make sure that's specifically inserted in the record.

Mr. SANTY. Thank you.

One issue we haven't raised at all I think deserves mention because of its prominence nationally and in Connecticut right now and that's the effect of limitations on eminent domain on redevelopment.

We have a number of bills in the Connecticut Legislature that seek to take economic development out of the public as a definition, which will be in the courts for years.

Mr. TURNER. Before we change the topic, let me just tell you, on the Federal level—and you certainly are going to find a very sympathetic legislator here on the issues of the need for tools for economic development—the bill that passed the House, which was highly restrictive in the areas of eminent domain, included specific exceptions for brownfields. So, from this perspective, at least on the Federal level, eminent domain, we will still, even if that less restrictive bill was passed, the brownfields were covered.

Mr. SANTY. That's great, and that's the point—just to keep an eye on that as these things go through because the reaction, particularly on the State level, may limit our ability to do brownfields, and eminent domain is really necessary.

Mr. SHAYS. Could I just ask, did you want to ask any more questions?

Mr. TURNER. You can wrap it up.

Mr. SHAYS. I don't want to wrap up, I want you to wrap it up. But I just want to make sure, if you would just ask the question, because we haven't asked you as many questions as you're probably prepared for, I would like to make sure that the key points that you want to make are put on the record. So maybe with that, we can end up with a commercial.

Mr. TURNER. Aside from Mr. Soler, is there anything that you would like to add? You have an opportunity to say it now.

Ms. BARTON. I think the one point I would like to make is actually a point that Commissioner McCarthy made, and that is, there is a need for us to maximize the realization in the way the real world works as we try to do the very, very important things that all of you are doing; that is, recognizing that things do not proceed in a sequence, and therefore, there is a need for flexibility when it comes to when the money is available and what it's being used for. It has to be the ability, for those who are going to be responsible for allocating the moneys, to have those moneys be put to the best use for each project.

But again, as I said, it's not a one-sided control unfortunately. So any flexibility that can be built into any of the efforts would be helpful.

Thank you.

Mr. CARBONE. Just the one point that I wish to make is that, as you allocate dollars in the future, I know it's important to help people, particularly those who might live in this area, and earn a livelihood from the particular field, but the need to increase the num-

ber of people with occupations in this field is really great, and the need to do things that actually stimulate private investment in for-profit operations is equally as great. And to the extent that you can include this funding, if possible, to enhance it, I think you will be accomplishing something.

Mr. TURNER. One of the things I find most exciting whenever we do a hearing on urban economic development issues—CDBG, brownfields, public housing—you get together urban people who not only have expertise, but they have a love for accomplishing the end goal of redeveloping our cities. That camaraderie, that body of knowledge that's sharing, is always a valuable experience.

And I want to let you know that's how I feel about your Congressman, Chris Shays. That in the House, there aren't that many people who would sit around this table, like Mr. Soler's associates, who share the end goal and the love of making certain that our communities are redeveloped.

Congressman Shays, thank you again for having me here, and thank you for your friendship, and your advocacy on all the issues in the House.

Mr. Soler, as I said to the Mayors, we have a transcript that's being made and we will use that testimony when we put together the reports.

And the Mayors, I asked them to give the commercial as to why this is important to their communities. They talked about issues of taxes, and economic development, and blight. Of course, they're talking from a Mayor's perspective.

And from your perspective as a developer, I would love for you to give us your thoughts on why this is important for you to do. Not every developer is doing it, so the reasons are not so evident, otherwise, the line behind me would be very long.

Please share with your thoughts as to why it's important that you do what you do.

Mr. SOLER. I will tell you that a lot of developers would want to do it. They're scared. They are fearful that they're going to lose money. They're not in the business of losing money, they're in the business of making money. But many developers that I talk to want to gravitate into the brownfields business. I think that if you had protections in place, and you had a little bit more certainty in place, and you had these tax incentives, they would get into the business.

And you're starting to see that happen now, for institutional investors. What's happening in Stamford, CT, is not being done by a brownfield developer, it's being done by an institutional investor, buying what up to now they knew it as properties nobody wants. So there are a lot of people who get into it.

I also think that you're seeing a tide change in the development community. You're seeing people that are taking a little bit more of a responsible role in what will happen with buildings in the future.

Four years ago, when I started this project, and I looked at creating green buildings, everybody thought I was nuts, why would you want to do that, until last year, when we had an energy spike. Then, all of a sudden, everybody thought I was a genius.

The reality is that time is going to take a toll on how we develop properties in this country. And if we start at looking the way that the Europeans develop it, and other countries develop it, and adopt some of those models, we're going to look smart, we're going to end up having the future become our reality. So that's the reason why I'm doing this.

Those are the opportunities that are in the marketplace. I think taking advantage of those opportunities, because, frankly, no one else is looking, and doing it in a very creative way, is not only going to be financially rewarding, but I think it's the right way of doing it. There are a lot of people out there that are following me. We are not the only ones doing it.

Mr. SHAYS. Before you adjourn, Mr. Chairman, I just want to thank you for coming here. I want to thank you for setting up two excellent panels.

I just have so much admiration for what you're doing on this issue, and so many more. And it's nice to be part of your team in this effort. And so, thank you very much for coming, I appreciate it.

Mr. TURNER. I want to thank you again for your preparation and for your participation today.

And we stand adjourned.

Mr. SHAYS. And may we thank the transcriber.

Mr. TURNER. Yes.

[Whereupon, at 3 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

James F. Abromaitis
Commissioner

State of Connecticut
Department of Economic and
Community Development

March 23, 2006

Congressman Michael R. Turner (OH-3), Chairman
Subcommittee on Federalism and the Census
Committee on Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

Re: Testimony of the Connecticut Department of Economic and Community Development
Congressional Oversight Hearing, March 13, 2006, *"The Connecticut Experience: What Can Be Done to Spur Brownfield Redevelopment in the New England Corridor?"*

Dear Chairman Turner:

I am the Commissioner of the Connecticut Department of Economic and Community Development (DECD), which is the lead agency for brownfield redevelopment in the state. DECD, together with our partner agency the Department of Environmental Protection, have been very successful in assisting our communities and businesses in bringing brownfields back into productive reuse.

Although I was unable to attend the hearing on March 13th in Bridgeport, members of my staff were present. I want to thank you for traveling to Connecticut to host the hearing on this crucial subject. Please accept the attached material as DECD's written testimony regarding the state's efforts and comments on brownfield development.

Sincerely,

James F. Abromaitis
Commissioner

Cc: Commissioner Gina McCarthy, CT DEP
The Honorable John B. Larson, 1st District
The Honorable Rob Simmons, 2nd District
The Honorable Rosa DeLauro, 3rd District
The Honorable Christopher Shays, 4th District
The Honorable Nancy Johnson, 5th District

United States Congress
Congressional Oversight Hearing, March 13, 2006
"The Connecticut Experience: What Can Be Done to Spur Brownfield Redevelopment in the New England Corridor?"
Testimony submitted by
Connecticut Department of Economic and Community Development
March 14, 2006

General Comments

The Connecticut Department of Economic and Community Development (DECD) works in concert with our state brownfield partners, the Department of Environmental Protection (DEP) and the Connecticut Brownfield Redevelopment Authority (CBRA).

Connecticut is a small state with limited land resources. Connecticut is also under immense development pressures due to its location and access to the New York and Boston markets. Connecticut must look to reusing its previously developed land to curb the negative affects that unchecked sprawl has created for our quality of life. Brownfield reuse is our ultimate land-recycling program, and it needs to remain a high priority. Each parcel of land brought back into productive use for the community means lessened pressure on the development of our limited farmland and open space. In addition, brownfield redevelopment has positive economic and health benefits for state residents.

DEP and DECD's collaboration on brownfield reuse began in 1991 with the Economic Development Initiative program. This program allowed DEP staff to manage priority brownfield redevelopment projects designated by DECD as significant to the state's economy. For the first time, this pilot program used economic priorities rather than environmental hazards as the primary factors in site selection and state attention for investment.

In 1993 the partnership between DECD and DEP was formalized through the Urban Sites Remedial Action Program. The Urban Sites program is the state's "flagship" brownfields redevelopment program, and has spent more than $40 million redeveloping urban sites through direct financing. The Urban Sites funding, in addition to $220 million in other state development funding, leveraged $658 million in private investment and brought 575 acres back into productive use. Included in these numbers are the 13 projects from the state's Special Contaminated Properties Remediation and Insurance Fund and the 44 dry cleaning establishments presently being remediated through the state's successful Dry Cleaning Establishment Remediation Fund. Some of the more significant projects undertaken by the state's direct financing efforts are the conversion of contaminated industrial mill sites into regional retail centers, riverfront parks, shipyards as well as a global pharmaceutical research center.

In addition, DECD has assumed the program obligations of US Environmental Protection Agency (EPA) Revolving Loan Program funds awarded to municipal recipients who were unable to complete their program. The state, through DECD, has the professional staff and experience to manage complex financing vehicles and real estate development. DECD manages both powerful economic development and brownfield redevelopment tools to promote business growth and job creation.

Brownfield redevelopment is a real estate development project with an additional need for a remedial action plan for site contamination. The success of brownfield development is dependent on the effective utilization of a variety of brownfield and economic development incentive tools, coupled with the integration of the final site plan with the remedial action plan for the property. In relating these two plans, the project is able to realize cost savings by using the proposed new structures as the engineered "cap" for the site. Close coordination between the regulators and the site engineers is essential to this success. Both DEP and DECD assign dedicated technical staff to manage these project activities.

Investigation or Remediation

There has been an ongoing debate in the economic development community for years regarding whether investigation or remediation of sites should be emphasized. The answer is that both are still needed. Developers are requiring quicker schedules to bring their projects on-line. They typically do not have the luxury to wait for a remedial investigation to be completed. A ready inventory of investigated sites is key to meeting these ever compressing schedules. Conducting site remediation in advance of a development proposal, in some cases, may be advantageous, but as noted above, integrating the site plan with the remedial action plan is an effective means of controlling costs. Having ready access to remedial funding is more crucial in many cases.

Comments regarding EPA funding

DECD has an excellent working relationship with EPA staff. EPA staff has always been accessible for questions and advice. However, the federal application process is cumbersome, and has not been traditionally oriented for state government applicants. I would recommend that the funding process be modified to: 1) distribute funds directly to states without an application process, and 2) recognize successful fund recipients from previous rounds in the EPA application process and not require significant documentation for subsequent rounds of funding.

As noted above, having ready access to remedial funding is crucial in many brownfield projects. The department recommends that EPA review its funding policies and move away from the funding rounds to an on-going funding process that would accommodate well-defined projects that are ready to be implemented. Most project schedules are not compatible, with the federal funding process.

DECD also suggests that the EPA revolving loan fund increase the percentage of the grant/loan distribution. Many of the projects cannot afford additional debt, and traditionally developers will not be interested in increasing their debt service to fund the remediation; their preference is to apply the debt service to income producing construction.

The Connecticut DECD is well positioned to receive and effectively manage brownfields funding from the EPA. Our internal technical and business capacities combined with our record of success uniquely qualifies the department to continue generating meaningful advances toward brownfield redevelopment in partnership with the EPA.

Thank you for your consideration of the departments views on this issue.

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