



April 9, 2013

House Committee on Energy and Environment
Public Hearing on HB 3030
April 9, 2013, 3:00 pm

Re: Port of Portland Testimony in Support of HB 3030

Mr. Chair, Members of the Energy and Environment Committee:

I am David Ashton, Assistant General Counsel of the Port of Portland. We are here to testify in support of HB 3030.

I have specialized in environmental and natural resources law for over 22 years and have extensive experience acquiring, selling, leasing and redeveloping contaminated brownfields sites around the country and in the region served by the Port of Portland, including brownfields redevelopment at the award-winning Troutdale Reynolds Industrial Park (TRIP) and at the Port's marine terminals and Swan Island properties in Portland Harbor. Redeveloping contaminated waterfront properties is a central component of the Port's regional economic development mission.

The Port has also actively participated in several local and regional studies of the impediments to brownfields redevelopment and the value that could be released if urban brownfields properties could be cleaned up and redeveloped, including the Brownfield/Greenfield Development Cost Comparison Study and more recent Metro and City of Portland studies.

For several years, I participated as the Port representative in the Portland Harbor Redevelopment Initiative, dubbed Harbor ReDI, a multi-stakeholder public-private partnership initiative involving local, regional and state governments, the Portland Business Alliance, Columbia Corridor Association and Harbor businesses. We studied and worked to find ways to promote, streamline, and otherwise facilitate brownfields redevelopment of the vacant and underutilized contaminated uplands in the watershed of Portland Harbor, within the urban growth boundary.

Harbor ReDI sought to find additional ways to facilitate brownfields redevelopment, whether in the form of inter-agency collaboration, potential economic incentives, regulatory streamlining, and enhancements to the liability protections for people considering buying or leasing contaminated property. In the 2011 Session, the Port

actively supported HB 3325, enhancing the legal protection of innocent purchasers of contaminated brownfields.

The Brownfields studies and initiatives in which the Port has been involved all concluded that financial incentives were essential to convert financially upside down contaminated brownfields sites into cleaned up and redeveloped properties. This is especially true for brownfields industrial redevelopment which has a lower market value and typically higher costs than retail and commercial brownfields redevelopment. Unfunded, many brownfields sites remain undevelopable and some continue to contribute contamination to surrounding public and private property.

Redeveloping contamination sites is much more daunting, expensive and time consuming than starting with a vacant greenfield because the contaminated condition of the property is a barrier to viable reuse that is very time consuming to deal with, and often expensive to correct, before any redevelopment construction project can get be initiated and move through the critical path to completion and desired profitability.

These studies noted the invaluable role State brownfields grants and loans play in helping to level the playing field towards getting these properties back into productive use. Our studies also noted some additional very useful applications for such loans and grants, like expanding them from simply assisting with the cost of demolishing buildings to access below-ground contamination, to assisting in defraying the cost of demolishing old buildings the abatement of which is complicated by the presence of contamination in historical building materials, like asbestos, lead and marine paints, PCBs-impregnated insulation, or coal or petroleum tars and asphalts.

Harbor ReDI also noted the perverse incentive created by the current property tax abatement program under which the tax assessed value of contaminated land is reduced by the costs of cleanup; leading to loss of property tax revenue but no parallel path of investing any tax savings in correcting the contamination. Harbor ReDI studied programs like Minnesota's tax program that taxes the presence of contamination on land until it is shown to be cleaned up. While no one is suggesting such a tax, encouraging property owners to clean their sites through incremental reductions in tax abatement unless continued progress is made towards cleanup, is a concept worthy further review.

Reforms like these combined with capitalizing the State brownfields revolving loans and grant programs will facilitate the redevelopment of brownfields across the state, with the potential to contribute to job creation and sustainable infill within our urban growth boundaries. They will facilitate the cleanup and redevelopment of waterfront properties. They will create some useful additional tools for the brownfields redevelopment toolbox that can be applied to contamination sites wherever the opportunity may be located in the state.

Therefore, we urge you to support HB 3030.

Thank you for the opportunity to testify. I am happy to answer any questions.