

FROM THE DESK OF
REP. MITCH GREENLICK



A handwritten signature in black ink, appearing to be "Mitch Greenlick", written in a cursive style.

July 6, 2013

Dear House Members,

I am writing to you on behalf of the Audubon Society of Portland to urge your "no" vote on SB 246.

While we recognize the State's interest in promoting development of industrial lands, we do not believe that it is appropriate to ask the taxpayer to cover the costs of environmental mitigation required under federal, state and local regulations that results from industrial development activities of Superfund liability that results from industrial pollution.

We are disappointed that the Ways and Means Committee rejected amendments proposed by Audubon that would have addressed these concerns. The bill as written still explicitly allows industrial developers to pass the costs of environmental mitigation onto the taxpayer.

In addition, while the legislation may on first reading appear to specifically exclude Superfund related expenses from eligibility, we believe that a subtle change in wording from the proposed Audubon amendments also would allow tens of millions of dollars of Superfund related liability to be included under the provisions of this legislation. Specifically the wording was changed to exclude "liable parties" rather than "potentially liable parties" under Superfund. Proponents of this legislation are well aware that the terminology used by the state and federal government in the Superfund process refers specifically to "potentially liable parties." Tens of millions of dollars spent to date on the Portland Harbor Superfund process have been spent by "potentially liable parties." We do not see any credible reason to intentionally deviate from the correct Superfund terminology, unless the goal is in fact to create a loophole that allow many of the costs associated with Superfund to be eligible under this legislation.

Asking the taxpayer to subsidize environmental mitigation and Superfund mitigation is problematic for several reasons.

- It reverses a longstanding precedent that the developer/property owner cover mitigation costs--it is critical for the health of our communities and environment that we strengthen rather than weaken our commitment to internalizing the costs of impacts to the environment into the cost of doing business and double down on the "polluter pays" principle;
- It undermines the incentive that mitigation requirements create for a developer to avoid and minimize impacts to the environment--many of our foundational environmental laws as based upon an "avoid, minimize, mitigate" regime. However the incentive to avoid or minimize impacts to the environment is undermined if in fact the developer can shift the costs of impact to the taxpayer;

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- It places the state in a dual role of both regulating environmental impacts and paying to mitigate for environmental impacts creating a clear conflict of interest;
- This legislation comes at a time when natural resource programs are facing significant cuts---to the degree that the state has funding available for natural resources, those funds should be used on proactive programs---not to cover the costs of mitigating for industrial developers.

In addition, we would highlight the fact that this legislation comes two years after the legislature passed SB 766 which dramatically reduced the public's ability to be involved in the decision-making/ permitting process associated with many industrial developments. At the same time that the legislature is potentially asking the public to cover the costs of the environmental impacts of industrial development, it is also curtailing the public's ability to weigh-in on those impacts. SB 766 and SB 246 are both troubling in their own rights, but taken together, they represent a pattern of attack on some of our most safeguards to protect our communities and our environment on industrial lands. We believe that this type of incremental erosion of oversight and accountability is a recipe for disaster.

We respectfully request that the legislature reject SB 246 as long as it allows costs of environmental mitigation and Superfund liability to be passed onto the taxpayers.

Thank you for your consideration of our comments.



Bob Sallinger
Conservation Director
Audubon Society of Portland

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