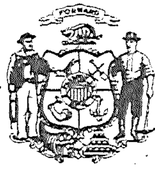

Jeff Mursau

STATE REPRESENTATIVE • 36TH ASSEMBLY DISTRICT

Assembly Committee on Environment
AB 579 – Discharge of a Hazardous substance
January 12, 2022

Chairperson Kitchens and Committee Members:

Thank you for the opportunity to testify in support of Assembly Bill 579, which relates to the responsibility of a property owner for discharge of hazardous substance. I appreciate your willingness to bring this bill forward.

I first became aware of this bill in 2017 when it was referred to a committee I was chairing and I held a public hearing on the bill. I found the testimony compelling and I sympathized with the parties whose properties had been contaminated by a previous owner, and who now find themselves responsible for the cleanup. You will hear from one of these individuals, Mr. Koeppler, today. It's for these reasons that I agreed to join Senator Jacque in bringing this bill forward this session.

In 1992, Wisconsin implemented mandatory disclosure laws which requires a property owner to disclose on a real estate condition report any defects "...that would have a significant adverse effect on the value of the property; that would significantly impair the health or safety of future occupants of the property; or that if not repaired, removed, or replaced would significantly shorten or adversely affect the expected normal life of the premises". Unfortunately, in the case of Mr. Koeppler, he bought his residential property in 1987, before this law went into effect.

Mr. Koeppler remained unaware that his property was contaminated until the DNR informed him in 2015 (nearly 30 years after he bought his property) that he was responsible for remediation efforts because of hazardous soil vapor contamination occurring under his residence. It turns out, that at one point in time his property had once been a dry cleaning business.

This bill is pretty simple. It exempts a residential property owner from being forced into remediation if they meet 3 criteria:

1. They acquired the property prior to Wisconsin's mandatory disclosure law
2. They can prove that the discharge was caused by another person and the property owner did not know and had no reason to know of the discharge when the owner acquired the property
3. The property was not listed in the database of contaminated properties maintained by the DNR

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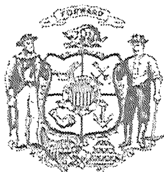
The bill also exempts a county that takes a tax deed on property contaminated by a hazardous substance, or any person who subsequently acquires the property from the county and meets certain requirements, from responsibility relating to the discharge of the hazardous substance. This provision will assist economic development efforts in local communities that want to redevelop abandoned properties, but are hesitant to do so because of potential liability.

Once again, thank you for holding a public hearing on this piece of legislation. I'm happy to answer any questions you may have.



ANDRÉ JACQUE

STATE SENATOR • 1ST SENATE DISTRICT

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Testimony before the Assembly Committee on the Environment
State Senator André Jacque
January 12, 2022

Chairman Kitchens and Committee Members,

Thank you for holding this hearing on Assembly Bill 579, the Innocent Purchaser Protection bill.

AB 579 is bi-partisan legislation identical to 2017 AB 720 to ensure individual property owners around the state aren't forced into financial ruin to clean up contamination they aren't responsible for causing. This legislation will also assist local governments with the redevelopment of both contaminated properties and those perceived as potentially contaminated when the responsible party has abandoned the property.

Individual property owners, including the recent example of Ken Koeppler, who unbeknownst to him, purchased a contaminated property before mandatory disclosure laws, are facing financial ruin by being mandated by the DNR to remediate contamination they knew nothing about. Mr. Koeppler purchased contaminated property years before disclosure was required and has spent many thousands of dollars and counting to remediate.

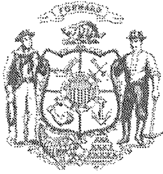
In *State v. Mauthe*, the Wisconsin Supreme Court held that the owner of a property containing contamination is responsible for remediation. This is true even if the owner is not responsible for the contamination and had no reason to know it existed upon purchasing the property prior to mandatory disclosure laws passed in 1992.

AB 579 provide a much-needed exemption from remediation in these cases where the property owner is not a corporate entity if the following three conditions apply:

1. The owner purchased the property prior to September 1, 1992 (when mandatory disclosure laws went into effect);
2. The owner demonstrates that the discharge was caused by another person without the owner's knowledge;
3. The property was not listed in the database of contaminated properties maintained by the DNR when the owner purchased the property.

This legislation is meant to ensure individual property owners, who had no knowledge of property contamination and no way to find out about contamination, aren't held liable for contamination remediation efforts. Another very important aspect of the bill is its ability to significantly assist local economic development efforts by exempting entities that acquire a tax deed from a property contaminated by a hazardous substance, or any person who subsequently acquires the property from the county and meets certain requirements, from responsibility relating to the discharge of the hazardous substance.

One of the largest hurdles to the redevelopment of brownfields and blighted property in our communities, or properties like Mr. Koeppler's, is that before investment in those sites can begin, you have to find someone willing to assume the risk of the full spectrum of they might find on the land, even before they have the ability to perform a thorough assessment themselves, and to accept the potential for astronomical costs in so doing. Even when likely that significant contamination would not be found, the mere possibility that more



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could be discovered than is publicly known is often enough to have a chilling effect on the redevelopment of the site, and many times its adjacent properties as well. When the owner of a contaminated, or potentially contaminated property becomes financially insolvent and stops paying taxes, an eyesore which may or may not be Pandora's Box is dumped in the laps of our communities. This legislation ensures that the DNR can still offer grants for cleanup or pursue the parties actually responsible for contamination. But by properly extending a liability exemption for cleanup to those who did not cause the contamination and could not have stopped it, this proposal would grant greater leverage to ensure solvent polluters keep current on their property taxes and grant greater flexibility to local governments in how to fix up these properties.

This common-sense legislation has been supported by a number of municipalities, the Wisconsin Economic Development Association, the Wisconsin Realtors Association and the Wisconsin Commercial Real Estate Development Association (NAIOP).

Thank you for your consideration of Assembly Bill 579.

Testimony; Assembly Committee on Environment

Good morning Representative Kitchens and members of the Assembly Committee on Environment. My name is Kendall Koeppler, I live at 2725 Atwood Ave. in Madison and
I am here in support of Assembly Bill 579.

In March of 2015 I was contacted by the Wisconsin DNR asking permission to test for possible contamination relating to a former dry cleaners in the area of my property at 351 Russell St. I assumed they were referring to my building and asked if I could be held responsible for anything they found. The case manager verbally assured me the DNR would pursue the persons who had caused any contamination found. That didn't turn out to be the case.

I had nothing to do with contaminating this property and had no reason to think there was an issue when I bought the property in 1987. I was a first time home buyer. It was a small converted commercial building zoned residential by the city of Madison almost a decade earlier. At the time, it was a residential rental with out-of-state owners. I conducted all the due diligence one could expect under those circumstances. Real estate condition reports were not required by law until 1992. I hired a lawyer and a building inspector to review the purchase. If there was any lack of due diligence, I contend it was in 1979 and committed by the redevelopers and the city of Madison when they zoned the property residential.

In 2015 I allowed the DNR to conduct their testing. On the same day I received the results of that testing the DNR named me the Responsible Party, informing me I had to pay for all subsequent testing and remediation both of my property and any of my neighbors affected. This would not be the last time DNR representatives misrepresented the facts of my situation in their attempts to get me to comply with their orders. They lied about when I submitted documentation, inflated my assets to misrepresent my ability to pay, took credit for research I conducted, and in my opinion have overestimated the number of sites which would be affected by the passage of innocent buyer protection legislation, all in the name of protecting their one-size-fits-all enforcement practices.

In 1997 Wisconsin set up the DERF fund to pay for the cleanup of dry cleaners but made no accommodations for innocent property owners who

had nothing to do with the contamination. Millions of dollars have been paid out through DERF to clean up the sites of active dry cleaners while the innocent owners of former dry cleaning sites have been hung out to dry. Due to insufficient revenues, the legislature closed the fund to new applicants in 2008, seven years before the state ever got around to looking at former dry cleaner sites like mine. Let me repeat, the state paid to clean up the sites of the actual polluters but demands that those who had nothing to do with the contamination pay to clean it up on their own.

I have spent in excess of $55,000 dollars in legal fees and attempts to comply with the DNR's demands pertaining to this issue. I am attaching a 2016 future costs estimate ($100,000 over the next three years) prepared by the engineer that performed the work done to date.

I am being singled out and punished for doing the right thing. I let the DNR in to conduct their tests because I am an environmentalist. Unknown to me at the time, the DNR had been taking soil borings offsite around various former dry cleaners in the city. This was not revealed to me at the time. Another site on the 1200 block of Williamson St. in Madison had even higher levels of contamination than mine. Because the owners did not respond to the DNR's outreach, no further testing was ever conducted. Despite me calling attention to this disparity, to both the DNR and multiple elected officials, that property was put up for sale last year with no mention of any contamination issues and subsequently sold. I, on the other hand, will never be able to sell my property. Any closure of my site will always remain conditional and no prospective buyer is going to assume that liability.

One aspect of AB 579 that I feel needs to be addressed is the ability to pass immunity on to subsequent buyers. The Bill currently exempts counties that take a tax deed on properties and passes that exemption on to subsequent buyers of that property even though in most cases counties are already eligible for federal Brownfields funds to investigate and remediate properties they own. In the case of individuals such as myself, while I would gain immediate protection from investigation and remediation costs, I could not pass that protection on to subsequent buyers. Closures of these sites are conditional, subject to reopening at the DNR's discretion. It is unlikely I will ever be able to divest myself of my property and will be forced to continue owning and managing it until I die.

Whoever I bequeath it to will immediately become subject the DNR's enforcement whims.

I am 70 years old and since the DNR entered my life, the added stress has contributed to my needing three heart surgeries, the most recent being a quadruple bypass on December 9th. COVID 19 has decimated my ability to continue working as a musician or recording engineer. Presently it seems I will never have a normal retirement. If the state does not correct this injustice my existing retirement funds will always be in jeopardy and even if AB 579 passes in its present form, I won't be able sell the property or safely leave it to my heirs.

The DNR's representatives are fond of saying saying thousands of properties would be suddenly orphaned if AB 579 passes. I urge you to read the bill closely. How many individuals have owned their properties over 30 years, had nothing to do with creating the contamination and didn't know there was an issue when they purchased them. Even then, what is the justification for making innocents pay for it, regardless of the cost.

Arguments will be made that this bill can't move forward without a funding element. Presently that lack of funding is the only objection listed in the League Of Women's Voters objection to this bill. The lack of funding is what derailed the original bill, authored by then Reps. Chris Taylor, Andre Jacque and Sen. Fred Risser in 2017. I am attaching the recommendations of the 2018 Brownfields Study Group to which the 2017 bill was referred for study. The bill was amended in 2019 to include modest funding to be earmarked for these cases but was never reconsidered. Not having funding included in the present bill does not justify ruining innocent people's lives to correct problems that has been ignored for over 60 years. I lived in my building for over 17 years. The state was not concerned about me or my family during any of that time .

In my case, I believe the state could already do the right thing regardless of passage of AB 579. The state is uniquely qualified to find the original insurers of the operators of the dry cleaners. They would still be liable for the cleanup. The DNR simply doesn't have any personnel assigned to such work.

Let me also say this is and should remain a bipartisan bill, I have been told the DNR has contacted every Democratic supporter of this bill trying to characterize AB 579 as part of the partisan battle in the Capital focused on various aspects of the DNR's role in regulating Wisconsin's environmental efforts. I believe this can be a rare moment when both parties can work together to do the right thing. A first step would be to put aside their differences and allocate modest funding to implement AB 579. Fully half of the rest of the 50 states and the federal government have some protection for innocent buyers. Wisconsin needs to catch up.

Finally, I don't believe the Wisconsin Supreme Court envisioned this application of the spills law when their decided Mauthe vs. the State of Wisconsin in 1985. Their decision was the result of decades of legal maneuvering by big corporations to avoid cleaning up contamination they originally caused. The court's intent was to give the state wide latitude in addressing imminent dangerous levels of pollutants in our environment. It wasn't a mandate that the state steamroll innocent property owners into paying for contamination they had nothing to do with creating. The DNR has explicit enforcement discretion which they presently refuse to apply in a just, reasonable manor.

I believe the DNR fears losing the enforcement powers Wisconsin's spill law gives them but I don't believe this bill would actually do that. It would only force them to consider what is the fair and right thing to do when applying those enforcement powers. One-size-fits-all enforcement is not the right thing to do here.

Thank you for the opportunity to tell my story.

Kendall Koeppler

From: "Langdon, Robert" <RLangdon@scsengineers.com>
Subject: RE: insurance
Date: September 29, 2016 12:41:09 PM CDT
To: Koeppler Ken <kennykoeppler@gmail.com>

Ken, my guess is you are looking at $20,000 per year for both 2016 and 2017, assuming we can close this out with installing the three wells and sampling them four times, preparing a case closure report, and then abandoning the wells.

If DNR were to push for more soil or groundwater sampling that number could go up by an additional $25,000.

If the groundwater results cause DNR to push for additional vapor sampling and/or mitigation it will depend on how many homes they require and if mitigation is needed. Let's say assessment and mitigation is required for five homes at an average cost of $5,000/home that's another $25,000.

If we assume all of the above are required, but no soil excavation, capping or other remedial actions are necessary. That might put you $100,000 worth of additional work spread out over three years or $33,000 per year.

These are very rough cost opinions. We'll know a lot more once we finish this next phase of work.

-Rob

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Memorandum

To: Rep. Jacque & Rep. Taylor and Sen. Risser

From: Wisconsin Brownfield Study Group

August 31, 2018

Re: Co-Sponsors LRB 0948 – Innocent Purchaser Protection

Background: In November 2017, LRB 0948 was introduced with the intention of absolving individual property owners from liability for cleaning up contamination that they were not responsible for causing. This bill was meant to give an understandable exemption from remediation in cases where the property owner is not a corporate entity and if:

1. The owner purchased the property prior to September 1, 1992 (when mandatory disclosure laws went into effect);
2. The owner demonstrates that the discharge was caused by another person without the owner's knowledge;
3. The property was not listed in the database of contaminated properties maintained by the DNR when the owner purchased the property.

The Problem: Under the Spills Statute, in addition to whomever causes contamination, the current property owner is considered a responsible party because he or she "possesses or controls" the contaminated site. Where a viable causer does not exist, absolution of environmental liability for the "innocent owner" does not address the root contamination problem – who will pay to investigate and remediate the contamination in order to protect public health and restore the environment. If the intent of the legislation is to provide relief to parties like Mr. Ken Koeppler of Madison, the State must decide how it can assist these innocent landowners in mitigating the effects of the contamination while at the same time protecting public health, restoring the environment, and promoting economic renewal of the subject property and surrounding area.

Many "innocent landowners" want to see the contamination properly addressed but have no access to outside funding sources to assist with investigation and remediation. These owners are expected to fully fund remediation costs which may be beyond their financial means and which may exceed the property value, especially outside of urban centers. By contrast, municipalities, development authorities, businesses, and developers have access to multiple funding mechanisms to assist with or completely cover costs associated with investigation or remediation (e.g., federal or state brownfields grants, TIF, WEDC grants, Dry Cleaner Fund, bank financing, etc.). This raises a question of fairness of the current system.

A Wisconsin Brownfield Study Group (WBSG) subcommittee of environmental scientists, attorneys, insurance risk experts and academic

Memorandum

researchers convened to attempt to quantify the potential scope of this "innocent landowner" problem as well as derive potential solutions. While ad hoc examples gave a sense of types of situations where such a law might be applicable, the number of likely cases could not be determined by this group or WDNR staff.

The Solution: State-aided funding is the only practical solution at this time to relieve the impacts on these innocent landowner situations while simultaneously protecting the welfare of the public and promoting economic development. Studies show that state investment in this area yields large returns.

In 2015, the WBSG funded the University of Whitewater Fiscal and Economic Research Center to quantify the benefits of contaminated site cleanups and redevelopment. The study found that State funded grants of $121.4 million cumulatively recouped a $1.77 billion return–***a more than 14-fold return on the state investment.***

Over half of the state grant funding outlay is recouped in state tax revenues from construction activities alone, and redevelopment of the properties directly or indirectly resulted in the retention of 54,483 permanent jobs. Study economists calculated that local Wisconsin governments gained $88.5 million annually in tax revenues from redeveloped brownfields, not including property taxes derived from the new or renovated buildings. On average, post-redevelopment assessed values exceed pre-development values at a ratio of 3.5 to 1.

The Ask: It is the recommendation of the Wisconsin Brownfield Study Group that the legislature augment the Wisconsin Environmental Fund from the current $2.3million to $4millon annually and dedicate a portion of that fund to be allowed for use on private property when the innocent landowner provisions listed in LRB0948 are met in lieu of absolving current owners of environmental liability.

Currently, approximately $2.3 million is collected annually from a wide variety of sources and placed into the Wisconsin Environmental Fund (Wis. Stat. 25.46). The WDNR fully utilizes the entire annual allotment yet is only able to stabilize only the most imminent and hazardous threats to the public and environment.

Sources of additional funding should be the subject of further study. For example, many of these sites may have been covered under general liability insurance policies pre-dating the "absolute pollution" exclusion that was incorporated into most policies in the mid-1980's. Serious study should be given to how the State might pursue these old policies as a way to supplement the Environmental Fund. This type of investigation is beyond the capabilities of most individuals, but WDNR staff funded to this may yield

substantial additions in funding from insurance claims. Similarly, industries which have had a disproportionate role in producing environmental contamination of land and groundwater should be considered for additional fees to cover the costs of clean-up. Programs such as now-retired PECFA and the Dry Cleaners fund may serve as a template. Ultimately, these remedies will be more efficient for the state and result in timelier cleanup and redevelopment than leaving innocent landowners to pursue private action against prior owners.

The following are examples of where access to an augmented state Environmental Fund, state industry derived remediation funds (e.g. dry-cleaner fund, PECFA), and insurance claim support would provide relief from environmental liability as well as protection of human and environmental health.

Case #1:

A former dry-cleaning site was purchased by an individual, converted to residential units and rented. Dry-cleaning chemicals are discovered in the soil underneath the property. Contaminant cleanup will remove the risk to the current occupants of the property and neighbors. If the contaminant spreads multiple properties will become economically worthless and people sickened if vapors move through the soil into basements and houses.

Case #2:

An individual building owner adjacent to a long-defunct rural gas station begins to have gasoline seep through basement walls making the structure unusable for the current first floor small business operation as well as the second story rental units uninhabitable. Remediation is required of both the owner's property as well as the adjacent contaminant source. The rural location of this site makes commercial redevelopment fiscally unviable.

Case #3

A family farm in the Driftless region becomes aware of lead contamination of soil and stream sediment due to mining operations from the early 1900s. The lead is hazardous to the farm family during normal farm operations, livestock if the area is grazed and nearby trout stream and wildlife. Self-funding the cleanup will bankrupt the farming operation.

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Assembly Committee on Environment

2021 Assembly Bill 579
The Responsibility of a Property Owner for Discharge of a Hazardous Substance by Another
January 12, 2022

Good morning Chair Kitchens and members of the Committee. My name is Christine Haag, and I am the Bureau Director overseeing Remediation and Redevelopment with the Wisconsin Department of Natural Resources. Thank you for the opportunity to testify, for informational purposes, on 2021 Assembly Bill 579 (AB 579).

This bill proposes to amend § 292.11, Wis. Stat., more commonly known as Wisconsin's Spill law. The proposed changes may result in hundreds of millions of dollars in costs to Wisconsin taxpayers and hundreds of new brownfields in our state.

Background
The Spill law requires persons who caused environmental contamination or who own property that is contaminated to clean it up to the extent practicable. The Spill law was enacted in May of 1978, over 43 years ago. The DNR has cleaned up over 14,000 properties and seen the successful redevelopment of thousands of sites using this authority. Many property owners over the years have successfully investigated and cleaned up environmental contamination under the Spill law – we have issued over 28,000 cleanup approval letters. The Spill law is designed to protect the public from exposures to hazardous substances, and our public natural resources, like drinking water, from contamination from spills and other chemical discharges.

The Spill law has been a fundamental building block of our successful and nationally recognized brownfields program. The Spill law, along with its existing liability exemptions, has provided the state with the ability to successfully balance the clean-up of our environment with protecting public health and promoting economic redevelopment where many other states have struggled. Other Midwest states have dedicated hundreds of millions of dollars to promoting brownfields redevelopment. In contrast, Wisconsin has relied on more modest infusions of state and federal funds because of the strength of the liability provisions in the Spill law. In Wisconsin, we have successfully incorporated the underpinnings of the Spill law into the real estate market by factoring the costs associated with environmental contamination at a property into the purchase price of such properties. In essence, we have allowed the private sector to factor the Spill law into the marketplace without large infusions of taxpayer dollars.

Public Policy Implications
There are four main exemptions from liability that currently exist in the Spill law – for voluntary parties, local units of government, lenders, and off-site property owners. These existing exemptions require the persons eligible for the exemption to conduct certain actions in return for an exemption from liability. These exemptions are earned and can be forfeited. AB 579 introduces new exemptions that effectively

provide an economic benefit to certain entities but do not provide any clear public benefits, unlike the existing exemptions in state law. These proposed exemptions do not ensure that the public is protected from exposure to contamination, and likely would result in the creation of more brownfield sites, many of which would go unreported. This proposal could result in substantial costs to Wisconsin's taxpayers to clean up these contaminated sites. They also could create or worsen environmental justice concerns in our rural and disadvantaged communities, by allowing these properties to be used for housing or businesses without thought to public health effects.

Public Health and Environmental Implications

This proposed bill would authorize 3 exemptions: (1) one exemption is for persons who are "not a corporate entity;" and (2) another exemption applies both to a county who takes title to a contaminated property, as well as (3) any person who acquires that property from the county through the tax foreclosure process. As previously noted, the existing exemptions in the Spill law require notification of a discharge to the public, thus allowing the state and the public to be aware of known contamination. This bill lacks that notification requirement. Further, there is no requirement to ensure that the future use of these properties is protective of the public, tenants, or the environment. These proposed exemptions would very likely result in more properties with contamination that would not get cleaned up and therefore could pose threats to human health and the environment.

Economic Implications

This cleanup work would likely become an obligation of the state, and therefore a cost to Wisconsin taxpayers. Given the fact that the contamination of many of these sites occurred decades ago - before strong environmental laws were in place to prevent contamination from occurring – many of those persons or businesses who caused the discharge are no longer available to address the contamination. The DNR estimates that these new exemptions would apply to between five to ten percent of open and closed contaminated properties in the DNR database – out of a total universe of 16,600 known sites. Depending on the complexity of environmental and public health issues, the estimated cost of this exemption to taxpayers could range from $62.3M to $416M. Presently, there is not enough state funding available to assess, investigate, and clean up all of the newly exempt properties this legislation would create, or even ensure a minimal level of protection. Without additional state funds, these properties will likely stay contaminated if the proposed exemptions go into effect.

Environmental Justice Implications

If this exemption becomes law, it will intensify the public health threats in inequities to low- and moderate-income people, including vulnerable children, pregnant women, and people of color living in Wisconsin's disadvantaged and rural communities. If property owners do not have the legal obligations to address the risks from exposure to contamination at properties, the people living in and working on those properties will continue to be exposed to contaminated groundwater, soil, and chemical vapors in the buildings. The contaminated properties affected most by this new exemption are in older, blighted parts of cities, towns, and rural areas, and often within the most disadvantaged communities. If the owner of an older apartment building that once housed a dry cleaner is not required to follow the Spill law, they will likely not evaluate and mitigate the chemical vapors that may be affecting the health of the families who live in the building or at the day care next door. The same hard-hit neighborhoods will continue to be neglected and get the short end of the stick once again.

Lessons Learned from Other States

Other states have modified their liability standards, either partially or significantly. Most of those states still require notification and assessment of a property to determine imminent health exposures and requirements to mitigate those exposures so the property can be safely used. The Michigan Department of Environment, Great Lakes and Energy (EGLE) estimates that Michigan has 14,000 sites where there is no responsible party given Michigan's liability standard that was changed in its state cleanup law in 1995. The Michigan legislature provided $1.3B in two significant funding programs, one in 1988 and another in 1998. These funds helped address brownfields sites and sites with no responsible party when the liability standard changed in 1995. Those funds have been expended and never replaced.

Other Concerns:

- The proposed bill uses an undefined term, "property owner that is not a corporate entity," in the exemption. The term may have unintended consequences in that it could provide exemptions to a broad group of entities including individuals, trusts, interstate agencies, associations, local governments, the federal government, as well as non-corporation companies such as partnerships, limited partnerships, limited liability companies, and sole proprietorships.
- Determining which persons would be eligible for the "not a corporate entity" exemption would be a significant implementation challenge for the DNR.
- The bill provides no funds to address these sites that will become the responsibility of the state or federal government.
- The DNR database referenced in this bill did not exist in 1992 - it was created by state law in 2005. Therefore, it cannot be used to evaluate whether a property was on the DNR database prior to September 1, 1992.
- There is no requirement to assess or sample these sites or notify the DNR as a condition of obtaining the exemptions, thus compromising the public's right to know about contaminated sites in their community or if the site they reside on has public health risks.
- It creates an unintended double standard for properties acquired by local governments – if a property is acquired through an existing exemption by virtue of slum clearance, blight elimination, stewardship funds, bankruptcy court order or escheat, or tax foreclosure, there are obligations on the local government to ensure the DNR is notified and the property is safe to put to intended use. With the new exemption, properties acquired by a county through tax foreclosure and the subsequent private owner would have no obligation to do anything.

Considerations for addressing concerns:

If the intent of the bill is to provide relief for persons who purchased properties decades ago that were later discovered to be contaminated, the legislature could consider the following:

- Providing funding to offset the costs of cleanup for a targeted group of property owners
- Utilizing terminology with existing statutory definitions
- Ensuring the beneficiaries of a new exemption are limited and focused (e.g., only residential property owners)
- Ensuring protectiveness to human health through minimal requirements (e.g., evaluate and mitigate exposures from contaminated vapors and drinking water)
- Requiring property owners to maintain and report on the condition of systems installed to mitigate exposures and replacing them if ineffective
- Ensuring the public has access to information about environmental conditions of the properties

- Ensuring that tenants are informed about the environmental conditions at the properties
- An exemption for counties that acquire a property via tax foreclosure already exists in state law

As currently written, AB 579 provides benefits to a broad class of persons that likely will have detrimental consequences to public health and our natural resources, adds cost to the public taxpayer, and increases the environmental justice implications on our rural and disadvantaged communities. An alternate solution would be to establish a fund to assist innocent purchasers to investigate and clean up contamination and significantly narrow the exemption from liability.

On behalf of the DNR I would like to thank you for your time today. I would be happy to answer any questions you may have.