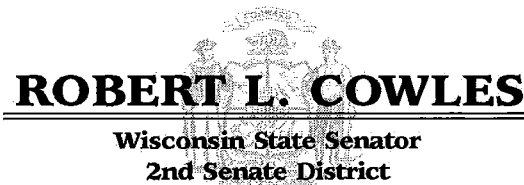


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Transportation & Veterans Affairs



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Audit Committee, Co-Chair  
Information Policy and Technology

## **2017 Assembly Bill 179: Brownfield Reform**

Assembly Committee on Environment and Forestry  
May 16, 2017

Thank you Chairman Mursau and committee members for the opportunity to discuss Assembly Bill 179 regarding several legal changes to impact the way we develop brownfield sites. This bill will start utilizing these properties and eliminate the blight in our communities.

I am sure that we have all driven past a blighted property at some point and looked out the window and thought to yourselves "What a waste of space!" or "Couldn't that property be something better?" The short answer is yes. There are some great examples of brownfield sites being revitalized to become something useful. The Leach Amphitheater in Oshkosh was an old blighted manufacturing gas plant. This summer it will host nearly 100,000 guests through concerts, plays, movies in the park and local performances. In Wausau, brownfield redevelopment has completely transforming over 30 acres of downtown riverfront property that has gained national recognition and brought huge economic and employment opportunities to the community. In our area, Northeast Wisconsin, some of you may have visited the Tundra Lodge on Lombardi Ave. with your children and families, which was also once a brownfield site.

Assembly Bill 179 has the opportunity to create even greater success stories from property that is now unusable blight. By eliminating some of the hurdles to begin remediation and development of a brownfield site, communities can revive some of this property by creating useable and taxable properties, creating jobs, increasing property value. Brownfield projects may start at an economic and timeline disadvantage, but remediation and redevelopment of these sites is an important and proven economic development strategy. AB 179 represents the next steps in strengthening our economy and alleviating hurdles that are preventing some of the most complicated sites from being redeveloped.

All of the provisions in AB 179 are consensus reached recommendations from the Wisconsin Brownfields Study Group. The group, comprised of experts and stakeholders, advise the DNR on matters concerning brownfields. The Group recommendations have been valuable and effective, and are instrumental in the creation and refinement of numerous state policies and procedures related to contaminated land remediation and redevelopment. The various provisions in the bill focus on site liability, property access for remediation purposes, financing reforms and renewals, and giving our local governments the tools necessary to make the right decisions for each community. Several of these are priorities of the study group and have been vetted and identified as important to the continued success of the state's brownfields program.

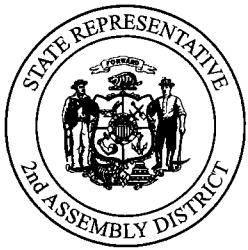
Thank you Chairman Mursau and committee members for allowing me to talk about AB 179. I welcome any questions.

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Office:  
State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882  
608-266-0484

Toll-free Hotline: 1-800-334-1465  
Fax: 608-267-0304  
Sen.Cowles@legis.wisconsin.gov

Home:  
300 W. St. Joseph Street, #23  
Green Bay, WI 54301-2328  
920-448-5092  
Fax: 920-448-5093



# ANDRÉ JACQUE

STATE REPRESENTATIVE • 2<sup>nd</sup> ASSEMBLY DISTRICT

(608) 266-9870  
Fax: (608) 282-3602  
Toll-Free: (888) 534-0002  
Rep.Jacque@legis.wi.gov

P.O. Box 8952  
Madison, WI 53708-8952

**TO:** Members of the Assembly Committee on Environment and Forestry

**FROM:** Rep. André Jacque

**DATE:** May 16, 2017

**RE:** Assembly Bill 179

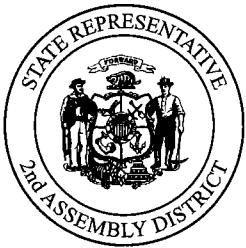
**Chairman Mursau and members of the Assembly Committee on Environment and Forestry:**

Thank you for holding this hearing on Assembly Bill 179 and the opportunity to appear before you as the author of a number of legislative changes designed to eliminate barriers to the redevelopment of underutilized or abandoned brownfield sites. Sen. Cowles and I are pleased to bring forward these reforms, which were identified as consensus recommendations of the Wisconsin Brownfields Study Group, an external advisory group to the DNR comprised of professionals in economic development, environmental remediation, and county and municipal government and including such varied stakeholders as Wisconsin Manufacturers and Commerce and 1,000 Friends of Wisconsin.

Brownfield sites can be brought back to life with policies and practices that minimize risk and maximize returns, generating a remarkable range of public and private benefits. Brownfield redevelopment often spurs revitalization throughout surrounding properties, bringing increased property values, new job creation, and environmental restoration.

Using those recommendations, AB 179 does the following:

- Authorizes counties that take tax deeds through an administrative process to assign their interest in a brownfield property to a third party before the deed is executed. Even with the statutory local government liability exemption in place, many counties presently find the perceived liability issues associated with entering into the chain of title too difficult to overcome and thus do not foreclose on tax delinquent brownfield properties – placing them in legal limbo and significantly hindering progress on their redevelopment and restoration to pad tax base. This proposal will allow a person to acquire a deed that vests fee simple ownership of a brownfield property as long as a Phase I and II environmental assessment has been conducted and the person enters into a written agreement with the DNR to further investigate and remediate the property. I am aware of a particular former gas station site in downtown Two Rivers which could have already been taken for back taxes by the county several years ago. The property tax bill remains unpaid, and this provision would very likely lead to the site finally being transferred and redeveloped.
- Permits a political subdivision to make a Property Assessed Clean Energy (PACE) loan to the owner or lessee of a site for a brownfield revitalization project, giving local governments another important financial tool to assist private parties interested in reclaiming and redeveloping brownfield properties. The political subdivision may collect the loan repayment as



# ANDRÉ JACQUE

STATE REPRESENTATIVE • 2<sup>nd</sup> ASSEMBLY DISTRICT

(608) 266-9870

Fax: (608) 282-3602

Toll-Free: (888) 534-0002

Rep.Jacque@legis.wi.gov

P.O. Box 8952

Madison, WI 53708-8952

a special charge against the improved real property that may be collected in installments and placed on the tax roll.

- Allows environmental remediation tax incremental financing districts to be operated more like regular tax incremental financing districts, subject to a number of conditions.
- Implements a pilot program to reduce costs associated with air emission permits for environmentally-responsible manufacturers that redevelop and operate on brownfield properties.
- Improves and eases the administration of some Business Improvement Districts (BIDs) and Neighborhood Improvement Districts (NIDs) by allowing territory to be annexed to a BID or NID using essentially the same procedure as creating a BID or NID, rather than requiring dissolution and recreation.
- Clarifies that off-site property owners who are impacted by chemical vapors coming from a source on another parcel cannot be held responsible for carrying out the state's remediation requirements. Property owners would also be exempt if they did not cause the discharge.
- Defines the term "property" in relation to a person being exempt from liability for other investigation and remediation costs if they undertake certain corrective steps on the contaminated land that are approved by the state Department of Natural Resources.
- Consistent with the standards already adopted by the legislature for the Brownfields Revolving Loan Fund *Ready for Reuse* Program, ensures that state trust fund loans for brownfield projects issued by the Board of Commissioners of Public Lands do not count toward a municipality's debt ceiling if full repayment is made with 15 years.

Brownfield projects are often among the more difficult community or redevelopment projects you will find across Wisconsin, but they are well worth the investment. In my previous employment as the City of Green Bay's grant writer, I greatly enjoyed the opportunity to be closely involved in reinvigorating a number of brownfield sites in Green Bay, including waterfront redevelopment on both sides of the Fox River and the Arnie Wolff Sports Complex on the east side of town. I also served on the National Association of Local Government Environmental Professionals' (NALGEP) Brownfields Grants Management Task Force as a result of these projects, which has given me an even greater appreciation for the thorough evaluation by the Brownfields Study Group that has resulted in these recommended legislative changes.

Thank you for your consideration, and we are happy to answer any questions you may have.



STATE OF WISCONSIN LEGISLATURE  
BEFORE THE  
ASSEMBLY COMMITTEE ON ENVIRONMENT AND FORESTRY

Assembly Bill 179  
May 16, 2017

**Introduction**

Good afternoon Representative Mursau and committee members. The Department of Natural Resources (DNR) appreciates the opportunity to provide the committee information regarding AB 179. My name is Darsi Foss and I am the Bureau director of DNR's Remediation and Redevelopment program, which oversees the investigation and cleanup of contaminated properties and brownfields. Wisconsin's brownfields program has contributed to the clean-up of 23,836 sites since 1994 and has made 23,680 acres available for redevelopment since 2004.

I need to thank the members of the Brownfields Study Group, an independent group of public and private sector volunteers statutorily created in 1998. We appreciate the time and effort of Study Group members working with DNR to evaluate and improve Wisconsin's brownfields initiatives and recommend incentives for the cleanup and reuse of brownfields. The recommendations in AB 179 were proposed by the Brownfields Study Group in their 2015 report, *Investing in Wisconsin*. 60 people provided input at 30 meetings to prepare the report, which includes 34 detailed proposals to improve the state's brownfields initiative.

Much of this bill includes enhancements to existing programs or authorizes new programs to encourage cleanup and redevelopment of more brownfield sites. In several sections of the bill, DNR would need to either provide technical oversight and approval of reports prepared as part of the cleanup process, or make a determination that a property qualifies as a brownfield. These are reviews the DNR currently provides for a fee. The DNR would continue to provide this technical assistance to support provisions created in AB 179.

**Voluntary Party Liability Exemption (VPLE); Property Definition; and property boundary changes**

My comments today regard section 20 in the bill related to Voluntary Party Liability Exemption for remediation of contaminated land.

In 1994, the legislature created VPLE under Wis. Stats. § 292.15 of the Spill Law. VPLE is a process by which a person – including a local government – can voluntarily conduct an environmental investigation and cleanup of an *entire* property and, at the conclusion of the approved cleanup, receive future liability limits for past contamination on a property.

This differs from the standard cleanup process; in VPLE, a person volunteers to look for *all* the possible contamination on their property, rather than just *known* concerns. In return, at the completion of a VPLE cleanup, the person receives a liability exemption protecting them if the remedy fails, standards are changed, or more contamination is discovered. 168 properties have received a certificate of completion (COC) since 1994. Some of the major VPLE sites have been: the Kenosha Lakefront; Holtz-Krause Landfill in Wausau; Domtar Papermill in Port Edwards; Royster Clark in Madison; and former Glatfelter Papermill in Neenah.

Under current law, if additional contamination is found in the future after the exemption is issued and no one is responsible for addressing a priority health or environmental situation, the state may have to expend taxpayer's funds to address the contamination.

The current definition of property is, "a contiguous area of land the entire legal description of which is found in one deed" (Wis. Admin. §§ NR 750.05 (2)(a)(3) and NR 700.03(45e)). The code also states that if a property boundary change is made, the applicant must submit a revised application describing boundaries and legal descriptions of the properties for which the applicant is seeking the liability exemption (Wis. Admin. § NR 750.05(5)). VPLE is often used to facilitate real estate development projects; in these cases, it is common that owners may change property boundaries, combine properties, etc. in accordance with the planned use of the land.

Section 20 provides direction to the DNR on how to handle situations where the site boundaries change while the site is in the VPLE program. The changes in Section 20 may have unintended consequences if interpreted to read that anyone who adds land to a VPLE property (pre- or post- issuance of the exemption) receives all the protections of the exemption without meeting current law requirements including a full investigation and cleanup. Further, the proposed changes could also be interpreted to allow a voluntary party to expand their property to include property otherwise prohibited by statute from being entered in the VPLE program – for example: a site listed on the Superfund National Priorities List. This could result in some properties obtaining protections of VPLE that may have unknown and unaddressed contamination.

### **Conclusion**

In closing, overall this bill provides more tools to promote cleanup and reuse of Wisconsin brownfields. A recent study (available at <http://www.uww.edu/news/archive/2015-11-brownfields>) commissioned by the Brownfields Study Group and conducted by the University of Wisconsin – Whitewater, concluded that Wisconsin's efforts to invest in cleanup and reuse of brownfields has resulted in:

- \$1.77 billion in direct state revenues due to the state grant programs and other financial investments;
- \$27.25 in total funds leveraged for every state dollar invested;
- 53,800 direct and indirect jobs created or retained;
- \$88.5 million gain by local governments in annual tax revenue; and
- 14 fold return on investment by the state.

I hope you find this information helpful, and would be happy to address any questions you may have.

## TESTIMONY OF SCOTT C. WILSON

Good Afternoon

My name is Scott Wilson. I am a resident of Middleton, WI and a Vice President of Ayres Associates, a nationally recognized engineering consulting firm with six Wisconsin offices. I am also a member of the Wisconsin Brownfield Study Group since 1998. I promise to keep my remarks brief but I do want to take a few moments to discuss the importance of Brownfield legislation and the real benefits our Wisconsin communities experience. I am uniquely qualified to discuss the benefits of Brownfield development with you today because as a Brownfield Practitioner for nearly three decades, my vocation is completely aligned with my passion which is a commitment to brownfield revitalization.

No other program with such small State and Federal funding levels has such a consistent and large and visible impact to our communities. There is, and always has been, a rare universal and nonpartisan love for Brownfield revitalization. Both our own State and the Federal government are now flexing their budget squeezing muscles, and both administrations are moving toward significant infrastructure investments. This Brownfield bill will aid us in these future projects.

In 2015, our Wisconsin Brownfield Study Group, consistent with our 2015 Study Group Report, "Investing in Wisconsin", commissioned the University of Whitewater Fiscal and Economic Research Center to quantify the impacts of state and local governmental brownfield investments, so that budget-watchers and policy makers could take measure of the success of our brownfield program.

Our commissioned study demonstrated:

- ✓ leverage ratios for Wisconsin consists of \$27.25 per \$1.00 of State funds spent;
- ✓ For every \$3,000 in state brownfield funding 1 leveraged job was created.
- ✓ Counting direct state revenues generated by the business occupants of newly created space, the State recouped \$1.77 billion — > 14X return on investment.
- ✓ Over 96% of Wisconsin's rural and urban communities benefited from Brownfield programming
- ✓ Post-redevelopment values were found to exceed pre-development values at a ratio of 3.5:1.
- ✓ Each cleaned up and redeveloped site added an average of \$3.4 million to a locality's assessable base, which also benefitted from rising surrounding property values.

Other impacts from State and Federal investments in Brownfield Redevelopment include:

- ✓ \$3.3 billion in direct total investment (\$6 billion of combined direct and indirect investment) in completed brownfield projects
- ✓ \$4.4 billion (or \$7.6 billion combined direct and indirect) economic output directly generated by businesses occupying completed projects statewide.

- ✓ 29,900 direct new and retained permanent jobs (54,500 direct and indirect jobs)
- ✓ With another 9,100 jobs planned at the time of the 2015 study for a total brownfield job pipeline of 39,000 direct permanent jobs.

Assembly Bill 179 is another bill consistent with the long-time strengthening of Wisconsin's premier brownfield redevelopment program. The provisions outlined in this bill not only strengthen our existing statutes and enhance economic development and creativity but it will also keep Wisconsin in the forefront among our peers nationwide. As a long-time Brownfield Redevelopment practitioner in many other States beside Wisconsin, it is clear to many that Wisconsin's Brownfield Program is the leader and envy of all the other States.

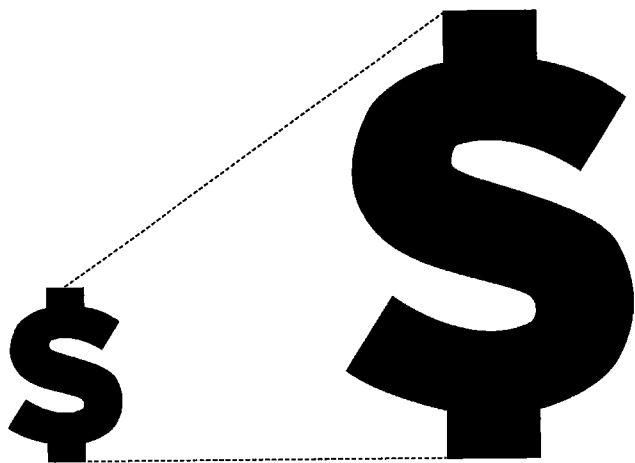
It is rare that any State can boast of being the best at something. Wisconsin's Brownfield Program is the best in the country and Assembly Bill 179 and others that came before it and others that will come later will continue to keep Wisconsin "top of mind" in economic development of brownfields. Passage of this bill will continue to keep Wisconsin as the leader and the best in creative practices of linking economic development with the revitalization of our urban centers.

Thank you all for your time with me today.

# WISCONSIN BROWNFIELDS FUNDING HAS HUGE IMPACTS

## What are Brownfields?

Abandoned, idled, or underused industrial or commercial facilities or sites in which the expansion or redevelopment is adversely affected by actual or perceived environmental contamination.

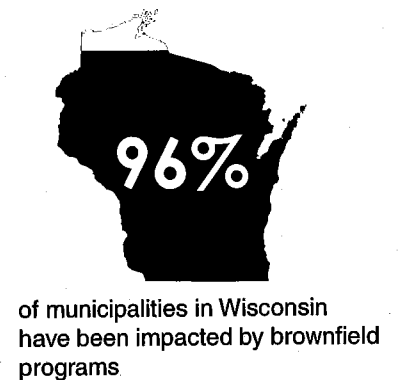
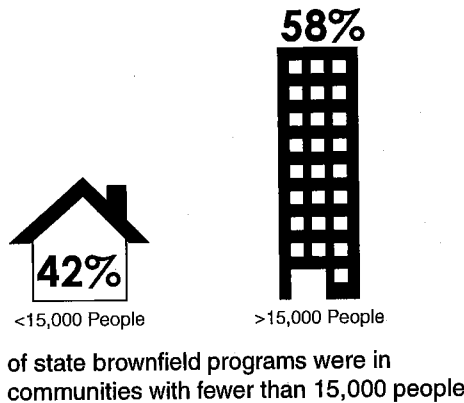


On average \$27 is leveraged for each Wisconsin brownfield grant dollar.

### Brownfield Impacts



### Rural and Urban Communities Benefit



### JOBS

Wisconsin Brownfield Projects have helped leverage 29,833 direct new/retained permanent jobs. One job is created for every \$3,000 in state brownfield funding.



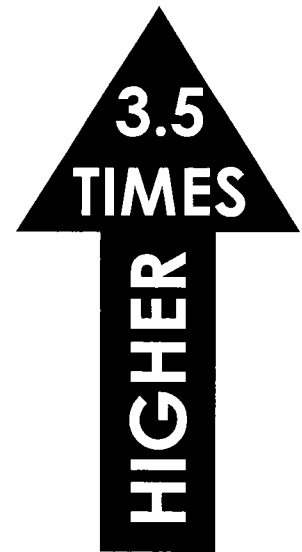
# 14-FOLD INVESTMENT RETURN



Businesses in new space on brownfield sites have resulted in state tax revenue recouping \$1.77 billion over the last 17 years



Local governments gain in annual tax revenue

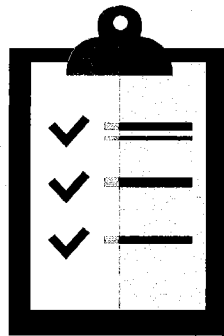


Post-redevelopment assessed value (compared to pre-redevelopment)

## 4,713 Acres of Land Assessed or Cleaned Up



340 acres at 43 sites redeveloped into parks and open space



12,400 jobs and 66% of sites are in low income areas

## Neighborhood Revitalization

## Community, Environmental, and Health Benefits

- Reduces vehicle miles and greenhouse gases by 16-28%
- Reduces stormwater runoff by 47-62%
- Property values of neighboring properties increase by 5-13%
- Reduction of vagrancy and crime

### For more information contact:

David Misky  
Co-Chair Wisconsin Brownfields Study Group  
and Assistant Executive Director Redevelopment  
Authority of the City of Milwaukee  
dmisky@milwaukee.gov | 414-286-5730

Mark Thinke  
Co-Chair Wisconsin Brownfields Study Group  
and Partner at Foley & Lardner LLP  
mthinke@foleylaw.com | 414-297-5832

Infographic  
prepared by

**AYRES**  
ASSOCIATES

on behalf of  
Wisconsin Brownfields Study Group

## TESTIMONY OF DAVE MISKY

Good afternoon. My name is Dave Misky and I am from the City of Milwaukee, Wisconsin. I am the Assistant Executive Director of the Redevelopment Authority of the City of Milwaukee working on Brownfields daily but am appearing today as the co-chair of the Wisconsin Brownfields Study Group. As my co-chair Mr. Thimke stated, the Brownfields Study Group was established by the Wisconsin Legislature in 1998 and tasked with promoting Brownfields redevelopment in the State of Wisconsin. While I have not been with the group from its inception, I joined the group in 2003 and have been the co-chair for the past few years. As was stated, the group is unique in that it brings a wide range of people and interests to the table including developers and practitioners from the private sector, government officials from the public sector, non-profits, for-profits, academics, and community members.

Since 1998 the State of Wisconsin has been a national leader in the redevelopment of brownfields. This was about the year the term brownfields was coined for a property that is "underutilized or abandoned that has real or perceived contamination." Wisconsin's success is due to a number of factors including legislators who understand the value of redevelopment in urban and rural settings, the Wisconsin Department of Natural Resources who has an experienced staff that can deal with challenging environmental projects, the environmental consultants who have been tasked with investigating and remediating properties, and the Brownfield Study Group who has assisted in creating innovative legislation and grant programs to further advance redevelopment across the State. The work by all these groups has cleaned up thousands of properties in the State of Wisconsin where contaminants can be harmful to human health and the environment, created or retained tens of thousands of jobs in our State,

and increased the property tax base significantly which is so critical for communities large and small.

As was already identified by the previous speaker, Mr. Thimke, the Brownfields Study Group published the “State of Brownfields” in Wisconsin in 2015. The work involved reviewing Wisconsin’s Brownfields laws, rules and policies. Numerous working committees were established and over 60 citizens were involved in this assessment throughout the State of Wisconsin. The committee reports were vetted by the Brownfield Study Group resulting in 5 areas of emphasis including liability relief, tools for local government, emerging technical issues, financing, waterfront revitalization. In fact, I recall meeting Representative Mason of this legislative committee at the committee I co-chaired on “Waterfront Brownfield Revitalization” in his home city of Racine. The work was summarized in the Brownfield Study Group 2015 Report, “Investing in Wisconsin.”

The 2015 Brownfield report identified a couple of dozen proposals in these five areas of emphasis, many of which are progressing either through Assembly Bill 179 or through the work of the Department of Natural Resources. The proposals identified in our “Investing in Wisconsin” report will make the work of Brownfield redevelopment easier by providing more tools for practitioners to use and move projects forward. Ultimately, this makes perfect sense for the environment, public health, and economic development in our State.

Thank you for allowing me time today to present to this committee, Chair Mursau. We appreciate this committee’s continued effort to protect our State’s resources and would appreciate Bill 179 moving forward. The Brownfields Study Group also wishes to acknowledge Representatives Jacque, Thiesfeldt, and Skowronski, and Senators Cowles and

Olsen for sponsoring Assembly Bill 179. We look forward to continuing to work with you on maintaining the State of Wisconsin's role as a national leader in the Brownfield arena.

## **TESTIMONY OF MARK A. THIMKE**

Good afternoon. I am Mark Thimke. I reside in Oconomowoc, Wisconsin.

While I have been an environmental lawyer for about 38 years, I am appearing today in my individual capacity as co-chair of the Wisconsin Brownfields Study Group. The Brownfields Study Group was established by the Wisconsin Legislature in 1998 and tasked with reviewing and making recommendations to promote Brownfields redevelopment in the State of Wisconsin. I am pleased to say I am an "original" member of this all volunteer group of dedicated people, all of whom are interested in promoting Brownfields redevelopment in Wisconsin. Members of the Group include a wide range of people and interests, including environmental consultants, redevelopment experts, city and county representatives, business groups, university faculty and community group members.

The Brownfields Study Group's work focuses on legislation, rules and policy reforms intended to maintain the national reputation of the Wisconsin Brownfields program. Since our formation in 1998, we worked on numerous Brownfields related policies, including refining and expanding the state's unique voluntary liability exemption program as well as assisting with the implementation of one of the first comprehensive Brownfields waterfront redevelopment programs in the country.

Part of the Brownfields Study Group's work is undertaking a five-year review of Wisconsin Brownfields laws, rules and policies and developing consensus-based recommended changes. These consensus-based changes are developed through hours of subcommittee meetings held throughout the state. The subcommittee proposals are then vetted by the entire

Brownfields Study Group and only those obtaining Group consensus approval advance into the five-year report.

Our most recent five-year review was compiled with the 2015 Brownfields Study Group report. I am pleased to report progress is being made in implementing many of the 2015 recommendations. Not only are many of the recommendations part of Assembly Bill 179, but the Department of Natural Resources is actively working with us to implement key policy items from the 2015 report.

As to Assembly Bill 179, the particular Brownfields Study Group recommendations range from environmental cleanup liability clarifications to amendments to municipal law, all of which is intended to foster and promote Brownfields redevelopment. In addition, the bill includes an innovative pilot study looking at methods to bring back manufacturing to Brownfields sites. This pilot effort gives manufacturers (that redevelop and operate on Brownfields sites) protections against the legal uncertainties associated with prior contamination liability and financial uncertainties associated with certain changes in air regulations. As a pilot program, the intent is to provide useful information that can be incorporated into a comprehensive program to bring back manufacturing and manufacturing jobs to Wisconsin, while at the same time reusing older manufacturing properties.

With respect to specific language in Assembly Bill 179, the Brownfields Study Group noted that the proposed change to the voluntary party liability exemption program's definition of "property" needs a slight adjustment as the current language may result in unintentionally expanding state liability. The Brownfields Study Group will forward recommended language to fix this unintentional issue, while preserving the original intent of

allowing flexibility in redrawing property ownership lines after the Department of Natural Resources issues a Certificate of Completion under the liability exemption program.

Thank you for this time today to address the committee. I and others on the Brownfields Study Group appreciate moving this bill forward, and we look forward to continuing to work with the Legislature and the Department of Natural Resources to make the Wisconsin Brownfields Program the best in the country.

## Testimony of Jeanne Tarvin

My name is Jeanne Tarvin. I am Wisconsin licensed Professional Geologist and Wisconsin Administrative Code NR712 Certified Hydrogeologist who has worked in the environmental field in Wisconsin since 1985. I am currently a Managing Principal with a global engineering consultancy, working out of our Brookfield, Wisconsin location. I reside in Slinger, Wisconsin. In my capacity as a Managing Principal, I and my staff provide consulting support services to both the public and private sector, including grant writing, investigation, and remediation on Brownfield sites. I am testifying as an environmental consultant who supports Brownfield redevelopment in Wisconsin.

I would like to thank the Committee for the opportunity to give testimony on Assembly Bill 179 related to further measures to update and enhance the Brownfield program in Wisconsin, including such important amendments as clarifying liability related to vapor intrusion risk, amending the definition of the term "Property" in relationship to the Voluntary Party Liability Exemption, creating a Pilot Program for minor air sources on Brownfield manufacturing sites, and upgrading or expanding a number of financial incentives available to communities and developers.

As an environmental consultant assisting communities and private developers on Brownfield projects, I see first-hand the significant role Brownfield redevelopment has played to improve our neighborhoods as well as to revitalize communities. I feel proud to be a part of a stakeholder team that turns neighborhood eyesores or underutilized industrial sites into productive end uses, allowing jobs to return to the communities, increasing tax bases and reusing and enhancing existing infrastructure in a more proactive and sustainable manner. However, successful revitalization requires evermore innovative funding mechanisms, streamlined environmental permitting especially for manufacturing redevelopments and enhanced liability protections to level the economic playing field between Brownfield and Greenfield sites. Additional protections and incentives, such as those proposed in Assembly Bill 179, are needed to advance cleanup and reuse activities and really make a difference to communities in Wisconsin.

The Voluntary Party Liability Exemption program is a process by which a person, including a local government, can voluntarily conduct an environmental investigation and cleanup of a property under the oversight of the Wisconsin Department of Natural Resources and then receive protection from historic, pre-existing contamination under Wisconsin environmental laws. As an environmental consultant performing Brownfield cleanups in Wisconsin, our private and public sector clients actively seek the Certificate of Completion provided at the end of the Voluntary Party Liability Exemption process to ensure they, as a voluntary party, are not responsible for contamination on the property in the future even if the standards change, the cleanup action fails to fully restore the environment; or the contamination is found to be more extensive than anticipated. With respect to specific language in Assembly Bill 179 related to the Voluntary Party Liability Exemption, the proposed change to the Voluntary Party Liability Exemption program's definition of "property" needs to allow flexibility in subdividing the property after the Wisconsin Department of Natural Resources issues a Certificate of Completion under the program further enhancing the existing program.

Under current law, when soil or groundwater contamination has crossed a property line, the owner of property with contamination that originated on another neighboring property is not responsible for soil



or groundwater cleanup, if the owner can demonstrate that their property is not the source of the soil and groundwater contamination. When there is a hazardous substance in the soil or groundwater that has migrated onto another property, it may be emitted as a vapor. Vapor from a hazardous substance is a contaminant pathway of concern and must be addressed in cleanups in Wisconsin, but was not specifically identified as a hazardous substance when Wisconsin State Statute 292.13 was promulgated. Assembly Bill 179 clarifies that when vapor crosses a property line, the owner of property with vapor contamination that originated on another neighboring property is not responsible for vapor emitted from the soil or groundwater, if they can demonstrate their property is not the source of the vapor contamination. The off-site vapor liability exemption is another tool in the liability exemption tool box to spur development in Wisconsin.

Redeveloping Brownfield sites is a win-win for communities, neighborhoods and businesses and I am pleased that Assembly Bill 179 has been introduced to acknowledge the recommendations of developers, municipalities, and the Brownfields Study Group among other stakeholders. While we have made great strides in Brownfield Redevelopment, the targeted incentives and liability protections set forth in Assembly Bill 179 allow developers and business owners to further succeed in recycling our lands, which is a more sustainable and renewable approach than continually building new infrastructure on Greenfield sites.

As I stated, I would like to voice support of the proposed amendments set forth in Assembly Bill 179 as they provide additional liability protections and assist and enhance Brownfield redevelopment which creates jobs, cleans up the environment, and is pro-business and pro-community in Wisconsin.

## TESTIMONY OF JAY F. KARLS

Good afternoon. I am Jay Karls. I reside in Hales Corners, Wisconsin. I am here today to voice my support for Assembly Bill 179.

I am a Professional Engineer licensed to practice in the state of Wisconsin. I have worked as an environmental engineer for nearly 20 years, and am currently employed as a Principal Engineer at NRT, an O'Brien and Gere company, working in Milwaukee. I am also a professor at the Milwaukee School of Engineering and am an Adjunct Professor at the University of Wisconsin-Milwaukee. I teach senior and graduate level classes in the civil engineering programs at both universities.

As an environmental engineer, I have had the opportunity to address various Brownfield properties throughout my career as part of projects that have redeveloped formerly industrial and other impacted properties. The redevelopments were often catalysts for the neighborhoods that spurred further development and investment, instead of allowing the properties to act as ongoing blight in the neighborhood and reducing property values.

Given my profession, I have had an interest in Brownfield redevelopment across the state, and have been happy to watch significant redevelopment occur along formerly industrial waterfront properties and other industrial properties in Milwaukee, Madison, Racine and Kenosha, Green Bay and other parts of the state. The building where I work is a former Brownfield property, and I can see several Brownfields properties out of my window at various stages of redevelopment. The Brownfield funding mechanisms and Brownfield laws, like the one I'm here to support today, have provided the resources and the regulatory framework to address the environmental challenges in a safe effective manner that is protective while at the same time not overly

prohibitive to development. Without Brownfield programs and laws written to address Brownfield sites, many of the successful redevelopments that have occurred over the past 10 to 20 years would not have been possible, because the additional costs and uncertainty of redeveloping contaminated properties would have been too onerous to overcome.

Assembly Bill 179 provides a couple of tools that are important in redeveloping Brownfield properties. The first of these tools is the proposed changes to the definition of a property under the Voluntary Party Liability Exemption, or VPLE program. One of the most challenging aspects of redeveloping a contaminated property is the potential for the discovery of additional impacts, the potential for changes in the law, and other potential contingencies that are difficult to estimate from a cost perspective. The VPLE program provides a tool that allows for impacted properties that have gone through a rigorous process of investigation and where sufficient remediation has been conducted to obtain a Certificate of Completion, which effectively mitigates many of the future uncertainties associated with a contaminated property. However, redevelopment activities often are not dependent on historical property boundaries, but are instead driven by the needs of the redevelopment process. The change in the definition of property allows for the subdivision of properties, which will allow developments to proceed while addressing impacts on the portion of land that will be redeveloped.

The second important tool provided in this bill is the extension of off-site liability exemptions to include vapor encroachment. The environmental engineering field has evolved in the nearly 20 years that I have been practicing, and one of the most significant changes in the last 20 years has been the recognition of vapor intrusion as a potential exposure pathway. One of the primary goals in addressing impacts at a site is addressing and eliminating potential human exposures. Historically, vapor intrusion was not universally assessed as a potential exposure pathway.

However, based on a growing body of evidence and diligent work by regulators at the federal and state level, vapor intrusion has been recognized as a significant exposure pathway and now often is the primary pathway of exposure considered as part of a remedial strategy. The off-site exemption rules were written before the recognition of the significance of the vapor intrusion pathway, and Assembly Bill 179 will revise the exemption rules to reflect the current science.

Thank you for allowing me time today to voice my support of Assembly Bill 179.

Rep. Jeff Mursau  
Room 113 West  
State Capitol  
PO Box 8953  
Madison, WI 53708

RE: Assembly Bill 179, Brownfields Legislative Updates

Dear Representative Mursau,

My name is Marita Stollenwerk, and I'm a resident of St Francis, Wisconsin – Rep. Christine Sinicki is my representative. I'm writing this letter in support of Assembly Bill 179, which provides legislative updates associated with the Wisconsin Brownfields program.

In general, I am a supporter of redevelopment of Brownfields as a method to create jobs and stimulate the economy in disadvantaged and currently underutilized, formerly industrial areas. The shift in our economy to toward High Tech, and the loss of manufacturing jobs, has led to numerous contaminated vacant properties in neighborhoods. This bill covers a variety of items designed to incentivize redevelopment of Brownfields for industry and make sensible funding options available for municipalities designed to return vacant properties to productive use.

More specifically, I'd like to point to the success of Brownfields funding resources as utilized by St Ann Center for Intergenerational Care. St Ann Center provides daycare and respite services for children, adults with special needs, and our elderly. My children attend the St Ann Center facility in St Francis, which provides a fantastic intergenerational program designed to promote acceptance and love between people with different abilities and ages. I've followed and supported their mission to expand into disadvantaged neighborhoods in need of their services.

In 2014, St Ann Center purchased a property in Milwaukee at the intersection of 24<sup>th</sup> Street and W. North Avenue and developed their second care facility. During development of the new "Bucyrus Campus", affected soils were identified which require special handling. In order to complete the facility, St Ann Center has applied for and received numerous Brownfields grants. These included the Petroleum Environmental Cleanup Fund Award (PECFA) grant program, a US EPA Brownfields Cleanup grant, and Wisconsin Economic Development Corporation (WEDC) Brownfields Grant. The availability of these grants ensures the property is safe for use by our children and elderly, and helps alleviate the funding burden for environmental cleanup, so St Ann's resources are better used to support the mission. According to their website, the Bucyrus Campus has created to date over 65 local jobs and will employ 200 upon completion in October 2017. Currently the Bucyrus Campus holds two Business Incubators per year to assist struggling small business hopefuls, and hosts dozens of business, government, and community development meetings.

The St Ann Center Bucyrus Campus is an example of the positive economic impact of Brownfields redevelopment. Assembly Bill 179 provides stakeholders additional incentives and legislative fixes to further promote Brownfields redevelopment in the State of Wisconsin. A

vote for this bill will be a vote to support the economic engine that a Brownfields project can provide to a community.

Sincerely,

A handwritten signature in cursive script that reads "Marita D. Stollenwerk".

Marita D. Stollenwerk  
3027 E Waterford Ave.  
St Francis, WI 53235

May 15, 2017

Representative Jeff Mursau  
State Capitol, Room 113 West  
Post Office Box 8953  
Madison, WI 53708

Dear Representative Mursau:

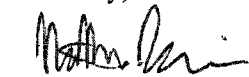
Re: 2017 Assembly Bill 179

I urge you to support 2017 Assembly Bill 179. Passage of the bill will help strengthen and enhance successful brownfield redevelopment and drive continued economic success in the State of Wisconsin. Brownfield redevelopment in Wisconsin is proven to have positive economic and fiscal impacts. In 2015, the University of Wisconsin Whitewater (Fiscal and Economic Research Center) was commissioned to prepare a report entitled The Economic and Fiscal Impact of Wisconsin's Brownfields Investments (the "Economic Report"). This Economic Report included the following economic findings regarding the important economic contributions provided by brownfield development and the importance of State and Federal investments to generate these economic benefits. The Economic Report made the following findings:

- One-time impacts - state investments, coupled with local government investments and federal brownfield assistance, have generated \$3.3 billion in direct total investments/construction for \$6 billion in direct and indirect investment in completed and underway brownfield projects.
- Ongoing economic output - economic activity associated with the businesses now occupying completed projects amount to \$4.4 billion direct (or \$7.6 billion direct and indirect) in state-wide economic output.
- Permanent jobs - as indicated in the report, a total of 29,883 direct new and retained permanent jobs (or 54,483 direct and indirect jobs) were generated in assisted complete or underway brownfield projects. Projects representing an additional 9,107 jobs are planned; thus the total pipeline is 38,990 direct permanent jobs.

One can see from these statistics that brownfield redevelopment creates tremendous economic opportunity. Again, your support for 2017 Assembly Bill 179 will help provide the necessary tools that will promote successful brownfield redevelopment in communities throughout the State of Wisconsin.

Sincerely,



Mathew Reimer