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The New York State Department of Environmental Conservation's Brownsfields Legislative Plan

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KEYNOTE SPEAKER

THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION'S BROWNFIELDS LEGISLATIVE PLAN

*JOHN P. CAHILL**

MR. TOWNSEND: Ladies and gentlemen, welcome. My name is Leonard Townsend, and I am the Senior Symposium Editor for this great *Fordham Environmental Law Journal*. On behalf of the *Fordham Environmental Law Journal*, it is my pleasure to welcome you to Fordham Law School for our seventh symposium.

I would especially like to thank Michael Gerrard, our symposium moderator, for his incredible assistance in this past year. I would appreciate it if we could give a round of applause to Mr. Gerrard.

MR. GERRARD: And to all our speakers and panelists.

MR. TOWNSEND: I would now like to introduce Professor Nicholas Johnson. Professor Nicholas Johnson is a Professor of Law at Fordham University School of Law and the Faculty Advisor to the *Fordham Environmental Law Journal*. Previously, Professor Johnson taught at Franklin & Marshall College in Lancaster, Pennsylvania; was of counsel at Kirkpatrick & Lockhart in Harrisburg, Pennsylvania; and was Vice President of Westar Environmental Corporation. Ladies and gentlemen, Professor Nicholas Johnson.

MR. JOHNSON: Good afternoon.

I understand from the program that I have two tasks--actually three. I really want to congratulate Len and the other members of the *Journal* for an awful lot of hard work. They have been on this

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task for probably nearly a year now and dealing with it in a responsible way on a daily basis, from what I can tell.

Now my two points. The first point, is that I am supposed to make some remarks before introducing Mr. Cahill. There is a danger in that. When you ask an academic to make some remarks, you risk a couple of things. One thing you risk is that you get a theoretical response to a problem that you have been dealing with for a long time that is wholly impractical. The other response that you risk is you get a new critique, some new view, of the problem you have been dealing with that is equally impractical. I figured I would take the second route, as opposed to the first, but it is going to be quick, so you won't have to deal with it for long.

It is a critique, an insight, that probably all of you have had. I suspect many of you have wanted to articulate it, but haven't been able to articulate it. It is essentially this. It comes to me that, as I watch how the parties line up in controversies like this, it is always intriguing to see that, on one side, you've got the folks wearing the black hats, and they are the business guys and the people who used to be some of my clients and who are clients of some of you and who are regulated entities; and on the other side, the rest of us, the good guys wearing the white hats.

It always strikes me as odd that that line-up occurs because as we think about who the "good guys" and the "bad guys" are here, we are thinking about who the polluters are. The theme here is 'make the polluter pay.' The difficulty is that when we start to identify polluters as the parties who have benefited by externalizing costs, it is clear to me, at least, that some of the beneficiaries of the cost externalization that we talk about when we start to identify PRPs, responsible parties, some of those beneficiaries, a lot of them are us, are consumers, voters.

I think I know as a practical matter why it is that our conversation does not include a more rigorous and broader definition of responsible parties. I think it is probably a political hot potato. I know I would not want to make the argument to people who were suffering that they were also the beneficiaries of the pollution that was now afflicting them. But my economist friends tell me that there is a fairly good argument to be made in that respect.

Now, it also strikes me that if we thought about the problem and thought about responsible parties in a more expansive way, that this

conversation we are having today and that a number of the conversations that we have about environmental law would change in an important way, and maybe some of the solutions or some of the problems that were discussed on the panel this afternoon would be more easily resolved; not easily resolved, but that we would move an increment closer to a resolution because we would have more responsible parties at the table.

Now, that is my glib comment, for what it is worth. I will leave it there, the implications for later conversations.

Let me get to the important part of my task this afternoon, which is to introduce Mr. John Cahill, who is serving as the Commissioner of the New York State Department of Environmental Conservation. He has been in that position since 1997 and oversees nearly 4,000 employees and a huge operating budget, nearly \$350 million.

Mr. Cahill received his law degree from Pace University, has a Master's Degree in Environmental Law as well, worked at the firm of Plunkett & Jaffe and served as the DEC's General Counsel. He was appointed by Governor Pataki as the Chairman of the Governor's Superfund Working Group, and in 1999 Mr. Cahill became the first ever DEC Commissioner to receive the Conservationist of the Year Award from the Adirondack Council.

We are extraordinarily happy that Mr. Cahill could carve out time in his schedule to join us. It gives me great pleasure to introduce him to you now.

MR. CAHILL: Thank you, Professor.

You just failed to mention the most important part of my past is that I am a graduate of Fordham University at Rose Hill, of which I am very proud.

It is great to be here, and, again, congratulations to the *Environmental Law Journal* for putting on this symposium. I have been here for most of the day, and you really have put on a spirited debate, which certainly will follow undoubtedly in Albany as we face probably the most important environmental legislative issue in many years, the issue of the state Superfund.

It's not too often that I get to have the last word with Assemblyman Brodsky, because I usually have to appear at his hearings and he always gets the last word. So I am going to say a few things in response to Mr. Brodsky's comments earlier.

But before I do that, you know this year is the 30th anniversary of the Department of Environmental Conservation and the 30th anniversary of Earth Day. As we are talking here today about very, very important issues facing the state in a spirited debate, sometimes we need to reflect on the accomplishments that those who have been involved in the environmental community for the past decades have achieved, not only here for New York, but nationwide. Val Washington, Jim Tripp--these people have really devoted their lives to fighting for the environment.

The results have been extraordinary. When you think about it, in 1970 you had rivers aflame in the Midwest, you had Love Canal in New York, lead in our gasoline, one problem after the other that at that time seemed intractable. But we solved those issues, and I am very confident, with the perseverance that was shown today at this symposium, we will address this very difficult issue facing New York State, and that is the refinancing--and what I believe is also necessary, the reform--of the Superfund program.

I can't go on without saying as well, after hearing some of the Assemblyman's remarks on the role the Assembly plays--and they certainly have played a very integral role in the achievements New York State has achieved--but I, frankly, work for a man who I think has done more for New York State's environment than anybody has in the past century. Certainly under Governor Pataki's leadership, starting with the New York City Watershed Agreement that protected the water for over nine million people in New York City, at the same time saving the City of New York billions of dollars; from insisting that utilities in New York State meet the strictest air requirements; insisting that the auto makers in Detroit provide New York with the cleanest available cars; and protecting over 250,000 acres of open space.

When you think about it, in 1994 New York State was investing about \$34 million in open space in what I would call capital projects. This year we are going to spend well over \$400 million. I think that shows Governor Pataki's commitment to the environment, as well as the Legislature's. I think, frankly, there is a lot of applause on both sides of the aisle deserved for protecting the environment of New York State.

If I could now, I will just give you my version of some history and how we got to where we are, where the Governor's bill¹ is, and, hopefully, where we are going to go.

As the Professor mentioned, over a year ago, the Governor asked me to chair a Task Force, along with environmentalists, business leaders, and other representatives from state agencies, to make recommendations to him as to how New York State should proceed in financing and reforming the state Superfund program.

The state Superfund is expected to run out next fiscal year. There may be a little bit to carry us over into the 2002 fiscal year, but I don't think there is any question that there is a real need to refinance the state Superfund program.

The state Superfund program has been, I think, very successful in what it was designed to do, to remediate sites. Sixty-seven percent of the funding for state Superfund has come from PRPs.

But we still have a lot of challenges in front of us. Indeed, there are probably 130 sites we know of right now that need to be addressed and we do not have funding available if the state needs to step in, if there is no responsible party--and that isn't even addressing the 290 hazardous substance sites that we know or believe to exist throughout the state. Right now the Department doesn't have the regulatory authority nor the funding to remediate hazardous substances sites, as well as hundreds of manufactured gas plants throughout the state that also need remediation.

So the Governor asked me to chair a Task Force to make recommendations to him. Certainly we don't see those as secret meetings. We see those meetings as a process to best serve the State of New York and put forth recommendations. The

1. See *Digging up the Details: A Comparison of Proposed New York State Superfund and Brownfields Legislation*, in Fordham Env'tl. L.J. Symposium 2000 CLE Manual, *Earth, Wind and Fire: Brownfields in the Coming Millennium* § 2 (Mar. 22, 2000) [hereinafter NRDC Report]. This report, prepared by the Natural Resources Defense Council in March 2000, provides a detailed comparison of the three major brownfield legislative packages, namely, Governor Pataki's bill, the Brownfields Coalition bill, and the Assembly's bills. *Id.* at 1. The Report can be purchased by visiting NRDC's website, at <http://www.nrdc.org/publications/default.asp#legislation> (last visited Dec. 1, 2000); Fordham Env'tl. L.J. Symposium 2000 CLE Manual, § 6 (Mar. 22, 2000) (detailing the Governor's bill).

recommendations would certainly be public, as would his legislation.

I have heard today that Assemblyman Brodsky is going to announce legislation, and that is indeed welcome. It is certainly a good first step by the Assemblyman.

But has anybody here been invited to attend those meetings where he drafted the legislation? I don't know. I haven't been. And that's fine, because there is a process that he went through with his members and his staff to come up with a bill.

But it's not secretive. It is a process that we undertook to really put forth what I believe is a very substantive, very real approach to dealing with the Superfund problems here in New York State.

And also, before I talk about the state Superfund, I just want to mention briefly that Mary Von Wergers is here from my legal staff; she does a tremendous job working on the Bond Act and on the brownfield program in the Bond Act, which is the largest dedicated state source of funding anywhere in the country for brownfields, \$200 million from the Clean Water/Clean Air Bond Act. Right now there have been about ninety projects that have received funding.

Just yesterday, I was in my home town in Yonkers, where a grant of over \$500,000 was made to the City to let them proceed with the redevelopment of the waterfront. Without that funding, my home town, the City of Yonkers, would not be able to move forward and reclaim the waterfront for the people of Yonkers and also to have private investment go forward in the City of Yonkers. It is that type of project that we at the Department are extremely proud to be part of, and I think it is something that we need to build upon as we move forward in dealing with the state Superfund.

In the recommendations that were made to the Governor--and certainly, for the most part, the Governor adopted the recommendations of the Task Force--I think funding is one issue that certainly was not resolved. There was no consensus. I think, however, even with that, we had a very good process.

Today, you folks will hear for a couple of hours what folks like Jim Tripp and Eugene Martin-Leff did for weeks, months, hours and hours in a room; and Annette is here as well from the City of New York. All these people dedicated a tremendous amount of time to dealing with the type of issues that we heard about today.

First off, about combining the programs, we believe that what is important, as I think Ken Pokalsky mentioned, is not whether we

designate a site as a Superfund site or a brownfield site; it is 'how is it going to be cleaned up to be protective of human health and the environment?' Regardless of whether it is a Superfund site or a brownfield site or a petroleum site, the same concerns of human health and the environment have to be addressed.

That is why the Governor's proposal provides for, as I think you all know, categories of clean-up levels: Categories I, II, and III, depending upon how the property is to be used. It is, I believe, an approach using the most conservative health estimates, of one in a million risks for carcinogens; a hazard index of one, which is stricter than EPA's, stricter than any state in the country, with respect to health-based standards for humans and the environment.

Let me talk a little bit about end use and clean-up because that has been very much an important part of the discussions that have been going on today. Certainly the Governor's proposed bill and the Task Force report talk about land use clean-ups.

One thing the Governor's bill does not do is allow land use to drive clean-ups. It is an important criteria, as are the eight other criteria, to be determined by the Department in making clean-up decisions, but it is not the only one. But I believe it is an important one. I believe that the communities that are involved should have the opportunity to say how they are going to use this parcel of land and how that should actually be reclaimed and redeveloped.

Too often, we are not focused on the end use. How do we see in the future this property being used? What is best for the local community? That is why it is important to consider land use when we go ahead and make our remedial decisions. It is not the only issue and, in my opinion, it is not the driving issue, but it is a very important issue to deal with when we are deciding the remediation of these sites.

Liability: I think liability is a major problem for private investment. Having worked in a private law firm and having represented IDAs, the unending web of liability is a major concern to anybody on the private side. Unless we get the private side involved in this process, we will not succeed in redeveloping and reclaiming these sites.

The General Accounting Office I think, estimates that there are well over 450,000 brownfield sites. There is no possible way state, local, or federal governments are going to be able to clean all of them up. We need to get the private sector involved, and an

important component of that is doing something with respect to the liability. There must be consideration for those who are not responsible for the clean-up of those sites and to give them incentives to come in and clean up these sites and not to hold the possibility, whether it be imagined or real, of liability because they had the courage to step in and clean up these sites.

The liability release is another important component of that issue. The Governor's bill certainly provides for liability release, much as the Brownfields Coalition's bill does, again another important component if we are to have real private sector involvement in the clean-up of these sites. There will, of course, be re-openers, much like what we have now in our voluntary clean-up program.

The public participation is obviously, we believe, a very critical element to a successful program, to get the communities involved. That is why the program that the Governor has proposed will provide \$50,000 in TAGM #4046 grants to community-based organizations and municipalities to allow them to get the technical expertise so that they can be intelligently involved in the process. Those are some of the major aspects of the bill. We think we have a very good, strong bill.

As to one of the other things that Mr. Brodsky had mentioned, we didn't offer that bill as some sort of negotiating ploy. That bill was introduced as a result of the Task Force report, months of hard work, that we believe poses a real solution to the problem that we are facing here in New York State.

Be that as it may, I know the Coalition has a very strong bill out there. Indeed, many of the members were on both the Task Force and the Coalition, so a lot of the ideas and concepts parallel each other. We certainly need to move forward in working with the Coalition, and both the Assembly and the Senate, in really coming to terms with this issue.

It is the most important environmental piece of legislation, as I mentioned before, in decades, I think, for New York State, certainly since probably, well, the Clean Water/Clear Air Bond Act was obviously pretty important; I wouldn't want to forget that, but as far as on the regulatory side

PARTICIPANT: This century.

MR. CAHILL: This century, yes.

It is going to pose a lot of challenges. Certainly, the concerns of the environmental justice community have to be addressed, and we believe we do take that into account, again through the community-based organizations being involved in the process.

I was born in the Bronx and am living in Yonkers, and every day I go by another area of Yonkers, which is known as Nepperhan Valley, which is the old Alexander carpet factory, which is about a quarter-mile from my house. What was once the home to immigrants from all over Europe, which really provided the backbone of our country and gave us the opportunity to be where we are today, is now rust and weeds. I don't think that is a good legacy or a good tribute to the people who really built this country. Certainly I don't think they understood the ramifications of what was going to be left behind, but they certainly have left behind scars that we need to address.

We cannot talk about sprawl or "smart growth" of quality communities unless we start dealing with these issues that face our inner cities, like Yonkers, New York City, Utica and Rome, areas that are desperate for redevelopment but are left with the vestiges of the past. I believe by taking a comprehensive look, through brownfields, Superfund, or our oil spill program, that we can deliver a better service, a better product, to the residents of the State of New York.

I will tell you, as you can tell from the Governor putting this in his budget, how important this issue is to the Governor. If he were going to basically sit back and say, 'Well, I put my bill in, let's see what everybody else does,' he certainly would not have taken the step of putting it in his budget. That is how important it is to him. He is going to certainly put this on the table in the budget negotiations.

So we are going to fight hard for reform, for refinancing. We need to do it for our cities. We need to do it to prevent urban sprawl. Most importantly, we need to do it to provide hope and opportunity for so many people here in the State of New York.

I know this has been very much of a dialogue today, which I think is very, very good. I would be happy to take questions from the audience on any of these issues.

QUESTIONS & ANSWERS

QUESTION: One thing you have talked about more than the others is the funding. Can you tell us what the Governor is proposing in the way of funding? Is that an increase from present levels of funding? What are the sources of that funding? And, how do you see the politics of that working out?

MR. CAHILL: The funding issue is really, I think, what distinguishes our bill from any other bill that is out there right now, because the other bills do not address funding; and frankly, I can understand why, having dealt with that through the Task Force. It is an extremely difficult issue to deal with.

The Governor proposes a 50/50 split, once again combining all of the remediation efforts, the remedial programs, and having them funded fifty percent by industry and fifty percent by the General Fund. He does propose substantial increases in the hazardous waste generating fee, as well as the petroleum fee.

We anticipate that the program will be about a \$130-135 million-a-year program. It is a pay-as-you-go program. I think this was the consensus in the Task Force, that we would not look to issue more debt, as they did in 1986, for this program, but it will be a \$135 million-a-year program with an increase in industry petroleum fees to pay for the industry side, with the remaining portion coming from the General Fund.

QUESTION: I'm an urban planner and a community developer. Can you elaborate a little bit on the environmental justice side of the Governor's bill?

MR. CAHILL: I think that the issue of public participation and empowering people in neighborhoods to be involved in decisions that are going to affect your lives is really at the basis of, not only environmental justice, but any local concerns about how the state or local government is going to affect their lives. And certainly, the TAGM #4046 grants of \$50,000, for which not only municipalities can qualify but also for which NGOs would qualify, we hope will be able to provide local communities and environmental justice groups with the ability and the expertise to be actively involved in the process and the determination of how a particular site in their neighborhood is going to be remediated.

Just one other component, which I know was raised earlier, about the consistency of the land use, by having soil category clean-ups all being the same, whether it's soil Category I, II, or III, and being applied universally throughout the state and not having any

discrepancy between an EJ community and an upstate community, I think also is an important environmental justice concern.

QUESTION: Can you give us a little bit of your own speculation for how this legislative negotiation is going to go? Brodsky said specifically that he wanted to make sure there was adequate time for the environmental community to get behind his own bill. Is it possible that is going to happen in the next year?

MR. CAHILL: It is kind of ironic that he said that, because I know there was a lot of criticism with the Governor coming out with his bill last year, that it wasn't timely, and the bill has been out for a year now and he hasn't put out his own bill.

As I mentioned before, by the Governor putting it in his budget proposal, it is going to be on the table very early. It is on the table right now with respect to budget negotiations. Whether it remains there I cannot tell at this point, but I can tell you that this administration is serious about negotiating a Superfund bill this year.

Now, if I were to look at this in a political prism, if you would, for a second, the Legislature has been loathe to do fee increases in an election year on any issue, whether it is a fee increase for licenses to support the Conservation Fund or the rather substantial fee increases that we are talking about, at least in the Governor's Superfund proposal, on industry. The Legislature historically has not been prone to do that.

If you look at what happened with HCRA last year, they didn't do anything until a special session in December. That is a possibility. I hope that is not the case. I hope that we can have an issue resolved in this regulation session and, hopefully, something done by June.

QUESTION: Why did the Governor's bill not address nuclear waste?

MR. CAHILL: With respect to nuclear waste, the state's authority on nuclear waste is, very minimal. We are preempted for the most part on the federal side only with respect to low radioactive waste. The program we have in place right now, again, it is not a funding issue, it is a regulatory issue. We did not see, nor did the group see, any need to address the low-level radioactive nuclear waste in the proposal.

QUESTION: There are about twenty low-level risk sites, to my understanding in talking to agency officials, that are not addressed

under the federal remedial programs, which is why the Coalition was persuaded to include that in their definition, that we want to include that handful of sites--about twenty, from what I understand--like the Mt. Kisco depleted uranium site, where there is no federal program and there is no federal authority. So it would be nice to see that added to the Governor's bill.

MR. CAHILL: That is certainly not out of the question being resolved in any final bill.

QUESTION: Annette Barbaccia, New York City Mayor's Office. I was interested if you consider a low-interest loan program to innocent landowners and prospective purchasers who were not responsible parties in low-income, under-utilized areas, because that seems to have worked well in some states?

MR. CAHILL: That is certainly something worth considering, Annette. I think that, again, the idea of providing incentives for people to come into these areas for low-income housing, or even for industry; one of the things that the Governor's bill does provide for is for a brownfield assessment to help communities. In many areas of the state, it is not just one site, it is a host of sites that are clustered together, and it does not make sense from a regulatory standpoint or from a remedial standpoint to actually approach them piecemeal.

So the Governor's proposed bill puts in money there that would run through the Department of State to help municipalities do brownfield-wide assessments so that they can come up with plans on how to redevelop.

There is also a proposal in the Governor's bill for tax credits for cleaning up these sites, but coming up with money specifically for affordable housing is something that I think we would be interested in talking about.

QUESTION: Getting back to the question of clean-up standards, I think it is important. Isn't it important that when you talk about, let's say, 10^{-6} for cancer risk, that doesn't say anything about the means that will be used to achieve that. You could, for example, cap contaminated soil, do your risk numbers, come up with 10^{-6} , walk away, and everything is still there under the cap. Maybe that is fine, but I think every side has to discuss the implications of the clean-up and what is really going to be left after the remediation is done.

MR. CAHILL: I think with respect to that type of scenario, I do not frankly see that realistically. If there is 10^{-6} and it is still . . . we are looking for permanent remedies, we are not looking for temporary remedies, and that certainly would be the preferred alternative for any remedial site. So it can be no less than one in one million or 10^{-6} , but that does not necessarily mean it would be the preferred remedy selected by the Department.

QUESTION: The standards that are being proposed with the look-up tables, are they going to go beyond that? Will there be a tier-stage approach where you can go for site-specific clean-up values beyond the look-up tables?

MR. CAHILL: Well, Category III is the site-specific approach we foresee being used only in very limited instances, so Category I and Category II would be universally applied. It wouldn't be determined on a site-by-site basis.

QUESTION: I'm Phil Boyle, the ranking Republican on the Environmental Conservation Committee in the Assembly. I would just like to first commend you and the Governor for your leadership on this issue and the environment in general.

About the time frame you spoke about, I realize we are going to pass the budget next week, by April 1st, of course. But barring that, if it doesn't happen by the end of this year, you said that the Superfund will run out at the end of 2001?

MR. CAHILL: There is enough funding for this coming fiscal year, April 1 to next April 1, probably. We are pretty confident that there will be enough. There would not be enough for the next fiscal year.

So even though we probably have enough for this coming fiscal year, we see the urgency because of the brownfield sites that are not being redeveloped, because of the hazardous substance sites that are not being cleaned up, because of the manufactured gas plants that aren't being cleaned up. So even if we do have enough--which we are not 100 percent certain, and even with that ten percent doubt that we have--we believe that there is a real urgency to pass meaningful legislation on this issue this year.

QUESTION: Mathy Stanislaus. Is it your view that the Superfund refinancing problem has to be solved along with the brownfield program, as one comprehensive package?

MR. CAHILL: I think they should. I think that they are very much tied together. As I mentioned before, Mathy, you can call it a

brownfield site or you can call it a Superfund site. The person living next door does not really care what you call it. They want it cleaned up. They want it cleaned up to a level protective of human health and the environment. So whether it is a brownfield or a Superfund site, I think that there should be consistency in how we approach those sites, so I think they should be very much tied together.

QUESTION: I am on the Steering Committee of the Brownfields Coalition and helped write the bill. One of the big differences between the Governor's bill and our bill is the groundwater sections of the bill. Has DEC really looked at those sections yet? Have you gotten any reaction from them on them?

MR. CAHILL: We certainly have looked at the Coalition's proposal.

QUESTIONER: Just as a follow-up question before you answer that one, your groundwater strategy that has already been given, your guidance document, how does it compare, if at all?

MR. CAHILL: I think there are an awful lot of similarities between our guidance document and what is being put out in the Coalition bill. That is why, certainly in the discussions that we are going to have over the next several weeks, I think there needs to be probably a melding of those.

I do have concerns about groundwater. The goal is certainly a laudable goal. But there are certainly instances, such as in New York City, where we are chasing molecules and it is costing us an awful lot of money. Are we getting really the best benefit for the public? Couldn't that money be spent elsewhere to get a better environmental benefit or better public health benefit than cleaning up every molecule of water in a place like New York City, where groundwater contamination is ubiquitous?

So with that in mind, and with what the Coalition has put out and what we are currently doing with our draft guidance, I think there is plenty of room for reconciliation of those positions.

QUESTION: I am just wondering why aren't the people who are responsible for the pollution and all this stuff responsible for paying for it? Why is it always up to the taxpayer to clean up their mess?

MR. CAHILL: That is, I think, frankly a misconception. As I mentioned before, under the existing state Superfund, PRPs, responsible parties, have put up almost seventy percent of the cost

of our program. The other thirty percent are simply orphan sites--the businesses left the state, they went out of business, there is no one there to be held accountable. It is always true--and I don't think there is any dispute on this issue amongst any of the groups--that the ones who are responsible for putting the contamination at the site must bear the cost of cleaning up the site.

The problem arises when there is no one left. Who pays? The polluter principal pays. There is no disagreement. But is the polluter a business that had nothing to do with the site but is maybe somehow affiliated or involved in the same type of business? That is why the 50/50 split, I think, has been there for the last fifteen years. But the idea that the polluter pays or the PRP pays, there is no dispute about that.

QUESTIONER: You say these companies go out of business or they disappear. Obviously some money was made by some of the owners and people. Why aren't they held responsible?

MR. CAHILL: To the extent that we can--and Gene could probably answer this as well as I can--but to the extent we can pierce a corporate veil and go after private individuals, we certainly try to do that.

QUESTIONER: Corporations nowadays seem to have more rights than people. Corporations have been getting more rights at the expense of our rights. We have no rights, no redress, half the time, while corporations have all kinds of money and laws and loopholes that they lobby for. You know, if I were to do the same thing, I would be in jail.

MR. CAHILL: Any other questions or comments?

QUESTION: I was wondering if you could talk a little bit about the ninety sites that have received the funding through the Bond Act right now; geographic distribution, type of contamination; also, at what stage of either remediation or redevelopment; and have you had successful redevelopment and quantified the economics?

MR. CAHILL: I couldn't give you a breakdown offhand as to where exactly the ninety sites are. I know they run from Buffalo to Long Island and everywhere in between. I couldn't give you specifically how many are in Buffalo, Syracuse, Utica, Albany, Newburgh, Yonkers, New York City. I know we did fifteen, I think, in New York City. So they have been well dispersed.

They are at various stages. I know, for instance, one that is in the remedial stage, besides the Yonkers one, is Irvington in Greenburg,

New York, which is in collaboration with Scenic Hudson. New York State is moving forward, thanks to the brownfield grant, to making what was an industrial site a public park.

I do not have the exact breakdown, but we can certainly get you that information, if you are interested.

QUESTION: Assemblyman Brodsky this afternoon said that there will be no fundamental change in clean-up standards. Where does that put you guys?

MR. CAHILL: It puts us at disagreement, obviously, which is not new.

QUESTIONER: I mean, if that is the critical issue, then where are you guys going to come across on this issue?

MR. CAHILL: I don't know this. Let me say this about the Assemblyman. He used to be my Assemblyman as well. Thank God there is redistricting. But we actually on a personal level get along most times quite well.

I am hopeful--and I think he mentioned this today--that he is setting the stage for negotiations. I don't know how committed he is to that proposition that there will be no change in the clean-up standards. Maybe he is. I don't know. He said he is. I believe he is sincere. But he also said that he wants to have serious negotiations on this issue, and I believe he is also sincere on that.

So, as we have done on other issues, like the heavy-duty I&M (Inspection & Maintenance) bill that we worked closely on, we had disagreements at the start of the bill; by the end of the day, the end of the legislative session, we had an agreement. So I am hopeful that that process would continue in the Superfund program.

Thank you all again. Thank you to Fordham University.

MR. TOWNSEND: Thank you, Mr. Cahill.