

TESTIMONY

PA HOUSE ENVIRONMENTAL RESOURCES COMMITTEE: CONCERNING SB 1, SB "LAND RECYCLING AND ENVIRONMENTAL REMEDATION STANDARDS ACT"

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March 16, 1995

Hershey, PA

Good morning. My name is Sam Spofforth. I am Eastern Pennsylvania Director for Clean Water Action (CWA). CWA is a statewide and national organization with approximately 70,000 members in Pennsylvania. Clean Water educates and provides assistance to the public on various environmental concerns, and advocates policies that protect our air, water, land and especially public health. We appreciate the chance to testify today before the House Environmental Resources Committee.

CWA continues to support initiatives to encourage the reuse of abandoned or idle industrial properties. Redevelopment of these properties helps preserve farmland and other pristine open spaces, while revitalizing cities and towns, reducing air pollution caused by commuting by automobile, and creating jobs and tax base where needed most.

One of the largest obstacles to redevelopment of former industrial properties is potential liability for innocent purchasers of sites as well as economic development agencies and similar institutions, and others who did not cause any contamination. We support SB 11 and section 305 of SB 1 to address these problems. Another obstacle is the expense of evaluating contamination problems at particular sites. We also support SB 12, which would provide grants to help parties conduct these assessments prior to development.

However, Clean Water Action opposes SB 1 in its present form. It is bad for our economy because although it is advertised as legislation to aid cleanup and reuse of abandoned industrial properties, it would actually perpetuate and exacerbate the "cycle of contamination and abandonment" now and into the future. It is bad for the health of many Pennsylvania residents because it substantially weakens cleanup standards and contains many loopholes that would render even these weak standards meaningless in many cases. SB 1 is a vehicle allowing major polluters to cynically abandon contaminated sites for which they are responsible. In turn average citizens pay the price, either with tax dollars to eventually clean up these toxins or with their health where no real cleanups ever occur.

SB 1 Would Hurt Our Economy by Perpetuating the "Cycle of Contamination and Abandonment"

SB 1 allows responsible parties to use "institutional and engineered controls" in order to attain the bill's very weak "site specific standard." Instead of cleaning and reusing an industrial property, responsible parties would be permitted to place a cap on contaminants, erect a fence around the site, place a deed restriction on its future use, then walk away.

This would hurt our economy for three reasons:

- Fencing off contaminated sites leads to more urban blight and creates barriers to economic development throughout the community. Experience has shown that these dirty sites are less likely to ever be developed.
- To allow companies to walk away from contamination makes it easier and cheaper for companies to relocate out of state or abroad.
- If we allow responsible parties to walk away from contamination, the government will have to pay the eventual costs of cleanup. This is not fair to taxpayers.

Finally, SB 1 would set these standards and uses of "institutional and engineered controls" for future as well as past contamination. This would encourage pollution of "greenfields," which contradicts a major goal of the proposal.

SB 1 Would Endanger the Health of Pennsylvania Residents and Workers

SB 1 would increase the risk for cancer from sites by 10,000%, from one in a million to as much as one in 10,000. Also, in one of the most glaring loopholes, carcinogen is defined as a substance which is known to cause cancer in humans only. Because scientists generally don't use human beings as guinea pigs in cancer experiments, many toxins known to cause cancer in animals are suspected of causing cancer in humans. These chemicals would not be covered in the bill. This amounts to a massive, long-term cancer experiment on Pennsylvania residents.

The bill relies far too much on "risk assessments," which are often based on health impacts on healthy adult males rather than children, pregnant women, the elderly, and the poor. Risk assessments also can't measure synergistic impacts of multiple toxics. SB 1 would also increase risks of birth defects, immune system damage, major organ disease, and many other illnesses.

The bill allows use of cost/benefit analyses to avoid compliance with the already weak site specific standard. The question of whether a cleanup is "too costly" depends on your point of view. Families who live near a site will have a different view of costs and benefits than a polluter trying to minimize cleanup expenses. The groundwater standards are based on maximum contaminant levels (MCL's), which are also compromised by cost-benefit considerations and don't necessarily assure health protection.

The bill sets weaker but not specified "non-residential" health standards for worker exposure. This would also increase exposure of workers to health-threatening toxins.

Suggested Changes to SB 1

Improve definition of carcinogen:

Scientists don't routinely use human beings as guinea pigs to test cancer causing substances. So limiting the definition of "carcinogen" to substances known to cause cancer in humans only will result in many substances that scientists strongly suspect to cause cancer in humans based on animal studies to not be covered by the bill. The definition should be changed to be consistent with the EPA definition which includes all substances likely to cause cancer.

Restrict use of fences and/or deed restrictions.

In section 304 responsible parties are allowed to attain site specific standards through use of "institutional controls." It is duplicitous to say that a bill is designed to encourage cleanup and reuse of a contaminated site while it permits a polluter to fence off a site and abandon it. The bill should be changed to forbid use of institutional controls to attain the site specific standards. This change would also make this aspect of section 304 consistent with sections 302 and 303. Furthermore, SB 1 should maintain a preference for actual cleanup when feasible and shouldn't release parties who use primarily institutional and engineered controls from liability.

Strengthen standards and ensure they protect the health of all Pennsylvanians.

Risk assessments are often set based on effects to healthy adult males. But pregnant woman, children, the elderly, sick and lower income people are more likely to experience adverse health effects resulting from exposures to contaminants at the same levels. SB 1 should explicitly require standard setting to be based on risks to all Pennsylvanians, including these more sensitive sub-populations. The bill should also maintain a bottom line cancer risk of one in a million.

Require groundwater protection to be as stringent as federal law.

Federal groundwater protection standards are set based on Maximum Contaminant Level Goals (MCLG). This is not a "pristine" standard. MCLG's are scientifically based on a contaminant's potential to actually cause adverse health effects. Instead, SB 1 uses Maximum Contaminant Levels (MCL). These are MCLG's which have been compromised and weakened by so-called "cost-benefit" calculations which are based as much on politics as they are economics. SB 1 should use the MCLG-based scientific risk standards.

Conclusion

Again, we continue to support both legislative and administrative actions to facilitate the cleanup and reuse of abandoned or idle industrial properties. This is why we support SB 11, SB 12 and a limited portion of SB 1. We strongly oppose most what is currently contained in SB 1. It would place the health of many Pennsylvania residents at much greater risk, while encouraging the creation of even more contaminated dead zones in the Commonwealth. It would hurt average citizens and benefit only polluters who would be encouraged to abandon their contaminated properties then pollute greenfields. SB 1 is bad environmental and economic policy for Pennsylvania. Clean Water Action encourages the House Environmental Resources Committee to work to strengthen the legislation before sending it onto the full House.

Thank you again, Mr. Chairman, for the opportunity to testify here today. It would be happy to answer any questions.