

Senate Majority Policy Committee
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Written Statement
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Good morning Chairman Argall, Senator Scavello and members of this committee, my name is Brian Hilliard and I am the Director of Compliance for Valley Industrial Properties, LLC, Coplay Aggregates, Inc. and Portland Properties, LLC. I very much appreciate the opportunity to speak with you today regarding our experiences with Pennsylvania's regulatory program pertaining to the use of fill materials.

Our companies specialize in the restoration and redevelopment of brownfields and abandoned mine properties by bringing them back to viable use typically as commercial/industrial parks. Historically, we have subdivided and developed properties for use as service stations, commercial office space, and heavy equipment dealership uses. We have also redeveloped on a limited basis property for residential use. In connection with our restoration and redevelopment activities, we have applied for and maintain the proper environmental permits as required by Pennsylvania Department of Environmental Protection ("PADEP") to conduct those activities. Our environmental work allows for an economic benefit by bringing brownfields and abandoned mine properties back to life as higher value use properties with increased tax revenues for local municipalities and employment opportunities for local workers.

The properties that we revitalize are the result of former industrial activity that have left behind unsafe conditions such as exposed highwalls, unstable stone surfaces, and open water. Every year, there are many drownings at similar properties. State and federal agencies conduct outreach and use tax payer money to reclaim abandoned properties. The work of restoring these abandoned properties to productive use is expensive and involves extensive permitting and development activities, including construction of necessary infrastructure and improvements. We are making such investment in the properties that we own in order to develop them as the local zoning allows. We strive to work closely with local municipalities regarding reuse plans and offer an "open door" policy with local municipalities.

Our redevelopment activities, particularly involving abandoned mine properties, typically require the importation of large amounts of fill material to enable such properties to be restored to use. We use fill material that is classified as "clean fill" under requirements established by PADEP. We also use in particular circumstances fill material that is classified as "regulated fill" by PADEP. We are authorized to use regulated fill material under a general permit issued by PADEP pursuant to the Pennsylvania Solid Waste Management Act ("SWMA"). In order to obtain authorization to accept regulated fill material

under the general permit, we must submit a detailed application to PADEP. PADEP in turn reviews the application and makes a decision to grant or deny the application. In addition, PADEP reviews and pre-approves each source of regulated fill material that we use.

Under PADEP's Management of Fill Policy, clean fill material is material such as soil, rock, brick, block, and concrete which is inert and either has not been impacted by a release of regulated substances or contains regulated substances but at concentrations below established numeric limits that PADEP has determined to be protective of human health and the environment. Clean fill is considered unregulated and can generally be utilized in any setting, including residential. By contrast, regulated fill material is material that contains regulated substances at concentrations above the clean fill numeric standards but below alternative standards that are set forth in the general permit authorizing the use of regulated fill. These alternative standards have been determined by PADEP to be protective of human health and the environment based on nonresidential use of the property receiving the regulated fill. Our properties that are authorized to receive regulated fill material are all non-residential and are planned for future use as commercial/industrial parks.

Under the Management of Fill Policy and the general permit for use of regulated fill, we conduct thorough reviews of the history and use of the origin of the fill material. We also review testing and other pertinent information regarding the quality of the fill material. These sites usually have environmental oversight by the state environmental agencies and also have third party engineering firms that are required to review and certify the work. If there is a potential for any impact to the fill material, we require the material to be tested at the source. These sampling plans are developed based on the established site characterization standards developed by PADEP and the United States Environmental Protection Agency ("EPA") with systematic gridding of the site and the use of random sampling to ensure unbiased results. This process is lengthy and detailed.

Once we have gathered an extensive amount of due diligence and believe the material to meet the requirements as either clean fill or regulated fill, we submit this information to PADEP. In turn, PADEP reviews this information and provides us with an approval or review questions seeking further explanatory information. This process is fully completed and any outstanding questions are resolved prior to accepting the fill material at our facilities. We prequalify all sources of fill material prior to acceptance.

Each load of fill material is transported with appropriate shipping papers (such as a bill of lading or manifest) that provides specific information to enable every shipment to be tracked. This process ensures traceability from the site of origin to the receiving site. These tracking documents are used by both the generator and receiving facility to track the loads and confirm proper receipt.

Transportation of fill material to our facilities is primarily the responsibility of our clients. The person or entity supplying the fill material is made aware of the routes to our facility and the relevant federal and state laws. While we share concerns over the potential that fill material may be shipped in overweight vehicles, the delivery of fill material is out of our control until shipments arrive at our facilities. We have, however, developed an internal penalty system that is in place for any trucks that are not

compliant and this system has significantly improved compliance. The trucking industry is regulated by other agencies.

We own all of the properties where we conduct activities and are the environmental steward of the use of those properties. Because we are the owners of the properties where fill material is being used, we have every incentive to make sure that the fill material that we receive is properly beneficially used. We strive to maintain complete compliance with all permits and regulations. In the few instances where an issue has occurred, we have immediately addressed the issue and resolved it to the satisfaction of the regulating agency. In the unlikely case of a major environmental issue, we maintain a site-specific environmental insurance policy of six million dollars to be available to address the issue.

The use of fill material is vital to the restoration and redevelopment of brownfields and abandoned mine properties. Pennsylvania's program protects human health and the environment while facilitating the conservation of resources by enabling various types of fill materials to be safely reused. In the absence of this program, fill material would need to be mined from "greenfields" sites with the attendant environmental concerns that such activities bring while fill material that could be safely reused would instead likely be diverted to landfills and take up scarce landfill capacity.

Thank you for the opportunity to provide you with this testimony.