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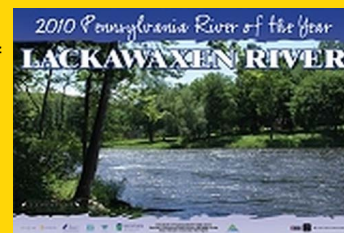
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DEP Finalizes Agreement To Redevelop Harley Davidson Property In York

The Department of Environmental Protection recently finalized a remediation and liability protection agreement with Harley Davidson Motor Company and the [York County Industrial Development Authority](#) related to Harley's motorcycle manufacturing plant in Springettsbury Township, York County.

Late last year, Harley made the decision to keep its Pennsylvania operations, and jobs, in York County, rather than moving them to Kentucky, and it appears that the agreement by IDA to purchase the property that makes up the "West Campus," subject to an acceptable "Buyer Seller Agreement," may have played a role in that decision.

The Buyer-Seller Agreement commits Harley, along with the United States Department of Defense, to continue to investigate environmental conditions on the West Campus, and to implement, and pay for, an appropriate clean up plan.

The upside for the IDA is that it may purchase the property without fear that the state DEP will attempt to include the IDA as a party responsible to share in those costs by virtue of its ownership interest in the property.

Typically, an entity that owns contaminated property can be held liable for some or all of the clean up costs. The Buyer Seller Agreement states that IDA may take title to the property before the investigation or cleanup is complete, and that DEP will not seek to hold IDA liable for any costs to cleanup up any contamination that is identified.

In fact, in this instance, DEP has taken that promise one step further - DEP has agreed to insulate IDA for ANY contamination on the property - whether or not it has been identified during the investigation or not.

While this protection is typically provided to municipal authorities such as IDA by law, in this instance, all of the liability protections are transferable to future owners of the property, regardless of whether they are public or private ventures. Not something the DEP normally agrees to, it demonstrates perhaps not only the importance of the deal to the Commonwealth, but the creativeness and negotiating abilities of those involved.

[Paul Bruder](#) of Rhoads & Sinon was environmental counsel for the IDA for this Buyer Seller Agreement, while [Scott Gould](#) of McNees Wallace and Nurick represented Harley and Michael Buchwach was DEP's attorney.

A copy of the agreement [is available online](#).

7/26/2010

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