

About the NADO Research Foundation

Founded in 1988, the NADO Research Foundation is the non-profit research affiliate of the National Association of Development Organizations (NADO). The NADO Research Foundation identifies, studies and promotes regional solutions and approaches to improving local prosperity and services through the nationwide network of regional development organizations.

The Research Foundation shares best practices and offers professional development training, analyzes the impact of federal policies and programs on regional development organizations, and examines the latest developments and trends in small metropolitan and rural America. Most importantly, the Research Foundation is helping bridge the communications gap among practitioners, researchers and policymakers.

The Research Foundation's current portfolio of educational programs and research projects covers issues such as community and economic development, rural transportation planning, homeland security and emergency preparedness, brownfields redevelopment, environmental stewardship and small business development finance. Visit Nado.org to learn more about the NADO Research Foundation.

National Organizations

Federal agencies



Funding Sources

Brownfields Redevelopment Guide

A Guide for Rural and Small Communities



State agencies

Foundations

**National Association of Development
Organizations Research Foundation**

Technical Assistance Resources

This is the second rural and small metropolitan community brownfields guide released by the National Association of Development Organizations (NADO) Research Foundation with support from the Environmental Protection Agency (EPA). This guide addresses redevelopment of brownfields sites that have moved past the assessment and cleanup phases and into redevelopment. The guide concentrates on potential roadblocks to completion and reuse. It also offers resource tools to help overcome the obstacles common to rural and small community sites.

Each topic is briefly described and is followed by a listing of available resources and technical assistance opportunities. Although each topic may not be exclusively a matter of redevelopment, each does influence site reuse and has the potential to limit or enhance reuse options.

The NADO Research Foundation has been engaged in researching and promoting the assessment, cleanup and redevelopment of brownfields in rural and small metropolitan communities since 1998. Under a cooperative agreement with the U.S. EPA, the NADO Research Foundation has produced a variety of outreach vehicles, including the release of five reports and multiple articles identifying the challenges and economic development opportunities associated with rural and small community-based brownfields. The first of NADO's brownfields guides, *The Brownfields Resource Guide for Rural and Small Communities*, was released in 2002 and re-released with updates in 2003 and 2004.

This guide is a starting point for brownfields project managers and staff who are ready to set into motion site reuse or redevelopment. It highlights some of the common areas of redevelopment, such as planning for reuse of properties which possess institutional control requirements, purchasing environmental insurance, finding public and private financing, implementing due diligence standards for liability protection on land ownership transfers and developing reuse planning guidelines.

The NADO Research Foundation thanks Sven-Erik Kaiser of EPA's Outreach and Special Projects Staff for Brownfields, and EPA for their continued support of the Research Foundation's research and outreach for rural and small metropolitan brownfields. Kelly Novak, Research Manager, Carrie Kissel, Graduate Fellow, Laurie Thompson, Director of Programs, and Zanetta Doyle, Communications Manager prepared this guide.



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Cover Photos:

Top — Downtown Rockingham, Vermont.

Bottom — Historic railroad depot in Muskegon, Michigan. Now home of the Muskegon County Convention and Visitors Bureau.

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The 2002 Brownfields Law defines a brownfields as any blighted real property with present or perceived contamination of which there are slight levels of contamination. Examples include abandoned or idle textile mills and saw mills, abandoned or idle gas stations, mine-scarred lands, illegal drug labs (methamphetamine “meth” labs), idled smelters or foundries, railroad yards, truck terminals, salvage yards and dry cleaners.

According to the U.S. Environmental Protection Agency (EPA), there are an estimated 450,000 or more brownfields sites located across the nation. To return a site to reuse condition, or ready it for redevelopment, the site first goes through assessments and cleanup (where applicable). The timeline for a property to reach reuse varies from a couple of days to a decade. Often, liability can complicate the process and can remain a complication even after redevelopment occurs. Liability is especially an issue when the proper assessment and cleanup steps are not taken before a land transfer occurs.

The first stage to reclaiming a brownfields site is the environmental assessment, which is conducted to determine whether any contamination exists and to identify the potential for hazardous releases and the severity of contamination. Assessments are divided into two phases.

Phase I of the environmental assessment primarily investigates the historical use of the property and preliminarily looks for the likely presence of contaminants, such as lead-based paint, asbestos and radon. The Phase I assessment ultimately determines if a Phase II assessment is needed to further examine any contaminants found or if it is suspected that contamination will be present due to usage history.

If the Phase I assessment does not reveal any suspect prior usage or onsite hazardous issues, then there is likely no need to proceed with a Phase II

assessment and redevelopment planning or implementation can begin. In some cases the Phase I assessment enhances the redevelopment planning process by identifying property characteristics that can and/or should be considered, such as historic preservation or cultural assets.



If the Phase I assessment indicates that further investigation is needed, a Phase II assessment is conducted. Phase II assessments typically identify and pinpoint the suspect levels of contamination. The objective is to provide an accurate characterization of contaminants (the levels or volume of contamination and the type of contaminants). Phase II assessments are sometimes, according to the market, divided into levels of investigation. Proper documentation of the investigation is important.

Phase I and Phase II assessments are often a requirement for parties that receive or apply for various private and public funding. In order to legally establish liability relief or innocent land owner defense through the Brownfields Law, the assessment documentation must be in accordance with the “all appropriate inquiry” rule or the American Society for Testing and Materials (ASTM) standards E1527-05 (applicable after November 2006). It is common that the Phase II assessment closing report lends clarification about contamination characterization and sometimes is useful for determining liability.

Once the assessment has been satisfactorily completed, the necessary cleanup actions can be taken. Cleanups can often be highly technical and in most cases should be conducted or overseen by a qualified environmental professional. The cost of cleanups can vary greatly and is affected by contamination complexity, site size and unforeseen variables. Alternative

cleanup methods can trim cleanup costs. For example, phytoremediation, a biological remediation, uses plants to gradually soak up and process soil contaminants for safe removal.

The time frame for cleanup can range from one day to several years. Time frames can be altered for a variety of reasons including reuse restrictions or cost overruns. Institutional controls (land use restrictions) are implemented during the cleanup phase. Sometimes restricting future use can circumvent the need for comprehensive cleanups that require more time. Purchasing environmental insurance with cost caps can speed the process by ensuring that the responsible party will not have to stop cleanup in order to search for financial coverage of any unexpected cleanup cost overruns.

Many brownfields sites are the result of market failure: the facility was shut down due to decline in demand of the goods or services produced or production costs were prohibitive. Responsive redevelopment planning should also take into account the assessment of community needs and considerations of how to plan for a redevelopment that will be sustainable over time.

Many organizations involved in small community brownfields projects are exploring and implementing the inclusion of green building techniques in redevelopments to ensure that operation costs for future occupants will not become a burden.

Another growing phenomenon among rural brownfields is the method of approaching redevelopment planning that is in sync with regional planning. The planning centers on leveraging regional assets, such as outdoor recreation, and simultaneously meeting regional needs, such as job creation with a redevelopment that supports several communities instead of just one.

Numerous communities have found that incorporating regional needs and assets into a redevelopment plan helps with finding public financing and private investments. For example, if a redevelopment is integrated into a regional healthy living initiative that addresses rises in childhood obesity, the site becomes eligible to receive funding as a community health project, as well as an environmental project. This regional approach ultimately makes the redevelopment more sustainable and marketable.

The Small Business Liability Relief and Brownfields Revitalization Act was signed into law on January 11, 2002. It amends Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or CERCLA (42 U.S.C. 9601). It expanded the definition of Brownfields site to mean "real property, the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant and includes land contaminated by petroleum products, a controlled substance as defined in the Controlled Substance Act and mine-scarred lands."

The All Appropriate Inquiry Rule was negotiated and directed under the Brownfields law 2002. The rule refers to the requirements for assessing the environmental conditions of a property prior to its acquisition, be it purchase or donation, and clarifies the requirements necessary to establish the innocent landowner defense under CERCLA in addition to providing Superfund liability limitations for bona fide prospective purchasers and contiguous property owners. Among the requirements added to CERCLA is the requirement that such parties undertake "all appropriate inquiry" into prior ownership and use of a property at the time at which a party acquires the property.

According to EPA, institutional controls (ICs) are actions, such as legal controls, that help minimize the potential for human exposure to contamination by ensuring appropriate land or resource use. Although it is EPA's expectation that treatment or engineering controls will be used to address principle hazardous threats and that groundwater will be returned to its beneficial use whenever practicable, ICs can and do play an important role in brownfields remedies. ICs are used when contamination is first discovered, when remedies are ongoing and when residual contamination remains onsite at a level that does not allow for unrestricted use and unlimited exposure after cleanup. ICs are rarely the sole remedy at a site because they are meant to supplement engineering controls.

EPA is currently developing a Draft Institutional Controls Data Standard to provide a structure for defining the elements required for recording IC information. The recorded information includes descriptions of IC implementation, monitoring, enforcement and termination of controls, as well as the IC's objectives, associated locations, the roles and responsibilities relevant to the IC, cleanup actions, technologies and the documentation related to each of these data subsets. The Environmental Data Standards Council and EPA completed a technical review of this standard in Fall 2004 with a comment period ending in October 2005.

Some states have enhanced the documentation and visibility of land use controls with the enactment of a Uniform Environmental Covenants Act. According to the National Conference of Commissioners on Uniform State Laws, the statutory legal mechanism it creates is called an "environmental covenant." Environmental covenants are generally recognized in common law as a means of conveying restrictions on use of land. The environmental covenant relies on the common law base, but re-creates it for the specific purpose of controlling the use of contaminated real estate, perpetually if necessary, while allowing that real estate to be conveyed from one person to another subject to controls, such as ICs.

Organizations Providing Information and Resources

**American Bar Association (ABA)
Environmental Transactions and Brownfields Committee
Section of Environment, Energy and Resources
321 N. Clark Street
Chicago, IL 60610
312.988.5724**

**Committee Chair, Seth A. Davis, sdavis@eliasgroup.com
www.abanet.org/enviro/committees/envtab**

The Environmental Transactions and Brownfields Committee (ETAB) is involved with the environmental aspects of various business and real estate transactions, and with the growing interest in brownfields redevelopment throughout the country at the federal and state levels. Issue areas include voluntary cleanup laws, prospective purchaser agreements, environmental insurance, environmental justice, parent and successor liability, underground storage tanks, environmental audits and institutional controls.

**Environmental Protection Agency (EPA) Data Standards Program
1200 Pennsylvania, Avenue, MC 2822T
Washington, DC 20460
202.566.0625**

Banks-Waller.Dawn@epa.gov

**EPA Brownfields Office of Cleanup and Redevelopment
IC Tracking Group Representative Nancy Porter, Ariel Rios Building
1200 Pennsylvania Avenue, NW, 5105T
Washington, DC 20460
202.566.2751**

porter.nancy@epa.gov

EPA offers guidance intended to provide Superfund, Brownfields, Federal Facility, Underground Storage Tank (UST) and Resource Conservation and Recovery Act (RCRA) corrective action site managers and site attorneys

with an overview of responsibilities for implementing, monitoring and enforcing institutional controls (ICs). EPA has formed an internal workgroup of representatives from each EPA cleanup program, each with technical lead responsibility for various aspects of the development and implementation of the cross-program/cross-agency IC Tracking Action Plan. Each EPA region also is represented on the IC tracking work group and serves as a regional point of contact for other IC coordination activities.

**EPA's One-Call Pilot and Data Sharing
EPA Office of Emergency and Remedial Response**

Michael Bellot
1200 Pennsylvania Avenue., NW
Washington, DC 20460
703.603.8905
www.epa.gov/oswer/IWG.htm

For State Pilots and Data Sharing Projects Information

- Pennsylvania One-Call System, Inc. (POCS), 800.248.1786 or www.pa1call.org/pocs_real
- Wisconsin Diggers Hotline, 414.259.1181 or 800.242.8511 www.diggershotline.com; or WDNR - GIS Registry of Closed Remediation Sites, 608.267.0554 or <http://gomapout.dnr.state.wi.us/org/at/et/geo/gwur/index.htm>
- New York's Dig Safely program at 800.962.7962 or www.ufpo.org
- California and Terradex Data Sharing project, where potential sites can be entered into the system by email to peter@terradex.com and then affiliated parties are alerted when activity occurs that might be of concern

One-Call systems act as liaisons between excavators and organizations who own underground facilities. In most states, One-Call legislation defines underground facilities to include only underground utility lines, such as the Miss Utility of Virginia program. The Office of Emergency and Remedial Response, in partnership with EPA Region 3, EPA Region 5, EPA

Region 2, EPA Region 9 and land use agencies in California, Wisconsin, New York and Pennsylvania are testing the viability of including sites with ICs into state one-call systems. The pilots and data sharing projects are long-term information developments that will help prevent excavation, grading, well drilling, and other future site activities from contacting contaminated soil, groundwater or cleanup-related components. The City of Portland, Oregon is developing a one-call system including ICs.

National Conference of Commissioners on Uniform State Laws

**211 E. Ontario Street, Suite 1300
Chicago, IL 60611
312.915.0195**

www.nccusl.org or www.environmentalcovenants.org/ueca

The NCCUSL provides states with non-partisan drafted legislation in areas of state statutory law. NCCUSL researches, drafts and promotes enactment of uniform state laws where uniformity is desirable and practical. Since its inception in 1892, the group has promulgated more than 200 acts, including the Uniform Environmental Covenants Act (UECA) in August 2003. UECA has been adopted in 10 states: Delaware, Iowa, Kentucky, Maine, Maryland, Nebraska, Nevada, Ohio, South Dakota and West Virginia. UECA was also introduced to nine additional state legislatures in 2005: Colorado, Connecticut, the District of Columbia, Hawaii, Minnesota, New Mexico, Oregon, Pennsylvania and Vermont and the U.S. Virgin Islands.

National Institutional Controls Coalition
c/o ICMA, 777 N. Capitol Street, NE, Suite 500
Washington, DC 20002
202.289.4262
or c/o ACC, 1300 Wilson Blvd.
Arlington, VA 22209
703.741.5000
www.lucs.org/ueca

The National Institutional Controls Coalition (NICC) includes representatives of affected industries, federal and state regulators, environmental groups, cleanup specialists and local, state and federal governmental organizations. The Coalition supports UECA. Current members include: International City/County Management Association (ICMA), American Chemistry Council (ACC), American Petroleum Institute (API), Holland and Knight LLP, U.S. Navy, National Governors Association (NGA), National Brownfields Association (NBA), the Environmental Bankers Association (EBA), the Environmental Law Institute (ELI) and Energy Communities Alliance (ECA).

Guides and Written Resources

EPA’s “Institutional Controls: A Citizen’s Guide to Understanding Institutional Controls at Superfund, Brownfields, Federal Facilities, Underground Storage Tank, and Resource Conservation and Recovery Act Cleanups” (EPA 540-R-04-004)
www.epa.gov/superfund/action/ic/guide/citguide.pdf

This 2005 guide was published by the EPA Office of Superfund Remediation and Technology Innovation. It provides community members with general information about the role of institutional controls in cleanups occurring in their neighborhoods. It also discusses the community’s role in providing input for the selection of ICs and helping to monitor them to ensure that human health and the environment remain protected.

U.S. Department of Housing and Urban Development’s (HUD) “An Assessment of State Brownfields Initiatives” report
HUD USER, P.O. Box 23268
Washington, DC 20026-3268
800.245.2691
www.huduser.org

The 1999 report contains a section that addresses institutional controls, embedded land use limits in deeds and easements, and development. States highlighted include Michigan, Pennsylvania and Massachusetts.

ICMA’s Study “Beyond Fences: Brownfields and the Challenges of Land Use Controls”
800.745.8780; bookstore.icma.org

This 2000 study presents the local regulators’ views on institutional controls and their concerns about being burdened with long-term inspection and monitoring obligations.

ICMA’s “Striking Balance: Local Government Implementation of Land Use Controls, Strategies from the 2003 Brownfields Peer Exchange”
800.745.8780
bookstore.icma.org

Land use controls (LUCs) are the legal mechanisms that protect public health and the environment from contamination from brownfields. They can be used to help spur brownfields redevelopment by streamlining the cleanup process and allowing residual contamination to remain onsite while limiting the types of activities that can occur there.

American Bar Association's "Implementing Institutional Controls at Brownfields and Other Contaminated Sites," Amy I. Edwards

ISBN: 1-59031-241-4

800.285.2221

www.abanet.org/abastore

Published in July 2003, the first book on this important and evolving topic provides a thorough grounding in the history and current use of institutional controls. Emphasizing federal, state and public perspectives, this compendium of articles written by over 43 experts in the field offers real estate and environmental practitioners a state-of-the-art review of a subject that is integral to the success and growth of brownfields redevelopment projects.

Institutional Controls (ICs) are non-engineered instruments, such as administrative and/or legal controls. ICs help minimize the potential for human exposure to contamination that may occur when residual contamination remains onsite at a level that does not allow for unrestricted use.

Environmental insurance may be the most important brownfields redevelopment risk management tool available. Environmental insurance can generally be divided into the following four coverage categories: cleanup cost cap, pollution liability, secured creditor and finite risk.

According to research conducted by Peter Meyer at the University of Louisville and Kristen Yount at Northern Kentucky University,

underwriters often have different names for the insurance programs that fit within the first three coverage categories. The fourth is an insurance program method that is becoming popular for coverage of environmental risks. These coverage types are manuscripted, meaning that they can be written for a specific project or mix of projects and modified in far more ways than the traditional "off-the-shelf" insurance product.

Meyer and Yount delineate the categories as follows:

- Pollution liability policies are usually acquired for an extended period of time and require the developer to choose the appropriate mix of coverage from numerous coverage clauses. Policies can be written so that successive owners inherit the protection and can cover both regulatory agency and third party claims (those from people suing the insured).
- Cleanup cost cap policies are also called Cost Overrun or Remediation Stop Loss insurance policies. They protect against cost overruns that

Environmental insurance categories, recent trends and definitions are provided in "Brownfield Redevelopers' Perceptions of Environmental Insurance: An Appraisal and Review of Public Policy Options Practice; Guide 4 Utilizing Environmental Insurance for Brownfield Redevelopment," Lincoln Institute for Land, Cambridge, MA, 2003, Meyer, Wernstedt and Yount.

arise during cleanup or for pollution containment. They are usually short-term and intended for use throughout remediation. Some cleanups, such as those that rely on alternative, natural remediation processes or those that involve contaminated groundwater, may require longer term policies. The insurance premium for overrun is then typically quoted as a percentage of the estimated cleanup cost. The insurer would pay the excess costs beyond the deductible. This form of coverage historically has NOT been cost-effective for single sites with cleanup costs of less than \$1 million. Recent trends suggest that some forms of “portfolio coverage” for groups of small sites and projects with low cost cleanups may become available.

The Massachusetts Brownfields Redevelopment Access to Capital Program (MassBRAC) began subsidizing insurance coverage purchases in 1999 and to date has assisted 261 brownfields projects and their 316 individual policies. The program also allows for subsidies of up to 25 percent per policy with a limit of \$50,000 for private parties and \$150,000 for public purchasers. The MassBRAC budget has approximately \$7 million available to continue the program.

- Secured creditor policies are specifically designed to benefit redevelopment financiers. The policies are designed to limit lenders’ risks, thus encouraging more lending with better terms. These policies provide reimbursements to lenders for the lesser of the principal loan balance or the cleanup costs in the event that a borrower defaults and the default is accompanied by a pollution condition. Third party tort liability coverage is also offered. Banks and other lenders can buy policies themselves, passing the cost on to borrowers, or require borrowers to obtain coverage as a lending condition.

- Finite risk programs also cap the cost of mitigation. However, they apply to anticipated future cleanup costs, not to an immediate response action (often useful for future landfill closings that require capping and sealing from the elements). The insurer assumes the risk that remediation costs will be higher than anticipated. In return, the insured provides a premium payment and the up-front deposit toward the total expected cost of the remedial response. Determining up-front deposits and premiums involves such issues as the time elapsing until the cleanup needs to be done.

Other relevant policies for rural and small communities include Owner-Controlled policies, which cover all parties involved with a brownfield project, and Errors and Omissions, also known as Professional Liability coverage, which provides protection against claims for mistakes and negligent acts for engineers, lawyers and consultants.

State brownfield programs research conducted by the Northeast-Midwest Institute, Northern Kentucky University and University of Louisville have found that almost 15 states have insurance support programs and/or have investigated activating a statewide brownfields insurance program to help offset insurance costs and enhance risk tolerance. The state of New York provides tax credits for environmental insurance purchased to cover remediation activity.

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Section of Environment, Energy and Resources
321 N. Clark St.
Chicago, IL 60610
312.988.5724
Committee Chair, Seth A. Davis, sdavis@eliasgroup.com;
www.abanet.org/enviro/committees/envtab**

The Environmental Transactions and Brownfields Committee (ETAB) is



involved with the environmental aspects of various business and real estate transactions, and with the growing interest in brownfields redevelopment throughout the country at the

federal and state levels. Topic areas include voluntary cleanup laws, prospective purchaser agreements, environmental insurance, environmental justice, parent and successor liability, underground storage tanks, environmental audits and institutional controls.

Environmental Protection Agency (EPA)
Office of Brownfields Cleanup and Redevelopment
1200 Pennsylvania Avenue, NE, Mail Stop 5105
Washington, DC 20460
202.272.0167
www.epa.gov/brownfields/insurebf.htm

EPA Brownfields grants can be used to purchase environmental insurance (as of January 2002). Environmental insurance purchases must be consistent with OMB Cost Circulars: A-21 for Universities and Educational Institutions; A87 for Governmental Units; and A-122 for Non-profit Organizations. EPA also provides access to environmental insurance guides and tip sheets developed by EPA and other organizations. They provide information about coverage policies and terms generally sought to manage liability and costs.

Environmental Risk Resources Association (ERRA)
4901 Pine Cone Circle
Middleton, WI 53562
877.735.0800
www.erraonline.org

ERRA is a nonprofit association dedicated to helping its members use environmental insurance products to provide more valuable services to their customers. ERRA hosts a number of forums that focus on environmental

insurance and related topics. The newest policy forms, applications and descriptive materials from the major environmental underwriters are found on the ERRA Web site.

Environmental Finance Center, University of Louisville
426 Bloom Street
Louisville, KY 40208
502.852.8152

**cepmlou@louisville.edu; <http://cepm.louisville.edu/contact.htm>,
www.nku.edu, and www.epa.gov/brownfields/insurebf.htm**

The University of Louisville's Environmental Finance Center, in EPA Region 4, is a leader in environmental insurance research and its use in brownfields. The Center has released five detailed reports that uncover the cost ranges for policies, the categories of policy coverage, liability issues and state insurance program information. Several reports have been developed in conjunction with Northern Kentucky University. The reports are accessible on the EPA brownfields, Northern Kentucky and University of Louisville Web sites.

Guides and Written Resources

Environmental Protection Agency's "Potential Insurance Products for Brownfields Cleanup and Redevelopment: Survey Results of Insurance Industry Products Available for Transference of Risk at Potentially Contaminated Property," Document Number PB96-963244 or EPA 500-R-96-001, June 1996

Office of Brownfields Cleanup and Redevelopment
“Potential Insurance Products for Brownfields Cleanup and Redevelopment”

1200 Pennsylvania Avenue, NE, Mail Stop 5105
Washington, DC 20460
202.272.0167

www.epa.gov/brownfields/pdf/inssvy.pdf or
www.epa.gov/swerosps/bf/html-doc/inssvy.htm

The survey report compiles information concerning insurance product availability and typical policy purchases and premium cost ranges, adequacy of risk coverage, existing insurance products and the demand for environmental insurance policies in those states that have active brownfields programs. Also included is a catalogue of respondent suggestions for risk-based corrective action standards and education.

U.S. Department of Housing and Urban Development
“Environmental Insurance for Brownfields Redevelopment: A Feasibility Study”

HUD USER
P.O. Box 23268
Washington, DC 20026-3268
800.245.2691

www.huduser.org

The 1998 report explores how environmental insurance can help stimulate the redevelopment of urban brownfields. The report describes the types of environmental insurance, how insurance can be used at various redevelopment stages, constraints, case examples and possible actions for overcoming barriers.

Environmental Insurance Guide Series
Environmental Finance Center, University of Louisville

426 Bloom Street
Louisville, KY 40208
502.852.8152

cepmlou@louisville.edu; <http://cepm.louisville.edu/contact.htm> or
www.epa.gov/brownfields/insurebf.htm

The University of Louisville’s Environmental Finance Center has partnered with Northern Kentucky and other institutions to release reports that cover environmental insurance issues and practices in the realm of liability, state environmental insurance programs, coverage terms and policy categories and several offer suggestions for policy implementation on brownfields projects at various stages.

- “Brownfields Insurance for Public Sector-Led Development Projects: Experience and Methods,” (May 2005)
- “State Brownfields Insurance Programs,” 2004, (December 2004)
- “Brownfields Redevelopers’ Perceptions of Environmental Insurance: An Appraisal and Review of Public Policy Options Practice; Utilizing Environmental Insurance for Brownfield Redevelopment,” (2003)
- “Models of Government-Led Brownfield Insurance Programs,” (October 2002)
- “Environmental Insurance and Public Sector Brownfields Programs: Factors Affecting Pursuit of Insurance as a Redevelopment Tool,” (November 1999)
- “Environmental Insurance Products Available for Brownfields Redevelopment,” (November 1999.)

**Northeast-Midwest Institute's
“State Brownfields Financing Tools and Strategies” (April 2005)**

218 D St., SE

Washington DC, 20003-1900

202.544.5200

www.nemw.org/reports.htm

The report profiles successful examples of state tools and strategies, including several examples of state insurance programs that can be used to fill capital gaps in brownfields cleanup and redevelopment projects.

Attracting and leveraging private sector investments for brownfields redevelopments begins prior to the actual physical redevelopment phase, and often is considered a paramount part of the visioning and planning process. In some cases, an initial private investment can even be a motivating force for startup and leveraging other private and public funds.

The U.S. private financing sector consists of over 50,000 private foundations, 8,868 Federal Deposit Insurance Corporation insured commercial banks and savings and lending institutions (FDIC, June 2005), 225,000 angel investors (Environmental Development Finance Service, August 2005), commercial mortgage companies, insurance companies and \$2.7 trillion in pension funds with another \$400 billion in union-managed pension funds (William Greider, *The New Colossus*, *The Nation*, February 2005). These private investment sources can be useful for brownfields land acquisitions, certain land development measures, planning, business startups, business expansions and commercial and/or industrial infrastructure construction related to the redevelopment end use vision.

Investment institutions typically have criteria to manage risk on properties with environmental concerns, such as having performed a Phase I assessment. Their application criteria often include purchasing environmental insurance coverage and complying with local, state and federal regulations. In most cases the financial institution needs to be aware of the outcome of Phase I and II assessments and the determined contamination characterization in order to perform asset valuations.

Lending decisions are influenced by a variety of factors that go beyond the applicant's credit rating, such as future site values and federal lending requirements. In fact, the future value of brownfields redevelopment is just as important to a lending institution as a credit rating. Under the federal

Community Reinvestment Act (CRA, 1977 12 U.S.C. 2901), federally insured banks must demonstrate how they meet the credit needs of an entire community and must disclose how much they lend to the communities where their facilities are located. They are expected to maintain a certain level of local lending. FDIC banks can use brownfields investments to earn and maintain their CRA requirements.

Knowing the end use for the property is also a crucial lending criterion for financial institutions and private foundations. Finding investors can be difficult for rural and small communities, but knowing the end use or vision for the redevelopment can be a bonus point on many applications. If the property's end use is uncertain, having a good marketing plan for the property can be an alternative complement to an application. All these elements are essential to building lender confidence.

Organizations Providing Information and Resources

Association of Small Foundations

4905 Del Ray Avenue, Suite 200

Bethesda, MD 20814

301.907.3337; or 888.212.9922

asf@smallfoundations.org; www.smallfoundations.org

Bank of America

Environmental Initiatives CA5-704-08-25

P.O. Box 37000

San Francisco, CA 94137

Environmental Contact: 415.953.3175; Grants: 800.218.9946; Rural

Development: 800.263.2055

www.bankofamerica.com

In 2004, Bank of America set a 10-year goal of providing \$750 billion in community development lending and \$1.5 billion in grants to community development corporations.

Clean Land Fund

P.O. Box 725

Block Island, RI 02807

401.466.2065

wpenn@compuserve.com; www.brownfieldsnet.org/moreclean.htm

The Clean Land Fund is a revolving loan fund that finances brownfields cleanup in the Northeast. Loans are available for non-profit and qualified business owners and developers whose site plans incorporate economic redevelopment or other public benefits. The Fund can finance cleanup for sites that are not eligible for EPA funding.

The Community Foundation Center Locator

www.communityfoundationlocator.org

The Community Foundation Center Locator is a web-based resource that provides direct links to community foundations.

Council on Foundations

1828 L Street, NW

Washington, DC 20036

202.466.6512

info@cof.org; www.cof.org/index

Web site users can search through over 100 national, regional and community organizations that have missions related to community and economic development.

Environmental Bankers Association (EBA)

510 King Street, Suite 410

Alexandria, VA 22314

703.549.0977

eba@envirobank.org; www.envirobank.org

The Environmental Bankers Association represents the financial services industry, including bank and non-bank financial institutions, insurers, asset management firms and those who provide services to them. EBA provides lenders with information about environmental risk issues and the need for environmental risk management, due diligence policies and procedures in financial institutions.

Environmental Grantmakers Association (EGA)

**437 Madison Avenue, 37th Floor
New York, NY 10022
212.812.4260**

ega@ega.org; www.ega.org

EGA is a voluntary association of foundations and giving programs that fund projects and organizations engaged in activities aimed at protecting and preserving the environment.

The Forum of Regional Associations of Grantmakers

**1111 19th Street, NW, Suite 650
Washington, DC 20036-5168
202.467.1120**

info@givingforum.org; www.givingforum.org; ww.givingforum.org/givingcircles

The Forum of Regional Associations of Grantmakers is a national network of regional associations of grant makers located in 28 states.

The Foundation Center**Headquarters and Regional Library**

**79 Fifth Avenue, 16th Floor
New York, NY 10003-3076
212.620.4230**

www.fdncenter.org

The Foundation Center is a national organization established by foundations in 1956. The Center maintains a comprehensive database on foundations and corporate giving, provides free educational programs and fee-based training and analyzes trends in foundation growth and giving. The center's publications include FC Search: The Foundation Center's Database on CD-ROM, The Foundation Directory and the web-based *Philanthropy News Digest*. Programs include custom searching, training

about the various types of foundations, proposal writing and other fundraising courses. There are five Foundation Center libraries and more than 200 Cooperating Collections across the country available for research and training opportunities.

Regional Foundation Center**Atlanta**

50 Hurt Plaza, Ste. 150, Atlanta, GA 30304-2914; 404.880.0094

Cleveland

1422 Euclid Ave., Ste. 1600, Cleveland, OH 44115-2001; 216.861.1934

San Francisco

312 Sutter St., Ste. 606, San Francisco, CA 94108-4323; 415.397.0902

Washington, DC

1627 K St., NW, 3rd Fl., Washington, DC 20006-1708; 202.331.1400

The Foundation Finder

<http://lnp.fdncenter.org/finder.html>

The Foundation Finder provides basic information about more than 53,000 foundations. It provides information about specific foundations, including essential contact information and brief descriptions of the foundations' giving priorities.

Funders' Network for Smart Growth and Livable Communities

1500 San Reno Avenue, Suite 177

Coral Gables, FL 33146

305.667.6350

info@fundersnetwork.org; www.fundersnetwork.org

The Funder's Network for Smart Growth and Livable Communities aims to strengthen funders' individual and collective abilities to support organizations promoting smart growth and livable communities. The Funders' Network is an active resource and focal point for foundations, nonprofit organizations and other partners working to solve the environmental, social

and economic problems created by suburban sprawl and urban disinvestment. The searchable Web site provides information about foundations that make grants in support of smart growth and livable communities.

Grantmakers of Effective Organizations

**1413 K Street, NW, 2nd Floor
Washington, DC 20005
202.898.1840
www.geofunders.org**

Grantmakers of Effective Organizations incorporated as a nonprofit in 1997 to build a community of practice that maximizes philanthropy's impact. GEO emphasizes improving organizations' capacity to fulfill their missions through management, governance, and assessing and achieving results. Their database of nearly 600 organizations is searchable by state, city or organization name.

Institute for Community Economics

**57 School Street
Springfield, MA 01105-1331
413.746.8660**

info@iceclt.org; rlf@iceclt.org; www.iceclt.org

The Institute for Community Economics (ICE) Revolving Loan Fund supports redevelopment projects that create affordable housing. ICE provides technical assistance, financial support and advocacy to assist community land trusts and other locally controlled organizations with establishing affordable housing and community economic development.

Midwest Assistance Program (MAP)

**P.O. Box 81
212 Lady Slipper Avenue, NE
New Prague, MN 56071
952.758.4334
map@bevcomm.net**

MAP, (the Midwestern Rural Community Assistance Partnership (RCAP), is dedicated to helping rural communities improve their environment, quality of life and be self-sustaining. MAP provides technical training, needs assessments, financial packaging, access to pre-development, construction and capital financing as well as water and wastewater loan funds.

National Network of Grantmakers

**2801 21st Avenue S., Suite 132
Minneapolis, MN 55407
612.724.0702
nng@nng.org; www.nng.org**

The National Network of Grantmakers (NNG) includes more than 400 individuals and organizations involved in funding social and economic justice-related initiatives. Its Web site includes a list of NNG members and direct links to member Web sites.

National Rural Funders Collaborative

**402 N. Good Latimer Expressway
Dallas, TX 75204
214.824.4450
www.nrfc.org**

The National Rural Funder's Collaborative (NRFC) is a comprehensive funding initiative to invest in rural communities.

Neighborhood Funders Group (NFG)

1 Dupont Circle, Suite 700

Washington, DC 20036

202.833.4690

nfg@nfg.org; www.nfg.org

NFG is a membership association of grantmaking institutions that fund efforts to organize and improve the economic and social conditions of low-income urban neighborhoods and rural communities. NFG established the Rural Funders Working Group to increase the awareness of funding needs in rural communities and to promote partnership efforts to respond to the needs of rural communities. The working group has more than 200 member organizations.

Federal and state programs comprise the bulk of public funding for most small and rural community development brownfields revitalization projects. A great deal of leveraging and attracting private investment begins with seed money acquired from federal and state sources. In return, some federal and state programs have leveraging ratios, or a set amount of private investment that the redevelopment project must attract. Leveraging expectations are generally grant specific and can be found in the guidelines or in the notice of funding availability that accompanies the grant application.

The EPA brownfields program is by far the largest public resource available for redevelopments. This program started in the mid-1990s by offering assessment grants and was followed up with highlighting successes in the 1998 Brownfields Showcase Communities. The EPA's National Federal Agency Partnership Action Agenda (renewed in 2002) commits 22 other federal organizations to offer complementary funding, technical assistance or redevelopment as a funding priority.

In 2002, the EPA brownfields program expanded under the Brownfields Law to include grant and loan funding for petroleum, mine-scarred lands and hazardous substances contaminated sites. The law also authorized cleanup grants and specifically included language to ensure fair demographic distribution for all brownfields grants and loans, including small and rural populations.

EPA and other federal and state programs also offer assistance with job creation, which is often the stimulus for small community redevelopment endeavors. Since 1998, EPA's job training grants program has promoted the brownfields redevelopment industry and addressed the need for job creation.

Other public financing tools include tax credits. The New Market Tax Credit program, administered via the Community Development Financial Institutions (CDFI) Fund under the U.S. Department of the Treasury, expands the availability of credit, investment capital and financial services in distressed urban and rural communities. State tax programs also provide a variety of useful tax credit programs, such as voluntary cleanup tax credit, delinquent tax cancellations and tax refunds for job creation. State tax programs, low-income tax credit programs, tax increment financing (TIFs are available in 47 states), general obligation bonds and tax abatements are just a few of the tax tools available.

Organizations Providing Information and Resources

U.S. Department of Agriculture
4051 S. Agriculture Building
1400 Independence Avenue, SW
Washington, DC 20250
202.720.9542

Blake Velde, Blake.Velde@usda.gov; www.usda.gov

USDA's Rural Development section has many programs that work specifically with small metropolitan and rural areas. USDA has made several commitments to brownfields, including an agreement to work with EPA and other federal partners to assist with the redevelopment of brownfields sites located in rural communities or near mine-scarred lands, establish a USDA-wide Brownfields Subcommittee, develop a roadmap for EPA Brownfields Showcase Communities to be placed on USDA's Web site, and continue to support communities that want to convert existing brownfields into natural open space parks, tree-covered linear parks, and other land conservation projects.

Environmental Protection Agency Brownfields Program
1200 Pennsylvania Avenue
Washington, DC 20460
202.272.0167
www.epa.gov/brownfields

There are four main areas of EPA's Brownfields Initiatives:

1. Provide grants for brownfields pilot projects;
2. Clarify liability and cleanup issues;
3. Build partnerships and outreach among federal agencies, states, tribes, municipalities, communities and other entities; and
4. Foster local job development and training initiatives.

Brownfields assessment grants are typically in amounts up to \$200,000 over two years. Funds can be used to build partnerships among community groups, investors, lenders, developers and others to address site assessment and cleanup planning issues.

Brownfields Cleanup Revolving Loan Fund Pilot Grants, EPA
1200 Pennsylvania Avenue, NW (5105)
Washington, DC 20460
202.272.0167
www.epa.gov/brownfields

The Brownfields Cleanup Revolving Loan Fund pilots (each may be funded up to \$1,000,000 per eligible entity) enable states, Indian tribes and political subdivisions to facilitate the cleanup and redevelopment of brownfields properties. The pilots test revolving loan fund models that assist in the coordination of public and private cleanup efforts.

**Brownfields Environmental Job Training and Development Pilot, EPA
1200 Pennsylvania Avenue, NW (5105)
Washington, DC 20460
202.272.0167**

www.epa.gov/brownfields

The Brownfields Environmental Job Training and ongoing development pilot projects will be funded up to \$200,000 each over two years to community groups, job training organizations, educators, investors, lenders, developers and others to offer training for residents in communities impacted by brownfields. The goal is to facilitate brownfields cleanup and preparation of trainees for future employment in the environmental field. Projects must prepare trainees in activities that can be applied to a cleanup employing an alternative or innovative treatment technology. Recipients must demonstrate the ability to leverage limited EPA funds for the project. The program is highly competitive.

**Resource Conservation and Recovery Act Brownfields Prevention Initiative (RCRA)
202.272.0167**

www.epa.gov/brownfields

RCRA was enacted by Congress in 1976 to protect human health and the environment from the potential hazards of waste disposal, to conserve energy and natural resources, to reduce the amount of waste generated, and to ensure that wastes are managed in an environmentally sound manner. In 1984, Congress enacted the Hazardous and Solid Waste Amendments (HSWA), which expanded the scope and requirements of RCRA including the development of a corrective action program that requires owners or operators of treatment, storage or disposal facilities to investigate and/or clean up releases at or from their facilities, regardless of when the releases occurred.

Targeted Brownfields Assessments, EPA
1200 Pennsylvania Avenue, NW (5105)
Washington, DC 20460
202.272.0167

www.epa.gov/brownfields

EPA's Targeted Brownfields Assessment (TBA) program is designed to help states, tribes and municipalities, especially those without EPA Brownfields Assessment Grants, minimize the uncertainties of contamination often associated with brownfields. Under the TBA program, EPA provides funding and/or technical assistance for environmental assessments at brownfields sites throughout the country. A TBA may encompass one or more of the following activities:

1. A screening (Phase I) assessment, including a background and historical investigation and a preliminary site inspection.
2. A full (Phase II) site assessment, including sampling activities to identify the types and concentrations of contaminants and the areas of contamination to be cleaned.
3. Establishment of cleanup options and cost estimates based on future uses and redevelopment plans.

To receive Targeted Brownfields Assessment assistance from EPA, contact the EPA Brownfields staff in your region.

EPA Regional Brownfields Contacts

Region 1 (CT, ME, MA, NH, RI, VT)
Carol Tucker, Brownfields Section Chief
U.S. EPA - New England (Mail Code: HIO)
One Congress Street, Suite 1100
Boston, MA 02114-2023
617.918.1221
tucker.carol@epa.gov; www.epa.gov/region1/brownfields/index.html

Region 2 (NJ, NY, Puerto Rico, U.S. Virgin Islands)**Lawrence D'Andrea, Brownfields Coordinator****290 Broadway, 18th Floor****New York, NY 10007****212.637.4314****dandrea.larry@epamail.epa.gov; www.epa.gov/region02/brownfields****Region 3 (DE, DC, MD, PA, VA, WV)****Tom Stolle, Brownfields Coordinator****3HS51, 1650 Arch Street****Philadelphia, PA 19103-2029****215.814.3129****stolle.tom@epa.gov; www.epa.gov/reg3hwmd/bfs****Region 4 (AL, FL, GA, KY, MS, NC, SC, TN)****Rosemary Patton, Regional Coordinator (Acting)****61 Forsyth Street****Atlanta, GA 30303****404.562. 8868****patton.rosemary@epa.gov; www.epa.gov/region4/waste/bf/index.htm****Region 5 (IL, IN, MI, MN, OH, WI)****Deborah Orr, Brownfields Coordinator****77 West Jackson Boulevard (SE-4J)****Chicago, IL 60604****312.886.7576****orr.deborah@epa.gov; www.epa.gov/R5Brownfields****Region 6 (AR, LA, NM, OK, TX)****Stan Hitt, Regional Brownfields Coordinator****6SF-PB, 1445 Ross Avenue****Dallas, TX 75202-2733****214.665.6736****hitt.stanley@epa.gov; <http://epa.gov/region6/6sf/bfpages/sfbfhome.htm>****Region 7 (IA, KS, MO, NE)****Craig Smith, Brownfields Coordinator (Acting)****SUPR/STAR, 901 North 5th Street****Kansas City, KS 66101****913.551.7683****smith.craig@epa.gov;****www.epa.gov/region7/citizens/brownfields/index.htm****Region 8 (CO, MT, ND, SD, UT, WY)****Rebecca Russo, Brownfields Coordinator****8EPR-SA 999****18th Street, Suite 300 (EPR)****Denver, CO 80202-2406****303.312.6757****russo.rebecca@epa.gov****www.epa.gov/region8/land_waste/bfhome/bfhome.html****Region 9 (AZ, CA, HI, NV, American Samoa, Guam)****Carolyn J. Douglas, Brownfields Coordinator****75 Hawthorne Street, SFD 1-1****San Francisco, CA 94105****415.972.3092****douglas.carolyn@epamail.epa.gov****www.epa.gov/region9/waste/brown/index.html****Region 10 (AK, ID, OR, WA)****Tim Brincefield, Brownfields Coordinator****ECL-112, 1200 Sixth Avenue****Seattle, WA 98101****206.553.2100****brincefield.timothy@epa.gov; <http://yosemite.epa.gov>**

Department of Commerce, Economic Development Administration
David Ives, AICP
14th St. & Constitution Ave., NW, 7th Floor, Rm. 7326
Washington, DC 20230
202.482.4320

DIves@eda.doc.gov; www.eda.gov

EDA supports the revitalization of brownfields in its mission to aid distressed communities. Since 1992, EDA has invested over \$350 million in more than 300 brownfields redevelopment projects. EDA's programs provide funding to revitalize, upgrade and expand physical infrastructure. This funding is used for historic building rehabilitation and reuse, water and sewer infrastructure enhancements and construction of new publicly owned facilities. EDA planning and technical assistance grants have been used for activities such as long-term redevelopment planning, market feasibility studies, GIS mapping and economic assessments of brownfields parcels. EDA actively supports eco-industrial development as a preferred redevelopment technique for brownfields (catalyze local economic growth through cost saving, performance-based, sustainable development approaches.)

EDA Philadelphia Regional Office (CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, Puerto Rico, U.S. Virgin Islands)
The Curtis Center, Suite 140, S. Independence Square West
Philadelphia, PA 19106
215.597.4603

EDA Chicago Regional Office (IL, IN, MI, MN, OH, WI)
111 N. Canal Street, Suite 855
Chicago, IL 60606-7204
312.353.7706

EDA Atlanta Regional Office (AL, FL, GA, KY, MS, NC, SC, TN)
401 W. Peachtree Street, NW, Suite 1820
Atlanta, GA 30308-3510
404.730.3002

EDA Denver Regional Office (CO, IA, KS, MO, MT, ND, NE, SD, UT, WY)
1244 Speer Boulevard, Room 670
Denver, CO 80204
303.844.4715

EDA Austin Regional Office (AR, LA, NM, OK, TX)
504 Lavaca Street, Suite 1100
Austin, TX 78701
512.381.8144

EDA Seattle Regional Office (AK, AZ, CA, HI, ID, NV, OR, WA, American Samoa, Northern Marianas Islands, Guam)
Jackson Federal Building
915 2nd Avenue, Room 1856
Seattle, WA 98174
206.220.7660

Federal Deposit Insurance Corporation (FDIC)
Consumer Affairs Program
550 17th Street, NW
Washington, DC 20429-9990
800.934.3342 or 202.942.3100
www.fdic.gov/consumers/consumer/affairs/index.html

The FDIC has several programs that enable access to credit for brownfields redevelopment for rural and urban communities alike. These programs include the Community Affairs Program, Partnership Promotion and Support Services and Conferences and Seminars. The FDIC also provides a Web site featuring FDIC-owned, potentially contaminated properties.

Department of Health and Human Services (HHS)
HHS Office of Community Services
Aerospace Building
370 L'Enfant Plaza, SW, Washington, DC 20201
202.401.9333
www.acf.dhhs.gov/programs/ocs

The HHS Office of Community Services (OCS) supports state, local and community institutions with revitalization efforts through grant distribution for brownfields cleanup, redevelopment and training. As part of its commitment to the Brownfields National Partnership, OCS provides grants up to \$500,000 to community development corporations and community action agencies that may be used for cleanup, redevelopment or job training projects at brownfields pilot sites. This effort is part of OCS's Urban and Rural Economic Development Discretionary Grants program.

**Department of Housing and Urban Development (HUD)
Brownfields Economic Development Initiative Grants
SuperNOFA Information Center**

**451 7th Street, SW
Washington, DC 20410
800.483.8929**

www.hud.gov/offices/cpd/economicdevelopment/programs/bedi

Brownfields Economic Development Initiative (BEDI) grants should enhance the security or improve the viability of a project financed with new Section 108 (the loan guarantee provision of the Community Development Block Grant program) guaranteed loan authority. Section 108 provides communities with a source of financing for economic development, housing rehabilitation, public facilities and large-scale physical development projects. BEDI funds may be used for any eligible activities under the Section 108 Loan Guarantee program (currently, legislation changes to decouple the BEDI and Section 108 program are under consideration).

BEDI is intended to finance projects and activities that will promote job creation and increase the local tax bases. BEDI funds can support activities such as site remediation costs or brownfields property acquisition. BEDI funds must meet one of CDBG's national objectives, such as preventing or eliminating slum or blight.

National Oceanic and Atmospheric Administration (NOAA)

**1305 East-West Highway
Silver Spring, MD 20910
301.713.3155**

Kenneth Walker, kenneth.walker@noaa.gov; www.noaa.gov

The National Oceanic and Atmospheric Administration provides assistance for site assessment and remediation where coastal resources are impacted. Through the Coastal Zone Management Act (CZMA) partnership, NOAA and state coastal programs provide grants for developing and implementing waterfront revitalization initiatives. NOAA also provides funding for community-based workshops.

Department of Transportation

**400 7th Street, SW
Washington DC 20590
202.366.4000**

www.dot.gov

Several DOT Administrations facilitate the Department's Brownfields Agenda. The Office of the Secretary of Transportation Policy Office leads DOT's intermodal brownfields working group: The Federal Highway Administration, Federal Transit Administration and the Federal Railroad Administration. DOT is committed to encouraging partnerships among transportation agencies, environmental, state, local and private sector partners involved in brownfields redevelopment, working with the federal partners to foster communication on a regional level, sharing best practices and offering technical assistance and training to Metropolitan Planning Organizations (MPOs), states, and local governments. DOT also supports expanding existing guidance on state, local and MPO consideration of community brownfields redevelopment in transportation planning, conducting research on relationships between brownfields and transportation, and Identifying brownfields opportunities in and around ports, as well as opportunities to incorporate intermodal transportation projects, such as ferry terminals and facilities.

**Department of Treasury
Community Development Financial Institutions (CDFI) Fund
601 Thirteenth Street, NW, Suite 200, South
Washington, DC 20005
202.622.6355
www.cdfifund.gov**

Through the CDFI Fund each year, tax credits are allocated for distribution to certain qualifying entities known as Community Development Entities, or CDEs. The \$15 billion New Market Tax Credit (NMTC) Program provides private-sector investors such as banks and insurance companies with federal income tax credits in return for new investments in eligible businesses, ranging from small business startups to real estate development. Brownfields cleanup and redevelopment projects often fall under these NMTC qualifications.

Publications

**Northeast-Midwest Institute's report on state tax incentives:
"State Brownfield Financing Tools and Strategies" (April 2005)
218 D Street, SE
Washington, DC 20003
202.544.5200
www.nemw.org/brownfields.htm**

This report gives insight on how tax credit and tax issuance programs can be used to finance brownfields redevelopments. Examples highlighted include Colorado's Cleanup Tax Credit, Florida's Voluntary Cleanup Tax Credit and Tax Refund for Job Creation, New York's Cleanup, Real Inland Property and Insurance Tax Credit, Wisconsin's Cancellation of Delinquent Taxes and Connecticut's Dry Cleaner Establishment Remediation Fund.

“Brownfields Federal Partnership Action Agenda” (November 2002)

EPA Office of Brownfields Cleanup and Redevelopment

Tony Raia

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202.566.2758

raia.anthony@epa.gov

[www. www.epa.gov/brownfields/pdf/fedparaa.pdf](http://www.epa.gov/brownfields/pdf/fedparaa.pdf)

The Action Agenda is a compilation of commitments that range from making funding and technical assistance to brownfields communities a budget priority, to changing policies to facilitate brownfields redevelopment, to launching a concerted effort to share program information with stakeholders. Over 20 federal partners offer a variety of commitments, such as USDA’s commitment to work with EPA and other federal partners to assist with the redevelopment of brownfields sites located in rural communities or near mine-scarred lands.

Enacted in 2002, the brownfields law gave commercial or public use property owners, bona fide prospective-purchasers and contiguous landowners the possibility of establishing relief of liability for contaminations. But liability relief can only be granted on the condition that the parties transferring ownership follow the “all appropriate inquiry” rule (AAI Rule).

The AAI Rule can only be captured if the parties follow the real property investigation guidance found in the AAI Rule before purchasing the property or transferring ownership. The investigation is equivalent to the Phase I assessment.

Performing an investigation or review of the property’s history and use under the AAI Rule is similar to conducting due diligence--being reasonably careful or diligent when investigating the property. All EPA brownfields program grant recipients must complete an AAI Phase I investigation. State brownfields programs vary on the use of AAI, making it necessary to check with the state program to determine if the state requires AAI standards and guidance adherence.

The AAI Rule specifically outlines several areas of the property investigation or Phase I assessment that must be followed and documented in order to comply with the rule and establish liability relief. These property investigation areas have many conditions:

- Environmental professionals overseeing and signing off on the Phase I assessment investigation must meet the AAI Rule’s experience and education requirements.
- Phase I Report should document all of the environmental professional’s activities, even good faith attempts to interview past owners.
- Interviews with current owners, occupants, past owners and anyone who might have been responsible for onsite operations must be conducted.

- Historical record searches must go beyond a simple title search and also review local government records to look for cleanup liens going as far back in time as the property contained structures.
- Searches on the history of the land surrounding the site must be done in federal, state, tribal and local government records, and the environmental professional has discretion as to how large the radius of search around the site should be.
- An onsite visual inspection must take place or if access to the property is not permissible, it must be documented.
- Purchase prices or past purchase prices that are substantially different from the market value, even in the case of land donations, must be investigated.
- Common knowledge about the property, present and past, must also be investigated.
- Completed Phase I investigation reports are good for 180 days before the purchase date. If the 180 days pass and the purchase is not complete, the environmental professional must determine if the assessment or portions of the assessments need to be redone.
- The environmental professional is charged with recording any known data gaps the investigation might have revealed.

The ASTM 1527-05 standard for Phase I assessments (after November 2006) can be conducted in place of the AAI Rule and in some areas of investigation are more probing. If any release or threatened release of substance is discovered during the investigation it must be addressed in order to garner liability protection.

EPA formed a negotiating rule committee in March 2003 that consisted of 25 stakeholders to determine the rule's criteria. The committee met

multiple times from April to November 2003 to reach a consensus on the rule's criteria.

Organizations Providing Information and Resources

Environmental Protection Agency (EPA) Brownfields Program
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202.272.0167

Patricia Overmeyer, Overmeyer.Patricia@epamail.epa.gov
www.epa.gov/swerosps/bf/regneg.htm

The EPA Brownfields Cleanup and Redevelopment Web site houses all the information concerning the AAI Rule making development including Federal Register notices, negotiated rulemaking committee notes, final rule fact sheet, public comment compilations, comparison of AAI Rule to ASTM 1527-00, Brownfields Law language concerning AAI's development and all supporting documents used in conducting research.

American Society for Testing and Materials (ASTM)
“ASTM Standards on Environmental Site Assessments for Commercial Real Estate, Fifth Edition”
100 Barr Harbor Drive
P.O. Box C700
West Conshohocken, PA 19428
610.832.956
www.astm.org

This edition includes the latest versions of ASTM E 1527-05 Standard Practice for Environmental Site Assessments: Phase I ESA Process and the EPA AAI document (40 CFR Part 312) as well as ASTM E 1528-06 Standard Practice for Limited Environmental Due Diligence: Transaction Screen Process. EPA has determined that new ASTM standard E 1527-05 is in full compliance with the requirements for conducting AAIs specified in the recently published EPA rule, “Standards and Practices for All Appropriate Inquiries.”

Planning and marketing brownfields redevelopment typically takes more effort than is needed to plan and market greenfields developments. Quite often this is because brownfields planning and marketing requires much more community involvement. Community involvement is crucial because redevelopments frequently are used to address community needs as well as improve the environment.

Some needs that redevelopment plans seek to fill are the creation and retention of jobs, expanding the local tax base and providing public facilities. Incorporating specific brownfields sites and redevelopment goals into a community or region's comprehensive economic development agenda, has proven to be beneficial simultaneously for bolstering community involvement and addressing community needs.

The planning process also allows assets and barriers to be identified. Identifying assets and barriers can save time and energy further along in the assessment and cleanup stages. According to EPA, planning efforts should consider a holistic approach to envisioning the future, the types of businesses and numbers of residents a community and its natural resources can support (carrying capacity), the site's surrounding land uses, where growth boundaries are, how the project will impact all segments of society and how to achieve economic self-sufficiency. The planning programs administered under HUD and EDA offer communities an opportunity to take a holistic planning approach.

To achieve the maximum benefit from redevelopment projects, brownfields sites must be planned with a vision for end use, which will have an impact on the type of development proposed and the remediation strategies employed. The vision should fit into the network of transportation and utility infrastructure that the community has in place or has planned. Working with a range of stakeholders to plan a brownfields project also helps to ensure that the new development is compatible with the

community's needs, assets and sense of history and character. Planning can also incorporate institutional controls to ensure public safety, like site zoning or deed notices that prevent inappropriate end uses.

Marketing can be difficult, especially for rural and small metropolitan communities. The marketing materials should include not only standard information regarding demographics, local government and infrastructure, but also accurate histories of site use and clean-up activities that promote the site's potential to prospective buyers. In addition to attracting new development, an effective planning process and strong marketing strategy can also contribute to a project's success by influencing the type and amount of financing available.

Organizations Providing Information and Resources

aboutREMEDIATION

**2070 Hadwen Road, Unit 201A
Mississauga, Ontario, Canada, L5K 2C9
905.822.4133**

**Kevin Jones, Director kjones@aboutRemediation.com
www.aboutremediation.com**

aboutRemediation is a public/private initiative for education and outreach on brownfields issues. The Web site provides an online toolbox for planning, addresses how to integrate redevelopment projects into community economic strategies and how to market brownfields sites. Guidelines include developing a marketing plan, creating marketing materials and writing requests for proposals.

American Planning Association

**122 S. Michigan Ave., Ste. 1600, Chicago, IL 60603
312.431.9100**

**1776 Massachusetts Ave., NW, Washington, DC 20036-1904
202.872.0611**

Research@planning.org; www.planning.org

The American Planning Association (APA) provides research, legislative updates, conferences and workshops on a variety of planning issues. With funding from EPA, APA is collaborating with a Chicago-based Community Development Corporation to develop its Brownfields Program, including a comprehensive resource list, training programs and a planning workbook to assist communities with turning brownfield sites into opportunities for new development.

Brownfields Center at the Environmental Law Institute

**2000 L Street, NW, Suite 620
Washington, DC 20036
202.939.3800**

**Linda Breggin, Brownfields Center Co-Director, breggin@eli.org
John Pendergrass, Brownfields Center Co-Director,
pendergrass@eli.org; www.brownfieldscenter.org**

The Environmental Law Institute (ELI) is a non-profit organization providing information, services, publications and training to improve policy and management and enhance environmental protection. ELI's Brownfields Center contains many resources related to redevelopment projects. One such resource is a database of organizations involved in all aspects of brownfields redevelopment, including those that engage in planning and marketing brownfields sites. The database is searchable by type of organization and state, region or nationwide.

California Center for Land Recycling (CCLR)

**200 Pine Street, Suite 400
San Francisco, CA 94104
415.398.1080**

info@cclr.org; www.cclr.org

CCLR promotes creating sustainable communities by identifying and implementing responsible patterns of land use and development, facilitating land recycling to revitalize urban areas, discouraging urban sprawl and conserving greenspace. CCLR provides workshops and fundamental blueprints of the redevelopment process.

**Center for Brownfields Initiatives at the University of New Orleans
Office of Research, CERM 422
New Orleans, LA 70122
504.280.7089**

Marty Tittlebaum, Director metce@uno.edu; www.brownfields.com

The Center for Brownfields Initiatives offers multiple resources for marketing and planning brownfields on its Web site. By listing properties by region, providing links to organizations specializing in media and public outreach for brownfields projects, and making references for brownfields books, articles, research reports and other documents available, the Center contributes to communities' success in redevelopment.

National Association of Local Government Environmental Professionals (NALGEP)

**1333 New Hampshire Avenue, NW
Washington, DC 20036
202.638.6254**

nalgep@spiegelmc.com; www.nalgep.org

NALGEP assists local governments with environmental concerns. NALGEP and the Northeast-Midwest Institute have partnered to form the Brownfields Community Network, which provides a forum for local governments to share practices and resources for planning and implementing successful brownfields projects. Focus groups within the network discuss how to redevelop rural sites or sites with specific former uses, such as ports or salvage yards.

National Brownfield Association

**5440 North Cumberland Avenue, Suite 155
Chicago, IL 60656
773.714.0407**

www.brownfieldassociation.org

Since 1999, the National Brownfield Association has hosted a network for participants in the major sectors of brownfields redevelopment, including brownfields property owners, developers and investors, professional

service providers and government and non-profit entities. NBA's publications and meetings provide information on a variety of topics, including overcoming barriers to marketing brownfields properties.

National Vacant Properties Campaign

**1707 L Street, NW
Washington, DC 20036
202.207.3440**

Jennifer Leonard, Campaign Director

jleonard@smartgrowthamerica.org; www.vacantproperties.org

The National Vacant Properties Campaign assists local governments in preventing abandonment, reclaiming unused properties and revitalizing communities. The organization's Web site is a resource for locating case studies, model practices, and redevelopment research. The Campaign also provides training and technical assistance with planning and marketing brownfields and other redevelopment sites.

Northeast Midwest Institute

**218 D Street, SE
Washington, DC 20003
202.544.5200**

www.nemw.org/brownfields.htm

Northeast Midwest Institute is dedicated to economic and environmental quality, especially in the Northeastern and Midwestern states. One of the issues the Northeast Midwest Institute focuses on is brownfields redevelopment. The Web site contains many publications relating to brownfields planning and other redevelopment concerns. The site contains links to all 50 states' Department of Natural Resources or Department of Environmental Quality Web sites, which may be a useful start for identifying state-specific programs and Web sites that market brownfields sites.

RTI International

P.O. Box 12194

Research Triangle Park, NC 27709-2194

919.485.2666 or 866.784.1958

listen@rti.org; www.rti.org, www.smartsites.org

RTI International is a nonprofit dedicated to using research on the environment, health, education and other areas to improve people's lives around the world. In order to assist clients with making informed decisions about sustainable development, RTI developed a range of tools including SmartSites, a Web site listing abandoned, idle, or underutilized properties. The Web site facilitates connections between communities, property owners and developers. SmartSites can be a useful marketing tool for redevelopment projects because only brownfields properties are listed, rather than all commercial sites. Posting or searching for sites requires an online account, which is currently free to all users.

Smart Communities Network, National Center for Appropriate Technology

3040 Continental Drive

P.O. Box 3838

Butte, MT 59701

406.494.4572

www.smartcommunities.ncat.org

The Smart Communities Network provides resources on planning brownfields projects and sustainable rural development. Success stories, model codes and ordinances and links to research and educational materials are among the tools presented on the Web site for communities and regions to use to grow their economies, protect their natural resources and improve quality of life.