

US EPA ARCHIVE DOCUMENT

**STATEMENT OF
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U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES**

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Good morning, Madame Chair, and members of the Subcommittee. My name is Susan Parker Bodine. I am the Assistant Administrator for the U.S. Environmental Protection Agency's (EPA's) Office of Solid Waste and Emergency Response (OSWER). I am pleased to appear today to discuss EPA's Brownfields Program.

As you know, brownfields are all around us, in the smallest towns and largest cities -- empty warehouses, abandoned and deteriorating factories, vacant corner gas stations, and junk filled lots. Brownfields are defined by statute as "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." These are properties where real or potential environmental concerns pose a barrier to reuse. Estimates of the number of brownfields across the country range from 450,000 to more than one million properties.

EPA's Brownfield Program began more than a decade ago. Through calendar year 2007, EPA's Brownfields Program has assessed more than 11,500 properties, made more than 3,600 acres ready for reuse, generated more than 47,000 jobs, and leveraged more than \$10.3 billion in economic development. Brownfields revitalization also produces long-term sustainability benefits, with every acre of brownfields reused saving 4.5 acres of greenspace. Working with communities, states, tribes and other federal agencies, the brownfields initiative has become a

coordinated national effort, linking environmental protection, economic development and community revitalization.

In 2008, OSWER will continue to focus efforts on streamlining the grants application process, strengthening our state and tribal response programs, promoting greener and more sustainable clean ups and reuse, and expanding land revitalization across all of EPA's land cleanup programs.

EPA'S BROWNFIELDS PROGRAM

Brownfields Grants

I would like to describe the Brownfields Program components in greater detail. Assessment grants provide funding to: inventory, characterize, and assess properties; develop cleanup plans; conduct clean ups; and conduct community involvement activities related to brownfields. Environmental site assessments provide the information that communities and property owners need to move forward with reuse. In fact, up to one third of the properties assessed show little or no contamination, freeing the site for reuse after a relatively small public investment. Since the passage of the Brownfields Law in 2002, EPA has awarded 818 assessment grants to small and large communities, usually for \$200,000 each, for a total of \$175.5 million.

For example, a \$200,000 EPA assessment grant enabled the City of Gardena, California to perform environmental assessments on selected brownfields on a former airstrip more recently used for open-air swap meets. The city's brownfields assessments drew immediate attention from private developers. Economic Development Director Yvonne Mallory said, "The city

brought attention to several sites and helped spur development... no one paid attention until we got the Brownfields site money.” Following assessments, Gardena acquired the former airstrip/swap meet area and plans to redevelop the site into a new, state-of-the art, public transportation facility. Development of this new facility is being funded by \$25 million from the Federal Transit Administration, and \$4 million in state transportation funds.

In addition to its grant programs, EPA conducts Targeted Brownfields Assessments (TBAs). These single property assessments help communities on a direct basis, especially small communities. EPA allocated \$16.3 million for TBA support in fiscal years 2003 through 2007. To date, EPA has conducted TBAs at 1,522 properties. For example, EPA conducted a TBA at an old power plant located on Jekyll Island, Georgia. Following assessment, the plant was renovated and now houses the Georgia Sea Turtle Center. The Center opened in June 2007 and includes educational exhibits and a research center.

EPA awards direct cleanup grants of up to \$200,000 per site to public and nonprofit property owners to carry out cleanup activities at brownfield sites. Since passage of the Brownfields Law, EPA has awarded 426 cleanup grants totaling \$78.7 million. As an illustration, Ohlone Community College in Newark, California cleaned up an 81 acre, former agricultural field property with the help of a \$200,000 EPA Brownfields Cleanup grant. Today, it is the home of the Ohlone Community College Newark Center for Health Sciences -- a project creating the first “green” community college campus in the nation. The redevelopment incorporates photovoltaic solar panels, geothermal heating and cooling, high efficiency lighting, low water consumption, and extensive use of recycled materials.

The Brownfields Program also supports property clean up with grants to states and local governments to capitalize revolving loan funds. The Brownfields Revolving Loan Fund (RLF) grants provide the capital to make low or no interest loans and subgrants to finance brownfields clean up. Since passage of the Brownfields Law, EPA has awarded 84 RLF grants totaling \$103.1 million.

In February 2007, the Ohio Department of Development used its Brownfields RLF to loan \$2 million to the Summit County Port Authority to assist with clean up of the Akron Airdock. The clean up is underway and the loan will leverage more than \$11 million in additional cleanup funding. When completed, the Akron Airdock will be transformed and used to develop a prototype High Altitude Airship. The expansion of the Airdock is expected to generate about 93 jobs.

Properties contaminated with petroleum such as abandoned gas stations are a common type of brownfields. The Brownfields Law requires that 25 percent of brownfields competitive grant funding address petroleum contamination. For example, a \$200,000 EPA Brownfields Assessment grant awarded to the Utah Department of Environmental Quality helped define the extent of contamination from a leaking 4,000 gallon underground storage tank, including elevated levels of petroleum in the property's soil and groundwater. Following clean up, an 84 unit, mixed income apartment complex was built on the property. Since passage of the Brownfields Law, EPA has awarded 389 assessment, revolving loan fund, and cleanup grants totaling \$79.5 million for petroleum contaminated brownfields.

In reviewing proposals and awarding grants, EPA has found that brownfields come in a range of sizes and types. Brownfields are often stereotyped as large industrial sites in urban

areas. The reality is that most brownfields are small properties such as dry cleaners, vacant lots and gas stations. More than half of the grants go to communities of fewer than 100,000 people.

The grant selection and award process for fiscal year 2008 is underway. The application deadline was October 12, 2007 and EPA received more than 800 applications. The Agency plans to award more than 200 grants this year.

In addition to funding brownfields assessments and clean ups, EPA also funds brownfields training, research, and technical assistance. As communities clean up brownfields, they need a workforce with environmental cleanup skills. To date, EPA has awarded 118 job training grants, resulting in the placement of more than 2,600 people in jobs with an average wage of \$13.86 an hour.

State and Tribal Programs

States and tribes are at the forefront of brownfields clean up and reuse. Most brownfields clean ups are overseen by state response programs. In fiscal year 2006 alone, 38 states reported that 27,000 properties were enrolled in state response programs and more than 70,000 acres were made ready for reuse. Additionally, state response programs provided technical assistance at more than 1,200 properties.

Similarly, tribal response programs, newer in development, are taking an active role in the clean up and reuse of contaminated property on tribal lands. Tribes are developing and enhancing their response programs to address environmental issues on tribal lands. Through brownfields grant assistance, tribes are creating self sufficient organizations for environmental protection. Tribal response programs conduct assessments, create ordinances, and educate their communities about the value and possibilities of brownfields clean up and reuse.

The development of successful state and tribal programs is essential to ensuring the successful implementation of the national brownfields program. Our states and tribes are at the frontlines of effective brownfields clean ups. Providing financial assistance to states and tribes increases their capacity to meet brownfields clean up and reuse challenges. It helps to ensure that clean up and reuse is protective and in accordance with federal, state and tribal standards.

Under the Brownfields Law, EPA provides financial assistance to establish or enhance state and tribal programs so they can meet the challenges of brownfields clean up and reuse. In fiscal year 2008, EPA's brownfields appropriation included \$48.7 million for states, tribes and territories. EPA anticipates an increasing demand for these funds from states and tribes in the future.

EPA awards funds to states and tribes through a national process where EPA holds states and tribes accountable for the efficient use of the grant funds. EPA reviews the level of funds remaining on prior years' grant awards and reduces new awards accordingly. States and tribes that use their funding in a timely manner see funding levels hold steady or increase; those with unspent funds receive fewer dollars. Through this effort, EPA encourages the appropriate and timely use of grants funds, ensuring effective planning and development of response and voluntary cleanup programs, and providing for a transparent measure of accountability.

States and tribes use the grant funding for a variety of activities. For some, the funding provides an opportunity to create new response programs to address contaminated properties, while for others it allows them to enhance existing programs with innovative new tools. Some states, such as Colorado, use the funds to bolster cleanup revolving loan funds, while others, such as Wisconsin, use the funds to maintain a "one cleanup" approach to assessment and clean

up. Many use the funds to conduct site specific activities, such as the assessment and clean up of brownfields sites. Since fiscal year 2003, states and tribes reported conducting more than 900 site assessments on brownfields.

Liability Protection

A critical element of the Brownfields Program is the liability protections and clarifications provided for certain landowners who are not responsible for prior contamination at brownfields properties. These protections increase comfort and certainty for prospective purchasers and provide incentives for redeveloping brownfields. To encourage investment in contaminated property, EPA has worked to clarify federal liability, particularly under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA has issued guidance and enforcement discretion policies to advance brownfields clean up and redevelopment.

The Brownfields Law clarified the landowner liability protections of bona fide prospective purchasers, innocent landowners and contiguous property owners under CERCLA. To qualify for liability protection, these property owners must satisfy certain statutory requirements. For example, prior to acquiring a property, purchasers must meet environmental due diligence requirements by undertaking “all appropriate inquiries” into the previous uses and condition of the property. EPA collaboratively developed a regulation establishing standards for conducting “all appropriate inquiries.” The final rule was issued in November 2005 and went into effect in November 2006.

CONCLUSION

EPA's Brownfields Program serves as an innovative approach to environmental protection, spurring environmental clean up, reducing neighborhood blight, preserving greenspace, generating tax revenues, and creating jobs. Our continued success will require collaboration among all levels of government, the private sector, and nongovernmental organizations. EPA will continue to implement the Brownfields program to protect human health and the environment, enhance public participation in local decision making, build safe and sustainable communities through public and private partnerships, and recognize that environmental protection can be the engine driving economic redevelopment.