

BROWNFIELDS REDEVELOPMENT: EJ Hook Fact Sheet

Summary of the Law

Many communities have underused or abandoned land that may be contaminated. These properties can be vacant lots, under-utilized warehouses, gas stations, salvage yards, mine-scarred lands, sites with controlled substances (e.g. meth labs), factories, and other eyesores. Since the 1990s, many states adopted laws to address these properties through cleanup and reuse. In 2002, Congress passed the Small Business Liability Relief and Brownfields Revitalization Act (Brownfields Act) as an amendment to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund). This law codified and expanded the US EPA's Brownfields Program by expanding the funding, types of grants, and sites eligible for assessment and cleanup of brownfields properties. It also exempted contiguous property owners and prospective purchasers from Superfund liability, and clarified the appropriate inquiry for innocent landowners. Finally, it authorized funding for state and tribal governments to establish and enhance response programs, and limited EPA's Superfund enforcement authority at sites cleaned up under a state response program.

A "brownfield site" is 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. Brownfields are underused or abandoned land that may be contaminated.

Environmental Justice Hooks

Brownfields plague virtually every community in America, but are often concentrated in low-income communities and communities of color. They can cause blight to neighborhoods, threaten public health and the environment, inhibit economic development, and encourage urban sprawl. Further, brownfields can reduce community health by posing challenges to safety (e.g. abandoned buildings); environment (soil and water contamination); and social and economic prosperity (reduced governmental tax base).

The EPA, state and tribal Brownfields programs focus on providing grants to communities to assess and clean up property that may be contaminated and return it to productive use. The private sector is using this process very effectively, taking advantage of financial, technical and other government resources. Non-profit organizations are beginning to use the Brownfields Act to revitalize their communities. The following measures are opportunities for community-based organizations to address their concerns:

Competitive Grants Program:

EPA provides the following types of grants:

- Assessment funds of \$200,000 for assessment, planning and community outreach.
- Clean-up funds of \$200,000 for direct cleanup of contamination.
- Revolving Loan Fund, of up to \$1,000,000 (per entity) to capitalize loans and subgrants for cleanups. Coalitions of entities may apply revolving loan funds seeking up to \$1 million per entity.
- Job training of \$200,000 for environmental training for residents.

Health Monitoring: Local governments can allocate up to 10% of their EPA brownfields grant to: 1) monitor the health of populations exposed to hazardous substances from a brownfields site; and 2) monitor and enforce institutional controls used to prevent human exposure to hazardous substances from a brownfield site. Examples of activities include: mapping site features, monitoring health through community-wide inventory, collecting baseline environmental and health data, examining site access patterns, and monitoring the air during cleanup activities.

Targeted Brownfields Assessment Assistance: EPA provides funding and/or technical assistance for environmental assessments at brownfields sites. This assistance is available directly from EPA through EPA Regional Brownfields offices and from state or tribal voluntary response program offices. This assistance can address site screening, full environmental assessment, and support cleanup planning, options and cost estimates based on future uses and redevelopment plans. The criteria for receiving the assessment include factors related to community environmental justice, such as preferences for: 1) property owned by a municipality or through a quasi-public entity such as a community development corporation; 2) property where there is a clear municipal/community vision and support for property revitalization; 3) property that will likely have low to moderate contamination levels, and where redevelopment will provide tangible benefits for the community; and 4) property where the project area has a clear need for revitalization evidenced by significant deterioration and/or significant environmental justice issues.

All Appropriate Inquiry Rule (AAI): AAI is the process of evaluating a property's environmental conditions and assessing potential liability for any contamination. EPA's AAI rule establishes specific regulatory requirements for conducting all appropriate inquiries into the previous ownership, uses, and environmental conditions of a property for the purposes of qualifying for certain landowner liability protections under CERCLA. Many of the inquiry's activities must be addressed by an environmental professional. Further, community residents may have essential information that must be addressed by the environmental professional. For example, the inquiry of the environmental professional must include: 1) interviews with past and present owners, operators and occupants; 2) reviews of historical sources of information; 3) visual inspections of the facility and adjoining properties; 4) commonly known or reasonably ascertainable information.

Environmental Justice Outcomes

Possible outcomes from the Brownfields Act that address environmental justice challenges and goals include:

- 1) assessment of contaminated sites in neighborhoods;
- 2) cleanup of contamination at sites in neighborhoods;
- 3) elimination of safety concerns (e.g. open pits, abandoned structures);
- 4) increase in green and open spaces (e.g. parks);
- 5) redevelopment of sites into land uses that promote community benefit, health and sustainability (e.g. community or art centers, health clinics, recreational centers);
- 6) increased tax base that can support community health and well-being (e.g. schools and school clinics, immunizations);
- 7) engagement of local government in community environmental justice concerns related to health, poverty, crime and environment;
- 8) full participation by community residents in government and business decisions that affect cleanup of contaminated sites and determination of land uses; and
- 9) job training and employment opportunities through new businesses.