

## ***Brownfields Policy and Research***

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1. **HUD Looking for Case Studies for Financing Affordable Housing on Brownfields Sites.**  
HUD's research office will be conducting an in-house research project on building housing, particularly affordable housing, on brownfields or former brownfields sites. HUD is interested learning about the issues and challenges faced by developers and sponsors in building on urban brownfields. This is part of a follow-up to HUD's *Study of HUD's Site Contamination Policy*, which examined the Office of Housing's brownfield policy, which currently does not allow risk-based cleanups for assisted and insured housing developments. In particular, HUD is concerned with

the challenges caused by, and the need to address, the site contamination issues of the brownfield. HUD would like to obtain information about how the project addressed site assessment, site cleanup, the role of regulatory bodies, costs of brownfield assessment/ cleanup and how they affected overall costs, relationships with lenders/investors, and relationships with the local jurisdiction and local community. Among the types of housing projects HUD is interested in are housing developments with risk-based cleanups, which may be consistent with and acceptable under brownfield cleanup regulation. The contact for this effort is Edwin Stromberg, Office of Policy Development and Research, U.S. Dept of HUD, at [Edwin.a.Stromberg@HUD.gov](mailto:Edwin.a.Stromberg@HUD.gov). He can be reached at (202) 402-5727.

2. **Mathy Stanislaus Confirmed by the Senate to Direct EPA's OSWER.** On May 12, the Senate confirmed the nomination of Mathy Stanislaus to direct EPA's Office of Solid Waste and Environmental Response (OSWER). Mr. Stanislaus was the Co-director of the [New Partners for Community Revitalization](#) (NPCR). NPCR's mission focused on brownfields: "The mission...is to advance the revitalization of New York's communities, with a particular focus on brownfield sites in and proximate to low and moderate income neighborhoods and communities of color." Some of the NPCR's recent reports include:
  - [Addressing Risk— Making Environmental Insurance Available for Brownfields Sites in New York City](#);
  - [Brownfields Breakthrough – New York's BOA Program, A Revitalization Tool for the Future](#);
  - [Using Public Dollars for Brownfields Site Assessments](#).
3. **FHLB Standby Letter of Credit Combating Credit Crisis.** Credit-starved developers, bond counsels, and real estate finance experts gathered at the annual conference of the [Council of Development Finance Agencies](#) and found promise in a little-known federal loan guarantee program. The [Federal Home Loan Bank's](#) [Standby Letter of Credit](#) (LOC), which received broadened authority and expanded funding from the stimulus bill, can be issued to back a variety of loans and bonds, including: local government GO bonds, commercial real estate projects, TIF bonds, IDBs, and non-profit facilities. The LOCs are credit enhancement/guarantees backing loans made by member institutions. CDFA cites [an example of an IDB project](#) that received the LOC backing.
4. **Supreme Court Clarifies Liability under Superfund.** In its decision in the case *Burlington Northern v. United States* (according to the [Ballard Spahr newsletter](#) summary), the Supreme Court "decided that a party liable for some of an indivisible problem at a Superfund site can avoid joint and several liability by showing that the trial court may reasonably apportion liability based upon time on the site, amount of land owned, or volume of waste disposed." This interpretation of apportionment has significance in that (according to [Spencer Fane newsletter](#)) "Owners and operators of complex, multi-parcel sites now have much stronger apportionment and allocation arguments based on the actual area of ownership and time of operation of the facility (geographic and temporal divisibility)."
5. **ASTSWMO Report Finds Many States have not Adopted AAI.** The [Association of State and Territorial Solid Waste Management Officials](#) has issued a report that outlines the varying approaches states have taken with respect to the All Appropriate Inquiry rule that was adopted by congress in 2003 and then administratively implemented through [guidance documents](#) in 2005. The report, [All Appropriate Inquiries Practices](#), finds a wide variation: 12 states have adopted AAI or the parallel ASTM 1527E-05; 28 states do not use AAI or the parallel ASTM standard; and other states are using AAI in one aspect of their programs but not universally.
6. **Disclosure Discussion Dominates Brownfields Blog.** For those who are not on the [CPEO Brownfields Internet Forum](#), a potentially significant debate is taking place related to the pros and cons of state and federal actions to require disclosure of environmental conditions. Suggestions for triggers of disclosure include property transactions, plant closures, site assessments or All

Appropriate Inquiry requirements, and/or on-going reporting of environmental liabilities. The [Schnapf Environmental Law Center](#) has tracked the issue and published a report summarizing [State Disclosure Laws](#) (dated 2000). Many states have disclosure laws but most affect only residential real estate transactions. New Jersey's [Industrial Site Recovery Act](#) is one of the more comprehensive disclosure statutes for commercial properties. In 2008 Tennessee enacted a groundwater disclosure requirement requiring disclosure where there is contamination above ground water standards at levels posing an imminent and substantial endangerment, and Connecticut is considering similar requirements. To follow the CPEO discussion go to: [Illinois proposal for disclosure of water contamination](#), [Illinois proposal 2](#), [Six blind men](#), [Six blind men2](#), [When, where and how?](#) and [Disclosure obligations](#).

7. **New Jersey Governor Signs Bill for Licensed Site Professionals to Oversee Cleanups**  
Citing the need to streamline the cleanup process, Governor Corzine signed into law New Jersey's Licensed Site Remediation Professionals (LSRP) program. With a total number of brownfields and superfund sites estimated to exceed 19,000 sites, New Jersey's backlog of sites needing state review was unacceptably high. The [press release](#) also includes executive order 120, which outlines extra review steps the Department of Environmental Protection will take to insure adequate cleanups at sites where there is groundwater contamination or where the site will be used for residential, educational, and day care service. See the [Ballard Spahr Summary](#) and the Bill: [Site Remediation Reform and Licensed Professional Act](#). Similar LSRP programs operate in [Ohio](#), [Connecticut](#), and [Massachusetts](#).
8. **NEMW Presentation - State-facilitated Tax increment Financing for Brownfields** – NEMW staff presented concepts for [State-facilitated Tax Increment Financing for Brownfields Redevelopment](#) at the [Council of Development Finance Agencies](#) annual conference,. The report and [presentation](#) highlight ways that states can complement local tax increment financing to give an added boost to brownfields redevelopment.

## FUNDING NEWS

9. **EPA announces Brownfields Grant Awards for Fiscal 2009 and for the Stimulus Bill Funds.** EPA issued grant announcements for \$111.9 million for Brownfields projects - \$3F7.3 million from the American Recovery and Reinvestment Act of 2009 and \$74.6 million from the EPA brownfields FY 09 general program funding. See the [EPA Press Release](#); the [list of Brownfields Grants funded with regular competition funds](#); and [List of Brownfields Grants funded by the Recovery Act](#),
10. **EPA Brownfields Funding linked to SBA loans to Support Michigan's Economic Recovery.** Ed Montgomery, President Barack Obama's auto industry recovery czar, [announced new assistance](#) to auto-downturn-ravaged Michigan in the form of an expanded SBA loan program and \$10.3 million for brownfields revitalization.
11. **Brownfields Economic Development Initiative (BEDI) Applications.** The deadline for applications for the [HUD BEDI](#) program is June 16, 2009. Public entities may apply for assistance under the BEDI grant program if the project is also applying to the HUD 108 Loan program. Contact: David Kaminsky, 202-402-4612; [David.Kaminsky@hud.gov](mailto:David.Kaminsky@hud.gov). For more information, see the [grant announcement](#)

## PRESIDENT'S BUDGET

12. **President's Budget for Brownfields – EPA Gets Boost, but HUD Programs face Elimination.** The President's budget proposes to increase funding for the EPA Brownfields Program by \$8.9 million or 5.4% relative to the FY 2009 enacted budget. When corrected for inflation, the proposed EPA Brownfields budget is still 7% lower than the 2003 appropriation (see [NEMW Budget Analysis](#)). The Administration also proposes to eliminate the HUD Brownfields

Economic Development Initiative (BEDI), and the HUD 108 program is "zeroed," with a notation that it will be replaced by a program that will not require a subsidy. HUD 108 is frequently used by cities to close gaps on brownfields projects. NEMW has posted [historical tables and charts](#) for the EPA and HUD brownfields programs.

13. **HUD Budget – New Sustainable Communities Initiative.** The HUD budget boosts CDBG funding by \$550 million and proposes establishing a \$150 million Sustainable Communities Initiative to “stimulate improved regional planning efforts that integrate housing and transportation decisions, and to challenge communities to reform zoning and land use ordinances.” (See: [HUD Budget Summary](#)). The Sustainable Communities Initiative was previously announced as a [partnership between HUD and the Department of Transportation](#).

14. **EDA Shifts to Economic Adjustment and Regional Innovation Clusters.** The Administration is proposing a major shift in emphasis at EDA. The Public Works program, long the centerpiece of EDA’s local economic development programs, is proposed for a drastic reduction (\$130 million/FY 09 to \$73 million/FY 10), while the Economic Adjustment Program gets a major boost (\$35 million/FY 09 to \$125 million/FY 10). The Administration is giving priority to “regional innovation clusters,” business incubators, and projects that mitigate climate change through green construction. The concept of “regional innovation clusters” was advanced in this [Brookings Institution Report](#).

#### CONFERENCE NEWS

15. **National Brownfields Conference.** The [Brownfields2009 Conference](#) will be held November 16-18 in New Orleans. ICMA is administering a [Travel Scholarship Program](#)

16. **Reclaiming Vacant Property Conference.** The [Reclaiming Vacant Properties Conference](#) is scheduled for June 1-3, 2009 in Louisville, KY.

17. **Northeast Sustainable Communities Workshop.** The New Jersey Institute of Technology is organizing a [Northeast Sustainable Communities Workshop](#) on June 18 in Newark, New Jersey.

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**Contact:** *For any and all issues related to this newsletter (subscribing or unsubscribing; feedback; submission of future articles or links, etc.) contact: Evans Paull, [epaull@nemw.org](mailto:epaull@nemw.org)*

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