

Brownfields Policy and Research

Volume 2, Number 5, Aug 31 2009



Brownfields Policy and Research Round-up

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CONGRESS AND BROWNFIELDS – FEDERAL ISSUES

1. **Brownfields Tax Expensing Bill Introduced.** A bill ([HR 3260](#)) to make the section 198 tax expensing program permanent has been introduced by Representatives Becerra (D-CA) and Ryan (R-WI). A 2007 [Congressional Research Service Report](#) on the tax incentive found that the program was not fully utilized because it keeps lapsing, only to be rescued at the last moment:

“This on-again, off-again history creates uncertainty regarding its future availability, and makes it difficult for developers to plan, particularly for large-scale, multi-year projects. Even smaller projects can encounter unforeseen delays, pushing them past the provision’s end date, and causing forfeiture of anticipated benefits. For an economically marginal project, this uncertainty could be enough to decide against going forward. One state official mentioned that at times he was unsure of the incentive’s status, which made him reluctant to recommend it.”

The bill does not address the “recapture provision.” For more info on the tax incentive, go to the [EPA website](#).

2. **Brownfields Tax Expensing Survey.** At the request of Rep. Higgins (D-NY, and Co-Chair of the NEMW Revitalizing Older Cities Task Force), NEMW has developed an abbreviated survey to help determine the reasons that developers often choose not to use the Brownfields Tax Expensing Program. Please fill out this 5-question/5 minute survey at:
http://www.surveymonkey.com/s.aspx?sm=5WMkWDPwc37iPEDD25sdcw_3d_3d
3. **Brownfields Appropriations – House and Senate Divided on HUD Brownfields Programs**
HUD. The House and Senate Appropriations Committees took opposite paths for the HUD brownfields programs. The Senate followed the Obama Administration’s lead and “zeroed” both HUD 108 and the Brownfields Economic Redevelopment Initiative (BEDI), although HUD 108 is slated to continue without subsidy. The House budgeted \$25 million for the BEDI and \$6 million for HUD 108. – that is back to 2002-2005 levels. The House justification for HUD 108 states that “The Committee does not agree that the activities of this account are best performed through the Community Development Block Grant program. Further, the Committee does not believe that the fee structure proposed by the Administration is the best way to resolve the need for appropriations in this account.” The National Brownfields Coalition requested \$25 million for

BEDI and \$7 million for HUD 108 in letters to the [House](#) and [Senate](#) Appropriations Sub-committees.

EPA. The House and Senate Appropriations Committees have each passed modest increases for the EPA Brownfields Program. The Brownfields Assessment and Cleanup Program is pegged at \$100 million (a 3.1 percent increase over 2009) in the House and \$101 million in the Senate. Both sides budgeted \$49.5 million for Brownfields Assistance to the States.

4. **Waterfront Brownfields Bill Introduced.** Representative Slaughter (D-NY) has introduced [HR 3518](#) to establish a “Waterfront Brownfields Program” The proposal would establish a new carve-out of EPA brownfields funds dedicated to the assessment and cleanup of waterfront sites, including “integration with water quality improvements, green infrastructure, remediation and management of sediments, or flood damage prevention “ The bill authorizes funding for waterfront brownfields @ \$55 million annually or 25 percent of all brownfields site assessment and cleanup funding. The bill also authorizes the creation of a federal task force on waterfront brownfields revitalization.
5. **Public Agency Liability Letter Gains Backing of 38 Cities.** One of the National Brownfields Coalition’s proposals, as part of reform measures to re-authorize the EPA Brownfields Program, is to clarify and expand liability protections for public agencies that acquire contaminated properties. The Coalition is working with the International Municipal Lawyers Association (IMLA), the U.S. Conference of Mayors (USCM), the National League of Cities (NLC), the National Association of Counties on the proposal and the sign-on letter which now includes 38 cities. IMLA set up a list-serve for the group at: <http://lists.imla.org/mailman/listinfo/brownfields>, and interested parties are encouraged to join. A recent National Association of Local Government Environmental Professionals webcast addressed [Brownfields and CERCLA Liability for Local Governments](#). An NEMW white paper, “[Mothballed Sites and Local Government Acquisition](#),” outlines the more aggressive liability protections offered by six states. Local government officials interested in adding a locality to the sign-on letter should contact: Chuck Thompson at IMLA (202-742-1016, CThompson@imla.org), Judy Sheahan at the USCM (202-861-6775, jsheahan@usmayors.org). Evans Paull at NEMW (202-329-4282, epaull@nemw.org), or Carolyn S. Berndt at NLC, (202-626-3101 Berndt@nlc.org).
6. **HUD Sustainable Communities Bill Proposes Challenge Grant Program, Brownfields Eligible.** The Obama Administration bill designed to implement the proposed HUD Sustainable Communities Program has been introduced by Senator Dodd as the [Livable Communities Act of 2009](#). Brownfields projects are eligible for the proposed Challenge Grant Program. The Challenge grant program is only available through regional councils and consortia of local government – not individual local governments or private entities. The funding can be used to:
 - (1) promote integrated transportation, housing, energy, and economic development activities carried out across policy and governmental jurisdictions;
 - (2) Promote sustainable and location-efficient development; and
 - (3) Implement projects identified in a comprehensive regional plan.

In the latter “implementation” category funding would be available for projects that “promote livable communities through investment in transit-oriented development...structured parking near public transportation, complete street projects,...creating or preserving affordable housing (in)... neighborhoods with access to public transportation; **brownfields redevelopment** or other redevelopment of communities and commercial areas, including the main streets of small towns; land banking for transit-oriented development...”

ENERGY, BROWNFIELDS, AND SUSTAINABILITY

7. **Smart Growth and “Moving Cooler.”** The recently released Cambridge Systematics, Inc report, [Moving Cooler](#), explores alternate ways to reduce greenhouse gas emissions and concludes that land use strategies “could achieve meaningful GHG reductions by 2050, ranging from 9 percent to 15 percent without economy-wide pricing.” For more information, see the [Moving Cooler website](#).
8. **New Jersey Links Land Use and Greenhouse Gas Reductions.** According to the [Restoring Prosperity](#) Newsletter, New Jersey is one of ten Northeastern and Mid-Atlantic States participating in the Regional Greenhouse Gas Initiative, a market-based carbon auction designed to reduce greenhouse gas emissions. As part of New Jersey’s ongoing response to global warming, the New Jersey Department of Environmental Protection (DEP) has been allocated 10% of the proceeds generated from the auction (the auction is expected to generate around \$60 million) to use for making grants to municipalities to reduce greenhouse gas emissions. The legislation authorizing those grants includes land use planning designed to reduce greenhouse gas emissions as an allowable use of funds. It also requires that all funds distributed by the NJDEP for use in the grant program be used to achieve “measurable reductions in greenhouse gas emissions.”
9. **Integrating Sustainability into a Regional Plan.** With the HUD Sustainable Communities effort ([see above](#)) placing greater emphasis on regional planning to promote sustainability, a timely webinar was presented by [Vita Nuova](#): “[Integrating Sustainability into a Regional Plan](#).”
10. **Brownfield Sites Targeted for Solar.** According to [BusinessGreen.com](#), brownfield sites are being targeted for solar power generating facilities in locations such as 338,000 acres of landfills in California’s Riverside and San Bernadino counties. In Ohio, a renewable energy trade group, [Ohio Advanced Energy](#), is reported as being “in discussions with local government and policy makers to facilitate and possibly fund a new venture that would focus on the development of brownfield sites.”
11. **Brownfields Designation Key to Securing Energy Department Loan for Electric Car Manufacturer.** Tesla Motors, an electric car manufacturer, has chosen a Palo Alto, California brownfields site for its power train production facility. An [article in BizJournals.com](#) states that the key financing piece – a \$465 million Energy Department Loan – hinged on the site’s designation as a brownfield.
12. **FedEx – Nation’s Largest Solar Roof Underway on NJ Brownfields Site.** FedEx Ground announced plans to construct [nation’s largest rooftop solar-electric system](#) at its distribution hub in Woodbridge, N.J. The 2.42 megawatt solar power system will cover approximately 3.3 acres of rooftop space with approximately 12,400 solar panels. The Woodbridge distribution center was a dredge spoil site, cleaned up in 2000 to accommodate the 1,000 employee center.
13. **Major Industrial Parks Going Green in California and Ohio.** The trend toward brownfields going green is well established in mixed use projects, but the industrial development sector is generally seen as adopting green practices more slowly.

A major industrial brownfields project – the 1.2 million sq. ft. Interchange Business Center in **San Bernardino, California** – has been reported in [Contract Magazine](#) as receiving LEED Silver Certification. The article cites previous uses of the 144 acre parcel as including the “storage, packing and testing of six-pound incendiary bombs” during World War II, silica gel manufacturing, and zeolite production.

In **Euclid, Ohio**, a \$4 million [Ohio Job Ready Site Grant](#) and a \$1 million Cuyahoga County Brownfield Redevelopment Loan are key financing pieces to help bring up to 1,000 jobs to the former PMX facility. [Environmental Liability Transfer](#) purchased the site, indemnified the previous owner, and prepared the land. [Ray Fogg Building Methods](#) is the vertical developer and is committed to LEED Silver or higher. See [this article](#) for more information.

14. **Best Source for State (and Federal) Energy Incentives.** See the [US Department of Energy's Database of State Incentives for Renewable and Energy Efficiency](#)
15. **Great Lakes Cleanup and Brownfields Redevelopment.** Seeking to restore both environmental quality and economic prosperity to the region, EPA Great Lakes Protection Office, EPA Brownfields, and EPA Region 5 collaborated to organize a meeting of brownfields experts, developers, and state environmental officials in Chicago on July 16, 2009. The overarching goal of the meeting, [Harnessing the Great Lakes Legacy Act for Environmental Improvement of Waterfront Properties](#) was to come up with creative ways to finance environmental restoration and sediment cleanup in [Great Lakes Areas of Concern](#) (AOCs). NEMW staffer, Greg Lewis presented the results of a project the Institute carried out exploring [Innovative Financing for Great Lakes Environmental Restoration, Concepts for Tying Waterfront Development to Environmental Restoration](#)

BROWNFIELDS AND AUTO PLANTS

16. **GM Bankruptcy Plan Allows GM to "Dump Polluted Sites."** The approved bankruptcy plan allows GM to escape from extensive environmental liabilities by leaving many contaminated assets in the hands of the Old GM, the bankrupt entity, while the new GM will only retain certain attractive sites. An extensive article in the [Detroit Free Press](#) outlines the scope of the \$530 million cleanup problem. GM left behind liabilities for the cleanup of more than 100 properties, including 40 in Michigan, 44 in Indiana, and five in Ohio, and the fate of the cleanup operations for those sites is uncertain now that the claims are likely to go unfulfilled.
17. **Michigan - Environmental Liability Key to Auto Plant Reuse.** Flint, Michigan is afflicted with 1,500 acres of brownfields sites, most under the control of Motors Liquidation Co., or the old GM. An [article in MLive](#) states that a proposed inter-modal transportation center is being planned to re-use 223 acres and create 600 jobs. However, environmental liability, now complicated by the bankruptcy proceedings, could de-rail the project. Another [MLive article](#) reports that the Michigan Department of Environmental Quality filed a "limited objection" to the GM bankruptcy plan in order to establish GM's on-going responsibility for cleanup of three Delphi sites in Saginaw County. Later articles appear to indicate that the DEQ objection was over-ruled.
18. **New York – GM Triages Sites, Governor Disputes Bankruptcy Plan.** In [Massena, NY](#), the bankruptcy plan has been reported as allowing GM to potentially shed its environmental liabilities, estimated to be \$225 million for the New York site. Also in New York, Governor Cuomo took the additional step of "asking the U.S. bankruptcy court judge overseeing GM's Chapter 11 case to stop it from buying the [Delphi Factories in Rochester and Lockport](#) unless the automaker commits to removing toxins at a cost of about \$16 million." Later reports indicate that the Governor's objections were over-ruled. One site GM decided to retain is the [Sleepy Hollow site](#), which is apparently far enough along in cleanup (\$11 million, so far) and has other attractive real estate attributes (waterfront).
19. **Ohio - Cleanup Issues Complicate Chrysler Plant Reuse.** Cleanup issues have also been reported as potential impediments to auto plant re-use in [Twinsburg, Ohio \(Chrysler Plant\)](#). The State of Ohio is assisting in carrying out phase I and II assessments of the site.

FEDERAL FUNDING

20. **EPA Brownfields Program.** The FY2010 *Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund, and Cleanup Grants* have been posted to the brownfields website at: [EPA Brownfields website](#). The proposal deadline is October 16, 2009. There are three categories of grants: *Brownfields Assessment Grants*: (each funded up to \$200,000 over three years; \$1,000,000 for Assessment Coalitions); *Brownfields Revolving Loan Fund (RLF) Grants*: (each

funded up to \$1,000,000 over five years); *Brownfields Cleanup Grants*: (each funded up to \$200,000 over three years).

21. **Department of Energy Loan Guarantee Program.** The Obama Administration announced the availability of \$30 billion in [Renewable Energy Loan Guarantees](#), which “encourages the commercial use of new or improved energy technologies to help foster clean energy projects.” Read more information on this solicitation and the Department’s [Loan Guarantee Program](#).
22. **EDA Climate change.** The U.S. Department of Commerce Economic Development Administration announced the availability of funding under their [Global Climate Change Mitigation Incentive Fund](#). Project types include: renewable energy. energy efficiency. reuse/recycling/restoration; and green buildings. Projects must meet EDA’s standard eligibility and distress criteria, investment policy guidelines, and funding priority considerations.
23. **Clean Water and Drinking Water State Revolving Funds** The American Recovery and Reinvestment Act of 2009 provides significant funding for states to finance high priority infrastructure projects needed to ensure clean water and safe drinking water. [For more information, go this announcement by NALGEP.](#)
24. **Brookings Tracking Innovative Uses of ARRA funding.** The [Brookings Institution Metropolitan Policy Center](#) is tracking creative and innovative uses of stimulus funding in the report, “[Implementing ARRA: Innovations in Design in Metro America](#).”
25. **Federal Brownfields Program Chart.** One of the products from the [Disadvantaged Communities Network](#) was a [chart of federal brownfields programs](#), now available separately from the project report, “[Brownfields Redevelopment Toolbox for Disadvantaged Communities](#)”

CONFERENCE NEWS

26. **National Brownfields Conference.** The [Brownfields2009 Conference](#) will be held November 16-18 in New Orleans.
27. **New Partners for Smart Growth Conference.** The annual [New Partners for Smart Growth Conference](#) will be held in Seattle, February 4-6, 2010.
28. **Capital Hill Summit on Sustainable Communities, Environmental Justice And The New Economy.** The [Sustainable Community Development Group’s Capital Hill Summit](#) is scheduled for October 15 and 16.

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