Changing the Face of the Place

Sustainability Through Brownfields
Speakers

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What’s a Brownfield?

✓ Brownfield vs. Greenfield

✓ CERCLA liability for property owners

✓ Who is at risk?

✓ Location/reuse opportunities
Brownfields Redevelopment

- Reduce blight
- Economic benefit
- Infill v. Greenfield development
  - Tax credits
  - Creating equity
  - Social justice
- Regulatory vs. redevelopment
- Voluntary programs
Legal Challenges & Roadblocks

- Contract terms/agreements
- Lease vs. purchase/sale
- Corrective action/remedial obligations
- Lenders
Different Property Interests/Liability

- Buyer vs. seller
- Owner
- Operator
- Landlord
- Tenant
Environmental Liabilities

- CERCLA owner/operator
- Tenant
- Innocent landowner
- Contiguous landowner
Due Diligence - AAI

- Gather control data/scope
- Confidentiality
- Phase I - BFPP
- Change in property use?
- Review permits
How To Mitigate Risk

- Indemnities
- Insurance
- Regulatory approvals
- Corporate structure
- Pre & post purchase obligations
Changing the Face...

Jesse Silverstein
Vice President & Senior Economist
Changing the Face...of the Place

The role of brownfields tools in enhancing sustainability through redevelopment:

- Environmental Benefits
- Economic Benefits
- Social Benefits
Resource Restoration & Conservation

- Mitigate and remove polluted sites from neighborhoods
- Remove individual and cumulative sources of surface water and groundwater pollution
- Enable sustainable redevelopment design
Stormwater Runoff
(Percent Reduction for Brownfields)

- Seattle
- Minneapolis-St. Paul
- Emeryville
- Baltimore
- Dallas
- Average

Minimum
Maximum
Cleaner Air & Less Green House Gases

- Mitigate and remove polluted sites from neighborhoods
- Remove individual and cumulative sources of surface water and groundwater pollution
- Enable sustainable redevelopment design
Air Pollutant Emissions
(NOx, CO, HC: Pounds Per Capita Per Year)

- Seattle
- Minneapolis-St. Paul
- Emeryville
- Baltimore
- Dallas
- Average

Lbs. Per Capita Per Year

Conventional
Brownfields
Responsible Land Use

1. 1 ac infill corresponds to 4.5 ac greenfields “saved”

2. Brownfields densities are several multiples of suburban densities (est @ 15 DU/ac)

3. 40% of brownfields sites redeveloped as residential or mixed residential

4. 82 cities project that 2.8 million people can be accommodated on brownfields sites (US Conference of Mayors’ Survey)
Vehicle Miles Traveled
(Miles Per Capita Per Day)

Seattle
Minneapolis-St. Paul
Emeryville
Baltimore
Dallas
Average

Conventional
Brownfields
Economic Impacts

USEPA Brownfields Program

Jobs Leveraged = 102,740
Acres made available for new use = 47,049

(as of October 2014)
Economic Impacts

**Economic Benefits**
- Blight removal
- Now small business incubator, offices
- New businesses: 15
- New employment: 32
- New payroll: $1.1 million

**Fiscal Impacts**
- City sales tax revenue: $12,200
- County sales tax revenue: $2,400
- Property Tax Increment: $35,000
Economic Impacts

Public Investment
Land acquisition
Street improvements
Fee waivers
Financial modeling

Public Rate of Return
Investment $550,000
Direct Revenue 2.2%
Direct & Indirect Revenue 10.0%
Social Benefits

- Land preservation, restoration, & recycling
- Enhanced living conditions
- Improved employment access
- Blight removal/Neighborhood renewal
- Community wealth building
- Greater housing choices
Kingsborough Park - Aurora
Lorenzo Park – Centennial, CO
Former Manufacturing Facility

- Former Brick Manufacturing site
- Housing Construction:
  - Phase 1 - 53 units total
  - Phase 2 - 54
  - 20% set aside for 80% median
- Catalyst site for industrial area in transition
Mine Tailings

- Former Gold Mill Site
- Housing Construction:
  - Single-story, ranch and multi-family town homes
  - 850 units at build out
  - 1,500sf to 2,000sf, 3-bed
- Formerly barren land
Landfill/Dump

- Former burn & fill
- Housing construction:
  - Neighborhood Park
  - Building site ready for 54 units
  - Market rate attainable housing planned
Brightfields

- Buckley Landfill, Aurora, CO
- Waste Water Treatment Plant, Rifle, CO
- Marshall Landfill, Boulder, CO
Thank You!

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MAKING CLEANUP PAY

How Tax Credits and Other Brownfields Incentives Can Support Community Redevelopment
What is a Brownfield

- Classic definition = Site where real or perceived contamination affects potential for reuse

- Other Definitions
  - Sites characterized by low or medium levels of contamination
  - Sites outside the scope of other regulatory programs
Why Are Brownfield Incentives Necessary

- Economics is the key to any redevelopment project.

- Brownfields issues can cause capital gaps that limit viability of redevelopment.
Typical Brownfields Sites
Voluntary Cleanup Program
Relevance to Tax Credits

- Colorado’s Voluntary Cleanup and Redevelopment Act was passed in 1994

- Purpose – To facilitate property transactions and redevelopment of contaminated properties

- Tax Credit requires enrollment in Voluntary Cleanup Program
Voluntary Cleanup Program

- Provides CERCLA Liability Protection through MOA with EPA Region VIII
- Non-Regulatory
- Self Certifying
VCUP Statistics

- Approximately 50 Applications/Year
  - 1042 Applications over life of program
  - Applications from 35 of 64 Counties

- Typical end uses for VCUP Site
  - Mixed Use Commercial
  - Multi-Family Residential
  - Light Industrial
VCUP Statistics

- Acres Remediation 15,918
- Residences Constructed - 28,594
- Jobs Created - 31,745
Gold Mill Tailings
- Sediment Runoff
- Wind Blown Contamination

- 68 Homes Built
- 66 Homes Sold
- 49 Homes Occupied
Contaminated Land Redevelopment Credit: 2000-2010

- Max Credit of $100,000
- Limited Effectiveness
History of Colorado’s BF Tax Credit

- 40 Credits valued at $3.6 M awarded between 2000 and 2010
- $8.7M of documented cleanup cost
- 2400 acres remediated
Development of a New Credit

- Stakeholder Driven Process
- Focus on statewide availability and transferability
- Developed Legislative proposal with assistance of Senator Cheri Jahn
Credit Eligibility

- Credit applies to taxpayers and qualified entities
- Credit is available Statewide
- Perform environmental remediation through Voluntary Cleanup Program
Value of the Credit

- 40% of the first $750K of approved remediation costs
- 30% of the next $750K of approved remediation costs
- Maximum credit = $525K
How to Qualify for the Credit

- Work with CDPHE to submit VCUP application
- Provide letter notice of intent to apply for credit when submitting application
- Certify cleanup completion or receive “No Action Determination”
- Submit Cost Documentation
Other Incentives Offered by CDPHE

- Technical Assistance
- Brownfields Assessments
- Colorado Brownfields Revolving Loan Fund
- State Brownfields Grants (H.B. 1306)
Benefits of Brownfields Redevelopment

- Addresses threats to human health & the environment.
- Revitalizes neighborhoods and local communities.
- Improve job creation, property values and tax revenues.
Environmental Cost
$450,000

Assessor’s Valuation  1994    $400,000
Assessor’s Valuation  1997    $1,290,000

Increase After Redevelopment
County Tax        $10,478
School Dist.      $15,949
Employment        30 FTE

Value of Credit Under Current Statute
$180,000
Contact Information

- CDPHE Brownfields Program
  - Doug Jamison 303-692-3404.
    doug.jamison@state.co.us

- CDPHE VCUP Coordination
  - Fonda Apostolopoulos 303-692-3411.
    fonda.apostolopoulos@state.co.us
Other Brownfield Resources

- **Sonoran Institute**
  - Provides Technical Assistance Through Contract with CDPHE
  - Contact: Clark Anderson (970-384-4364)
    canderson@sonoraninstitute.org

- **Kansas State University**
  - Region VIII Technical Assistance for Brownfields Contractor
  - Contact: Blase Levan (785-532-0780)
    balevan@ksu.edu
Petroleum Brownfields
Old Gas Stations and Storage Tank Sites

TR “Tim” Kelley
Petroleum Brownfields Program
Division of Oil and Public Safety
Overview

- Evolution of Gas Stations to Petroleum Brownfields
- Petroleum Cleanup Funding Sources
  - Colorado Petroleum Storage Tank Fund
  - Petroleum Cleanup and Redevelopment Fund
Old Gas Stations are Society’s Collateral Damage

• It started with the wheel!
• Autos don’t need to rest
• Car ownership meant independence, freedom, social status
• The demand for gasoline fuel “drove” the market
The Wheel Enhanced Mobility

THOR
Inventor, artist, self-proclaimed ladies’ man. Inventor of the wheel and the comb.

From B.C. – Johnny Hart
Gasoline Fueled the Internal Combustion Engine - The Model T
Creating Tanks, Tanks and More Tanks

THE STORAGE AND HANDLING OF GASOLINE IN THE GARAGE

Water Pressure Tank

Hydraulic Pressure System

Underground Tank

Improved Form Portable Gasoline Tank & Delivering Pump

Simple Pump & Underground Tank

Gasoline Tank & Pump for Private Use

Drain

Barrel of Gasoline

Pressure Tank

Gasoline

Gasoline Valve

Compressed Gas Cylinder

Filler Check Valve

Water Supply

Gasoline Pump

Drain off

Gasoline Tank & Pump for Private Use

Drain off

Gasoline

Gasoline Valve
Gas Stations Flourished to Meet Consumer Demand

1940’s

1950’s

1970’s

1990’s
Petroleum Brownfields - Remnants of this Changing Industry
How did we get into this situation?

• Station owners suspended operations in the wake of new industry regulation
• Gas station repair shops became obsolete
• Lenders required environmental site assessments prior to issuing loans
• Owners walked away from these properties, left them vacant or sold for cash
## Unregulated to Regulated Industry - Doors Closed and Tanks Abandoned

| Regulations effective  
<table>
<thead>
<tr>
<th>December 22, 1988</th>
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<tbody>
<tr>
<td>• Some gas station owners closed their systems prior to regulation – no site assessment required</td>
</tr>
<tr>
<td>• Some upgraded their system – no site assessment required</td>
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<th>Petroleum Dispensing has become a Matter of “Convenience”</th>
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<td>• Facilities without additional retail sales, struggle to compete</td>
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<tr>
<td>• Many sites are abandoned</td>
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<tr>
<td>• Highly competitive market – future Brownfields projected</td>
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Petroleum Brownfields Program

Goals

• Encourage the cleanup and redevelopment of abandoned gas stations and other petroleum storage tank sites
• Protect public health, welfare and the environment
• Preserve and restore local economic development assets

Past perspective: “That’s a good corner”

Present perspective: “That’s a good corner”
Petroleum Cleanup Funding Sources

- Petroleum Storage Tank Fund (PSTF)
- Petroleum Cleanup and Redevelopment Fund (Redevelopment Fund)
Petroleum Storage Tank Fund

- Established by the Colorado Legislature in 1989
- Assists tank owner/operators and non-responsible parties with cleanup of petroleum releases
- Funded through an environmental surcharge, registration fees, and civil penalties
- Projected Revenue (FY 2014): ~ $40 Million
- Amount reimbursed to date: ~ $525 Million
Non-Responsible Parties

• Property owner who did not install, operate or lease tanks and acquired property before June 3, 1992.

• Property with abandoned tanks where current property owner:
  – Did not install, operate or lease tanks;
  – Had no reason to know tanks were present; and
  – Had no reason to know a release occurred before acquiring the property.
Non-Responsible Party - Property Owner

• No deductible
• Eligible for up to $2,000,000 per occurrence
• OPS will conduct a courtesy review of Environmental Phase I reports and offer an opinion on potential fund eligibility.
## Certificate of Eligibility

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<th>Issued to ensure the Lender’s eligibility to the State Fund in case the borrower defaults on the loan and creates a potential Brownfield site</th>
<th>Will not cover contamination detected on a property before the Certificate of Eligibility is issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>Available only to Lenders (mortgagees) and may be requested for any loan (dated on or after 9/30/95)</td>
<td>Issued at any time before foreclosure or receipt of a deed in lieu of foreclosure</td>
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</tbody>
</table>
Criteria - Certificate of Eligibility

- Operating station at the time of application for eligibility
- No known contamination
- Operating in compliance
  - Tanks and lines pass a tightness test within last 60 days;
  - Monthly monitoring shows passing results for last 60 days; or
  - Environmental site assessment conducted in the last 60 days indicates no petroleum contamination.
Petroleum Cleanup and Redevelopment Fund

House Bill 13-1252 signed on May 18, 2013
Focus on Real Property

Redevelopment
Redevelopment Fund Overview

• Revenue from industry-paid settlements and fines – $5.7 million available
• Open to petroleum storage tanks sites that are not eligible to the existing Petroleum Storage Tank Fund
• Funding for environmental site assessments
• Petroleum cleanup funding - 50% of cost up to $500K
Who is Eligible to Participate?

• Property owners with petroleum storage tanks are present or existed on the property
• Sites that are not eligible to the Petroleum Storage Tank Fund
• Applicant must have a plan for site redevelopment or reuse
Key Application Elements

- Meets basic eligibility requirement (Tank History)
- Identifies a redevelopment/reuse component
- Contains a discussion of project added value
Project Benefits: Environmental, Economic and Social

- **Inherent Benefits**: environmental, health, public safety
- **Direct Enhancements**: revitalized tax base/revenue, short and long term job creation
- **Indirect Enhancements**: livability, blight removal non-economic
- **Sustainable Redevelopment Measures**: renewable resources, green remediation practices, rural revitalization
Site Assessment and Cleanup
Redevelopment Fund Process

Application
- Project Eligible?
- Submit, Review, Award

Level I ESA
- What petroleum impacts exist?

Level II ESA
- How much petroleum impact is present?

Level III Cleanup
- How will petroleum impacts be cleaned up?
Available Funding

• Up to $2,000 available per tank removal
• Up to $20,000 for site assessment (10% from owner)
• Up to $30,000 for characterization (10% from owner)
• 50% of cleanup costs up to $500K
Redevelopment Fund Benefits

• Protection of human health and the environment
• Eliminate property development challenges created by unknown or perceived contamination
• Increase market value of the property and surrounding area
• Enhance the overall welfare of the community
Redevelopment Fund Timeline

• Rules adopted January 31, 2014
• Guidebook released June 2014
• Now accepting applications
Let’s Get This Done

Key Elements for Successful Petroleum Brownfields

- Reaching out to the Private Sector and Community
- Overcoming Regulatory and Legal Challenges
- Environmental Assessment and Cleanup
- Technical Assistance
- Creating Alliances
- Real Estate Solutions
- Financing and Investment

Communication

Cooperation

Community Involvement

Strategic Partners for Brownfields Redevelopment