



COLORADO
Department of
Labor and Employment
Division of Oil and Public Safety



Sustainability Through Brownfields



COLORADO
Department of Public
Health & Environment



Development Research Partners

Speakers

Rebecca L. Almon
Moderator



Jesse Silverstein
Panelist



Doug Jamison
Panelist



Tim Kelley
Panelist





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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



Vice President & Senior Economist

Changing the Face...of the Place

The role of brownfields tools in enhancing sustainability through redevelopment:

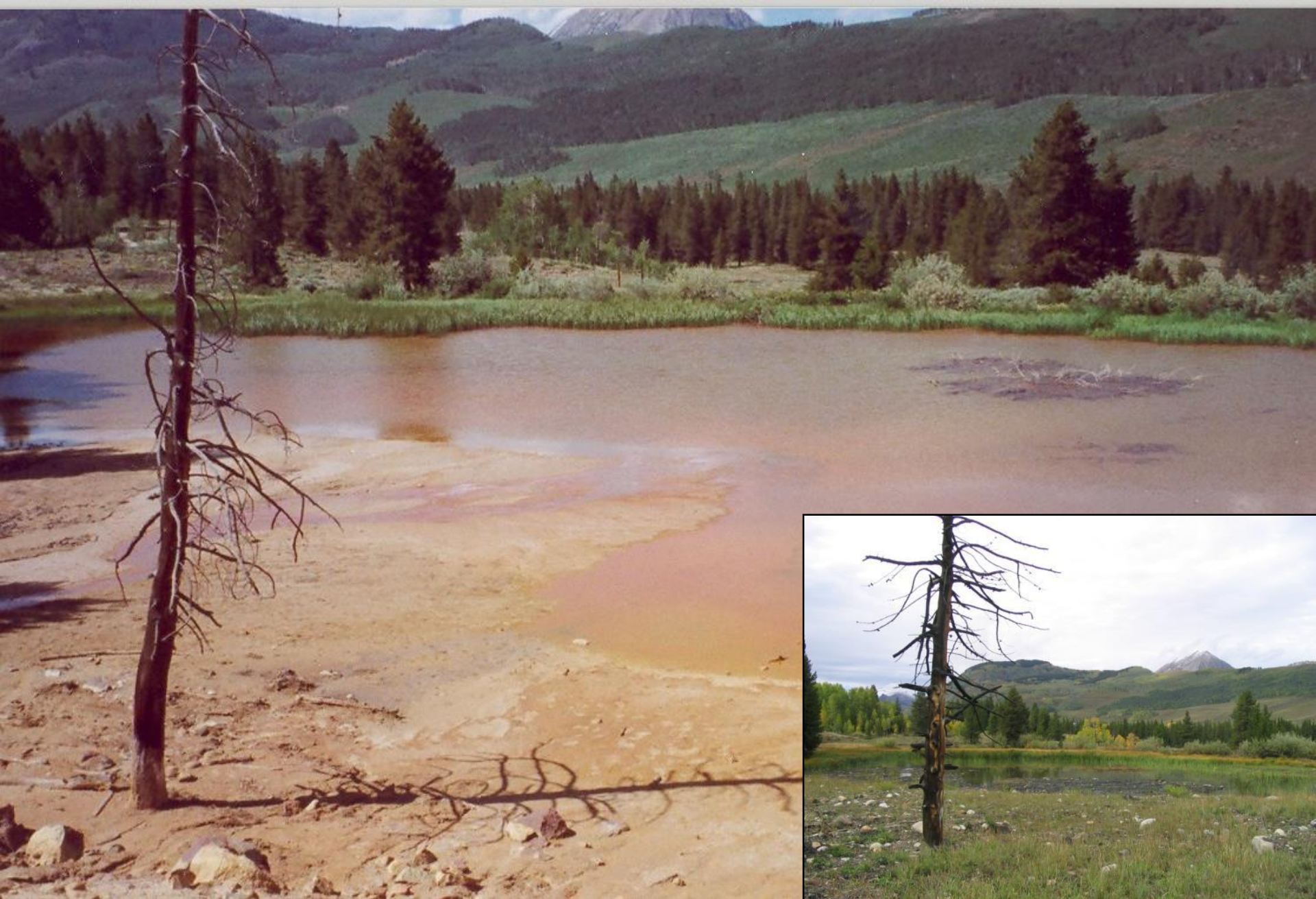
- Environmental Benefits
- Economic Benefits
- Social Benefits

Resource Restoration & Conservation

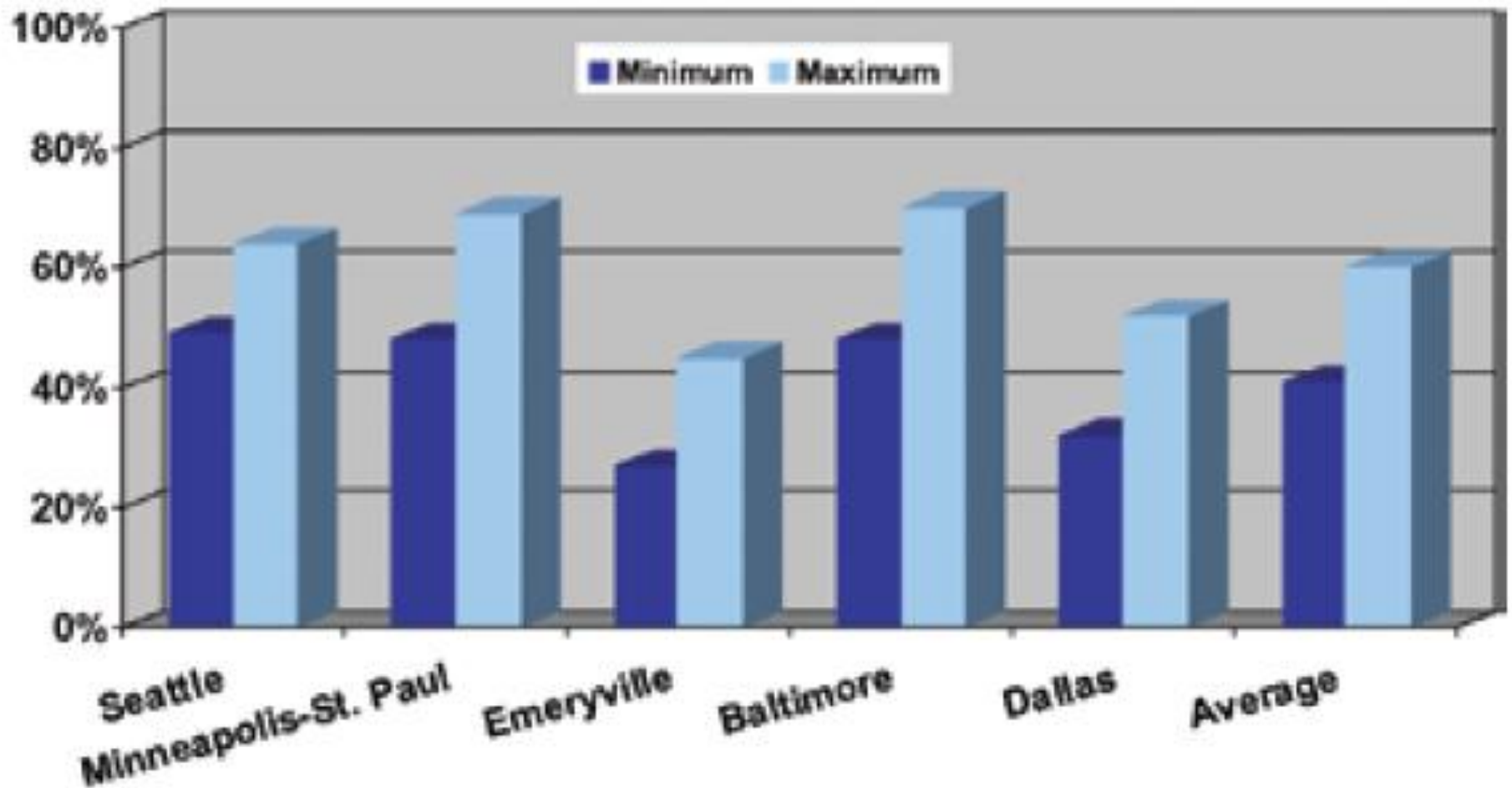
- Mitigate and remove polluted sites from neighborhoods
- Remove individual and cumulative sources of surface water and groundwater pollution
- Enable sustainable redevelopment design







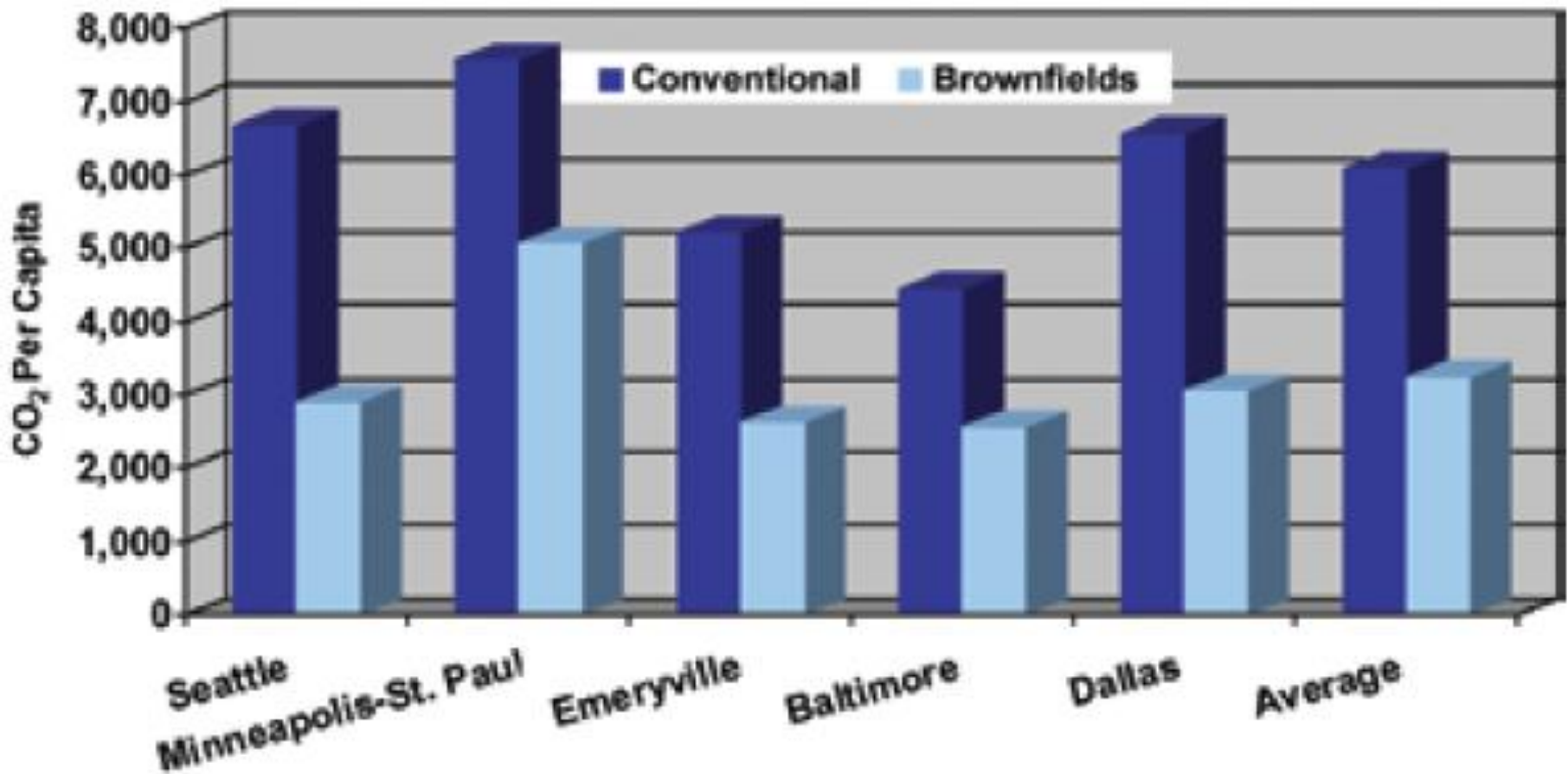
Stormwater Runoff (Percent Reduction for Brownfields)



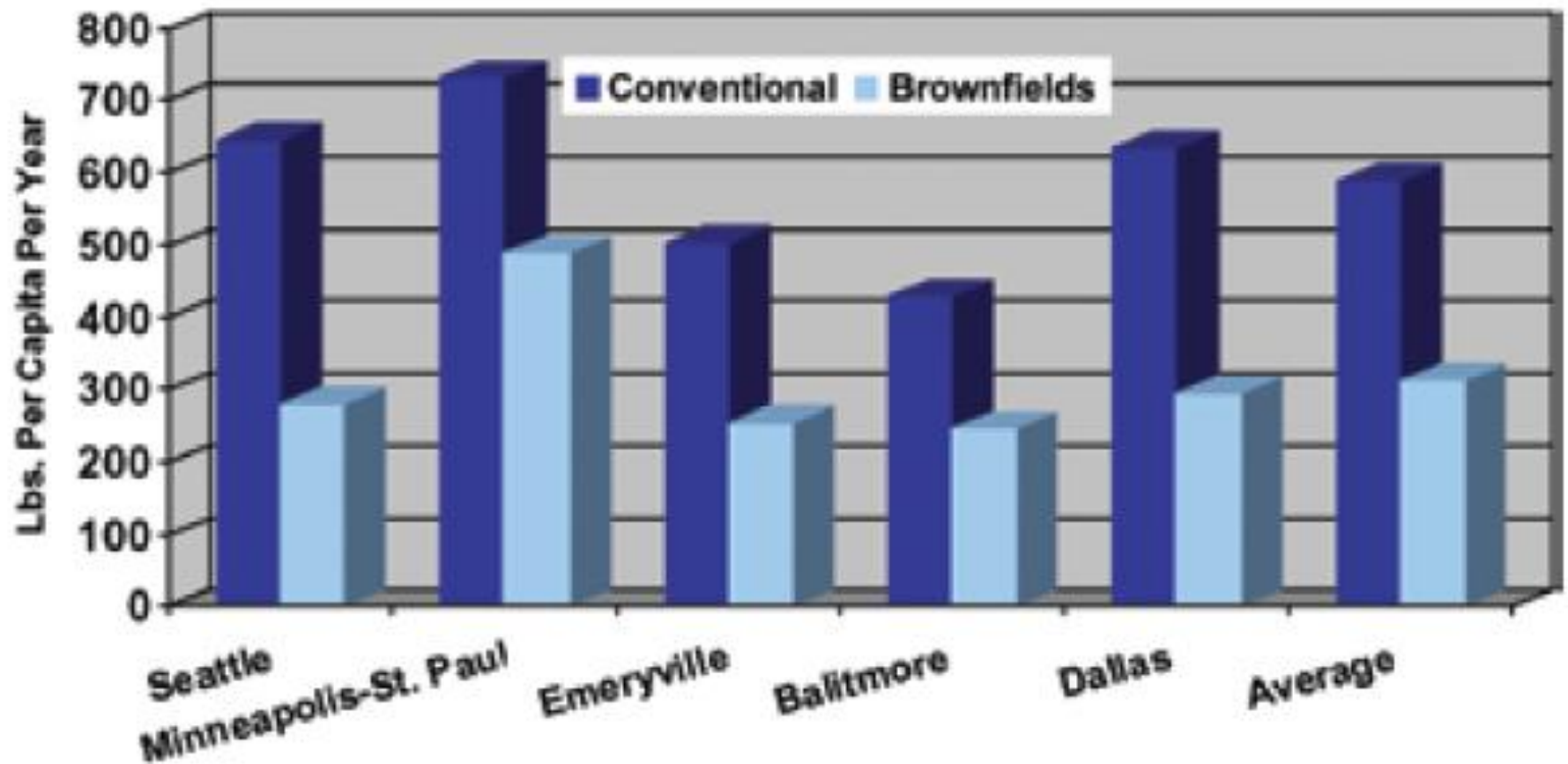
Cleaner Air & Less Green House Gases

- Mitigate and remove polluted sites from neighborhoods
- Remove individual and cumulative sources of surface water and groundwater pollution
- Enable sustainable redevelopment design

Carbon Dioxide Emissions (Pounds Per Capita Per Year)



Air Pollutant Emissions (NOx, CO, HC: Pounds Per Capita Per Year)



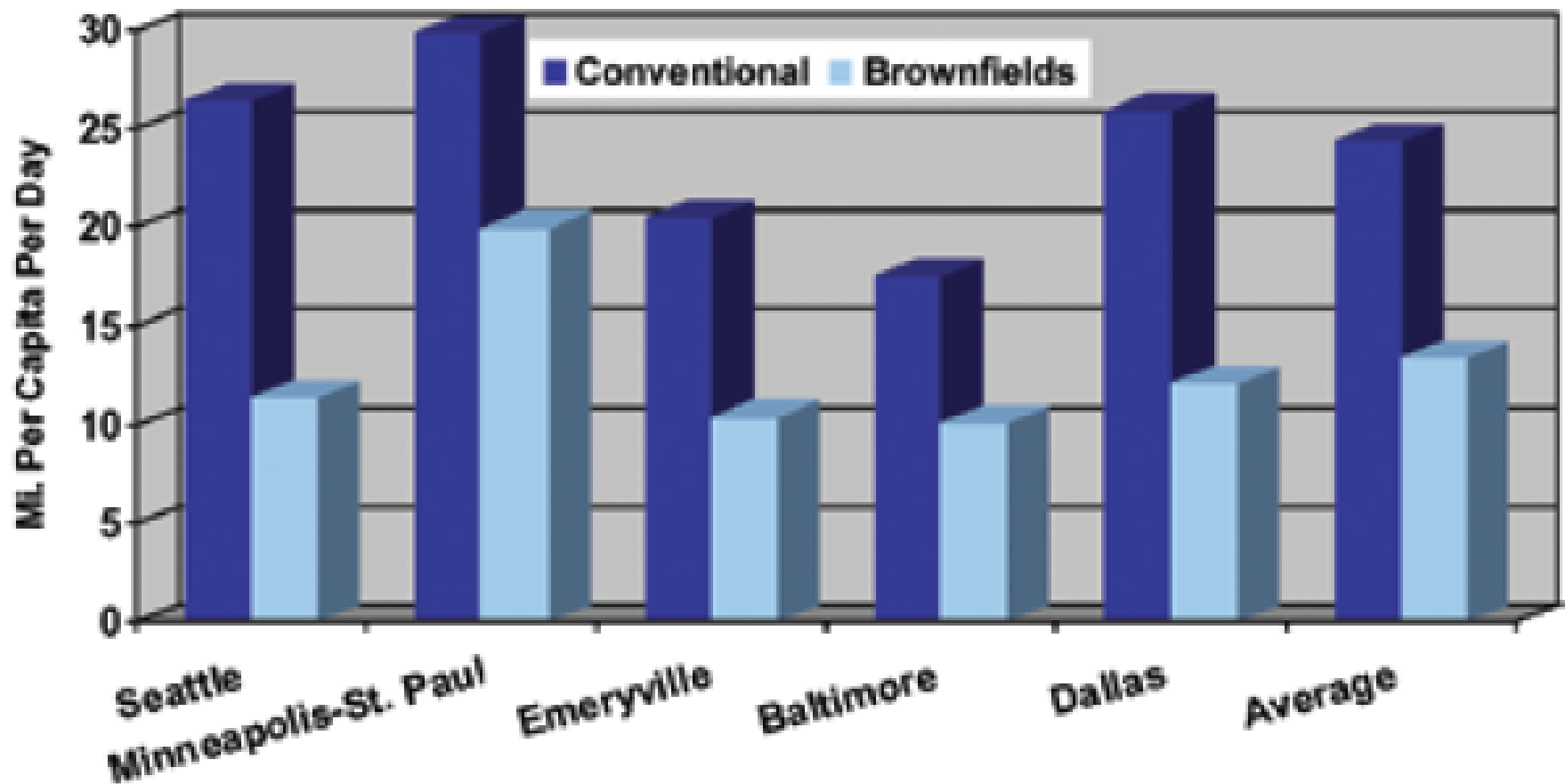


Responsible Land Use

- 1 ac infill corresponds to 4.5 ac greenfields “saved”
- Brownfields densities are several multiples of suburban densities (est @ 15 DU/ac)
- 40% of brownfields sites redeveloped as residential or mixed residential
- 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)



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

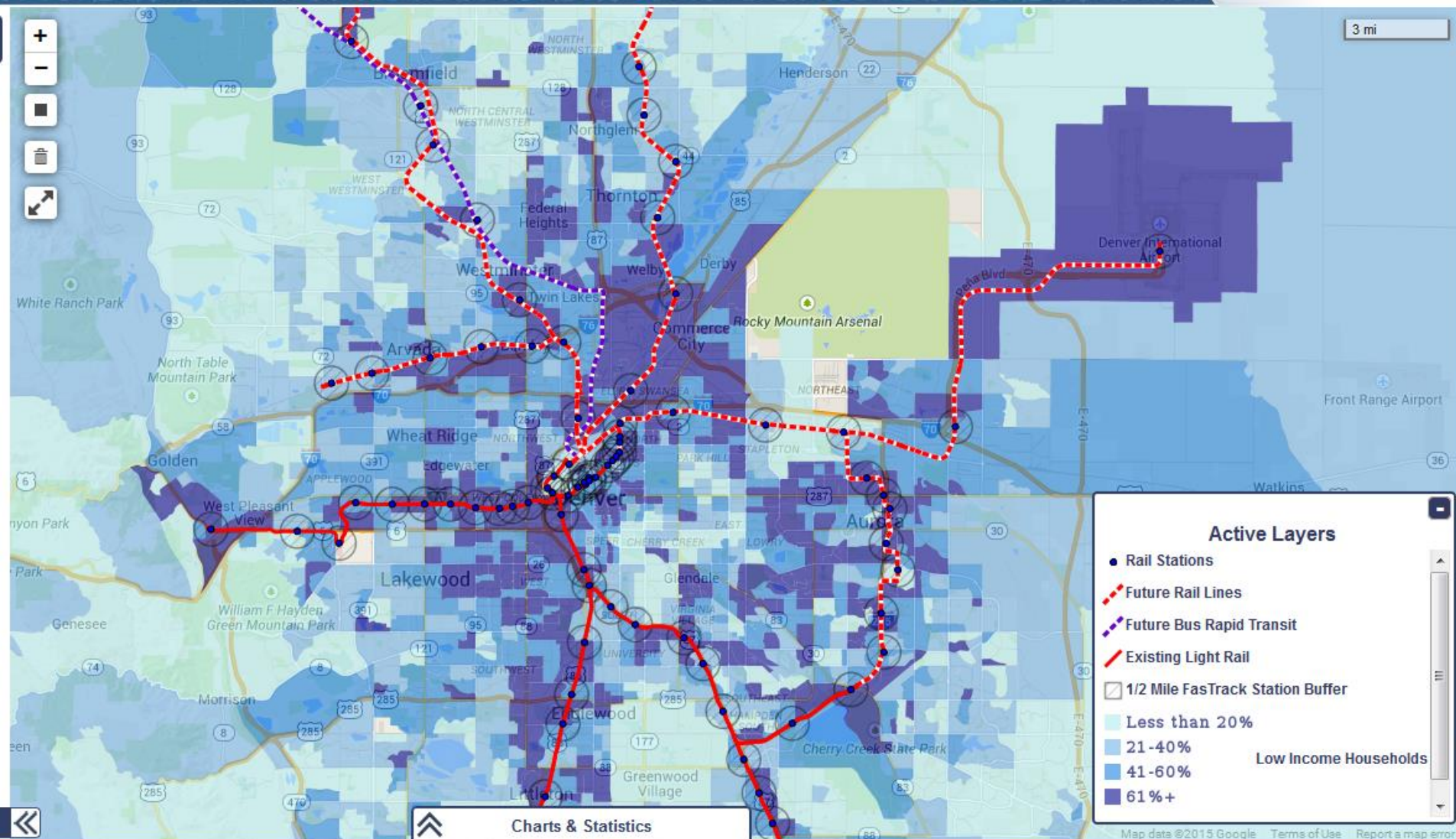
Lorenzo Park – Centennial, CO



DENVER REGIONAL EQUITY ATLAS

Hello, jesse@developmentresearch.net! [Log Off](#)

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DENVER REGIONAL COUNCIL OF GOVERNMENTS
We make life better!



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Former Manufacturing Facility



- Former Brick Manufacturing site
- Housing Construction:
 - Phase I - 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!

Jesse D. Silverstein

Vice President & Senior Economist

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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

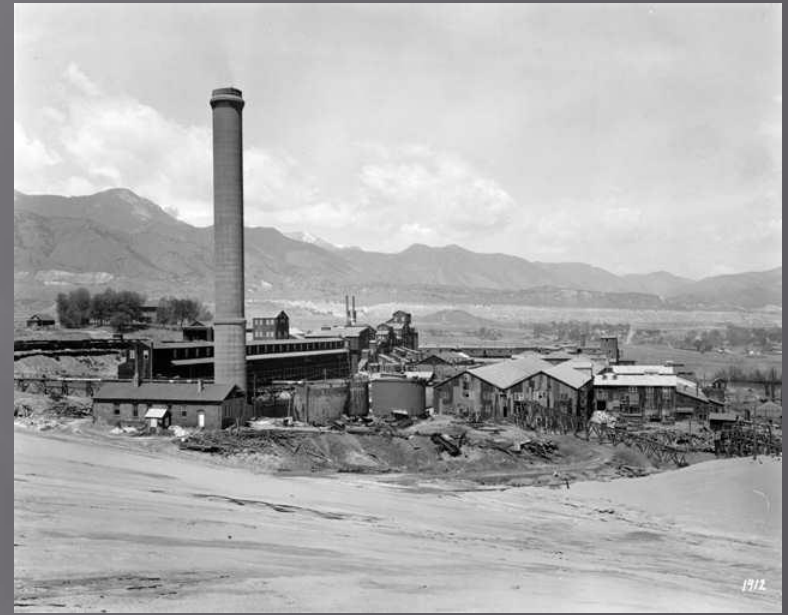
VCUP Statistics

- ▣ Acres Remediation 15,918
- ▣ Residences Constructed - 28,594
- ▣ Jobs Created- 31,745

Gold Hill Mesa

Colorado Springs

- ❑ Gold Mill Tailings
- ❑ Sediment Runoff
- ❑ Wind Blown Contamination



- 68 Homes Built
- 66 Homes Sold
- 49 Homes Occupied

History of Colorado's BF Tax Credit

- ▣ 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.

Timberline Star Industrial Park Fort Collins

Environmental Cost

\$450,000

Assessor's Valuation 1994 \$400,000

Assessor's Valuation 1997 \$1,290,000

Increase After Redevelopment

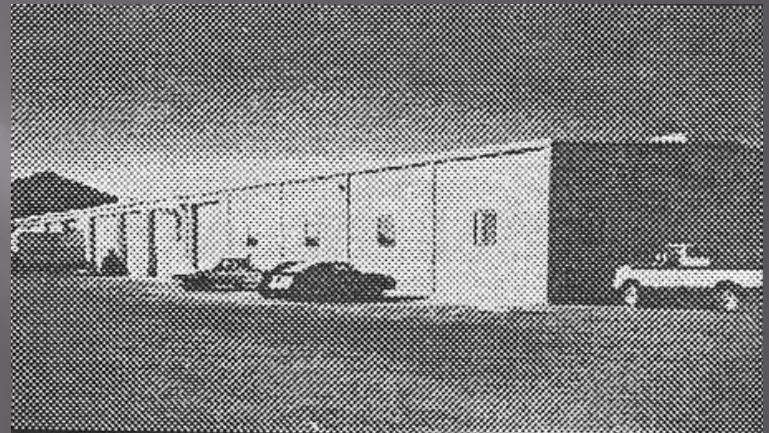
County Tax \$10,478

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



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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

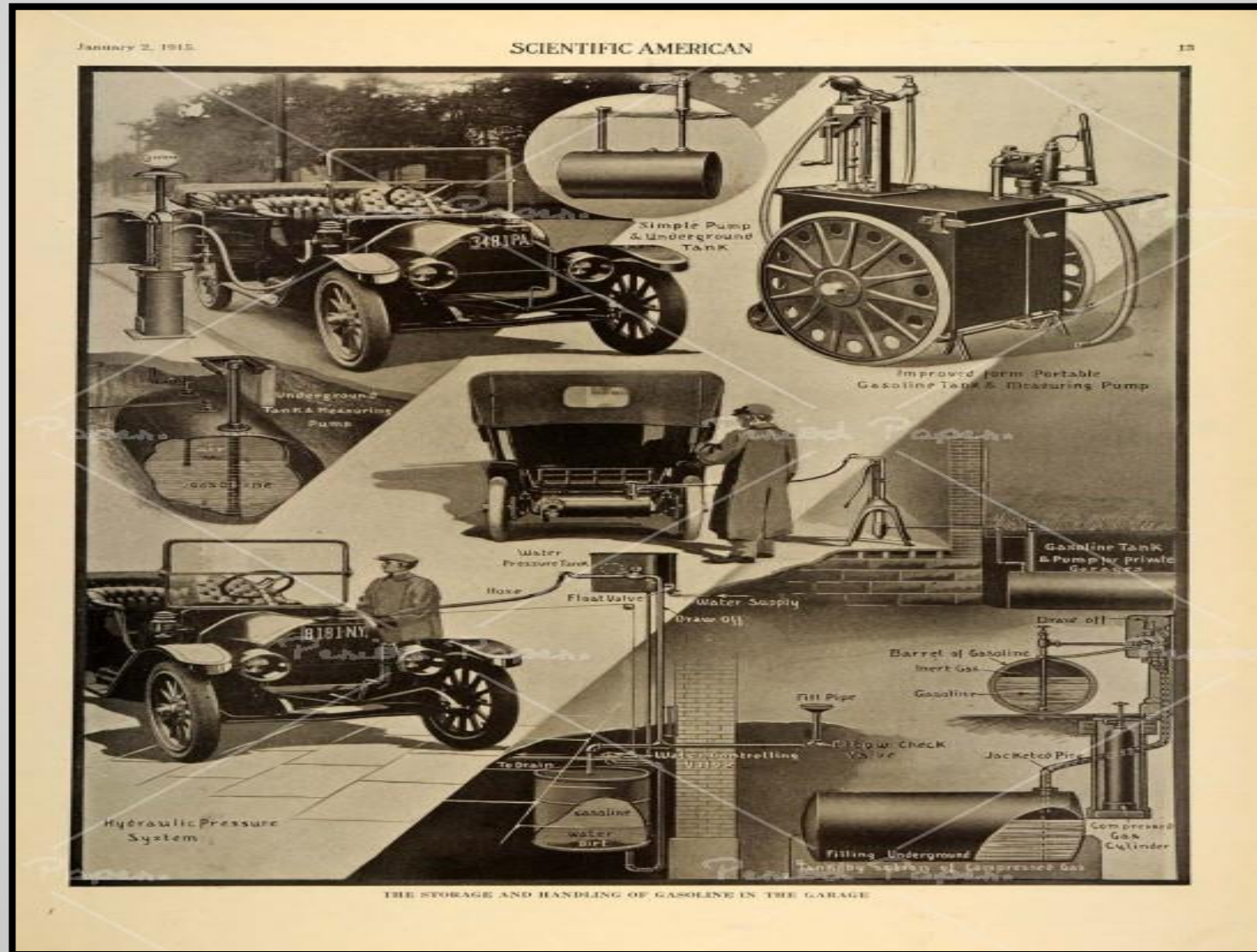
Inventor, artist,
self proclaimed ladies' man.
Inventor of the wheel
and the comb.

From B.C. – Johnny Hart

Gasoline Fueled the Internal Combustion Engine - The Model T



Creating Tanks, Tanks and More Tanks



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 December 22, 1988

- Some gas station owners closed their systems prior to regulation – no site assessment required
- Some upgraded their system – no site assessment required

Petroleum Dispensing has become a Matter of “Convenience”

- Facilities without additional retail sales, struggle to compete
- Many sites are abandoned
- Highly competitive market – future Brownfields projected

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.

Non-Responsible Party - Lender

Certificate of Eligibility

- | | |
|--|---|
| <ul style="list-style-type: none">• 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• Available only to Lenders (mortgagees) and may be requested for any loan (dated on or after 9/30/95) | <ul style="list-style-type: none">• Will not cover contamination detected on a property before the Certificate of Eligibility is issued• Issued at any time before foreclosure or receipt of a deed in lieu of foreclosure |
|--|---|

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 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?

Redevelopment Fund \$\$

Available Funding

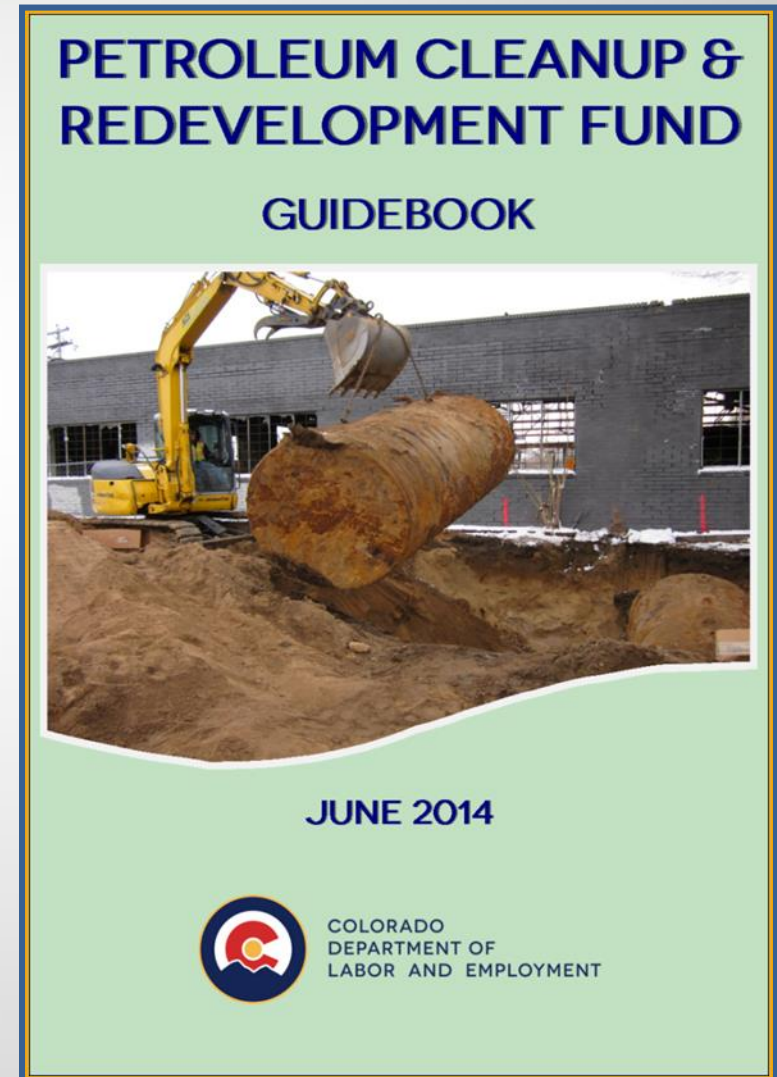
- Up to \$2,000 available per tank removal
- Up to \$20,000 for site assessment
(10% from owner)
- Up to \$30,000 for characterization
(10% from owner)
- 50% of cleanup costs up to \$500K

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





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