

# BROWNFIELDS: LESSONS FROM THE FIELD

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BEFORE THE  
SUBCOMMITTEE ON  
WATER RESOURCES AND ENVIRONMENT  
OF THE  
COMMITTEE ON  
TRANSPORTATION AND  
INFRASTRUCTURE  
HOUSE OF REPRESENTATIVES  
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## **BROWNFIELDS: LESSONS FROM THE FIELD**

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**Thursday, March 15, 2001**

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT, WASHINGTON, D.C.

The subcommittee met, pursuant to call, at 9:32 a.m. in room 2167, Rayburn House Office Building, Hon. John J. Duncan, Jr. [chairman of the subcommittee] presiding.

Mr. DUNCAN. I would like to call this hearing on brownfields redevelopment to order.

First of all, I want to welcome everyone to our hearing today, and especially welcome our witnesses who have come to us from around the country.

We are very privileged today to have before us representatives of communities from all over the Nation who are doing the real work of putting abandoned property back into productive use.

There are over 400,000 brownfield sites across the United States. In fact, I've seen some estimates as high as 600,000 or 650,000 sites.

Even though these sites are often located near existing highways, railroads, and water infrastructure, relatively few investors are interested in redeveloping them.

A major reason for the reluctance to invest in brownfields redevelopment is uncertainty.

It is far riskier to develop a brownfield site than to develop an open space. A brownfield site may be contaminated, and if contamination is found the cleanup sites may be very expensive and it may be a very time-consuming process.

There are ways to reduce these risks, by conducting site assessments, providing liability protections, by providing cleanup assistance. These tools have been used by States and communities to lower the barriers to brownfields redevelopment and could be adopted in Federal legislation.

This is an oversight hearing today. We are not focusing now on any specific legislative proposal, but I know there is a great deal of interest in moving a brownfields bill during this session. We made a lot of progress on this issue during the last Congress under the leadership of the former chairman of this subcommittee, Congressman Boehlert, who has now become the chairman of the full Science Committee. This remains unfinished business for the subcommittee.

There are other Superfund issues that need to be addressed, and I hope that we can look at issues such as natural resource damages

and small business liability to assess the feasibility of moving forward with the legislative action.

As we discuss the best approach to follow and before we sit down together and draft language to encourage brownfields redevelopment, I think it is appropriate for the subcommittee to hear from people out in the field who are actually redeveloping brownfields to ensure that whatever legislation we craft addresses their needs.

We will hear from Mr. William Abolt, who is commissioner of the Chicago Department of Environment; Mr. Jack Brown, environmental health director from Wichita, Kansas; Mr. James Williams, the brownfields program manager from Chattanooga, Tennessee; Mr. Thomas Hoover, who is the city manager of Worcester, Massachusetts; and Mr. Christopher Pawenski, who is coordinator, industrial assistance program, Buffalo, New York. We then later will hear from Mayor Patrick McCrory of Charlotte, North Carolina, who will tell us about Charlotte's experiences with brownfields redevelopment.

The witnesses that we have before us today are out in the field taking risks, overcoming obstacles, and achieving successes. I know we can learn a lot from them. We want to hear about what you've done right, what you've done wrong, and the ways that we can help you here in the Congress, and what your needs are now. I've read all the testimony. We're going to hear about the Heart of Wichita's program, in which they've done some very successful things. We're going to hear about some innovative things that have taken place in Chattanooga and some things the State of Tennessee hopes to do, and, of course, to all of these witnesses we do appreciate your coming in.

Now I'd like to recognize my good friend, the ranking member of the subcommittee, Mr. DeFazio.

Mr. DEFazio. Thank you, Mr. Chairman.

A lot of folks think of brownfields as an urban issue. I represent a District with one urban center, but it is a very large District with a lot of small cities and a number of counties. Brownfields are very much an issue in my District, particularly after having had a lumber and wood products industry dispersed throughout many of the rural areas. We find that a lot of brownfield sites are in very small cities, towns, and even rural areas, so this is a problem which impacts all Members of Congress and is a very important issue.

I think that there is virtually consensus—unusual for this Congress—on something. The consensus is that there should be financial assistance to communities for the assessment and cleanup of brownfields in order to put these sites back into use. There is, I believe, a consensus that we should protect prospective purchasers, innocent landowners, and contiguous property owners from liability. Those provisions I think could be part of successful brownfields legislation.

There is one item that I'm hoping the witnesses can help us work through on the so-called issue of finality. The question is, when sites are cleaned up under the aegis of a State agency what role does the Federal Government play?

My own personal first shot at this is that if the Feds approve the plan and approve that it was executed properly they wouldn't get another bite at the apple. Sometimes the State, under State law,



conducts an inadequate cleanup without the involvement of the Feds, and the site continues to threaten adjacent property owners or human health. In some cases in the northwest, the plumes will move toward our rivers; imperiling the river's resources. In these cases there is a question about how and when the Feds come back in and how that is dealt with.

The protections would still extend, in my vision, to the innocent landowners and purchasers, but we would still have the authority to go back after the original polluters.

This is an issue where there is some disagreement and there has been provided some contention in the past. I'm hoping that the witnesses today can help us find our way through this issue so we can find a consensus and add it to the other areas where I believe there is already broad consensus.

Thank you, Mr. Chairman.

Mr. DUNCAN. Thank you, Mr. DeFazio. Mr. Horn?

Mr. HORN. Thank you, Mr. Chairman.

This is a key measure of our environmental programs, and I look forward to the testimony and the questioning.

Thank you very much.

Mr. DUNCAN. Thank you.

Mr. Blumenauer?

Mr. BLUMENAUER. No questions, Mr. Chairman.

Mr. DUNCAN. Dr. Ehlers?

Mr. EHLERS. Thank you, Mr. Chairman.

I appreciate your holding this hearing. I have been a strong supporter of brownfields for some time. It is absolutely essential if we are going to protect our green spaces that we activate a good program for dealing with brownfields, and I hope eventually rewrite Superfund so that we can take care of the problem, there, as well.

I thank you for holding the hearing.

Mr. DUNCAN. Thank you very much.

Mrs. Kelly?

Mrs. KELLY. Thank you, Mr. Chairman.

Let me just say that I think this is an issue of critical importance for our Nation, as a whole.

As we talk about the need for saving green spaces, we also need to look at what we have in terms of spaces that we might be able to rehabilitate for human habitation and for use and put as tax ratables on our communities' rolls. I think making progress on this issue is something that will require local as well as State and Federal working together, partnerships. And so I am delighted that you, as panelists, are here today to talk about this with us, and I thank you very much for allowing me to be here, Mr. Chairman.

Mr. DUNCAN. Well, thank you very much. You've made a good point there. We're looking for the proper partnership between the local and State and Federal Governments, and that's what these witnesses I think are going to talk to us about.

We do proceed in the order in which the witnesses are listed on the call of the hearing, and that means, Mr. Abolt, you will be first, and you can begin your statement, please.

**STATEMENTS OF WILLIAM F. ABOLT, COMMISSIONER OF ENVIRONMENT, CITY OF CHICAGO, ILLINOIS; JACK BROWN, ENVIRONMENTAL HEALTH DIRECTOR, WICHITA-SEDGWICK COUNTY DEPARTMENT OF COMMUNITY HEALTH, CITY OF WICHITA, KANSAS; JAMES R. WILLIAMS, BROWNFIELDS MANAGER, AIR POLLUTION CONTROL BUREAU, CITY OF CHATTANOOGA, TENNESSEE; THOMAS R. HOOVER, CITY MANAGER, CITY OF WORCESTER, MASSACHUSETTS; AND CHRISTOPHER S. PAWENSKI, COORDINATOR, INDUSTRIAL ASSISTANCE PROGRAM, COUNTY OF ERIE, NEW YORK**

Mr. ABOLT. Good morning, Chairman Duncan. I'd like to thank you, the ranking member, and the members of the committee for the opportunity to come talk with you today about Chicago's brownfields program and what Mayor Daley has done to apply the idea of recycling well beyond cans and bottles and apply it to the communities in which we live.

Under the Mayor's leadership, he has implemented one of the most comprehensive brownfields programs in the Nation based on that idea of recycling our land, and that program is a program that was created out of necessity. We simply cannot have development in the City of Chicago without addressing the fundamental problem of environmental contamination. In fact, our specific strategy of bringing industrial jobs back to the City and making sure that we have jobs for all Chicagoans is based on brownfields redevelopment.

We have been successful in cleaning up a number of sites. At this point we have over 20 sites completed and 70 underway. Over 1,000 acres are in the process, 2,200 jobs have already been created, and several million dollars have been added to the city's tax rolls. We have been able to do that by getting down to the business of cleaning up sites, identifying and eliminating obstacles to those cleanups, and, finally, through partnerships. Brownfields simply cannot be cleaned up without partnerships—strong partnerships with the Federal Government, particularly USEPA, the Department of Housing and Urban Development; Department of Energy and U.S. Army Corps of Engineers, but also with the private sector and the Illinois Environmental Protection Agency, at least in our case.

We are now trying to take our program one step further and not just focus on cleaning up problems of the past, but how to develop in a way that we learn the lessons of those past problems and begin to chart a new course for industrial and energy development in the City of Chicago, and we hope cities throughout the United States.

I want to provide for you three specific examples of projects that we've undertaken that I think indicate are good examples of what has worked for us and I think what works for others.

Those three examples focus first on a model of green development in the City of Chicago, where we've looked at our problems of environmental contamination as opportunities and used changes in the energy marketplace to bring new development, new design, and over 100 jobs to a site that was excessively contaminated.

Secondly, I want to talk about how the City, in cooperation with Governor Ryan and the State of Illinois, is taking ecological and in-

dustrial restoration—we're trying to bring an entire region back together.

And then finally I want to talk about tackling some of the small neighborhood brownfields that may not seem like a lot when looked at, in the city as a whole, but can be absolutely devastating unless we clean them up for neighborhoods.

The first project was a contaminated site with over 500,000 cubic yards of construction demolition debris on it that had gotten out of control. The owner declared bankruptcy and got out of the business of crushing rock. The City, out of necessity, took ownership of the site, opened it up as a rock crushing facility, took all of the recycled material, used it in our own infrastructure projects, and saved the City government over \$1 million, and then focused on how we could turn that eyesore into an asset.

Working with our local chapter of the American Institute of Architects, our local utility, and Department of Energy, we attracted to that site a new manufacturer of solar panels through a City commitment to buy and establish renewable power. The building, itself, that was left on the site is about to open up in about the next 60 days, and is really, we think, a national model of how to do energy efficient and environmentally friendly design.

Besides 100 jobs in solar manufacturing, it will also house Mayor Daley's community gardening program, which trains about 25 hard-to-employ people a year in community gardening skills, puts them to work in neighborhoods throughout the City, and then places them in permanent jobs.

So the idea is to take a site, recycle it and bring back green jobs to the site. Look what we can do with a property.

The second one, in the summer the Mayor and the Governor announced a program to take the southeast side of Chicago, over 20 square miles, and bring back both ecological and industrial resources. It is the home of our former steel industry, as well as over 3,000 acres of wetland. The Mayor and the Governor have committed over \$40 million to bring those properties back together, to reconnect the hydrology, and to recognize that ecological restoration of parcels can actually be an amenity that attracts additional businesses.

Since their announcement, Ford has announced that it is coming to town and creating over 1,000 jobs there. We are going to take a site with the State that was very close to becoming a Superfund site and, with the cooperation of Illinois EPA and USEPA, we are, instead, turning it into the largest solar-generating station in the United States, with solar panels made from the site I just described and a large landfill site.

The third is a program to successfully tackle neighborhood brownfields through cleanup and redevelopment of abandoned service stations. We had about 500 abandoned service stations in the City of Chicago. Using a combination of City funding and enforcement tools, we have been able to turn around over 100 of those sites already, some cleaned up by the City and others cleaned up by the private sector. They have been used for everything from parks to property to day care to new retail development.

All of those projects have been achieved through a variety of tools, including Federal, State, local, and private investment. We

have learned several lessons from it. I want to share a couple of those lessons with you and then I will close.

First, the assessment grants that have been provided to us from the Federal Government are particularly valuable in figuring out what the cleanup cost of properties are going to be. There is some opportunity to eliminate some of the duplicated costs between State and Federal requirements. We would like the committee to look closely at that so that Federal dollars can go much further, and we can look at more sites.

Second, the issue of financing cleanups. We need to recognize that not every brownfield site works as a strict economic deal. There is an incremental cost that needs to be covered, probably by governmental funding and action. It can be provided through either dollars or through tax incentives, but we've got to address the fact that some of these development deals are upside-down, and we should look at that upside-down problem as an infrastructure problem.

Cleaning up a site is no different than building a sewer or building a road. If we eliminate the obstacles and provide the resources, we can get sites cleaned up.

Finally, we've got to deal with the issue of Superfund liability, we believe, particularly for municipalities. We have found that a key to the success of our brownfields program is based on one idea, and that is the City's willingness to step into the chain of title to relieve liability for property owners.

We do believe that if cities take that step and do all the right things in cooperation with the State and the Federal Government, they need to be provided some level of protection in cooperation with the State and Federal Government. I think if we do that we'll see more brownfields cleaned up and we'll eliminate the kind of amazed looks that we still get from private and government parties who just can't believe that the City would take the step of stepping into the chain of title.

Again, I thank you very much for the opportunity to be here. I'd be happy to answer any questions.

Mr. DUNCAN. Thank you very much, Mr. Abolt. Mr. Brown?

Mr. BROWN. Good morning, Mr. Chairman, members of the committee. I am Jack Brown, environmental health director, city of Wichita, Kansas, and I appreciate the opportunity to appear before this committee.

I'd like to share with you what I consider one of the early brownfields projects in the United States. Many years ago—it's not that many years ago, but about eight to ten years ago our city was faced with a challenge from a legacy of industrial practices resulting in groundwater contamination.

As you well know, environmental contamination has a dramatic impact on the value of real estate, creates uncertainty in the marketplace, and when the issue of cleanup costs and liability appear it really creates problems in terms of dealing with these sites.

In 1990, our city was faced with pollution that turned out to impact 8,000 acres of land in our downtown and surrounding residential areas. This particular parcel of land or parcels of land had a tax base of about \$86 million.

When we looked at this site, we were just in the beginnings of a \$300 million downtown revitalization. Well, the fact that we found this contamination pretty well put that on hold. Lenders, realtors were all telling us that no one was buying property because of the Superfund liability issues, and we looked at the options that were available to us. There were potential environmental threats, health threats. Our revitalization had been stalled, property values were going down. The city was faced with a situation that we would be losing revenue from our tax base.

As a consequence, it is a story that has been told before, but we established a number of agreements with the State and EPA, local lenders, and developed a financial plan to address the cost of the cleanup—the investigation and the cleanup—through tax increment financing, all the time wanting to look at the ultimate payer of these costs as being the polluters that caused the problem.

We made these agreements. One of the most unique aspects of our early program was to establish, much as the representative from Chicago stated, some type of local initiative and local responsibility for some of this liability, and we established an agreement with many of the lending institutions in our community to honor a certificate and release of environmental liability.

What this meant was that we would grant an innocent property owner a liability release for the contamination, and they could go on as soon as the banks accepted this to purchase property and expand existing properties, whatever the case may be. It pretty well cleared liability issues.

We have been in this project for several years. We are starting cleanup. We have made settlements with a number of the responsible parties in the area. And we feel we have done a very good job in taking an area that was depressed, didn't look like it had much future because of this contamination, took a local initiative, and we able to turn it around.

We have now developed an Old Town area with restaurants, stores, that type of thing. We have a couple of Federal facilities. The Federal Government has looked at this project and said, "We accept this approach." We have also had a State office building that has been located in the area.

As a consequence of all of that, we have expanded our brownfields program. Well, we've expanded that particular program to another area of our community known as the "north industrial corridor." The success of this original project, which is called "Gilbert & Mosley" project, led to the EPA allowing us to de-list an NPL site and apply the same model in that particular area.

We now have roughly ten square miles of the center of our city under this, what I consider one of the original brownfields programs.

In addition to that, these concepts of addressing liability issues have been expanded into our brownfield program and, as the chairman mentioned, the heart of Wichita program is our latest initiative. Basically, it is a package of 50 different recommendations that have been made to our City Council, and they have accepted it. It is everything from changing codes to dealing with environmental issues, putting together financial packages to revitalize and rede-

velopment not only our downtown area, but approximately an area that is the old Wichita, five square miles of downtown Wichita.

We've been very successful in that program, at least in the initial phases, and look forward to dealing with EPA in terms of the assessment grants. That's very critical, as has been mentioned. The assessment grants and cleanup grants and funding in those particular areas will be a vital part of our heart of Wichita program.

Still, I think there are some things that remain to be done. Clarify authority for cities on this liability release when we're dealing with this contaminated sites. There needs to be more funding, as we've said—maybe a little less bureaucracy—and allow cities to continue to take these initiatives and be able to solve their own problems.

I think that that concludes my remarks. Some of the remarks made by the representative from Chicago are along the same lines as mine. I would be happy to answer any questions.

Thank you.

Mr. DUNCAN. Thank you very much, Mr. Brown. Mr. Williams?

Mr. WILLIAMS. Thank you, Chairman Duncan, for the invitation to be here today. As a proud Tennessean, I applaud you, Congressman Zach Wamp, and the distinguished members of this subcommittee for this opportunity to address you to provide positive evidence of the impact Federal, State, and local dollars have had on the brownfields reclamation process in Chattanooga, Tennessee.

I am James R. Williams, and I am the brownfields program manager for the city of Chattanooga. Both our Mayor Jon Kinsey and County Executive Claude Ramsey send their regrets that they are not able to be here today to testify.

I wish to speak about our local brownfields efforts. In 1998, city and county governments designated our local Air Pollution Control Bureau to establish a local brownfields program. This program, focused primarily on the inner-city neighborhood of Alton Park, was created to address tax revenues lost when industry left this neighborhood, the need to develop industrial sites for economic development, the need to create jobs, and the need to mitigate the environmental risks associated with idle, vacant properties.

Both governments, working in a bipartisan way and committing funding, received additional funding from a partnership developed by five local utility providers.

Throughout the United States, cities are taking on the challenge of smart growth. Redevelopment of brownfields sites is an integral component of smart growth. Redevelopment of these sites reduces contamination and preserves undeveloped greenfields sites and reduces the need for additional infrastructure while expanding the local tax base.

Before continuing with specific aspects of our program, I think it is necessary to develop a context for its develop. Chattanooga's successful air pollution reduction actions are widely recognized as the springboard to current local sustainable development initiatives. Over the last 30 years, our city has cleaned up its environmental act, and many events helped to make this change, but it was one process of visioning that acted as the main catalyst. Visioning, or "charrette," is the process of facilitated public dialogue designed to bring together various community stakeholders with different

points of view and establish understanding where differences exist. The result is community census.

Census developed through the visioning process allows the creation of a set of goals and projects and provides guidelines for those whose test it is to implement them. The visioning process enables the developments of plans of action necessary to experience real results.

My complete written testimony cites successful examples of our local brownfield redevelopment efforts generated through our local visioning processes; however, for the sake of brevity, I will forego the specific details of these successes in my verbal testimony today.

If smart growth in the form of environmental protection and community development is our destination, then economic development is the vehicle for getting there. The bad news is that the redevelopment of the 400,000 to 600,000 brownfield sites in this country is a major effort. The good news, however, is that there is private investment capital available for the task. Smart growth and economic development are co-related. It brings groups who may have been antagonists in the past toward working together for common goals.

In Chattanooga we are fortunate to have a legacy of successful brownfield projects throughout our greater community to provide the foundation for our recently-created brownfields office. Clearly, it was visioning that was our common thread of success, and this process now guides the implementation of our program.

In the last 18 months, our program has secured two Federal EPA grants, the 200,000 brownfields demonstration assessment, and the new 100,000 Superfund redevelopment initiative grants.

Additionally, and most important, the brownfields program is a partner in the successful 35 million Hope Six revitalization grant awarded to our local housing authority for Spencer McCallie Homes, a public housing development in the heart of our pilot community.

This partnership of Federal dollars targets a community that has a diverse mix of brownfield redevelopment channels such as abandoned manufacturing sites, old residential neighborhoods, and a need for economic stimulus in the community.

This three-square-mile area has many, many acres that could be developed for residential, industrial, or commercial use. Located within the communities are employment centers that have had recent expansions of operation; however, it still remains one of the most economically depressed areas in our city.

As part of the grants' work plans, we recognize a need for a complete comprehensive redevelopment and revitalization of this community. Fortunately, our planning process received full support and commitment of the mayor and county executive, our City Council, and the Hamilton County Commission. Our elected officials worked in a bipartisan way to fuel a resident-driven revitalization plan.

Over the past year, John Kinsey initiated a public meeting in this target community attended by over 250 persons. The city and county then funded a four-day charrette. The consultant team facilitated a visioning planning process with over 500 diverse stakeholder participants, including the participants from State of Ten-

nessee and USEPA region four. Our resulting master plan was adopted by the City Council in October.

Without this citizen involvement, without the partnering between various levels of government, serious conflict, mistrust, and delaying interventions may have occurred, which would have made it difficult for a positive change to occur; however, currently new investment has begun in this community, with the stage being set for more. Our processes enhance accountability, empowerment, continued involvement, which is the Chattanooga way.

The goal of our program is to facilitate these brownfields using brownfields remediation and reuse of active community participation and involvement. Our charrette was an important first step. Now the stage is set for the next critical elements, which are securing additional funding and developing clarity about liability issues.

Uncertainty is the single impediment to the brownfields development. Unfortunately, current environmental law creates uncertainties about potential liabilities. This uncertainty may be minimized somewhat through intensive, up-front environmental investigations. Even if the investigations are conducted, there is no guarantee that redevelopment will occur unless there is a potential way to know the negative impacts; thus, the uncertainty creates inaction, capital goes elsewhere, leaving brownfields sites undeveloped.

Legislation has been drafted by the State of Tennessee to minimize uncertainty caused by State environmental laws and regulations. The legislation is designed to clarify the liability for future owners and current owners. Prospective purchasers and developers will be able to enter into a firm voluntary agreement with the State of Tennessee to accept responsibilities. If cleanup criteria is predicted on future land use patterns, mechanisms can be made available to ensure that the land use will be limited. State voluntary agreements foster these new uses of brownfield sites.

The role of the Federal Government is to facilitate business, communities, and local governments in accepting their responsibility for smart growth redevelopment of brownfield sites. It is critical for the Federal Government to expand its role. Current agreements between prospective purchasers and the State to conduct voluntary cleanups are not protected from future additional requirements by the Federal Government. This creates another form of uncertainty that inhibits redevelopment.

The Federal Government can support the efforts of State and local government through grants for the creation and operation of municipal brownfields programs to jump start brownfield redevelopment. Private investors will also be able to redevelop sites through normal means, while some sites have negative value. The great majority of these sites would never be redeveloped without investment of public dollars.

The Federal Government has a responsibility to appropriate money targeted specifically for brownfield develop. Further existing programs should make brownfield redevelopments a priority.

In summary, the development of our local brownfields has occurred in a variety of ways. Environmental factors, alone, do not necessarily control our processes. There are factors beyond environmental contamination that drove these projects. In most cases, economic factors were prime determinants of each project. Our local



brownfields projects offer the best opportunity to not only recycle land, but better utilize existing infrastructure. Each of our successes have had the positive components of partnership with all levels of government, public and private investment, combined with a successful public input process.

Each of these assessments require the necessity of coalition building and utilize the charrette's process. This same methodology will continue to be the prototype for our local brownfields program. Our design is simple: bring the community together, hear a plan, and establish coordinated solutions, which is the Chattanooga way.

Again, on behalf of the citizens and elected representatives of the city of Chattanooga and Hamilton County, I thank this subcommittee for this opportunity, and I will be pleased to answer your questions.

Mr. DUNCAN. Thank you very much, Mr. Williams.

We've moved a little faster than expected through the first part of the hearing, and so I would like to ask unanimous consent—Congressman Wamp wanted to introduce Mr. Williams, and he got here for just about all of Mr. Williams' testimony, but I would like to call on Congressman Wamp at this time for any remarks he wishes to make.

Mr. WAMP. Thank you, Chairman Duncan, for the courtesy. I will be brief.

This subcommittee is really fortunate to have Chairman Duncan as its chairman in the future. He is really a great leader, and what he did for aviation over the last six years I'm sure he is going to do for water resources.

Thank you for hearing Secretary Whitman's call for action on brownfield redevelopment, and thank you for allowing a distinguished Tennessean to come and testify today and recognizing that we have—Earl Blumenauer knows, because he has been there—in the city of Chattanooga some great brownfield redevelopment opportunities.

This particular community that James Williams grew up in and his family has served in so well was contaminated in large part by the Federal Government, so it is a perfect brownfield redevelopment opportunity. We have had a national priorities listing site there to clean up Chattanooga Creek. That was initiated in this subcommittee when I served on the subcommittee several years ago.

I'm not going to introduce him because it would be like introducing the Chicago Bulls after the game. I had a group at the Capitol I was taking through. Chairman Duncan knows all too well, when you've got a bunch of constituents you've got to try to be there for them.

Thank you for the courtesy, and thank you, James Williams, for your leadership back home.

He used to block my little brother's shots in basketball games as they went to regional championship, and his team prevailed. He's a distinguished basketball player and graduate of Vanderbilt University. He has served our city very well in banking and small business, and now in government, handling our brownfields redevelopment opportunities.

We believe we have a lot to offer and we believe that the Secretary is exactly right in moving forward with this most important program of brownfields opportunities all across the country.

I hope this subcommittee is instrumental in shaping new policies that will make it easier to put these unproductive assets back into productive use.

I thank you very much for the unanimous consent and I yield back.

Mr. DUNCAN. Thank you. Thank you very much, Congressman Wamp, for taking the time out of your very busy schedule to be here with us.

Next we will hear from Mr. Hoover.

Mr. HOOVER. Thank you very much, Mr. Chairman.

On behalf of the city of Worcester, Massachusetts, I thank your honorable body for the opportunity to give testimony on the issue of brownfields redevelopment and the city of Worcester's effort to date in order to conquer this major urban problem.

I also want to take the time to thank Congressman James McGovern for his tireless legislative efforts regarding brownfields and related urban issues.

The city of Worcester is the second-largest city in New England. Together with our surrounding communities, it represents a historic industrial center which gained prominence as a major producer of manufactured goods that were critical to the advancement of the American industrial revolution.

Worcester's legacy as a city of innovation and invention continues today, as we enter the new millennium. Named an all-America city in 2000 by the National League of Cities, the city's innovative approaches to social, economic, and quality of life issues have been nationally recognized.

As with similar urban centers across the United States, and particularly in the northeast, a major deterrent to continued growth and expansion of our economic base is the lack of readily-available and-developable industrial sites in Worcester.

The controlling factor in the lack of suitable sites is contamination, and that's brownfields contamination. Virtually all of the city's industrially-zoned land has been previously developed, and, of the 2,089 acres of industrially-zoned land in Worcester, approximately 25 percent of over 200 sites are classified by the Massachusetts Department of Environmental Protection as experiencing various levels of contamination.

It is well documented that abandoned and/or under-utilized brownfields sites cause economic distress in surrounding neighborhoods, which lead to a number of traditional inner-city social, health, and safety problems.

Worcester's inner-city neighborhoods, which were once anchored by large manufacturing plants, are now fractured by the vacant industrial complex that previously provided jobs and stability to the area.

It is clear that the complexity of the brownfields problem exceeds the normal market conditions of private enterprise. In many cases, the cost associated with site remediation exceeds the base market value of the property. Complex tax and associated land title issues

also exacerbate our ability to offer construction-ready sites, due to these environmental problems.

Given these obstacles, it is clear that without continued public assistance brownfields properties will remain dormant and a major deterrent to our revitalization efforts.

On the local level, the city of Worcester has been very proactive in addressing brownfields issues. In 1995, the city sponsored legislation which established the Central Massachusetts Economic Development Authority, better known as CMEDA. This is a regional brownfields redevelopment model based upon a revolving fund and whose membership includes the city of Worcester and surrounding communities. CMEDA is currently limited in its operation due to the lack of financing.

A major investment of some \$40 million in city and State funding was also made in Worcester's central business district in the mid 1990's which resulted in the assemblage of 30 acres of contaminated brownfields properties. The city expended approximately \$12 million for cleanup of these properties that led to the construction of a \$240 million hospital facility in the center of our downtown. The Worcester Medical Center is now open and adding jobs and tax base to the city of Worcester.

Other projects in the planning stage are the redevelopment of South Worcester Industrial Park, which is a 25-acre former industrial complex, and also the Gardner/Kilby Hammond project, a joint proposal to develop a new Boys and Girls Club, athletic fields for Clark University, and 100 units of new housing in the city's Main South district. Again, we are faced with environmental cleanup issues which hamper our progress with these plans.

The city has commissioned preliminary environmental assessments on these properties which indicate that the cost to remediate the south Worcester industrial area, alone, approaches some \$12 million. The city has also completed demolition of the former Coes Knife Complex, which was an old cutlery manufacturer, and is faced with approximately \$500,000 in environmental cleanup costs to complete what is planned to be a neighborhood recreation area.

Other local brownfields redevelopment projects include a recent 130-room Marriott Courtyard Hotel, which was completed in 1999. This \$20 million private initiative was made possible utilizing the ownership and conveyance authority of the CMEDA and was completed under the guidance of a local private development corporation.

The city has also adopted legislation which waives local fees for brownfields redevelopment and has adopted the provisions of Massachusetts general laws, which allow communities to abate delinquent taxes to promote redevelopment of brownfield properties.

Finally, in January of this year my staff completed a comprehensive brownfields redevelopment strategy which outlines Worcester's future goals relative to brownfields reclamation. Financing strategies are also a component of this particular plan.

In short, the city of Worcester, in partnership with the State and the Federal Government, has been making significant progress in the area of brownfields redevelopment. In order to continue this momentum, it is imperative that the public sector continue to com-

mit resources and technical expertise to the issue of brownfields redevelopment.

While the level of local, State, and Federal assistance to date has been significant, I respectfully request that this committee review existing appropriations with a commitment towards developing additional resources which will address the financial gap that prevents private investment in brownfields sites.

In closing, the city of Worcester has historically been a leader since the days of the industrial revolution. Now, as the Information Revolution brings wealth to suburban communities unencumbered by the past, we are seeking only the tools that will position Worcester to support itself in the future.

Sufficient land to pursue our current economic agenda is a prerequisite to our collective public goals, and brownfields reclamation will play a major role in our efforts.

I thank you very much.

Mr. DUNCAN. Thank you very much, Mr. Hoover. Mr. Pawenski?

Mr. PAWENSKI. Thank you, Mr. Chairman, distinguished members of the subcommittee. I want to thank you for this opportunity to speak before you on our redevelopment issues.

My name is Chris Pawenski. I'm Erie County's coordinator of industrial assistance program. Basically, I'm the facilitator for the redevelopment of brownfields.

County Executive Joel Giambra sends his regards. He fully supports any Federal regulation and assistance that will expedite the redevelopment of our former industrial properties and our urban cores, therefore, preventing development being forced out to our valued greenfields.

At this time, though, I'd like to just highlight a few of the items in my testimony, since you already have copies of it, and get to the heart of the matter why I am here—that is, to help you help us.

The County of Erie, in cooperation with all the local government entities, has been spearheading the revitalization of 2,000 acres of contiguous brownfields that we have. We have set our highest priority on a former Bethlehem Steel site, which I'll talk about today.

This Bethlehem site is in the City of Lackawanna, which currently has an approximate population of 16,000 people, so it is a small urban center. This facility, at its peak, employed about 25,000 people. It was the highest steel-producing facility during World War II, at the same time the city also had the highest per capita of veterans in the country.

Today this facility employs less than 1,000 people. When it closed in 1983, over 20,000 people became out of work. They (Bethlehem steel) demolished all their buildings so they wouldn't have to pay taxes on them, so now there's over 1,100 acres of vacant expanse land.

Neighboring property values have plummeted over 50 percent. Population has decreased by 40 percent. The neighboring community has become a core of social and environmental concerns.

I mention this because I believe it should be noted that not only do the events that lead up to creation brownfields affect the property, but it should be highly noted how it affects the surrounding community.

The county decided to focus a 102-acre parcel to create an industrial park to get things moving. We called together a task force very early on, and this was the core to some of our successes—getting early involvement of all agencies, including the Federal, the State, and the local governments, as well as private. Because of this early involvement, we learned of a brownfield initiative pilot program, and we were accepted as one of four sites in the country for this new initiative. As EPA brought it to us, we had them in early involvement. This is very key.

The Steering Committee was created with the State government, local, and in the headquarters—EPA’s headquarters office, regional office, and the county government. Quickly from this pilot program we developed short-term and long-term goals. Our short-term goal was to remove the 100-acre site from a EPA RCRA order and to get into a State voluntary cleanup program. Our long-term goal was to set up some type of procedure that we could continue after this first phase, continue it on to further redevelopment of this property and other parts of the 2,000 acres of contiguous brownfield properties.

It is important to note our successes, though short they might be so far. Within ten months we reached our first short-term goal—removing the property from the RCRA order of consent, although we learned we could have easily have done this eight years previously if somebody would just ask the question, “Can we do this?” All Bethlehem Steel had to do was send in a letter requesting it and it could have been done. It took us eight years to find that out.

The second goal that has been achieved is Bethlehem and the State of New York are negotiating what they call a “voluntary consent order.” It is not the State’s cleanup program—and I’ll get into why it is not, but it is similar. And it is because we were all able to sit together and put peer pressure upon each other, the governmental agencies putting peer pressure onto them, that we were able to get them to sit down together.

Our long-term goals continue, but you’ll find out some of our barriers will not let them be complete. We continue to try to achieve them. Whether we will or not, we’ll find out. But we continue—even though the pilot program has ended, the task force, the Steering Committee, and individuals continue to maintain contact, because we, as a group, want to see success of this property being turned around because of the location it is in and the effect it has on its community.

The barriers—two greatest barriers we encountered: the State has a policy of not letting properties under EPA’s interim status into their voluntary cleanup program. They agreed to let Bethlehem start negotiations under a consent order—this was something unique and never done before by the State—while we worked at removing the property from interim status—we took a two-road path to reach our goals.

The unfortunate problem was that this State policy was based on urging of EPA, of the Federal Government, when they developed their policy. This is not consistent throughout the country. Some EPA regions encourage States to allow interim status properties into voluntary cleanup programs, some don’t. Bethlehem Steel wanted to get in. They’re not asking for public assistance finan-

cially. They'll spend their own money. But they wanted to get into the State's voluntary cleanup program. They weren't allowed to.

The second-greatest barrier I thought was there was the lack of proactive direction when we encountered gray areas.

As we tried to get the interim status removed, everybody involved—all the technical people, all the managers from the EPA region, Office of Solid Waste and Emergency Response here in Washington, the local governments—all agreed, "Let's amend the interim status." One-page letter, just says we did remove the order with a property title survey, was amended so we could get into the official voluntary cleanup program.

After months of working at this, we were told by Federal attorneys that this would not be allowed. I asked why. They said, "It's not allowed." I asked for a copy of the law or regulation. I was told there was not one. I asked, "Why not? Why can't we do it?" They said, "There's nothing that says you are allowed."

Basically, as I told the Conference last year, EPA Conference, after months of us working together as a team, stopping the fire drills, getting in the car together, figuring out which direction we wanted to get into, we came across a light signal that turned blue. Nobody knew what that meant, but the team decided to move forward. The attorneys decided to take the keys out of the car because they didn't know what it meant.

This cannot go on. We need to have proactive commitment, what's best for the community.

Finally, the heart of the matter is how can you help us and how can we help you. How can Federal assistance—what can you do help expedite the redevelopment of brownfields.

The first thing on the list you'll see is proactive direction by the leadership of this subcommittee or Members or Secretaries in Federal Government that when we hit gray areas we seriously look at what is best for the community if we are within the laws and regulations that allow us to move forward. Let's not always take the safest way out by not doing anything.

Secondly, communities should not have to wait to be selected to a brownfield program or pilot program to move forward. We were fortunate to be one of four communities selected in the country. If we were not selected, we would not be moving forward and in removing of these orders. There should be a permanent program in place that might have set criteria that when a community is ready to move forward it applies for that program.

This program, the initiative that we are involved with, cost was the time of the probably six employees every two weeks on a two-hour conference call. I can imagine communities that are out there that weren't selected that might have been moved forward if this was a permanent program.

I strongly urge that pilot programs that show success become permanent, especially when the cost is so insignificant.

One of the keys to this program was everybody coming together in Buffalo to visit the site for two days and getting behind closed doors—holding a workshop, getting behind closed doors, rolling up our sleeves, and agreeing not to leave until we could get in the right direction.

One of the other things that we urge you to do is think about providing funding for communities that have significantly been affected by brownfields. As I mentioned, the city of Lackawanna is significantly affected. Maybe a special criteria, but a special funding source maybe to assist them similarly as you give community development block grant funds out. I think that would be very important to us, and we strongly encourage that.

Next is provide significant funding for remediation of brownfields. Funding is available for assessments and planning, but not to carry it out. Communities such as Lackawanna do not have financial resources. It is not uncommon for \$100,000 an acre for remediation. This could be a partnering effort.

Mr. DUNCAN. Mr. Pawenski, thank you very much. We've got to move on to the next witness and to questions from Members.

We are very honored and pleased to have with us the mayor of Charlotte, North Carolina. We had him listed as the second panel because of a plane schedule, but he is now with us.

Mayor Patrick L. McCrory, we are certainly honored and pleased to have you with us. I started coming to Charlotte many, many years ago when I was bat boy for the Knoxville Smokies baseball team for almost five seasons. That was back when Charlotte was a very small city. A man named Phil Howser owned the baseball team. Anyway, I've been to Charlotte many times since then. It has really grown tremendously and seems to be doing real well.

We're glad to have you with us here, and you may begin your statement.

**STATEMENT OF HON. PATRICK L. MCCRORY, MAYOR, CITY OF CHARLOTTE, NORTH CAROLINA**

Mayor MCCRORY. Thank you very much, Mr. Chairman.

I want to compliment you and your city of Knoxville also. Victor Ash is a personal friend of mine, and he just does an outstanding job as your mayor for many years, and I hope for many years to come, also.

I am actually wearing two hats today. One is as chairman of the U.S. Conference of Mayors' Environmental and Energy Committee, which I have been honored to be chair of that committee now for three years, and also as mayor of the city of Charlotte, where I am now in my sixth year as mayor of that city.

Let me first speak on behalf of the mayors. Throughout this Nation, whether you are from Knoxville or whether you are from Texas or whether you are from Portland, Oregon, or Detroit, or many of these outstanding cities that are testifying here today, every mayor and every city staff has a passion about brownfields. In fact, every one of these people can speak without notes because their personal stories of where brownfields are helping revive the economic blight that all cities have within certain areas, especially those areas that were developed in the 1910s, 1920's, 1930's, 1940's, even up through the 1990's where we have brownfield remnants at this point in time.

In fact, most people assume a city like Charlotte, which now has 550,000 people within its city limits, they see it as glowing towers and bank buildings and so forth, but we also have our brownfields—many, many brownfield sites, old cotton mills, old

steel mills, old dry cleaning, gas stations throughout the city that need cleanup, so it is in cities like was mentioned New York and Sun Belt cities like Charlotte, North Carolina.

Every mayor has a passion about brownfields because it is a method of recycling land. You know, during the past two decades mayors talked about recycling paper to save their waste in dumps and so forth. Now it is recycling land, and that is the best environmental policy that one can have is to recycle land that was previously used during the past 100 years as our cities and our Nation grew economically and industrially.

Another thing that brownfields does—and I'm talking to the choir, hopefully—but it does create jobs. You mentioned thousands of jobs that can be created in these examples, and I'm going to give you some specifics of jobs being created in Charlotte, North Carolina.

Let me also mention something that I think relates to your committee and some of the other work that you're talking about, and that is many of our cities are dealing with sprawl—sprawl going out to greenfields, where your committee has to decide where to put new roads and highways and transit lines.

If we can clean up the brownfield which is along many of the existing transit lines that we are now putting mass transit into, we are going to save money by not having to build new infrastructure 20, 30, 40, 50 miles outside of our city limits, which is much, much more costly, and I think that will save your committee and the Federal Government much money in the long run.

And the last thing I want to talk about, it builds a tax base that is currently not there to pay for our schools, to pay for our police, to pay for our fire, because most of the area where brownfields currently exist is blighted property, which is not contributing to our economy whatsoever, and now we are rebuilding that land that has been just sitting there vacant, and often those are areas where we have high crime, poor housing, and it has just become a wasteland in our inner cities, both in the rust belt and in the sun belt areas of our country.

So to me it is a win/win situation for the Federal, State, and local governments for every city, regardless of the size of city. I want to emphasize, this is not just for cities of a half a million or two or three million; we also have many cities with 20,000 or 30,000 people that have brownfields and they need help in cleaning up and revitalizing their center town areas, and even their suburbs of small towns.

Let me just give you a few examples of what we are doing in Charlotte, North Carolina, and we are very, very proud of that. One example you might see every Sunday when you watch an NFL football and the Carolina Panthers are on TV. When the Carolina Panthers—whether it be New Orleans Saints or Dallas Cowboys come to Charlotte—and the new Houston team will be coming to Charlotte shortly—they are playing football on the site of a brownfield in downtown Charlotte, North Carolina, right now where a 72,000-seat football stadium resides and two practice fields reside.

It is a fascinating story where the city purchased over 13.4 acres to build a football stadium and practice field facilities. We spent



several million dollars—\$3 million to clean up that site. By the way, we reserved three acres of that total site to actually put some of the contaminants that we cleaned up, and those contaminants were still within protected cells on a protected site. Most people think it is a park, but it is very nicely fenced off and it looks like a greenfield in our city, center city, but that is actually where we have some of the cells buried right near our football stadium, and no one knows it even exists, and we have wonderful housing in and around that area because that area is now contained and it is beautiful. It has just been a wonderful example of using brownfields site for in-fill development.

By the way, with your committee talking about future infrastructure and roads, ten years ago that 72,000-seat football stadium would have been built 20 or 30 miles outside our center city, where we would have been coming to ask you for road money and transit money to pay for that much-needed infrastructure. We didn't need that money because the football stadium is in downtown Charlotte, where the roads and the infrastructure and the transit are already in place, so we consider that to be a wonderful story.

Briefly, some other examples—and I want to give you time to ask the experts and this mayor questions—we have an area called the “south end,” which is one mile outside of our center city. This was a 1920's industrial site. It was the first industrial park in Charlotte, North Carolina. It probably wasn't far from where you watched the baseball games in Charlotte.

This was an area of blight just ten years ago because we had vacant buildings of old cotton mills and steel mills. We have revitalized that property, cleaned up that property, and now it is the place to live and work. We are selling \$300,000 condominiums on what was once a blighted site just seven years ago, and now this is where the architects in our city house their companies, and it is also right along our north transit line and our south transit line, where we are building a major mass transit station and we're having further in-fill development.

It all complements each other, brownfields along with existing infrastructure, which you are working on.

We are right now also—in 2001, with the help of a \$500,000 EPA loan and a \$100,000 loan and assessment grants, and we are using these funds at 2 percent interest to clean up approved sites and repayment is due following construction projects. Right now we are working on a shopping center on our west side in an old industrial area, a shopping center which was taken over due to the person who used to own the shopping center was involved in drug sales. The Federal Government took over the shopping center. We are now revitalizing that shopping center with the help of some of these loans because some of the shopping center was contaminated due to an old dry cleaning firm there, and we're cleaning up that site and we are putting a police station on that site, in addition to a grocery store, where we've never had a grocery store on that side of the city. So things are going extremely well.

In the city of Charlotte we take brownfields so seriously, and in our State, also, that we just put \$60,000 in our budget just two months ago to hire a permanent State employee in Charlotte, North Carolina. One of our dilemmas we are having at the State

level, they have wonderful laws, but they don't have the resources to support that law.

Mr. Chairman, we welcome the opportunity to give you any more specifics.

Mr. DUNCAN. Well, thank you very much, Mayor McCrory, for an outstanding statement and very helpful testimony.

Just out of curiosity, where you have built the football stadium, you said you had the three acres there fenced off and people just thought it was a greenfield. Is there a reason that you didn't put a park there for children to play or something? Are you concerned that those cells weren't buried deep enough or that there was still some potential danger there, or—why do you have it fenced off?

Mayor MCCRORY. On this piece of property we still don't have the flexibility regarding the contamination to make it a specific part. I will say we just sold a piece of property right next door to it for \$28 per square foot where we are building major in-house condominiums, so the property and around it is very safe, but we felt contain that area. And it is a beautiful iron fence around it, by the way. It is very well landscaped.

Mr. DUNCAN. Yes. Well, it sounds like a great success story.

Most of these estimates are that half of these brownfield sites roughly are old abandoned gas stations. Mr. Williams, is that true of Chattanooga or some of your other areas, and do those gas stations pose the same problems or threats as some of these other sites? Are they harder or easier to clean up?

Mr. WILLIAMS. Particularly in our redevelopment area we have a host of those types of sites, sir, and that is very insightful that you see that.

One of the problems that we recognize is that under the existing Superfund liability, and particularly with brownfields, it excluded using those funds on the brownfields to look at those particular sites, so that exclusion, limitation acts as a barrier for redevelopment of such sites. So if proposed legislation could look to pull back that exclusion, I could see those sites becoming revitalized that much easier.

Mr. DUNCAN. Right. That is a key suggestion and something that we should fix in any legislation that we do this year, and we are already talking about some.

I know a couple of people mentioned this. Is the main problem that you face, the uncertainty about liability and problems about selling property to potential developers, Mr. Abolt?

Mr. ABOLT. Liability is a significant problem for us, but it is starting to go away. I think our biggest liability problem now does relate directly to municipalities stepping into the chain of title, because we'd found that one of the ways that we address liability is by, for some moment in time, taking ownership of the parcels, so we do believe liability is still a problem. It needs to get addressed. We think that specifically addressing it in the context of municipalities, as the U.S. Conference of Mayors has worked hard on, would go a long way, but liability reform beyond that will likely be needed.

Mr. DUNCAN. Mr. Brown, I've seen you nod your head a couple of times. What do you have to say?

Mr. BROWN. Well, I might mention, in regard to the smaller sites such as dry cleaner sites and gas station sites, what the State of Kansas has done that has been very successful is establish State trust funds to address the investigation and the cleanup of those sites, so they no longer are really an issue in our community because of this State funding source. Basically, the State hires consultants using the money that is created from a small tax on gasoline to address these sites and remediate them if necessary.

In terms of the dry cleaning trust fund, it is another tax on the customers who use those services. It goes into a State fund and is administered by the State to again remediate those sites that have caused contamination from dry cleaning solvents.

Mr. DUNCAN. I've just finished six years as chairman of the House Aviation Subcommittee, and we found there that, because of the environmental rules and regulations and red tape and so forth, it would take ten or fifteen years to build a runway that we really could build in a couple of years.

I know a couple of you mentioned the possible need to streamline environmental regulations in regard to brownfield sites. Do you see those same problems there? And are there ways that you know of that we could streamline these regulations so we could speed up the cleanup of some of these sites? Mayor McCrory, have you run into problems like that?

Mayor MCCRORY. Absolutely. We have that at our airport often. In fact, we are in the planning stage of a third parallel runway right now. But as it relates to brownfields, I think some of the other speakers mentioned that we need more flexibility and more long-term commitment. Some of these temporary pilot programs need to be committed, too, in the long term, and that would help out a great deal.

The developers who are interested in investing in brownfields want to make sure that two years after their initial investment is put forward that something doesn't change.

Mr. DUNCAN. Right.

Mayor MCCRORY. And the bureaucrats stop it from occurring, so there is a hesitation of developers to put the up-front money in for fear that the bureaucracy will change a rule on them or change the parameters regarding the brownfield cleanup.

We want to also encourage people to actually clean it up. There's actually a hesitancy for some people to even dig because they are afraid they won't be able to move. So there are a lot of people not even identifying brownfield sites right now out of fear.

Mr. DUNCAN. Mr. Pawenski, what do you have to say about that?

Mr. PAWENSKI. I would like to definitely agree with The Honorable McCrory. Streamlining them would help, I think. Most helpful for us right now in the areas is making them consistent throughout the country so companies know what to look into.

We need encouragement for the principal responsible parties to want to be proactive in cleaning up the mess that they've created, even though laws might differ that they were created under.

As you mentioned previously, the liability would be very helpful. That's the light at the end of the tunnel that encourages them to get going.

Mr. DUNCAN. Mr. Hoover, what are you doing in Massachusetts to speed things up?

Mr. HOOVER. Well, we are working very closely with the Commonwealth right now, and where they step in I think it is very important, Mr. Chairman, that the Federal Government doesn't get in the way, in some respects. I think when the States do take some initiative and really want to step forward, let's not then, after the problem seemingly has been solved, come back and bring the heavy hand of the Federal Government down when that proactivity has occurred. I think that cooperation is very necessary, and it continues to encourage the States to do more, and support is really the word of the day, I think, in that regard.

Mr. DUNCAN. All right. Thank you very much.

Mr. DeFazio?

Mr. DEFAZIO. Thank you, Mr. Chairman. It is always helpful to hear from folks who are actually doing the work in local communities. As a former county commissioner, I appreciate that and appreciate what you are doing as we look for ways to improve Federal brownfields legislation.

With that, I'd defer my time to Mr. McGovern, who has some particular questions.

Mr. MCGOVERN. Thank you. I want to thank the ranking member, and I want to thank the chairman for holding this hearing.

I represent a District in Massachusetts that was home to wire companies and textile companies and tool companies, and a lot of them gone, and they've left behind abandoned buildings and contaminated brownfields, and whether it is Worcester, which my city manager, Tom Hoover, represents, or Fall River, we have a real serious problem. There are issues of liability. There are issues of dealing with the bureaucracy. There are also—you know, the bottom-line issue is money, too.

I think what I am hearing from everybody today is that, in addition to wanting all of us in Congress to feel your pain, you want us to show you the money, too, so you can actually do the job. I mean, identifying brownfield sites is part of the challenge. Getting people who own the sites to allow there to be testing is another part of the challenge. But, depending on what was there in the past, some of this is very, very costly, and even with State help communities can't do it.

We tried last year in this committee to get a Superfund bill with a brownfields component to it, and we actually, I thought, came up with a pretty good compromise when all was said and done. It wasn't perfect, but it was good. It didn't go to the full House for consideration, and hopefully this year at a minimum we might be able to get a brownfields bill.

I've seen first-hand in my communities that communities that have been knocked down stay down. I know what the city of Worcester is going through trying to get involved with these competitive grants and you are competing with a zillion different communities and filling out thousands of pages of paperwork, and at the end more times than not you're told, "Well, we don't have the money and you weren't picked, but if we had the money you would be picked."

Again, as a city manager, Worcester is the second-largest city in New England, and yet we are at a great disadvantage because we can't get companies and businesses to invest in our community, not because the land isn't available, but because we don't know whether the land is contaminated or not. It is a real challenge.

We are living in a time of incredible surpluses. I hope a significant portion of those surpluses go to kind of supporting these efforts, because I think in the long run it is a win/win. Getting these businesses into these communities, revitalizing urban areas—the mayor talked about urban sprawl. The way you deal with that is to revitalize our cities, and one of the ways you deal with that is you help them deal with brownfields and make more land available for companies to move in.

I have a question. I want to thank the Chair for also letting my city manager from Worcester testify here today, because I do think that Worcester is a community that has been—I don't want to say "uniquely impacted," but certain significantly impacted by brownfields.

I do have a question for my manager, and anyone else who wants to chime in on this. Your testimony represents the public sector's commitment to resources, and you talk about some of the Federal monies and State monies that the city has received. Could you give us some specific examples of the resources that you need right now and how these resources would be used?

Mr. HOOVER. Well, Congressman, I think that the answer would have to be two-fold on that, and it relates to our immediate short-term goals as well as our larger question of the long-term.

First, we currently do have a \$1 million application pending with the EPA to establish the brownfields revolving loan fund, and with this in place we could have a tool right at the local level that could leverage new private investment by allowing us to implement our brownfields redevelopment strategy.

But in the longer term we would love to look at programs that would handle the one project I described where it would take \$12 million in our South Worcester Industrial Park just to remediate that particular problem down there so we could redevelop the 30-some acres we have.

It would be great if we could get a \$12 million pilot demonstration project on a site like that that we could do something innovative with. For instance, right now we put \$100,000 for assessment activities out of the city coffers into that industrial park to do some initial assessment, but if we could maybe set up a loan fund that would be like equity financing so that once you improve the properties and you do get equity in your properties you could actually not have a grant but a loan that you could pay back by the improved cost of the properties in the future.

We'll never see that without the assistance. The \$12 million is something that a city the size of Worcester just doesn't have laying around to do. It's a lot of money for any city, but with pilot projects, with some innovations, and assuming something like this works, it could be spread throughout the entire country, and I think that's important to look at those innovative ways of solving things like this.

Mr. MCGOVERN. Does anyone have a similar kind of pilot project like that going on?

Mr. ABOLT. We've dealt with a number of sites similar to what was mentioned here. We see three specific things that Federal Government can do in terms of resources that would be helpful.

First is more assessment dollars. That's a relatively limited investment, but it is absolutely critical to prioritizing sites and deciding which ones you can actually afford to clean up.

The second is the concept of loans that was raised. The vast majority of our brownfields program is funded off of HUD section 108 loans directly connected to the City's establishment of tax increment financing districts. We found it to be remarkably successful and the program should be standardized and accepted, because then the Federal Government is fronting the money, but the local government is on the line for making sure the development happens.

Then, finally, we do believe that, whether it is at the State level and/or the Federal level, there is going to be need for just some direct limited grant dollars to do some of the cleanups on those properties where—probably a lot of the properties you're talking about—the property value or the property development does not exceed the value of the cleanup, so the transaction is upside-down. The only way to address an upside-down transaction is that the Federal Government is going to have to put some money into it, perhaps a matching grant type program.

Mr. MCGOVERN. Thank you.

Mr. DUNCAN. Thank you very much, Mr. McGovern.

Ms. Millender-McDonald?

Ms. MILLENDER-MCDONALD. Thank you, Mr. Chairman and the ranking member for bringing this very important urban issue to this committee through a hearing.

I really do appreciate all of you, because you are on the front line. I was once there, as a mayor of a city—and a city that is absolutely impacted with brownfields.

While we grapple with trying to redevelop on this brownfield, which was once in many cases junk yards in a lot of my areas of Watts and Carson, there are so much toxic types of the surface and all of the contaminated soil that we have a difficult time in trying to clean this up so that we can redevelop.

A lot of times redevelopers don't want to come in because of the headaches and the problems, and so I am happy to hear the chairman talk about streamlining regulations, because perhaps we will have to do that, Mr. Chairman, in order to try to move some of the wasted parcels of land for redevelopment.

But I heard from—I think it was the city of Worcester that if the Feds would kind of stay out of the way you can get some things done, and we often know that our heavy hands sometimes can be an impediment. But what I've heard from others who talk about the consistency and uniformity of the law, you're talking about the Federal laws or the State laws or the ordinances in the city, or what is it that you are pretty much talking about in terms of your consistency or being consistent with the law and uniformity throughout the Nation? Naturally, throughout the Nation it will

have to come from the Feds, and yet you want the Feds to stay out, so comments on that.

Mr. HOOVER. Well, let me address, if I might, Madam Congressman, the issue in Worcester. What I was referring to—I certainly don't want to keep the Feds out as far as participating in the price of these cleanups, but many times the State will move in and the State's eliminating of the liability will not necessarily limit the CERCLA liability, and therefore people do not want to take the full step because, although they are exempted under the State's heavy hand, so to speak, they are not under the Federal Government.

So the laws—anything the States do, first of all I think they need try to parallel as closely as possible that of the Federal Government, and, in turn, the Federal Government has to not be too enforceable or coming down with a heavy hand, crossing every "T" dotting every "I" when you have that sound initiative being taken by the States and the local governments.

So cooperation is the name of the game there, and certainly we appreciate and need—very much need—all the financial resources, but we should all work together on the rules and the regulations.

Ms. MILLENDER-MCDONALD. I guess one more question I have for the gentleman—I think it is Mr. Williams who has brownfield programs or is brownfield program manager. What are some of the programs that you spoke about? And I'm sorry if you spoke about those while I was in another hearing.

Mr. WILLIAMS. We are fortunate to have quite a few number of initiatives going on in our targeted area at this time. New investments into city-sponsored recreation facility is going to be a combined use facility where you have a police precinct in the same building as a recreational facility. We are also talking about the acquisition of a 23-acre site where we could take a mixed-use type of use of that particular site of commercial and residential. We also have partnerships forming, like organizations such as our local Boys' Club that want to build a \$2 million facilities on a brownfield sites.

So yes, we have quite a few number of programs and projects that are targeted for brownfield locations in our targeted area, all to augment the revitalization of the community to bolster what we are having in terms of the large influx of capital through the Hope Six redesign of the primary housing site, not only for this community but for the city, as a whole.

So we are just trying our best to take these projects, engage the community in those projects, build value back into this community that has in the past been a primary, prominent part of our community in terms of tax base, in terms of population base, and attract people back into that community.

Ms. MILLENDER-MCDONALD. Thank you, Mr. Chairman.

Mr. DUNCAN. Thank you.

Mr. Pawenski, I think you wanted to add something?

Mr. PAWENSKI. Thank you, Mr. Chairman.

Regarding the consistency, I guess I was talking about that. What I want to say about consistency in the law is that a lot of the cleanup efforts, a lot of the things that happen are headed up by State, but every State agency works with different regions, especially EPA regions, and they design a lot of their cleanup programs

with support of those regions. Where I'm starting to find it there isn't consistency is that each region doesn't give the same message to each State.

In our project, in particular, the Bethlehem Steel site, they have been very successful in the State of Pennsylvania, drawing over \$100 million in investment in their former steel site, but they knew there they weren't going to be held under—that property could be removed from interim status and entered into the State cleanup program.

In New York they knew they wouldn't be allowed into the voluntary cleanup program because the State was being discouraged there by the EPA to allow it to happen so they let it languish longer.

That's the consistency, I guess, we're looking for—the same message by the same agency to be put across the country.

Mr. DUNCAN. Mayor McCrory, I know you had a comment, but besides the money, and realizing that oftentimes we can't do everything we want to do, what would you think is the one thing that would be the most helpful other than money, to Charlotte in an effort to clean up these brownfields?

Mayor MCCRORY. I think clarification of the liability aspects. I think that is the one thing that is going to hold people back is the liability and to make sure that the innocent—the last party is not the one who is stuck with everything, because that's just going to discourage investment.

So I think the liability issue is the biggest issue that can hinder future investment.

I might add, also, at the State level many States, including my State—and maybe this is something that Feds can review, and that is the flexibility in using property based upon the degree of clean-up. Some States have much less flexibility, some States have more flexibility on the degree of cleanup and how you can then re-use that property, and that is what has helped us a great deal in our States.

Where the Federal Government I think can assist is more dealing with the liability issue.

Ms. MILLENDER-MCDONALD. Mr. Chairman, let me just comment on what the gentleman has just said, because that is absolutely the truth.

When you try to find those who have gone from the scene of this contamination and you can't find them, the person who now wants to develop on that, or maybe one person who was left that we did find, you want to, I guess, engage that person in the liability aspects, and you really cannot because it is so extremely costly.

Anything that we can do to kind of minimize the liability in trying to redevelop these lands would just be absolutely important and critical.

The other thing is the flexibility of use. I was hearing Mr. Williams talk about the various things that you are doing. In my city and some of the other cities we aren't able to utilize that land for some of the things that you outlined, so there is an inconsistency when it comes to the utilization and the flexibility of land, and so it is important that you have some type of uniformity where folks



aren't moving over each other and regional is doing something differently than what the city or the State is doing.

Mr. Chairman, I would like to submit my statement for the record, as well.

Mr. MCGOVERN. Would the gentlelady yield just for one second?

Ms. MILLENDER-MCDONALD. Yes.

Mr. MCGOVERN. I just want to clarify one thing here. When we're talking about these issues of liability, nobody here is advocating that we let polluters off the hook who are responsible for some of the contamination. I just wanted to make that clear. Are we all in agreement on that?

Ms. MILLENDER-MCDONALD. By all means. I'm not saying that. No.

Mr. DUNCAN. All right.

Mr. Brown?

Mr. BROWN. I have one more comment on liability. I think, under the current structure, even at EPA at the Federal level, letters of comfort, whatever you want to call the instrument, there still is the opportunity for third-party lawsuits, even if some kind of protection has been granted, so I have to second what everyone else has said. Just simply this liability issue needs to be clarified, and at the end of the process there has to be some way that we have—and I don't have a solution for this—that no further action on a piece of property be taken. It is done. It is over. The liability issues have been addressed. And we certainly want the polluter to pay, but the liability issue for those innocent property owners or those people settling, maybe in a Superfund site or some other situation, needs to be resolved.

Mr. DUNCAN. All right. Thank you very much.

Mr. KERNS, do you have any comments or questions?

Mr. KERNS. Thank you, Mr. Chairman. It is a pleasure to be with you, and I apologize for being late.

Mr. DUNCAN. That's all right.

Mr. KERNS. Having worked with the Indiana Department of Natural Resources, it was my experience that State agencies and employees tried to work with individuals and companies in a partnership arrangement to solve difficult problems, and I have long advocated that the Federal Government play more of an educational, advisory, and partnership role in helping resolve some of these difficult issues rather than what some of you describe as predatory, with fines and increased litigation.

Could you share your thoughts on the role of the Federal Government and its partnership to help resolve difficult situations around the country?

Mr. ABOLT. Thank you, Mr. Chairman. I think your point on States is particularly well taken. I think underlying a lot of the comments that have been made here is that you cannot have a successful Federal/city relationship or a successful brownfields program dealing with certainty unless you have a solid, functioning State voluntary cleanup program. Any legislation that you would consider should make sure that you have, in fact, fostered the creation of those programs and provided the kind of finality, liability protection, and even, to the extent there is funding, created trig-

gers for that funding on functioning State voluntary cleanup programs that work in conjunction with Federal goals and local goals.

Thank you.

Mr. KERNS. That's all. Thank you, Mr. Chairman.

Mr. DUNCAN. Well, thank you, Mr. Kerns.

Let me just say, you know, I am a conservative but I believe in an activist government. I believe in actually trying to solve problems, and I believe that's what you all are doing. For me what that means on some of these things is I am all for the Federal Government providing some of the money, because this is a national problem. The brownfields affect people economically, socially, and in every other way almost, but also being a conservative I'm horrified by Government waste or rip-offs of the taxpayer, and so I believe that we can get the most bang for the buck, our dollar will go the longest way if we let the local governments handle most of these problems without a lot of Federal involvement or red tape or rules and regulations.

I might tell you, Mayor McCrory, my father was city law director of Knoxville for three-and-a-half years, and then was Mayor for six years.

Mayor MCCRORY. He's got a wonderful reputation.

Mr. DUNCAN. That was from the time I was nine until I was eighteen, so I grew up at City Hall. In fact, he was the first mayor in the history of Knoxville to be re-elected. It was always a tough place politically.

I really believe that the cities need to leave these problems up to the local governments.

But what I hope people will keep in mind, when we put Federal rules or regulations or especially some of these environmental laws and we make it take five times as long, five years to clean up something that should take a year, or we add all these costs on, that who it hurts—you know, I've noticed that most of these environmental extremists always come from wealthy families, and what I don't think they realize is that when they make something cost \$10 million that we should have been able to do for \$1 million, that those costs have to be passed on to the consumer in the form of higher prices—higher rent for apartments, higher everything. And it doesn't hurt the wealthy or even the upper income, it hurts the poor and the lower income people most of all.

So I hope that we can help you streamline some of these things and speed up some of these things and give you a little money in the process to do that, but I hope also that if, when you're out there in the field and confronting these problems, if you see a specific ways that we can improve this process, that you won't just let this drop now that this hearing is ending but that you will let us know of specific ideas or suggestions that you have about ways that we need to change the laws that are in effect today.

You have been a very helpful and informative panel, and I appreciate the fact that each of you have taken time out from, like I said, very busy schedules to be here, and I salute you for what you are doing.

That will conclude this hearing.

[Whereupon, at 11:07 a.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

STATEMENT OF WILLIAM F. ABOLT, COMMISSIONER OF  
ENVIRONMENT, CITY OF CHICAGO

Good morning Chairman Duncan, Ranking Democratic Member DeFazio and Members of the subcommittee. My name is William F. Abolt and I am the Commissioner of the Chicago Department of Environment. I appreciate the opportunity to appear before you today to present the views and experiences of Mayor Richard M. Daley and the City of Chicago regarding brownfields redevelopment.

The City of Chicago has developed what is widely regarded as one of the most comprehensive and most successful brownfields redevelopment programs in the nation. Chicago's program was born of necessity. The continued existence of abandoned industrial properties would have presented potential hazards to our neighborhoods and inhibited job growth and economic development. In the mid 1990s, Mayor Daley had the foresight to recognize how the concept of recycling could be applied to land. With that recognition, the City began developing its brownfields program. To date, we have completed the cleanup of nearly 20 sites, and we have close to 70 additional sites currently underway.

Partnerships have played a key role in building Chicago's program. Our program would not be the success that is it without the valuable assistance and support we have received over the years from Congress, the U.S. Environmental Protection Agency—especially Region 5, the U.S. Department of Housing and Urban Development, the U.S. Conference of Mayors, and the Illinois Environmental Protection Agency.

We have applied the concepts of recycling land and relying on partnerships, in the belief that cities are important and useful environmental models, contributing to the well-being and economic strength of the country. Now as the City of Chicago moves forward with our brownfields initiative, we are expanding on our success by taking our program one step further. In addition to cleaning up property and communities and promoting redevelopment, we are now using our brownfields program as an opportunity to promote a new "green" business sector in Chicago. Shortly, I will give some examples of how we are accomplishing this, but first I will give a brief history and scope of our program.

## CHICAGO'S BROWNFIELDS REDEVELOPMENT INITIATIVE

Chicago began its Brownfields Redevelopment Initiative in 1993 with the goals of ensuring public health and safety while creating jobs and generating tax revenues through industrial and commercial redevelopment. With a grant from the John D. and Catherine T. MacArthur Foundation and \$2 million in general obligation bonds, Chicago set out to identify the barriers and opportunities of brownfields cleanup through both collaboration and practical experience. Our experiences on both fronts formed the basis of our continuing efforts and became models for other cities.

Chicago's program attracted the resources to continue acquiring and assembling property, assess environmental conditions, clean up contamination, and improve infrastructure in order to restore abandoned or derelict sites to productive uses. Through the City's ef-

forts, sites that just a few years ago were environmental liabilities are now neighborhood assets, bringing well-paying industrial jobs, valuable community open spaces, and affordable housing.

As you may know, bringing a brownfields redevelopment project to completion takes time. To date, we have completed the clean-up of nearly 20 sites. We are currently executing the assessment and clean-up of nearly 70 additional sites, which total nearly 1000 acres. Our most recent estimates indicate our clean-up and redevelopment efforts have created or retained more than 2200 jobs and increased the City's annual tax base by millions of dollars.

Building on these successes, we now are focused on promoting the sustainable use of redeveloped brownfield sites, looking at ways to prevent future brownfields while promoting "green" industry in Chicago, and improving quality of life in a way that positions Chicago to compete in a global and high-tech economy. Three recent examples of this follow.

#### SUCCESS STORIES

##### *1. Midwest Center for Green Technology*

This summer the City will open the Midwest Center for Green Technology on a former brownfield on Chicago's west side. This state-of-the-art model of environmentally-friendly green construction will house Spire Solar Chicago, a Boston-based manufacturer of solar technology which the Department of Environment recruited to Chicago with assistance from the US Department of Energy, and Greencorps Chicago, the City's own community greening and job skills program. Spire Solar Chicago will create 100 new jobs; Greencorps Chicago provides skills training to 25 people each year.

Before the City assumed control of this 17 acre site in 1998, it was an illegal rock crushing operation that generated on its site piles of material, some contaminated, that would fill roughly 50,000 dump trucks. An abandoned building occupied the only portion of this West Side site that was not covered by waste. We separated the debris and recycled the concrete and asphalt for use in City infrastructure projects at an estimated cost savings of more than \$1 million over buying the material.

Rather than demolish the building, the City decided to rehabilitate it for tenants in a manner that meets the goals of improving quality of life and the environment in Chicago. With the local chapter of the American Institute of Architects and with the US Green Building Council's "platinum" LEED (Leadership in Energy and Environmental Design) rating as a goal, we set out to build a showcase of "green" reuse.

The building contains features like solar panels, a rooftop garden, and locally manufactured finishing products. The site includes a stormwater retention area using native wetlands plants. In addition to the two tenants I mentioned, the building will be a community center where people can design their own landscapes and get expert advice about energy efficiency.

In short, the site is no longer an eyesore and a drain on the community's development potential. Instead it generates greenjobs and green products, provides a community meeting place, and demonstrates cutting-edge construction and site design.

##### *2. The Calumet region*

The Calumet region, a 20 square mile area on Chicago's southeast side, is ground-zero for one of Chicago's historically most important industries and is also home to the largest concentration of wetlands in the midwest. Mayor Daley, Governor Ryan, other elected officials and the residents of the Calumet region all recognize the region's potential to demonstrate that economic revitalization and ecological rehabilitation should not only simply coexist, but should be mutually supportive.

Based on this recognition, in June 2000, the City of Chicago and the State of Illinois together pledged nearly \$40 million towards reclaiming this region and interweaving its industrial and environmental assets. To date, the federal government has committed about \$6 million, and private sources are beginning to follow suit. Mayor Daley and Governor Ryan announced several large scale, interconnected projects that I'll summarize for you as an example of utilizing and leveraging a wide range of public tools and private investment. Brownfields tools are at the heart of the plans.

Sustainable growth is the goal of the Calumet region redevelopment, and the objective of economic development is as important as the quality of life issues such as recreation, open space and natural areas. The City has designated a tax increment finance district in this region to direct development and attract investment to 3,000 acres of industrial land. Another 3,000 acres have been identified as part of a new Calumet Open Space Reserve—ecologically important sites in the City that extend into the south suburbs. With some assistance from U.S. Army Corps of Engineers, the City is moving to clean up these now vacant properties and restore their hydrologic and habitat connections to improve the environmental health of the region.

Also in the Calumet region, the City is now testing a large brownfield property in preparation for constructing what will be the largest solar power plant in the country. The U.S. EPA and the Illinois EPA are assisting us. A landfill adjacent to the site, which the state recently helped stabilize, will also contribute to local power supply by converting landfill gas into energy. On the other side of the landfill, a rookery for the Black-crowned night heron, a state endangered species, will be one of several model sites of ecological rehabilitation.

Another site in the region will be selected to serve as a new environmental center, complete with walking trails, a conference and learning center and museum quality exhibits. Ford Motor Company recently contributed \$6 million toward the construction and programming of the center which, along with the Midwest Center for Green Technology and the existing North Park Village Nature Center, will form a ring of nature centers on the City's north, west and south sides.

One of Chicago's early planners is famous for having advised, "make no little plans." In addition to honoring Daniel Burnham's advice, projects like this illustrate many of the lessons we've learned from our brownfields work—that government involvement is a key catalyst; that private funders and expertise can be drawn to high-profile and well planned projects; that a careful and expansive approach to identifying challenges yields a clearer vision of the opportunities. Finally, we borrow a lesson from ecology—that interconnectedness is an asset and if we're smart we can knit projects together to support a range of economic, environmental and quality of life goals for the long term.

### *3. Abandoned Service Station Program*

With his 1998 budget, Mayor Daley devoted City resources specifically to the problem of abandoned service stations of which there are more than 500 in Chicago. In addition to possible contamination and other hazards of abandoned structures, we view abandoned service stations as "neighborhood brownfields"—a visual blight on the community, a lost commercial opportunity and a magnet for vandals and crime.

The City of Chicago has attacked the abandoned service station problem systematically, acting immediately to correct site hazards and secure lots, identifying responsible parties and compelling them to take action or pay, and finally by using new legislation to both prevent and facilitate enforcement of non-compliant sites. To date, more than 100 sites have been cleaned up.

Similar to the other examples mentioned here, the City of Chicago has sought to go beyond simply correcting the environmental problem of abandoned service stations to the point of creating an environmental solution. An example is the transformation of several abandoned service stations into "pocket" parks. Working with the community, with BP Amoco, who previously operated the stations, and with other City programs that provide landscaping assistance and horticultural training, we have installed new community green spaces on these "neighborhood brownfields."

#### LESSONS LEARNED

By redeveloping these site and many others throughout Chicago, the Mayor's brownfield team has learned many valuable lessons. In addition to using our brownfields program to achieve cleanup and redevelopment of property, we've learned how to use our program in a manner that promotes smart growth and sustainability.

Encouraging smart growth and sustainability as an inherent part of brownfields redevelopment programs is an important objective to keep in mind as Congress moves forward with a brownfields bill and cities move forward with their own brownfields redevelopment efforts. Pursuing these goals simultaneously is an effective and efficient use of resources.

In addition, there are several other recommendations I'd like to make based on lessons learned by the City of Chicago.

#### *Assessment grants*

Chicago has found great value in financial assistance from the Federal government for site assessments and investigations. We have benefited from an Assessment Pilot and Showcase Community designation by U.S. EPA and we have received \$250,000 to investigate brownfield sites as a result. We believe continued and expanded assistance for assessments is necessary; we also believe these grants can be more effective by making a simple change in how data quality is assured.

Assessment grants from U.S. EPA currently require grantees to develop a Quality Assurance Plan (QAP). A grantee may spend a significant portion of the grant preparing the QAP. However, the requirement could be waived for sites that are being investigated and cleaned up under a state voluntary cleanup program which has its own data quality standards. The effect would be to make more funding available for actual sampling work, without compromising data quality.

#### *Financing cleanup*

The biggest obstacle to the widespread redevelopment of industrial sites is difficulty financing cleanup once assessments have identified contamination. A quick and hard lesson every local official working on this problem learns is that cleanup is almost always expensive and sufficient resources to address all your brownfields almost never exists. Chicago has been aggressive about financing cleanup, investing well over \$100 million in general funds, special appropriations, and loans from the Department of Housing and Urban Development.

Still, if we could clean up more sites we would quickly find uses for them. Financial assistance to local governments for cleanup becomes even more important as the number of cleanups increases. That is because in many cases, the cost of a cleanup exceeds the value of the property even if clean. The percentage of these sites will increase as the more valuable properties get cleaned up and redeveloped. It falls to government to bridge the gap between the cost of cleanup and the amount that can be recovered upon redevelopment.

Another valuable tool that would be useful to cities in financing brownfield projects would be new federal tax benefits designed to attract private investment in such projects. In several of Chicago's projects, we have been able to successfully leverage government funds with private funds. Developing tax programs to further encourage private investment would certainly enhance the promise of success.

#### *Petroleum contamination*

Although Chicago has redeveloped its share of large, multi-acre brownfields with big economic impacts, we've learned what a profound effect it can have on a community to focus on smaller brownfields too. Even on quarter- or half-acre lots, Chicago has turned brownfields into important community resources such as corner parks, affordable homes and nursery schools. Most of these were abandoned service stations where the main contamination was from underground storage tanks and associated petroleum contamination. We know other cities also wrestle with these kinds of sites and we believe federal assistance for cleanup should permit work at petroleum contaminated brownfields.

#### *Superfund Liability*

One key for us in redeveloping both large and small sites has been taking ownership of the site. Chicago often accepts or actively pursues ownership of brownfields to prevent additional dumping or contamination, to ensure cleanup, even to help clear title. This important step could be much easier for cities if the federal government clarified Superfund liability at brownfield sites.

We also encourage greater coordination between among federal agencies involved in brownfields projects. This will enhance the effectiveness and efficiency of federal participation, and avoid duplicative requirements.

Perhaps our most fundamental lesson has been that for a City to maintain a vital economy and provide opportunity and a high quality of life for its citizens, it must confront and solve cleanup and redevelopment of brownfields. Environmental concerns are standard in transferring or developing anything larger than a residential lot, so success on a city-size scale depends on the local government's ability to effec-

tively address those concerns in a way that meets its economic, environmental and quality of life goals.

#### CONCLUSION

In conclusion, on behalf of the City of Chicago, I would like to thank Chairman Duncan, Ranking Democratic Member DeFazio and the other Members for holding this important hearing and providing us with the opportunity to share our views. We are very encouraged that the subcommittee is continuing to seek passage of a brownfields bill, and we look forward to working with the members of the subcommittee and our colleagues in other cities to ensure the continuing success and enhancement of the nation's many brownfields redevelopment programs.

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#### STATEMENT OF CONGRESSMAN EARL BLUMENAUER

Thank you Chairman Duncan and Ranking Member DeFazio, I share the Subcommittee's commitment to developing meaningful brownfields reform legislation this Congress. I was proud to support HR 1300 last Congress when the Full Committee, in strong bi-partisan partnership passed it 69-2, and regretted that we were not able to successfully pass this legislation, which dealt with brownfields and the larger issue of Superfund Reform, by the entire Congress.

Brownfields redevelopment can be a positive step towards reducing public infrastructure costs and increasing private returns, while also saving natural resources. If we are to be successful in our efforts to build more livable communities—where families are safe, healthy, and economically secure—we need to first address the current liability and financing impediments that make it difficult for communities to redevelop their brownfield sites.

A first step towards this goal is empowering local communities to participate, at the decision-making level, in the brownfield redevelopment process. In 1996, my community was selected as one of EPA's 16 Brownfield Showcase Communities. The city convened a group of citizens and worked with them to develop selection criteria and a site identification process for potential brownfield properties that yielded eight Showcase projects. The partnerships between government officials, citizens and business interests have made an important difference to our efforts. Overall, ours has been a positive experience working with EPA's brownfield program. It has enabled local municipalities to establish nationwide relationships and a communication network that promotes the sharing of best practices and innovative concepts in a timely fashion.

I applaud EPA's efforts to be a resource for communities and to provide flexibility for finding ways to link brownfields redevelopment with improving air quality, preserving greenspaces, and improving transportation linkages. Their work with the Atlantic Steele development in Atlanta, Georgia is an excellent example of the benefits that can be realized by emphasizing federal flexibility, public-private partnerships and innovation in the ability to successfully redevelop such sites more quickly and cost effectively.

Despite the progress that is being made, many substantial hurdles exist that are preventing communities from being able to redevelop more quickly and successfully the over 500,000 brownfields sites located across the country.

One of the biggest frustrations on the front line is the inability to work on properties where the sole contaminant is petroleum. If we were able to redevelop just 25% of the abandoned gas stations in our blighted communities nationwide, the improvement in the socio-economic well being of those communities would be ten-fold. Yet, our hands are tied on this important issue due to the petroleum exemption that the brownfield program inherited through its' funding under CERCLA.

The provisions provided in Section 203, Innocent Landowners, for property owners who have done their due diligence and unknowingly purchased contaminated property is an excellent step in the right direction. However, I would urge this Committee to consider making this provision retroactive. In addition, this proposed bill does not provide protection for brownfield developers who knowingly purchase contaminated property with the intent of redevelopment.

I look forward to working with the members of this Committee in the months ahead to address these challenges, and once again develop strong, bi-partisan brownfields reform legislation.

TESTIMONY OF JACK BROWN, ENVIRONMENTAL HEALTH DIRECTOR, WICHITA-  
SEDGWICK COUNTY DEPARTMENT OF COMMUNITY HEALTH, CITY OF WICHITA, KANSAS

Throughout the nation, there are countless potential "Superfund" sites—areas where environmental contamination is so severe that the federal government deems it necessary to mandate cleanup. In addition there are many sites that are adjacent to, or in proximity to these areas, that lay idle due to the presence or perception of contamination: Brownfield sites. Many of these sites have been identified; the vast majority have not, and constitute a potential for environmental and economic devastation to many communities. Cleaning these sites will require local governments to make complex choices. Their decisions will be guided by issues of legal and financial liability, and will profoundly affect both the public and private sectors; influencing property values, tax base and economic development. The choices will have lasting impacts not only on the quality of the environment, but also on the community's economic well-being.

The City of Wichita, faced with a serious environmental and public health problem that threatened its economic development, downtown business district and tax base, acted quickly to forge a creative public-private partnership to avoid Superfund designation, and protect innocent property owners from serious economic loss. The program, which received national recognition from the Ford Foundation for its innovative approach involved all levels of government, responsible parties, local lending institutions and property owners within a six-square mile area.

Fifteen years of experience has shown that tremendous pressure has been placed on municipalities to find ways of coping with the negative impact of Superfund actions and Brownfield areas. Abandoned properties, declining tax values, loss of existing business and jobs, and loss of economic development opportunity have resulted.

1. *The Impact on Wichita.* When a preliminary Superfund site investigation was initiated in the Gilbert & Mosley area which is located in the downtown area of Wichita in 1989, several immediate problems occurred:

- 1,400 acres, including downtown and residential areas, were within the area affected by contaminated groundwater.
- Local banks discontinued lending operations in the area.
- Several urban redevelopment projects in their late stages were blocked, and both business and residential property transactions came to a stop.
- Businesses began to leave the area, taking jobs away from the urban core.
- Property values were threatened by the stigma of the Superfund status and the accompanying restraint on property transactions. A study by the City Finance Office projected a rapid loss in tax revenues.
- Most experts believed it would be 10 to 20 years, or longer, before these negative impacts could be reversed, if the area became a National Priorities List (NPL) site.

2. *The Wichita Solution.* Some cities, including Wichita, have found ways of working through many of these problems. The solution which Wichita developed was to create a package of related proposals that addressed each of the problems:

- The City convened a meeting among representatives of the United States Environmental Protection Agency, the Kansas Department of Health and Environment, bank officials, and City officials to request that the site become a "City/State lead" site, not an NPL site.
- The City organized a "Groundwater Task Force" citizens' participation group, including retired professionals, university faculty, environmental groups, and business people to advise on the problem.
- The City met separately with representatives of local banks and reached agreement in principle that, if the City took lead responsibility under a state settlement, and could grant "Certificates of Release" to "innocent" property holders and the banks, the banks then would agree not to deny loans solely on the basis of environmental contamination.
- The City Council voted to utilize a Kansas tax increment finance (TIF) law to assist in the studies and cleanup and initiated the process by declaring the area a "blighted" area. This revenue would provide a secondary financial source for cleanup.
- The City reached a settlement of \$1 million with a potentially responsible party, providing for funding of the Remedial Investigation/Feasibility Study.
- The City worked closely with the County government and local school districts, whose tax revenues were affected by the tax increment finance district, to explain the consequences of not proceeding with the cleanup program.

The results were dramatic. Over 4,100 Certificates of Release have been issued, the Remedial Investigation/Feasibility Study is complete and Remedial Action will



soon be under way. Property values in the area have rebounded, businesses have expanded, and new businesses have located in the site, adding more jobs in the urban area. In recognition of these accomplishments, the Ford Foundation and Kennedy School of Government recognized Wichita as one of their 1992 award winners for "Innovations in State and Local Government." Yet more remains to be accomplished. The City now is pursuing additional responsible parties for the estimated \$30–40 million cleanup. Negotiations on cost recovery and further investigations may take several more years.

3. *Wichita has applied this model to another site.* Subsequent to the implementation of the above project, an existing Superfund area has been addressed in the City's North Industrial Corridor site (NIC). The site is nearly as large as the Gilbert & Mosley site. Based on Wichita's success with the Gilbert and Mosley project the NIC site was taken off of the National Priorities List through a petition to EPA. This allowed the City of Wichita to handle the site in partnership with the State of Kansas in a fashion similar to Gilbert & Mosley. This site is in the Remediation Investigation and Feasibility phase resulting in significant City time and resources to address each of these sites.

Other cities have followed the Wichita example or have invented their own models to solve Superfund and Brownfield problems. It is clear that cities need help to facilitate these practical solutions to these problems.

4. *Brownfield Program.* As a consequence of the City's involvement in these programs many of the components have become part of the City's initiative called the "Heart of Wichita". This initiative looks to revitalize Wichita's inner city through 50 different actions developed by staff and stakeholders through a Redevelopment Incentives Task Force. A vital part of this strategy is to turn land that is contaminated, or perceived to be contaminated, into viable property by clarifying the properties' environmental status and taking actions to assist in property redevelopment. Wichita is a Brownfield Pilot city that has tried to utilize a Brownfield Revolving Loan Fund, to provide low interest loans to qualifying persons interested in developing idle Brownfield lands. Unfortunately, the pilot program has not been particularly successful due to the complexity of the procedures and difficulty of managing both the assessment and finance side of the project.

5. *What Can Congress Do?* Several things come to mind immediately:

*Clarify authority for cities to grant contribution protection*

Wichita's program continues to operate successfully, and there have been over 5,800 Certificates of Release granted. However, Wichita and other cities need the advantage of a clearly defined authority to grant contribution protection to innocent parties and settling parties. One of the strongest inducements to settlement in Superfund and Brownfield cases is the issuance of a release to a potentially responsible party. This also facilitates property transactions and encourages economic development.

EPA has issued a limited number of releases to innocent purchasers and prospective landowners at similar sites, and EPA also grants releases through settlement with *de minimis* parties. Each process is cumbersome and unduly lengthy.

Cities need clear authority enabling the issuance of a release that is binding on all persons, including state, local, and federal governments, to assure that no further action can be taken against a settling party for matters within the scope of the settlement.

*Cities need a method to "jump-start" Superfund cleanups*

One of the most frustrating aspects of starting a Superfund Brownfield cleanup program is the lack of funding for source control or interim remedies, where it is clear that some immediate action would mitigate all or much of an environmental threat. Private parties are reluctant to make a commitment because of liability concerns. Cities frequently are under budget constraints that prevent such commitments, and may take a year or longer to budget such expenditures. Most state agencies do not have discretionary funds for these activities. It makes sense that some portion of Superfund response action funding be provided to states and cities committed to "early response" or "interim remedy funding" to minimize future costs and to demonstrate that at least a partial solution can be reached quickly. This has the potential to cut years off of the cleanup time for most Superfund sites, and to encourage private parties to cooperate early in cleanup activities.

*Cities need help with the identification of potentially responsible parties*

Reliable, factual information regarding potentially responsible parties can be difficult for cities and other private parties to obtain. EPA's own potentially responsible party searches frequently focus only on the largest and most visible parties, which then must spend their resources identifying others. To make this process

more fair, a uniform set of criteria for identifying parties should be established, and EPA should be required to pursue parties thus identified if the parties will not cooperate in cleanup activities.

*Cities need participation by all parties in an early allocation proceeding to apportion liability*

The current Superfund process drives many parties to “hide in the weeds” when efforts are made to raise funding for remedial investigation/feasibility studies or other response actions. In many cases, litigation has been the only real threat non-cooperating parties face. Use of an allocation process at an earlier stage will improve public/private cooperation by identifying the share of responsible parties, the share of local government, and the share of absent parties. Absent party shares then can be addressed by mixed funding.

*Mixed funding should be provided to represent absent shares*

EPA has utilized mixed funding in a limited number of examples to encourage overall settlement. Mixed funding draws money from the Superfund to represent the share which otherwise should be paid by parties which cannot be found or have become insolvent. Early approval of mixed funding to demonstrate that the EPA is willing to apply federal funds to a portion of a cleanup project will encourage the participation of public/private parties. Simply, it is much easier to settle with private parties when there has been an allocation of shares, some estimation of overall costs, and a sense of fairness is applied through federal funding for the share of absent parties. Mixed work is a related concept by which Potentially Responsible Parties (PRP's) and EPA divide cleanup duties at a site, usually with EPA doing work representing the share of an absent party. This mechanism should be made available more easily to facilitate settlements.

*Realistic risk assessments should be applied*

Many Superfund sites have faced enormous cleanup costs because of unrealistic risk assessment scenarios. For example, many risk assessment protocols are based on the hypothetical assumption that an individual will be born at or near a contaminated site, live their entire lifetime of 70 years at the site, ingest portions of soil during their infancy, drink several liters of contaminated groundwater each day and consume vegetable crops grown in a garden on a contaminated site.

By contrast, the Kansas Department of Health and Environment and the City of Wichita have reached a realistic risk assessment scenario for the Wichita site, taking into account institutional controls imposed by the City to restrict groundwater use for drinking water purposes. Such practical institutional restrictions eliminate the unrealistic hypothetical scenarios used at many sites, and will facilitate the reduction in time required to clean up superfund sites by many years, which has the potential to save many millions of dollars at each site. EPA should honor risk assessments approved by a state agency, even when done by responsible parties at a site under state oversight.

*Realistic cleanup goals should be applied*

Restoring groundwater to extremely restrictive drinking water standards may not be warranted where institutional controls prevent exposure. The Kansas Department of Health and Environment concluded that “alternate concentration levels” were appropriate for Wichita, taking into account the City’s institutional controls and relying on containment of the contaminated plume of groundwater. This single factor probably will save millions in remedial costs, and will result in adequate protection of human health.

*Removal of sites from NPL should be authorized when there is City/State agreement*

Even though a site is on the NPL, legal requirements should be clarified to provide that such a site can be removed and responsibility given to cities and states which have the ability to undertake a cleanup program.

*EPA oversight costs*

EPA's oversight costs represent an unknown factor in calculating project costs. Oversight costs should be clarified at the outset of each project, and evaluated for appropriateness.

On behalf of the City of Wichita, we appreciate the opportunity to share this information and to present our suggestions. We will be pleased to provide any other related information or suggestions.

## TESTIMONY OF THOMAS R. HOOVER, CITY MANAGER, CITY OF WORCESTER, MA

On behalf of the City of Worcester, I thank your Honorable Body for the opportunity to give testimony on the issue of Brownfields Redevelopment and the City of Worcester's efforts to date in addressing this major Urban problem. I also want to extend special thanks to District 3 Congressman James P. McGovern, for his tireless legislative efforts regarding brownfields and related urban issues.

The City of Worcester is the second largest city in New England, and together with our surrounding communities represents a historic industrial center, which gained prominence as a major producer of manufactured goods that were important to the early and subsequent stages of the American Industrial Revolution. Worcester's legacy as a City of Innovation and Invention continues today as we enter the New Millennium. Named an "All-America City" in 2000, by the National League of Cities, the City's innovative approaches to Social, Economic, and Quality of Life Issues have been nationally recognized.

As with similar Urban Centers across the United States, and particularly in the Northeast, a major deterrent to continued growth and expansion of our economic base is the lack of readily available and developable industrial sites in Worcester. The controlling factor in the lack of suitable sites is Brownfields contamination.

Virtually all of the city's industrially zoned land has been previously developed. Of the 2,089 acres of industrially zoned land in Worcester., approximately 25% in over 200 sites are classified by the Massachusetts Department of Environmental Protection (DEP) as experiencing various levels of contamination. In addition, there are scores of additional properties that are not listed with DEP. However, because of prior uses they are highly suspect of being contaminated.

It is well documented that abandoned and/or underutilized brownfield sites cause economic distress in surrounding neighborhoods which can lead to a number of traditional inner-city social, health and safety problems. The city's inner-city neighborhoods, which were once stabilized by large manufacturing plants, are now fractured by the vacant industrial complex that previously provided jobs and stability to the area.

It is clear that the complexity of the Brownfields problem exceeds the normal market considerations of private enterprise. In many cases the cost associated with site remediation exceeds the base market value of the property. It is therefore incumbent upon the public sector to continue to review this issue in order to identify and address the obstacles to urban revitalization that are presented by the existence of brownfields contamination.

In response to these critical issues, the City of Worcester and Commonwealth of Massachusetts have taken many steps toward reclaiming our derelict Brownfield's Sites.

Since the enactment of the 1980 Federal Superfund Legislation, the Commonwealth of Massachusetts has taken great strides toward compliance with this important law. Revisions to the Commonwealth's General Laws were enacted in 1993 which streamlined the remediation process through privatization. In 1998, Chapter 206 of The Massachusetts General Laws established new incentives to encourage private clean-up and redevelopment of contaminated properties. This legislation provides liability relief and financial incentives to attract new investment of private capital while ensuring that the Commonwealth's environmental standards are met.

On the local level, the City of Worcester has also been pro-active in addressing Brownfields issues. In 1995, the City of Worcester sponsored legislation which established the Central Massachusetts Economic Development Authority (CMEDA), a regional brownfields redevelopment model, based upon a revolving fund and whose membership includes the City of Worcester and surrounding communities. CMEDA is currently limited in its operations due to lack of financing. In addition, the enactment of new state legislation to address Brownfields in 1998 incorporated many of the benefits provided by CMEDA.

A major investment of \$40 million in City and State funding was also made in Worcester's Central Business District in the mid-1990's which resulted in the assemblage of 36 acres of contaminated brownfields properties. The City, through the Worcester Redevelopment Authority expended approximately \$12 million for clean-up of these properties that led to the construction of a \$240 million hospital facility in the Center of downtown. The Worcester Medical Center is now open and adding jobs and tax base to the City of Worcester.

Other projects in the planning stage are the redevelopment of the South Worcester Industrial Park, a 25-acre former industrial complex, and the Gardner/Kilby Hammond project, a joint proposal to develop a new Boys and Girls Club, athletic fields for Clark University, and 100 units of new housing in the City's Main South District. Again, we are faced with environmental clean up issues which hamper our

progress with these plans. The City has commissioned preliminary environmental assessments on these properties which indicate that the cost to remediate the South Worcester Industrial Area alone approaches \$12 million. The City has also completed demolition of the former Coes Knife Complex, an old cutlery manufacturer, and is faced with approximately \$500,000 in environmental cleanup costs to complete what is planned to be a neighborhood recreation area.

Other local Brownfields redevelopment projects include a recent 130 room Marriott Courtyard Hotel completed in 1999. This \$20 million private initiative was made possible utilizing the ownership and conveyance authority of the CMEDA and was completed under the guidance of a local private development corporation.

The City also has adopted legislation which waives local fees for brownfield's redevelopment, and has adopted the provisions of Massachusetts General Laws which allow communities to abate delinquent taxes to promote redevelopment of Brownfield properties. Finally, in January of this year my staff completed the attached comprehensive Brownfields Redevelopment strategy, which outlines Worcester's future goals relative to Brownfields reclamation. Financing strategies are also a component of this plan.

In short, the City of Worcester, in partnership with the State and Federal Government, has been making significant progress in the area of Brownfields redevelopment. However, our current efforts need to expand as we target our existing vacant and underutilized properties for continued economic growth. Worcester is truly a city on the move. There are currently seventy (70) projects under negotiation, proposed, or underway in Worcester which have the potential to generate \$2.7 billion in development costs over the next several years. These projects could yield thousands of new jobs, millions in new tax revenues, and over 3 million square feet of industrial and commercial space to accommodate new and expanding business, as well as, quality housing for area residents.

As this development momentum continues, the reclamation and redevelopment of the many Brownfields properties in Worcester will become more and more critical.

It is imperative that the public sector continue to commit resources and technical expertise to the issue of Brownfields redevelopment. While the level of local, state, and federal assistance to date has been significant, I respectfully request that this Committee review existing appropriations with a commitment toward developing additional resources which will address the financial gap that prevents private investment in Brownfields sites.

Continued support for programs such as Brownfield Revolving loan funds, the Better America Bond Program, and new innovative financing tools that address the funding gap associated with Brownfields properties all merit continued support from the local, state, and federal agencies committed to urban revitalization. Government participation in these programs would reap immediate results. We are working on a daily basis to bring our contaminated land back into safe, productive use.

In closing, I also encourage this Honorable Committee and all other federal regulatory bodies to keep Brownfields Redevelopment as a high priority issue during future deliberations.

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#### BROWNFIELDS REDEVELOPMENT STRATEGY—WORCESTER'S OPPORTUNITY TO RECLAIM PROBLEM PROPERTIES

A successful brownfield redevelopment strategy integrated into the overall economic development strategies put forth by the administration of the City of Worcester will lay the foundation for the redevelopment of brownfield sites and the commensurate public and private benefits that will accompany the cleanup of contaminated sites. However, successful brownfield redevelopment must overcome several critical barriers that have been well documented. These include the lack of process certainty and finality; liability concerns; added expenses of environmental cleanup; and readily available redevelopment financing resources available for brownfield projects. Therefore, an aggressive multi-faceted strategy to address the redevelopment of brownfield sites in order to return these sites to productive re-use is a priority of the City administration, and is in keeping with economic goals and quality of life goals that have been established to make the City of Worcester the most livable medium sized city in the Northeast.

The City of Worcester has over 200 documented brownfield sites of different sizes, and with varying degrees of environmental contamination. In addition there are countless more sites, not documented, that are strongly suspected to be brownfield sites because of prior use. Therefore, the City of Worcester has developed the following strategy to aggressively promote brownfield sites for future redevelopment in

order to create jobs, expand the tax base, create sustainable development and restore neighborhoods surrounding brownfield sites.

The City of Worcester has prepared and submitted a grant application to the United States Environmental Protection Agency (EPA) requesting up to \$1,000,000 to create a Brownfields Revolving Loan Fund in order to aggressively pursue the cleanup of brownfield sites that are strategically located within the City of Worcester. The EPA funds would provide the City of Worcester with an opportunity to offer loans to developers at very favorable interest rates and would also provide opportunities to leverage private financing at favorable interest rates for brownfield projects which may involve necessary redevelopment activities that are not otherwise eligible under the EPA Brownfields Cleanup Revolving Loan Fund. Therefore, the overall goals through the establishment of a Brownfields Revolving Loan Fund program are to provide a source of funds that will be leveraged with both private financing and additional public dollars to address redevelopment issues associated at brownfield sites throughout the city, and to aggressively pursue partnerships with both private and public entities involved in brownfields matters.

The city's Brownfields Redevelopment Strategy (BRS) can be divided into seven basic stages. These stages may be undertaken by private developers and/or by the city as sponsor. The stages in the BRS and the particular activities associated with each stage create different financing needs. Each individual site presents its own unique opportunities and challenges. In addition to matching financing sources to the BRS site, developers need to consider what stage(s) of the BRS process must be funded. The seven basic stages of the BRS and the associated activities include:

- Site Identification. Development and maintenance of a registry of sites, helping developers find ones that meet their needs, and advertisement and marketing of abandoned sites;
- Initial Site Assessment (Phase I Investigation). Review of public records, physical surroundings, and other readily-available data regarding the site;
- Economic Assessment. Evaluation of site characteristics, advantages, and limitations, and comparison to the initial site assessment to determine whether a site is currently viable, potentially viable, or non-viable for redevelopment;
- Detailed Site Assessment (Phase II Investigation, if required). Environmental engineering investigation, sampling, and chemical analysis of the site;
- Project Development and Financing. Selection and financing of a cleanup and redevelopment project(s) for the site;
- Cleanup Planning and Execution. Selection and implementation of a cleanup approach; and
- Redevelopment of Property. Construction or alteration of the property to suit the new use for which it is being redeveloped.

#### SITE IDENTIFICATION

The city will continue to identify and update brownfield sites in order to assist developers to identify sites with desirable characteristics and undertake advertising and marketing activities that outline the assistance available in order to promote site assessment, cleanup, and redevelopment. In the private sector, developers can look for potential sites by using these public resources. These are primarily low cost activities that need a continuous low level of financing to operate and maintain.

#### INITIAL SITE ASSESSMENT (PHASE I INVESTIGATION)

Initial site assessment activities can often be performed at relatively moderate cost. There are a number of ways to identify suspected contamination that rely on existing records, historical data, and other readily-available sources:

- Examine historical data to review historical uses and applicable federal and state reports of hazardous substances on the property;
- Research the chain of title/zoning history—who were past owners of the land, what activities were licensed;
- Examine similar characteristics for neighboring properties;
- Check for prior environmental audits and assessments (OSHA safety reports, etc.);
- Review insurance policies to determine covered activities that might have involved potentially-hazardous chemicals; and

#### ECONOMIC ASSESSMENT

A key distinction must be made between those sites in the city that are in desirable locations and have the potential to attract buyers and developers and sites that have no interested buyers and few potential uses. If there is no potential economic return to outweigh the cost of restoring a site to a useful state, no financing strategy

will induce its redevelopment until and unless this condition changes. To determine what the redevelopment potential of a site is, an economic assessment must be performed. For the purpose of developing financing strategies, the sites can be divided into three basic categories outlined below:

- **Viable Sites.** Sites that are already economically viable, and where the private market is already working towards redevelopment without public assistance. These sites either have very low potential for environmental liability, or such high potential rates of return that the advantages outweigh the risks from the project sponsors' (developers and investors) perspective.

- **Threshold Sites.** Sites that are only marginally viable, and will not be redeveloped without some public assistance. These sites may have either fewer economic advantages than the viable sites, or they may have greater potential for environmental liability.

- **Non-Viable Sites.** Sites with significant potential for environmental liability, and/or whose economic advantages are minimal at best. These sites require substantial public assistance to redevelop (in the form of subsidies), or should be left alone, if possible.

#### PART ONE: EMPLEMENTATION OF THE BRS

##### A. *Match goals to sites*

Decisions to invest in any of these three kinds of brownfields sites depend on the goals of the particular investor. To better leverage public investment, the city will direct public resources to those sites where the private sector is unwilling or unable to finance projects—threshold and certain selected non-viable sites. To the maximum extent possible, that public investment will be leveraged with private financing. A major objective of the BRS will be to move threshold sites into the viable category, and nonviable sites into the threshold and viable categories so that private investment can be attracted to them.

##### B. *Strategies for viable sites*

Typically, viable sites should need little or no direct investment of public funds. However, private owners and developers interested in a viable site may still require assistance in dealing with the regulatory and liability difficulties associated with brownfields assessment, cleanup and redevelopment. BRS components that may be appropriate for viable sites include:

- timely review and comment of assessment and/or cleanup plans and proposals by regulators;
- use-based cleanup standards, reflecting the intended use of the property;
- liability clarification so that risk can be quantified, and then managed or sold; or
- liability release (such as a covenant-not-to-sue) after the cleanup is completed.

These strategies facilitate private sector investment in the BRS while conserving public resources for sites that would not otherwise be commercially viable.

##### C. *Strategies for threshold sites*

Threshold sites may possess significant potential for assessment, cleanup and redevelopment but need some public assistance to increase the rate of return on the possible investment or to limit the potential for environmental liability before developers will consider investing in them. BRS financing components can be selected to target either need.

##### D. *Strategies for non-viable sites*

Non-viable sites may require significant investments of government resources to make an otherwise unattractive site economically viable. These sites are unlikely to attract private capital under most circumstances. Unless a severe health and/or environmental risk exists or becomes apparent, the BRS will target its assessment, cleanup and redevelopment efforts to viable and threshold sites before addressing non-viable sites.

#### III. DETAILED SITE ASSESSMENT (PHASE H INVESTIGATION, IF REQUIRED)

At this stage, a site is assessed to determine the level and extent of environmental contamination. The costs can vary widely depending on the severity of the problem, and the intensity of the site investigation required under state law. If the initial site assessment shows that there is potential contamination, a more expensive and detailed assessment is then performed. This involves:

- Environmental engineering;
- Sampling; and
- Chemical analysis.

In some cases, the private sector may be unwilling to pay for this stage of the process, because if a site is found to be too contaminated, the project will never be developed. This suggests that additional financing tools may be required at this point, for example those administered through the Governor's Office of Brownfields Revitalization.

#### IV. PROJECT DEVELOPMENT AND FINANCING

At this stage, feasibility studies may be required and the project's financing must be arranged. Activities at this stage include:

- Financial feasibility studies for the project; and
- Development of a financing plan for cleanup and for redevelopment.

This stage might include city-sponsored meetings with lenders, insurers, proposed project partners, and affected neighboring communities (their representatives and citizen groups).

#### V. CLEANUP PLANNING AND EXECUTION

This stage can involve high capital costs, because of

- Site remediation;
- Associated public notice requirements; and
- Preparation of reports for regulators.

#### VI. REDEVELOPMENT OF PROPERTY

Depending on the type of project selected, this stage can involve construction, clearance, and reuse of the property. Activities at this stage include:

- Site clearance/demolition (after remediation); and
- Construction of facilities.

#### STATEMENT OF HONORABLE PATRICK L. MCCRORY, MAYOR, CITY OF CHARLOTTE

Chairman Duncan and Members of the Subcommittee. My name is Patrick McCrory and I am pleased to speak with you today as the Mayor of the City of Charlotte, North Carolina and to share with you my City's experience in addressing Brownfield sites.

I would like to begin my remarks today by saying that Mayors across this country have been on the forefront of Brownfield issues for at least a decade. I serve as the Chairman of The U.S. Conference of Mayors Energy and Environment Committee, so I have learned of the many initiatives underway by Mayors across the country. It is the local governments that are finding innovative ways to address Brownfields and get contaminated properties cleaned-up, back in use, and on the tax rolls. However, without federal funding we, as Mayors, would not be able to undertake half of the initiatives that we have in Brownfield remediation.

I, like Mayors across the country, certainly welcome the Federal government's partnership on this issue—Charlotte has been able to use Federal monies to clean up several sites in Charlotte. I would also like to say that I am encouraged by the bill working its way through the United States Senate that would continue to support local governments by providing additional financial resources to help clean up Brownfield sites. This is a positive sign of Congress' efforts to work with local governments and partner together on issues of significant importance, especially to many of our metropolitan cities.

As many of you know, Charlotte is a Sun belt city that is not as industrialized as many Northern cities, yet a University of North Carolina study found over 1,000 sites where perceived contamination would complicate real estate transactions. Clearly Charlotte does not have the resources to address all these properties, yet we are losing businesses who are interested in locating to the City, but lack the money, technical resources and time to consider Brownfield land to locate their enterprises.

#### NFL STADIUM BROWNFIELD EXPERIENCE

One of Charlotte's first forays into tackling brownfields was in 1994, when the City of Charlotte was working to assemble land in the center city to site a football stadium for the City's NFL Carolina Panthers Franchise. The City was able to assemble 13.4 acres for the stadium and practice fields, but in doing so found that several acres of the land were identified as a State Superfund site. The land contained high levels of Lead and PCB contaminants. Knowing the site was contaminated, the City agreed to buy it at \$13 per square foot, yet made arrangements with the seller that money to clean up the site would come out of the purchase price, which ended up dropping the purchase price to approximately \$ 10 per square foot.

The remediation of the land involved placing much of the contaminants in a waste cell that presently occupies part of the property, some of the contaminants were solidified to be immobile and others still were mixed with stabilizing material and sent out of state to a hazardous waste site. The total cost for the clean up was approximately \$3 million with the city paying over \$1 million (deducted from the purchase price), \$5 million from Duke Power company, and several other smaller amounts from different companies, including \$50,000 from the State of North Carolina. Although the Federal government did not expend any funds for the remediation of this site, the Federal government took the unusual step of releasing the site to the State of North Carolina to oversee the remediation. It is my understanding, that this was the first time in Region 4 history that the federal government had released a site to be cleaned up by a local government. The result of this effort is that the City of Charlotte now has a beautiful NFL stadium and practice field on valuable Center City land that is generating property tax from the owners of the Carolina Panthers. The City of Charlotte was awarded the Phoenix Award in 1998, one of only three cities to be recognized that year by the Engineering Society of Western Pennsylvania for Brownfield clean-ups in the United States. In addition to the Phoenix award, the City of Charlotte has been used as the model in writing property transaction language that includes a covenant not to sue future land-owners for remediated Brownfield property. Most importantly, the land today still tests non-detective for contaminants.

The most telling success story of cleaning up the Brownfield land, is that the City kept four acres of the original 13.4 acres of land to house the waste cell and serve as a buffer area for the football practice field. The City recently agreed to sell the four acres of land in February for a mixed-use development for \$29.54 per square foot through a competitive bid process. The sale is contingent on the City removing the waste cell located on the property. After removing the waste cell and remediating the four acres for approximately \$1.8 million, the City will still net \$4.8 million and put an additional four acres of prime Center City real estate back on the tax roll.

#### ESTABLISHMENT OF THE CHARLOTTE BROWNFIELD PROGRAM

During the City's positive experience with the NFL Stadium Brownfield issue, the City decided to develop a comprehensive approach to tackling Brownfield issues city-wide. The Charlotte Brownfield Program was established for two main purposes:

- (1) Incent (re) development in distressed areas
- (2) Provide economic and environmental justice

In conjunction with meeting the two stated purposes of the Brownfield Program, the program includes several tangible outcomes we intend to achieve, including using redevelopment to

- assist in providing services and jobs to the community
- remove blight
- increase the tax base
- retain and attract quality businesses
- reduce potential of harm to the community because of contamination

The City's first area to implement this new Brownfield Strategy was the former industrial area known as South End and a nearby neighborhood known as Wilmore.

#### SOUTH END SUCCESS STORIES

In October 1996, the City of Charlotte was awarded a \$200,000 EPA grant, with the grant focusing on engaging the private sector and banking community in Brownfield redevelopments. The South End was targeted because of the area's close proximity to the Charlotte Convention Center and NFL Ericsson Stadium. The Wilmore area was identified due to its location next to the South End and because of its inclusion in Charlotte's federally designated Enterprise Community.

The original grant application identified a goal to assist 2-3 private sector Brownfield redevelopments. This goal was exceeded with seven projects receiving assistance. Those seven projects spurred the investment of \$17 million in the area and created 480 jobs. The seven projects include:

127 Worthington Avenue: Mill renovated as Design Center of the Carolinas. Project received North Carolina's first Brownfield agreement, limiting developer liability, in April 1998. The \$14 million dollar project is complete.

320 Carson Boulevard: Thomas Construction, previously leasing space in the South End, purchased and renovated a former radiator shop for their offices. Project involved removal of contaminated soils and is complete.

2213 Toomey Avenue: Manufacturing building to be renovated for Truck Equipment Manufacturers' expansion, adding approximately 20 new manufacturing jobs.



1525 South Tryon: Gains Brown Design to purchase adjacent properties to renovate for lease to design businesses. Properties have been purchased and contamination removed.

216 Dunavant Street: Cost Effective Maintenance purchased leased property to construct new building for their own offices and renovate existing building for lease. Property has been purchased.

West Worthington Street: The Wilmore Community Development Corporation in partnership with Boulevard Centro bought land and is looking to build affordable infill housing.

Westover Shopping Center: A dilapidated shopping center confiscated under drug seizure laws and turned over to the City of Charlotte. The land is in process of being demolished and rebuilt, but City has to address dry cleaning solvents on the site.

Because of the federal EPA grant support and the redevelopment of the South End in conjunction with the City's light rail initiative, land prices continue to increase in the South End. Due to the Brownfield initiatives in South End and Wilmore, the City of Charlotte was awarded a Savvy Award by the International City-County Communications and Marketing Association (3CMA). The award was presented for outstanding communication materials used for community meetings for the Wilmore neighborhood to identify redevelopment issues in their neighborhood. The City also won an International City/County Management Association (ICMA) award for our Brownfield Peer Exchange Program in 1998, which was selected based on the programs expertise in community involvement and brownfields redevelopment.

#### OTHER CHARLOTTE BROWNFIELD INITIATIVES

##### *Brownfield Assessment Program*

In February 2001, the Charlotte City Council approved the creation of the City's Brownfield Assessment Program, which provides matching funds to property owners or potential property owners for assessments at sites suspected of contamination. The program provides 50% matching funds up to \$20,000 per site for assessment activities that would lead to site redevelopment. The Program was started with seed money from a City appropriation of \$140,000 and an EPA Supplemental Assistance Grant of \$100,000.

##### *Brownfield Clean-up Revolving Loan Fund*

In February 2001, the Brownfield Clean-up Revolving Loan Fund was approved by Charlotte City Council to loan funds to public and private borrowers for clean up at approved sites. The funds are loaned at 2% and are collateralized by a lien on the property. Repayments are due following construction of a project or at the closing of the permanent loan. The Loan Fund was established through a \$500,000 EPA Brownfield Clean-up Revolving Loan Fund Grant. In addition to the Revolving Loan Fund Grant the City has also committed a \$100,000 EPA Supplemental Assistance Grant for Assessment Pilots to this Loan Fund to offer more assessment and clean up assistance throughout Charlotte's entire distressed geographic areas.

Both the Brownfield Assessment Program and the Clean-up Revolving Loan Fund share the same criteria for eligibility as follows:

- Suspected contamination is eligible under EPA grant guidelines
- Contamination is an impediment to redevelopment
- Project's probability of success will increase with environmental issues resolved
- Proposed end-use is consistent with community needs
- Proposed use is consistent with adopted zoning and land-use plans
- All taxes due on the property are paid in full.

In addition to the criteria, a Brownfield site selection committee consisting of five community representatives, an environmental representative and engineer, plus a banker, developer, and attorney reviews all program applicants.

##### *NCDENR staffposition in Charlotte*

The City of Charlotte's commitment to cleaning up brownfields was enhanced by the City Council when it entered into an agreement with the State of North Carolina in February 2001 to fund \$60,000 towards the services of a North Carolina Department of Environment and Natural Resources (NCDENR) staff member. The funding is for the staff member to work exclusively on Brownfield projects in Charlotte. This arrangement will help the City to address more Brownfield sites and expedite the review and application for agreements processing time with the state on identified sites.

## CONCLUSION

Although Charlotte seems to be ahead of many cities in addressing the terribly critical area of Brownfield redevelopment, the City has really only been at this for a little more than five years. Our past successes have encouraged us to do more in this area, given the increase in the property tax base, the development of blighted areas, and the availability of land options for new and growing businesses. We feel we are on the right path in our Brownfield Development Program, but as you hopefully noted, we could not be doing several of our programs without State and Federal assistance.

Mr. Chairman and members of the Committee, I thank you for allowing me to address the subcommittee today and I thank you for your continued interest in partnering with America's Mayor's and investing in our cities through Brownfield initiatives.

## STATEMENT OF CONGRESSWOMAN JUANITA MILLENDER-McDONALD

I want to thank Chairman Duncan and Ranking Member DeFazio for calling today's hearing in order that we might focus on Brownfields Development. Today's hearing is an important opportunity to focus on the redevelopment of brownfield properties in local communities that have been on the front lines.

I, like so many of my colleagues, have heard from my constituents, community groups, and local governments in my district whose quality of life and economic vitality is directly impacted by these contaminated sites. In my own district, Mr. Chairman, the communities of Carson, Gardena, Long Beach, and Lynwood have all been working actively to restore brownfield properties. It has become clear that brownfields revitalization requires broad federal involvement and the inclusion of the private sector and non-governmental organizations.

Brownfields are abandoned, idled or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination. Frequently, these properties, once the source of jobs and economic benefits to the entire community, lie abandoned for fear of the contamination and the associated liability. Instead, companies bypass these brownfields in the urban core and head for pristine greenfields outside the cities.

Restoring contaminated property can help bring life and vitality to a community. Making a once toxic area viable means more jobs, an enhanced tax base and a sense of optimism about the future.

I am pleased that this subcommittee, with the help of our witnesses today, will once again examine the issues and obstacles involved with redeveloping brownfields properties. The insights you offer today will shape the development of any future actions by this Subcommittee and the 107th Congress, as we continue our efforts to restore environmental health for our Nation.

I look forward to hearing the testimony of our witnesses today regarding their efforts in redeveloping brownfields properties within their own communities.

Thank you, Mr. Chairman.

## STATEMENT OF U.S. REPRESENTATIVE JAMES P. MCGOVERN

As the only New England member of this subcommittee, I am compelled to mention the profound effect which both real and perceived industrial contamination has had throughout New England. New England's old manufacturing economy was a forordained casualty of U.S. free-trade policy. The textile, tool and wire companies have gone, as expected, leaving abandoned factories, blighted neighborhoods and contaminated brownfields.

Brownfields are a compound tragedy for economically disadvantaged and free-trade impacted communities. Not only do brownfields pose public health risks, but economically speaking, communities that have been knocked down stay down. Businesses that might otherwise invest in communities do not for fear of being sued. Even the federal government is uneasy about investing in areas suspected to be brownfields. Last year this subcommittee undertook a bi-partisan effort to reauthorize Superfund and expand brownfields remediation efforts. I hope that this subcommittee will undertake similar efforts in this Congress.

I would like to thank you, Mr. Chairman, for having Worcester City Manager Tom Hoover here to testify before the Subcommittee about the City of Worcester's efforts to address its brownfields problems. I have worked closely with City Manager Hoover on a number of brownfields projects, including the Gardner-Kilby-Hammond and

the South Worcester Industrial Park projects, both of which I believe Mr. Hoover will elaborate on in his testimony.

Worcester is the prime example of a city whose development is being impeded by brownfields. Approximately one hour away from Boston, Worcester has all the advantages of location and infrastructure. A regional airport, an intermodal rail port, and access to the interstate highway system are all reasons why Worcester should have thrived during Route 128's high-tech boom years. But brownfields have prevented thousands of new jobs from coming to Worcester and kept several blighted neighborhoods from being restored.

Thank you, Mr. Chairman, and I look forward to working with you to address some of these issues in the next two years.

OPENING REMARKS OF CONGRESSMAN C.L. "BUTCH" OTTER

Chairman Duncan, Ranking Member DeFazio, it is an honor to be here before you again. Brownfields legislation is one of the most important issues the subcommittee will take up this year.

Brownfields cleanup needs to be a state directed and controlled process. State and local communities know best what level of cleanup they need. Idaho's small communities, like those in other states, suffer the double burden of bearing huge cleanup costs for Brownfields, then seeing development go to, new sites that do not bear any risk of EPA involvement.

EPA needs to be refocused away from being an enforcement agency to an enablement agency providing financial aid, disaster assistance, technical expertise and national coordination. Micro management only helps bureaucrats in Washington.

My distinguished colleague in the other body, Senator Crapo, has taken the lead in demanding that Brownfields legislation recognize the primary interest states and localities have in cleaning up Brownfields. I agree with the distinguished Senator that any federal legislation on Brownfields certify that in any cleanup where EPA has not mandated cleanup, or where cleanup has been completed to a state's satisfaction, EPA cannot step in without dire reason. I look forward to working with you, Mr. Chairman, and the other members of the sub-committee to draft common-sense brownfields legislation this year.

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TESTIMONY OF CHRISTOPHER S. PAWENSKI, COORDINATOR, INDUSTRIAL ASSISTANCE PROGRAM, COUNTY OF ERIE, NEW YORK

BETHLEHEM STEEL SITE, LACKAWANNA, NEW YORK

Mr. Chairman and distinguished members of the Subcommittee, thank you for the opportunity to address this Subcommittee on issues involving the development of brownfields in our nation's urban core. My name is Chris Pawenski. I am the Coordinator of the Industrial Assistance Program in Erie County's Department of Environment & Planning. Erie County Executive Joel A. Giambra sends his regards. He fully supports federal regulation and assistance that will expedite the redevelopment of former industrial properties in our urban cores, thereby preventing development being forced out to our valued greenfields. Brownfield redevelopment has been made a priority by County Executive Glambra.

The County of Erie, in cooperation with all local government entities as well as the State and Federal government, has been spearheading the revitalization of 2000 acres of brownfields within the Cities of Buffalo and Lackawanna. Our highest priority has been the transformation of the former Bethlehem Steel manufacturing site, in the City of Lackawanna, into a 21st Century industrial park utilizing the inherent assets of this location—water, rail, highway access—and its proximity to major markets in both the United States and Canada.

First opened in 1899, the Bethlehem Steel site covers approximately 1,600 acres along the eastern shore of Lake Erie. At its peak, the facility employed 25,000 workers in 7 million square feet of buildings with 25 miles of rail track. During WW II, the Lackawanna plant was the highest volume steel producing facility in the country.

In 1983 the company decided to close down a major portion of its steel making activities at the Lackawanna Plant, idling over 20,000 workers. Today the facility employs less than 1,000 workers. The company has demolished all unproductive facilities and over 1, 100 acres remain a vacant expanse of brownfields. This represents a significant portion of our urban waterfront and mandates a need for economic development. Since the facility's closing, neighboring property values have

plummeted over 50%, city population has decreased over 40% and the neighboring community has become a center of social environmental issues.

In 1999, Erie County and the Bethlehem Steel Corporation developed a public/private collaboration to propagate the reuse of the vacant brownfield property. This collaboration brought together governmental agencies from all levels of government. The purpose was to define a path to move forward, which would remedy concerns of the agencies and at the same time fulfill the needs of the community. It was decided that an approximately 102-acre parcel would be targeted to be the first phase of redevelopment for a new industrial park. The Bethlehem Steel Corporation had agreed in principle to transfer the property title to public ownership.

This first phase created the need to have the EPA involved since the entire Bethlehem site was under an Administrative Order of Consent and Interim Status. It also required the involvement of the NY DEC because of environmental liability concerns, as well as the involvement of other state agencies. Because of this early involvement of all agencies, EPA Region 2 notified the County of a pending RCRA Brownfields Prevention Initiative Pilot Program. An application was submitted in cooperation with EPA Region 2 and the Bethlehem Steel Corporation. The Bethlehem Steel Lackawanna site was one of four applications approved nationally for this new initiative.

A task force was established with representatives from Erie County, Bethlehem Steel Corporation, NY DEC HQ and Region 9, and EPA's Office of Solid Waste and Emergency Response (OSWER) and Region 2. Within a couple of months the task force agreed on short and long term goals. The short-term goals were to remove the Administrative Order of Consent and to initiate the process between Bethlehem Steel and the NY DEC to enter the 102-acre site into a state voluntary clean-up program. The long-term goal was to establish a process that can be continued and assessment and remediation standards that can be moved forth on the remaining property that would be targeted for redevelopment.

#### *Outcomes and successes*

Within ten months after the task force was established, short-term goals were primarily achieved. The Administrative Order of Consent has been removed from the 102-acre site, although it was determined that this goal could have been easily achieved eight years earlier. The release of this Administrative Order of Consent required a letter of request from the Bethlehem Steel Corporation accompanied by a land title survey.

The NY DEC has agreed to let Bethlehem Steel Corporation enter into negotiations to put the 102-acre site into a voluntary consent order. This voluntary consent order will be similar, but not completely the same as the state's voluntary clean-up program. This is because of a policy between the NY DEC and EPA Region 2 that does not allow properties under Interim Status to enter into a state voluntary clean-up program. This voluntary consent order is a first and only time adventure for the NY DEC. The NY DEC was willing to take this step because of the unified and early cooperation of this task force under this Brownfield Initiative Pilot Program.

One of the keys to reaching the short-term successes was a two-day workshop and site visit by all members of the task force, as well as community leaders from the County of Erie, City of Lackawanna and neighboring communities. By bringing the task force members together in one room, issues were addressed and the development of solutions was expedited.

Long-term goals continue to be pursued. Bethlehem Steel and the NY DEC are currently in discussions on what level of assessment and level of remediation standards should be used on the property. The task force maintains monthly conference calls, headed by the OSWER, but since the Brownfield Initiative Pilot is essentially over, the role of each member is not clearly defined. It is the individual members of the task force and their desire to be part of the solution to develop the means to reach the long term goals that keep this process moving forward.

#### *Barriers Encountered*

There were basically two barriers encountered while trying to achieve the short-term goals. The first barrier was the unwritten policy between the EPA Region and NY DEC that discourages putting a property under Interim Status into a voluntary clean-up program. This policy is not consistent throughout the country, as some Regions encourage voluntary clean-up programs on Interim Status properties. Our goal was to get this property under the state voluntary clean-up program that would require the expenditure of private funds for remediation of the property. Since this policy was not a written policy it was difficult to challenge it or seek an amendment to it.

Our second greatest barrier was the lack of proactive direction when encountering areas that are not covered by law, regulation or policy. In order to work within the first barrier the task force determined the next best solution would be to amend the property lines as described in the Interim Status Order. After several weeks of discussion the attorney from EPA Region 2 directed us that amending the property lines, even if agreed by all concerned parties, would not be allowed. In depth discussion lead the County to ask for a copy of the regulation or law that stated this. To our chagrin, there wasn't anything that did not allow this amendment, the problem according to the attorneys is there is no regulation or law that allows for it. So in the absence of any direction in "gray" areas that did not define a path to be taken, the approach was "let's play it safe".

We were able to go around these barriers by the NY DEC's willingness to develop the voluntary consent order. This is a first for the NY DEC, but unfortunately it is a one-time event. So when the remainder of the 1,000 acres is targeted for redevelopment, as well as other similar brownfield sites, these barriers will occur again. In summary, we went around the barriers but were unable to reach a solution to eliminate them. It should be noted that the barriers we encountered were not related to public health or safety issues. At no time was the proper clean-up or public safety going to be compromised. The barriers were strictly legal, procedural and administrative.

#### *Federal Assistance and How to Expedite Brownfield Redevelopment*

1. The federal government needs to provide legislation that encourages a proactive approach toward brownfield redevelopment. When agencies encounter "gray" areas, the approach should not be "play it safe", it should be the approach that best suits the needs of the community. The federal government should always endeavor to be part of the solution, as opposed to "staying out of the way" of state and local governments. Agencies should also be given the direction to be proactive in reaching out to PRP's for assistance in removing RCRA or CRCLA Orders. Waiting eight years to notify a PRP should not be acceptable.

2. Communities should not have to wait to be selected for a pilot program in order to get agencies from all levels of government involved. Consideration for creation of a permanent action response team(s) should be given. There is a considerable advantage to bringing together peers from different agencies to solve problems regarding brownfields; waiting once a year to hope to be part of a few selected communities is unreasonable. In essence, if the Bethlehem Steel Lackawanna site was not selected as part of this Brownfield Initiative Pilot, the short-term goals would not have been developed let alone achieved.

3. Provide adequate resources to federal agencies to allow personnel to meet directly with the local community as well as other governmental agencies.

4. Develop consistent policies throughout all EPA Regions. In particular, it should be encouraged to put properties under Interim Status into a state voluntary clean-up program.

5. Develop legislation that gives special consideration to brownfields in communities with high levels of social environmental concerns. Brownfields have often led not only to the decay of neighboring properties but also to the decay in quality of life in the neighboring community.

6. Provide assistance to regions that face the calamity of urban sprawl, simply because the effort of privately redeveloping brownfields cannot be justified compared to the ease of moving to our valued greenfields.

7. Allow federal funding from different agencies be used on the same brownfield project. Develop criteria to allow this, but if different agencies warrant funding involvement in a brownfield project due public safety, health, social environmental issues, sprawl, etc. they should all be encouraged to participate and the community should not be limited to only one source of federal funding, especially in programs that require matching funds.

8. Allow federal funding to be used in conjunction and participation with principle responsible parties (PRP) in voluntary clean-up programs when warranted. Often the PRP maintains ownership of a property but does not have the complete financial ability to enter a voluntary clean-up program. The result is the property becomes ignored by the PRP and the public and this leads to the growth in social and economic woes associated with brownfields. Also, the local government often forecloses on brownfield property because of delinquent taxes and then the public pays for 100% of remediation costs.

9. Direct federal funding assistance directly to each local/regional government. Let each community and/or region justify the need for federal assistance directly to the federal government. Allowing states to accept the federal funding and then distribute adds a level of bureaucracy that is undesired by those that are in need of this

assistance. This approach is successful with the federal government's Community Development Block Grant Program. However, these funds are not sufficient to address brownfields.

10. Provide significant funding resources directed at the remediation of brownfields. It is not uncommon to spend up to \$100,000 per an acre to remediate and redevelop a brownfield. The communities they are in typically cannot provide funding resources because of the detriments brownfields brings to the community. Many brownfields are located in economic and socially distressed areas and not in areas of high property demand or high property values. Most federal programs allow funding to be used for brownfield site planning and assessment and not for remediation. We must do more than just find the problem we need to also fix it. Not fixing the problem would result in the property remaining non-productive, non-tax producing and non-job creating.

#### *Closing*

Brownfields have become the forgotten child in the field of economic development, not contaminated enough to warrant immediate federal and state assistance and not clean enough to warrant private investment. The alternative to not providing assistance and expediting brownfield redevelopment is unacceptable—allowing brownfields and their economic and social detriments to languish while we allow our valued greenfields to become the brownfields of tomorrow and leaving them to our future generations.

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#### TESTIMONY OF JAMES R. WILLIAMS

Thank you, Mr. Chairman and members of the Committee, for the opportunity to address this subcommittee and provide positive evidence of the impact that federal, state and local dollars have had on the local Brownfields reclamation process in Chattanooga (Hamilton County) Tennessee. My name is James R. Williams and I am the Brownfields Program Manager for the Chattanooga-Hamilton County Air Pollution Control Bureau. Both our Mayor, Jon Kinsey, and our County Executive, Claude Ramsey, send their regrets that they were not able to be here today to testify. I will speak briefly about our local Brownfields efforts.

#### I. INTRODUCTION

In 1998, the Chattanooga-Hamilton County Air Pollution Control Bureau accepted the challenge of the Mayor and the Hamilton County Executive to develop a local government Brownfields Program. This program, which focuses primarily on the inner-city neighborhood of Alton Park, was created to address:

- The tax revenues lost when industry left the neighborhood;
- the need to develop new industrial sites for economic development opportunities;
- the need to create jobs; and
- the need to mitigate the environmental risks associated with idle or vacant properties.

The governments of the City of Chattanooga and Hamilton County both committed funding for the Brownfields program and also garnered donations from a partnership created by five local utility providers.

#### II. SMART GROWTH

Throughout the United States cities and even small towns are taking on the challenge of smart growth. Redevelopment of brownfields sites is an integral component of smart growth. Redevelopment of these sites (1) protects the environment by reducing contamination and preserving undeveloped greenfield sites, (2) reduces the need for additional infrastructure, and (3) expands the local tax base and creates a return on government investment.

Most significantly, smart growth can be achieved by making community development an integral part of brownfields redevelopment. It is not enough to clean up brownfields sites and return them to the tax rolls. They must also be restored and incorporated as integral components of the communities where they exist. In this way, a city will achieve the highest end use of that property.

Before I continue on specific aspects of our program, I think it is necessary to provide the context for its development. Chattanooga's successful air pollution reduction actions are widely recognized as the springboard to current local sustainable development initiatives. During the 1960s, Chattanooga was considered one of the most polluted cities in the United States. However, over the last 30 years, our city

has cleaned up its environmental act. Many events helped make this change possible, but it was the process of Visioning that acted as the main catalyst.

Visioning, also called charrette, is a process of facilitated public dialogue designed to bring together various community stakeholders with different viewpoints, and to establish understanding where differences exist. The result is community consensus. Consensus developed through the visioning process allows the creation of a set of goals and projects and then provides guidance for those whose task it is to implement them. The visioning process enables the development of plans of action necessary to experience real results.

Chattanooga's legacy of facilitated public participation started in 1982 with the appointment of the Moccasin Bend Task Force. This initiative of public and private citizens was the foundation of other major community wide visioning processes:

- Vision 2000 (1984)
- Re-Vision 2000 (1993)
- Southside Charrette (1996)
- FutureScape Survey (1997)
- Eastgate Charrette (1998)
- ReCreate 2008 (1999)

These community participation efforts helped to produce results in many local brownfields development areas. One example, Vision 2000, led to the redevelopment of Ross' Landing, and its centerpiece, the Tennessee Aquarium (1992). Ross' Landing is located in the center of Chattanooga, along the Tennessee River. In the early 1980s, the Ross' Landing area was the home to abandoned or closed warehouses, gas stations, trolley barns and other unused buildings. By 1998, the area had been redeveloped into the heart of Chattanooga's riverfront renaissance, even before brownfields initiatives were noted as an urban redevelopment strategy.

Today, the total investment toward the development of the Chattanooga riverfront exceeds \$400 million. The public-private partnership has contributed to an enhanced quality of life, offering new opportunities to live, work and play in attractive and safe downtown locations.

Another example of brownfields development is the Southside Development District, and its kick-off project, Finley Stadium/Cricket Pavilion. This project is a multi-million dollar, multi use sports stadium and open space pavilion built on formerly contaminated soil. Through intense negotiations with the State of Tennessee, the Department of Environment and Conservation and the U.S. EPA, Region IV, a clean-up strategy was established and the revitalization of this important area began. More recent development projects in the Southside are the \$43 million Chattanooga Business Conference Center, which will have its official grand opening next month, and the \$15 million Business Development Center, which is scheduled for opening in 2002. Both projects, which began construction over the last 18 months, utilize former brownfields properties.

Community revisioning also led to the 1996 consolidation of the City and County school systems. School consolidation resulted in the needed revitalization of many closed school buildings and their related acreage. The City used creative, innovative means to bring these brownfields back to life. Three examples are Habitat Square, the James A. Henry Elementary School site, and the Joseph E. Smith Elementary School site.

Habitat Square is a joint public-private partnership between Habitat for Humanity of Greater Chattanooga, the City of Chattanooga, and numerous volunteers and funding partners. This four-acre tract of land, a former elementary school site, was donated by the City for the construction of 20 three- and four-bedroom homes. The homes were built for low-income families with annual incomes of less than \$12,000, and average family sizes of 4 or more. Habitat Square is the first subdivision constructed by Habitat for Humanity and is the site of the 100th local house constructed through this organization of volunteers.

The City donated the property for Habitat Square, which was appraised at \$291,000, with a replacement value of \$1.2 million. Over \$700,000 was raised for the construction of the 20 homes with the City investing an additional \$350,000 (\$111,500 in Community Development Block Grant funds) in infrastructure improvements in surrounding neighborhoods on the perimeter of Habitat Square.

Local residents formed a Homeowners Association that now takes an active role in setting the course of the neighborhood. As a result, new businesses have developed and slums and blight in the surrounding neighborhoods have been removed. In addition, several homes have been renovated and made available as affordable, single-family dwellings. To address the educational needs of children residing in the community, the Hamilton County Board of Education is beginning construction of a new middle school with an investment of over \$14 million.

The second example of school revitalization is the former James A. Henry Elementary School site. Donated to the Westside Community Development Corporation (CDC), which created local public-private partnerships focused on community development, the CDC transformed the site to a \$1.2 million community resource center. Located in the heart of an inner city housing development, the City donated the building and \$227,000 toward building renovations. The CDC was able to raise its own capital to acquire adjacent underutilized property to construct a \$1.3 million commercial complex that leases space to retail and service providers that serve the Westside community.

The third example is the Joseph E. Smith school site, which was sold to a local African American church, Olivet Baptist. The church is completing construction of a \$2.5 million sanctuary and social service building that will provide needed support to residents in the Martin Luther King, Jr. community, an inner city neighborhood.

### III. ECONOMIC DEVELOPMENT

If smart growth in the form of environmental protection and community development is the destination, then economic development is the vehicle for getting there. The bad news is that redevelopment of the 450,000–600,000 brownfields sites in this country is a Herculean effort. The good news is that there is ample private investment capital available for the job. Smart growth and economic development are inextricably joined. Therefore, groups who have often been antagonists in the past must now work toward a common goal.

The preceding examples of brownfields reclamation for the Chattanooga community provide the context for our recently developed Brownfields office. Clearly, there exists one common thread, our visioning process. This process now guides our efforts in the implementation of our local Brownfields program, which is federally funded. In the last 18 months, the program secured two U.S. EPA grants:

- \$200,000 Brownfields Pilot Demonstration Assessment Grant—August 1999
- \$100,000 Superfund Redevelopment Initiative Grant—July 2000

Additionally, and most important, the Brownfields Program is a partner in the successful \$35 million, HUD Hope VI Revitalization Grant, awarded in June 2000 to the Chattanooga Housing Authority for the Spencer McCallie Homes, a public housing development located in the heart of the Brownfields Pilot target community.

This federal grant targets Alton Park, a community that contains a diverse mix of brownfields redevelopment challenges, such as abandoned manufacturing sites, residential neighborhoods, and the need for economic stimulus in the community.

This area of approximately 3 square miles has over 300 acres that could be redeveloped for either residential or industrial/commercial use. Located within this area are some of our city's largest and most successful employers—employers that have had recent expansions of operations. Yet despite these expansion's, this target area remains one of the most economically depressed areas in Hamilton County.

As part of each grant's work-plan, we recognized a need for a comprehensive redevelopment or revitalization plan for this community. Fortunately, this planning process received the full support and commitment of the Mayor and the County Executive, the Chattanooga City Council, and the Hamilton County Commission. Our local elected leadership has worked in a bipartisan way to fuel a resident-driven revitalization plan.

In September 1999, Mayor Jon Kinsey hosted an initial meeting in Alton Park, which was attended by over 250 people. This meeting led 25 residents to participate in selecting the charrette consultant, AA Baker & Associates of Tampa, Florida.

The City and County funded a four-day community charrette in February 2000, and the consultant team facilitated a visioning process with input from over 500 stakeholder participants, resulting in the Alton Park Master Plan of Redevelopment for this community. The Chattanooga City Council officially adopted this plan in October 2000.

Without citizen involvement serious conflict, mistrust and delaying interventions might have occurred, which would have made it difficult for positive change to occur. Instead, our process has enhanced accountability, ownership, empowerment, and a continued involvement, which is the "Chattanooga Way."

The Program has engaged the services of an environmental contractor, a leader in brownfields reclamation locally, statewide, regionally, and nationally, to create a prototype GIS database of brownfields development sites. This database will incorporate both the economic development as well as environmental information necessary to attract investment from both the public and private sectors.

The Program database will be a "development tool" that aims to augment our local economic development "Cluster Model" currently in use by our local Chamber of Commerce. Cluster growth will create new economic growth for our regional and



the brownfields database will provide potential locations for this growth. Facilitating the Chamber Partnership will be critical to the development of the Brownfields Program.

The aim of our Brownfields Program is to facilitate the revitalization of brownfields throughout the community by balancing a long-term process of brownfields remediation and reuse with active community participation and involvement. The Alton Park planning charrette was an important first step in the brownfields redevelopment process. The program hopes to use the model of the Alton Park community to expand the local effort to other Brownfield projects, such as the Volunteer Army Ammunition Plant site. Now the stage is set for the next critical elements, which are:

1. Securing the funding that will lead to real change in this distressed community;
2. Becoming clearer about the liability issues surrounding any brownfields project.

Public sector dollars were secured in the last 18 months to help attract private investors to Alton Park. While the public-sector funds are substantial, private interest is ultimately what keeps a community alive. One way of creating a thriving community is to attract local business; another way is to attract homeowners. Both could be done by:

1. Reducing lender risk using:
  - Loan guarantees
  - Companion/subordinate loans
  - Purchase of environmental insurance
2. Reducing borrower's cost using:
  - Interest rate reductions or subsidies
  - Due diligence or loan packaging assistance
3. Improving the borrower's financial situation through:
  - Repayment grace periods
  - Tax abatements
4. Offering direct resources such as:
  - Grants
  - Forgivable/performance-based loans
  - Training and technical assistance

In addition to private funding, government funding is used to fill in the gaps necessary to close brownfields deals. Public funds are used to purchase abandoned properties and environmental insurance, which helps eliminate or lessen the financial uncertainties of a project.

#### IV. PRIVATE INVESTMENT AND UNCERTAINTY

Uncertainty is the single greatest impediment to there development of brownfields sites. Unfortunately, current environmental law and regulations creates uncertainties about the potential liabilities associated with a site. This is exacerbated by the fact that there is no guarantee of how environmental liability will be apportioned now and in the future. This uncertainty may be minimized somewhat through extensive, up-front environmental investigations. But there is still the issue of the cost and time it takes to conduct the investigations and even if the investigations are conducted there is no guarantee that redevelopment will occur nor is there any way to know the potential negative impact of the investigations. Thus, uncertainty creates inaction, and capital goes elsewhere, leaving, the brownfields site undeveloped.

Legislation has been drafted in the State of Tennessee to minimize the uncertainty caused by state environmental laws and regulations. The legislation is designed to clarify liability for current and future owners and operators. Prospective purchasers and developers will be able to enter into firm agreements with the State of Tennessee to accept responsibility for remediation of brownfields sites without fear of being sued in the future for additional liabilities. If cleanup criteria are predicated on future land use patterns, legal mechanisms are available to ensure that land use will be limited as promised. Findley Stadium is an excellent example of how these agreements can help foster new uses of brownfields sites.

Also, the new state brownfields legislation currently proposed by Governor Don Sundquist's administration underscores a commitment for brownfields redevelopment in Tennessee.

#### V. THE ROLE OF FEDERAL GOVERNMENT

Business, communities, and state and local governments are accepting their responsibility in ensuring smart growth through redevelopment of brownfields sites. It is critical for the federal government to expand its leadership role. Currently, agreements between prospective purchasers and states to conduct voluntary cleanup of brownfields sites are not protected from future additional requirements by the

federal government. This creates another form of uncertainty that inhibits redevelopment. Federal law should be changed to enable states and developers to make final and binding agreements without fear of future action by the federal government.

The federal government can also support the efforts of state and local government through grants for the creation and operation of state and municipal brownfields programs. These grants would jump start brownfields redevelopment throughout the United States. At the same time, it would allow state and local governments to tailor their programs to the specific needs of their constituencies.

While private investors will be able to redevelop most brownfields sites through normal means, some brownfields sites have a net negative value. The great majority of these sites will never be redeveloped without investment of public dollars. State and local government will continue to be sources of some of those dollars, but the federal government also has a responsibility to appropriate money targeted specifically for brownfields redevelopment. Further, existing funding programs should make brownfields redevelopment projects a priority when appropriating funds.

#### VI. CONCLUSION

In summary, development of our local brownfields has occurred in a variety of ways. Environmental factors alone did not necessarily control the brownfields redevelopment processes. There were other factors beyond environmental contamination that drove these brownfields reclamation projects. In most cases economic factors were the prime determinants of each project. Our local brownfields reclamation projects offered the best opportunity to not only recycle land, but also to better utilize existing infrastructure, e.g., roads, sewers and utilities.

Each of the local brownfields reclamation successes in the Chattanooga-Hamilton County community has had the positive components of partnership with all levels of government—local, state, and federal—and public and private investment, combined with a successful public input process in developing a vision and a plan of action. Each of these successes required the necessity of coalition building and utilized a charrette process, which encouraged stakeholders to:

- Hear and respect differing points of view;
- Establish an extensive, diverse web of citizen task forces and organizations working to improve community conditions;
- Plan and coordinate an interrelated approach to find solutions.

This same methodology will continue to be the prototype for our local Brownfields Program.

Our design is simple: Bring the community together to hear, plan, establish and coordinate solutions. This again is the “Chattanooga Way.”

### ADDITIONS TO THE RECORD

#### TESTIMONY OF R. BRUCE JOSTEN, EXECUTIVE VICE PRESIDENT, GOVERNMENT AFFAIRS, U.S. CHAMBER OF COMMERCE

Chairman Duncan, Ranking Member DeFazio, and members of the Subcommittee on Water Resources and the Environment, I am R. Bruce Josten, Executive Vice President of Government Affairs for the U.S. Chamber of Commerce (“U.S. Chamber”), the world’s largest business federation representing more than three million businesses of every size, sector, and region.

We commend you for conducting this important hearing on redeveloping abandoned and potentially contaminated former industrial and manufacturing properties, commonly referred to as “Brownfields” sites. Thank you also for the opportunity to submit this testimony for the record on “Brownfields: Lessons from the Field.”

The U.S. Chamber believes legislation is necessary to encourage Brownfields redevelopment by reducing the uncertainty regarding the cleanup of Brownfields sites, and the separation of Brownfields redevelopment from the Comprehensive Environmental, Responsibility, Compensation, and Liability Act (“CERCLA” or “Superfund”) liability structure for sites with little or no contamination.

In my testimony, I present recommendations that, if adopted, the U.S. Chamber believes will greatly accelerate the pace at which Brownfields sites are cleaned up and redeveloped for commercial, industrial and community uses.

*Brownfields redevelopment should be a national priority*

Among the members of the U.S. Chamber’s federation are 3,000 state and local chambers. Perhaps no other environmental issue impacts these chambers and their

respective communities as much as Brownfields redevelopment. Various estimates indicate there are as many as 500,000 Brownfields sites throughout the United States. These sites are blights on communities, drain the local tax base, hinder economic growth, and often pose environmental risks. The vast majority of Brownfields sites remain abandoned, derelict and unattractive to developers—even though these sites are usually located in areas with access to a strong workforce, and transportation and utility infrastructure—because of uncertainty regarding:

- The nature and extent of potential contamination;
- Potential liability to be imposed on the owners and operators of the site by the retroactive, strict and joint, and several liability provisions of CERCLA, and
- The ability of state voluntary cleanup programs to enable Brownfields restorations without undue federal intervention.

*The U.S. Chamber is a longstanding advocate of Brownfields reforms*

The U.S. Chamber has worked to bring together state and local governments, environmental regulators, local chambers, developers, the financial and insurance industries, and major sports organizations, such as the U.S. Soccer Foundation, to discuss strategies for Brownfields redevelopment. As part of this strategy, the U.S. Chamber:

- Hosted the “Brownfields to American Dream Fields” conference in 1999 to explore methods to redevelop sites into athletic fields;
- Hosted the “Let’s Make it Happen” conference in 2000 that centered on approaches to redevelop Brownfields sites as commercial and community facilities; and
- Will convene the “Brownfields Summit” on June 18, 2001 to highlight strategies for implementing new Brownfields legislation, should it be enacted, or efforts to promote and support Congressional Brownfields legislation.

*Brownfields restoration initiatives are beginning to demonstrate success*

Over the past few years, the U.S. Environmental Protection Agency (“EPA”) has established a process, through a series of policies described in guidance documents, that encourages states to assert control over the restoration of Brownfields sites.<sup>1</sup> Currently, 35 states have voluntary cleanup programs designed to remediate Brownfields.<sup>2</sup> Of the more than 12,273 sites in these state programs, 2,691 have been restored and redeveloped, Pennsylvania’s program has been the most successful, cleaning up 583 of the 654 sites—89 percent—in its program.

Although this progress is praiseworthy, at the current pace it will take centuries to remediate 500,000 Brownfields sites. To accelerate the pace of redevelopment for Brownfields sites, Congress needs to build on the progress made by these 35 states and EPA. Redevelopment of Brownfields sites will bring jobs, significant economic development, an expanded tax base, and a better quality of life to the communities where these sites are located.

*Congress must recognize the differences among Brownfields sites*

Any Brownfields reform legislation should treat sites according to the risk they pose to human health and the environment. Superfund was established to respond to the most highly contaminated sites that posed imminent and substantial endangerment to human health and the environment. However, as currently interpreted, any site that contains a detectable level of a hazardous substance—down to a few molecules—is potentially subject to CERCLA liability. Due to this extremely broad, ridiculous interpretation of CERCLA, the number of Brownfields sites has grown from a few thousand to approximately 500,000.

However, the vast majority of Brownfields sites are not contaminated at levels that require Superfund National Priority List (“NPL”) listing and Superfund liability. Among the 500,000 Brownfields sites in the United States, there are three categories. Each type of site requires a different remediation strategy:

<sup>1</sup> See <http://www.epa.gov/swerosps/bf/gdc.htm> for a list of guidance documents. For information on EPA Brownfields efforts, see <http://www.epa.gov/swerosps/bf/index.htm>.

<sup>2</sup> Of these states, 12 have entered into Memoranda of Agreement (“MOA”) with EPA and follow the Agency’s guidance. The remainder have state-sponsored voluntary cleanup programs that are similar to EPA’s programs but independent of EPA oversight. The primary difference between these two efforts is that cleanups in those states working under MOAs receive a release from federal CERCLA Liability when a site is remediated according to the appropriate plan. These MOAs include provisions that allow EPA to reopen the cleanup based on a set of conditions. Sites remediated in states with voluntary cleanup programs that do not have MOAs with EPA only receive a release from state liability and remain subject to CERCLA liability should there be subsequent discovery of significant contamination of the site. The state voluntary programs, however, have cleaned up 1,530 Brownfields sites and 1,161 sites have been cleaned up pursuant to EPA MOA programs. The vast majority of final cleanups have occurred in five states—Pennsylvania, Illinois, Texas, Washington and California.

- Sites with significant contamination. Sites in this category are high-risk sites under EPA or state screening criteria, listed or proposed NPL sites, and sites subject to CERCLA enforcement action should remain under CERCLA jurisdiction. Superfund is the appropriate mechanism for restoring these highly contaminated sites.

- Sites not contaminated or sites with insignificant amounts of contaminants. Sites with little or no contamination should be released immediately from the CERCLA liability structure and restored through state voluntary cleanup programs. Using Superfund to clean up these sites is like using a bulldozer to build a sandcastle. The Superfund “bulldozer” may work, but for many Brownfields sites, it is not the right tool.

- Sites that need additional investigation. Many sites require further testing to determine the quantity and amount of contamination. Sites that have not been characterized but are believed to be contaminated should be studied to determine the nature and extent of contamination and the best course of remediation.

To this end, the U.S. Chamber provides the following three common sense recommendations for Brownfields legislation.

*Recommendation 1: Support efforts to fully characterize site contamination*

Brownfields legislation should provide funding to encourage the full, comprehensive characterization of Brownfields sites. Funding, which could include grant programs and state revolving loan funds, will greatly reduce the uncertainty surrounding the extent of contamination at sites, and identify and implement the measures necessary for remediation.

This type of financial support would greatly expedite Brownfields redevelopment because the potential number of sites with little or no contamination is significant. A report published by the U.S. General Accounting Office (“GAO”) in December 2000 stated that of the 1,666 site assessment that had been completed pursuant to EPA Brownfields Restoration Pilot Program funding, 623 sites—approximately 37 percent—did not require cleanup activities.<sup>3</sup> If the GAO study is representative of the entire inventory of Brownfields sites, this data may indicate that 30–40 percent of the estimated 500,000 Brownfields sites may require little or no remediation, totaling 150,000 to 200,000 sites. Of the remaining sites, characterization would determine how to best cleanup and redevelop sites, through state voluntary cleanup programs, Superfund, or other statutes.

*Recommendation 2: Enact CERCLA liability reforms*

Certain site remediation should be managed through Superfund. As previously stated, sites that are proven to be significantly contaminated should be cleaned up and restored pursuant to CERCLA. Working with the states, EPA is the appropriate government body to ensure these sites are cleaned up and restored.

Contamination below NPL listing criteria should be managed by state programs. For sites contaminated at levels below NPL listing standards, parties redeveloping sites should be able to work with state environmental agencies to establish cleanup plans under which the site will be remediated. Upon completion of the remediation, the state would certify to EPA that the site had been remediated according to the plan and appropriate cleanup standards. As long as the retroactive, strict and joint, and several liability provisions of CERCLA continue to apply to all sites that may contain any hazardous substance, the site owners and operators will be reluctant to redevelop these sites.

To authorize this process, Brownfields reform legislation should release from CERCLA liability contiguous property owners, prospective purchasers, innocent landowners and parties that redevelop Brownfields sites in accordance with a state approved plan. These provisions would remove potential uncertainty that could deter parties from cleaning up or purchasing restored Brownfields sites by ensuring that developers and purchasers of redeveloped sites will not be held responsible for any contamination on the site that occurred in the past.

This reform would enable cleanups in accordance with other traditional federal and state environmental laws and common law liability requirements. Although Superfund would not apply in these cases, other federal and state statutes that regulate the treatment, storage, handling, transport and disposal of hazardous waste would ensure that cleanups are conducted in a manner that protects public health and the environment. These statutes contain severe sanctions for violators, and specify measures for addressing improper disposal, corrective action and other ac-

<sup>3</sup>U.S. General Accounting Office, Report to the Chairman, Committee on Commerce, House of Representatives, “Brownfields: Information on the Programs of EPA and Selected States,” Report Number GAO-01-52 (December 2000), at 31.

tivities that endanger human health and the environment. Should unknown site contamination be discovered in the future, responsibility for cleanup would be assigned to potentially responsible parties (“PRPs”) pursuant to the CERCLA liability scheme.

Release uncontaminated sites. As noted above, there may be 150,000 to 200,000 sites classified as Brownfields that are not contaminated or do not pose a risk to human health and the environment. Provisions of legislation should allow developers to file with a state environmental permitting agency an audit report establishing the site as “not contaminated.” Should site characterization clearly demonstrate that Brownfields sites are free of environmental degradation, the site would be released from CERCLA liability.

This categorization process will promote the expedited restoration and redevelopment of low-risk sites by encouraging state voluntary cleanup programs to harness and leverage private sector resources. It will also limit federal intervention in state cleanup programs concerning sites with minimum contamination and those restored to minimum state standards.

*Recommendation 3: Establish finality for state cleanups*

Brownfields legislation must limit the role of the federal government in non-CERCLA, state voluntary cleanups to instances of imminent and substantial endangerment. Other more expansive provisions would lead to EPA meddling in state cleanups. Such an expansive ability to second-guess the states will discourage state cooperation.

Under existing cleanup programs, many states have already proven reluctant to cooperate with EPA. Although 35 states currently have voluntary cleanup programs, only 12 have entered into agreements with EPA.<sup>4</sup> The 23 remaining states have established independent voluntary cleanup programs to escape EPA micro-management of activities that states are very capable of performing.

Clearly, EPA should not have a blank check to micro-manage state-led remediation efforts. Without limiting EPA authority over state voluntary cleanups, a significant degree of uncertainty will continue to deter parties from redeveloping Brownfields sites. Such a degree of EPA oversight is unnecessary. As noted, state voluntary cleanup programs have already resulted in more than 2,600 restored Brownfields sites. Congress needs to build on the progress made by the states—not establish new statutory provisions that will undercut state responsibility.

Once again, thank you and the members of the committee for your leadership on the Brownfields issue. The U.S. Chamber appreciates your consideration of our views on restoring Brownfields sites. These efforts are necessary to improve the economic prosperity and environmental conditions of communities throughout the nation.

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STATEMENT OF TIMOTHY P. MURRAY

As Worcester seeks to refocus its economic development agenda on the industries of biotechnology, information technology, healthcare and manufacturing our success will hinge upon the city’s ability to provide developable parcels for businesses to locate and expand in Worcester. However, the city is limited in this regard as there are very few developable parcels currently available. Recent statistics from the City Manager’s Office indicate that there are 248 confirmed properties in Worcester that are environmentally contaminated. These properties often remain in an unused state for years because of liability issues regarding contaminants which prevent private sector investment or reuse. It is also projected that there are over 600 polluted parcels or brownfields as they are commonly known within the 34.5 square miles that comprise the boundaries of our city. These properties vary in size from small individual lots to contiguous acres of vacant land and abandoned buildings.

Similar projections approximate the current annual assessed value of these 600 brownfield properties at \$300 million. However, in an improved state the property values of these same 600 properties would increase to \$1 billion a year. This would increase revenues collected by the city by nearly \$30 million dollars annually. If this revenue was ever realized it could be used to substantially reduce the tax burden now being paid by Worcester’s homeowners and business owners. A dramatic example of the impact this revenue could have is that by using half of this \$30 million in one year we could wipe out the current 10 year backlog of streets and sidewalks that need to be repaved.

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<sup>4</sup>See footnote 2.

Equally significant is that the redevelopment of these properties would create job opportunities and private investment in our city. Much of this investment would take place in neighborhoods that have seen a pattern of decline and disinvestment. This disinvestment results in abandoned or decrepit housing stock, arson, crime and many of the other characteristics of urban blight. Moreover by removing the pollutants from these properties we will reap numerous environmental benefits that will result in cleaner rivers, parks and air quality for our citizens.

A recent article in the August 6, 2000 Sunday Telegram by James Bodor chronicled how municipalities with acres of unpolluted land in close proximity to highways and airports have been the most successful in attracting emerging high tech companies and venture capital investment. This development of virgin land is also known as urban sprawl as it often wipes out acres of open space and woodlands. However increasingly state and federal policy makers are seeking to create legislative and financial incentives to combat the detrimental effect of urban sprawl and encourage the reuse of older industrial brownfield sites. These policy trends coupled with Worcester's strong transportation network, geographic location and educated work force requires that Worcester develop a focused and coordinated plan to access the needed resources to implement brownfield clean ups of the acres of fallow land throughout our city.

Worcester has had some success in this regard to date. The Worcester Medical Center came to fruition because of the work of the City, Worcester Redevelopment Authority, the State and St. Vincent's. The Worcester Business Development Corporation is currently working on this issue in the Prescott Street area and CMEDA was used to develop the Marriott Hotel site on Grove Street.

However, we must greatly accelerate our efforts to take full advantage of this economy and the many assets Worcester possesses. In this regard, the City Manager should consider establishing a group of business and government officials to address this critical issue. Areas of discussion for such a group might be as follows: (1) development of local low interest loan pool or revolving fund to augment private, state and federal grant and lending programs, (2) designation of point person within city government to educate property owners and developers on existing incentive and loan programs, (3) creation of legislative agenda with state and federal officials to secure additional resources, (4) create GIS mapping inventory of all identified and projected brownfield locations, (5) continue to further identify existing city resources and incentives to assist in brownfields clean up. Worcester's future is bright but it is imperative that we act now in this era of economic prosperity to ensure Worcester's future success for the next one hundred years.