

Brownfields FAQ

Source: Environmental Law Institute

<http://www.eli.org>

What is a brownfield?

The federal government defines brownfields as "abandoned, idled or underused industrial and commercial properties where expansion or redevelopment is complicated by real or perceived environmental contamination." Brownfields may make you think of dirty, blighted, abandoned industrial property, but that image is too narrow. Though some brownfields are old industrial sites, others are commercial buildings with little or no environmental contamination. Brownfields could be former service stations, warehouses, abandoned railroads or air strips.

What is a greenfield?

Greenfields are areas of land that have not previously been developed, such as woodlands, farmlands, or fields that are typically on the outskirts of urban areas. Many businesses and industries prefer developing greenfields to avoid the complications involved with brownfields specifically and, in general, with development in urban areas. Extensive development of greenfields, particularly combined with underdevelopment of brownfields and other infill properties, can intensify problems of urban sprawl.

How does a community benefit from brownfield redevelopment?

Brownfield redevelopment can help a community in many ways. Many brownfields sites are in unattractive, economically depressed parts of a neighborhood. Cleanup and redevelopment of the sites can encourage higher property values and create jobs, as well as positively impact the local economy by creating a safer, healthier urban space to house businesses and residences.

What are the benefits of brownfield redevelopment to property owners?

In addition to providing benefits to surrounding communities, property owners that clean up and reuse their brownfield properties may benefit directly by:

- Avoiding potential environmental enforcement actions by federal, state and local regulatory agencies that could impose penalties and costly cleanups;
- Receiving tax benefits for cleaning up and reusing the property;
- Reducing the likelihood that contamination from the property will migrate off site or into the groundwater under the site, thereby limiting liability for, and long term costs of, cleaning up the property;
- Creating good will within the community
- Reducing the potential need to address liabilities associated with the property in financial statements and Securities and Exchange Commission filings;
- Realizing an enhanced return from the property by making it more valuable and marketable.

Where are brownfields located?

Brownfields are found all across the country, but are concentrated primarily in urban areas. They may be former gas stations or dry cleaning facilities, or former industrial properties where at one point hazardous substances may have been used.

How many brownfields are there nationwide?

According to estimates made by the United States General Accounting Office, there are as many as 425,000 throughout the U.S.; however, it is difficult to estimate with any certainty the number of brownfield properties. Other estimates suggest that there are 5 million acres of abandoned industrial property in urban areas.

Who is involved in brownfield redevelopment?

A variety of private and public sector organizations may play a role in the course of cleaning up and redeveloping brownfield sites. Not all of these organizations will be involved at every site. Key players include: state environmental agencies, state economic development and planning agencies, citizen and community groups, commercial lenders, technical consultants, legal counsel, local government agencies, developers, investors, real estate professionals, local community development corporations, and federal government agencies, such as the U.S. Environmental Protection Agency.

What are state and local agencies doing to aid brownfields redevelopment?

Many state economic development agencies have incentive programs that focus funding on assessment, cleanup, basic construction, and infrastructure development for brownfield sites. In some instances, these programs are designed exclusively for brownfield applicants; in other instances, more broadly defined redevelopment funding programs give special preference or priority to brownfield site applicants. Larger cities are also beginning to have their own brownfield programs, including tax incentives for cleaning up brownfields. In addition, some local governments use tax increment financing, or TIFs, to dedicate taxes to secure financing for development activities. Such programs may include brownfields redevelopment tasks, such as site assessments. The rules for TIFs vary by jurisdiction, but generally they allow local governments to issue bonds to finance development costs in a specific area, such as site improvements or infrastructure.

Are there tax incentives for brownfields redevelopment?

In addition to direct financial assistance, federal, state and local tax incentives are available to property owners and developers to help reduce the costs of brownfield projects. The federal tax incentives include the Taxpayers Relief Act, which allows eligible taxpayers to deduct qualified cleanup expenses at eligible brownfields in the year they are incurred, and rehabilitation income tax credits for 10% of the expenses of rehabilitating structures built before 1936. Many state and local governments also provide tax breaks for brownfield projects.

How clean is clean - must a brownfield site be cleaned up to pristine conditions?

The extent of cleanup will vary considerably depending on the type, amount and area of contamination, and the cleanup standards used by the specific regulatory program that governs the cleanup. In addition, a key factor in determining the level of cleanup is whether the use of the property is taken into account in setting cleanup standards. For example, if a property is slated for industrial use, the cleanup standards may be less stringent than if the property were to be used for residential purposes, because the level of exposure to the contaminants will be less.

How much will the cleanup cost?

The cost of the cleanup will vary considerably depending on the level, type, amount, and extent of contamination. For example, if the groundwater under the site is contaminated, the cost of cleanup is likely to be much higher than if just the soil is contaminated. If the contaminated materials need to be transported off site for treatment that will also affect the cost. The cost will also depend on the standards that apply to the cleanup, particularly whether the use of the property is considered in setting cleanup levels. If a brownfield property is cleaned up to commercial use standards, for example, rather than residential use standards, the cleanup will typically be less expensive. The cost to the property owner of the cleanup will also be affected by whether there are other parties, such as previous owners of the property, that are also responsible for the contamination and can contribute to the costs.

How long will the cleanup take?

The length of the cleanup will vary according to the level, type, amount and extent of the contamination, as well as the cleanup standards that apply to the site. A site with extensive soil and groundwater contamination that is cleaned up to residential standards is likely to take longer to clean up than a site that has only minimal contamination and will be used for industrial purposes. Factors such as the time of year, or unusually bad weather can affect the duration of the cleanup. In most cases, technical consultants will be hired to perform the cleanup. The pace of the cleanup will also be contingent in part on the consultants' schedules and levels of efficiency.

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