

Fostering the Reuse and Revitalization of Petroleum-Contaminated Sites

Brownfields Funding Workshop

IOGCC 2010 Annual Meeting

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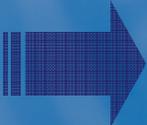
Outline of Today's Presentation

- I. Definition of Brownfield**
- II. Liability Protections under CERCLA the Brownfields Act**
- III. Benefits to Cleaning up and Revitalizing Brownfields**
- IV. EPA's Petroleum Brownfields Action Plan**
- V. EPA Grant Programs and Technical Assistance available to address brownfields**
- VI. Training/conference opportunities**
- VII. Contact information**

Small Business Liability Relief and Brownfields Revitalization Act

The Brownfields Law defines brownfields as:

“...real property, the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”

 Also includes sites contaminated with *petroleum products*, controlled substances and mine-scarred lands

 Estimated over 200,000 brownfields across the U.S. with petroleum contamination issues

What is a Petroleum Brownfield?



Brownfields Can Mean Different Things...

- **A Site**
 - As defined by Brownfields Revitalization Act
- **A State Program**
 - Administered by Voluntary Cleanup Programs or Oil and Gas State Programs
- **EPA Funded Assistance Project**
 - Grant funded assessment or cleanup
 - Direct technical Assistance
- **Local Program**
 - Part of local revitalization efforts

Benefits to the Oil and Gas Industry: Liability Protection

All Appropriate Inquiry Prior to Acquisition of Real Estate

- Owner/Operator Liable Unless Exemption Applies
 - ★ The Oil and Gas Industry is NOT exempt from CERCLA liability. When your name is in the chain of title, you are a PRP.
- Common Liability Exemptions/Defenses
 - Involuntary Acquisition (Tax Foreclosure, Eminent Domain)
 - Voluntary Acquisition (Donation, Purchase)
 - Bona Fide Prospective Purchaser
 - Innocent Landowner
 - Contiguous Property Owner

If exemption applies, site may be eligible for grant funding!

Benefits to the Oil and Gas Industry: Liability Protection

All Appropriate Inquiry Prior to Acquisition of Operational or Producing Properties

- Often there is no change in real estate (surface) ownership
- Regardless, an operator of an oil/gas property is seen as the RP from the state's and EPA's perspective and assumes the environmental liability for that site
- Onus is on the operator to identify and document environmental issues at time operations are transferred or they can be held responsible for pre-existing issues

Benefits to the Oil and Gas Industry: Liability Protection

- **Bona Fide Prospective Purchaser (BFPP)**
 - Not Responsible For Contamination
 - Not Affiliated With Responsible Party
 - Continuing Obligations
- **All Appropriate Inquiry**
 - ASTM E1527 Ph I Environmental Site Assessment
 - **Must be accomplished prior** to Acquisition

Benefits to the Oil and Gas Industry: Liability Protection

Certificate of Completion/No Further Action Issued by State Environmental Authority

- Can address liability as a responsible party
 - Helpful if you acquired a problem site and are liable for someone else's issue
 - Particularly important if you sell or transfer a site to another entity for reuse
- TX and OK are only two states with specialized Oil and Gas brownfields programs
 - Tailored to common oil and gas site contaminants such as petroleum and brine

Benefits to the Oil and Gas Industry: Assistance with Site Assessments

Targeted Brownfields Assessments

- EPA
- State

Cleanup

- EPA
- State, in some cases



Benefits to the Oil and Gas Industry: Community Enhancement



Economic

Increased property values and city tax revenues

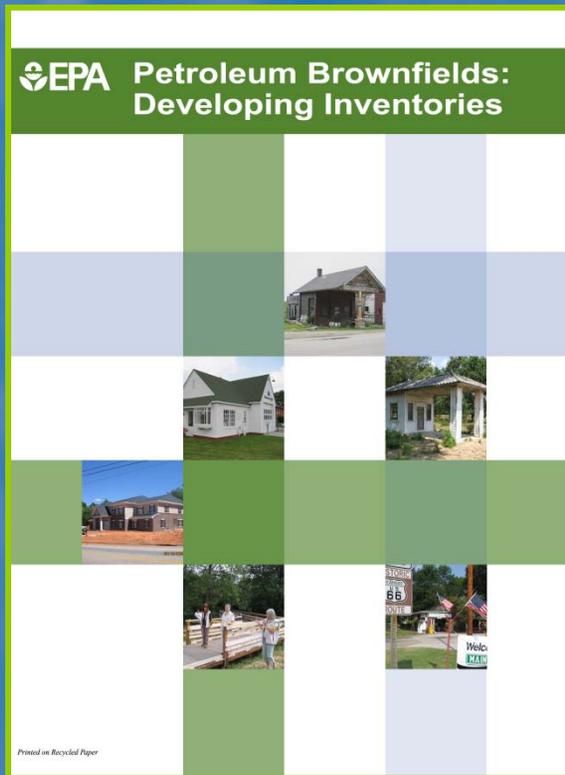
Social

Decreased urban sprawl and inner city blight

Environment

Potential threats to human health and the environment

Petroleum Brownfields Action Plan



- Promotes Revitalization and Sustainability
- Builds on EPA's Existing Petroleum Brownfields Program jointly managed in EPA by
 - Office of Brownfields and Land Revitalization
 - Office of Underground Storage Tanks
- Provides Grants for Assessment and Cleanups
 - 2002 Brownfields Law specifically allocates 25% of grants for petroleum brownfields
- Developed two new tools:
 - Petroleum Brownfields: Selecting a Reuse Option
 - Petroleum Brownfields: Developing Inventories

Action Plan's Four Initiatives

- Better communication and outreach to Petroleum Brownfield Stakeholders
- Support to State, Tribal and Local Governments
- Explore Policies To Facilitate Increased Petroleum Site Revitalization
- Forge Partnership To Promote Investment In and the sustainable Reuse of Petroleum

Produced Water Under CERCLA

Produced water as a pollutant/contaminant under CERCLA 101(33)

Produced water may be considered a pollutant or contaminant under CERCLA. Therefore, land contaminated with produced water (oilfield) can be eligible for brownfields funding. Sites contaminated with produced water would not be considered petroleum brownfields.





Annual Funding Opportunity

State & Tribal Response Programs

128(a)



CERCLA 128(a) program grant funding is available to all states, US territories and federally recognized tribes through a non-competitive grant process to establish and enhance a response program but can include site-specific work to inventory, assess, and cleanup properties contaminated by produced water and petroleum.



~\$50 M

Annual Funding Opportunity

104(k)

- Assessment
- Revolving Loan Funds
- Cleanup

~\$90 M

ARC hazardous substance and petroleum funding is available annually through a competitive grant process to inventory, assess, and cleanup properties contaminated with produced water from the exploration and production processes of oil and gas.

Summary of EPA Assessment Grants

Community-Wide	Site-Specific	Coalition
Up to \$200,000 for hazardous substances ¹ and \$200,000 for petroleum ²	Up to \$200,000 for hazardous substances ¹ or petroleum ²	Up to \$1,000,000 for hazardous substances ¹ and/or petroleum ²
No waiver of funding limit	May request a waiver for up to \$350,000	No waiver of funding limit
Maximum combined amount \$400,000	Maximum amount \$350,000	Maximum amount \$1,000,000
May also apply for a site-specific grant; may not apply as a member of a coalition	May also apply for a community-wide grant; may not apply as a member of a coalition	May not apply for an individual community-wide or site-specific grant or as part of another coalition

Cleanup Grants

- Up to \$200K per property
- Hazardous substances or petroleum contamination
- May apply for up to 3 properties: separate proposals for each property
- Applicant applying for both hazardous substance and petroleum cleanup grant funding at the same site must submit ONE proposal, which cannot exceed \$200,000
- Non-profits may apply
- Cost share requirement of 20%

ARC Eligible Entities

All applicants must describe how they are an eligible entity in order to receive an ARC grant(s).

Eligible entities are:

- General Purpose Unit of Local Government (as defined under 40 CFR Part 31)
- States and Federally Recognized Tribes
- Quasi-government entities (e.g., regional councils,
- redevelopment authorities, economic development agencies, etc.)
- 501(c)(3) non-profits (Cleanup Grants Only)

Technical Assistance Opportunity

Targeted
Brownfield
Assessments

TBAs

The TBA program is a service provided through an EPA contract in which EPA directs a contractor to conduct environmental assessment activities to address the requestor's needs. These EPA assessments can address produced water contamination and petroleum contaminated sites.

Technical Assistance Opportunity

Technical
Assistance to
Brownfield
Communities

TABs

The TAB program is a grant program that provides geographically-based technical assistance and training to communities and other stakeholders on brownfield issues. This technical assistance can address produced water contamination and petroleum contaminated sites.

National Brownfields Conference



- April 3-5, 2011
- Pennsylvania Convention Center
- www.brownfields2011.org

Interested in EPA Funding or Technical Assistance?

Contact your:

EPA Regional Brownfields Office:

www.epa.gov/brownfields

Or

Contact me:

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