



Wednesday, November 30th, 2022 1:00 PM – 2:30 PM EST



Overview



- Introduction to Superfund Redevelopment
 Alexis Rourk Reyes, EPA Superfund Redevelopment Program
- Top 10 Questions to Ask When Buying a Superfund Site and Prospective Purchaser Inquiry (PPI) Service

William C. Denman, EPA Office of Superfund Remediation and Technology Innovation Matthew Sander, EPA Office of Site Remediation Enforcement Casey Luckett Snyder, EPA Region 6

- Developer Perspectives
 Annika Colston, AC Power LLC
 Michael Goldstein, Esq., The Goldstein Environmental Law Firm
- Wrap Up: Resources and Contacts
- Question and Answer Session

Solar System of Contaminated Properties

450,000 - 600,000

Brownfields

100,000 – 200,000 Underground Storage Tanks (abandoned)

6,400 RCRA Sites

53% of the U.S. population lives within 3 miles of one of these sites.

40,000 Superfund sites (removal & remedial)

Superfund Redevelopment Program



Brick Township Landfill New Jersey



Bunker Hill Mining & Metallurgical Complex Idaho



Eagle Picher Henryetta Oklahoma



Chisman Creek Virginia



RSR Corporation
Texas



Chemical Commodities
Kansas



Massachusetts

Supports EPA staff and works with communities and other partners in considering future use opportunities and integrating appropriate reuse options into the cleanup process.

Benefits of Reuse at Superfund Sites

Sales generated by businesses at Superfund sites in reuse totaled \$65.8 billion in just one year (2021), which is nearly four times the \$17.3 billion that EPA spent cleaning up these sites cumulatively.



Top 10 Questions to Ask When Buying a Superfund Site and Prospective Purchaser Inquiry Service



Casey Luckett Snyder, EPA Superfund Redevelopment Program/EPA Region 6
William C. Denman, EPA HQ - Office of Superfund Remediation and Technology Innovation
Matthew Sander, EPA HQ - Office of Site Remediation Enforcement

- 1. What are the advantages of buying a property within a Superfund site?
- 2. How do I find information about a Superfund site and who can I contact at EPA?
- 3. Does the site property have use restrictions and can it be reused safely?



4. How can I get protection from Superfund liability if I buy or lease a contaminated property?

5. Would I be responsible for doing any cleanup work if I purchase or lease a site property?



- 6. Are there benefits to voluntarily agreeing to do some of the cleanup work at a site?
- 7. How can EPA liens impact a purchase of a Superfund site property?
- 8. What information does a lender need and how can EPA help?



9. How can local governments assist in getting Superfund sites back into reuse?

10.What resources and support can EPA provide to help purchasers and lessees?



Superfund Redevelopment Resources & Tools

Comfort Letters

EPA Guidance,
Handbooks &
Fact Sheets

PPI Service

Liability Protections

Superfund Redevelopment Mapper Technical Assistance and more...



THE REVITALIZATION HANDBOOK
Addressing Liability Concerns
at Contaminated Properties



TOP 10 QUESTIONS TO ASK WHEN BUYING A SUPERFUND SITE



January 2022



The U.S. Environmental Protection Agency (EPA) is committed to encouraging the cleanup, reuse, and redevelopment of Superfund sites to achieve significant environmental, economic, and social benefits in surrounding communities. EPA has supported new and ongoing uses at more than 1,000 Superfund sites. The purpose of this document is to answer some of the questions that a prospective purchaser or lessee may have about a property at a current or former Superfund site. EPA resources and additional information related to Questions 1-9 can be found in the response to Question 10.



Contaminated properties are cleaned up under a wide variety of federal, state, tribal, and local government cleanup programs and legal authorities. The federal government is closely involved in the cleanup of some contaminated properties including Superfund sites that have hazardous substances, pollutants, or contaminants located on or beneath them. Superfund sites are cleaned up under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as "Superfund"). Even if a property is not the original source of the contamination, it can be part of a Superfund site.



1. What are the advantages of buying a property within a Superfund site?



Many Superfund site properties are in desirable locations close to existing infrastructure, offering excellent redevelopment incentives and may have discounted prices. Redevelopment of Superfund sites throughout the country has led to new uses including affordable housing and residential areas, major shopping centers, business parks, recreational facilities, natural areas, and renewable energy facilities. Superfund cleanups are designed to safely allow specific future uses such as commercial, industrial, or residential use. For example, a property cleaned up to commercial or industrial standards may be suitable for retail, offices and manufacturing, but not for residential use without additional cleanup.



Many Superfund sites are suitable for redevelopment even if cleanup is still ongoing. Superfund sites are often well studied, so that the nature and extent of contamination is already known, thus reducing certain risks when buying property. In addition, EPA's Superfund Redevelopment Program and site staff work with communities, stakeholders, and other interested partners to consider and integrate future use opportunities into Superfund cleanup plans.

ayou Bonfouss in Stidell, Louisiana; Kansas City Structural Steel in Konsas City, Konsas; Industri-Plex in Woburn, Massachusetts; Dover Gas Light Co. in Dover, Delaware.







Office of Site Remediation Enforcement e of Enforcement and Compliance Assurance

June 2020

Visit the Superfund Redevelopment Program at: www.epa.gov/Superfund-Redevelopment

Prospective Purchaser Inquiry (PPI) Service

- Site status and current/future site restrictions.
- Compatibility of proposed reuse with cleanup.
- What are the available protections?
- Any EPA Superfund and/or Windfall liens?
- What EPA tools and support may be helpful?

Prospective Purchaser Inquiry Service



Using the Superfund Redevelopment Program's Prospective Purchaser Inquiry Service to Support Superfund Site Reuse

EPA's Superfund Redevelopment Program works in partnership with EPA staff and communities to support the beneficial reuse of Superfund sites across the country. The Prospective Purchaser Inquiry (PPI) Service is an effective best practice that EPA regional site teams can use when they respond to inquiries from stakeholders interested in purchasing, reusing or facilitating the reuse of Superfund site properties. At the same time, the PPI Service can provide tribal, state and local governments, communities, developers and other stakeholders with valuable information on how EPA can support their reuse efforts.



EPA's Prospective Purchaser Inquiry (PPI) Service

EPA Regions use a variety of tools to support reuse at Superfund sites. EPA's PPI Service brings these tools together to provide accurate, comprehensive information about both removal and remedial Superfund sites. The information provided by EPA helps prospective purchasers make informed and timely decisions. The service is free of chares.

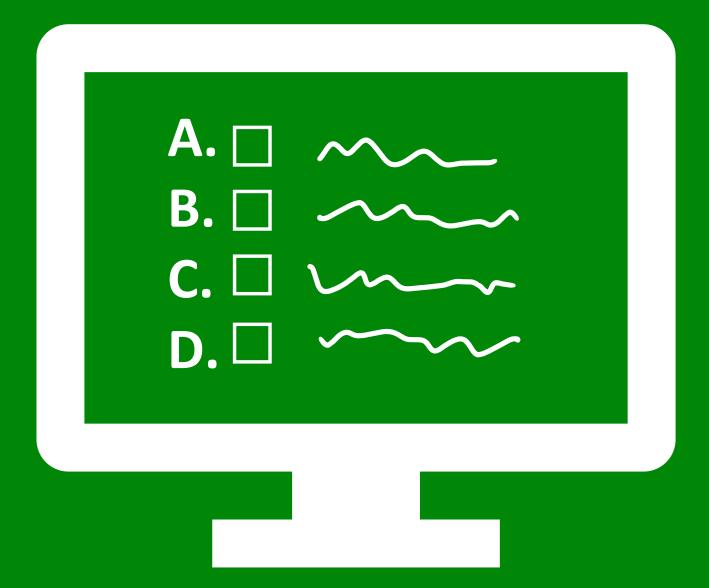
Through this service, EPA ensures that people have current and accurate information about a site 'S Superfund cleanup status and timelines, current and potential property restrictions, available liability protections, and any EPA lien status. When EPA site teams and Regional Superfund Redevelopment Coordinators offer the PPI Service, they help ensure that purchasers are informed, engage in redevelopment activities consistent with a site's cleanup, and coordinate with EPA to ensure the long-term protection of human health and the environment.

PPI Meeting Agenda and Discussion Topics

- What is the current status of EPA's cleanup? What are the future anticipated actions?
- Is the proposed reuse compatible with EPA's cleanup and the site's current or potential site restrictions?
- 3. Does the prospective purchaser understand applicable federal landowner liability protections?
- How will EPA settle or resolve any Section 107(I) Superfund liens or Section 107(r) Windfall liens?
- 5. What EPA tools and support may be helpful?



Knowledge Check! Poll Question



Developer Perspective

Annika Colston

President & Founder, AC Power LLC



Overview of Solar Development on a Superfund Site

- 1. Superfund site identification does the site make a good candidate for a solar project?
- 2. What is the superfund site history?
- 3. Who are all of the stakeholders (exhaustive)?
- 4. Characterize the solar development process, budget, timeline and economics.
- 5. Characterize Superfund site risks, liabilities and mitigation options.
- 6. Reach go/no-go decision
- 7. Proceed with solar development tasks
- 8. Proceed with and execute contract documents
- 9. Closing, construction and ongoing O+M





Case Study: Global Landfill Solar Project Old Bridge, NJ

- 1. AC Power identified the site in 2017 as a candidate site. Intent was to develop up to 4MW solar project on plateau of landfill cap.
- 2. Operated as a SW landfill for 20 years and in 1984 there was a slope failure. During investigation 63 buried drums were identified and site was placed on NPL. A PRP group was identified and 1991 a ROD was issued. Remediation completed in 2012.
- Stakeholders PRP group, EPA and NJ DEP, Old Bridge Township, NJ BPU.
- 4. In 2021, solar project was selected in NJ Community Solar Pilot Program year 2 as a 2.8 MW project. The economics were attractive enough to proceed.
- 5. AC Power retained outside counsel and experts to evaluate site risks and liabilities.
- 6. AC Power identified long term owners of both solar project and Superfund site; and made a go decision.
- 7. Expected to complete development tasks in 12/22 and Commercial Operation by 11/23





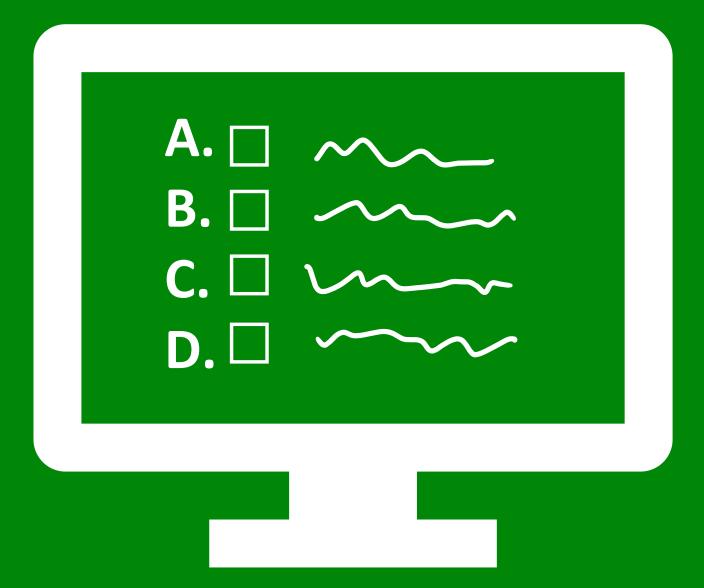
My Mantra - C*P*C*P

Collaboration
Patience
Creativity
Perseverance





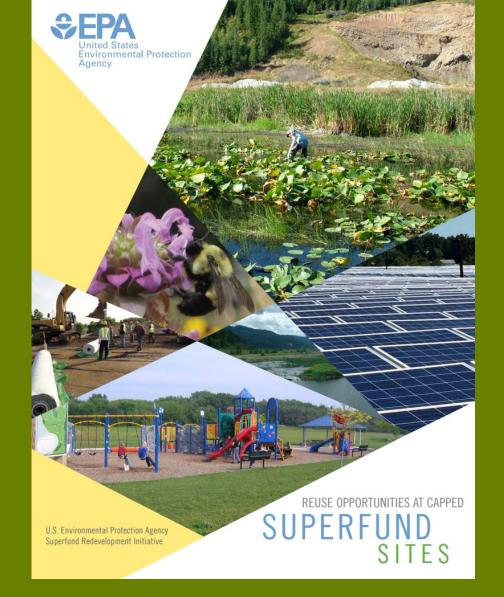
Knowledge Check! Poll Question



Developer Perspective

Michael Goldstein, Esq.

The Goldstein Environmental Law Firm



Superfund Redevelopment in 2022 – A "Post-Superfund" Investment Environment







#GOLDSTEIN





Mission Statement



To identify, acquire, and reposition environmentally contaminated real estate for beneficial reuse in order to take advantage of undervalued opportunities and deliver superior returns to investors and principals. This approach enhances and diversifies the portfolios of its partners while making socially responsible investments that restore the environment, protect public health, revitalize local economies, promote climate stewardship, and create equity for historically marginalized communities.



EPA 231-K-10-00 February 201 www.epa.gov/smartgrowti

CREATING EQUITABLE, HEALTHY, AND SUSTAINABLE COMMUNITIES:

Strategies for Advancing Smart Growth, Environmental Justice and Equitable Development



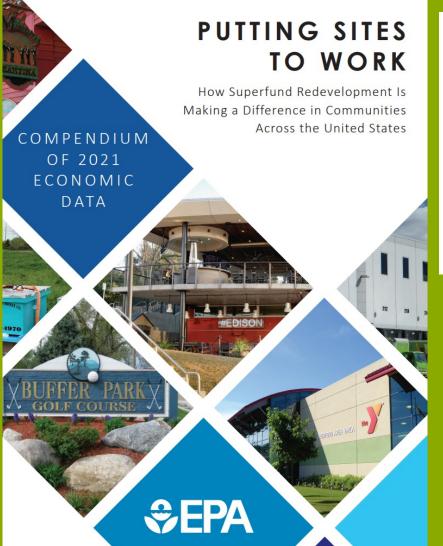






Office of Sustainable Communities

Post-Superfund Investment Environment for Superfund Site Redevelopment Opportunities





Estimates of National Beneficial Effects Since 2011									
Year	Sites in Reuse with Economic Data	Number of Businesses	Annual Sales*	Jobs	Annual Employment Income*				
2011	135	271	\$10.6 billion	24,308	\$2.0 billion				
2012	276	972	\$23.6 billion	46,475	\$3.9 billion				
2013	363	2,216	\$38.0 billion	70,270	\$5.7 billion				
2014	450	3,474	\$36.0 billion	89,646	\$6.9 billion				
2015	454	3,908	\$33.2 billion	108,445	\$8.9 billion				
2016	458	4,720	\$38.4 billion	131,635	\$10.4 billion				
2017	487	6,622	\$48.2 billion	156,352	\$12.4 billion				
2018	529	8,690	\$56.6 billion	195,465	\$14.4 billion				
2019	602	9,188	\$61.8 billion	208,468	\$15.3 billion				
2020	632	9,902	\$66.3 billion	227,769	\$17.0 billion				
2021	650	10,230	\$65.8 billion	246,178	\$18.6 billion				

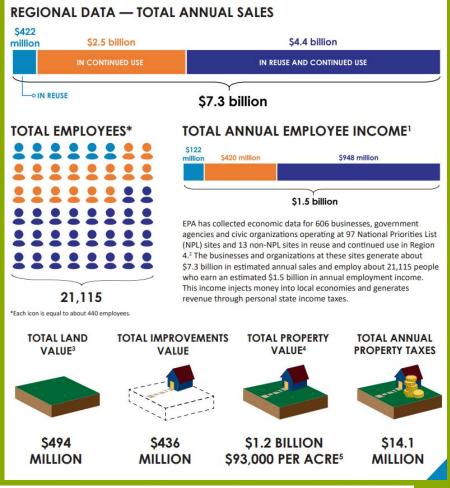
BENEFICIAL EFFECTS OF SUPERFUND SITE REDEVELOPMENT

Businesses and Jobs

EPA has collected economic data for 10,230 businesses, government agencies and civic organizations operating at 587 NPL sites and 63 non-NPL sites in reuse and continued use. The businesses and organizations at these sites earn about \$65.8 billion in estimated annual sales and employ about 246,178 people, earning an estimated \$18.6 billion in annual employment income. This income injects resources into local economies and generates revenue through personal state income taxes. These businesses also help local economies through direct purchases of local supplies and services. Onsite businesses that produce retail sales and services also generate tax revenues through the collection of sales taxes, which support state and local governments. Table 1 presents more detailed information (see the Regional and State Redevelopment Profiles for each EPA Region and state's reuse details at the end of this compendium).⁵

Post-Superfund Investment Environment for Superfund Site Redevelopment Opportunities

\$EPA PUTTING SITES TO WORK HOW SUPERFUND REDEVELOPMENT IN THE SOUTHEAST REGION IS MAKING A DIFFERENCE IN COMMUNITIES **REGION 4 ECONOMIC PROFILE - DATA SUPPLEMENT (2020 DATA)** The cleanup and reuse of Superfund sites often restores value to site properties and surrounding communities negatively affected by contamination. Site redevelopment can revitalize local economies with jobs, new businesses, tax revenues and spending, EPA tracks current and former Superfund sites in use across the Kentucky country. Each year, EPA researches the beneficial effects of redevelopment and continued use of these sites. This profile looks at how redevelopment activities at Superfund sites make a difference in communities 22 across Region 4, including communities that experience environmental and economic burdens. It also describes the land values and property taxes associated with South Carolina Superfund sites returned to use and sites remaining in use throughout the cleanup process. Starting in 2021, EPA will complete a full regional 16 economic profile update every other year. EPA will also prepare a data supplement during alternate years to provide updated beneficial effects data. Georgia IN REUSE AND IN CONTINUED USE **CONTINUED USE** Alabama 72 SITES IN USE **BUSINESSES² BUSINESSES**³ 606 Nineteen sites are federal facilities. Federal facility sites are excluded from all other site and business data above This number also includes other organizations such as government agencies, non-profits and civic institutions





	Sites ¹	Sites with Businesses	Businesses ²	Total Annual Sales³	Total Employees	Total Annual Employee Income
In Reuse	33	25	91	\$290 million	1,738	\$93 million
In Continued Use	14	7	59	\$1.2 billion	1,216	\$84 million
In Reuse and in Continued Use	15	13	204	\$2.8 billion	8,701	\$736 million
Totals	62	45	354	\$4.3 billion	11,655	\$913 million

Six sites are federal facilities. Federal facility sites are excluded from all other site and business data above.

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Business information is not available for all businesses at all Superfund sites in reuse and/or continued use.

² Business information is not available for all businesses at all Superfund sites in reuse and/or continued use.

³ Annual sales figures are not available (or applicable) for every organization that makes jobs data available.

GKE Brownfield Catalyst Fund I, LP

Equity Raise

- Initial: \$250 million
- Current: \$750 million to \$1 billion

• Deal Flow Year 1

- 100 sites per quarter to review
- 20 sites per quarter to put under contract
- 10 sites to close

Deal Flow Year 2

- 120 sites per quarter to review
- 25 sites per quarter to put under contract
- 15 sites to close

Deal Flow Year 3

- 150 sites per quarter to review
- 30 sites per quarter to put under contract
- 20 sites to close

- <u>Projected Distribution of Sites (by Program):</u>
 - State Brownfield 35%
 - Petroleum 25%
 - Superfund 20%
 - RCRA 10%
 - Other (Coal Fired Power Plants) 10%
- Acquisition to Reuse Life Cycle
 - Average: 2 4 years
- Projected IRR to Investors
 - 25% 30%



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Building Blocks for Deal Structure & Integrity

OSWER 9365.0-33

Guidance for Preparing Superfund Ready for Reuse Determinations

Introduction

Overview

The U.S. Environmental Protection Agency (EPA) has developed a new document called a Ready for Reuse (RfR) determination that EPA may use to communicate that all or a portion of a Superfund site is protective for specified types of uses. RfR determinations are intended to provide helpful information to the real estate marketplace about the environmental status of Superfund sites to facilitate their reuse. RfR determinations are technical documents that do not provide any legal rights or legally enforceable commitments, and do not include any statements about EPA's enforcement intentions or any party's potential liability regarding a specific site. The issuance of RfR determinations is not mandatory - EPA Regions have discretion in deciding whether to issue RfR determinations, and should balance the potential value of a RfR determination in supporting site reuse with the work involved, considering other program priorities and the availability of resources.

Purpose

The purpose of this guidance is to provide information to EPA Regional and Headquarters staff on the use and preparation of RfR determinations at Superfund sites. When EPA decides to prepare a RfR determination to facilitate reuse, this guidance will assist the Region in determining what information is sufficient to support the RfR decision and how to document the RfR determination. Attachments 1 and 2 to this guidance provide an outline and model language, respectively, to use when preparing RfR determinations.

This guidance is not a regulation itself, nor does it change or substitute for any regulations. Thus, it does not impose legally binding requirements on EPA, States, or the regulated community. This guidance does not confer legal rights or impose legal obligations upon any member of the public. Interested parties are free to raise questions and objections about the substance of this guidance and the appropriateness of the application of this guidance in a particular situation. EPA and other decision makers retain the discretion to adopt approaches on a case-by-case basis that differ from those described in this guidance or not to issue a RfR determination at a particular site. Readers please note that the use of the word "should" in this document means that something is suggested or recommended, but not required.



Using the Superfund Redevelopment Program's Prospective Purchaser Inquiry Service to Support Superfund Site Reuse

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EPA's Prospective Purchaser Inquiry (PPI) Service

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Through this service, EPA ensures that people have current and accurate information about a site's Superfund cleanup status and timelines, current and potential property restrictions, available liability protections, and any EPA lien status. When EPA site teams and Regional Superfund Redevelopment Coordinators offer the PPI Service, they help ensure that purchasers are informed, engage in redevelopment activities consistent with a site's cleanup, and coordinate with EPA to ensure the longterm protection of human health and the environment

PPI Meeting Agenda and Discussion Topics

- What is the current status of EPA's cleanup? What are the future anticipated actions?
- 2. Is the proposed reuse compatible with EPA's cleanup and the site's current or potential site restrictions?
- 3. Does the prospective purchaser understand applicable federal landowner liability protections?
- 4. How will EPA settle or resolve any Section 107(I) Superfund liens or Section 107(r) Windfall liens?
- 5. What EPA tools and support may be helpful?



Tools to Address Liability Concerns to Support Cleanup and Reuse

EPA's cleanup enforcement office develops policy and guidance documents and site-specific tools that address landowner liability concerns so that protective cleanup and reuse can take place at contaminated properties. Specifically, EPA developed enforcement discretion guidance that clarify potential liability and provide certainty and comfort to parties seeking to redevelop contaminated sites so that EPA is not involved in every contaminated property transaction.

EPA also developed site-specific tools to facilitate contaminated site transactions when perceived liability remains an obstacle and EPA involvement is critical.

These tools and guidance can be found on the Addressing Liability Concerns to Support Cleanup and Reuse of Contaminated Lands policy and guidance database or summarized in the Revitalization Handbook

Enforcement tools to address landowner liability concerns include:

- Comfort/Status Letters
- Prospective Purchaser work Agreements and Prospective Lessee Work Agreements
- Bona Fide Prospective Purchaser Work Agreement
- Contiguous Property Owner Assurance Letters and Settlement Agreements
- Windfall Lien Resolution Agreements

As part of its Land Revitalization Agenda, EPA has adopted the Ready for Reuse (RfR) determination as a tool for facilitating reuse of cleaned up sites. EPA also intends to develop One Cleanup Program RfR determination procedures to ensure a consistent application of RfR determinations across cleanup programs and to distinguish RfR determinations from other cleanup determinations. For additional information about EPA's Land Revitalization Agenda, please see www.epa.gov/swerrims/landrevitalization. EPA issued its first Superfund RfR determination at the Tex Tin Superfund site, Operable Unit No. 2, on July 1, 2003, a copy of which can be viewed at http://www.epa.gov/superfund/ programs/recycle/reuse/index.htm.

Building Blocks for Deal Structure & Integrity



THE REVITALIZATION HANDBOOK

Addressing Liability Concerns at Contaminated Properties











Office of Site Remediation Enforcement Office of Enforcement and Compliance Assurance

August 2022



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JAN 1 6 2020

ENFORCEMENT AND COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Use of the "Look-First" Approach in Comprehensive Environmental Response,

Compensation, and Liability Act Settlement Agreements Involving Third Parties

Cynthia L. Mackey, Director

Office of Site Remediation Enforcement

TO:

Superfund National Program Managers, Regions 1-10

Regional Counsels, Region's 1-10

In furtherance of Recommendation 22 of the Superfund Task Force, this memorandum confirms the U.S. Environmental Protection Agency's (EPA) commitment to support, in appropriate cases where it furthers the interest of the Superfund program, the use of "look-first" provisions in Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) settlement agreements. These settlement agreements involve potentially responsible parties (PRPs), the government, and a third party who was not originally a PRP but who agrees (usually in return for compensation) to perform cleanup work at a site. Under this approach, the EPA would agree to "look first" for performance to the third-party settlor who has agreed to stand first in line to perform all response actions and corrective measures² and pay all stipulated penalties defined by their settlement. The EPA would look to the original settling PRP(s) to perform the work called for by the settlement only in the event of the failure of that third party to perform or upon some other exigency also defined in the settlement.

The EPA is issuing this memorandum to: raise awareness of the "look-first" approach that has been used in a few past settlements; encourage Regions to consider the "look-first" approach in future settlements, where appropriate; and establish a national center of expertise on the "lookfirst" approach by identifying experienced, subject-matter experts in the Office of Site Remediation Enforcement (OSRE) who are available to consult with the EPA Regions on this settlement strategy. Although language from the past agreements may illustrate the kinds of provisions to consider in negotiating a look-first settlement, the EPA Regions should work with Real Estate Brownfield Development

11.

experts provides managing liabilities and exposures related to industrial property

redevelopment.

Managing environmental risk is a key component of successful brownfield development.

Hylant's environmental risk team has extensive environmental industry experience. Our experts provide comprehensive client support services for environmental liabilities and exposures related to the redevelopment of industrial property

Hylant offers risk management and insurance solutions that manage exposures related to the following environmental risks associated with the acquisition and redevelopment of former industrial sites

- Pre-existing (historical) pollution conditions from prior operations or land uses
- Indoor air quality exposures at new and/or refurbished facilities
- Natural resource damages
- New pollution conditions related to site remediation, construction and new operations

Covered expenses

- First-party cleanup
- · Third-party bodily injury and property damage
- Legal defense
- Emergency response
- Business interruption

Hylant also specializes in designing insurance programs to support environmental liability transfers of contaminated properties.



HYLANT

BUSINESS INSURANCE | EMPLOYEE BENEFITS | PERSONAL INSURANCE

¹ The Superfund Task Force Report and other information is available on EPA's website at https://www.epa.gov/superfund/superfund-task-force.

^{2 &}quot;Corrective measures" in this context refer to actions taken to correct a party's inadequate performance of cleanup obligations at a site.

Reinvesting in Disproportionately Impacted Communities

GKE will identify significant investment opportunities in historically disadvantaged communities hardest hit by the legacy of environmental pollution, financial disinvestment, and the ongoing challenge of climate change. In such instances, GKE will deploy capital in way that maximizes the opportunity to achieve environmental justice, promote climate stewardship, increase access to economic opportunity, improve health outcomes, provide equity to neighborhood stakeholders, and limit displacement of individuals, families, and businesses that have generational residency.



In support of its commitment to reinvesting in people and places that have suffered disproportionately from the very activities that create today's redevelopment opportunities, GKE will allocate a percentage of its profits to The Goldstein Brownfields Foundation, a 501(c)(3) entity. In turn, the Foundation will:





- Seek and provide grants to not-for profit groups focusing on environmental restoration, public health protection, climate stewardship, and affordable housing options
- Establish scholarships for undergraduate and graduate students interested in green economy careers
- Provide start-up capital (equity) and microloans (debt) to local business and not-for-profits
- Provide seed funding to conduct land use research, analysis, and community engagement
- Engage and support workforce training
- Finance independent environmental consultants and toxicologists for Environmental Justice stakeholders

Superfund Remediation and Redevelopment for Environmental **Justice Communities**

May 2021







National Environmental Justice Advisory Council A Federal Advisory Committee to the U.S. Environmental Protection Agency

Strategies Recommended by NEJAC

- Implement more intensive community engagement practices at Superfund sites
- Revise and update guidance and strengthen policies focused on understanding and responding to community needs
- Update, improve, and expand training that reaches impacted communities, EPA staff, and state staff
- Elevate future use planning as a core element of the Superfund process
- Leverage redevelopment and reuse as a catalyst for innovation and accelerated cleanup
- Ensure equity in all aspects of the Superfund program
- Increase Access to Resources for Impacted Communities



Superfund Community Involvement Handbook



Integrating Environmental Justice into **Superfund Redevelopment: \$EPA** Tools and Resources

About 73 million people live within 3 miles of a Superfund site. Many of the communities within this range have a higher number of low-income, minority or indigenous people. They are also more burdened by other environment stressors (e.g., poor air quality, lead paint, etc.) when compared to the general population. Therefore, the Agency musi reflect the reality of environmental justice when it communicates with communities, makes cleanup decisions and supports Superfund site reuse. EPA's Superfund Redevelopment Program (SRP) has prepared tips, tools and resources f considering environmental justice concerns when planning for redevelopment

DEFINITIONS

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race. color, national origin or income. with respect to the development. implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice also means everyone has equal access to the decision-making process to ensure a healthy environment in which to live. learn and work.

Equitable (re)development is an approach for meeting underserved communities' needs. Successful outcomes of equitable (re)development reduce disparities while fostering healthy and vibrant places. It is driven by community priorities and values as well as a clear, collectively shared agreement that development outcome to underserved populations an vulnerable groups

Supporting Equitable Redevelopment: Tips for **EPA Site Teams**



- decisions, site teams can take actions to support and advocate for a community's reuse vision.
- . Begin reuse discussions with the community early in the site planning process - discussing ideas early helps site teams design effective community involvement and cleanup plans more likely to align with the community's reuse vision.
- Include reuse questions when developing the Community Involvement Plan - focusing on "what could be" can energize communities to engage in the Superfund cleanup process.
- . Be open and honest about EPA's role in land use decisions, specificall around the unintended potential for gentrification: The more communities understand how redevelopment works, the more empowered they are to advocate for their vision with federal, state and local governments; property owners; and potential developers.
- Include community representatives in redevelopment discussions with developers and property owners - providing access to the decisionmaking process allows for inclusion and input in a process that many communities feel powerless to control. Translation and interpretation services are available to ensure that people with limited English proficiency can participate in these discussions
- 6. Encourage community groups to organize redevelopment subcommittees to work with EPA, developers and property owners – such organization can promote inclusion, transparency and communication.
- Work with your headquarters and regional SRP Coordinator to take advantage of SRP's great resources



March 2020





U.S. ENVIRONMENTAL PROTECTION AGENCY

U.S. DEPARTMENT OF JUSTICE

August 10, 2022

MEMORANDUM

SUBJECT: Issuance of the 2022 Model Administrative Settlement Agreement for

Removal Action by Prospective Purchaser_

FROM: Cynthia L. Mackey, Director

Office of Site Remediation Enforcement

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

Thomas A. Mariani, Jr., Chief / 4

Environmental Enforcement Section
Environment and Natural Resources Division

U.S. Department of Justice

TO: Regional Counsels, Regions 1-10

Superfund National Program Managers, Regions 1-10

U.S. Environmental Protection Agency

Deputy Chiefs, Assistant Chiefs, Environmental Enforcement Section Deputy Chiefs, Assistant Chiefs, Environmental Defense Section

U.S. Department of Justice

I. Introduction

This memorandum transmits the revised Model Administrative Settlement Agreement for Removal Action by Prospective Purchaser ("Prospective Purchaser Agreement (PPA) Removal Model"). This PPA Removal Model is for use by the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Justice (DOJ) when negotiating agreements with prospective purchasers or lessees for the performance of removal actions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund). The PPA Removal Model is available for use in Word format under the PPAs/BFPPAs category on OSRE's Cleanup Enforcement Model Language and Sample Documents Database at https://cfpub.epa.gov/compliance/models/.

II. Explanation of Revisions

EPA's Office of Site Remediation Enforcement (OSRE) and DOJ's Environmental Enforcement Section updated the PPA Removal Model to encourage cleanup and reuse by prospective purchasers and lessees. The PPA Removal Model incorporates:

- Work provisions consistent, where appropriate, with other CERCLA model documents to ensure consistency in the implementation of response actions;
- Community involvement provisions in support of Administrator Regan's prioritization of the protection of communities disproportionately affected by environmental burdens; and
- Streamlined provisions adopted in other CERCLA model documents.

The new community involvement provisions are made in accordance with Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad: Securing Environmental Justice and Spurring Economic Opportunity," 86 Federal Register 7619 (Feb. 1, 2021), Section 219 (Policy) and Section 222(b)(ii) and (c)(ii) (Agency Obligations). These changes are anchored in the ideas outlined in OECA's July 1, 2021 memorandum titled "Strengthening Environmental Justice Through Cleanup Enforcement Actions."

19. Community Involvement. EPA has the lead responsibility for implementing community involvement activities at the Site, including the preparation of a community involvement plan, in accordance with the NCP and EPA guidance. As requested by EPA, Purchaser shall participate in community involvement activities, including participation in (a) the preparation of information regarding the Work for dissemination to the public (including compliance schedules and progress reports), with consideration given to the specific needs of the community, including translated materials and mass media and/or Internet notification, and (b) public meetings that may be held or sponsored by EPA to explain activities at or relating to the Site.

Site under negotiation

- EPA Region 4
- Between 100 and 150 acres Great canvas for multiple uses, creativity
 - Waterfront component lends itself to a public park
 - Solid infrastructure and strong market conditions for Industrial, Logistical, Retail, Commercial
- Seller: Fortune 500 company (manufacturer); sophisticated environmental and real estate team; some anxiety in disposition; required demonstration of capacity
- Key Attributes for GKE
 - Ready for Reuse determination in place
 - Phenomenal PPI Meeting (Strong RPM Support, Legal Support, SRP & Brownfields Program Support)
 - "LTG" Remediation Status
- Significant opportunities for
 - Safe deployment of investor capital & principals' equity
 - Financing
 - Economic return to investors
 - Sparking near-offsite redevelopment
 - Creating publicly available open space, access to waterfront and recreational amenities (public health benefits)
- Key Seller Concerns: Whom are we dealing with; ensuring Buyer gets "first look" from US EPA; prohibition against residential occupancy
- Key Buyer Concerns: Ability to access state brownfield program incentives notwithstanding eligibility exclusion in state law for NPL Sites
- Limitations: Inability to access liability protection and cleanup tax credits under state law
- Strategy for Overcoming Limitations: Environmental Insurance; other economic incentive programs (New Markets Tax Credits)

Site under negotiation

- EPA Region 4
- Between 60 and 80 acres Limited uses
 - Proximity to state research university
 - Need for student housing and expansion of school campus
 - Medical facilities
 - Neighborhood retail and commercial services
- Seller: Fortune 500 company (manufacturer); sophisticated environmental and real estate team; some anxiety in disposition; required demonstration of capacity; close working relationship (hard earned) with EJ community
- Key Attributes for GKE
 - Community support for redevelopment
 - Identified and active local leaders
 - Strong preliminary indication of support from RPM
- Significant opportunities for
 - Safe deployment of investor capital & principals' equity
 - Financing
 - Economic return to investors
 - Investing and partnering with EJ community
 - Collaborating with university faculty and students (and relevant undergraduate and graduate programs) to document revitalization process
- Key Seller Concerns: Selling to viable entity; no harm to remedy in place
- Key Buyer Concerns: Early and meaningful collaboration with community stakeholders and buy-in from EJ community; ability to access state brownfield program incentives notwithstanding eligibility exclusion in state law for NPL Sites
- Limitations: Economic model still in development
- Strategy for Overcoming Limitations: Mining of incentive opportunities New Markets Tax Credits; Inflation Reduction Act; EPA Brownfield

Lessons Learned

- Patience and Persistence These are very complex transactions that take time and massive resources to come together. Eminently doable (and exciting!) but not for the faint of heart (but exciting!)
- · Lean heavily on EPA and into EPA resources.
 - Staff is deeply qualified, intensely committed from regional level to HQ and across programs, and will bring to the table pre-existing ties and insight to the community that cannot be duplicated elsewhere.
 - The Superfund Redevelopment Program has already put into place the "building blocks" one will need to properly plan, design, engineer, permit your reuse and evaluate, develop financial models, "fix," and manage exposure to federal environmental liability, such as Prospective Purchase Inquiries, RFR determinations, Comfort Letters, "Look First" Policy, Prospective Purchaser Agreements, etc. Make sure you understand them and then use them.
- Environmental insurance is a "best management practice" for supplementing legal liability exposure at the federal level and addressing state environmental liability (statutory and common law).
- Sellers are demanding partners and will challenge you to demonstrate expertise, experience, capacity, equanimity.
- With the right vision, ownership team, project team, financial model, and liability management plan, the market will react favorably, and equity and debt will be available.
- Some states continue to have a difficult time reconciling EPA Superfund Program and state-based equivalents, which denies eligibility for state-based regulatory and economic incentives.
- There is a lot of need in this country, go where you're most needed and invest heavily; it's important and the economics will work out.

DIALOGUE



We'll help you see through our eyes.

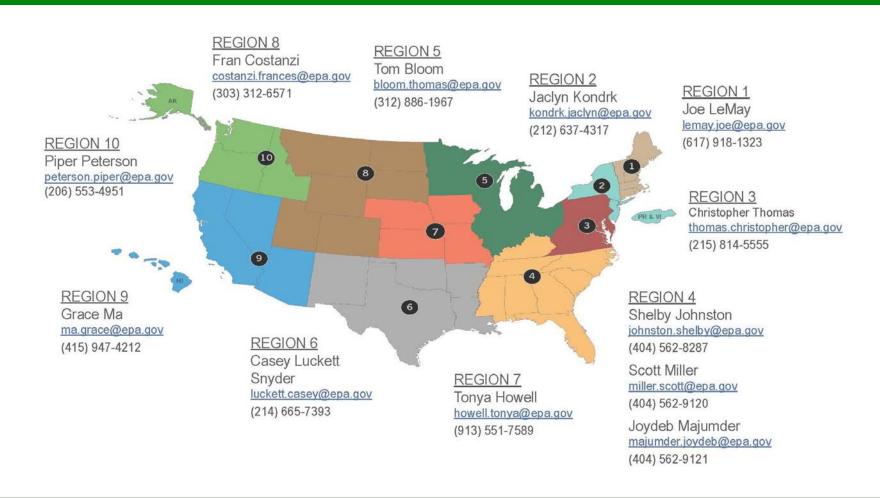


Special Emphasis on Cleanup and Reuse of Former Fueling Stations, Landfills, Automobile Dealerships, Golf Courses, and Agricultural Sites

- Environmental Due Diligence
- Environmental Liability Analysis and Protection
- Hiring & Management of Qualified Environmental Consultants
- Brownfield Grants
- Brownfield Tax Incentives
- Brownfield Loan Guarantees

- Assistance with Securing Acquisition Financing & Placing Environmental Insurance
- Negotiation of Voluntary Cleanup Agreements & Covenants Not-to-Sue
- Integration of Cleanup and Construction Requirements
- Regulatory Approvals to Build on Contaminated Development Sites

Superfund Redevelopment Coordinators by EPA Region



Questions?



Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund site in Plainwell, Michigan

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