

State Brownfield Financing Tools and Strategies

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Because capital gaps remain the biggest barrier to brownfield redevelopment, more than half the states have created some type of brownfield financing program. Direct financial assistance, such as loans and grants, and indirect financing tools, such as tax abatements and credits, meet several objectives. They can target specific parts of the project, such as site preparation. They can increase the level of comfort among other lenders that finance these projects by providing loan guarantees that limit their potential losses. They also can ease the borrower's cash flow by plugging certain capital holes or off-setting some up-front costs of site cleanup. These state incentives recognize that no specific type of public-private partnership or single financing approach can meet the needs of every brownfield project.

This report describes some notable examples of successful state tools and strategies for filling capital gaps in brownfield cleanup and redevelopment projects. They include:

Targeted Financial Assistance

- **Connecticut:** Dry Cleaner Remediation Fund
- **Florida:** Loan Guarantees
- **Illinois:** Flexible Terms Under Brownfield Cleanup Revolving Loan Fund
- **Indiana:** Revolving Loan Fund
- **Massachusetts:** State Brownfields Redevelopment Access to Capital (BRAC) Insurance
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- **Ohio:** Environmental Bond Issues
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Tax Incentives

- **Colorado:** Cleanup Tax Credit
- **Florida:** Voluntary Cleanup Tax Credit and Tax Refund for Job Creation
- **New York:** Cleanup, Real Property, and Insurance Tax Credit
- **Wisconsin:** Cancellation of Delinquent Taxes

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- **Michigan:** Local Brownfield Redevelopment Authorities
- **Wisconsin:** Brownfield Site Assessment Grant Program

Infrastructure Development

- **Massachusetts:** Transportation Construction

Targeted Financial Assistance

Connecticut: Dry Cleaner Remediation Fund

Thanks to a 1 percent sales tax on dry cleaning services, every clean shirt in Connecticut supports brownfield financing. The tax supports the Dry Cleaner Establishment Remediation Fund, which provides grants of up to \$50,000 a year for three years, totaling up to \$150,000, to dry cleaner business operators to deal with the unique environmental problems caused by dry cleaning solvents and chemicals. The grants may be used for site cleanup, containment, and mitigation of pollution from releases of tetrachloroethylene, stoddard solvents, and other dry cleaning chemicals, and also for the prevention of such pollution and to provide potable drinking water when necessary.

To be eligible for the funding, applicants must prove that at least two banks have refused to provide them with conventional financing on reasonable terms or in reasonable amounts. They also must currently operate the establishment, be current in filing all state and federal taxes, and certify that they are involved in no outstanding litigation proceedings. Grant applications are evaluated based on risk to public health, magnitude of the problem, cost and environmental effectiveness of the proposal, and the availability of funds. So far, the state has awarded grants totaling up to \$3 million to about 40 applicants. About 10 sites are in the monitoring stage and will complete remediation within the next two years.

Contact: Dimple Desai, Program Manager, Connecticut Department of Economic & Community Development, 860/270-8151, dimple.desai@po.state.ct.us.

Florida: Loan Guarantees

Florida's Brownfield Area Loan Guarantee Program targets primary lenders that finance brownfield redevelopment, providing coverage of up to 10 percent of the original loan balance or the outstanding balance, whichever is less. The program covers losses from default due to environmental and other causes for up to five years, but the council that approves applications may consider a request to renew or issue a new guarantee for up to five additional years for loans and/or projects that demonstrate continued prospects for ultimate success.

Although the program shows promise for resolving a small project funding gap, only one developer has used the guarantee to date. It appears that for most projects, the coverage of 10 percent is not enough. The program may be amended to increase the maximum coverage during Florida's legislative session beginning on March 1, 2005, when the state's entire brownfield program will be reviewed.

Contact: Mary Helen Blakeslee, Executive Office of the Governor, OTTED, 850-922-8743, maryhelen.blakeslee@myflorida.com.

Illinois: Flexible Terms Under Brownfield Cleanup Revolving Loan Fund

Illinois' federally funded Brownfield Cleanup Revolving Loan Fund has provided \$1.5 million in loans to municipalities, with almost \$1 million more in the works, thanks to very flexible terms that make the loan payment contingent on the redevelopment of the property.

After launching the program, the Illinois Environmental Protection Agency (IEPA) realized that many municipalities could not use the loans, despite interest rates as low as 2 percent, because local regulations required the municipalities to establish a repayment stream. For most brownfield sites, a repayment stream cannot be assured because there is no guarantee a developer will purchase the remediated site. In fact, often municipalities gift brownfield sites to developers, realizing no profit but spurring economic growth. In response to this barrier, IEPA negotiated with EPA Region 5 to amend the loan rules.

Under the rules, the loan agreement specifies that if during the agreement period (up to 15 years) the site or a portion of the site is sold or the title transfers, or if the site or portion of the site is leased, traded, or developed, the borrower will repay a portion of the loan. Repayment is based on profit or cash flow realized by the municipality. These terms not only enabled municipalities to apply for the loans, but also freed Illinois EPA from having to pursue inaction on loans that municipalities cannot repay. To date the terms have been well worth the risk; two developers are interested in the first site to be cleaned up using \$425,000 in program funds.

Contact: Steve Colantino, Manager, Illinois Office of Brownfields Assistance, Steve.Colantino@epa.state.il.us.

Indiana: Revolving Loan Fund

Indiana's State Environmental Remediation Revolving Loan Fund (the Brownfields Fund) supports key funding for brownfield site assessments and cleanup. Created by the state legislature in 1997, the fund is administered by the Indiana Development Finance Authority (IDFA) in cooperation with the Indiana Department of Environmental Management (IDEM).

The law provided \$10 million over three years to eligible cities, towns, and counties; grants for assessments approved by IDFA and IDEM; and loans for IDEM- and IDFA-approved assessments or remediation (including demolition). Today the program is funded at \$1 million per year. Applicants are evaluated according to several criteria, including the ability to repay, their available matching funds, and their economic development potential. About half of the funding was allocated to jurisdictions with fewer than 22,000 people.

Each year the Brownfields Fund sets aside \$50,000 for Just In Time Funding—available outside the normal grant rounds—for Phase II site assessments that are needed for immediate economic development project needs. A city, town, or county must match these grant dollars one for one and certify that a company or developer is imminently interested.

Legislation added \$5 million to the Brownfields Fund in 1999 for forgivable loans. For projects that meet economic development goals determined by the community, 20 percent of the loan may be forgiven. Priority is given to former gas station or UST sites, or facilities located within one-half mile of a child-care center or school. Brownfields Fund applicants may partner or apply with private entities that did not cause or contribute to any contamination, and loan recipients may re-loan the money to an eligible private entity with the same provisions for forgiving 20 percent.

The fund also supports five brownfield incentives:

- *Site Assessment Grant Incentive*: Provides grants of up to \$7,500 for Phase I assessment or \$50,000 for Phase II assessment (per applicant, per funding round) to cities, towns, and counties. Private parties may be co-applicants. The grants pay for environmental investigation at identified brownfield sites, including asbestos and lead-based paint surveys.
- *Low Interest Loan Incentive*: Provides loans of up to approximately \$700,000, with interest rates of 2.5 percent to 3.0 percent, to cities, towns, and counties for the cost of remediation or demolition at brownfield sites. Eligible activities include: soil and groundwater cleanup, demolition activities, asbestos and lead paint abatement, and additional investigation.
- *Petroleum Remediation Grant Incentive*: Provides grants of up to \$250,000 per applicant, per funding round, for cities, towns, and counties to clean up petroleum at brownfield sites. Eligible activities include underground storage tank removal, preparation of corrective action plans, IDEM-approved remediation, and monitoring.
- *Voluntary Remediation Tax Credit*: Offers a credit against Indiana tax liabilities to persons or entities for conducting voluntary cleanup at eligible brownfield sites. The maximum amount of the credit equals the lesser of 10 percent of the remediation cost or \$100,000.
- *Federal Grant Matching Incentive*: \$2 million is available through calendar year 2005 for matching grants of up to 20 percent of a local government's federal brownfields award. No application process required, but applicants for federal brownfield funding must notify IDFA of pending application through a letter of intent.

Contacts: Sara Westrick Corbin, Indiana Development Finance Authority, swestrick@idfa.in.gov; Michelle Oertel, Indiana Department of Environmental Management, moertel@dem.state.in.us. Web page: www.idfabrownfields.com.

Massachusetts: State Brownfields Redevelopment Access to Capital (BRAC) Insurance

The Massachusetts Brownfield Redevelopment Access to Capital Program (MassBRAC) makes low-cost environmental insurance available to parties that clean up or redevelop brownfield sites anywhere in the state. Projects that qualify for the program obtain state-of-the-art policies provided by AIG Environmental. In addition to pre-negotiated, below-market pricing for coverage under the program, the state further subsidizes the cost of program policies at the rate of 25 percent of the policy cost, up to a maximum of \$25,000 per policy.

Available coverage includes cleanup cost cap (stop-loss) protection for those involved in an active remediation project, and pollution legal liability coverage to protect parties from unknown or unidentified contamination on brownfield sites that are being redeveloped. Lenders to projects involving the or redevelopment of a brownfield site also can obtain protection through a no-cost endorsement to a borrower's pollution legal liability policy. The policy automatically transfers all coverage to the lender in the event of a loan default/foreclosure.

Applying for insurance under the MassBRAC Program is no different from applying for any environmental policy, and the program has developed simple and streamlined procedures for obtaining program and subsidy approval as well. Since the program's inception in 1999, it has provided coverage for over 240 brownfield redevelopment projects in Massachusetts and nearly \$5 million in state-funded insurance premium subsidies.

The program is administered by Massachusetts Business Development Corporation (MassBusiness), a state-monitored private development company that also provides loan and investment capital to businesses in throughout Massachusetts. As of June 2004, BRAC had assisted 227 projects, leveraging \$133 million in cleanup funds and \$1.7 billion in private investment.

Contact: Thomas Barry, Vice President, Massachusetts Business Development Corp. and Director, Brownfields Redevelopment Access to Capital, 781-928-1106, tbarry@mass-business.com.

New Jersey: Project-Based Coordination of Financing Tools

The New Jersey Brownfields Redevelopment Interagency Team (BRIT) offers brownfield project developers, municipal officials, and others engaged in brownfield redevelopment projects coordinated information and access to a full range of state resources in more than 24 agencies. Coordinated by the New Jersey Department of Community Affairs' Office of Smart Growth, the team convenes to review specific projects and identify the particular mix of resources best suited to assessing, cleaning up, and developing the project, emphasizing the application of smart growth principles in the plans and design.

Since its inception in 2003, the BRIT has fully reviewed 50 brownfield projects and provided additional consultation at another 50 sites. The BRIT also creates special task groups to find ways to improve brownfield policies and programs when its work points to specific needs. These issues are collaboratively explored by the BRIT and the NJ Brownfields Redevelopment Task Force, created by statute pursuant to the state's Brownfield and Contaminated Site Remediation Act of 1988 (N.J.S.A58:10B-1 et seq). The task force then makes policy recommendations to the governor and legislature.

Typically the municipality or entity seeking to redevelop a brownfield site—or an entire redevelopment area that includes brownfield properties—contacts Frances Hoffman, chair of the BRIT, for guidance in accessing state technical and financial assistance. If a site seems to require the attention of just one or a few state agencies, Hoffman connects the project contact with the appropriate agencies. However, for complex brownfield sites that require the involvement of more than four or five state agencies, Hoffman visits the site for a preview and then convenes the BRIT to identify and weave together the resources needed for addressing legal issues, planning, environmental requirements, infrastructure development, and financing.

The BRIT draws on numerous state financing tools in various agencies, such as:

NJ Economic Development Authority

- *Hazardous Discharge Site Remediation Loan and Grant Program:* provides loans and grants to private, municipal and applicants for assessments, remedial investigation, and remediation, following approval by DEP.
- *Petroleum Underground Storage Tank Remediation Upgrade and Closure Program:* provides loans and grants to business owners, homeowners, and municipalities to upgrade, close, and remediate discharges associated with underground storage tanks.

Partial List of Agencies and Programs in the BRIT

Board of Public Utilities
 Department of Agriculture
 Department of Community Affairs
 Council on Affordable Housing
 Housing and Community Resources
 Housing and Mortgage Finance Agency
 Office of Smart Growth
 Redevelopment Authority
 Department of Education
 Department of Environmental Protection
 Green Acres
 Historic Preservation
 Environmental Infrastructure Trust
 Office of Brownfield Reuse
 One Stop Permit Coordination
 Site Remediation and Waste Management Program
 Bureau of Contract and Fund Management
 Department of Health and Senior Services
 Department of Law and Public Safety, Division of Law
 Department of Transportation
 Department of Treasury
 Commerce and Economic Growth Commission
 Economic Development Authority
 Brownfields Redevelopment Office
 Schools Construction Corporation
 New Jersey Transit
 Department of Labor

- *Revenue Allocation District Funding*: available to assist municipalities in encouraging revenue-generating development projects in a revenue allocation district as part of a locally approved redevelopment plan.
- *Redevelopment Area Bond Financing*: provides long-term, low-interest bonds for infrastructure improvements and other predevelopment costs, including demolition and remediation. Sites must be in formally designated redevelopment areas, with an agreement for payments in lieu of taxes between the municipality and the site owner.
- *Fund for Community Economic Development*: helps finance feasibility studies and other pre-development costs to determine if real estate-based economic development projects involving profit or nonprofit organizations are viable.
- *Brownfields Redevelopment Loan Program*: provides low-cost interim financing for brownfields remediation costs for business owners and developers with a signed brownfield reimbursement agreement with the New Jersey Commerce and Economic Growth Commission and Treasury.

NJ Redevelopment Authority

- *Bond Program*: provides qualified small-issue bonds for acquiring, constructing, and renovating capital facilities.
- *NJRA—Urban Site Acquisition (NJUSA) Program*: provides funds for the acquisition, site assembly, and redevelopment of properties that are part of urban redevelopment plans.
- *NJRA Loan Guarantee Program*: provides credit enhancements through loan guarantees for projects unable to obtain conventional bank financing.

NJ Commerce and Economic Growth Commission

- *Brownfields and Contaminated Site Remediation Reimbursement Program (in cooperation with the state Department of the Treasury)*: allows for qualified developers to obtain reimbursement of up to 75 percent of authorized remediation costs incurred during the redevelopment process. Reimbursement funds come from the generation of new taxes associated with a completed, approved project.
- *Urban Enterprise Zone (UEZ)*: revitalizes the local, regional, and state economies by funding economic development projects—including infrastructure improvements, economic development planning, and brownfield remediation—in the state’s designated urban enterprise zones in the state.

NJ Department of Community Affairs, Office of Smart Growth

- *Smart future planning grants:* provides funds for planning initiatives that meet smart growth objectives, including more livable and sustainable communities, and are consistent with statewide and regional planning precepts. Matching funds are not required, but applicants are encouraged to seek multiple sources of funding, including offerings of in-house staff time.

NJ Environmental Infrastructure Trust

- *Low-interest loans:* financing at half the market rate or better to public agencies and private water purveyors for the construction of infrastructure that benefits water quality and drinking water safety, including acquisition, cleanup, and project completion.

NJ Housing and Mortgage Finance Agency

- *Market-oriented Neighborhood Initiative:* financing for the development of market-rate and mixed-income homeownership units in urban areas and neighborhoods that need revitalization and redevelopment.
- *Federal Low Income Housing Tax Credits:* for developers of qualified rental properties to reduce their federal tax liability, with awards of eligibility points for brownfield projects.
- *Multifamily Housing Loans:* permanent take-out financing, construction-only loans, and construction loans that convert to permanent financing.

Contact: Frances Hoffman, Chair, Brownfields Redevelopment Interagency Team, Department of Community Affairs, Office of Smart Growth, 609/292-3096, fhoffman@dca.state.nj.us, Web site: www.njsmartgrowth.com.

Ohio: Environmental Bond Issues

A major environmental bond issue approved by Ohio voters in November 2000 provided \$200 million for brownfield cleanup. The following year, the Ohio Legislature created two programs that use the bond funds, allocating 80 percent to the Clean Ohio Revitalization Fund (CORF) and 20 percent to the Clean Ohio Assistance Fund (COAF). In consultation with the Ohio Environmental Protection Agency (Ohio EPA), the Ohio Department of Development (Ohio DOD) Office of Urban Development administers the programs with a unique emphasis on managing costs as well as budgets. As a result, many projects have been completed under budget, including a recent project that saved \$800,000.

CORF is a statewide, competitive grants program governed by the Clean Ohio Council. It provides grants for brownfield site acquisition, demolition, remediation, and limited

infrastructure improvement. The projects are evaluated using a scored application based on economic benefit and environmental improvement, focusing on Ohio's older communities that deteriorated as cities and economic conditions changed. The maximum project award is \$3 million, and applicants must provide a minimum match of 25 percent of total project costs. In 2002 and 2003, CORF awarded almost \$80 million in grants for 34 projects, and an additional \$40 million will be awarded in 2005 and 2006.

COAF is a discretionary program, administered by Ohio DOD, which is available only to cities and counties that have been designated as distressed based on their employment rates, average wages, and poverty levels. COAF provides grants for Phase I and Phase II Environmental Site Assessments, cleanup projects, and public health projects. The cleanup grants are analogous to the CORF grants, but the public health grants are used for projects in which cleanup will have no quantifiable economic benefit, such as cleanup of groundwater. The grant requires no match. As of January 2005, 47 grants totaling more than \$14 million had been approved.

For both programs, ODOD seeks to control costs at the outset of the application process. CORF uses a transparent application process in which applicants in effect grade themselves, working to quantify exactly what will happen in the project. For potential COAF applicants, ODOD first works with the distressed community to improve its projects and suggest various approaches, and then considers funding them.

Once projects are underway, ODOD's efforts to control costs include the following activities:

- Requiring that applicants use their own established competitive procurement processes to obtain the lowest costs for their services and materials.
- Analyzing paid invoices from all applicants to determine median costs for specific services and materials, which provide a reference point for estimated costs on future applications. Applicants estimating higher costs for these services must obtain lower prices or explain why their costs are higher than the median.
- Performing front-end audits that require full documentation of all project invoices before ODOD will pay for them.

ODOD obtains a full picture of the brownfield sites and verifies costs with the help of a full-time staff member who makes site visits to monitor activities.

Contact: Amy Alduino, Brownfield Coordinator, Ohio Department of Development, 614/466-0761, aalduino@odod.state.oh.us.

Ohio and Pennsylvania: Water Pollution Control Loan Fund

The Clean Water State Revolving Fund (CWSRF) can be an important source of funding for projects at contaminated sites that threaten water quality. Ohio has been at the forefront of these efforts, issuing loans for brownfield assessments and cleanups through its Water Pollution Control Loan Fund (WPCLF). Administered by the Ohio Environmental Protection Agency (Ohio EPA), the fund makes loans available to both municipalities and private entities, particularly those participating in the state's Voluntary Action Program (VAP). The prospective WPCLF loan recipient does not necessarily have to be a participant in the VAP as long as the work performed directly benefits surface/groundwater.

WPCLF loans for brownfields cannot exceed \$3 million per project, and the loan period cannot exceed 10 years. Eligible projects include Phase I and II assessment activities (e.g. literature searches, site evaluation studies, sampling, monitoring, and laboratory tests) and remediation. Like CWSRF programs in other states, Ohio's WPCLF offers loans at varying interest rates and durations, with lower interest rates for small and disadvantaged communities, short-term loans, and special projects dealing with municipal compliance maintenance, water conservation, and construction of nonconventional technologies. Wastewater and nonpoint-source pollution projects, including brownfields and USTfields, are both eligible for funding as long as they benefit water quality and are listed in the state's Nonpoint Source Management Plan.

Ohio EPA also offers linked-deposit loans to private organizations and individuals for nonpoint source projects (especially agricultural best management practices), upgrading failed on-lot wastewater treatment systems, urban stormwater runoff control, stream corridor restoration, and forestry and land development best management practices. WPCLF loans can enable businesses to expand on formerly contaminated property. For example, when Liniform Services could not obtain private financing for a Phase II site assessment on property adjacent to its dry cleaning facility, Ohio EPA provided a five-year WPCLF loan of over \$60,000. With an interest rate of approximately 3 percent, the loan financed Phase II investigation activities, including soil and groundwater sampling. Once the assessment and subsequent cleanup were complete, Liniform Services received a covenant-not-to-sue from Ohio EPA through the VAP, enabling facility expansion to proceed. The loan was repaid using a revenue stream from accounts receivable, with inventory and cash as extra collateral.

In Cleveland, the WPCLF funded a brownfield cleanup prior to site redevelopment. Grant Realty purchased the 20-acre former Sunar-Hauserman Company site to build a centrally located corporate headquarters, despite environmental assessments showing that soil and groundwater had been contaminated with solvents. A \$1.6-million WPCLF loan, at an interest rate of approximately 4 percent, covered the cost of treating contaminated subsurface soil and groundwater. The repayment source came from a tank-cleaning operation, with personal loan guarantees and a second position mortgage as additional collateral. With assistance from the Cuyahoga Brownfields Pilot Program, Grant Realty applied to Ohio's VAP for a covenant-not-

to-sue and was issued a no further action letter.

The Hemisphere Corporation, a brownfield redevelopment company, obtained WPCLF loans totaling approximately \$3 million to assess and clean up a 27.5-acre brownfield site, known as the Stickney West Industrial Park (SWIP), in the heart of an area undergoing extensive redevelopment in Toledo. The site remediation will prime the parcel for redevelopment and remove threats to groundwater and water quality in Sibley Creek and the Ottawa River.

Although Toledo boasts the fourth-largest port on the Great Lakes and one of the largest railway centers, redevelopment of nearly two-thirds of the city's commercial and industrial real estate has been hindered by environmental concerns. To encourage development, in 1997 Toledo obtained a \$200,000-targeted brownfield assessment grant from U.S. EPA. Toledo used part of the grant for a Phase I assessment on a 68-acre commercial/ industrial site surrounded by three landfills, which identified soil contamination and threats to water quality in Sibley Creek and the Ottawa River. In 1999, the Hemisphere Corporation purchased a portion of the property, now known as SWIP, and agreed to conduct a Phase II assessment, clean up the parcel in accordance with the Ohio VAP, and redevelop it.

In the spring of 2000, Hemisphere received a WPCLF loan of \$500,000 to fund a Phase II assessment that confirmed suspected surface soil contamination and, in accordance with the VAP, determined the cleanup standards at a level that would allow industrial activities to resume on the site. To fund the cleanup, Hemisphere received a second WPCLF loan of approximately \$2.5 million at an interest rate of about 4 percent over five years (extending to 10 years if the loan is not in default). To cover additional costs and provide security for the WPCLF loans, Hemisphere has worked with Toledo, Ohio EPA, and the Ohio Water Development Authority, the secondary agency for the WPCLF that generally acts as a financial adviser to Ohio EPA for CWSRF loans. Repayment sources for the loan include payment from the city for the soil needed to cap its landfill, tipping fees from one of the landfills, rental fees from the completed SWIP project, and settlements between the city and EPA for environmental liability related to the site.

Despite these successes, Ohio EPA has received no new requests for loan assistance since the creation of Ohio's brownfield grant programs in 2001. This may signify a preference among applicants for grants over loans, and either grants are sufficient to meet the needs of current brownfield entrepreneurs or prospective applicants are delaying seeking loans until possibilities of receiving grants are exhausted.

Contact: Greg Smith, Ohio Environmental Protection Agency, (614) 644-2798, greg.smith@epa.state.oh.us, Web site www.owda.org/html/loans.asp.

The CWSRF program is a key part of Pennsylvania's efforts to protect the water environment, promote community revitalization, and support economic development. The Pennsylvania Infrastructure Investment Authority (PENNVEST) works across state and federal

agencies to identify opportunities to use CWSRF funds and coordinate funding efforts. In 2004, PENNVEST extended the use of its funds to include the remediation of brownfields that pose a threat to local groundwater or surface water sources, and U.S. EPA Region 3 approved the new brownfield guidelines in July of that year.

The latest Pennsylvania Water Quality Assessment Report, conducted in 2002 under Section 305(b) of the Act, identified industrial facilities, underground storage tanks, hazardous waste sites, abandoned landfills, above-ground storage tanks, manure/fertilizer applications, chemical facilities, and septic systems as major sources of groundwater contamination in the state. By dedicating a portion of the 2004 CWSRF funds to brownfields, the program assists the DEP Bureau of Land Recycling and Waste Management in implementing the Land Recycling Program to clean up groundwater and brownfield sites.

PENNVEST sets aside 30 percent of its annual CWSRF funding to address brownfields, totaling \$48 million in 2004. Two of the state's 12 new CWSRF projects approved in 2004 involved brownfield remediation and received loans totaling \$2.7 million at county cap interest rates for a maximum term of 20 years. Under the program guidelines, loans to one municipality may total up to \$11 million per project, increasing to \$20 million for projects that serve two or three municipalities. PENNVEST currently has four brownfield projects using CWSRF funds underway:

- The Riverfront South Brownfields Remediation Project in Bensalem Township received a \$5.3-million loan to clean up a 26-acre industrial site along the Delaware River. The loan has a two-year term and interest rate below 4 percent.
- The Ashley Yard Project in Ashley received \$795,650 for two years at an interest rate below 3 percent to complete site characterization.
- The Norristown Brownfields Remediation Project in the borough of Norristown received \$1.9 million for two years at a rate below 4 percent to conduct environmental assessment and site remediation, trash and debris removal, building demolition, asbestos abatement, and site preparation at a former asbestos manufacturing facility.
- The Philadelphia Authority for Industrial Development received a \$1.75-million loan to construct drinking water distribution lines, sanitary sewer collection lines, and stormwater facilities to eliminate soil and groundwater contamination and support commercial development on 4.5 acres of a 70-acre site at the City of Philadelphia Navy Yard.

Contact: Beverly Reinhold, Project Management, PENNVEST, 717/783-6589.

Tax Incentives

Colorado: Cleanup Tax Credit

Colorado passed a Brownfields Tax Credit in 1999 as part of the governor's smart growth initiative, to make brownfield redevelopment more attractive and viable. Properties must be located in a municipality with a population of at least 10,000 and be eligible for inclusion under the state's Voluntary Cleanup and Redevelopment Act. The bill provides an income tax credit of up to \$100,000 per property to offset up to \$300,000.

For any tax year beginning on or after January 1, 2000, and ending before December 31, 2005, applicants may obtain 50 percent of the first \$100,000 spent on cleanup; 30 percent of the next \$100,000; and 20 percent of the third \$100,000. To the extent the allowable credit exceeds the net tax liability, the excess may be carried forward for up to five years. The Colorado Department of Public Health and Environment's Voluntary Cleanup Program reviews the site's cleanup plan and associated costs to provide the certification required to obtain the tax credit from the Colorado Department of Revenue.

By January 2005, 12 applicants had used about \$1 million in tax credits. Because it takes a few years for the public to become familiar with new tax credits, interest is expected to increase. The state legislature will consider extending the credit beyond December 2005 this year.

Contacts: Joe Vranka, Superfund and PA/SI Unit Leader, Colorado Dept of Public Health and Environment, 303/692 3402, joe.vranka@state.co.us; Dan Scheppers, Hazardous Materials and Waste Management Division of CDPHE, 303/692-3398; Daniel.Scheppers@state.co.us, Web site www.cdphe.state.co.us/hm/bftaxhowto.asp.

Florida: Voluntary Cleanup Tax Credit and Tax Refund for Job Creation

The 1998 Florida Legislature created the Voluntary Cleanup Tax Credit to encourage voluntary cleanup at brownfield sites in designated Florida Brownfield Areas and other specified sites contaminated by drycleaning solvents. One key to the program's success is that the credits are transferable, so that local governments and nonprofit developers that cannot use the credits may transfer them to businesses as an incentive to reuse brownfield sites or to mitigate costs incurred to perform brownfield site rehabilitation.

The program provides tax credits to eligible applicants for up to 35 percent of the costs of voluntary cleanup activities that are integral to site rehabilitation, not to exceed \$250,000 per site per year. Each year FDEP may grant up to \$2 million in tax credits, which can be applied to the state's Corporate Income Tax or Intangible Personal Property Tax in Florida. In fiscal 2003-2004, the program awarded tax credits totaling \$1 million for 16 sites. The Voluntary Cleanup Tax Credit Rule (Chapter 62-788, F.A.C.) provides the administrative process, guidelines and

forms for application for these tax credits.

Florida's Brownfield Redevelopment Bonus encourages redevelopment and job creation in designated Brownfield Areas through a tax refund of up to \$2,500 for each new job, or 20 percent of the average wage of the jobs created, whichever is less. Of the \$2,500, \$500 is a fully optional match, so that the bonus often functions as a \$2,000-job bonus. All tax refunds can be applied to many tax categories, including corporate income, ad valorem, intangible personal property, insurance premium, and sales and use taxes.

The refund is available to any business that locates at a brownfield site in a designated Brownfield Area and qualifies under Florida's Qualified Target Industry (QTI) tax refund program. This program provides a tax refund of at least \$3,000 per job created to businesses in targeted industries that create at least 10 jobs and pay an average annual wage of at least 155 percent of the local, state, or MSA average.

Applicants that do not qualify under the QTI program may still qualify for the brownfield bonus by creating at least 10 jobs (with benefits) in a designated Brownfield Area and making a fixed-capital investment of at least \$2 million in mixed-use business activities. Applicants also must show that the project will diversify and strengthen the local economy and promote capital investment in the area surrounding the rehabilitated site.

Contacts: Patrick W. Kennedy, Incentive Manager, Enterprise Florida, Inc., 850/487-2157 pkennedy@eflorida.com; Roger Register, Brownfields Liaison, Florida Department of Environmental Protection, 850/245-8934, roger.register@dep.state.fl.us.

New York: Cleanup, Real Property, and Insurance Tax Credit

Effective in the tax years beginning April 1, 2005, New York State will offer tax credits to participants in the Brownfield Cleanup Program and have entered into a brownfield cleanup agreement with the Department of Environmental Conservation. The tax credits offset the costs of site preparation, property improvements, on-site groundwater cleanup costs, real property taxes, and environmental insurance premiums. Tax credit eligibility requires a certificate of completion, issued by DEC, stating that remediation requirements that were set forth in the brownfield cleanup agreement have been achieved. To claim the tangible property credit (similar to an investment tax credit for development), the property must be placed in service after the certificate of completion is issued. All the credits available under the Brownfield Cleanup Program are refundable credits.

The state offers three types of credits:

- The brownfield redevelopment credit provides business tax credit consists of three separate and distinct credits that provide a business tax credit of 12 percent or a personal tax credit of 10 percent for the costs of site preparation, tangible property (i.e.,

development), and on-site groundwater remediation. These percentages increase by 2 percent for sites cleaned up to unrestricted condition, and increase by 8 percent if at least half of the qualified site is located in an area designated as an environmental zone by the commissioner of economic development.

- The remediated brownfield credit for real property taxes provides a tax credit based on the real property taxes imposed on a qualified site. The credit is available for 10 consecutive years, beginning in the year a taxpayer is issued a certificate of completion. The credit is for 25 percent of the eligible real property taxes imposed on the site, multiplied by the “employment number factor”—a percentage based on the number of people employed by the taxpayer or his lessee. If the entire qualified site is located in an environmental zone, the percentage for purposes of calculating the credit increases from 25 percent to 100 percent. There is no limit on the total amount of this credit allowed for a qualified site, which is determined by multiplying \$10,000 times the number of employees at the site. If the taxpayer also is eligible to claim the HEZE real property tax credit, he or she must make an irrevocable choice between the two.
- The environmental remediation insurance credit provides a one-time credit for up to \$30,000 or 50 percent of the premiums paid for environmental remediation insurance, whichever is less. Such insurance is required for one or more of the following: on-site cleanup of pre-existing pollution; third-party claims (for bodily injury or property damage); cost of each policy covering on-site cleanup of pre-existing pollution conditions; cost-coverage; and re-opener coverage.

Contact: Chris Costopoulos, New York State Department of Environmental Conservation, 518/402-9711, cjcostop@gw.dec.state.ny.us.

Wisconsin: Cancellation of Delinquent Taxes

In 1999, Wisconsin’s legislature adopted tax provisions that can help local governments achieve the cleanup and redevelopment of contaminated, tax-delinquent properties. For many brownfield sites—especially where the local government has used various grant programs to complete preliminary assessments of contamination—the provisions have removed the combined barriers of contamination and tax delinquency that prevented developers from acquiring them.

The provision for cancellation of delinquent taxes (s. 75.105, Wis. Stats.) enables counties and the City of Milwaukee to cancel all or a portion of unpaid property taxes on a contaminated property, provided that the Wisconsin Department of Natural Resources has approved a written agreement with the party receiving the tax benefit to investigate and clean up the contamination. This party can be the current property owner or a third party proposing to acquire the property or work with the current owner.

To develop a tax cancellation agreement, the dialogue starts with the local taxing

authority to determine the extent to which the authority is willing to reduce or eliminate the delinquent taxes (discretionary authority). Then an agreement is prepared with the DNR that details the investigation and cleanup required in exchange for canceling the taxes. In many cases, the party receiving the tax benefit develops a separate agreement with the local taxing authority regarding tax, schedule, and redevelopment issues. If for any reason the tax cancellation agreement is not implemented, the cleanup agreement with the DNR is nonbinding.

By January 2005, taxes were cancelled at eight brownfield properties, and several had been cleaned up and redeveloped. Examples include the former Pingle Oil bulk plant property in Ashland, which has been redeveloped as a towing service/auto repair business, and a contaminated property on 1420 State Street in Racine, which has been redeveloped as a large supermarket and adjacent parking.

Another tax provision (s. 75.106, Wis. Stats.) enables counties and the City of Milwaukee to foreclose on tax-delinquent brownfields and assign the foreclosure judgment to a new owner for redevelopment. The party requesting assignment of the foreclosure judgment must have a written agreement, approved by the DNR, regarding cleanup of the contamination. Before the law was enacted, municipalities had to take ownership of foreclosed property and assume the liability for cleaning it up and selling it. Fearing the costs of remediation, cities often chose not to pursue ownership of abandoned properties.

This provision has been used at six brownfield sites, and other sites are under consideration. A notable example is the Sherman Perk coffee shop, located in a formerly vacated gas station, which became a pilot case for the new foreclosure provision. By 2000, the Sherman Perk building had been vacant for 10 years, tax delinquent for nine, and scheduled to be razed by city order because of structural deterioration and fuel contamination. At that point, Bob Olin became interested in developing the property and began negotiating an agreement with the city and DNR, under the new tax provisions, to acquire it through foreclosure and clean it up.

The foreclosure process began in October 2000 and concluded five months later in March 2001, with finalization in court on April 9. As a small, community-based developer, Olin faced critical financial hurdles in getting his project underway. He worked with a variety of public agency partners, obtaining \$30,000 in grants from the city and county of Milwaukee to help cover the costs of site cleanup, and \$100,000 from the Wisconsin Department of Commerce Brownfield Revitalization Program to help finance redevelopment.

In addition, ESV, LLC, used the foreclosure provision to redevelop the former Wisconsin Waste Paper property on Newhall Street in Milwaukee into a new small animal hospital, and Ralos, LLC, redeveloped the former Solar Paints and Varnish property into a new manufacturing plant for construction equipment.

Contact: Dan Kolberg, 608/267-7500, Wisconsin Department of Natural Resources, kolbed@dnr.state.wi.us, Web site http://www.dnr.state.wi.us/org/aw/rr/financial/del_taxes.html.

Planning, Assessment, and Cleanup Programs

Many brownfield projects have particular difficulty getting financing together for three specific activities:

- early-stage site assessment,
- defining a site remediation plan (which the owner needs if he wants to get take the site through a state voluntary cleanup program in order to get some finality on liability concerns); and
- carrying out the cleanup itself.

A growing number of states are stepping up to help remove the major stumbling block this financing gap creates. New financing incentives and creative use of existing programs advance brownfield projects as a logical extension of the states' traditional economic development mission.

Michigan: Local Brownfield Redevelopment Authorities

In 1996, Michigan authorized cities and counties to establish Brownfield Redevelopment Authorities, which have TIF and bonding authority. Structurally, they are based on the widely recognized and popular development authority entities, which increases their acceptance among communities and private entities that might be uncomfortable with a strictly environmental program. The authorities can adopt brownfield plans that identify the eligible activities to be conducted on an eligible property and provide for the use of TIF to capture property taxes to reimburse the costs of the eligible activities.

TIF is based on the tax increment of a brownfield site: the tax revenues it generated the year the property was included in the brownfield plan. When cleanup and redevelopment of the property increases its value, and thus the tax revenues it generates, the increased tax revenues (captured taxes) are used to pay the cost of eligible environmental response and redevelopment activities at the site. Tax increment revenues that are eligible for capture include all property taxes including taxes levied for school operating purposes (with approval from the DEQ or MEGA). Taxes already captured as part of an existing tax increment financing plan (under other state laws) and taxes levied to pay off specific obligations are exempt.

Under the Brownfield Redevelopment Financing Act, 1996 PA 381, as amended (Act 381), only a BRA can capture new property tax value from a redeveloped eligible property and use the captured funds to reimburse those who incurred eligible expenses on that property. The BRA may also establish a Local Site Remediation Revolving Fund from eligible tax capture to cover eligible expenses on other eligible properties within the BRA's jurisdiction.

The property owner also may apply for a Single Business Tax Brownfield Redevelopment Credit for eligible investments made at an eligible property, if it is included in a brownfield plan. This credit can total 10 percent of any innocent party's development (not cleanup) costs, up to \$1 million. In urban communities that have created an Obsolete Property Rehabilitation District, property owners can receive an abatement of up to 100 percent of real property taxes for a brownfield site for up to 12 years.

By October 2004, some 225 cities and towns and 11 counties had set up authorities that provide one-stop shops for information, technical assistance, and resources. They have proven especially helpful in small towns, where they have spearheaded redevelopment projects in towns with as few as 1,500 people.

Contact: Darlene Van Dale, Michigan Department of Environmental Quality, 989/705-3453, vandaled@michigan.gov, Web site http://www.michigan.gov/deq/0,1607,7-135-3311_4110_23246-63521--,00.html.

Wisconsin: Brownfield Site Assessment Grant Program

Wisconsin's Site Assessment Grant Program (SAG) helps local governments conduct initial activities and investigations at contaminated sites, awarding \$1.7 million in grants in its third year (2004-2005). The grants may fund Phase I and II environmental assessments, site investigation, demolition of any structures or buildings, asbestos abatement (if it is a necessary part of demolition activity), and removal and proper disposal or treatment of abandoned containers, underground hazardous substance storage tank systems, or underground petroleum storage tanks.

In each application round, a local government may submit only one application for a large grant and one application for a small grant for a single property, but may request funds for more than one property in each round or submit a grant application covering multiple, contiguous properties. Eligible sites or facilities are abandoned, idle, or underused, where expansion or redevelopment is hindered by actual or perceived environmental contamination. Applicants must use the grant for one or more properties with known or suspected contamination and may not be the party who caused it. A local government does not have to own the property to qualify for the grant, but it must have access to the site within 60 days of a grant award to carry out the grant activities. The grants also require a match of at least 20 percent of the grant request in the form of cash, in-kind services, or a combination of both, but recent changes to the program allow the match to be provided by any local government—not just the applicant.

To prepare to apply for a SAG, local governments do the following:

- locate eligible sites or facilities;
- determine what activities need to be performed;
- obtain cost estimates for activities from a qualified professional;

- get access and/or ownership;
- collect information on the history of the site, occupants and cause of contamination;
- budget for the match; and
- create and approve a municipal resolution in support of the project.

Since 1998, SAG has received 374 applications and awarded 212 grants totaling \$6.56 million to investigate and clean up 742 acres of land. The grants have paid for 72 Phase I environmental site assessments, 119 Phase II environmental site assessments, 149 site investigations, the demolition of 261 structures and buildings, and the removal of 197 underground storage tanks.

Brownfields addressed through SAG include tax-delinquent or bankrupt properties that formerly received funding through Wisconsin's Brownfield Environmental Assessment Program (BEAP). This U.S. EPA brownfields pilot program, which operated from 1996 to 2000, provided U.S. EPA funding for the state department of natural resources to conduct Phase I and II assessments and other investigations at tax-delinquent or bankrupt properties nominated or acquired by their city or county. Because the BEAP was a U.S. EPA brownfields pilot, properties also qualified for a federal tax incentive.

The BEAP accepted 43 properties from 1996-2000. All of the 1996 properties and several of the 1997 and 1998 properties have been redeveloped, have future use plans, and/or are being cleaned up. The remaining properties are in various stages of redevelopment. Many of the properties audited with BEAP resources were redeveloped with no further public subsidy.

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Infrastructure Development

Massachusetts: Transportation Construction

The Massachusetts Executive Office of Transportation and Construction has invested millions of dollars in infrastructure improvements to facilitate brownfield reuse. One of the most notable examples is the Lawrence Gateway project at the former Oxford Paper plant. Located at the entrance of the Lawrence historic, the contaminated site original became the focus of cleanup and redevelopment efforts in conjunction with a highway project that provided Massachusetts Highway Department funds. Plans developed in 1994 called for demolition of existing Oxford buildings, construction of road interchanges, and creation of a public park.

In its first two years, the Lawrence Gateway Project leveraged over \$160 million in public and private investment for Lawrence's historic district, including \$4.5 million from the Massachusetts Highway Department. However, despite promises of leveling the Oxford plant in 1995, by May 2000 it still hadn't occurred. State transportation secretary Kevin Sullivan helped

to keep the project alive, working with the city to accept liability for possible contamination.

By 2003, the complex Lawrence Gateway Project was still underway. In the project's Quadrant Area, the Massachusetts Executive Office of Transportation and Construction (EOTC) was connecting transportation enhancements to the redevelopment of two major brownfield sites: Oxford Paper and GenCorp, Inc. EOTC invested \$30 million in the reconfiguration of the Route 495/Marston Street interchange, constructing new off-ramps, realigning an intersection for easier access, installing new traffic signals, and rehabilitating nine bridges and two walls. In addition, EOTC is undertaking the Canal Street Realignment/Spicket River Bridge Replacement Project, which will raise the entire roadway profile to span a new pedestrian walkway.

Because the Spicket River Bridge's substructure will occupy the footprint of one of the old mill buildings on the Oxford Paper site, all five buildings on the site needed to be demolished for the project to go forward. EOTC committed the resources needed for demolition and cleanup, with the City of Lawrence expected to complete the remediation work in 2003 or early 2004. EOTC planned to begin bridge construction in 2003.

The estimated cost of cleaning up the Oxford site will total more than \$13 million, with \$9 million in transportation funds contributed through 2002 by the Massachusetts Highway Department and the Federal Highway Administration. In addition, GenCorp provided \$636,973 for Oxford cleanup and is matching \$100,000 for site assessment from Mass Development with an additional \$40,000. Cleanup of the Oxford site makes cleanup of the GenCorp site more sustainable as well, because water flowing through an underground raceway connecting the sites transfers contamination between them. The EOTC project will ensure that both sides are stabilized at once.

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