State Brownfield Planning, Assessment, and Cleanup Programs

by

Charles Bartsch
and Barbara Wells

NORTHEAST-MIDWEST INSTITUTE
www.nemw.org
May 2005

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.

Contact: Andrew Savagian, Remediation and Redevelopment Program, Wisconsin Department of Natural Resources, 608/261-6422, Andrew.Savagian@dnr.state.wi.us.

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.

Contacts: Joe D'Angelo, Massachusetts Highway Department, District Four, Phone: 781/641-8409; Robert Devaney, Director, Environmental Engineering, GenCorp, Inc., Phone: 978/683-7123.