

State Brownfield Targeted Financial Assistance

by

Charles Bartsch
and Barbara Wells

NORTHEAST-MIDWEST INSTITUTE

www.nemw.org

May 2005

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.A.58:10B-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.
- *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

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.

ORF 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.

or 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.

he 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.

he 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.

ENNVEST 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.