



**Written Testimony of Elizabeth Mayor J. Christian Bollwage
For The U.S. Conference of Mayors
Before the House Energy and Commerce
Subcommittee on Environment
on "Discussion Draft: Brownfields Reauthorization"**

INTRODUCTION

My name is Chris Bollwage, I am the Mayor of Elizabeth, NJ and have served as Mayor since 1993. I'm a Trustee for The U.S. Conference of Mayors and I have served as Chair of the Brownfields Task Force for the past 20+ years. Mr. Chairman and members of the Committee, I would like to officially submit my written testimony for the record.

I am pleased to be here today to give the Conference of Mayors initial reaction to the Brownfields Reauthorization Discussion Draft. I would like to caveat my remarks by saying that we are still reaching out to our membership to get their feedback and we would like to continue to work with you and your staff as we receive this feedback in order to craft the best possible bill. However, let me acknowledge this committee for taking many of our recommendations and producing a very good draft bill.

I testified last week before the House Transportation and Infrastructure subcommittee regarding the role brownfields redevelopment can play to build our 21st Century Infrastructure as well as revitalize communities. For many people, brownfields are just the neighborhood eyesore or the former industrial site, but for Mayors they also

represent unrealized potential. Mayors see the redevelopment of brownfields as a chance to bring jobs back to a community, revitalize neighborhoods, increase our tax base, and reuse and enhance already existing infrastructure in a more sustainable way.

I can not stress enough that redeveloping brownfields is such a win-win for everyone involved and that I'm so pleased that Congress has drafted this reauthorization bill and has acknowledged many of the recommendations that the Conference of Mayors and others have been seeking. I would like to submit, for the record, the letter we sent to Committee members outlining the recommendations of USCM, NACo, NLC, and NARC have for improving the brownfields law; many of which you have incorporated in your discussion draft.

HISTORY

Since the early 1990s, the Conference of Mayors made the redevelopment of brownfield properties one of its top priorities and you can understand why. At that time, the Government Accountability Office (GAO) estimated there were anywhere from 400-600,000 brownfield properties. Brownfields are defined as abandoned or underutilized property whose redevelopment is hindered due to real or perceived environmental contamination.

Developers and business owners were unwilling to touch these properties out of fear of liability. These concerns were the result of the joint, several, and strict liability provisions in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a 1980s law more commonly known as Superfund, which made an innocent developer just as responsible for the cost of cleanup as the actual polluter. As a result, these potential businesses would develop on greenfields rather than take a risk on a brownfield property. This has contributed to urban sprawl and left abandoned or underutilized sites in just about every community in the United States.

As former Chicago Mayor Richard Daley used to say, “As a nation, we recycle aluminum, glass, and paper, but we don’t recycle our most valuable commodity, our land.” And I would like to add to that, by recycling this land, we are also reusing already existing infrastructure and in many cases, upgrading that infrastructure to support that new development. This is a much more sustainable path of reutilizing infrastructure than continually building new infrastructure that will also eventually need to be maintained.

Back then, the Conference of Mayors worked with Congress and the EPA to formulate legislation and a program that provided some liability relief for innocent developers as well as money to do assessments and cleanup.

I testified before the House and Senate numerous times between 1994-2001 on the importance of this legislation and I was pleased that this bill had such strong bipartisan support. The fact that the Small Business Liability and Brownfields Redevelopment Act passed in the Senate with a 99-0 vote and was put on the unanimous consent calendar in the House and then signed by President Bush, demonstrates the vast bipartisan appeal of this issue. And you can understand why - this is a win for the community, the environment, and the business community.

NATIONAL IMPACT OF BROWNFIELDS

The Brownfields Law and the EPA Program that resulted has had a very positive impact on many communities throughout the nation. According to EPA, since the inception of the program, over 26,000 brownfield sites have been assessed and have made over 5,700 properties and 66,000 acres ready for reuse. As of March 1, 2017, the program has leveraged over 123,000 jobs and over \$23.6 billion dollars. In fact, for every EPA dollar spent leverages approximately \$16 in other investments.

However, EPA has had to turn away a lot of highly qualified applicants due to lack of funding. EPA estimates that for the past 5 years, over 1,600 requests for viable projects were not awarded money because of limited funding. EPA estimates that if they were able to provide funding to those turned away applicants, an additional 54,000 jobs would have been created along with \$10.3 billion of leveraged funding.

In the last Conference of Mayors survey, 84 percent of cities said that they have successfully redeveloped a brownfield site with 150 cities successfully redeveloping nearly 2,100 sites, comprising more than 18,000 acres of land. And, at that time, there were over 1,200 sites comprising of another 15,000 acres that were in the process of being redeveloped. 106 cities reported that 187,000 jobs have already been created through the redevelopment of brownfield properties with 71,000 jobs in the pre-development stage and 116,000 permanent jobs.

These new developments have resulted in an increase in tax revenues at the local, state, and federal level. 62 cities reported that their actual tax revenues from redeveloped brownfields sites totaled over \$408 million with an estimate of potential revenues ranging from \$1.3 - \$3.8 billion.

And, it should be noted that in every survey that the Conference of Mayors ever conducted, the top three impediments to brownfields redevelopment were always the same-- lack of cleanup funds, the need for more environmental assessments, and liability issues.

BROWNFIELDS REDEVELOPMENT IN ELIZABETH

Attached to my testimony is a summary of some of the most notable brownfield redevelopment projects in my community including the Harbor Front Villas and the Jersey Gardens Mall, which I highlighted the last time I testified. Today, I wanted to

highlight another brownfields redevelopment success story and that is our Elizabethport/Hope VI project.

From a historical perspective, the City of Elizabeth's commerce depended heavily on its position as a Port city. The majority of businesses that were located close to and along the Waterfront, focused upon and complimented the shipping industry, supplying additional services such as the transportation and storage of goods. However, as Elizabeth expanded, evolved and changed, so did the vision and potential of the land once utilized primarily by these industrial companies.

Re-imagining Elizabeth's Waterfront has included the creation of luxury housing on a former brownfield site. Harbor Front Villas is a \$15 million townhouse development, which includes fifty-five market-rate units, which were designed to attract the most demanding buyer. Constructed in close proximity to the Arthur Kill, the Villas have increased opportunities and contributed to the exciting renaissance occurring within Elizabethport.

Homeownership, coupled with luxurious amenities and a Waterfront view, is what Harbor Front Villas offers its clientele. Located minutes away from Exit 13A off the New Jersey Turnpike, the site is easily accessible from major roadways and is minutes away from New York.

Developments such as Harbor Front Villas were thought impossible by individuals, who could not visualize the possibility of such desirable property. Residents within these units benefit from both the amenities offered within their complex as well as the splendor of Elizabeth's surrounding open space and recreational facilities. Utilized as both a transportation and leisure waterway, large container ships, pleasure boats and vessels of all sizes, travel along the Arthur Kill en route to Port Newark/Elizabeth.

Providing a window into maritime commerce as well as breathtaking scenic views to admire, waterways enhance the viability and marketability of surrounding properties.

Revitalizing underutilized brownfields into remediated, active sites for development, has been occurring for years in the City's oldest neighborhood. The tremendously successful, federally-funded HOPE VI program has assisted in the removal of public housing complexes and replaced them with townhouses in Elizabethport. Individuals previously residing in the old, dilapidated facilities had the unique opportunity to become homeowners. Living in a new community-setting not only physically re-located residents, it positively altered their quality of life. Removing the stigma of public housing, the HOPE VI program assisted in instilling a sense of pride, self-sufficiency and homeownership in a residential neighborhood that included beautiful landscaping and open space.

In 1997, with an initial grant of \$29 million dollars, the Housing Authority of the City of Elizabeth began administering the HOPE VI Elizabeth Neighborhood Revitalization Program. With assistance from the HOPE VI program, demolition began on the Migliore Manor public housing complex in 1998, followed by the demolition of the Pioneer Homes public housing complex in 2000.

In addition to new housing opportunities, the Revitalization Program sought to provide transitional services for re-located public housing residents. City officials worked with the Housing Authority to create partnerships and deliver essential services to residents. In order to ascertain the needs of the community, resident surveys were conducted. Once needs were assessed, additional funding sources had to be identified. The County of Union provided one million dollars in funding through the Home Partnership Investment Program, which enabled the creation of twenty home units.

Approaching the project holistically, Union County's Department of Human Services also provided job-training services during the first phase to residents. Senators Frank Lautenberg and Robert Torricelli, former Congressman and now Senator Robert Menendez, Congressman Donald Payne, the Union County Board of Chosen Freeholders, Elizabeth City Council as well as the Elizabeth Development Company, also supported this project and helped to transform this vision into reality.

Through this program, hundreds of residents also participated in services including but not limited to: education for residents of all ages, resume and interviewing workshops, job training and placement, computer classes, youth-oriented programs, child care programs, business development and health care. Identifying neighborhood potential and implementing a strong vision made critical initiatives such as HOPE VI possible. This assistance was also a catalyst for the construction of five developments within Elizabethport, including: Portside Commons I, Portside Commons II, Westport Homes, Heritage Village and Marina Village.

With clearly defined goals and objectives, the next step in transforming the community was the introduction of mixed-use housing, with an emphasis on commercial space for economic growth and services. Business attraction and retention is critical to the vitality of a neighborhood. The City of Elizabeth recognized this factor and worked with government leadership and local agencies to foster economic development in the Elizabethport neighborhood. Ultimately, The Mills at Jersey Gardens Mall, AMC Loews Jersey Gardens Theater, multiple restaurants and hotels were developed minutes away. In addition, more opportunities and jobs will be created with an exciting 411,000 square foot mall expansion, which will add more high-quality restaurants and top retail brands next year.

WAYS TO IMPROVE THE PROGRAM

The Brownfields Law and the subsequent Brownfields program that EPA runs, has a

proven track record of leveraging private sector investment, creating jobs, and protecting the environment. The law provided some liability relief for innocent purchasers of brownfield properties and provided resources to conduct environmental assessments and cleanups. However, there is much more work to be done. As I earlier mentioned, GAO estimated there are between 400-600 thousand brownfield sites throughout the US.

The challenge that communities face now is that many of the “easy” brownfield sites have been developed and now what remains are the more difficult brownfield sites – the, what we would like to call, the medium to dark brown brownfield sites. The Conference of Mayors, working with the National League of Cities and National Association of Counties, believe that with some minor changes to the Brownfields Law would help spur on additional redevelopment projects and economic growth.

I would like to highlight some of the key recommendations that we believe would make a significant difference with redeveloping even more properties and which are outlined in our joint letter that we would like submitted for the record.

Full Funding of the Brownfields Program – I know budgets are tight and we are all doing more with less. However, this program has more than proven itself as a success. It has a great track record of leveraging private sector money, putting people to work, and taking formerly contaminated properties and redeveloping them which also increases all of our tax bases. At the current funding levels, which are far below the authorized level, EPA only funds (roughly 30 percent) of the applications that make it to headquarters. The mayors of this nation believe this is a good investment that more than pays for itself and not only should be fully funded at the previously authorized levels of \$250 million but, in fact, the authorized and appropriated levels should be increased.

Creation of a Multi-Purpose Grant –The way the program works currently is that a city applies for various grants and identifies the properties where the money will be spent. The only problem with that scenario is that this is not flexible enough for real marketplace situations. A city may have multiple developers and businesses who are interested in several brownfield properties. What many cities could use is the ability to assess a number of properties and provide cleanup grants and loans depending on which site or sites are chosen for redevelopment. It hinders that opportunity if a city has to apply for a grant and wait 6 months to a year to see if they get funding. We would like to see the establishment of a multi-purpose grant to be given to communities who could use the funds based on marketplace needs. We believe by giving us that flexibility will make the program even more useful.

We are very pleased that your discussion draft includes the creation of a multi-purpose grant so we can be more market friendly and we support the “up to \$1 million” authorization levels. We do have a couple of observations including:

- 1) How detailed will the “overall plan” need to be under the Criteria section?
One of our visions for this type of grant was to be flexible enough to meet market needs. An applicant may have a certain vision for an area but a developer may have other ideas. We wouldn’t want an applicant to not be able to use the funds if the funds do correspond with the initial vision.
- 2) Ownership – we are currently checking to see if having to be an owner before expending remediation funds will be an impediment or if this is not a problem. We would like an opportunity to comment on this later.

Increase Cleanup Grant Amounts – As I mentioned earlier, many “easy” brownfield redevelopment projects have been done. And while that work still needs to keep going, we do have many additional brownfield sites that are more complicated due to the level of cleanup that is needed, market conditions, location of the site, or a combination of these factors.

We are happy that the Committee recognized this need and raised the cleanup grant amounts to \$500,000 and \$750,000. However, if it is at all possible, we would like to see this increase to be \$1 million and in special circumstances, \$2 million. This would give some additional resources to conduct cleanup at the more contaminated sites and bring a new group of properties back into productive use.

Allow Reasonable Administrative Costs - Brownfield grant recipients should be allowed to use a small portion of their grant to cover reasonable administrative costs such as rent, utilities and other costs necessary to carry out a brownfields project. As far as I know, this is the only program that prohibits administrative costs entirely. As a result, smaller communities and non-profits sometimes will not bother to even apply for these grants due to the cost burdens associated with taking a federal grant.

We are grateful that you are acknowledging this need. However, if there is anyway of increasing this percentage, that would be extremely helpful, especially to smaller communities.

Clarify Eligibility of Publicly-Owned Sites Acquired Before 2002 – The Conference of Mayors believes that as long as a local government did not cause or contribute to the contamination of the property but just happened to own the property prior to 2002, when the law was enacted, they should be allowed to apply for EPA funding for that property. It took Congress nine years to pass the original law and in that time, many communities, such as St. Louis, took it upon themselves to take ownership of contaminated properties so that they could potentially turn these properties around. These same communities have now found themselves ineligible to apply for any funding for those properties to assist them with their efforts.

We thank the committee for acknowledging this problem and we think for developing a very good solution. We sincerely appreciate you addressing this issue.

Remove Barriers to Local and State Governments Addressing Mothballed Sites – The Act should exempt local and state government from CERCLA liability if the government unit (a) owns a brownfield as defined by section 101(39); (b) did not cause or contribute to contamination on the property; and (c) exercises due care with regard to any known contamination at the site.

Local governments throughout the country have long recognized the harm abandoned and underdeveloped brownfield properties can pose to their communities. Properties that lie idle because of fear of environmental contamination, unknown cleanup costs, and liability risks can cause and perpetuate neighborhood blight, with associated threats to a community's health, environment, and economic development.

Local government property acquisition authority is one of the key tools to facilitate the redevelopment of brownfields. Through voluntary sales or involuntary means including tax liens, foreclosures and the use of eminent domain, local governments can take control of brownfields in order to clear title, conduct site assessment, remediate environmental hazards, and otherwise prepare the property for development by the private sector or for public and community facilities.

Although property acquisition is a vital tool for facilitating the development of brownfields, many local governments have been dissuaded by fears of environmental liability. As a result, we have many brownfield properties that are, what we like to call, "mothballed". While it hasn't been a major problem in my community, it is a problem in other communities.

We believe that the additional liability protection that you have included may potentially address some of these types of sites and for that we are very grateful. We are, however, awaiting some additional feedback from our cities and would like the opportunity to provide the committee with our findings.

Encouraging Brownfield Cleanups by Good Samaritans – The Act should provide an owner-operator exemption from CERCLA liability for non-labile parties that take cleanup action or contribute funding or other substantial support to the cleanup of a brownfield, in conformance with a federal or state cleanup program, but do not take ownership of that site. Groups such as Ducks or Trout Unlimited have wanted to clean up properties and restore them to their natural habitat but because they have no protection under the law, they could be held as liable as the person who polluted the property. We need more, not less, people and organizations to help clean up these sites, as long as they do not make the situation worse.

This is a situation that we think we should address in order to have additional help in cleaning up these sites. We would welcome the opportunity to bring in some of our staff and other experts to work with you to see if we could craft a solution that is viable.

Closing

I wish to thank the subcommittee for having me testify today. Brownfields redevelopment is a win-win for everyone involved. It creates jobs, it cleans up the environment, and it's pro-business and pro-community. The reauthorization of this law should be a top priority for this Congress and I urge you to work on this discussion draft and pass a reauthorization bill. Thank you again for this opportunity.

Attachment
City of Elizabeth - Brownfield Summary

1. The Mills at Jersey Gardens

Within the City of Elizabeth, the *Jersey Gardens Mall* was built upon a former landfill in 1999. Through strong private/public partnerships on the County, State and Federal level, this innovative project transformed a former brownfield into a thriving shopping experience - with more than 200 stores and an AMC Loews movie theater located next door.

Conveniently located off Exit 13A of the New Jersey Turnpike, the conversion of this former eyesore into a shopping center had numerous positive effects on the health of the neighborhood. It created new employment opportunities, assisted in the stabilization of property taxes through a new tax ratable and continues to improve the overall quality of life within the City.

Jersey Gardens Mall became *The Outlet Collection - Jersey Gardens* and was renamed *The Mills at Jersey Gardens* when it was acquired by Simon Malls in January 2015. *The Mills* has announced a 411,00-square foot expansion, which is expected to start in 2016 and be completed in 2018. Improvements will include adding high-quality restaurants and top retail brands to the location.

The Mall continues to flourish after another successful year, with business up 10% and international visits up 37% - from top markets including Brazil, Germany and Israel.

In collaboration with Union County College, the Retail Skills Center, which has evolved into the Workforce Innovation Center, provides job placement, soft skills training and ESL education to residents - and is located right within the *The Mills at Jersey Gardens*. In addition We Are One New Jersey-Union County, which is an initiative spearheaded by the County of Union, is located within *The Mills* and provides assistance to individuals as they prepare for the United States Citizenship Test.

The Mills at Jersey Gardens also features a 4.8-megawatt SunPower rooftop solar system. The project, which is among the largest rooftop systems in North America, broke ground in June 2011 and began producing power in February 2012. Consisting of more than 15,000 high efficiency SunPower panels, this project generates approximately the amount of power required for 564 New Jersey homes.

Adjacent to the Mall is an eight-story Embassy Suites Hotel with 82 rooms and an 87,200 sq. ft. restaurant. Additional hotels at this site include: Country Inn and Suites by Carlson, Elizabeth Courtyard by Marriott and Residence Inn by Marriott Newark/Elizabeth Liberty International Airport. Restaurants such as Ruby Tuesday and IHOP are also available on the property.

The IKEA Furniture store, which is also easily accessible from Exit 13A of the New Jersey Turnpike, also completed a \$40 million renovation, which included a reconfiguration of its operations and an increase in showroom space to help meet the growth of its business.

2. The HOPE VI Project

Before Jersey Gardens, City Officials had embarked upon an impressive renewal effort in the City's oldest neighborhood, which was located adjacent to the transformed landfill. Economic development expansion and citywide revitalization efforts inspired the removal of public housing structures and the implementation of new housing initiatives.

Hundreds of affordable housing units were completed, with a portion on former brownfields. The tremendously successful federally funded HOPE VI program assisted in the removal of public housing complexes and replaced them with new townhouses in Elizabethport. Individuals previously residing in the old, dilapidated facilities had the unique opportunity to become homeowners. Living in a new community setting not only physically transported these low to moderate income residents, it transformed their quality of life.

Removing the stigma of public housing, the HOPE VI program assisted in instilling a sense of pride, self-sufficiency and homeownership in a residential neighborhood that included beautiful landscaping and open space. Through this program, hundreds of residents also participated in services including but not limited to: resume and interviewing workshops, job

training and placement, computer classes, youth oriented programs, child care programs, business development and health care. Identifying neighborhood potential and implementing a strong vision made critical initiatives such as HOPE VI possible.

The HOPE VI program is administered by the Housing Authority of the City of Elizabeth through the United States Department of Housing and Urban Development.

3. Area Surrounding Midtown Elizabeth Train Station

The Midtown Train Station is a designated New Jersey Transit Village and is located among brownfields. The City is seeking a NJ DEP Brownfield Development Area (BDA) designation for the area within and around the Midtown Redevelopment Area, which includes a 20-acres surrounding the Midtown Train Station. The Midtown Elizabeth Train Station is already a New Jersey Department of Transportation designated Transit Village.

NJ TRANSIT has committed \$55 million dollars for the design and reconstruction of the Elizabeth Midtown Train Station, which will include a new two-story station building with a street-level ticket office, waiting room as well as new office and retail space. The location will also feature new, extended high-level train platforms that will accommodate longer, 12-car trains and the platforms will feature covered, heated and air conditioned waiting areas for its users.

The Station will have new elevators and stairs, upgraded passenger information and security systems. The westbound plaza entrance will be highlighted by a marquee façade, new stairs and new vendor space. NJ TRANSIT and the City of Elizabeth is working together to incorporate art into the design of the station. The project will be funded through a combination of state and federal sources.

Enhancements to the Midtown Elizabeth Train Station are not limited to the current facility. These additional brownfield properties surrounding the Station have also begun the revitalization process. New housing, retail and offices will complement a modern Train Station and provide the services residents, commuters and visitors expect and deserve.

4. Harbor Front Villas

The City of Elizabeth's Waterfront underwent a transformation, creating luxury housing on a former brownfield site. Harbor Front Villas is a \$15 million townhouse development that features market-rate units, which would attract the most demanding buyer.

Homeownership coupled with luxurious amenities and a Waterfront view is what Harbor Front Villas offers its clientele. Located minutes away from Exit 13A off the New Jersey Turnpike, the site is easily accessible from major roadways and is minutes away from New York. From master bathrooms, cathedral ceilings and fireplaces to granite entrance halls, central air conditioning, terraces and private parking, this new townhouse community provides the comforts of home with a beautiful view on the water.

With wide market appeal, Harbor Front Villas offer an exciting alternative to individuals who work in the tri-state area and are looking to immerse themselves in the beauty, culture and community of an urban municipality.



March 28, 2017

The Honorable Greg Walden
Chairman
Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank J. Pallone, Jr.
Ranking Member
Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Bill Shuster
Chairman
Transportation and Infrastructure Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Peter DeFazio
Ranking Member
Transportation and Infrastructure Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Walden, Ranking Member Pallone, Chairman Shuster and Ranking Member DeFazio:

On behalf of the nation's mayors, cities, counties and regions, we strongly encourage you to reauthorize and improve the U.S. Environmental Protection Agency (EPA) Brownfields program, which is key for both economic development and job creation in local communities across the country.

Since its creation, the EPA Brownfields program has provided crucial assistance to local governments for reclaiming hazardous, polluted and underutilized properties. To date, there have been over 26,000 brownfields assessments and 1,200 brownfields cleanups nationally, which has led to over 123,000 jobs. Each of the \$22 billion federal dollars that has been invested since the program was established in 2002 has leveraged approximately \$16 in other investments, close to \$400 billion in total.

While many communities have benefited from brownfields redevelopment efforts under this program, the U.S. Government Accountability Office estimates there are between 400,000 and 600,000 remaining brownfields sites throughout the United States. To build upon these past successes and assist in the cleanup, reuse and redevelopment of remaining sites, some key improvements to the program are needed.

Increase or Maintain Authorization Amounts

While we understand the fiscal challenges and constraints faced by the U.S. Congress, we strongly encourage you to authorize and fully fund the Brownfields program to at least previously authorized levels. The Brownfields program has a proven track record of leveraging additional investments, creating new jobs, and redeveloping new properties, while creating additional tax revenues.

At current appropriation levels, EPA has had to turn away many highly qualified applicants due to a lack of funding. EPA estimates that for the past 5 years, over 1,700 requests for viable projects were not awarded money because of limited funding. EPA estimates that if they were able to provide funding to those turned away applicants, an additional 50,000 jobs would have been created along with \$12 billion of leveraged funding.

Additionally, President Trump has made reinvesting in America and putting people back to work as key priorities for his administration. In order to make this happen and to do so quickly, Congress should utilize existing programs, and we believe that the Brownfields program would be a strong candidate for any type of reinvestment initiative. **That is why we urge Congress to increase or at least maintain the current authorization levels for EPA's brownfields program.**

Increase Overall Grant Funding to Allow Communities to Cleanup More Difficult Sites

Although many brownfield sites have been redeveloped, what remains are brownfield sites that are more difficult to redevelop due to their level of contamination or marketplace conditions. Communities would like the EPA program to be expanded to address the clean up challenges at these more complex sites.

We suggest the following:

- **Increase Cleanup Grant Amounts** – Congress should recognize the complexity of the cleanup process for larger or more complicated sites by increasing the funding limit for cleanup of a single site to \$1 million. Under special circumstances, EPA could waive the limit, up to \$2 million per site.
- **Establish Multi-Purpose Brownfields Grants** – Congress should allow local governments to have the option to apply for multi-purpose grants that can be used for the full range of brownfields-funded activities (assessment, cleanup, reuse planning, etc.) on a community-wide basis. Applicants should be required to demonstrate a plan and the capacity for using this multi-purpose funding within a set timeline in order to qualify for such funding.
- **Allow Funding for Reasonable Administrative Costs for Local Brownfields Programs** – Congress should allow brownfields grant recipients to use a small portion (10 percent) of their grant to cover reasonable administrative costs such as rent, utilities and other costs necessary to carry out a brownfields project.

Brownfields Liability Concerns are a Disincentive for Local Governments

Local governments face enormous challenges in brownfields redevelopment. One of the most significant challenges is the potential liability for local governments, which creates a disincentive to acquire contaminated property. We encourage Congress to revise the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) to encourage and protect local communities who choose to take ownership of blighted properties for the purpose of brownfields redevelopment where the local government had no role in creating the contamination. These changes should include:

- **Clarify Eligibility of Publicly-Owned Sites Acquired Before 2002** – Congress should allow local governments to be eligible for grant funding for properties that were acquired prior to the January 11, 2002 enactment of the Brownfields Revitalization Act—when there was no required standard for “all appropriate inquiries”—provided that the applicant did not cause or contribute to the contamination and performed “appropriate care.” For these sites, applicants would not have to demonstrate that they performed all appropriate inquiry.
- **Remove Barriers to Local and State Governments in Addressing Mothballed Sites** – Congress should exempt local and state governments from CERCLA liability if the government unit (a) owns a brownfields property as defined by section 101(39); (b) did not cause or contribute to contamination on the property; and (c) exercises due care with regard to any known contamination at the site. We suggest language to amend section 101(20) (D) that clarifies that properties acquired through eminent domain qualify for the CERCLA exemption for local governments involved in “Involuntary Acquisitions.” Alternatively, we would suggest language that establishes a simplified and clear exemption from CERCLA liability for local governments that acquire brownfields sites.
- **Eliminate Eligibility Barriers for Petroleum Brownfields Sites** – Grantees that seek to use assessment, cleanup or multi-purpose grants on sites with petroleum contamination should not be required to make the difficult demonstrations that the site is “low risk” and that there is “no viable responsible party” connected with the site. We recommend replacing the “No Viable Responsible Party” language in section 101(39)(D) with a prohibition on using funds to pay for cleanup costs at a brownfields site for which the recipient of the grant is potentially liable under the petroleum statutes. This would parallel the language for non-petroleum brownfields sites.

If you have any questions, please contact Judy Sheahan at USCM (jsheahan@usmayors.org), Carolyn Berndt at NLC (berndt@nlc.org), Julie Ufner at NACo (JUfner@naco.org), or Leslie Wollack at NARC (leslie@narc.org). Thank you for your consideration.

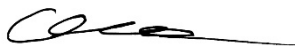
Sincerely,



Tom Cochran
CEO and Executive Director
The U.S. Conference of Mayors



Matthew D. Chase
Executive Director
National Association of Counties



Clarence E. Anthony
CEO and Executive Director
National League of Cities



Leslie Wollack
Executive Director
National Association of Regional Councils

Cc: Members of the House Energy and Commerce Committee
Members of the House Transportation and Infrastructure Committee