

Brownfields Redevelopment in Wisconsin

Essential steps and resources for successful redevelopment of brownfields

RR-933

April 2016

1 PLAN for successful redevelopment

Set reuse goals

Knowing what you want out of the process makes for a more effective and efficient cleanup.

Engage the community

Involve the community early and often in planning and visioning.

Understand regulations and liability

Before acquiring the site or initiating assessment activities, make sure you understand state and federal regulations. You should have a basic understanding of spill notification rules, liability issues, and cleanup requirements before proceeding.

2 ASSESS current conditions

Select an environmental consultant

State and federal laws have specific requirements for environmental professionals performing brownfields assessments. Make sure you know these requirements and how to select a qualified consultant.

Phase I and All Appropriate Inquiries (AAI)

Phase I Environmental Site Assessments (ESAs) identify Recognized Environmental Concerns (RECs), current and past uses and issues that may have contributed to or indicate environmental contamination.

Phase II

If RECs are found during a Phase I ESA, a Phase II ESA should be initiated. Phase II assessments include sampling and analysis of soil, groundwater and other media present at the site. A Site Investigation (SI) may be warranted after the Phase II to further define the extent of the contamination.

3 ACQUISITION and LIABILITY protection

Understand liability risks

You may be responsible for cleaning up a site you own even if you did not cause the contamination. There are both state and federal protections against liability for qualifying entities if certain procedures are followed.

State liability exemption

Chapter 292, Wis. Stats. establishes certain liability exemptions for several different groups including:

- local governments that acquire a site “involuntarily;”
- lenders who are engaged in normal lending practices (e.g. foreclosure of a security interest, etc.);
- impacted neighbors; and
- property owners who participate in the Voluntary Party Liability Exemption (VPLE) process.

You may request a General Liability Clarification letter from the DNR to understand exactly what your state liabilities may be.

Federal liability exemption

The EPA enforces liability for environmental contamination under CERCLA, a.k.a. Superfund. You may be exempt from CERCLA liability if you:

- qualify as a Bona Fide Prospective Purchaser (BFPP) by completing All Appropriate Inquiry (AAI), are a contiguous property owner (CPO) or an innocent landowner (ILO); or
- are a government unit that acquired the property involuntarily.

If you're unsure, call and ask!



4 INVESTIGATE the site and CLEAN-UP for future use

Site Investigation

A Site Investigation (SI) may be warranted after the Phase II if evidence of contamination is found. The purpose of an SI is to define the nature, degree, extent and source of contamination, and to determine if any interim or cleanup actions are necessary to comply with environmental and public health laws.

Determine reuse

Because cleanup standards vary for different land uses, it is important to determine how the site will be reused. Risk management is an important step from an economic, environmental and public health standpoint.

Evaluate and select remediation techniques

There are several factors to consider when choosing cleanup options. In addition to the type of contaminants present, the type and intensity of future development, location in proximity to other uses, hydrogeology, and other factors are also important. With emerging green technologies like bioremediation, sustainability of the cleanup should also be considered.

Develop a Remedial Action Plan (RAP)

A Remedial Action Plan details the technical approach to the entire cleanup process.

Implement cleanup

Cleanup should remedy the contamination to the standards appropriate for the intended use. Entities that investigate and clean-up a site following state requirements, with the oversight of DNR staff, can receive a Voluntary Party Liability Exemption (VPLE).

Request case closure

After completion of the investigation and cleanup, a case closure request may be submitted to the DNR. An optional Certificate of Completion (CoC) ensures that the DNR will not require current or future property owners to conduct any additional investigation or cleanup.

Receive case closure or CoC

Provide all necessary documentation to receive case closure and/or a Certificate of Completion.

5 Ready the site for REDEVELOPMENT

Market the site

Redeveloping a brownfields site may have multiple community benefits such as:

- eliminating an eyesore;
- enhancing the safety of the neighborhood; and
- increasing the taxbase without adding to suburban sprawl.

To help market the site, there are many tools available to incentivize redevelopment including tax abatements, Tax Increment Financing (TIF) and New Market Tax Credits. More information on financial tools can be found on the back of this fact sheet.

Maintain continuing obligations (also known as institutional controls)

- A “must-do” at properties with remaining residual contamination.
- A state-approved maintenance plan may be required to assure that contact with contamination is minimized.
- Examples: repairing cover systems (e.g. asphalt cover), easements and maintaining vapor control systems.

Brownfields are opportunities in the making

Cleaning up and reinvesting in brownfields protects the environment, reduces blight and takes development pressures off greenspaces and working lands. Even during the cleanup process, new development can often be integrated into the actual environmental solution for the site. Use the liability tools in Box 3 and the financial tools referenced on the back of this fact sheet to their full advantage.



general information

Wisconsin Department of Natural Resources
Remediation and Redevelopment Program
dnr.wi.gov/topic/Brownfields

U.S. EPA Region 5
www.epa.gov/aboutepa/epa-region-5

U.S. EPA Brownfields
www.epa.gov/brownfields

Wisconsin Economic Development Corporation (WEDC)
inwisconsin.com

Wisconsin Department of Administration
doa.wi.gov

regulations & standards

Wisconsin Cleanup Rules & Laws
dnr.wi.gov/topic/Brownfields/Laws.html

All Appropriate Inquiries (AAI) Final Rule (40 CFR Part 312)
www.epa.gov/brownfields/brownfields-all-appropriate-inquiries

Reporting Hazardous Substance Spills
dnr.wi.gov/topic/Spills/Report.html

Storage Tank Regulations
datcp.wi.gov/Consumer/Weights_and_Measures/Storage_Tank_Regulations/index.aspx

Superfund Policy, Guidance and Laws
www.epa.gov/superfund/superfund-policy-guidance-and-laws

financial resources



Federal

U.S. EPA Brownfields Grant Funding
www.epa.gov/brownfields/types-brownfields-grant-funding

U.S. HUD Brownfields Economic Development Initiative (BEDI)
portal.hud.gov/hudportal/HUD?src=/hudprograms/bedi

State

Wisconsin Assessment Monies (WAM)
dnr.wi.gov/topic/Brownfields/wam.html

Wisconsin Ready for Reuse Grants & Loans
dnr.wi.gov/topic/Brownfields/rlf.html

Brownfields Grant and Site Assessment Grant Programs
inwisconsin.com/community/assistance

CDBG Community Development
www.doa.state.wi.us/Divisions/Housing/Bureau-of-Community-Development

Other Financial Resources
dnr.wi.gov/topic/Brownfields/Financial.html

technical resources

Selecting an Environmental Consultant
dnr.wi.gov/topic/Brownfields/Select.html

Green Remediation
dnr.wi.gov/topic/brownfields/WISRR.html
www.clu-in.org/greenremediation/

Residual Contamination and Continuing Obligations
dnr.wi.gov/topic/Brownfields/Residual.html

Case Closure and Certificate of Completion
dnr.wi.gov/topic/Brownfields/Cleanup.html

Petroleum Contamination and Underground Storage Tanks
dnr.wi.gov/topic/Brownfields/Petro.html

Vapor Intrusion
dnr.wi.gov/topic/Brownfields/Vapor.html

liability information

Understanding Liability in Wisconsin
dnr.wi.gov/topic/Brownfields/Liability.html

Local Government Liability Exemptions and Involuntary Acquisition
dnr.wi.gov/files/PDF/pubs/rr/RR579.pdf
www.epa.gov/enforcement/state-and-local-government-activities-and-liability-protections

Voluntary Party Liability Exemption (VPLE)
dnr.wi.gov/topic/Brownfields/vple.html

Off-Site Exemption
dnr.wi.gov/topic/Brownfields/Offsite.html

Lender Liability Exemption
dnr.wi.gov/topic/Brownfields/lenders.html

Superfund's Bona Fide Prospective Purchasers (BFPP) Provision
www.epa.gov/enforcement/bona-fide-prospective-purchasers



Wisconsin Department of Natural Resources
Remediation and Redevelopment Program
P.O. Box 7921, Madison, WI 53707
dnr.wi.gov, search "brownfields"



This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts. This publication is available in alternative format upon request. Please call 608-267-3543 for more information.