



NOW IS THE TIME TO GENERATE REVENUE FROM BROWNFIELDS

By Lori G. Brown - President, Brown Real Estate Advisors

Brownfields are now being given a second look by buyers and utilities are taking advantage of the opportunity. Utilities are predisposed to keeping contaminated properties because companies think they have lower market values or are undesirable to investors. Not so. There are investors who specialize in owning contaminated properties that are often willing to bear substantial risk when they purchase a property. With advances in remediation technologies and more flexibility in environmental regulations, a utility need not continue to be saddled with the costs associated with carrying and maintaining environmentally-tainted property assets, particularly if the property is in a high-demand location.

The change in attitude and activity by investors stems from a focus on risk-based clean-up standards and incentives for brownfield redevelopment. Environmental regulations have also relaxed. Older statutes and regulations required a complete extraction or remediation of any contaminant. Both financially and technologically, reducing levels to zero were either impracticable or impossible for companies attempting to remediate these properties to achieve. Moreover, past legislation also required excavation and transportation of contaminants off-site, making the remediation effort cumbersome, costly, and risky given the long-term liabilities associated with them.

However, a number of factors are making brownfields an attractive prospect for redevelopment or remediation. First, at the state and federal level, projects that have a "green" component are getting first priority for approvals.

Under the American Recovery and Reinvestment Act of 2009, approximately \$100 million has been earmarked for brownfield remediation and oversight. For instance, one federal stimulus program being administered by the U.S. EPA is the Brownfield Revolving Loan Fund Program, with grants of up to \$200,000 being administered to government agencies and nonprofits with shovel-ready projects that involve a contaminated property that is interfering with redevelopment efforts in the region.

Secondly, brownfields are also an excellent prospect for renewable energy projects. For instance, renewable energy technologies can co-exist with the remediation effort on the property, using solar panels to supply green energy without a negative carbon footprint. This makes it a highly desirable proposition for a redevelopment and the tax incentives the project then becomes eligible for.

Utility companies generally have one of two situations: (1) Your utility has already absorbed the cost to remediate a brownfield property; or (2) you have a brownfield property that you want to sell or remediate but are concerned about the market value and legacy risk. In either situation, as a financial consideration, there are a number of important points any utility should be aware of. First, remediation costs can be borne by the buyer, who will have a team of brownfield experts and prefers to do the work. These buyers may not need to remediate to the extent a utility assumes it should, and generally know how to do it more cost effectively. Moreover, it is possible that no remediation may be required depending on the



repurpose or redevelopment planned. For residential purposes, of course remediation is necessary. However, a manufacturing company with its own environmental issues may be comfortable leaving the property in its current condition.

The buyer will typically require that the utility continue to be liable to some degree for the contaminated property. This kind of liability is called a "legacy risk." The level of legacy risk is negotiable. Once a buyer has been identified and terms have been negotiated, the utility should perform a risk assessment analysis to determine whether or not the sale of the brownfield property subjects them to an unacceptable degree of liability. In most cases, utility companies are better off retaining their capital to invest in their businesses where shareholder returns will be improved.

In conclusion, the market value of brownfields should be determined along with the rest of a real estate portfolio strategy. Don't overlook it as a source of potentially significant capital. They warrant a complete highest and best use and cost-benefit analysis with the consultation of an experienced real estate advisor.

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