



January 30, 2010

Mr. David R. Lloyd  
Office of Brownfields Cleanup and Redevelopment  
Office of Solid Waste and Emergency Response  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460

Dear Mr. Lloyd,

The Center for Creative Land Recycling is pleased to transmit the following report:

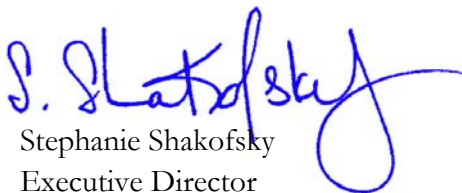
*Technical Assistance to Brownfields Communities (TAB) Supplementary Work:  
Engaging Non-Profit Organizations in Brownfields Cleanup and Redevelopment*

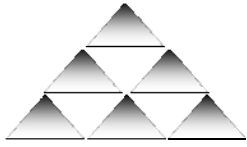
The report was prepared by the National Brownfield Nonprofit Network Initiative (NBNNI), a national collaboration of nonprofit organizations involved in hands-on brownfields redevelopment and community revitalization, based on a Workplan submitted to the EPA dated August 7, 2009.

The goal of the supplementary work was to identify initiatives to advance EPA's brownfields cleanup and redevelopment programs by extending the reach of government through stronger partnerships with nonprofit organizations. The attached report represents months of planning, meetings, workshops and collaboration with EPA staff and the nonprofit community to develop innovative Brownfield Sustainability Initiatives and Strategies. Implementation of such strategies could help advance the brownfield portion of the Obama Administration's joint EPA-HUD-DOT Partnership for Sustainable Communities Initiative by focusing on enhancing the role of nonprofit organizations working to advance brownfield redevelopment and the issues common in low- and moderate-income neighborhoods and other underserved communities. The initiatives were unveiled and discussed at the New Orleans Brownfields 2009 conference in November 2009. Through this work, NBNNI has identified key priorities, obstacles and innovations and has proposed strategies to advance innovative Brownfield Sustainability Initiatives.

This represents the final report on the supplementary work. Thank you for your support of this Initiative and we look forward to future opportunities to advance these programs. Please contact me or any of the NBNNI partners to discuss the next steps indentified in the Report Summary.

On behalf of the NBNNI partners,

  
Stephanie Shakofsky  
Executive Director



# National Brownfields Nonprofit Network Initiative

## FINAL REPORT

Center for Creative Land Recycling

Technical Assistance to Brownfields Communities (TAB) Supplementary Work:  
Engaging Non-Profit Organizations in Brownfields Cleanup and Redevelopment

January 2010

The National Brownfield Nonprofit Network Initiative (NBNNI) is a collaboration of nonprofit organizations involved in hands-on brownfields redevelopment and neighborhood revitalization in communities across the country. Its leadership, the Colorado Brownfields Foundation (CBF), Delta Redevelopment Institute (Delta) in Chicago, New Partners for Community Revitalization, Inc. (NPCR) in New York, and the Center for Creative Land Recycling (CCLR) in San Francisco, are community revitalization leaders in their respective states. NBNNI is working to advance the cleanup and redevelopment of brownfield sites throughout the country for community-supported end uses and seeks to be a forum for i) developing and implementing a common public policy agenda for community revitalization; ii) sharing information and lessons learned among nonprofit organizations engaged in hands-on brownfields reclamation work; and iii) increasing the capacity and funding for nonprofits in the brownfields redevelopment arena.

In August 2009, USEPA Assistant Administrator, Mathy Stanislaus, who oversees the Brownfields Program, issued an open letter inviting suggestions for how EPA can learn from successful models to make its programs more accessible to vulnerable communities and improve its strategies for cleaning up contaminated sites. This coincided with the June 2009 announcement of the Obama Administration's joint EPA-HUD-DOT Partnership for Sustainable Communities Initiative, whose agenda includes crafting new partnerships to achieve brownfields redevelopment and sustainable community renewal.

Both of these federal initiatives helped to launch NBNNI's "*Leveraging our Strengths*" initiative. Beginning in the spring of 2009, the NBNNI lead representatives began to develop a national agenda reflective of the needs of nonprofits interested in fostering a stronger partnership with EPA to strengthen EPA's efforts to advance the cleanup and redevelopment of brownfield sites. NBNNI developed and investigated several initiatives, sought input from nonprofits in regions across the country, held several meetings with EPA representatives and held break-out discussions at the New Orleans Brownfields 2009 conference. What has emerged is an important package of proposed initiatives that have been widely vetted and which have received support from a diverse group of stakeholders.

*Overall, NBNNI's conclusion is that there exist many opportunities to build new collaborations, craft new innovative approaches, and generally extend the reach of government through stronger partnerships with nonprofit organizations, particularly in relation to the issues extraordinary to minority and low-income neighborhoods and other under-served communities. There also exists the opportunity to enhance the ability of local government to utilize federal, state and local programs to create public benefits through stronger partnerships with nonprofits.*

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## SUMMARY

### NBNNI's Proposed Next Steps for "Leveraging Our Strengths"

*(Attachment 1 contains a more detailed description of these proposals. Attachment 2 is a stand-alone summary of the break-out sessions in New Orleans; and Attachment 3 contains a summary of stakeholder focus group input).*

#### **#1 Replicate Model of Nonprofit Administration of Government Grant and Loan**

**Programs:** Continue to investigate different State programs that leverage nonprofits' local knowledge and expertise in brownfield redevelopment by partnering with qualified nonprofits in the administration of significant government brownfield funding resources as a model to be replicated nationally. Identify facets of EPA grant programs which would benefit from nonprofit administration. Design and implement a pilot program in selected States where different models can be tested in partnership with EPA regional staff and State administrators, including nonprofit prequalification, QEP selection streamlining, and fund administration guidelines.

#### **#2 Replicate Area-Wide/Corridor-Wide Approaches To Community Renewal:**

Expand, replicate and institutionalize innovative area-wide & corridor-wide approaches to brownfields reclamation and community renewal that encourage partnerships and engagement of the public, private, nonprofit, development and community stakeholders. Based on the experience of coalition and area-wide/corridor partnerships, identify strengths that can be built into the programs and develop, test and implement strategies that address program weaknesses.

#### **#3 Facilitate Redevelopment of Brownfield Sites Abandoned in Bankruptcy**

**Proceedings:** Implement a pilot program among the EPA, Justice Department and selected states that provides an alternative to brownfield properties languishing in limbo due to bankruptcy settlements by allowing nonprofit organizations or municipalities to be granted options on them while also providing liability limitations and funding for property stabilization and management, environmental assessments and clean-up.

#### **#4 Facilitate the Creation of Green Economy Strategies to Redevelop Brownfields:**

Create a technical assistance program to assist communities in identifying and implementing green redevelopment strategies for brownfield sites such as for locally distributed renewable energy production, sustainable urban agriculture, waste reuse and recycling, green building products, production and services, and component part manufacturing for water saving, energy efficiency and renewable energy products. The components of the technical assistance program will be developed, and could include market economics, local energy sourcing and markets, business planning, outreach and education.

#### **#5 Increase Flexibility of EPA Brownfield Grant Programs for Communities:**

Maximize the usefulness of EPA resources for low-income communities by making grants and the contracting process more flexible. The statutory ranking criteria (Section 104(k)(5)(C) vi and ix, x) clearly reflect a mandate to maximize the ability to achieve community-supported remediation/redevelopment of brownfield sites in minority and low-income communities.

#### **#6 Link the Nation's Community Investment Infrastructure with Brownfield Programs**

**& Resources:** Additional brownfield redevelopment could be catalyzed in low-income communities around the nation if the expertise of the existing community and economic development financing infrastructure, such as HUD and CDFIs, was linked to and leveraged for brownfield redevelopment. A multi-agency task force could begin to identify ways of streamlining different program requirements and make funding more accessible to communities.

#### **#7 Advance Connections between Climate Change & Brownfields with Communities**

**& Foundations:** Create an educational effort to increase foundation understanding of the connections and encourage foundation funding for brownfields by strengthening the actual and perceived link between brownfields and climate change. These stakeholders need to be more aware that the goals of climate change and brownfields revitalization are compatible, and that resources could be shared toward project and program implementation.

ATTACHMENT 1

# NBNNI Summary Statements

## ***NBNNI Initiative #1***

### ***Replicate model of Nonprofit Administration of Government Grant and Loan Programs***

Description: Utilize State programs that leverage nonprofits' local knowledge and expertise in brownfield redevelopment by partnering with qualified nonprofits in the administration of significant government brownfield funding resources as a model to be replicated nationally.

Problem: Local government administrators often lack the local knowledge and brownfield-specific expertise necessary to make the highest and best use of limited brownfield funding resources. In addition, accessing Federal and State funds can be challenging for many worthy brownfield redevelopment proponents because they (a) lack the awareness of the resources available to them; (b) lack the internal capacity to prepare a competitive application; and (c) lack the expertise to effectively use awarded funds.

Objective: Maximize effectiveness of Federal and State brownfield resources in restoring brownfields to productive use and in revitalizing brownfield communities through partnerships with nonprofits with experience in redevelopment, community participation, financing and grant/loan administration.

#### How it might work:

1. Identify and review the characteristics of State programs that leverage the capacity of nonprofits to distribute grants and loans, and prequalify nonprofits and Qualified Environmental Professionals (QEPs) that could be replicated nationally. Programs to study include the loan/grant programs in California, LISC, development funding districts in Georgia and LEED certification.
2. Identify Federal brownfield funding programs that might benefit from nonprofit partnerships. Indicators may include:
  - a. Low local participation in State and Federal brownfields programs;
  - b. Lack of diversity of respondents participating in programs;
  - c. Difficulties/delays in awardees' successful use of funds; and
  - d. Low instance of translation of successful use of funds to successful projects.
3. Identify necessary qualifications for potential nonprofit partners, including demonstrated knowledge, ability and experience in:
  - a. The community economic development process;
  - b. Real estate development project economics;
  - c. The environmental assessment, remediation and redevelopment process on various types of brownfield projects and contaminants;
  - d. The Federal and State environmental regulatory processes;
  - e. A variety of brownfield development sites, including State and Federal superfund sites;
  - f. Creating and executing an effective marketing strategy;
  - g. Community outreach, education, training and public participation; and
  - h. Creating partnerships among Federal, State and local stakeholders.
4. Issue a report for use by States to develop their own brownfields grant and loan program. States would then issue an RFP, select a nonprofit partner from qualified respondents, execute a contract, and get to work!

#### Potential short and long term benefits:

1. This initiative will make Federal programs more accessible to potential program participants because local nonprofits are more integrated into their communities and can therefore be more effective in outreach efforts to those communities; and nonprofits are more approachable because they carry none of the stigma associated with contacting a Federal oversight agency.
2. Nonprofit partners can leverage their own technical expertise to maximize the opportunity for awardees to convert their federal funds into a successful brownfield redevelopment project.
3. Nonprofits have less overhead, meaning a higher percentage of each program dollar goes to projects.

## ***NBNNI Initiative #2***

### ***Replicate Area-Wide/Corridor-Wide Approaches To Community Renewal***

Description: Expand, replicate and institutionalize innovative area-wide & corridor-wide approaches to brownfields reclamation and community renewal.

Problem: This Initiative is focused on communities disproportionately impacted by brownfield conditions. In urban and suburban low-income areas, there exists the environmental justice circumstance of neighborhoods burdened with multiple brownfield sites, high incidence of disease and unemployment. A “one-parcel-at-a-time” strategy will not result in the revitalization of such distressed areas and will frequently invite dirty or stigmatizing uses such as garbage transfer stations. This Initiative also seeks to address exurban and rural communities that share a common means of economic advancement, where abandoned brownfield sites in one community can adversely impact all of the culturally and economically linked communities in the region.

Objective: To build upon and replicate successful models such as New York’s Brownfield Opportunity Area (BOA) program and Colorado’s Historic Byways Revitalization Initiative. NY’s BOA program addresses entire neighborhoods and clusters of brownfields within those neighborhoods, including the conditions fueling abandonment and deterioration by providing grants to create and implement viable neighborhood plans focused around the cleanup and redevelopment of brownfield projects that will result in creating new community anchors. Colorado’s Revitalization Initiative works with multiple communities in a regional context that must plan and act together for the mutual benefit of all. Often, the regional link between communities is a common transportation route that connects multiple neighborhoods and business districts, hence the reference to a corridor approach. Both of these approaches are aimed at reversing the downward cycle of disinvestment and decay by encouraging residents and community groups to work with local government to craft a vision for their future and collaborate on implementation.

How it might work: Using the NY and Colorado programs as a model, EPA could undertake a Pilot in selected communities across the country and provide grants to conduct planning, economic analysis, and market studies to inform area-wide/corridor-wide visioning. In addition Pilot communities can be serviced by a Brownfields Response Team that could be comprised of a nonprofit Pilot Coordinator or EPA dedicated staff person, key contacts from other federal agencies, and a peer-exchange mentor. Capacity building could include training local “champions” on how to implement a vision, invoke Federal, State and local government cooperation, engage community assets, and keep the community engaged. Because of this disconnect between community need and local government representation, nonprofit organizations emerge as leaders in this effort.

Potential Short and Long Term Benefits: At its heart, this area-wide/corridor-wide approach to brownfields reclamation is about creating value. This approach will stimulate authentic community engagement and collaboration among local residents, businesses, property owners and local government. The expectation is that by looking at areas as a whole, the most productive, innovative, and appropriately scaled end uses will be planned, all while mitigating historical and future environmental injustices. It is the creation and implementation of a plan for an entire area, that reflects community history and pride, and includes employment, public amenities, infrastructure improvements, and open space, that encourages current residents to remain and also attracts new residents.

The targeting of public resources based on local priorities and planning offers the opportunity to establish this type of program at the federal level. By formally linking community based planning and prioritization with smart growth principles and resources, this initiative addresses the unique neighborhood circumstance of clustered brownfield sites, dilapidated infrastructure, inadequate access to waterfronts and parks, and cumulative environmental exposures, in a manner that integrates smart growth, environmental justice, sustainable design and ecosystems management components.

### ***NBNNI Initiative #3***

#### ***Facilitate Redevelopment of Brownfield Sites Abandoned in Bankruptcy Proceedings***

Description: Implement a program that provides an alternative to brownfield properties languishing in limbo due to bankruptcy settlements by requiring that nonprofit organizations and municipalities are granted options on them while also providing liability limitations and funding for property stabilization and management, environmental assessments and clean-up.

Problem: The abandonment of hundreds, if not thousands, of contaminated properties through bankruptcy settlements occurring as a result of the current economic downturn presents an unprecedented challenge for states and local government. Contamination exceeding standards established under Federal, State and local environmental laws does not preclude abandonment of property. On the contrary, the cost of complying with environmental standards causes the property to become “burdensome” to the estate and justifies abandonment under Section 554(a) of the Bankruptcy Code. Prior to abandoning the contaminated property the bankruptcy estate need only address those conditions presenting an “imminent and identifiable harm” to public health or safety. Where title to contaminated property resides after abandonment under Section 554(a) of the Bankruptcy Code is far from clear. As a consequence, securing title to the property for the purpose of redevelopment presents practical difficulties. Eminent domain is an option, but a lengthy and expensive one adding to the already burdensome time delays and non-value added costs associated with redeveloping these properties.

As a practical matter, the local development agency will not exercise the option until its obligation of “due care” or “appropriate care” is defined by USEPA and State environmental agencies. Even if a local development agency were to qualify as Bona Fide Purchaser (which assumes the agency performed “all appropriate inquiry” prior to exercise of the option) the agency will have an ongoing obligation to exercise “appropriate care with respect to hazardous substances found at the facility.” The distinction between “appropriate” and “due” care is not readily apparent. A court construing a local development agency’s duty of “appropriate” care will look for guidance to the case law construing “due care”. The problem is that most of the decisions construing the obligation of “due care” have found a factual issue. This means the local development agency would most likely be unable to obtain the dismissal of a claim for cost recovery or contribution and could be required to litigate the issue of whether it acted reasonably under the circumstances. This problem could be addressed if the EPA were to issue clear liability indemnifications for nonprofits or local government which would allow them to exercise these options.

#### Objectives:

1. Reduce the number of orphaned properties by making the granting of an option to a local unit of government, regional economic development agency or nonprofit organization (hereafter collectively “local development agency”) a condition of bankruptcy court approval of a motion to abandon contaminated property. In addition, overcome the liability concerns by creating a template for enabling the local development agency to take title to the abandoned property without assuming liability for existing contamination. At a minimum, the local development agency must be provided the opportunity to redevelop the abandoned property in phases. Each phase of redevelopment creates income that may be used to finance subsequent phases of redevelopment. It is essential that USEPA take the position in bankruptcy proceedings that, as a condition of abandonment of contaminated property, an option must be granted to a local development agency. The option agreement must provide that it may be exercised over time on individual parcels comprising the larger tract of abandoned property. A condition that the option be exercised for “all or none” of the abandoned parcel will impede the phased redevelopment of the contaminated property.
2. The USEPA and applicable State agencies should also enter into administrative settlement orders that narrowly define the “appropriate care” obligation of the local development agency with respect to existing contamination. By way of example, the settlement agreement with USEPA that allowed the City of Waukegan, Illinois to exercise its option on the OMC property contained a covenant not to sue with respect to existing

contamination. This covenant is one of the broadest provided by USEPA and could serve as a template for an administrative settlement order which, along with contribution protection, would advance the effort of the local development agencies to redevelop abandoned properties.

3. Finally, adequate financial resources must be dedicated by USEPA to assist local development agencies. Funding is needed to assist local development agencies meet their "appropriate care" obligation. Funding is also required to assist with remediation and redevelopment of abandoned parcels.

How it might work:

1. The EPA and the Justice Department would work with the courts to:
  - a. Determine how to issue notice when properties are going to be abandoned in bankruptcy proceedings.
  - b. Implement the requirement that local development agencies receive options for all brownfield properties abandoned in bankruptcy proceedings.
  - c. Advocate for an agreement where some funding is obtained from the bankruptcy to help pay the cost of clean-up and redevelopment of the to-be abandoned property.
  - d. Determine a method to provide options for already abandoned properties.
2. The EPA and Justice Department would also work with outside attorneys, such as those that worked on the Waukegan, IL Outboard Marine Corporation (OMC) option, to draft administrative settlement order templates to narrowly define the appropriate care obligation of the local development agencies.
3. The EPA would develop a working group of interested local development agencies to use the OMC experience and others if identified to design the program including identification and certification of local development agencies, notification of available properties, liability relief procedures, funding processes, etc..
4. The EPA would identify funds for the program and market it to local development agencies through municipal, State and non-profit networks.

Potential short and long term benefits:

1. Fewer abandoned properties would languish unremediated and undeveloped because of their orphan status.
2. Remediation and redevelopment would cost less and take less time by reducing the legal barriers to site control.
3. Despite their contamination, abandoned properties have the advantage of being assembled into large parcels. Property assemblage is always a challenge in brownfield redevelopment. Large parcels if abandoned without a strategy from USEPA run the risk of disassembly (e.g. by tax scavengers taking title to the least contaminated parcels). This strategy would keep properties out of the hands of tax scavengers and result in better redevelopment strategies for communities.
4. Local development agency capacity for brownfield redevelopment would be greatly increased over time.

## ***NBNNI Initiative #4***

### ***Facilitate the Creation of Green Economy Strategies to Redevelop Brownfields***

Description: Create a technical assistance program to assist communities in identifying and implementing green redevelopment strategies for brownfield sites such as for locally distributed renewable energy production, sustainable urban agriculture, waste reuse and recycling, green building products, production and services, and component part manufacturing for water saving, energy efficiency and renewable energy products.

Problem: Many brownfield sites, especially in low-income and small or rural communities do not get investigated, remediated or redeveloped because there is no end use for the site. The transformation to the green economy presents new opportunities for redeveloping these sites. Communities need assistance determining the technical and financial feasibility of these emerging strategies and in structuring the green business opportunity. For example, renewable energy as a land development strategy has recently become technically and financially feasible and is emerging as a productive land reuse where no other alternative may exist, for instance at landfill sites.

Objective: Provide technical expertise in emerging green industry markets and needs, site evaluation, site development, and public process to communities desiring to redevelop brownfields sites for green business activity. Technical expertise will enable communities to design new strategies, better manage environmental issues, and develop brownfields sites whose best reuse is for green business.

How it might work: There is a significant amount of effort being directed into understanding the technical aspects of emerging green industries such as renewable energy generation equipment and transmission, water saving equipment, local food systems, waste reuse and recycling, and green building products. However, there are brownfield site development hurdles extraordinary to these reuse opportunities. EPA could fund organizations that can help communities identify which green opportunities are appropriate to their brownfield sites and it could establish one or more resource centers to provide technical help related to emerging green industries. For example, a Resource Center could work collaboratively with CLU-IN technical resources, to focus on renewable energy site development and local-use issues such as liability management between multiple parties engaged in long-term operating agreements on site, installation of equipment on environmentally protective caps, and other similar issues.

Potential short and long term benefits: An immediate benefit will be to spark communities to consider alternative reuse options for brownfields sites thought to be unmarketable or unbuildable and to provide inspiration that even poor or small communities can participate in the new green economy. Long-term benefits will include creating ongoing local revenue streams to maintain environmental stewardship, creation of green collar jobs, energy and food self-reliance for communities, and long-term reduction in greenhouse gas emissions.

## *NBNNI Initiative #5*

### *Increase Flexibility of EPA Brownfield Grant Programs for Communities*

Description: Many nonprofits and municipalities have struggled to use EPA resources to advance brownfields revitalization in low-income communities. The statutory ranking criteria (Section 104(k)(5)(C) vi and ix, x) clearly reflect a mandate to maximize community-supported remediation/redevelopment of brownfield sites in minority and low-income communities and opportunities exist to make these grants more flexible and easier to use.

Problem: The EPA's myriad administrative requirements limit the effectiveness of the Revolving Loan Fund (RLF), Cleanup and Site Assessment grants for minority and low-income communities. The problems are particularly acute on the RLF. For example, it is very difficult to use RLF loans on affordable housing projects which are typically very complex financial transactions involving multiple sources of financing, that simply cannot accommodate the RLF timeframes, restrictions on uses, and other requirements.

Objective(s): EPA grant funds are available to support the site assessment and cleanup needed on affordable housing and other narrow-profit-margin projects built on brownfields. The Partnership for Sustainable Communities Initiative, which seeks to coordinate HUD, DOT and EPA resources, presents an excellent venue to ensure that EPA's resources are made more flexible. A preliminary list of administrative changes that could increase flexibility (and also leverage additional resources and maximize usefulness of EPA funds to fill gaps on narrow-profit-margin projects), include:

1. Revise timeframes to reflect transaction realities, e.g., the deadline for site ownership for clean-up grants should be at the time the grant is awarded;
2. RLF dollars should not be restricted from covering site assessment costs that are outside of traditional "pre-design" costs but still may necessarily be incurred in connection with remediation loans;
3. Reduce extensive reporting requirements and agency review times associated with EPA grants by utilizing the flexibility included in the statute (Section 104(k)(5)(A)(i)(II)) that only requires use of NCP requirements where relevant and appropriate;
4. Clarify (for all regions) how grantees should manage requirements associated with cross-cutters;
5. Streamline the contracting process to remove the administrative requirements added in the last eight years, which have become an obstacle, particularly for nonprofits, to working with EPA in a timely and efficient manner.

How it might work: EPA could convene an internal Working Group with the mandate of identifying and implementing measures EPA can take to make the grant programs more effective in minority and low-income neighborhoods. This mandate should explicitly include EPA consultation with HUD and DOT in connection with the Partnership for Sustainable Communities; and it should also require engagement with EPA regional offices and with stakeholders whose mission is the renewal of minority and low-income neighborhoods. EPA should conduct an internal analysis to document obstacles and successes and the Working Group's deliberations should build on this information. That internal analysis should also include a review of relevant reports (e.g., the GAO, the Great Lakes Environmental Finance Center Technical Advisory Committee, etc.) In connection with improvements to the RLF program, it will be crucial to have an expert with deep experience in community lending participate in the Working Group. The Working Group would also be positioned to process relevant recommendations received in connection with Mathy Stanislaus' solicitation of suggestions for program improvement. Creation of the Working Group should also include provisions for transparency with the public and specific timeframes for outreach, analysis and implementation.

Potential short and long-term benefits: EPA Brownfield grants should be a highly valued funding source for brownfields redevelopment, particularly in minority and low-income communities. Increasing flexibility would maximize the usefulness of the grants on projects that need the resources the most.

## ***NBNNI Initiative #6***

### ***Link the Nation's Community Investment Infrastructure with Brownfield Programs & Resources***

Description: Additional brownfield redevelopment could be catalyzed in low-income communities around the nation if the expertise of the existing community and economic development financing infrastructure was linked to and leveraged for brownfield redevelopment.

Problem: Nonprofit organizations have become sophisticated catalysts for community and economic development in low-income neighborhoods around the country. Many of these organizations have long standing links to other federal agencies such as HUD and Treasury but are not well known to the EPA. In addition, the Congressional Committees that oversee these agencies are more familiar and comfortable with the key roles that nonprofit organizations play than the committees that oversee the EPA. As a result, EPA programs are often not structured to take advantage of these important resources. Moreover, those nonprofits that seek to use EPA programs innovatively and in partnership with other financing resources are stymied by EPA restrictions and culture. For example, both HUD and EPA funding programs are subject to Davis Bacon, but it is unclear whether EPA will accept the guidelines that HUD uses to implement Davis Bacon on affordable housing projects, including whether EPA will accept the waivers that HUD has instituted.

Objective: Maximize the use of EPA resources by adjusting the brownfield programs to "piggy-back" on the existing community and economic development investment infrastructure that is already delivering community development projects in low-income communities.

How it might work: EPA could convene a Multi-agency Task Force comprised of HUD and Treasury's Community Development Finance Institution (CDFI) Fund. The Multi-agency Group would explore the connections between the expertise of their nonprofit networks and the needs of low-income brownfield communities. This could include soliciting input, via e-mail, from CDFIs/CDEs and from the Regions about potential connections and changes needed to the EPA Revolving Loan Fund program and other EPA brownfield grant programs in order to use those funds along with the nonprofit CDFI/CDE's own capital to finance brownfield cleanups in low-income neighborhoods. This dialogue should include exploring innovative uses of such funds.

Then, the Multi-agency Task Force could create a platform of issue areas/possible solutions around which they could hold a conference inviting CDFIs to participate, with break-out working sessions, scribes, etc. A report would be prepared at the end which would identify solutions, both administrative and statutory. These working groups would also make recommendations about modifications needed to EPA programs to take full advantage of the nonprofits' expertise, how to educate more community development finance organizations about the unique aspects of brownfield redevelopment, and how to forge linkages between the EPA and these nonprofit financing experts as well as with their fellow federal agencies on an ongoing basis. The Multi-agency Task Force would then use that information to implement the administrative changes, to inform the Administration's legislative priorities, and to enhance the capacity of the EPA to fully utilize the expertise of CDFIs/CDEs going forward.

EPA's Congressional Oversight Committees would be educated about these nonprofit community development financing resources and the recommendations for better leveraging their expertise. This could occur through forums for committee members that provide examples of how CDFI/CDE expertise can benefit brownfield redevelopment and, hopefully, through conversations with members of the Congressional Committees that have overseen the growth and development of the CDFIs/CDEs over the years.

Potential short and long term benefits: More brownfield sites will be redeveloped more efficiently in low-income communities because the community and economic development financing infrastructure that is already delivering projects on clean sites will now be able to take advantage of the EPA's brownfield resources/programs which would be tailored to meet their development timeframes and transaction requirements.

## *NBNNI Initiative #7*

### *Advance Connections between Climate Change & Brownfields with Communities & Foundations*

Description: Increase foundation funding for brownfields by strengthening the actual and perceived link between brownfields and climate change.

Problem: There is a need for increased philanthropic foundation support of nonprofits engaged in brownfield redevelopment and community renewal. Many foundations are structured along program areas (in “silos”), where the climate change program falls under the umbrella of “environment” and the brownfields program falls under the community revitalization umbrella. The link between climate change and brownfields is not well documented in part due to the lack of communication among program officers. As a result, resources are not as integrated and multi-dimensional as they should/could be. Moreover, funders’ networks also tend to be organized along these same program lines, with little cross-fertilization between the networks.

Objective: Raise the awareness of foundations and stakeholders of the link between brownfields and climate change.

How it might work: The first step is to review existing efforts to document the link between climate change and brownfields, identify research that fills in the gaps, and summarize the findings. This is the underpinning to strengthen the connection between climate change and brownfield redevelopment, and to engage philanthropic foundations in a meaningful way in brownfields redevelopment.

EPA could convene a Dialogue about foundations, climate change, and the EPA’s intention to strengthen partnerships with nonprofits. The Dialogue could be around the following questions:

1. How do nonprofits view their brownfields work in relation to climate change? Are there good examples of programs that link the two issues? What do nonprofits believe is the perception of external stakeholders as to whether there is a link between brownfields redevelopment and climate change?
2. Do nonprofits have experience obtaining foundation grants for innovative programs/projects that link brownfields and climate change?
3. What are possible ways to increase participation of smart growth funders/climate change funders in the brownfields arena?
4. Ask EPA to describe (and provide examples of) the programs in which foundation support would be viewed as particularly important.
5. Do foundations and other stakeholders see the link between climate change and brownfields redevelopment? What data or research is needed to build a stronger link?

This Dialogue would inform EPA’s efforts going forward, both in how to engage the foundation world and also marketing/shifting the public dialogue relating to brownfields and climate change. It will also help EPA understand opportunities to shift funding priorities with an eye towards the multi-disciplinary, multi-dimensional nature of communities. And, it will help ensure that EPA funding and foundation funding are informed by each other’s priorities.

Potential short and long term benefits: Begin to shift the public dialogue and understanding of the link between brownfields, climate change and smart growth and begin to educate the foundation world about potential gaps and opportunities to make their funding more effective. A longer term benefit would be to increase the amount of foundation funding for nonprofits engaged in brownfields redevelopment and community renewal.

ATTACHMENT 2

**Report on Break-out Sessions  
from  
Brownfields 2009, New Orleans**

## New Orleans Roundtable breakout for NBNNI Initiative #1

### *Replicate Model of Nonprofit Administration of Government Grant and Loan Programs*

This break-out discussion was led by Stephanie Shakofsky, Executive Director, Center for Creative Land Recycling. The group discussed replicating model State programs that partner with nonprofit organizations (or third-party intermediaries) to administer government loan and grant programs. The participants mentioned advantages, concerns and potential requirements that could affect such a proposal.

#### Advantages

- State-based or regional non-profits are already familiar with the requirements and processes of various funding sources applicable in their area.
- Nonprofits have more effective marketing programs than government agencies
- One potential model is Development Districts in Georgia
- Nonprofits can assist program participants in identifying qualified environmental professionals
- Nonprofits can provide technical assistance to applicants implementing or applying for federal grants, and state funding programs
- Nonprofits can help streamline funding process

#### Concerns

- The number and geographic distribution of brownfield sites involved may be beyond the capacity of nonprofits
- Capacity of the non-profit to implement the program may be of concern
- If the non-profit is an exclusive partner, the potential liability to the state and non-profit from administering the program and accessibility of the non-profit to the potential program participants across the state

#### Potential Program Features

- Transparent process in establishing program and selection of non-profit partner
- Consider Leadership in Energy and Environmental Design (LEED) certification process as a model for prequalification of non-profits
- Participation of qualified environmental professional in program
- Possible use of Local Initiatives Support Corporation (LISC) model – nonprofit as conduit

#### Other Action Items from Discussion

Another suggestion was that EPA modify the Request for Proposal/Qualification (RFP/Q) requirements for the Assessment, Remediation and Cleanup Grant (ARC) programs. It was suggested that a consultant who met the CERCLA definition of a Qualified Environmental Professional (QEP) be deemed eligible for work without having to go through an extensive RFP/Q process.

**Summary:** In addition to distributing financial resources, non-profits can potentially provide benefits through technical assistance, streamlined delivery of funds and access to programs, which would otherwise be too difficult for some applicants to access. A process to prequalify nonprofits is necessary to maintain accountability while streamlining the process.

## New Orleans Roundtable breakout for NBNNI Initiative #2

### **Replicate Area-Wide/Corridor-Wide Approaches To Community Renewal**

The area-wide/corridor-wide break-out discussion was led by Jody Kass, Executive Director of New Partners for Community Revitalization, Inc. (NPCR). The starting place for this discussion was the question: "Is this initiative important, and if so, why?" The session had a strong focus on environmental justice and community development and also covered how the initiative can be valuable in rural, suburban and urban areas.

#### **Some of the key points made:**

- There is a world of difference between community involvement and community engagement
- The EPA has already been funding some community-wide assessment grants, particularly in the UST program. Nevertheless, this work has been driven primarily by regulatory issues as opposed to the community creating a vision for itself.

#### **Recommendations:**

- There is a need to focus on resources in targeted areas, however, there is also the question of who defines the "area." Should it be government, the community or some mix? There is a need for a balanced partnership.
- There is a need to ensure that the program is flexible, so that it can be applied to a variety of communities with a wide range of community visions.
- Resources are key to creating and implementing viable community plans. It was suggested that tax credits could be used to incentivize community involvement by developers.
- There is a need to integrate with other existing programs/resources, such as Metropolitan Planning Offices (MPOs). It was noted that there are some changes underway in the MPO. It will also be important to integrate area-wide planning with regional transportation planning, historic preservation, structure reuse, neighborhood character, parks and recreation – historic byways / corridors were also areas discussed for linking the funding. And, because reporting may be more difficult if multiple funding sources are involved, the programs need to be seamless and flexible.
- Interagency collaboration will be the crucial "glue" to advance implementation strategies.
- Implementation will also be enhanced if there is preference and priority for funding. Such preference needs to be reflected in competitive funding procedures.
- To get started, focus on early success stories. It will also be useful to start with a pilot(s) community.
- In rural areas, there were special needs identified, which included dissemination of information and the need to educate and prepare via the use of "community champions."

### New Orleans Roundtable breakout for NBNNI Initiative #3

#### **Facilitate Redevelopment of Brownfield Sites Abandoned in Bankruptcy Proceedings**

The Bankruptcy breakout discussion was led by Donna Ducharme of the Delta Institute. Jeff Jeep of the law firm Jeep and Blazer reviewed his work in Waukegan, IL that could be serve as a model for other communities managing bankrupt brownfield properties and as a basis for developing the components of the program proposed by NBNNI.

The group discussed some of the issues related to holding land and potential ways to fund on-going property maintenance and clean-up costs. Concerns about the need to limit the liability of the option holder by narrowing the definition of "appropriate care" were discussed. The liability problem is exacerbated for non-profit organizations because they are only eligible for EPA clean-up money if they take ownership of a property outright without creating an LLC to limit their liability. The group thought using the Waukegan experience as a pilot would be a good way to determine how these issues could be resolved and move the project along more quickly.

#### **The recommendations of the Roundtable include:**

- The bankruptcy initiative must be uniformly implemented throughout the country. Uniformity among states is important.
- The responsibilities of the local development agency (municipality or non-profit organization) that is the option holder must be clearly identified.
- The Department of Justice must play a key role in driving this process with help from the EPA.
- Coordination is needed between EPA and states to ensure that the state brownfield programs recognize and support this strategy.
- The Outboard Marine Corporation (OMC) example in Waukegan, IL should serve as the pilot. The administrative settlement order should be used as the basis for creating the template for liability clarification, drafting the option language to meet the needs of the key stakeholders, developing the criteria for and responsibilities of the option holder, identifying the likely costs and funding needs and developing other program criteria, materials and tools.
- Funding opportunities for maintaining and cleaning-up these properties should be identified and the program design should work with existing funding streams.

## New Orleans Roundtable breakout for NBNNI Initiative #4

### **Facilitate the Creation of Green Economy Strategies to Redevelop Brownfields**

The Green Economy Breakout discussion was led by Jesse Silverstein, Executive Director, Colorado Brownfields Foundation. The session focused on Green Remediation strategies for Brownfields Sites. The participants suggested two topics for discussion: Renewable Energy and Urban Agriculture. The identification of topics for discussion is a function of who was in attendance rather than a reflection on the universe of possible green reuses.

#### Renewable Energy Discussion

- There should be technical assistance available to help communities link land use planning with technical information on technologies.
- There is a need to fund feasibility studies for the placement of renewable energy facilities on brownfield sites.
- Need information and an approach to address NIMBY's, particularly on brownfields sites in higher density areas.
- Brownfields assessment grants should be expanded to allow renewable energy planning for brownfields sites, including smart grid and generation systems.
- Recommendation for EPA to establish a Renewable Energy Resource Center(s) to provide technical assistance to communities.
- EPA may want to integrate efforts with EDA and USDA to support rural renewal energy projects..

**Summary:** Renewable energy provides an opportunity for economic reuse of a site for both long-term and interim use. Much of the work in this field is on the technical nature of renewable energy and there is an information gap for communities seeking to understand the land use, zoning, environmental liability, and community issues surrounding the use of brownfields for renewable energy development. A program utilizing nonprofits to provide technical assistance would fill this gap.

#### Urban Agriculture

- Brownfields Assessment grants should be made available to determine the safety issues of urban agriculture and to inform planning for "in ground" versus raised-bed gardening
- There is a lot of information being generated from a multitude of sources regarding urban agriculture including land grant universities, county agriculture extension offices, and others. There needs to be an authoritative clearinghouse to validate, consolidate, and disseminate information. This could include a consolidation of known environmental investigations; a legacy library of past assessments and site history in an area designed to inform about soil safety for urban gardening.
- EPA could set up a web page and create an e-newsletter about urban agriculture issues
- EPA could fund a Train-the-Trainer program to facilitate the provision of technical assistance to interested parties/projects.
- Recommend a dedicated grant for urban agriculture planning which may include site specific analysis to support in-ground, hydroponic, or rooftop projects.

**Summary:** Urban agriculture is adaptable to many locations and is an emerging concept in local approaches to sustainability. By their nature, brownfield sites raise questions about soil safety and appropriate engineered techniques to protect human health. Two major hurdles that have been identified include: (1) the overwhelming amount of information that is being developed without an organized indexing system or distribution system; and (2) site specific questions about environmental history and safety. Nonprofits could play the role of a clearinghouse to validate, consolidate, and disseminate industry research and information and/or to maintain a library of past assessments and site history to inform about local soil safety.

## New Orleans Roundtable breakout for NBNNI Initiative #6

### **Link the Nation's Community Investment Infrastructure with Brownfield Programs & Resources**

This breakout discussion was led by Laura Truettner, New Partners for Community Revitalization, Inc. and Ignacio Dayrit, CCLR. The session was devoted to a discussion of EPA grants, obstacles to their use, the roles non-profits could play in facilitating the grants and ideas for using the expertise of the existing community development financing institutions to improve the grant making process. The discussion focused on the example of the New Markets Tax Credit program and the connection between the Treasury Department, the non-profit and the local developer. The NBNNI proposal is to bring CDFI financing expertise to the EPA grant program. Moving forward, EPA could convene a multiagency task force to develop recommendations to leverage the role of non-profits in grant administration, to educate CDFIs on environmental issues and to forge links between EPA and non-profits.

#### Recommendations:

- There is a need to make sure that an entire region gets access to credits/grants. In other words, there is a need to ensure there is an equitable geographic distribution of grants/credits
- There is the opportunity to network among non-profits in other areas to ensure a wide distribution of grants/credits.
- The criteria for making grants should include geographic distribution, EPA program requirements and measures for accountability.
- Do non-profits need to be a 501c3 – there are neighborhood groups that don't have 501c3 status that can help in brownfields revitalization, why should they be excluded? One option would be to provide assistance to organizations wanting to obtain 501c3 status
- There should be more support for area wide and corridor wide planning activities.
- The experience with EPA brownfields grants reveals that there are too many limitations on use of EPA grant funds. For example, funds cannot be used for outreach activities. EPA grants require conformance with citizen participation requirements, federal cross-cutting requirements (Davis Bacon in particular), NEPA, the historic & endangered species act and extensive Quality Assurance/Quality Control requirements that make them difficult to use.
- Specific recommendations for change need also to be informed by representatives of small communities.
- There is a need for financial expertise since EPA does not have financial expertise (yet operates financing programs)
- There is the opportunity to link CDFIs into the RLF. It will be important to revisit EPA criteria i.e. preference to CDEs and CDFIs (look at CDFI/NMTC- preference on how to invite nonprofits with brownfields financing capacity. There is a need for CDFIs to do the lending. To accomplish this, EPA needs to reach out to CDFIs. Many CDFIs have a misconception about liability. They lack environmental risk personnel and need better Information about grants
- There is a need to expand the definition of Return on Investment to include social and environmental benefits such as the triple bottom line

ATTACHMENT 3

**Preliminary Stakeholder Feedback  
on NBNNI Straw Summaries**

NBNNI lead organizations were tasked with securing feedback from nonprofit stakeholders in their region (where regions were loosely defined by general service areas and/or existence of key nonprofit stakeholders). CBOs from Colorado, Illinois, Indiana, New York, Wisconsin and Washington, D.C. who are actively involved in brownfields redevelopment and community revitalization were interviewed. A brief summary of the responses received during the interviews is provided below.

**#1 Replicate Model State Programs that Partner with Nonprofits to Administer Loans/Grants:** There was substantial agreement among the interviewees that a program that allowed local nonprofits to distribute funds to local projects was a good idea because brownfields redevelopment is best managed on a local level. Not only are nonprofits in a good position to help coordinate and distribute resources in an equitable manner to a region or corridor but a lot of red tape could be eliminated if money flowed from a non-regulatory government entity to a nonprofit.

**#2 Replicate Area-wide/Corridor-wide Approaches to Community Renewal:** CBOs thought that area-wide and corridor-wide approaches to revitalization were a “no-brainer.” While some groups emphasized the need for technical assistance or a Brownfields Coordinator to assist with planning on a larger scale, they all saw the value of looking at brownfields redevelopment opportunities in a broader framework rather than on a site-by-site basis. Linking brownfields to transit related development was highlighted as an area of particular interest to some nonprofits. Others also saw value in having a single nonprofit administer multiple sources of dollars for a region rather than having to assemble funds from many single-focus nonprofits with small pots of dollars. CBOs also noted that federal incentives for development consistent with a community plan would increase the chances of success for the community plan.

**#3 Facilitate Redevelopment of Brownfield Sites Abandoned in Bankruptcy Proceedings:** This was an important issue to the CBOs, many of whom thought bankruptcy was about to become a major issue particularly in rural areas where the abandonment of just one property has a significant impact. CBOs thought that if local groups were given options on such properties it would be important for there also to be access to funding for investigation and cleanup. One group also felt strongly that there should be restrictions on the options with regard to end uses to ensure that sites were redeveloped with the highest and best use. There was some question about how nonprofits could obtain legal assistance during the proceedings. Some groups also thought it would be helpful if the banks had a better understanding of brownfields. One group thought that such properties should be included in a database so that adjacent property owners and developers would know of their existence.

**#4 Facilitate the Creation of Green Economy Strategies to Redevelop Brownfields:** There was support for this initiative and a clear idea of where nonprofits could provide technical expertise on green economy strategies and their implementation, and on the costs and benefits of such projects. Some CBOs also liked the idea that this strategy focused on the ecosystem while others were more skeptical and did not think brownfields program should be tied to other politically charged issues such as climate change. Some CBOs thought that such strategies should only be pursued if they were the highest and best use of the property. Another CBO wondered whether this strategy would advance redevelopment any more quickly than other strategies developed for brownfield sites.

**#5 Increase Flexibility of EPA Brownfield Grant Programs:** This initiative generated a lot of discussion and CBOs spent a great deal of time sharing frustrations with the EPA's grant award and grant administration processes, including the length of time projects take, difficulties with EPA's reimbursement process, cumbersome and confusing administrative procedures and the perception that grant awards were too political. One CBO suggested a federal work group or clearinghouse to reduce confusion and provide information on the different funds that were available for projects. Other CBOs expressed concern that flexibility was needed from agencies other than EPA, particularly HUD.

**#6 Link the Nation's Community Investment Infrastructure with Brownfield Programs & Resources:** Many CBOs thought this was a good idea and much-needed, they thought it was important to start making the connections between brownfields, land use, and economic development. Other CBOs, including one CDFI, were more skeptical. The CDFI was concerned that many CDFIs did not have the capacity to do brownfields work or their mission was too narrow to allow them to venture into the brownfields arena.

**#7 Advance Connections between Climate Change & Brownfields with Communities & Foundations:** The CBOs interviewed were not overly supportive of this initiative. They thought the possible link between brownfields and climate change was off-point, outside of their mission and potentially too political in nature.