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EPA Brownfield Program: U.S. House of Representatives Energy and Commerce Committee/Subcommittee on the Environment and the Economy April 21st Hearing

Arkansas Environmental, Energy, and Water Law Blog

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The United States House of Representatives Subcommittee on Environment and the Economy of the Committee on Energy and Commerce ("Committee") held an April 21st hearing titled *EPA's Brownfields Program: Empowering Cleanups and Encouraging Economic Redevelopment* ("Hearing").

The scheduled witnesses included:

- Mathy Stanislaus, Assistant Administrator for the Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency;
- Mead Anderson, Brownfields Program Manager, Virginia Department of Environmental Quality, *on behalf of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO)*;
- J. Christian Bollwage, Mayor, City of Elizabeth New Jersey;
- Clark Henry, Owner, CIII Associates, LLC;
- Amy Romig, Partner, Plews Shadley Racher & Braun, LLP; and
- Veronica Eady, Vice President and Director, Conservation law Foundation

Properties with current or historical industrial or commercial uses that are evaluated for redevelopment sometimes pose a dilemma. Potential purchasers or lessees must assess the possibility that certain environmental statutes might impose responsibility on them for contamination that is present at the time of the acquisition or lease. This analysis will typically consider the probability that contamination is present, and if so, the costs to definitively delineate and/or remediate it. Related issues could include the likelihood of third party claims resulting from site conditions, ability to obtain financing and availability of definitive cleanup standards.

There has been both federal and state (including Arkansas) interest for many years in encouraging the reuse or redevelopment of properties whose marketability has been impaired because of perceived or real environmental contamination issues. Properties or facilities subject to the previously described impediments are sometimes called "brownfields."

The United States Environmental Protection Agency ("EPA") has defined a "brownfield" as abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is

complicated by real or perceived environmental contamination. The Arkansas General Assembly in 1995 provided the Arkansas Department of Environmental Quality authority to address brownfield issues. See 1995 Ark. Acts 125.

The April 21st Committee hearing addressed EPA's brownfield program and a number of the associated issues such as:

- Environmental liability concerns
- Financial barriers
- Cleanup considerations
- Reuse planning

The issues addressed at the hearing included:

- How grants from the EPA's Brownfields Program benefit states and local communities.
- Are there aspects of the current EPA Brownfields Program that could be improved upon?
- The role of property owners, public-sector stakeholders, and other parties such as developers, urban planners, attorneys, and regulators in brownfields cleanup and redevelopment efforts.
- What barriers exist for the cleanup and redevelopment of brownfields?
- *Eligible entities* – Are there entities not currently eligible to receive brownfields grants that should be eligible?
- *Liability issues* – Does the potential for liability deter municipalities and private entities from undertaking cleanup and economic redevelopment? What can be done to address this issue?
- *Cleanup issues* – Redevelopment of Brownfields will likely take longer than a typical real estate development project because of the need for environmental assessment and cleanup. Is there a way to streamline the assessment and cleanup process?
- *Financial barriers* – Lenders are often reluctant to loan money for contaminated property, is there a way to alleviate the concerns of the lenders?

[Click here to download a copy of the April 19th Committee Majority Staff Memorandum providing an overview of the hearing and the witness statements.](#)