



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.

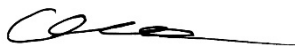
Sincerely,



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