BROWNFIELDS UNDER TRUMP: What the New Administration Means for the Future of Site Cleanup and Redevelopment

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The Trump Brownfield Redevelopment Climate:

What could impact contaminated property/sustainable re-development transactions? What concerns practitioners now?

- **Regulatory uncertainty**
  - Rule roll-backs, anticipated legal challenges

- **Availability of federal redevelopment investment funding and incentives**
  - Trump proposals v. Congressional reality
  - What sure things still exist?

- **Potential Congressional brownfield action**

- **What environmental steps is the private sector taking?**
FY 2018 Trump Budget Proposals – Programs that have Supported Brownfield Redevelopment

- **HUD/CDBG -- $0**
  - FY17 -- $3 billion

- **DOC/EDA -- $0**
  - FY17 -- $221 million

- **DOC/MEP -- $0**
  - FY17 -- $124 million

- **Appalachian Regional Commission -- $0**
  - FY17 -- $120 million

- **DOT/TIGER grants -- $0**
  - FY17 -- $499 million

- **DOE/EERE/national labs – limited early stage support only**
  - FY17 -- $2 billion
FY 2018 Trump Funding Proposals for EPA

Initial EPA proposal to OMB
• 25% cut, from $8.2 billion to $6.1 billion

Pass back from OMB, per Trump FY18 proposal
• 31% cut ($2.5 billion), from $8.2 billion to $5.7 billion
• Staffing reduced by 3,200 FTEs, to approximately 12,000
  – For Brownfields – 1/3 of HQ, nearly all regional staff
• Focus on “core legal requirements”
• Reduce/eliminate regulations
• Devolve regional/non-core functions to states
  – Would de facto shift much brownfield support, oversight to states/localities
FY 2018 Trump Funding Proposals for EPA

Specifics that we have so far –

• Cuts
  – Brownfields project grants by $5 million (to $75 million)
  – Brownfields state/tribal support, by $13.9 million (to $33.8 million)
  – Superfund by $330 million (to $462 million)
  – Office of Research and Development by 42%
  – Categorical grants to states by $482 million (to $597 million)

• Eliminates
  – Region-specific programs (Great Lakes, Chesapeake)
  – Funding for climate programs ($100 million)
  – More than 50 other programs (including EJ)

• Internal agency actions
  – Offering early retirements/buyouts
V.

**FY 2018 appropriations and budget process –**

- Building blocks for brownfield redevelopment/financing partnerships?
- Or a potential train wreck this year?

**Congressional action underway**

- House Committee mark-up good for brownfields – *BUT*.....
Appropriations – What we know so far….House subcommittee report out

Brownfields program total
- FY 17 enacted – $153.3 million
- FY 18 House – $163.2 million
- Trump request – $118.5 million

Project grants (assessment/cleanup/RLF)
- FY 17 enacted – $80 million
- FY 18 House – $90 million
- Trump request – $69 million

Grants to states
- FY 17 enacted – $47.7 million
- FY 18 House – $47.7 million
- Trump request – $33.4 million

Management/t.a./staffing/other
- FY 17 enacted – $25.6 million
- FY 18 House – $25.5 million
- Trump request – $16.1 million
What EPA/Trump Administration CAN Do – Without Congressional Concurrence

• Leave political positions unfilled
  – Reserve decision-making to Administrator’s office

• Change enforcement priorities
  – Enforcement discretion is reserved to the Executive branch

• Modify guidance documents, NOFAs
  – Shift/eliminate current priorities (i.e., brownfields Area-Wide Planning, sustainable communities, renewable energy)

• Internal administrative actions
  – Reassign/re-align staff within offices (brownfields/climate/enforcement)
  – Offer early retirements/buyouts
  – Close/consolidate regional offices
Making the brownfield/redevelopment fit NOW – What public tools can we count on for leverage?

Federal tools in place for sure…tax incentives

Historic Rehabilitation Tax Credits
• Permanently authorized; no cap or aggregate limit

New Markets Tax Credits
• $7.5 billion allocated Nov. 2016
• $3.5 billion authorized annually thru 2019

Low-income Housing Tax Credits
• Permanently authorized; $3.5 billion/year
Congressional interest/action in brownfields: 2017 so far

House E&C Environment Subcommittee, Hearing on April 4, bill introduced June 22

- HR 3017 – Brownfield Enhancement, Economic Redevelopment, and Reauthorization Act
  - Petroleum brownfield enhancement – orphan sites
  - Clarifies leaseholder interests
  - Expands non-profit eligibility
  - Increases cleanup grants (to $500,000)
  - Allows $1 million multi-purpose grants
  - Small communities t.a -- $20,000 grants, $1.5 million total
  - Allows grant eligibility for sites acquired by municipalities prior to 1/11/02
  - Allows 5% administrative costs
  - Authorization levels -- $200 million; $50 million for states

House T&I Comm. hearing, 2 bills introduced on March 28

- HR 1758 – Brownfield Reauthorization Act
- HR 1747 – Brownfield Authorization Increase Act
  - Both would make similar changes to existing program; HR 1747 increases funding levels for individual grants, overall program
Congressional interest/action in brownfields: 2017 so far

House infrastructure bill – multi-committee referral, introduced on May 17
- HR 2479 – Leading Infrastructure for Tomorrow’s America Act
- Title IV of HR 2479 – Brownfields Redevelopment
  - Includes provisions of HR 1747

Senate bipartisan BUILD Act introduced on April 4
- S 822 – marked up, reported out of committee on July 12
- Includes most provisions of House bills, similar funding levels
  - Petroleum brownfield enhancement – orphan sites
  - Clarifies leaseholder interests
  - Expands non-profit eligibility
  - Increases cleanup grants (to $500,000)
  - Allows $950,000 multi-purpose grants
  - Redevelopment certainty for governmental entities – allows grants for sites acquired prior to 1/11/02
  - Small communities t.a -- $7,500 grants, $600,000 total
  - Directs EPA to take waterfront project applications “into consideration,”
    establish a grant program for sites reused for clean energy projects
  - Allows 8% administrative costs
  - Maintains funding authorization at existing levels ($250 million total)
Brownfield Bill Provisions – A Conceptual Look at Possible Impacts and Viability

Expanding eligibility
• Reflects current public-private partnership real estate development trends and opportunities

Codifying Area-wide Planning, other initiatives
• Brings certainty, eliminates “whim” changes

Targeting – for renewable energy, waterfront, green infrastructure, others
• Hamstrings EPA’s flexibility, could skew community priorities/grants competition, reduce ability to address emerging situations

Establishing small community t.a. grants
• Grants so small would be an administrative challenge and tax the capacity of both communities (to apply) and EPA (to administer)

Provide EPA loaned staff to small/disadvantaged communities
• Impractical, given staffing reductions underway

Increase funding for cleanup grants, other grants
• Without increased appropriations, could reduce number of annual grants by 30% to 50%

Authorization levels
• Focus needs to be on what’s appropriated; EPA has never gotten more than ½ of current authorized level
Pro-environment private sector actions

Manufacturing and Brownfields – experiences from the 24 IMCP designated community consortia

• At least 1/2 have targeted brownfields for new manufacturing investment, including:
  ➢ Portland ME (food processing)
  ➢ Pacific Northwest (cross-laminated timber)
  ➢ Central Tennessee (auto suppliers);
  ➢ Milwaukee (water-focused products)
  ➢ Ohio SOAR (aerospace)
Pro-environment private sector actions

Manufacturing and Sustainable Materials Management (SMM) – experiences from the 24 IMCP designated community consortia

• 1/3 have integrated SMM strategies, including:
  ➢ Puget Sound WA (aerospace)
  ➢ Northwest Georgia (carpet manufacturing)
  ➢ Central Utah (composite materials)
  ➢ Madison WI (food processing)

Key linkage for brownfield reuse and SMM – introducing new cost-saving, environmentally advantageous technologies to production processes
Why Continue Brownfield Redevelopment Support?

Rationale for the new regime…

• Bringing jobs back to communities that have suffered losses – focus on brownfields/legacy sites
• Making brownfields part of infrastructure investments
• Integrating brownfields into manufacturing growth strategies – focus on brownfields/legacy sites
So – What’s next in this volatile climate for brownfields?

“Fasten your seatbelts… it’s going to be a bumpy ride”

Key take-aways TODAY:

• Public-private partnerships will be key, and this is the time to develop new ones that fit with current trends

• Think creatively about ways to integrate “brownfields” into new areas – make it the center of your new “Venn diagram” of redevelopment
What All This Means for Minnesota Communities…

• Less reliance on federal assistance
• Need to recalibrate project financing strategies
• Need creative use of resources
• Thinking unconventionally – using a blend of guarantees and tax incentives in addition to grants
• Need to develop new resources – revamped TIF? Brownfield guarantees? State-local guarantees in tandem with federal grants? Contingency/shortfall pots of $$?
What All This Means for Minnesota Communities…

• Advocacy on all levels to support tool/incentive continuation/creation
• Education/outreach/events to take advantage and channel Congressional/state legislative/local council interests
• Document results and make the case! Brownfields offer an excellent ROI on public investment, in communities of all size, for projects of all type
• This is still news to many public officials
For additional examples and information....

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