

**Getting Help With Funding-
The Holistic View**

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Brownfields Redevelopment in Alaska
Law Seminars International
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Sabbatical Brownfield

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Real Brownfield: Renton, WA

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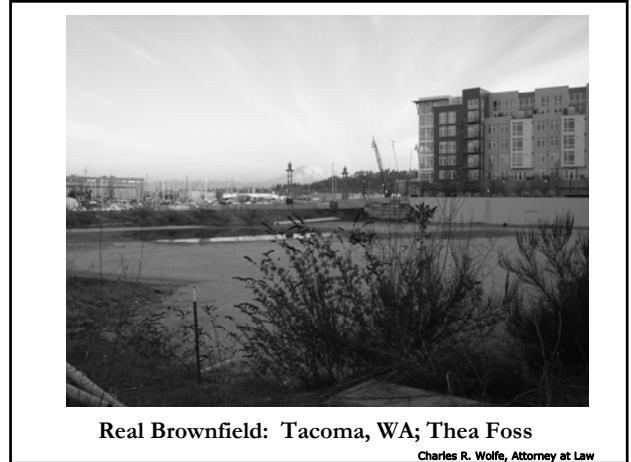
Real Brownfield: Bainbridge Island, WA

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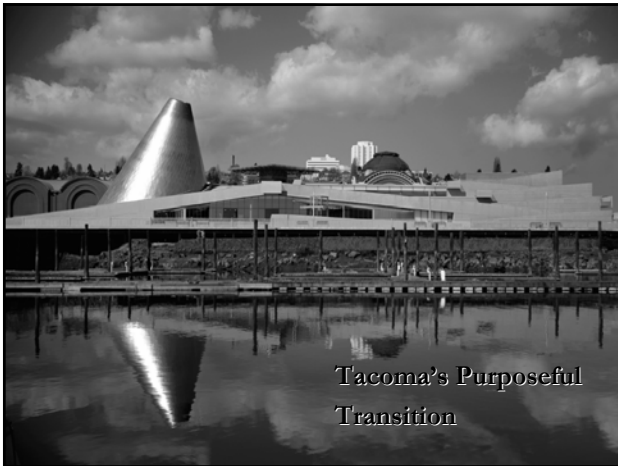


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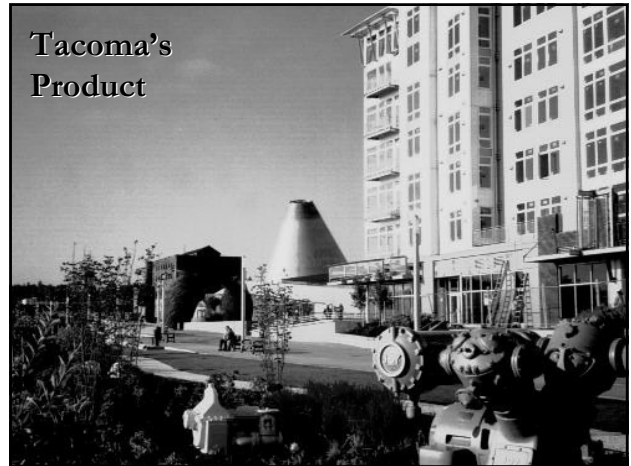


Real Brownfield: Tacoma, WA; Thea Foss

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Tacoma's Purposeful Transition



Tacoma's Product

Brownfields vs. Greenfields

- **Brownfields**
 - (reuse, redevelopment and "infill" growth)
- vs.
- **Greenfields**
 - (sprawl)

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The Federal Definition

Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

Source: United States Environmental Protection Agency

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Brownfields Definition Includes:

- Residential, commercial & industrial Properties
- “Mine-scarred” land (e.g. abandoned waste rock/spent ore piles)
- Controlled substances (e.g. illegal drug labs)
- Petroleum (e.g. abandoned gas stations)

...with reuse potential

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Context: Brownfields and Future Land Use

- Softening of “Command and Control”
- Evolution of the toolbox: technology, regulatory practice, marketplace sensitivity, insurance/risk transfer products and public funding
- Increasing attention to protection of future land use and “no further action”
- “What was Love Canal but a massive failure of institutional controls?”

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ASTM Reflects the Tone

- Standard Guide for Brownfields Redevelopment (E 1984-03)
 - Initiation
 - Evaluation
 - Transaction
 - Implementation
- Stakeholders Focus
- Voluntary Consensus Document

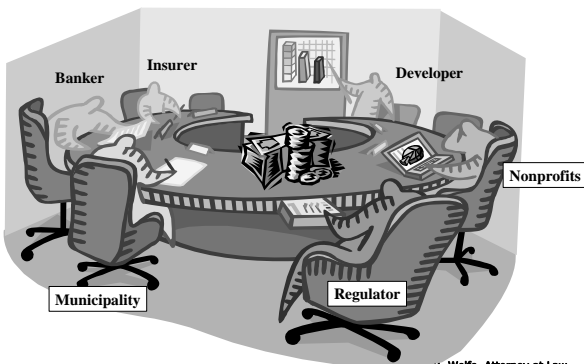
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ASTM Take Aways

- Property Life Cycle, Risk and Viability
- Streamlining
- Public Participation
- Select Roles for State and Local Government: Planning for Areawide Development, Streamlining in Permitting
- Key Query: Who Finances the Jumpstart?

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The Stakeholders



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The Advisory Model: Integration

- Brownfield advantages
 - Cleanup standards
 - Property to productive use
 - “Two-fers”
 - Local support
 - Value recovery
 - Liability resolution



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Project Design and Integration with Cleanup

- Early Roadmapping: Roads to Protectiveness and Stakeholder Satisfaction
- Interface with Liability Solutions: What is Acceptable Risk?
- At How Much Cost?
- Removal versus Containment
- Protective Development Features
- Restrictive Covenants

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Managing the Risks

- Economic viability
 - ✓ Is the project economically sound?
 - How much will it cost?
 - What's the return on investment?
 - Where's the money coming from?
 - How long will it take?
- Financial risks
 - ✓ How can the risk of unexpected loss be managed?
 - Discovery of new contaminants
 - Failure of controls
 - Firm regulatory decision

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Planning the Redevelopment

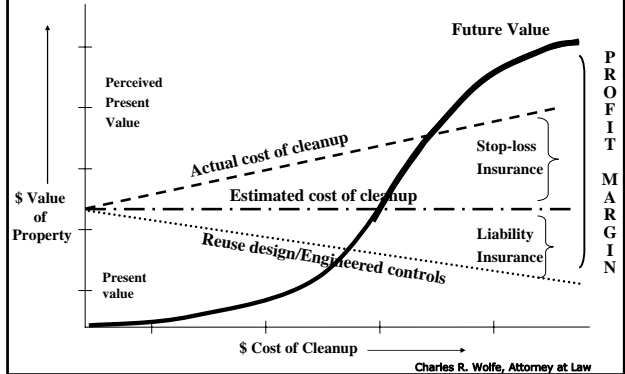
■ Financing

- ✓ How much will it cost?
- ✓ Where's the money coming from?
- ✓ Who pays?
- ✓ What's the return on investment?



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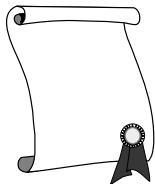
Managing the Risks - Economics



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The Role of Insurance

- Remediation Cost Capping
- Pollution Legal Liability
- Contractor Coverage
- Insured Contracts



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Community Financing Tools

- Federal tax credits
- Tax abatements
- Low interest loans
- Enterprise zones
- New markets tax credits
- Assessment and remediation grants
- Community reinvestment tax incentives
- Sales tax investment



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Federal Funding Sources



- ✓ Tax incentives
- ✓ Assessment Grants
- ✓ Cleanup grants and loans
- ✓ Economic Technical Assistance
- ✓ Infrastructure support
- ✓ Transportation grants
- ✓ Rural Development grants

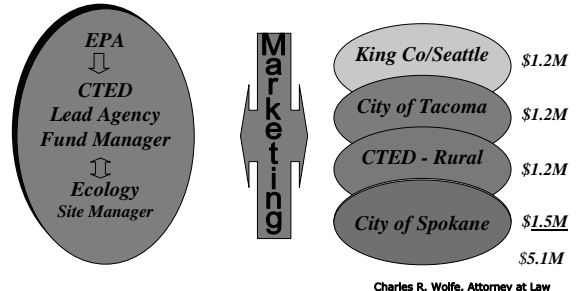
USDA UNITED STATES DEPARTMENT OF AGRICULTURE

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Washington's Brownfields Team

RLF Cooperative Agreement

Statewide Revolving Loans



Brownfields Grants Available

- U.S. Environmental Protection Agency
 - ✓ Assessment – grants on community-wide or site-by-site basis of up to \$200,000.
 - ✓ Cleanup – grants of up to \$200,000 per site; May apply for up to 5 sites.
 - ✓ Cleanup revolving loan fund – grants of up to \$1,000,000 per eligible entity to capitalize a revolving loan fund.
 - ✓ Job training – grants of up to \$200,000 per eligible entity.

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What is EPA's Brownfields Program?

- Provides financial support and tools
 - ✓ Assessment
 - ✓ Cleanup
 - ✓ Technical Assistance
 - ✓ Tax incentives

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Brownfield Revitalization Grant Programs [Subtitle A or Section 104(k)]

- Environmental Assessment
- Site-Specific Cleanup
- Cleanup Revolving Loan Funds
and
- Job Training

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Eligible Entities for EPA Grants

For All Grants:

- Units of State or Local Governments
- Tribes
- Regional Councils or Groups of Governments
- Redevelopment Agencies

In Addition for Cleanup and Job Training:

- Certain Nonprofits

Private Entities Only Eligible for Loans from RLFs

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Brownfields Assessment Grants

- Site-Specific Grants for single site
- Community-wide to Assess > 1 Site
- Can Apply \$200k Hazardous Substance Sites + \$200k for Petroleum Sites
- No Cost Share
- Can Assess Sites Applicant Does Not Own if There is Public Benefit
- Applicant Cannot be Responsible Party

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Brownfields Cleanup Grants

- Site-specific grants up to \$200k
- Must own site by time of Award (9/05 last year)
- Cannot be responsible for contamination
- 20% Cost share

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Job Training Grants

- Applicants Must Serve Brownfields Grant Communities
- Local Governments, Non-Profits and Educational Institutions Eligible
- Innovative Technologies Encouraged

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Other Brownfields Assistance

- Targeted Brownfields Assessments
 - Environmental Assessments
 - Conducted by EPA (State or Tribe under Response Program)
 - Up to \$50,000 each
- Technical Assistance – Call EPA

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State and Tribal Response Program (Subtitle C or Section 128)

- All Federally Recognized Tribes (n.b. Alaska specifics), and
- State Governments

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State and Tribal Response Program

- Intended for States and Tribes to Establish or Enhance Response Programs
- Programs that Include:
 - Inventory Brownfields properties
 - Oversight & enforcement authorities
 - Meaningful opportunities for public involvement
 - Accessible and Updated Public Record
 - Mechanism for cleanup plan approval and to certify that response action is complete

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Brownfields Assistance - EPA

- Contact (206) 553-7299
- Call 1-800-424-4EPA, ask for BF Team
- EPA Headquarters Website
 - <http://www.epa.gov/brownfields>
- EPA Region 10 Website
 - <http://www.epa.gov/region10/>
 - Look up "Brownfields" in the index

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State Financing Sources

- MTCA Cleanup Grants for public entities
- WA Brownfields Redevelopment Program
- Community Development Block Grant
- Infrastructure Assistance Coordinating Council (www.intrafunding.wa.gov)
- Interagency Committee for Outdoor Recreation
 - ✓ Department of Fish & Wildlife
 - ✓ Department of Natural Resources
 - ✓ State Parks & Recreation Commission

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State Financing Sources

- State DOT Transportation Improvement Board
- CTED Community Economic Revitalization Board
- Fish and wildlife recovery
- CTED Small Cities grant funds
- Ecology Centennial Water Fund
- Housing Trust Fund

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Other Funding Sources

- Local Funding
 - ✓ Tax increment financing
 - ✓ .08 Sales Tax for small communities
 - ✓ Enterprise zone designation
 - ✓ Bonds
- Foundations
 - ✓ Environmental
 - ✓ Resource recovery
 - ✓ Parks and recreation
- Non-Profits
 - ✓ Public Housing

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WA Revolving Loan Fund Coalition

- \$5.3Million EPA Grant to make Cleanup Loans and Grants to Public & Private Parties
- Coalition Members:
 - Department of Community, Trade, and Economic Development (CTED)
 - King County,
 - Tacoma,
 - Seattle, and
 - Spokane
- Contact Sharon Kophs 360-725-4032 for info

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Program Mechanics

- *Who is eligible for a cleanup loan?*
 - ✓ A public or private entity *who Did not cause or contribute to the Contamination of the site*
 - ✓ Prospective owner or developer of a site or a municipality
 - ✓ Have access to and control of the site
 - ✓ Have the resources to complete the project
 - ✓ Have incurred no penalties for lack of compliance

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Program Mechanics

- ◆ *What sites are eligible?*
- ✓ Do not pose an immediate threat to human health or safety
- ✓ Not listed or proposed for listing on the NPL
- ✓ Contaminated with hazardous waste, petroleum or methamphetamines
- ✓ Cleanup can occur within 12 months from start of on-site removal action

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Program Mechanics

- ◆ *What can funds be used for?*
- ✓ Capping of contaminated soils
- ✓ Excavation, consolidation or removal of soils
- ✓ Containment, treatment, disposal of hazardous materials
- ✓ Sampling and monitoring during cleanup
- ✓ Demolition or site preparation as a part of site cleanup

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Program Mechanics

- ◆ *What are RLF loan terms?*
- ✓ Interest rates are at or below market rates
- ✓ Currently loans can range up to \$500,000
- ✓ Maximum loan term is five years
- ✓ Loan fees and rates determined on an individual project basis

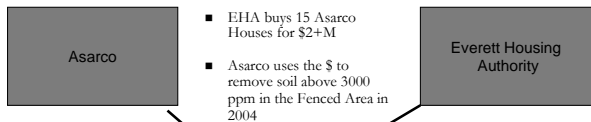
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Stakeholder Perspectives

- Special Issues and Risk Avoidance
 - Legalities, the Marketplace and Practicalities
 - Governmental Tools and Perspectives
 - The Developer's Perspective
- Example: EHA/ASARCO
 - Housing Authority, City and Private Parties
 - Multiple Consent Decrees
 - Grant Resources
 - Facilitating Cleanup, Housing and Property Reuse

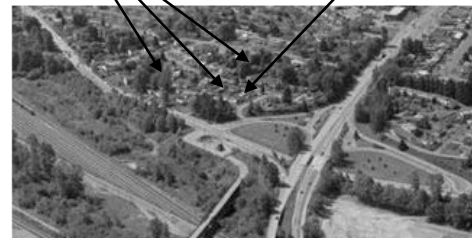
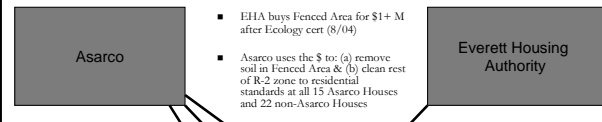
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Step 1



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Step 2



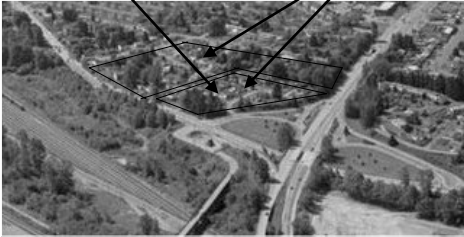
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Step 3

Asarco

- Asarco caps Fenced Area with 2+ feet of topsoil; Ecology certifies cleanup to residential standards to EHA
- EHA rehabs & sells 8-15 Asarco Houses (\$150K+ ea) for \$1-2 M
- EHA sells Fenced Area lots (\$30K ea) for \$3M

Everett Housing Authority



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Agreements & Approvals Needed

City Actions/Agreements

- EHA/City agreement & contingent loan agreement for repayment of line of credit
- City designations of blight, community renewal area, and EHA as community renewal agency (so EHA can sell the cleaned up property)
- *Later:* City approval of community renewal plan/project & processing of R-1A rezone, subdivision applications, etc.

Key EHA Approvals Needed

- Purchase & Sale and Remediation Agreements with Asarco (for Asarco to sell the property & do the cleanup)
- Prospective Purchaser Agreements with Ecology (to limit liability); deed restrictions
- EPA and Ecology grant and trust fund approvals
- EPA approval order for disposal of all soils at Asarco Tacoma

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Practical Counseling

- **Innovations to Manage Risk and Obtain Funding**
 - Insurance
 - Grants
 - Turnkey and Risk Assumption Products
 - Specialty Lenders
- **Market Perception of Nature and Extent**
 - Extent of liability
 - Complexity of negotiations
 - Likely land use restrictions
 - Marketplace knowledge and stigma
 - Investment of income stream

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