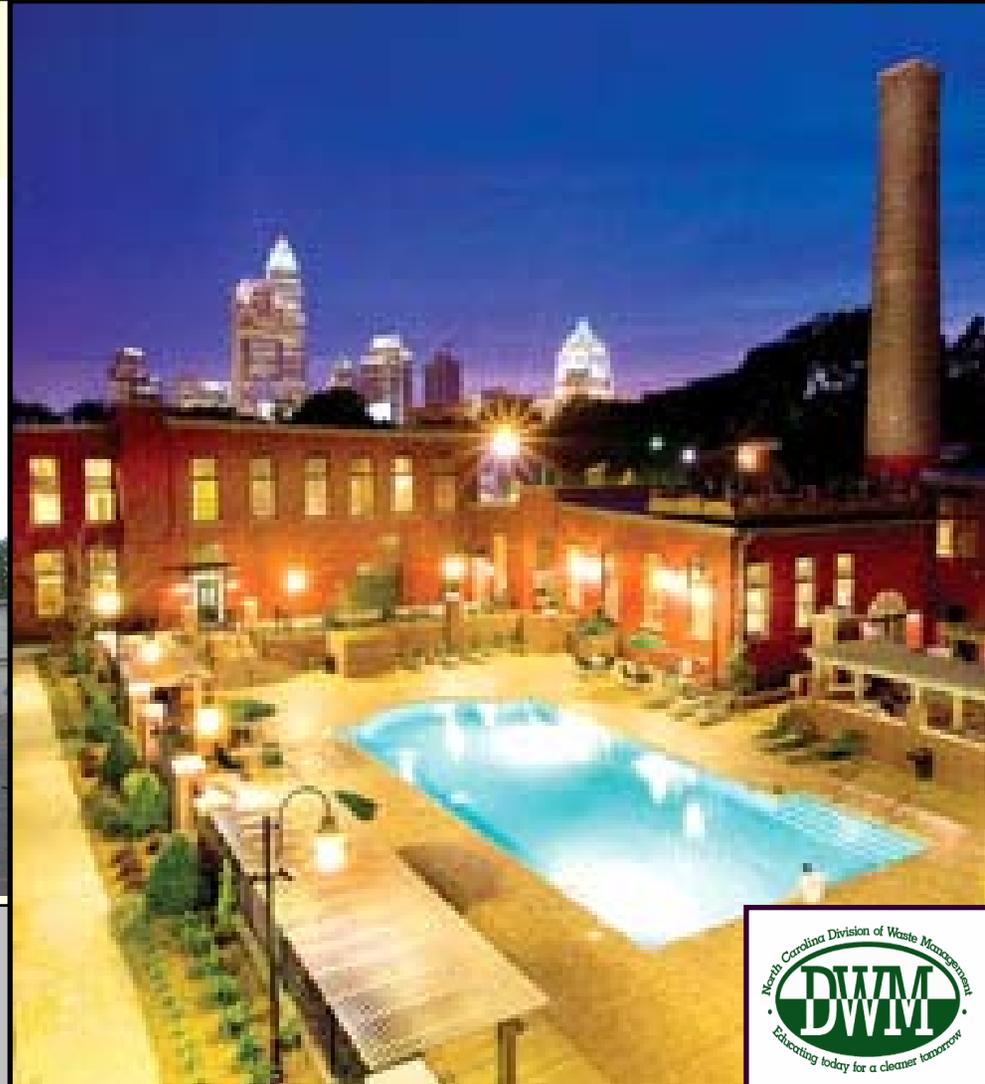


Exploring Local Government Grant Opportunities for Brownfields

The NC Brownfields Program

The Public Policy of Environmental Legacy

A Brownfields Workshop
Rocky Mount, NC
August 26, 2008



Bruce Nicholson
NC DENR
Division of Waste Management



Yesteryear 1996:

- 45 million internet users, 2/3 are in North America (today it's 1.5 billion, 1/6 are in North America)
- Google does not exist
- Taliban seize control of Kabul, Afghanistan (still trying to accomplish today)
- 1.3 million w/o power in NC after Hurricane Fran
- Olympic Games held in Atlanta
- Michael Phelps turns 11

1996 - Developer Finds an Opportunity

- Location is perfect
- Infrastructure is in place
- Property is abandoned
- Price is right, but...

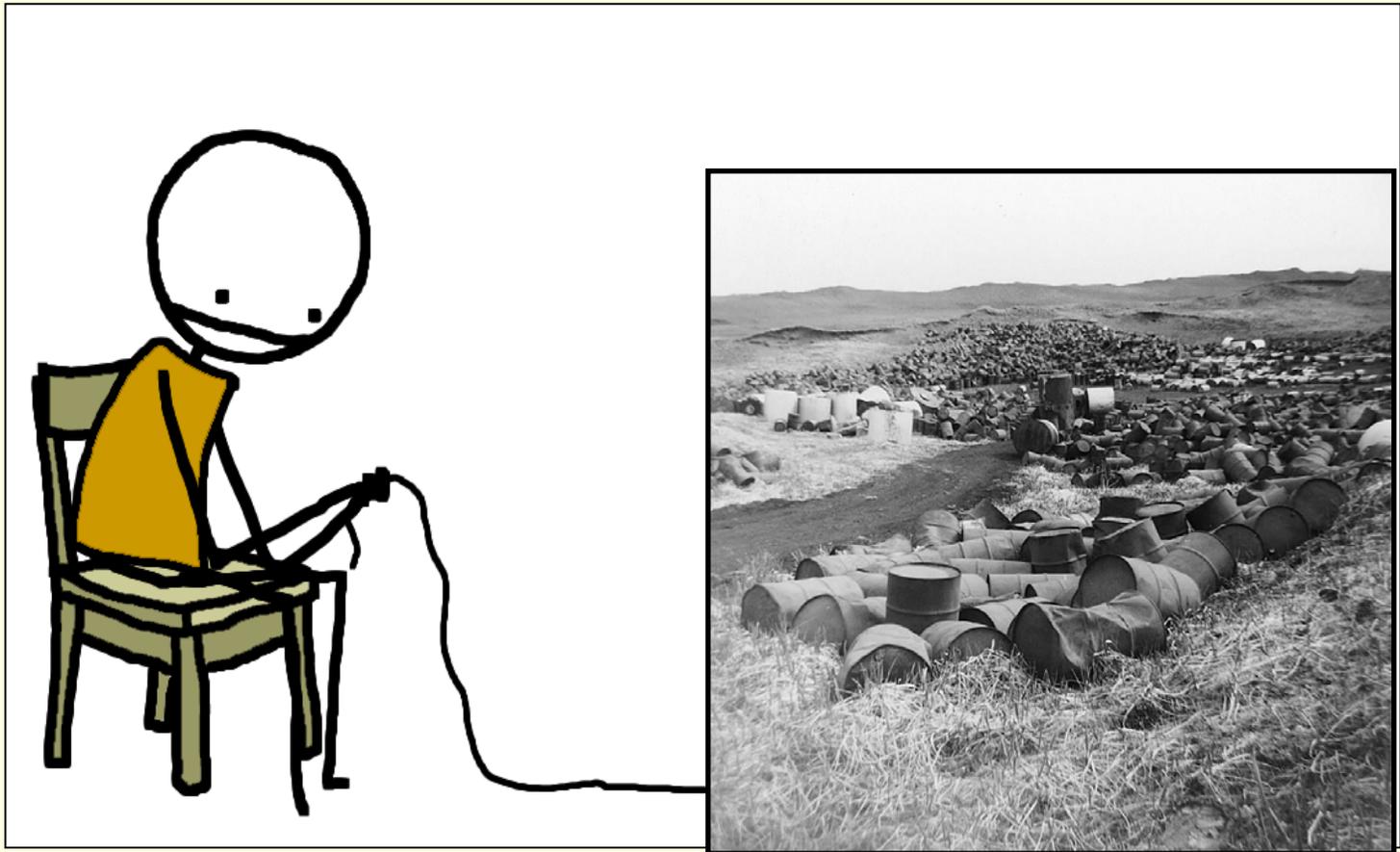
Explodingdog.com



- Has Environmental Contamination
Deal is off!

Why?

- CERCLA's Owner Liability



Source: explodingdog.com

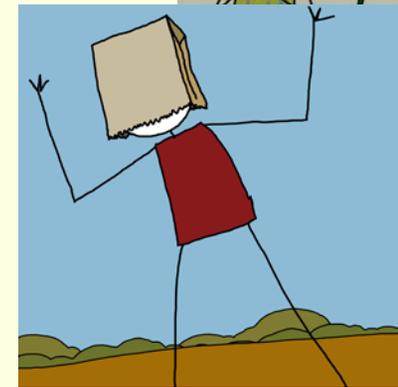
National Priorities List (NPL) Sites



Locations plus 50-mile buffers

CERCLA Liability Hierarchy

- All of the polluters... you break it, you fix it
- Any Polluter... let one polluter sue others
- Owner who should have known
- Any Owner even if they had no reasonable basis for knowing...took a risk
- The “Superfund”... (taxes from chemical manufacturers)
- The General Public...



**What's the problem here
for redevelopment?**

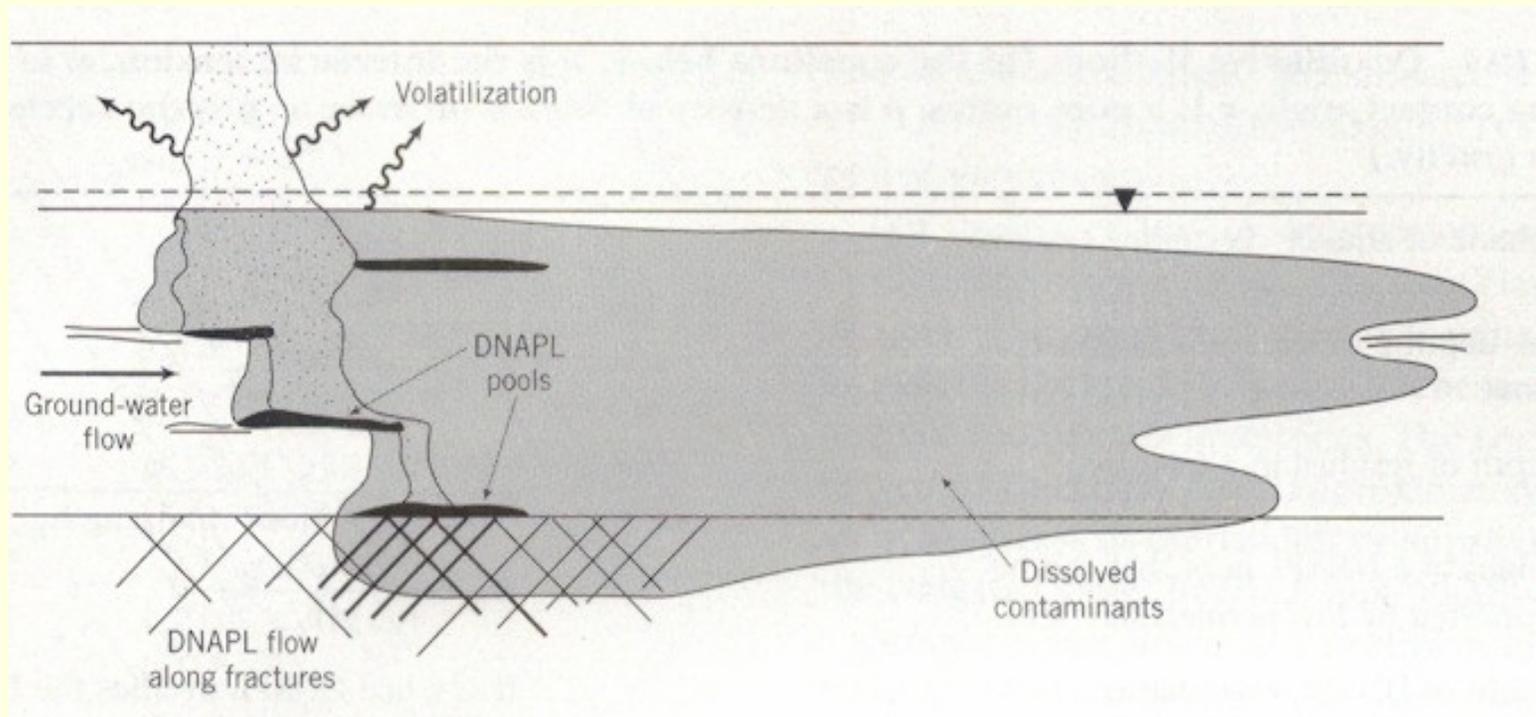
Love Canal Warning in Deed - 1953

"Prior to the delivery of this instrument of conveyance, the grantee herein has been advised by the grantor that the premises above described have been filled, in whole or in part, to the present grade level thereof with waste products

Things change and
people forget!

wastes. It is further agreed as a condition hereof that each subsequent conveyance of the aforesaid lands shall be made subject to the foregoing provisions and conditions."

Groundwater Contamination



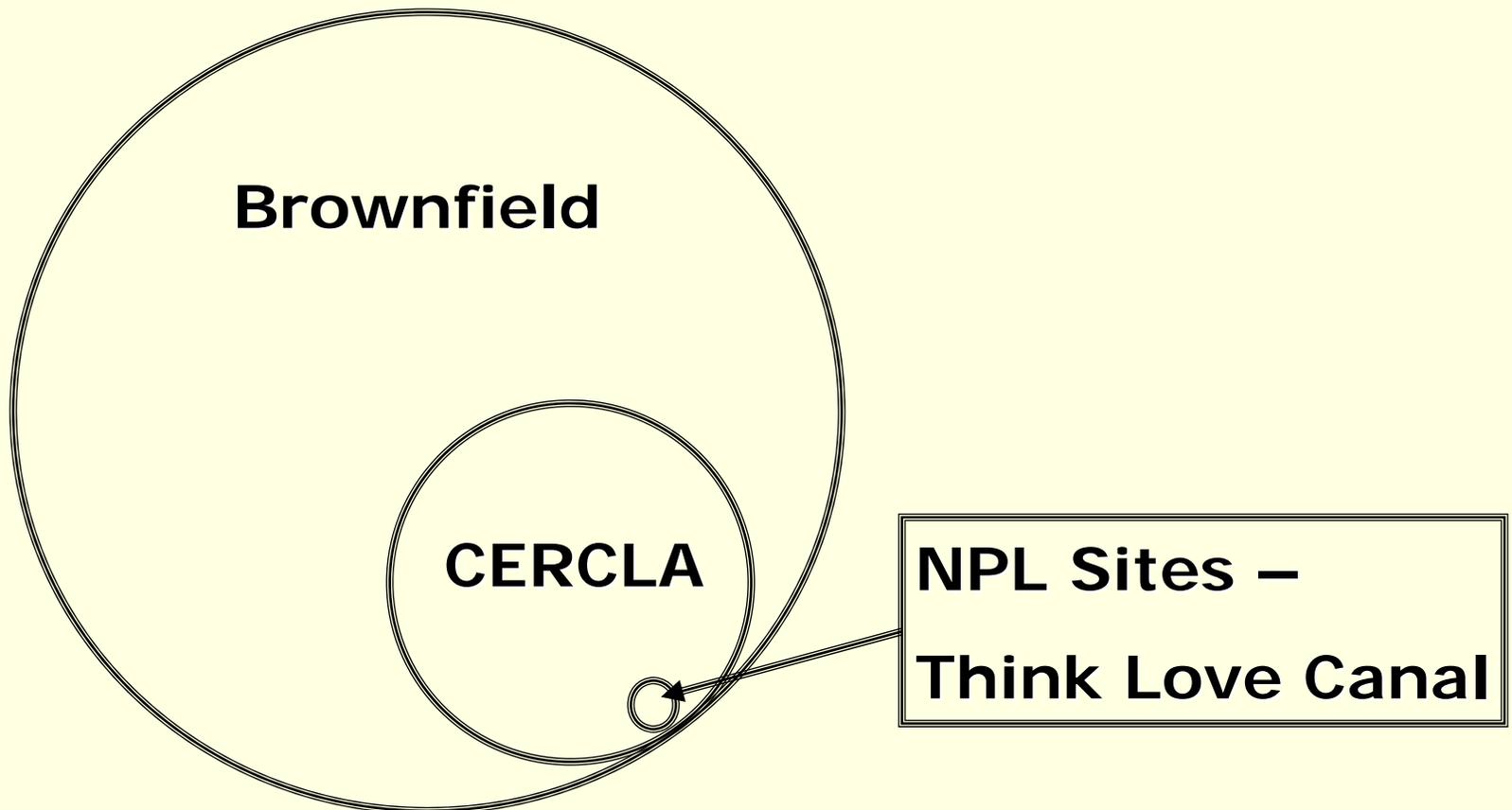
Don't Forget Vapor!

Fractures!



Brownfields, CERCLA, or Worse?

Brownfield: "Abandoned, idled, or underused property where redevelopment is hindered by real or perceived environmental contamination."



Public Policy Choices

- Reduce liability for everyone thereby rejecting Polluter Pays principle? **or...**
- Set two public policies on cleanup...one for polluters and one for non-polluters

Either would help redevelopment

Brownfields Property Reuse Act of 1997

- Help the redeveloper
- Preserve Polluter Pays Concept
- Protect Public Health and the Environment
- Offer Land Use Restrictions and Covenants not-to-sue
- Ensure Enforceability of Land Use Restrictions

The Universe of Cleanup Sites in NC

Business Status of Site

Business Status of Responsible Party

Viabile

Active

Operating Industry
and Business

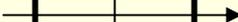
Abandoned

Abandoned Site with
Viable Polluter

Non-viable

Not stable –
In transition to
another box

Abandoned Site with
Non-viable Polluter
Brownfields!



The Universe of Cleanup Sites in NC

Business Status of Site

Business Status of Responsible Party

Viabile

Active

Cleanups Programs:
RCRA
State Aquifer Protect
Section

Abandoned

Cleanup Programs:
Superfund/CERCLA
State VCP

Developer

Site is unstable
and
transitioning to
another box

Superfund/CERCLA
(but has no traction)
Site Remains abandoned

**Brownfields Program
created to gain traction here**



Public Policy Goals of Brownfields Statute in North Carolina

- Create Special Class of Remediating Parties... “prospective developers” of abandoned sites
- Treat them less stringently than Polluters to encourage safe reuse of abandoned sites
- Provide them with a tax incentive to assist in costs
- Obtain Public Health Protection for safe redevelopments

Hypothetical: Former Lead Smelter

Contamination	Typical Polluter Requirements	Prospective Developer Agreement
Lead in Soil	Further Assess Soil, Excavate/Remove/ Treat Soil	Cap soil restrict use of land to safe uses, incorporate caps into parking plan
Lead in Groundwater	Define extent of contamination, remediate groundwater to NC GW Stds	Assess groundwater, search for potential receptors or wells, prohibit GW use

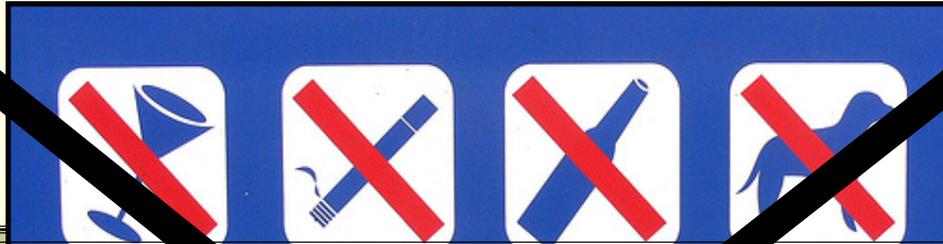
Hypothetical: Use Options for PD

Contamination	Somewhat restricted Residential Use	More restricted Residential Use	Commercial or Industrial Use
Solvents in Groundwater beneath bldg.	Subslab vapor mitigation and monitoring; prohibit use of GW	No basements, parking only on ground floor, residential above	No basements, seal cracks, HVAC upgrade
Lead in soil	Excavate and remove	Cap, multifamily use with homeowners association, sampling of common play area	Cap, restriction on excavations

Brownfields Process Summary

- 1) Prospective Developer Submits Application to DENR
- 2) DENR Screens PD & Site for Eligibility
- 3) DENR Identifies Data Gaps
- 4) PD Performs Assessment Work, as needed
- 5) DENR/PD Evaluate Site Risks for Land Use
- 6) Negotiate & Draft Brownfields Agreement
- 7) Submit for 30-Day Public Comment Period
- 8) Implement Brownfields Agreement

Agreement Implementation



Enforceable LURs and Annual
LUR Certifications



Pilot Mill-Raleigh

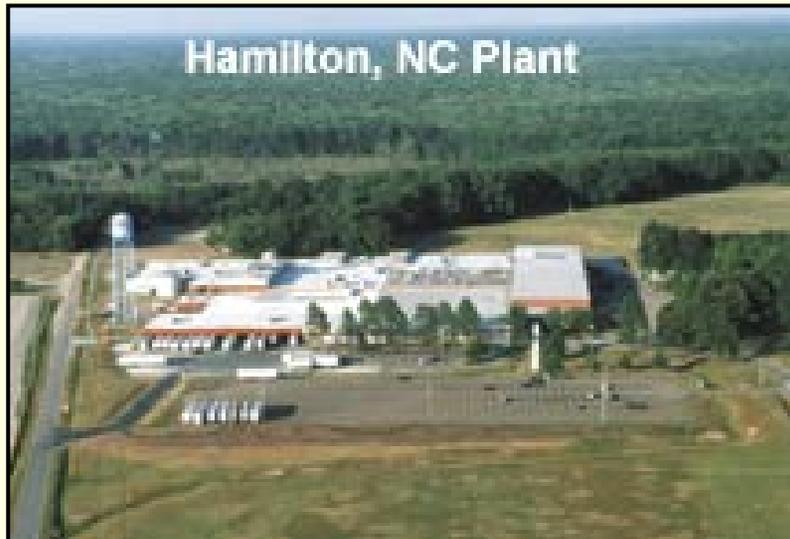


Abandoned Turn of the
Century Textile Mill
Slated For Demolition
Tax Value:\$200,000
Cleanup Cost:~\$1 million



Fully Leased Office
Complex on National
Register of Historic
Places
Value over \$13,000,000
Cleanup Cost:~\$100,000

Pennco Metal Products - Hamilton



School locker manufacturer relocates manufacturing operations to 400,000 sq ft former textile mill.

- Hamilton, Martin County
- 250 manufacturing jobs replaced those lost by Alamac Textiles bankruptcy
- Brownfields Agreement facilitated recruitment

Goal: Brownfields Nirvana

NCDENR / EPA

- Risk Reduction
- Smart Growth
- Sustainability

Prospective Developer

- Profit
- Reduced Uncertainty
- Lower Liability

Local Govt.

- Economic Devel.
- Jobs
- Sustainability
- Risk Reduction

Lender

- Reduced Uncertainty
- Profit

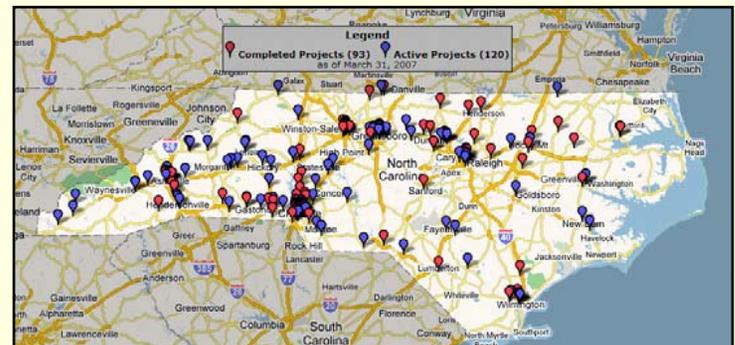
Neighbors

- Economic Benefits
- Risk Reduction
- Quality of Life

BROWNFIELD 185

Where We Are

- 120+ Brownfields Agreements Recorded
- \$3.8 Billion in facilitated private investment
- Mountains to Coast Effects
- #8 State in 2008 EPA Brownfields Grant Funds Awarded





BROWN FIELD ST

Where to now?

▪ Addressing Resource Challenges

- Increasing demand
- Federal Funds to States has plateaued
- Queue awaiting action has been growing
- Time value of money is often developers' greatest cost
- Redevelopment Now Pilot Program on expedited processing

Federal and State Roles

Federal Program

- **Funding to States**
 - State Brownfields Program
- **Brownfields Grants to Local Governments**
 - Assessment
 - Cleanup
 - Revolving Loan
 - Job Training

State Program

- **Liability Protection to PD**
 - Brownfields agreement
- **Tax Incentives to PD**
 - BF Property tax abatement
- **Don't Need a Federal Grant to be Eligible**



Brownfields Program Contacts

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Your Final Test Question...

Is it *Brownsfield* or *Brownfields*?

