

BROWNFIELD REDEVELOPMENT TASK FORCE

May 18 presentation from The MGP CEO – Bruce-Sean Reshen Questions and Answers

Keith Strother: What is the standard for the quality of assessments as provided for in the Brownfield Act?

Bruce: All Appropriate Inquiry is the document approved by EPA and is the new methodology to assess and to report. The first audit is on trial ([Public Company Accounting Oversight Board](#)). Auditors will need training and they will be penalized. The head of the audit company must move every 5 years to provide safeguards in this system. With ASTM, no company will be able to say that they did not know what to do.

Question: Are there private ownership problems?

Bruce: Sarbanes-Oxley is applied to all companies that put out financial statement. At first this will apply only to companies that report about 75M. Companies reporting above 10M will be included next year for a slow phase into our economy. Since every company must have financial statements, this will affect all companies.

Phillip Wiedmeyer: What about non-profit company audits?

Bruce: Government arcane auditing – doubt it will happen in 3-5 years, but non-profits will come in soon.

Phillip: Interface of Trust or company outsourcing stewardship role, how interface with company in ongoing business and relationship?

Bruce: Is outsourcing. Last thing you want is forever obligation so outsourcing is right word. How about if not sold? Many companies do not wish to be in environmental community. Experts in Guardian Trust and they perform these actions in mass. In the long term, 50 year contracts on multiple sites are more cost effective. The Trust can do monitoring, reporting and inspections in cost effective way.

Rebecca Pritchett restates Phillip's question: Whoever is utilizing property – how is stewardship between user and steward? Like changing operations?

Bruce answers: Built in is methodology to make changes, especially is easement. Restriction in place to change user is ok if you do not affect operation of controls on site. No use change without government approval either way. Trust watches that too.

Jim Delano adds that technology is improving to expedite. Developer must work with developers and engineers to determine end use. Need strategic approach.

Bob Wilkerson: Advice to municipal representative and property owners wishing to donate properties to city. What protection do they need?

Bruce: City point of view – BE CAREFUL!! Don't accept without one question – What is the environmental status? Good news is city can protect itself. Take title and do RFP with built-in protection for city – like requiring Guardian Trust. Homebuilding is prevalent. City needs protection from residents coming back to city. Cities can not do the monitoring. Communities don't have environmental insurance experts. City will be in chain of title and they need protection.

Jesse Tremaine: Brownfields are Real Estate deals. We are looking at transfer of risks. Improved environmental insurance provides selling attributes. Indemnities are a thing of past. New insurance products are variable and flexible.

Rebecca: Indemnity only as good as their pocketbook.

Bruce: Reach out to expertise – also on indemnities – large companies will say you can't outsource liability. Indemnities are cumbersome, but they still help when worse happens.

Bob: Issue of D&O insurance?

Bruce: If company wants to participate. If more than 10% interest – must consolidate into financials. If public – need to sell property to solve Brownfield issue. We talk to senior officers – BOD – stipends are good. Protected through D&O insurance. Exclusion on environmental. Personally liable if no environmental insurance at company...so BOD – need to know what is going on in company. Sarbanes-Oxley – every CEO and CFO must certify that their financial statements have everything a reasonable investor wants to know. Now every employee signs version of Sarbanes.

Phillip: Timing. When does Trust get involved?

Bruce: varies. EPA requires engineering and land use controls before you start remediation. So developer needs to decide on use/controls and put in place early.

Jesse: Dollar restraints. Companies need to consider insurance investment cost. Check if insurable – they consider engineering etc to determine the risks – insurance is a good partner in brownfield redevelopment puzzle.

Billy Hewitt: NJ Brownfields legislation is mentioned. What is Alabama's legislation?

Rebecca: Lists – potential economic incentive – description of city and county to waive property tax requirement, sales taxes abated. Property tax inclusion for up to 20 years.

Bruce: Tax code – direct write off of remediation. Also 468B – monies placed in Trust – then dollars are written off and is tax advantage. AL will probably follow. Pass Bare bones Brownfield, then add direct write offs of cost. Need statewide BF insurance program. Very expensive and statewide lowers costs. Many states have BF loan fund.

Rebecca: AL revolving loan fund. 1M from EPA. No fully funded yet. Passed in 2000 – 1 year before CRCLA amendments. We need to revisit. In 2000 committee looked at

dollar incentives. This is a young program and looking at changes in 2001 amendment to CRCLA.

Bruce: Look to Penn. Ohio, Mich., Indiana, NJ, Maryland

Danny: What is the cost of insurance?

Bruce: cost effective. BF insurance below 2M is non cost effective. Cost can usually rise so statewide pools risk.

Chris Reaves: What about owners without demand property and their need for expertise-cheaply?

Bruce: That is a major social issue. Only way sites cleaned up now – have market value. Trust for Public land buying sites – but most are infill and no economic incentive for communities or owner. We have to decide as a nation – perhaps as our worry regarding clean water develops. There is not enough incentive.

Commissioner Smoot: Need vision. Go outside the box. Need to create use and leadership. Challenge self and Jefferson County will start. What can municipalities do to enact some sort of ability to move process?

Bruce: Bring developers in to do professional redevelopment and as a condition of getting contract and making money, they must do clean ups on other sites. Put in RFP. In NJ they have designated areas of redevelopment for this condition.

End

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