

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
ENVIRONMENTAL FINANCIAL ADVISORY BOARD**

APR 19 2001

Honorable Christine Todd Whitman
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Whitman:

The Environmental Financial Advisory Board, through its Brownfields Workgroup, has been monitoring federal legislative proposals intended to help spur investment in brownfields redevelopment. Those initiatives that address funding have proposed some variation of one or more of the following: 1) direct public funding (grants); 2) capitalization of revolving loan funds; 3) loan guarantee programs (such as those of the Small Business Administration); and 4) tax incentives. We believe that the fourth alternative has significant advantages over grant and loan approaches because tax incentives would most effectively attract capital from the private sector.

The 1998 Brownfields Tax Incentive (which the Board commented upon in previous correspondence) was a beginning, but a bolder approach is necessary to bring significant private investment to brownfields redevelopment. We believe the following provisions could provide the core of a new legislative initiative that would help to bring the still-reluctant private sector into the brownfields remediation financing arena. We encourage EPA to propose and/or support legislation that is aimed at attracting private investment to this important area.

Specifically, the Board proposes the following for brownfields tax incentive legislation:

- Create a transferable tax credit equal to the cost of the environmental investigation and remediation incurred on a "qualifying site." This would enable cities to assess and clean up property and transfer the credits to the next purchaser. We believe that the nature of the real estate development process makes the transferability of the tax credits necessary to make the tax incentives truly meaningful. Tax credits drive real estate transactions, particularly in low income and redevelopment lending which is attracted to areas with already existing infrastructure, like brownfields. We think that general objections to affording benefits to parties other than the taxpayer are both inapplicable and invalid for the type of tax credit envisioned.

- Define "qualifying site" as contaminated property within an Urban area as defined by the Census. This definition includes most brownfields, but importantly, precludes greenfield sites, development of which should be discouraged. We believe that the low usage of the current Brownfields Tax Incentive is due, in part, to its restrictive site qualification criteria. Budgetary concerns that led to a narrow definition have proven to be unfounded.
- The tax credit should be available only after certified commencement of redevelopment to avoid claiming the credit and then "warehousing" the property without actually starting the cleanup. Since large projects can take years from investigation to redevelopment, taxpayers should be able to claim the credit when there is evidence that the project legitimately has begun and will proceed on an identifiable timetable to completion.
- Property "redevelopment" should be defined to include open spaces, parks, residential living spaces, commercial use, schools and any other uses that are of benefit to the community. This definition may be specific to the application of this tax incentive. While we know that the former administration's Better America Bonds proposal was aimed at similar properties, the financial mechanisms of the tax incentive and bonds should not be confused. Irrespective of other programs, an open space component should be included in any new tax incentive proposal.
- "Qualifying remediation costs" should include the capitalized costs of ongoing remediation, including pump and treat systems. We urge this definition be established in legislation or regulation to avoid the unnecessary progress-inhibiting uncertainty that would accompany leaving this to after-the-fact, case-by-case determination by IRS.
- Insurance premiums covering post-remediation liabilities should qualify for the tax credit. Insurance has become one of the most effective tools to remove the uncertainty that is such an impediment to brownfields redevelopment. We see insurance as a valuable addition to the definition of qualifying costs that should be set in legislation or regulation.

The Board thanks you for the opportunity to provide our comments and recommendations to you. We hope they will promote legislation that reflects a strong commitment to the recycling of developed areas and that effectively mobilizes private capital in the redevelopment of cities.

Sincerely,



Robert O. Lenna, Chair
Environmental Financial Advisory Board

cc: Michael W.S. Ryan, Deputy Chief Financial Officer
Dona DeLeon, Deputy Associate Administrator for Policy, Economics, and Innovation
Joseph L. Dillon, Acting Comptroller



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Robert O. Lenna, Chair
Environmental Financial Advisory Board
Office of the Chief Financial Officer
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2731R)
Washington, DC 20460

Dear Mr. Lenna:


Thank you for your letter regarding brownfields tax incentives. I share your support for these tax incentives as valuable tools for encouraging the cleanup and reuse of brownfields.

As you know, the current Brownfields Tax Incentive provides an accelerated deduction for cleanup expenses. In December 2000, the Brownfields Tax Incentive was improved by deleting geographic restrictions and by extending the incentive to December 31, 2003. The U.S. Environmental Protection Agency (EPA) is working with both the U. S. Department of the Treasury and the states to implement these changes.

In your letter, the Environmental Financial Advisory Board proposes several new approaches to brownfields tax policy including a transferable tax credit, extension of the current incentive to non-economic reuses, and inclusion of insurance costs. Currently, the Administration is committed to implementing the December 2000 improvements to the existing tax incentive and supports making the incentive permanent. We would like to work with you to encourage use of the current tax incentive, explore further improvements of tax policy, and develop other tools that promote private sector investment in brownfields cleanup and reuse.

Thank you again for your comments and recommendations. Please feel free to contact me or Linda Garczynski, Director of EPA's Brownfields Program, at 202-260-4039 to discuss these issues further.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael Shapiro".

Michael H. Shapiro
Acting Assistant Administrator

cc: Linda Garczynski