

Breakout 2B – Private Sector Response to Important Brownfield Program Reform

As the tri-state area moves forward in addressing brownfields, there has been significant change in both the public and private sector. The response from the private sector has been mostly successful but with varying degrees across states. Connecticut, New York, and New Jersey all had representatives on the panel to discuss the impact of the private sector on brownfield remediation within their respective state.

The panel was kicked off by **Steve Senior**, a partner with **Riker Danzig’s Environmental Group** and **LSRPA** board member who discussed private sector innovation with respect to New Jersey. The main point that Steve made was the positive influence that the newly passed LSRP program has had on brownfield remediation in New Jersey. Steve even mentioned that the new LSRP program is arguable the biggest thing in New Jersey remediation since the passage of the initial site statute. The original law was passed in 2009 and the program has worked through some setbacks but in the past 2-3 years has seen major improvement with the amount of sites that were able to move forward after stagnation. The major breakthrough of the LSRP program was that now 3rd party professionals can provide guidance and cleanup without direct DEP oversight. Steve mentioned the vital role that stakeholder participation played in getting the new law passed. Everyone that had to do with the process of brownfield remediation was at the table deliberating on the appropriate avenue to take the program and the result was a program yielding significant results. There has been real progress in bringing sites to completion and driving down the sites enlisted in the program, in turn allowing for new sites to enter into program. Since its inauguration, 97% of submittals have been inspected and accepted into the brownfield program.

The next panelist was **David Freeman** of **The New York City Brownfield Partnership** who discussed private sector influence in New York. David opened up noting a slight crisis in New York without a successful brownfield program. At first it was thought that tax incentives would be a bit of a peripheral agent in the enrollment process but municipalities soon found that they were more important. The original program was a bit too generous to developers who didn’t need the incentives and who were not remediating adequately. It became clear that the program needed reevaluation as the Governor liked the program but found it way too expensive. Development credits came under the scope and there needed to be broad cooperation to get a similar program passed without dramatic cuts. The State BAR Environmental Law section helped build a coalition of several entities involved in brownfield development to fix the details. They gathered data to show that in fact the program was not as needlessly lucrative as it was previously believed. Similar to New Jersey, the building of a broad based coalition of stakeholders was vital to the reengineering of a program that became much more financially viable for governments. To demonstrate the effectiveness of the changes made, over 70% of tax credits from 2008 to 2012 were used for clean-up compared with only 7% from 03’ to 08’. So modest change was able to be achieved but David also made clear that there are a few ingredients that are essential for any lasting change; you need a good strategy, you need good

ideas and though leadership, building of coalitions is essential, you need accurate data and result publication and finally you need access to decision makers who can make change happen.

The third and final panelist was **David Hurley**, VP at **Fuss & O'Neill Inc.**, who discussed private sector influence in Connecticut (Note: David Hurley filled in for Eric Brown who was unable to attend). David noted that private sector involvement in Connecticut has been comparatively slower but noted that the drive in that state has been for more involvement from local municipalities. The Brownfield Remediation and Revitalization program that was passed in 2011 has been helpful in increasing private investment in brownfield development. The program provides liability relief at the state level if an owner has acquired property that has been contaminated prior to the sale and provides helpful incentives to owners who are willing to diligently remediate the property. Incentives can be attained if investigation into off-site migration of contaminants and/or if the owner proceeds quickly through investigation & remediation. Additional funding since the passage of 2011 Brownfield Remediation Grants have also spurred the development of brownfields in Connecticut and the 2009 passage of the Abandoned Brownfield Cleanup Program which allows for sites that have been underutilized for five or more years to qualify for grants and loans.

In closing remarks all three panelists noted that greater cooperation amongst state jurisdictions would go a long way in making brownfield remediation programs more effective and efficient.