TESTIMONY of

Lee Ilan
Chief of Planning, New York City Mayor's Office of Environmental Remediation

On Behalf of the
National Brownfields Coalition

Before the
U.S. House of Representatives
Energy and Commerce Committee
Environment and Climate Change Subcommittee

Hearing on:
"Back from the Brink: Restoring Brownfield Sites to Economic Engines"

February 15, 2022

Chairman Tonko, Ranking Member McKinley, and members of the subcommittee: The National Brownfields Coalition (the Coalition) appreciates the opportunity to offer our thoughts today on restoring brownfield sites.

Introduction

I am Lee Ilan, Chief of Planning for the New York City Mayor's Office of Environmental Remediation. In this capacity, I have promoted brownfield cleanup and redevelopment for the City of New York (NYC) and meaningful community participation in environmental decision-making for over twenty years. I'll start by acknowledging that NYC is the only municipality in the nation with its own full- service brownfield cleanup program, similar in scope to brownfield programs run by states. We opened our program in 2009. To date, 750 projects have completed our program, cleaning up 410 acres of land.

Per the title of this hearing, we strongly agree that brownfields are an economic engine. Remediated and redeveloped sites in NYC have generated approximately $336 million in city property tax revenue. However, NYC generally does not use grant funds on private development projects, which are attracted by the NYC real estate market and cleanup incentives to enroll directly in the NYC or New York State (NYS) cleanup programs. Instead, we use our grant funds from the U.S. Environmental Protection Agency (EPA) to focus on projects where public dollars are needed to serve a larger public purpose.

NYC has received 17 Assessment, Cleanup, and Revolving Loan Fund brownfield grants and worked on 83 properties since the beginning of EPA's grant program. Our assessment grants fund Phase I and Phase II site investigations for community developers and to facilitate property acquisitions by the City. We use EPA cleanup funds to offset cleanup costs for community

based affordable housing developers. To date, this funding has supported the creation of 1,400 units of affordable housing, 2 charter schools, and 1 health care facility.

NYC received its first EPA Brownfields Pilot grant in 1997, and we used most of it to convene a broad stakeholder coalition, including community representatives, agency staff, environmental organizations, attorneys, consultants, academics, and environmental justice groups. This work, along with input from other communities across the state, led to the establishment of the NYS brownfield program and the NYS Brownfield Opportunity Area program that provides funding to local governments and community-based organizations to study and prioritize sites for revitalization.

Last week, we kicked off our most recent grant-funded project – an environmental assessment to allow a nonprofit that assists low-income immigrant families to open a senior center and meals-on-wheels prep site.

This history serves to emphasize that cleanup and reuse of brownfields is a long-term effort that lasts beyond the life of one real estate project. Different funding at different stages of community revitalization is needed to make the up-front planning pay off as communities explore, choose, design, and implement viable reuse options.

Today, I address you solely as a member of the Steering Committee for the National Brownfields Coalition. The Coalition is a national, non-partisan alliance of public interest organizations and public and private sector professionals who raise awareness about, as well as develop and advocate for, policies and practices that support the remediation and redevelopment of brownfields. The Coalition is co-managed by Smart Growth America, a leader in empowering communities to create livable places, healthy people and shared prosperity, and by the Center for Creative Land Recycling, the leading national nonprofit championing the beneficial reuse of

environmentally impacted and underutilized properties. Together, we represent cities large and small; rural and tribal communities; and states and regions, which all use EPA brownfield grants. I have attached further information on the Coalition to my testimony. (*See* Appendix A).

The restoration of brownfields to economic engines requires consistent and increased funding. Such funding will also lead to environmental justice and decrease negative climate impacts nationwide.

Value of the EPA's Brownfields Program

The EPA's Brownfields Program is extremely valuable to urban and rural communities across the country. Its reliable funding and consistency help local and tribal governments, states, and non-profits engage in long-term reuse planning, consult with stakeholders, study and address brownfields, and line up private and public sector partners. The program also enables economic development, improves the environment, preserves greenfields, protects public health, encourages planning for reuse, and gives community members a voice in what their neighborhoods look like.

Brownfields grantees use funds for environmental assessment and remediation, to make cleanup loans and subgrants, and to develop site inventories and conduct reuse planning. These grants address historic fill, petroleum products, lead and other heavy metals, and volatile and semi-volatile organic compounds, pesticides, and even radiological contamination. We know that brownfields present risks to adjacent communities, but they also represent an opportunity for new development and new employment.

Through fiscal year 2020, EPA estimated that its assessment, cleanup, and revolving loan fund grants leveraged $20.13 for each dollar, and 10.3 jobs were leveraged per $100,000 of EPA brownfields funds.

In FY 2021, investments made through the EPA's Brownfields Program resulted in the assessment of 1,691 properties, cleanup of 170 properties, and making 616 properties (11,470 total acres) ready for reuse across the country. These activities leveraged a total of 8,940 new jobs and returns amounting to $2.13 billion, surpassing all of EPA's targets for FY 2021.

These investments are also used to leverage other federal funds. Leveraging works best when requirements of different programs line up. For instance, when we match the prevailing wage requirements for senior and supportive housing funded by HUD with the similar requirements of EPA cleanup funds, we can use both on the same project.

Putting resources in the hands of communities that are most affected by brownfields and disinvestment is essential, as Congress recognized by making non-profits also eligible for assessment funds. In addition to the important environmental investigation and remediation work, brownfields funding also supports local governments prioritizing and strategizing site redevelopment. Cleaning up a site is essential to protect the health of residents and the environment, but supporting the redevelopment is the heart of the brownfield program.

Notably, communities that are unable to obtain grants to conduct investigations at contaminated sites and make plans for cleanup are not ignored, as the EPA also provides Targeted Brownfield Assessments.

In addition, the EPA funds the provision of technical assistance, education, peer learning, capacity-building, and other essential resources. This funding allows communities to take on brownfields challenges and devise solutions that address local needs through the Technical

Assistance to Brownfields (TAB) program. The TAB providers serve every region of the country, making program experts available to help communities apply for grants, improve their proposals, and manage the grants once they get them.

Moreover, 128A funding to states and tribal governments ensures that state and tribal brownfield programs can provide proper oversight for the protection of public health and to encourage brownfield redevelopers and lenders to invest in contaminated sites.

Finally, the Brownfield Job Training grants offer residents of brownfield communities the opportunity to participate in the revitalization of their communities. The skills that community members acquire and the support they receive through such job training allow them to obtain jobs in environmental cleanup, solar panel installation, and other fields that enable them to take pride in their work and support their families. NYC has multiple local non-profits that use EPA brownfield job training grants to help residents obtain good-paying green jobs. These organizations recruit participants to develop environmental job skills and obtain certifications in hazardous materials remediation, emergency response, asbestos abatement, and site safety. The training grantees then identify job opportunities, set up interviews, and follow up to support the continued success of both the graduates and the employers to help build careers. The average starting wage nationally for these individuals is over $14 an hour. Most of our local program graduates start around $18/hour, and many earn $22/hour or more after a year or two.

Funding

With respect to funding, we are thrilled to see the level of investment in brownfields in the Infrastructure Investment and Jobs Act and are eager to see this funding applied to complete

much-needed assessments and remediation of contaminated sites and support equitable outcomes for communities nationwide.

Historically, Congress has underfunded the EPA's Brownfield Program. As a result, the EPA has been able to make awards for only about a third of the requests it receives, even if the proposals get high scores. However, the increased funding and program changes contained in the Infrastructure Investment and Jobs Act will super-charge the program. Consequently, the grantee community is looking anew at sites that may qualify. The increased funding will allow communities to address larger sites and small but more complicated sites that require more cleanup funding. We also hope it will enable the EPA to fund more of the proposals they get each year. Until now, communities have submitted great proposals that scored 94 or 95 points, but they didn't receive awards because there was not enough available funding. This injection of additional funds to the program is a beacon of hope for all applicants that their solid proposals are more likely to get awards.

Furthermore, since the beginning of the EPA's Brownfields Program, the cleanup and revolving loan fund grants have required a 20% cost share. Fortunately, Congress eliminated this cost-share requirement in the Infrastructure Investment and Jobs Act. We applaud Congress for the additional funding and for this change, as they will open the Program to more communities and sites where the cost share was a real burden. Underfunded rural communities, tribes and municipal agencies do not have extra funds lying around, so the possibility of fully funded cleanups is a game-changer. Without the cost-share requirement, states, localities, and tribal governments will certainly submit more applications and more-ambitious proposals for brownfields restoration to the EPA.

The Federal Brownfield Tax incentive

With that said, Congress could also provide incentives for private sector entities. On behalf of communities across the country, the Coalition strongly encourages Congress to renew the federal brownfield tax deduction, which expired in 2011. This deduction was previously available through Section 198 of the Tax Code, and encouraged the private sector to invest in cleanup by allowing entities that cleaned up a brownfield site to deduct the cleanup costs in the year they are incurred rather than spread over ten years. This powerful incentive was available everywhere, not only in communities that were fortunate to have a good grant writer and be selected by the EPA, and it was used more than 625 times in more than 40 states over the 14 years it was available.

Further, this benefit of deducting expenses in one year, rather than across ten years, is already available to responsible parties under Superfund. We ask you to make it again available to volunteers cleaning up brownfields as well. I have included with my testimony a fact sheet on this incentive and a 2015 study that my office, the Coalition, and the International Council of Shopping Centers produced presenting case studies and an analysis of the use of the deduction. (*See* Appendices B and C)

Environmental Justice

I now turn to the benefits that increased brownfields restoration has on promoting environmental justice. Brownfields funding is most often used in vulnerable communities that are dealing with the worst effects of brownfields. Discrimination and structural racism in land use, lending, and planning policies have forced low-income communities and communities of color to face disinvestment. The presence of contaminants and co-location with dangerous

industrial uses leads to damaging public health impacts. Together, the historic disinvestment and the legacy of pollution contribute to poor health outcomes, diminishing jobs, and decaying housing stock. The EPA grants enable communities to assess their needs and assets broadly, developing area-wide strategies to deal with clusters of brownfield sites.

While brownfields redevelopment projects can lead to important quality of life improvements and local wealth-building opportunities, redevelopments can also have detrimental impacts on the neighborhoods they seek to serve. Without policy interventions in place, otherwise successful brownfields redevelopments can lead to gentrification and the displacement of long-time neighborhood residents and locally-owned businesses, on account of rising rents and property values. The Coalition, including its Environmental Justice committee, is focused on advancing strategies and policies that support all neighbors in benefiting from brownfields remediation and redevelopment. The Coalition is currently working with the EPA on educational programming for strategies to avoid displacement and safeguard affordable housing and small businesses in the face of brownfield redevelopment. It is also critical that brownfields redevelopment supports high-wage working class jobs, with workforce development aligned with investments in brownfield clean-up and redevelopment.

For example, in NYC, the great majority of our grant sites are in low-income areas of the city. We primarily use our EPA grants for affordable housing projects, as this is a big priority of our current and previous administrations, and it allows people with lower incomes to continue to live in their neighborhoods. Part of our strategy to meet current and future housing demands involves new construction. We look to build large-scale, mixed-income developments that help revitalize communities, supportive and senior residences that serve some of the most vulnerable among us, and homeownership projects that help working class New Yorkers own a piece of

their neighborhoods. When we use our EPA cleanup loan and subgrant funds to cover remediation costs, we can use housing funds to create apartments that are more affordable to people with lower incomes.

In addition to fostering more equitable, diverse, and livable neighborhoods, new affordable housing provides significant health benefits. Remediation itself eliminates exposure pathways from contaminants in the soil and vapor intrusion into buildings, and the new housing eliminates exposures to lead paint from older housing stock. Ground-floor spaces in these buildings often provide needed retail and community services, improving neighborhoods more broadly.

Climate Impacts

Finally, I will address the ability of brownfields restoration to address the negative impacts of climate change. Historic development patterns and transportation benefits have led many industrial businesses to locate along or near coastlines and waterways. They store and use and sometimes improperly dispose of hazardous materials as part of many industrial processes. This legacy means that many communities are left with brownfields in their floodplains that are particularly vulnerable to the effects of flooding, coastal storms, and sea level rise that are becoming more frequent and severe. These climate impacts can lead to detrimental health impacts as well as property damage and loss, and they disproportionately affect low-income communities and communities of color who have been historically marginalized by land use policy.

The EPA's Brownfields funding is helping communities all over the country faced with these climate change impacts. For example, the Eastwick neighborhood of Philadelphia,

Pennsylvania is using its brownfields grant for a flooding study to examine reuse of land for relocation of residents. Assessment grant funds were used to develop a hydrologic and hydraulic model to evaluate flooding to determine appropriate land use outcomes of beneficially reusing approximately 185 acres of vacant public land.

In October 2012, Hurricane Sandy inundated NYC with extreme levels of coastal flooding and storm surge. It resulted in a record $19 billion in damages and economic loss for the city, claimed 44 lives, and prompted residents, businesses, and city government to more thoroughly consider strategies to reduce future flood risk. In the first 48 hours after Sandy, my office undertook inspections of over 80 brownfield cleanup projects in inundated areas. These inspections indicated that the cleanup methods we use had proven very effective in preventing pollutant release from brownfield sites and associated impacts in surrounding communities. These findings, supplemented by outreach to the scientific community and inspection of almost 25 miles of waterfront in different parts of the city, strongly support the efficacy of existing cleanup approaches. They further suggest that the most important thing NYC can do to make its brownfield sites more resilient to the effects of future climate change is to accelerate the pace of brownfield cleanup in the floodplain.

This experience prompted us to launch the NYC Clean Soil Bank, a landmark recycling program for clean native soil from deep development excavations on remediated brownfield sites. This program allows this soil to be reused, free of charge, on city construction projects or brownfield properties. This soil has been used for projects such as the elevation of grades or the creation of berms and barriers to mitigate the impacts of sea level rise and storm surge. We have also been able to mix this sediment with compost and make this topsoil available to community and school gardens.

The Minot City Council in North Dakota received a $400,000 EPA Brownfields Assessment Grant after a devastating storm season in 2011 to assess more than 15 blighted sites and identify strategies for expansive flood mitigation and the redevelopment of several key properties along the Souris River downtown. This investment also resulted in a subsequent grant of $74 million from U.S. HUD to help mitigate flood risks and create a plan for equitable and sustainable economic development.

In 2019, Tillamook County, Oregon used a state grant to analyze the impact of a series of devastating floods over the past decades on a number of sites along the Southern Flow Corridor. After the assessments were completed, the County received a nearly-$700,000 EPA Brownfields Cleanup Grant to remediate the corridor based on a broad plan to protect flood plain and tidal marsh habitats through anti-flooding measures. Tillamook is projected to save $9.2 million in public revenue over fifty years just in flooding damages.

To reuse land for greenhouse gas reduction, Alameda County near San Francisco, California is inventorying sites for light duty truck electric charging near major thoroughfares. Brownfields funding allows communities to conduct due diligence and environmental investigations necessary to consider buyouts of properties continually damaged by flooding.

Conclusion

The National Brownfields Coalition thanks this subcommittee for the opportunity to discuss the restoration of brownfield sites and the need for continued funding and tools to assess and remediate them, to promote environmental justice, and to reduce negative climate impacts nationwide. The EPA's Brownfields Program is widely used, highly valuable, and makes excellent use of funding from Congress. When we clean up and recycle land, we not only

eliminate exposure to contaminants, but the jobs, new businesses, housing, parks, and cultural and social centers that we create are truly an economic engine for our communities.

Thank you again for opportunity to testify, and I would be happy to answer any questions that you may have.

APPENDIX A

APPENDIX B

APPENDIX C