

**Testimony of Dr. Alan Tomson, Mayor of the Town of Davis, WV
on behalf of the National Brownfields Coalition**



before the Subcommittee on Environment,
of the U.S. House Committee on Energy & Commerce

March 4, 2026

Opening Overview

Good afternoon ladies and gentlemen, Chairman Palmer, Ranking Member Tonko, and all the Members of the Subcommittee on Environment. My name is Alan Tomson, and I am pleased to be here as Mayor of the Town of Davis, West Virginia, speaking on behalf of the National Brownfields Coalition (NBC). NBC is very pleased that this House Energy & Commerce Committee is serious about putting federal investment and needed tools into place with the reauthorization of the federal brownfields program housed at the U.S. Environmental Protection Agency (EPA). You seek to support what localities and the private sector are striving to do: to clean and revitalize polluted, unhealthy, and blighted properties to make them ready for reuse as productive assets for economic development, job creation, community revitalization, and more vibrant and sustainable local places.

However, in my testimony, I will convey the serious concern from the National Brownfields Coalition and several key allies representing brownfield leaders across the country about several of the bills put forth for consideration in this Subcommittee. Three of the bills would have drastic, negative impacts on the viability of the EPA Brownfields grant program by opening the door for private companies to drain these resources in order to subsidize heavy industrial uses in local communities that may not seek or support such uses, without the safeguards of federal law. While there are some small improvements to the existing federal brownfields statutory structure that could be part of congressional action which brownfield communities would welcome, our main message today is that, if it ain't broke, don't try to fix it with controversial provisions that could undermine one of the most successful examples of federalism and intergovernmental, public-private collaboration at work in America. We support a clean reauthorization of the EPA brownfields program with a few minimal, non-controversial upgrades to the law and EPA program which Congress should put into action. Without reauthorization, EPA would lack clear congressional direction and stable authority to operate and expand the program to meet brownfield needs in American communities.

Background on Davis WV & Brownfields

Davis is a town of about 800 people in the beautiful Allegheny Highlands of wild, wonderful West Virginia. It lies within the Canaan Valley, adjacent to the tremendous Blackwater Canyon and Blackwater Falls State Park, the Monongahela National Forest, and several other federal, state, and regional conservation and outdoor recreation land units. This community in Tucker County was labeled by the late, great Senator Robert C. Byrd, as the scenic crown jewel of a beautiful tourism state, and it is central to our state's tourism economy. Our town of 800 folks who live among wonderful restaurants, art and mercantile galleries, trail networks, multiple waterfalls, and brewpubs, gets up to 20,000 visitors each week. I am pleased to live in Davis with my wife and to be serving my second term as Mayor, after retiring from the Army and a career spanning from West Point cadet through service as a Senior Executive, Major General-equivalent. Davis has been a good place for public service for me, and I welcome you to come visit and see.

So why is the Town of Davis commenting on these proposed brownfield reauthorization bills? Davis has a good news brownfield story and a nightmare brownfield story to tell. The good news is that Davis was able to use the EPA Brownfields program and funding, with the assistance of the West Virginia Department of Environmental Protection, to transform a contaminated, abandoned gas station right on our main street in downtown, into the Big Timber Logging Camp, which sounds like lumberjacks, but it is actually a beer brewery that has enlivened our town and brought statewide jobs and economic impact. That is an EPA brownfields success story. I will add that our sibling community, the next-door City of Thomas, WV has used EPA Brownfield Assessment and Cleanup grants to envision and plan for revitalization, affordable housing, and tourism development for both of our communities of Davis and Thomas, another EPA success story. These are two, small-town examples of what the EPA has done tremendously well for 30 years now in the Brownfields Program. Nearly 5,300 grants have been awarded to local governments, states, and nonprofit organizations that have conducted 75,000 environmental assessments, cleaned up over 235,000 sites, and helped make 4,000,000 acres ready for reuse. Sites boosted by EPA grants have leveraged \$44 billion in economic redevelopment creating nearly 230,000 jobs. Not bad for a federal grant program that typically receives less than \$100 million in annual appropriations.

But the Davis community and the entire region are also under a fundamental threat to our tourism economy, quality of life, and ability to determine our own future. Just a few thousand feet from our downtown, a corporate LLC with no transparency about who they are or who is backing them, has obtained land on a brownfield beside the county landfill, to build a 1,600-megawatt power plant with 30 million gallons of diesel oil storage to power what they claim will be the largest data center in the world, of up to 10,000 acres. This so-called Fundamental Data Center and powerplant is a fundamental threat to our county, our economy, our public health, and our quality of life. The fact that it is on a brownfield and landfill area, in the midst of this outdoor recreation and conservation economy, does not make it worthy of support.

Now, we have a proposal from the House Subcommittee on Environment that says that this private LLC that would locate a massive power plant and 10,000-acre data center within sight of our tourism downtown, could be deemed a “nationally significant infrastructure facility” without consultation or consent of our town, and could proceed unobstructed by any requirement to comply with the National Environmental Policy Act. Further, such a corporation could be paid American taxpayer dollars to do it, by taking from the EPA Brownfield Grant program to subsidize a piece of their multi-billion private investment. All the people of Davis, WV would find this unacceptable, very harmful, and a trampling of federal power on local government.

I am now privileged to testify on behalf of the National Brownfields Coalition on these matters.

The National Brownfields Coalition

The National Brownfields Coalition was founded in 2005 to bring together local government officials, private sector developers, environmental experts, nonprofits, and other sectors to promote an effective national strategy to facilitate brownfield revitalization. Its active leadership has been closely involved in national brownfields efforts since the mid-1990s when EPA started a pilot program to use brownfield grants and regulatory certainty to foster revitalization at these sites. NBC officials were closely involved in the drafting and enactment of the first brownfields law, the Small Business Liability Relief and Brownfields Revitalization Act of 2002 that provided regulatory certainty along with a congressionally authorized grant program. NBC was closely involved in the drafting and enactment of the Better Utilization of Investments Leveraging Development of 2018, or “BUILD Act”, signed into law by President Donald Trump. We see that the BUILD Act of 2018 fixed snags in the statutory framework, is working well, and has produced a highly-effective and easy-to-navigate EPA Brownfields program.

Over the past two years the National Brownfields Coalition has encouraged Congress to reauthorize the federal brownfields law to keep this EPA program moving forward with certainty. **We believe that a straightforward and essentially clean reauthorization that continues this effective national brownfield program is the best approach.** We emphasize the need for a robust authorization of the EPA program of at least \$250 million to \$450 million annually, and of course strong annual appropriations to deploy that funding. This will be especially important this year, as the increased level of brownfields funding that has been provided for five years from the bipartisan Infrastructure Investment & Jobs Act (IIJA) of 2021, expires in 2026. When IIJA allocations expire this year, annual brownfields grant funding will fall from nearly \$350 million to roughly \$98 million — a nearly 75% reduction. The National Brownfields Coalition also supports statutory confirmation of **larger individual assessment, cleanup, revolving loan fund, and multi-purpose brownfield grants.** We support **flexibility in applications**, particularly for small, rural, and disadvantaged communities, including **waivers of matching** fund requirements. The Coalition strongly calls for **removal of the arbitrary 5% cap under current law for the amount of administrative costs** a grantee may utilize to support these brownfield efforts.

To encourage the private market to invest in brownfield redevelopment, we also strongly back legislation that would **reinstate the brownfields tax incentive for private sector redevelopers**, allowing them to expense cleanup costs in the year they are incurred, rather than capitalize those costs at brownfield properties. From 1997 until it expired in 2012, this federal brownfield tax incentive strongly encouraged private companies to revitalize contaminated properties across the nation. The deduction was used more than 625 times in over 40 states and was one of the most powerful brownfield tools the federal government provided. The federal Brownfields Tax Incentive quickly put money back in the pockets of brownfield developers making sites more economically feasible for reuse, and encouraged investment in more projects. That is why the National Brownfields Coalition supports legislation in this current Congress such as H.R. 815 called the “Brownfield Redevelopment Tax Incentive”, and H.R. 5472, the “Brownfields Revitalization and Remediation Act.” While we know this is not the committee of jurisdiction for tax provisions, we urge you as brownfield leaders to support the restoration of the brownfields tax incentive.

Opposition to Package of Proposed Bills that Subsidize Heavy Industry at Expense of Communities & States

As the National Brownfields Coalition strongly believes that an essentially clean reauthorization of the highly-effective EPA Brownfields program is the best approach, we are opposed to several of the key provisions of the package of bills put forward in this Environment Subcommittee today. This package could subsidize heavy industry in communities without consultation or consent from those local governments, and drain the inadequately-funded EPA Brownfields grant program relied on by municipalities, states and nonprofit partners just as it goes over the fiscal cliff. The package would rob these important funds to subsidize corporations for a set of heavy industrial uses that would be exempted from the bedrock American law meant to give communities a voice in what is proposed for development with federal backing, the National Environmental Policy Act. The National Brownfields Coalition's specific concerns are as follows:

- 1.) **NBC opposes redirecting EPA Brownfield grant funds to corporate LLCs:** Section 2 of the “**Brownfields Revitalization for a Better Tomorrow Act**” would define eligible entities for brownfields funding to include “**a private, for-profit limited liability corporation.**” The National Brownfields Coalition strongly opposes this change in the 30-year EPA Brownfields Grant program. The brownfields grant program has always been underfunded and over-subscribed, and this would make the problem worse.

Prior to the addition of \$1.5 billion in funds for EPA Brownfield grants in 2021, which brought five years of \$300 million in additional annual grant resources to this program but which ends this year, the brownfields grant program was underfunded. With an estimated 450,000 brownfield sites still impacting American communities, only one in three applications were accepted for funding awards by EPA before the 2021 infusion of funds. Even during these solid years under the IJA with higher funding levels, fewer than half of applications have been selected for funding. Now, with the expiration of federal Infrastructure bill funding this year, we are looking at something like only \$98 million in annual Interior & Environment appropriations to sustain this critical program – a 72% drop in funding from \$350 million now. These cutbacks will result in retrenchment of the EPA brownfields program, harm the capacity of state and local grantees, and stretch the staff capacity at EPA to tackle brownfield challenges. We should not be opening this small and shrinking EPA brownfields fund up to whatever private LLC gets formed, taking resources from communities who depend on this critical EPA program.

Further, power plants, data centers, semiconductor facilities, and critical mineral mines are massive endeavors that are being funded by the markets and large corporations at well over a trillion dollars in 2025 alone, with more money coming. Local governments and states do not believe that these sectors need to be subsidized by the EPA brownfields program and the American taxpayer. The provision in Section 2(b)(3) of the proposed “Better Tomorrow Act” that would allow these private industries to be eligible for the grant as long as any local government, economic development organization, or nonprofit voices approval is not a sufficient safeguard for communities like the Town of Davis that are under onslaught from

heavy industry. Nonprofits are fairly easy to set up and do not necessarily represent the interests of a local community.

The National Brownfields Coalition also questions whether sufficient safeguards could be put into place to ensure that EPA grant funding to private LLCs does not subsidize what may be speculative investments, or for corporations that are not accountable to voters and systems of institutional responsibility as current EPA grantees are.

Already, private LLCs and other non-grantee entities can work with units of local government and states to benefit from EPA Brownfield program resources. Localities and states can and often do deploy their EPA grant funds to conduct environmental investigations, assessments, All Appropriate Inquiries, remedial planning, and land revitalization planning at sites that are intended to be redeveloped in partnership with the private sector. EPA brownfield cleanup funds can also be deployed at sites when the right kind of collaboration takes place between a local or state government, with a private company that seeks to reinvest in productive use of these brownfields. Local and state governments with brownfield revolving loan funds capitalized with EPA grants can deploy low-cost loans, with interest rates as low as zero percent, in support of private sector developers seeking to clean brownfields sites. This system works well now, and does not need drastic changes in grant eligibility rules.

- 2.) **NBC opposes the federal government giving preference to a handful of heavy industrial uses, mandating that states find sites for these industries, and exempting these industries from NEPA:** The “Brownfields Revitalization for a Better Tomorrow Act” proposes to set up a new category for “nationally significant infrastructure facilities” that would include data centers and any other AI infrastructure, energy generation plants, critical mineral mines, and semiconductor factories and facilities. The proposed bill drafts would give these heavy industrial uses a priority ranking status for EPA grant funding.

Then, the proposed “Brownfields Inventory and Permitting Efficiency Act,” which really needs to be read together with the Better Tomorrow Act, would force states to use 5% of their EPA/CERCLA Section 104(k) funds that support state brownfield programs, to create inventories of contaminated sites where this heavy industry can be located. The bill then proposes to exempt these heavy industrial infrastructure sites on these lists of properties taking EPA brownfield grant subsidies, from the bedrock environmental law the National Environmental Policy Act (NEPA). Such sites would be deemed to not be considered “major federal actions” requiring NEPA review for any federal funding, permits, special use authorizations, certifications, or other approvals not just from EPA, but from any federal agencies.

The Coalition notes that EPA’s ACRES database (Assessment, Cleanup and Redevelopment Exchange System) already requires every local, state, and other EPA brownfield grantee to carefully list and report on brownfield sites using EPA grant funds. ACRES includes the characteristics of these properties, the resources expended at them for environmental investigations and assessments, cleanup actions at these sites, redevelopment and reuse objectives for these properties, other funds leveraged into these sites and the economic

impacts of these investments, and community planning and engagement conducted. Requiring states to use brownfields funding to create a redundant inventory to find sites for these heavy industries will drain state resources.

We share this Committee's goal of ensuring America has the infrastructure, energy, and technological capacity to compete globally and make the lives of Americans better. This testimony was prepared on a laptop with advanced semiconductor chips that works because of the rare earth elements inside that machine, powered by electricity from a grid supplied by power plants, and we even got a proofread from AI before we submitted our testimony.

But those industries can compete and prosper without siphoning the EPA Brownfield Grant fund, waylaying states, and potentially causing unwanted negative impacts on local communities. The federal government should not give preference, federal subsidy, and an exemption from NEPA for heavy industrial projects such as the massive power plant and 10,000-acre data center that would fundamentally alter and, I dare say, absolutely ruin what is best about places like Davis, West Virginia.

- 3.) **NBC opposes draining the EPA Brownfields grant fund for a duplicative new loan program for preferred heavy industrial companies:** The third legislative proposal presented today, which also needs to be read as part of the same statutory scheme with the other two bills, is the "Brownfields Infrastructure Finance and Innovation Act." This would set up a new loan and loan guarantee fund that could provide awards of up to \$4 million each for brownfield projects, and sets up a criterion for special consideration for funding awards to "nationally significant infrastructure facilities" (that is, data centers, powerplants, mines and semiconductor facilities). This funding would also come from the base EPA Brownfields grant program under CERCLA Section 104(k).

The National Brownfields Coalition opposes this proposed brownfield financing program that would further draw from the oversubscribed CERCLA Section 104(k) brownfield grant fund, right when it is set to be reduced by as much as 75% . Consider that, in the three years of the EPA Brownfield grant program in 2018, 2019, and 2020, before the IJA funding boost, EPA made 23 Revolving Loan Fund capitalization grants in those three years totaling \$18.2 million. Under the proposal for a new financing tool considered today, four or five such grants to power plants, mines and data centers would drain the entire national pool of resources that could otherwise be expected to go into the EPA Brownfields RLF capitalization grants in future years. The National Brownfields Coalition is well aware that the EPA Office of Brownfields and Land Revitalization is underway now with a national review and engagement process to find ways to make the current Brownfields RLF system even more usable and effective at the local level. We do not support creating a whole new loan system for favored, private heavy industries when the existing RLF grant system can and should receive additional congressional support and funding. Any such new brownfields financing tool should only be considered, authorized, and appropriated separately from CERCLA Section 104(k), and should be the subject of a robust discussion among local governments, communities, and potential beneficiaries.

While I can speak only on behalf of the National Brownfields Coalition in this testimony, I can convey that our Coalition has coordinated closely on all of these issues and the proposed legislation here, in alignment with the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, and the Association of State and Territorial Solid Waste Management Officials.

NBC Supports an Essentially Clean Brownfield Reauthorization with Small Improvements

In summary, the National Brownfields Coalition believes that the EPA brownfield program ain't broke, and these proposed bills won't fix it – it will break brownfields at a time when resources for revitalization are underfunded and about to diminish dramatically. The Coalition supports an essentially clean reauthorization, such as the “Brownfields Reauthorization Act” (S. 347) reported in a unanimous, bipartisan fashion from the Senate Environment & Public Works Committee, or in the proposed “Brownfield Reauthorization for an Affordable and Revitalized America Act,” which is likewise a straightforward and essentially clean reauthorization of an EPA brownfields program that works. These straightforward and non-controversial bills can and should:

- **Authorize a robust level of funding of up to \$450 million annually for the EPA Brownfield Grant program** to match the resources that have been invested in the 2021-2026 period that is about to diminish by 75%;
- **Raise per-grant maximum caps** for assessment, cleanup and multi-purpose grants;
- Provide **flexibility and the potential for match waivers** for small and disadvantaged communities;
- Keep the funding for **State brownfield response programs** strong; and
- **Remove the low 5% cap on administrative costs** that EPA grantees can utilize to conduct their local brownfield programs.

On behalf of the National Brownfields Coalition and the people of Davis, West Virginia, I thank you for the chance to work in collaboration with the House Energy & Commerce, Environment Subcommittee to build a better brownfields program from the ground up.