

Lemos, June

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Environmental Insurance Helps Ensure Redevelopment

Environmental Insurance

Obstacles that include unanticipated cleanup costs and fears of unforeseen liability often dissuade otherwise interested developers from investing in brownfields. Environmental insurance is one of the few tools capable of limiting both of these barriers. “It makes a brownfields deal seem less risky, provides comfort to the decision makers, and lets people sleep well at night,” explains Lynn Tracy Nerland, Assistant City Attorney for Emeryville, California. Increasingly, communities like Emeryville and other EPA Brownfields Pilots/Grantees are including environmental insurance as a tool in their multifaceted approaches to brownfields reuse.

The protection afforded by environmental insurance is available in a number of different policy terms and types of coverage. Professor Peter Meyer of the University of Louisville and Director of the EPA Region IV Environmental Finance Center, and Professor Kristen Yount of Northern Kentucky University, have collaborated to complete extensive research on the industry. Through their research, Meyer and Yount distilled various environmental insurance policy types into three categories of coverage: Cleanup Cost Cap, Pollution Liability, and Secured Creditor. Cleanup Cost Cap provides the developer with protection against the possibility that actual cleanup costs exceed original estimates. Through Pollution Liability Protection, developers and long-term owners of redeveloped brownfields are provided with coverage, up to specified amounts, for users of those properties who make claims based on continuing pollution conditions. Lenders are guaranteed loan repayments through Secured Creditor policies in the event that a borrower were to default on loan payments or if collateral value is lost, due in some way, to the pollution condition.

Across the landscape of abandoned sites and the Brownfields Pilots/Grantees that address them, these types of insurance policies are protecting those with a stake in brownfields redevelopment. The Somerville, Massachusetts Brownfields Pilot, for example, created its own form of Cleanup Cost Cap coverage to facilitate redevelopment of an abandoned mattress factory.



An abandoned mattress factory in Somerville, MA.

JUST THE FACTS:

The protection afforded by environmental insurance is available in a number of different policy terms and types of coverage:

- Cleanup Cost Cap coverage provides the developer with protection against the possibility that actual cleanup costs exceed original estimates.
- Pollution Liability Protection covers developers and long-term owners of redeveloped brownfields, up to specified amounts, in the event that users of those properties make claims based on continuing pollution conditions.
- Through Secured Creditor policies, lenders are guaranteed loan repayments in the event that a borrower defaults on loan payments, or if collateral value is lost, due in some way, to the pollution condition.

“[Environmental insurance] makes a brownfields deal seem less risky, provides comfort to the decision makers, and lets people sleep well at night.”

***—Lynn Tracy Nerland
Assistant City Attorney,
Emeryville, California***

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Though interested in converting the mattress facility into a full-service assisted living facility, the Visiting Nurses Association (VNA) was discouraged by fears that cleanup costs might exceed estimated estimates. Soil and groundwater assessments revealed lead, petroleum, and barium contamination that would cost at least \$225,000 to remediate. Recognizing the multiple benefits of this redevelopment project, the City of Somerville used a portion of its U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant funds to finance \$100,000 in Cleanup Cost Cap coverage. With confidence that cleanup costs to the VNA would not escalate beyond the original estimate, the Visiting Nurses Association proceeded with redevelopment plans. No claims were made against the cost overrun protection, and the VNA's new 97-unit, assisted-living facility opened in June 2000. Every unit was occupied by the end of that summer. This \$14 million redevelopment project brought more than 45 new jobs to the city.



The South Bayfront industrial site in Emeryville, CA.

In Emeryville, California, a bustling community situated to the east of San Francisco, demands for housing are high. Additionally, the Emeryville community desired a mixed-use downtown center. The City's South Bayfront area, once the location of a paint factory, pesticide production facility, and drum reconditioning factory in the 1920s, became the planned site of a 350-unit residential, 250-room hotel, and 400,000-square-foot retail development in 1999. With a history of chemical production and a future of overnight accommodations and long-term residences, developers and the Emeryville Redevelopment Agency needed to feel comfortable and protected if they were going to invest in the South Bayfront area. The redevelopment agency and developers decided that a \$10 million Pollution Liability policy would help everyone sleep well at night.

This policy protected the redevelopment agency during remediation from certain additional cleanup costs and bodily harm to workers. When cleanup was completed, the developers became the primary insured. As such, the developers have up to \$10 million in liability protection for a 10-year period, which includes physical harm to residents or occupants should they be affected by the project. According to Ms. Nerland, the redevelopment agency, the site's developers, and the insurance underwriter conducted an extensive due diligence review of past uses, contaminants, and cleanup results. The Emeryville Department of Economic Development reports that \$85 million in private investment has been leveraged and more than 700 jobs have been created as a result of the project. These numbers are expected to increase as construction of more than 300 housing units is planned to begin in the Fall of 2003. In Emeryville, thanks in part to environmental insurance, stakeholders and investors feel protected, the South Bayfront site is being redeveloped, and housing, jobs, and a town center are being created.

Brownfields deals have also been sealed with Secured Creditor Policies. Under these policies, insurers provide reimbursement if a borrower defaults and compensation to the lender for collateral value loss caused by a pollution condition. While Brownfields Pilot/Grantee communities are just beginning to explore the use of secured creditor coverage, this coverage is already prevalent in many redevelopment financing packages. Kevin Matthews of AIG Environmental, a national provider of Secured Creditor Policies, explains that, “we will often be asked to provide coverage on a pool of loans for multiple redevelopment projects.”



The assisted living facility built on the former mattress factory site in Somerville.

Insurance carriers such as AIG Environmental, XL Environmental, Inc., Kemper Environmental, and Zurich-American, which provided input for a 1999 EPA study of the industry, are among the small group of carriers currently providing environmental insurance. These companies recognize the value in adapting and innovating their insurance products, since particular projects most often necessitate highly tailored insurance policies.

This spirit of adaptability and innovation is characteristic of local and state brownfields programs as well. When developers and lenders express interest in redeveloping an abandoned site in Phoenix, Arizona, the city provides them with a Brownfields Information Resource Package that includes information about environmental insurance policy types and brokers serving the Phoenix area. At the state level, Massachusetts provides a subsidy of 25 percent of the environmental insurance premium cost to developers who redevelop brownfields. The policy is pre-negotiated, not only lowering pre-development costs, but also reducing the amount of up-front work needed to obtain coverage.

The environmental insurance field continues to grow. According to Professors Meyer and Yount, the industry has evolved rapidly—and with the allowance of environmental insurance as an eligible use for funds under the new federal brownfields law, environmental insurance is likely to proliferate. Brownfields initiatives at the national, state, and local levels are fitting environmental insurance into their revitalization strategies. As Ignacio Dayrit, Emeryville Pilot Director, commented, “It’s one piece of the redevelopment puzzle. It is not the silver bullet, but it is protection from uncertainty.”

More information on environmental insurance can be obtained at <http://www.epa.gov/swerosps/bf/insurebf.htm> or by contacting EPA’s Office of Brownfields Cleanup and Redevelopment at (202) 566-2777.

CONTACTS:

For more information contact
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Or visit EPA’s Brownfields Web site at:
<http://www.epa.gov/brownfields/>