



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

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December 21, 2021

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20004

Dear Administrator Regan:

On November 15, 2021, President Biden signed the bipartisan *Infrastructure Investment and Jobs Act*¹ into law. The *Jobs Act* provides once-in-a-lifetime infrastructure investment that will fundamentally transform our roads, bridges, rail, transit, ports and airports, and waste and drinking water infrastructure—and have a tangible and positive impact on every American.

The *Jobs Act* also included significant investments in the cleanup of legacy toxic contamination that scars our communities with hazardous, blighted, or underutilized properties and threatens the health of our neighborhoods and our environment.

For example, the *Jobs Act* appropriated \$3.5 billion for the Comprehensive Environmental Response, Cleanup, and Liability Act (CERCLA)²—more commonly known as Superfund—as well as partially reinstated the industry-subsidized taxes to fund billions of dollars in additional cleanup activities over the next decade.

In addition, the *Jobs Act* appropriated an additional \$1.5 billion for brownfields related activities, including \$1.2 billion for site assessment and remediation activities and \$300 million for state brownfields response programs authorized under section 128 of CERCLA.³

As you know, brownfields are those unused or underutilized sites where reuse is “complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”⁴ The EPA reports that an estimated 450,000 to one million brownfields sites exist within the United States.

¹ Pub. L. 117-58.

² 42 U.S.C. 9601 et. seq.

³ 42 U.S.C. 9628.

⁴ 42 U.S.C. 9601(39)(A).

In 2001, Congress specifically authorized EPA to assist in the assessment and cleanup of brownfields properties.⁵ Since enactment of the brownfields program, EPA estimates it has assessed the potential contamination of over 34,000 properties, has cleaned up over 2,200 sites, and has made over 9,100 formerly contaminated sites ready for reuse. In addition, according to EPA, every dollar invested in brownfields cleanups leverages approximately \$20 in additional private sector investment, and over its lifetime, this brownfields investment has helped to create or leverage almost 180,000 jobs.⁶

Based on these impressive estimates, the \$1.5 billion in brownfields investment in the *Jobs Act* can reasonably be expected to generate approximately \$30 billion in additional private sector investment in brownfields properties—and create over 150,000 new jobs associated with the reuse of these properties.

Yet, as noted at a recent hearing of the House Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment,⁷ while there are many documented successes of the brownfields program, questions exist on whether *all communities* have benefited from brownfields cleanups and how this investment can be tailored to ensure that it does not unintentionally harm or displace communities or residents who have had to endure legacy contamination for decades.

The subcommittee received testimony from several witnesses, including mayors, environmental justice advocates, and brownfields practitioners, who discussed the importance of the brownfields program in addressing legacy contamination sites, but who also stressed that the program should not adversely impact families and neighborhoods who historically have lived with contaminated sites and deserve the dignity of sharing the benefits that result from successful cleanups.

When the brownfields program was enacted, Congress intended the benefits of the program to apply to all communities, including those communities and neighborhoods that have borne the burden of coexisting with contaminated properties, but who may not have the economic means to address these concerns, such as rural communities or environmental justice communities. For example, Ms. Susan Bodine, the former Bush administration head of EPA's then-Office of Solid Waste and Emergency Response, testified that the brownfields law includes specific ranking "criteria directly related to environmental justice," including criteria for the reduction of threats to human health and the environment in areas where there is greater-than-normal incidence of disease or conditions (including cancer, asthma, or birth defects) associated with exposure to toxic contamination, as well as reduction of threats to children, pregnant women, minority or low-income communities, or other sensitive populations.⁸

⁵ Pub. L. 107-118, further amended by Division N of the *Consolidated Appropriations Act, 2018* (Pub. L. 115-141).

⁶ See <https://www.epa.gov/brownfields>. According to EPA data, the Federal brownfields investment to date has leveraged more than \$35.2 billion in additional cleanup and redevelopment funding.

⁷ Subcommittee on Water Resources and Environment, hearing on "Promoting Economic and Community Redevelopment and Environmental Justice in the Revitalization and Reuse of Contaminated Properties, December 8, 2021, <https://transportation.house.gov/committee-activity/hearings/promoting-economic-and-community-redevelopment-and-environmental-justice-in-the-revitalization-and-reuse-of-contaminated-properties>.

⁸ See 42 U.S.C. 9604(k)(6)(C).

Several witnesses testified that EPA could do a better job of active engagement with minority, rural, and low-income communities to help these communities identify potential avenues and programs for cleaning up legacy, dilapidated sites, and to ensure local support and buy-in for potential rehabilitation projects, as well as local hire options to promote increased accountability and successful and equitable neighborhood revitalization.

The *Jobs Act* provides EPA with a perfect opportunity to continue the successful tradition of the brownfields program while also targeting resources to those communities, both urban and rural, and neighborhoods that traditionally have been unable to participate in the program due to lack of local-technical capacity or lack of local matching resources.

Accordingly, we urge you to maximize the utility of the toxic cleanup funding made available through the *Jobs Act* by:

- (1) Ensuring that EPA prioritizes the awarding of brownfields site assessment and cleanup funds to communities that may have been overlooked or passed over for critical remediation funds in the past, including environmental justice communities, rural communities, and tribal communities.
- (2) Conducting additional outreach to environmental justice communities, rural communities, and tribal communities to ensure communities are aware of hazardous waste cleanup and revitalization opportunities presented by the brownfields program.
- (3) Requiring early and active involvement of the community in the formulation of potential cleanup and revitalization efforts, including through partnerships with community non-profit organizations.
- (4) Ensuring that potential cleanup activities help revitalize affected neighborhoods and communities, improve overall neighborhood health, and are shared by (and do not displace) existing residents of affected neighborhoods and communities.
- (5) Leveraging, to the maximum extent practicable, brownfields cleanup funds with other infrastructure funds from the *Jobs Act* to address related community revitalization needs, including transportation and climate adaptation and mitigation needs.
- (6) Maximizing, to the extent practicable, the use of local hires and local workforce development authorities to ensure local community support for redevelopment projects.
- (7) Tracking and reporting to the Committee the economic, health, societal, and environmental benefits of brownfields remediation.

Again, the *Jobs Act* provides a once-in-a-lifetime opportunity to invest the cleanup of legacy toxic contamination that scars our communities with hazardous, blighted, or underutilized properties and threatens the health of our neighborhoods and our environment—and to ensure that this investment and potential economic opportunity is accomplished in an equitable and sustainable manner.

The Honorable Michael S. Regan
Administrator, U.S. Environmental Protection Agency
December 21, 2021
Page 4

We welcome the opportunity to continue to work with you to ensure that all our communities can benefit from this investment.

Sincerely,



PETER A. DeFAZIO
Chair
Committee on Transportation and
Infrastructure



GRACE F. NAPOLITANO
Chair
Subcommittee on Water Resources and
Environment

cc: Mr. Carlton Waterhouse, Deputy Assistant Administrator
Office of Land and Emergency Management