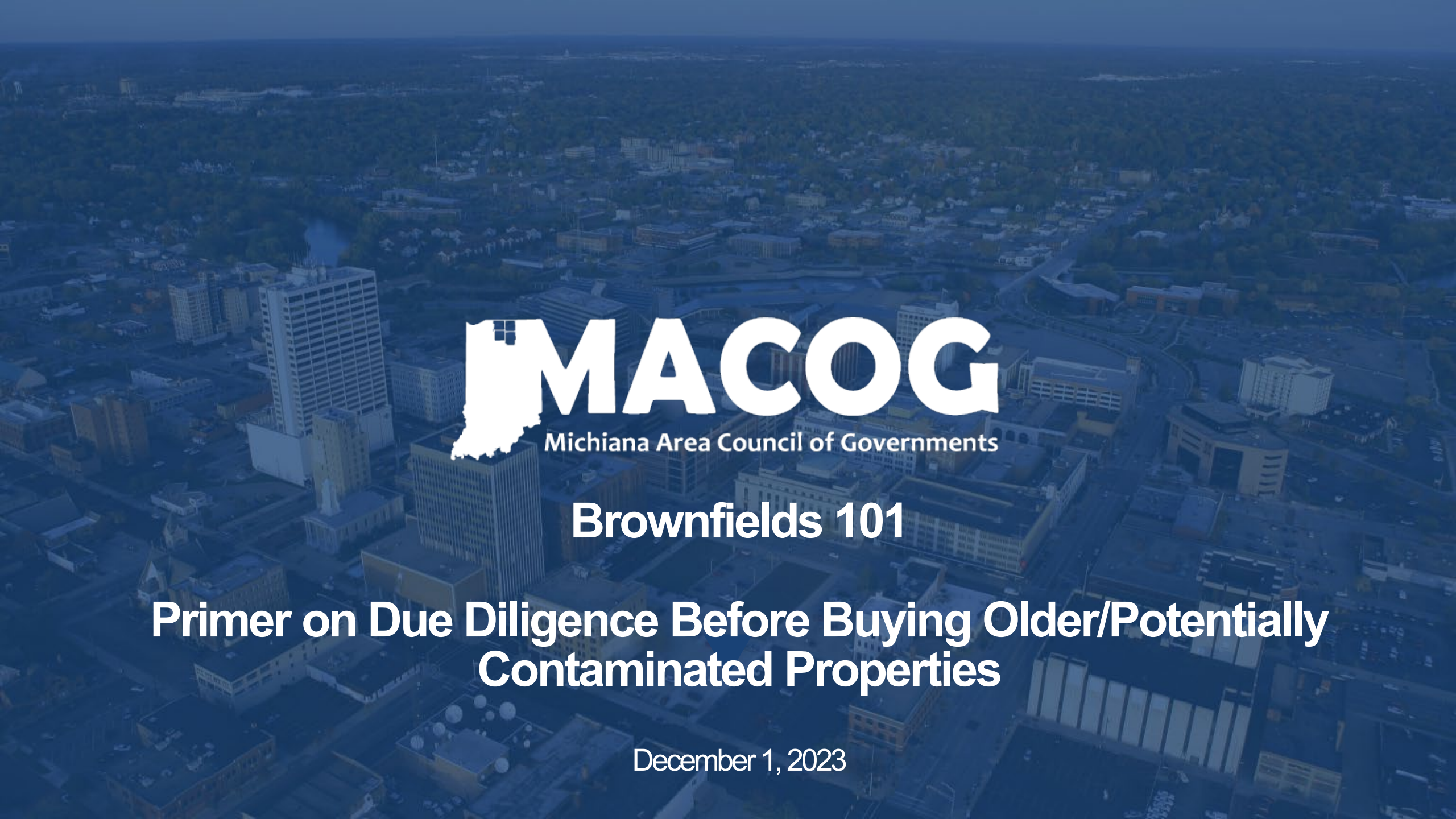


Brownfields 101

Primer on Due Diligence Before Buying Older/Potentially Contaminated Properties

December 1, 2023

Brownfields *"Fear of the Unknown"*



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TAB
TECHNICAL ASSISTANCE TO BROWNFIELDS

Source: Graphics and Presentation, Steps for Successful Brownfields Redevelopment, KSU TAB (March 2019). Retrieved from https://www.ksutab.org/

Brownfields 101

What is a Brownfield?

- Real Property where expansion, redevelopment or reuse is complicated by the (potential) presence of contamination
- (Public Law 107-118 (H.R. 2869) - "*Small Business Liability Relief and Brownfields Revitalization Act,*" 2002



What does the MACOG Brownfield Coalition Assessment Grant do?

- Environmental assessments – sampling soil, groundwater, building materials
- Phase I Reports – Due diligence before acquisition
- Does **not** provide funds for cleanup (except maybe removing underground storage tanks)

What's a Brownfield?













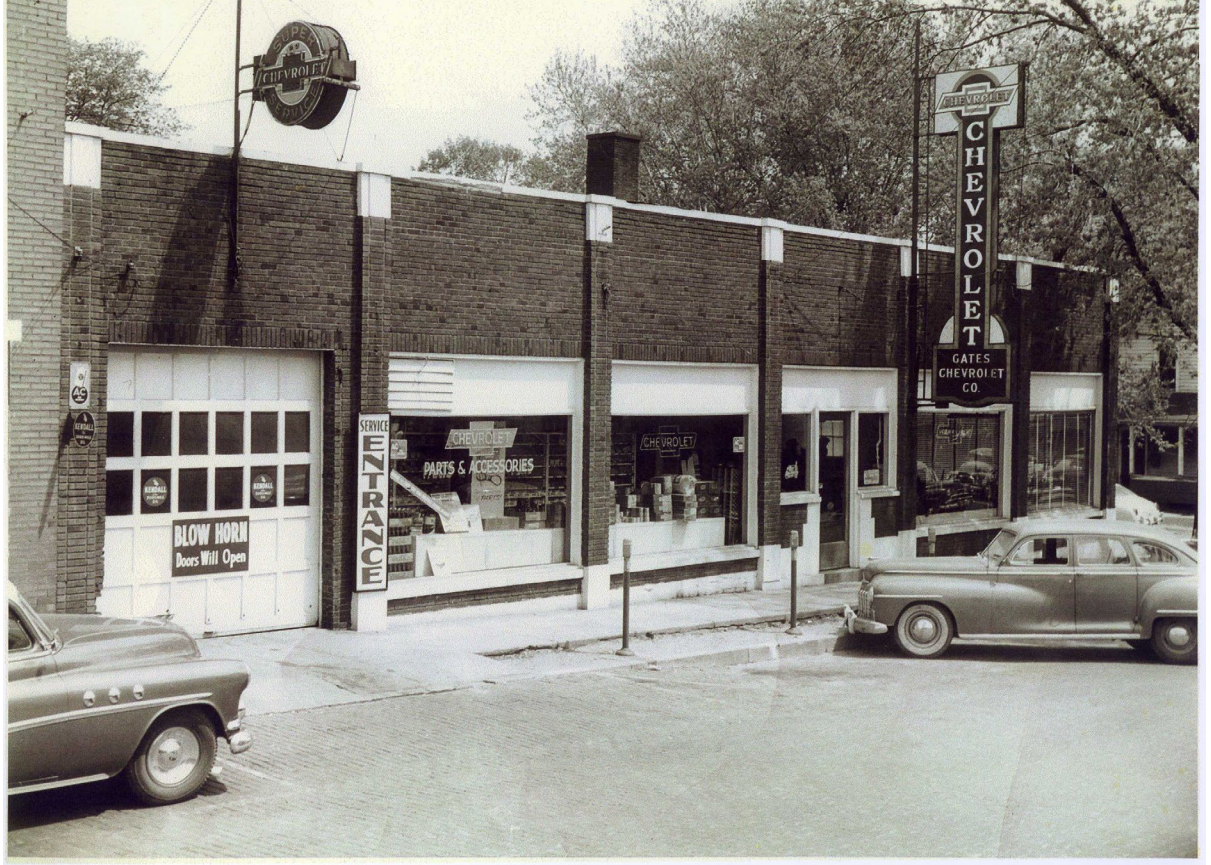


What are Typical Brownfields

- Abandoned property
  - industrial, commercial, gas stations, dry cleaners, car repair shops, salvage yards, railroad operations
- Blighted property
  - conflicts with a community plan
  - located at gateways to community
  - former industrial areas




SITE OF
1927
SYRACUSE HIGH SCHOOL
1927-1968
SYRACUSE JR. HIGH SCHOOL
1969-1990


CHEVROLET
GATES CHEVROLET CO.
SERVICE
ENTRANCE
CHEVROLET
PARTS & ACCESSORIES
CHEVROLET
BLOW HORN
Doors Will Open


ACDelco
D&M
AUTOMOTIVE
Parking

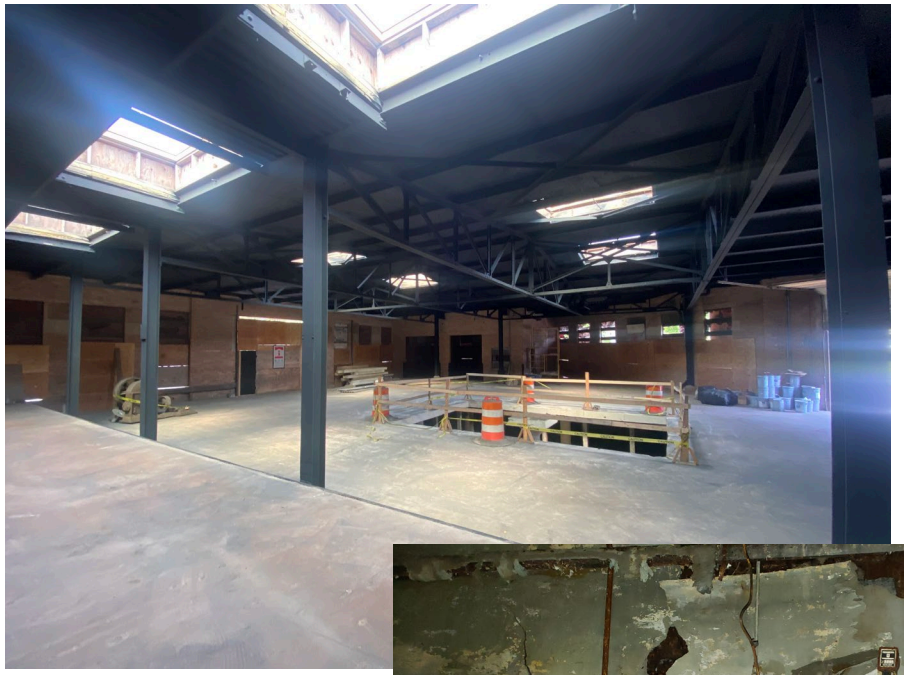


Types of Contamination

- Asbestos – building materials, roofing, pipe insulation, glue/caulk, floor tiles, fire doors, and more. Abate before renovation or demolition.
- Lead-based Paint – abate before renovation. Special rules for residential or commercial spaces children will occupy.
- Petroleum – old gas stations, leaking underground storage tanks; heating oil tanks.
- Other Hazardous Substances – Heavy metals in soils; solvents in soil and groundwater – vapor in indoor air.

Ward Bakery Building – Portage Place



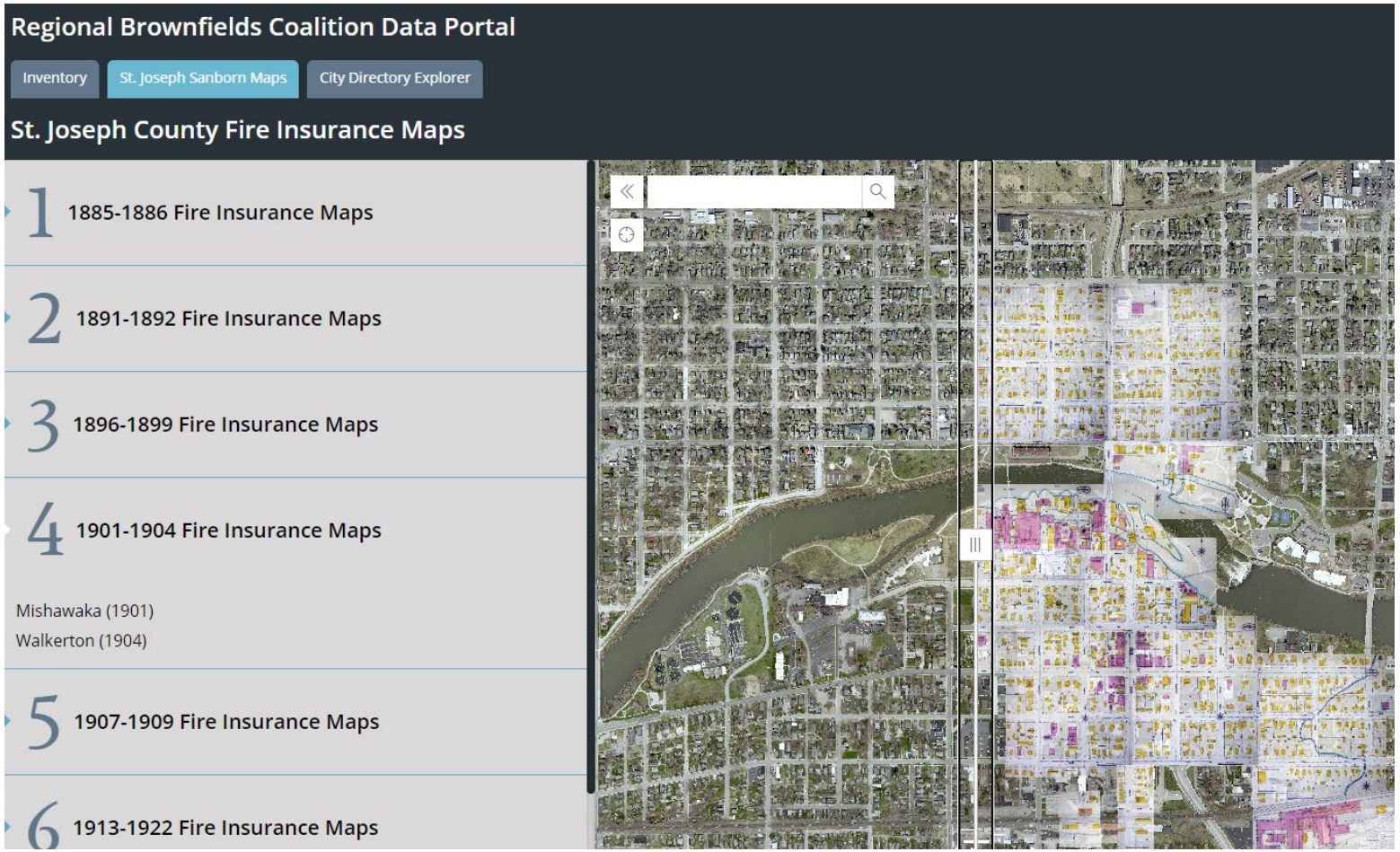




Confirmed no widespread contamination under building or from tanks
Asbestos (ovens) and lead-based paint identified and abated
Lead in soil under parking lot to remain capped

Regional Brownfields Data Portal

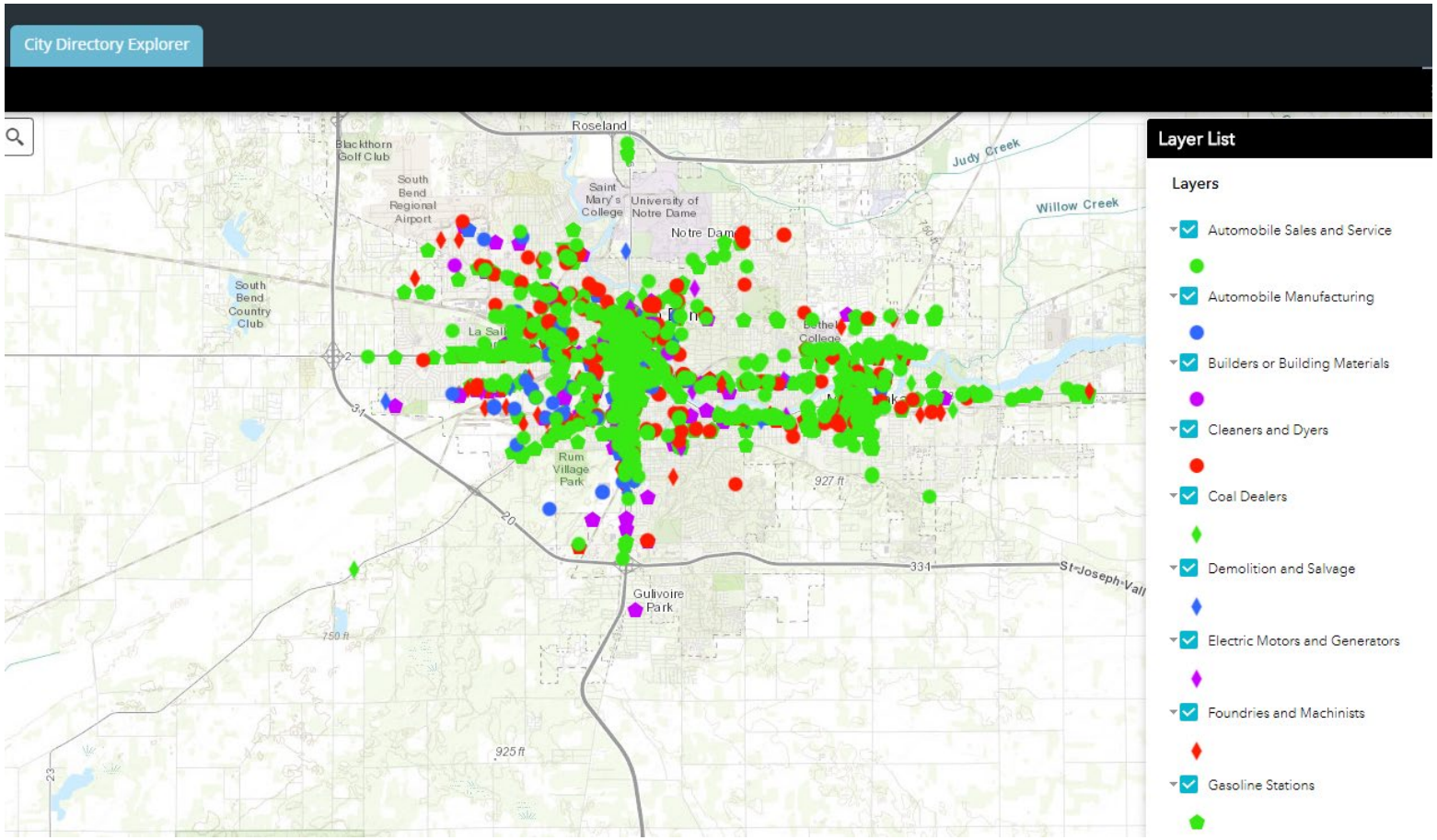
Fire Insurance Maps - Interactive



Link to Brownfields Portal

Regional Brownfields Data Portal

City Directory – South Bend only



Link to Brownfields Portal



[Link to Brownfields Portal]

Dealing with Brownfields – Opportunity & Necessity

Opportunity – Affordable space for small businesses; Housing, community facilities, parks

Much of available real estate may be impacted – older than 1970s? Lead paint, asbestos, unregistered tanks







Why Redevelop Brownfields?

- Meet community needs:
- Preserve community character and history
- Mitigate blight
- Increase local tax base
- Facilitate job growth
- Mitigate public health & safety concerns
- Promote infill – reduce need for greenfields



Beutter Riverfront Park & The Mill at Ironworks
Photo: South Bend Tribune

TAB
TECHNICAL ASSISTANCE TO BROWNFIELDS

Source: Graphics and Presentation, Steps for Successful Brownfields Redevelopment, KSU TAB (March 2019). Retrieved from https://www.ksutab.org/

Why Redevelop Brownfields?

- Makes financial sense
  - Money may be available for assessment, cleanup, etc.
  - Using existing infrastructure
- Liability Protections
  - Must complete *All Appropriate Inquiry (AAI)*
  - Perform Phase I environmental site assessment **BEFORE** purchase and cooperate in addressing environmental issues if identified
- Less uncertainty with redevelopment outcome
  - Community involvement
  - Identify phases and funding along the way

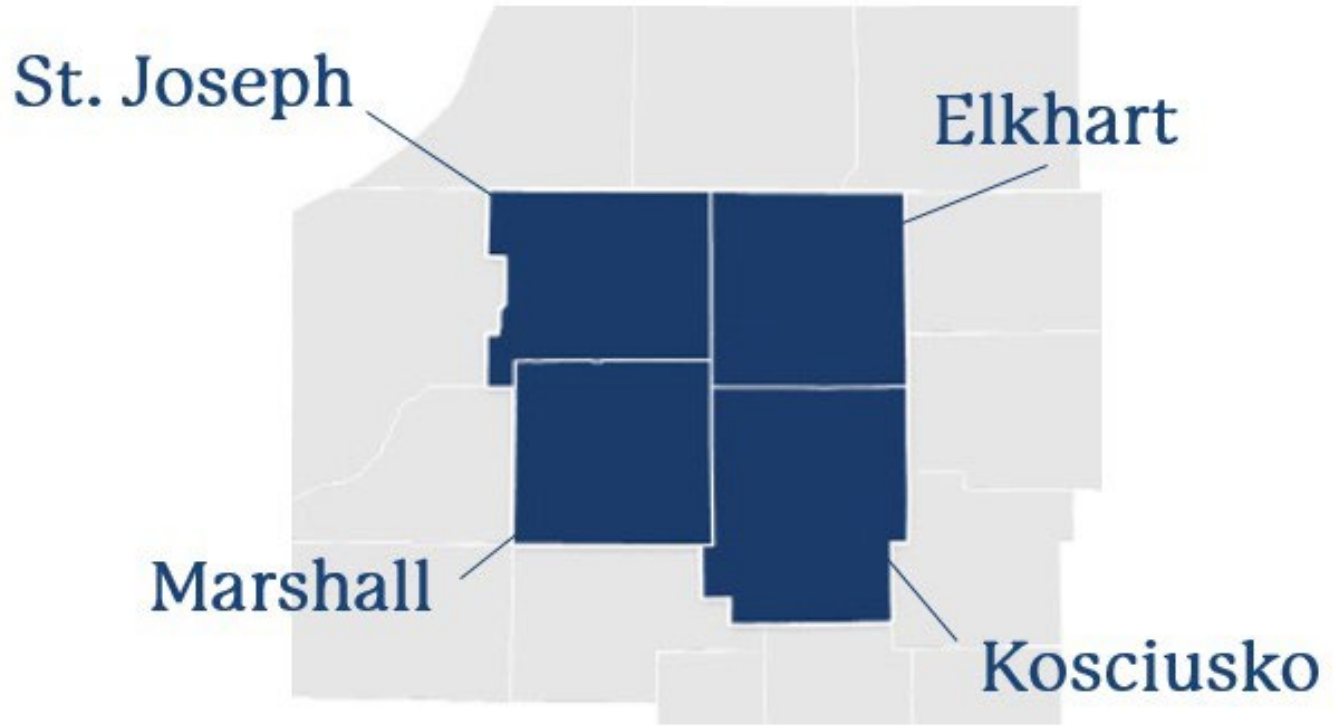


TAB TECHNICAL ASSISTANCE TO BROWNFIELDS

Source: Presentation, Steps for Successful Brownfields Redevelopment, KSU TAB (March 2019). Retrieved from https://www.ksutab.org/

MACOG Regional Brownfields Coalition Members

- **MACOG** (*Lead Coalition Member*)
- **Elkhart County**
- **Kosciusko County**
- **Marshall County**
- **St. Joseph County**
- **Proposed: Tolson Center**



Regional Brownfields Coalition Grant Team

MACOG
Michiana Area Council of Governments

METRIC ENVIRONMENTAL

ROBERTS ENVIRONMENTAL SERVICES, LLC

REVITALIZED COMMUNITIES

RD ReSite DEVELOPMENT
Distressed Property Acquisition and Redevelopment

WOOLPERT

MACOG Brownfields Grants

- Federal - U.S. Environmental Protection Agency (EPA)

- Assessment Grants
  - $600,000 – 2019 (closed out)
  - $500,000 – 2022 (spent)
  - $1,500,000 – Pending EPA application

THE **BROWNFIELD** PROCESS

EPA United States Environmental Protection Agency

COMMUNITY INVOLVEMENT

IDENTIFY SITE WITH REUSE POTENTIAL

(A)

PHASE I ASSESSMENT ALL APPROPRIATE INQUIRY

(T) (A)

ENTER STATE VOLUNTARY CLEANUP PROGRAM

(A)

PHASE II ASSESSMENT

(T) (A)

SITE VISION AND REUSE

(W) (A)

CLEANUP PLAN (ABCA)

(T) (A)

LEVERAGE RESOURCES

CLEANUP ACTIVITY

(C) (R)

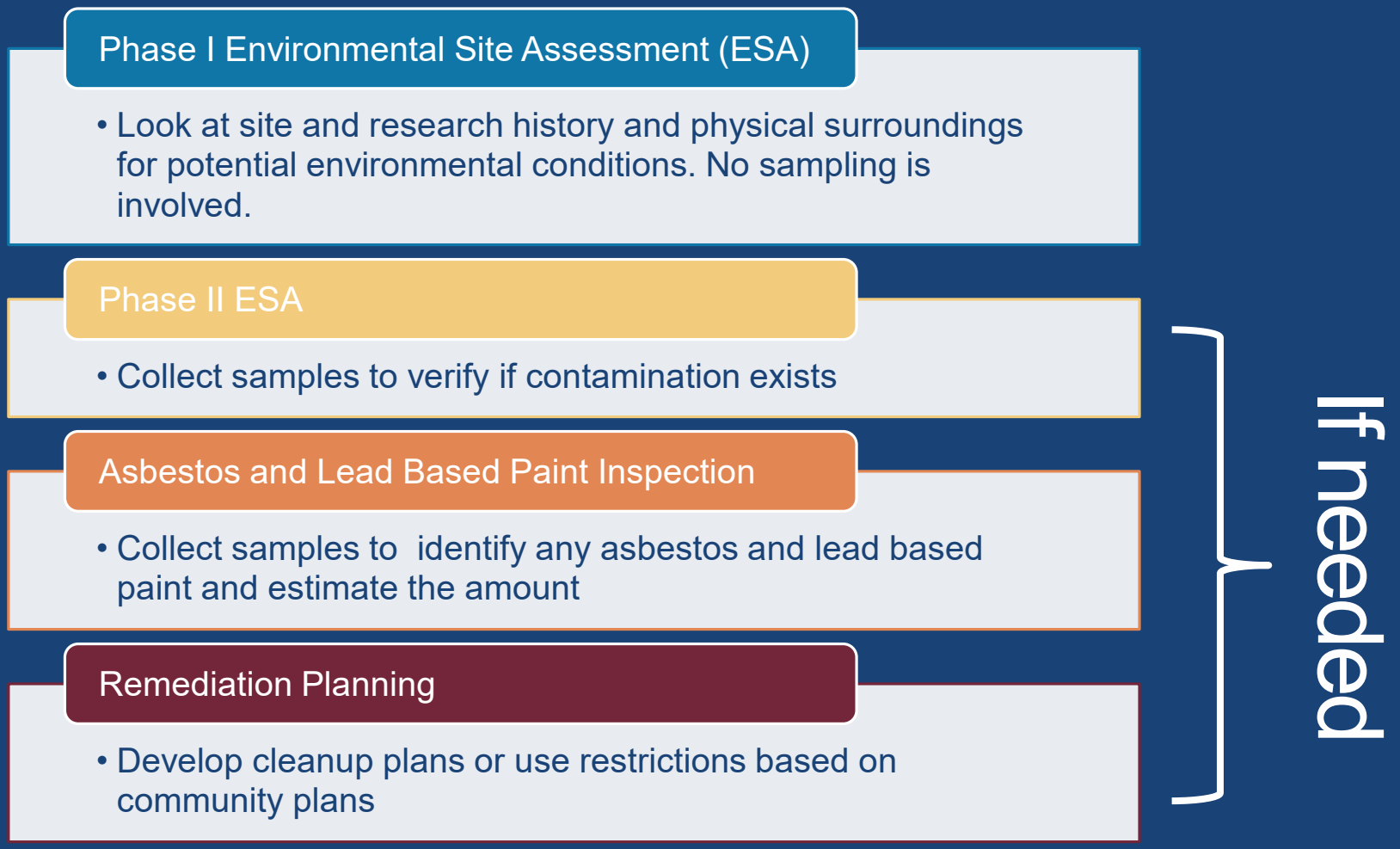
REDEVELOPMENT



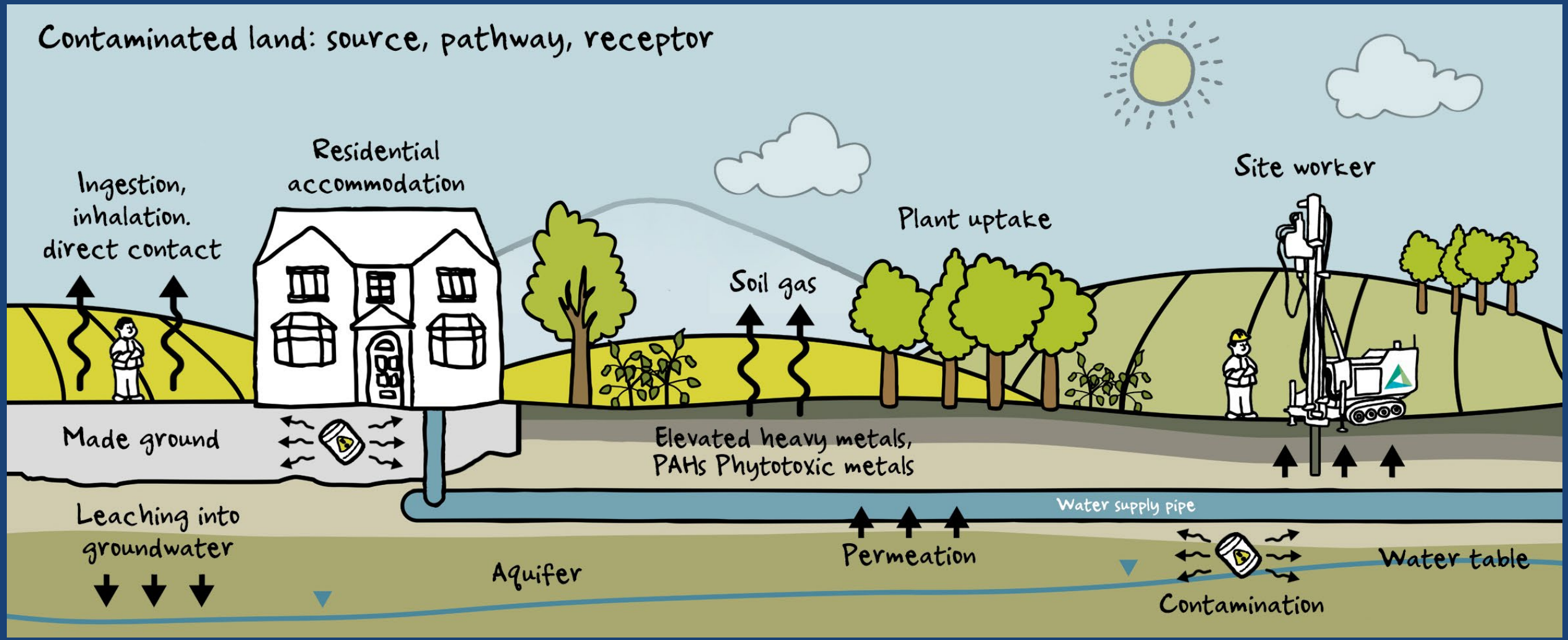
EPA BROWNFIELD GRANTS AND RESOURCES

TARGETED BROWNFIELD ASSESSMENT=(T) ASSESSMENT=(A) CLEANUP=(C) REVOLVING LOAN FUND=(R) AREA WIDE PLANNING=(W)

Phases of Environmental Investigation

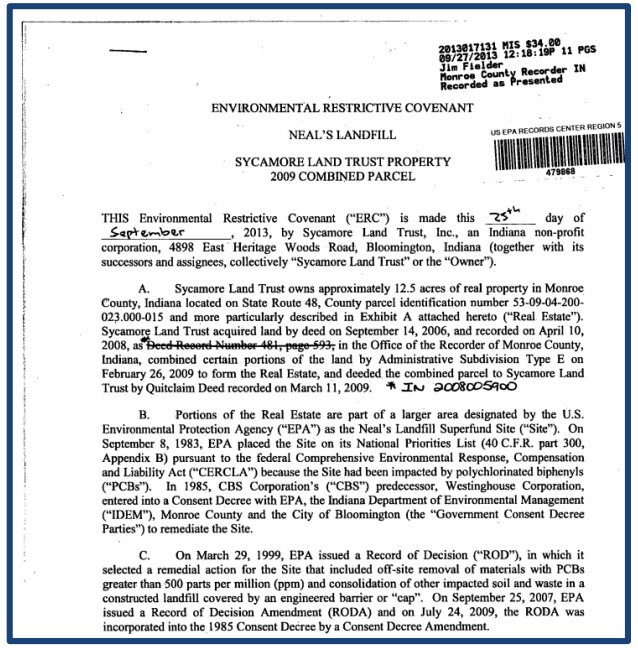


Phase II Investigations:



Source: Land contamination and remediation, Delta Simons (June 22, 2018) Retrieved from: https://www.deltasimons.com/news/land-contamination-and-remediation/

Continuing Obligations



2013017131 MIS $34.00
09/27/2013 12:18:19P 11 PGS
Jim Fielder
Monroe County Recorder IN
Recorded as Presented

ENVIRONMENTAL RESTRICTIVE COVENANT

NEAL'S LANDFILL

US EPA RECORDS CENTER REGION 5

SYCAMORE LAND TRUST PROPERTY
2009 COMBINED PARCEL

THIS Environmental Restrictive Covenant ("ERC") is made this 25th day of September, 2013, by Sycamore Land Trust, Inc., an Indiana non-profit corporation, 4898 East Heritage Woods Road, Bloomington, Indiana (together with its successors and assignees, collectively "Sycamore Land Trust" or the "Owner").

A. Sycamore Land Trust owns approximately 12.5 acres of real property in Monroe County, Indiana located on State Route 48, County parcel identification number 53-09-04-200-023.000-015 and more particularly described in Exhibit A attached hereto ("Real Estate"). Sycamore Land Trust acquired land by deed on September 14, 2006, and recorded on April 10, 2008, as ~~Deed Record Number 481, page 593,~~ in the Office of the Recorder of Monroe County, Indiana, combined certain portions of the land by Administrative Subdivision Type E on February 26, 2009 to form the Real Estate, and deeded the combined parcel to Sycamore Land Trust by Quitclaim Deed recorded on March 11, 2009. * IN 2008005900

B. Portions of the Real Estate are part of a larger area designated by the U.S. Environmental Protection Agency ("EPA") as the Neal's Landfill Superfund Site ("Site"). On September 8, 1983, EPA placed the Site on its National Priorities List (40 C.F.R. part 300, Appendix B) pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") because the Site had been impacted by polychlorinated biphenyls ("PCBs"). In 1985, CBS Corporation's ("CBS") predecessor, Westinghouse Corporation, entered into a Consent Decree with EPA, the Indiana Department of Environmental Management ("IDEM"), Monroe County and the City of Bloomington (the "Government Consent Decree Parties") to remediate the Site.

C. On March 29, 1999, EPA issued a Record of Decision ("ROD"), in which it selected a remedial action for the Site that included off-site removal of materials with PCBs greater than 500 parts per million (ppm) and consolidation of other impacted soil and waste in a constructed landfill covered by an engineered barrier or "cap". On September 25, 2007, EPA issued a Record of Decision Amendment (RODA) and on July 24, 2009, the RODA was incorporated into the 1985 Consent Decree by a Consent Decree Amendment.

To ensure continued liability protection,
a 'Bona Fide Prospective Purchaser' must:

- Comply with restrictions
- Take Reasonable Steps (specified in a Comfort Letter)
- Provide full cooperation and access (response actions, info requests)
- Provide legally required notices for discovery of releases

Landowner Liability Guidance from EPA "*Common Elements*" https://www.epa.gov/enforcement/common-elements-and-other-landowner-liability-guidance

Brownfields Cleanup

- **Low to moderate levels of contamination**
- **Risk-based cleanups to standards for future use and/or resource protection**
  - Industrial
  - Commercial
  - Residential
  - Soil and Soil-to-Groundwater
  - Surface Water
  - Groundwater
- **Prevent exposure to contaminants**
  - Treatment, removal, containment
  - Land use or institutional controls (*if residual contaminants remain*)

TAB TECHNICAL ASSISTANCE TO BROWNFIELDS

Source: Presentation, Steps for Successful Brownfields Redevelopment, KSU TAB (March 2019).
Retrieved from https://www.ksutab.org/

Cleanup

- **Not funded by MACOG's grant**
- **EPA Cleanup Grant – competitive**
- **IDEM Financial Assistance**
  - **Petroleum Orphan Site Initiative (POSI)**
  - **Low-Interest Loans**
  - **Revolving Loans**
  - **Supplemental Environmental Projects**

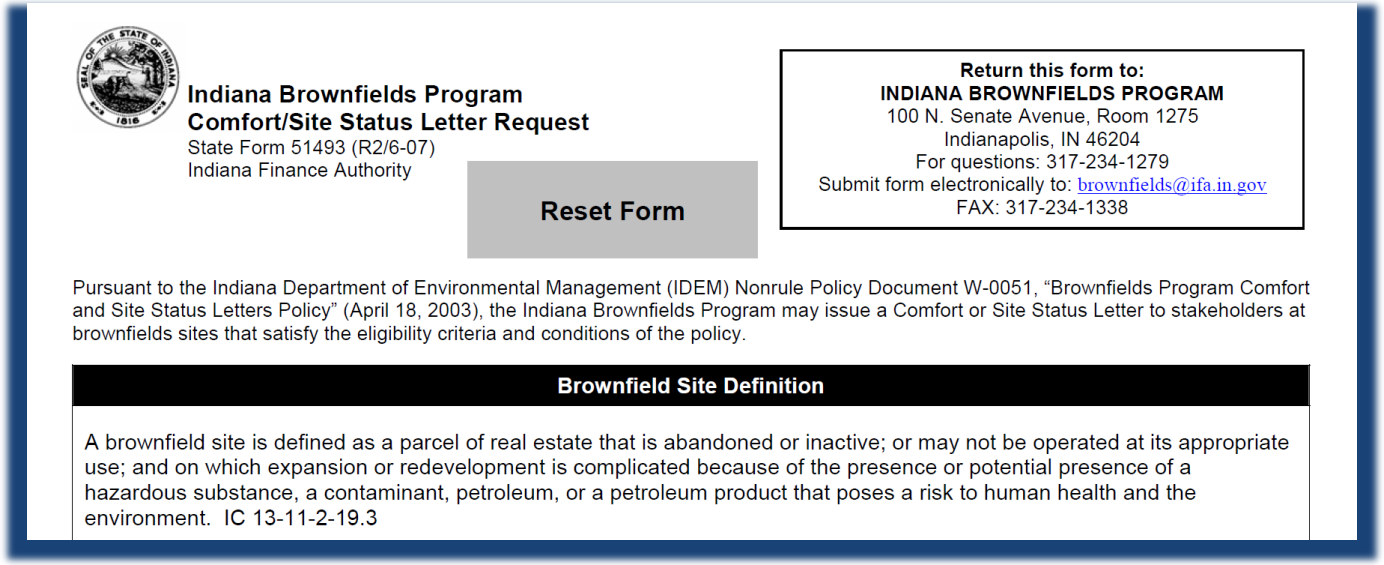


Contact:

John Morris, jmorris@ifa.in.gov
www.in.gov/ifa/brownfields/

Comfort Letter

A **Comfort Letter** issued from IDEM helps facilitate property transactions and property reuse



Indiana Brownfields Program
Comfort/Site Status Letter Request
State Form 51493 (R2/6-07)
Indiana Finance Authority

Reset Form

Return this form to:
INDIANA BROWNFIELDS PROGRAM
100 N. Senate Avenue, Room 1275
Indianapolis, IN 46204
For questions: 317-234-1279
Submit form electronically to: brownfields@ifa.in.gov
FAX: 317-234-1338

Pursuant to the Indiana Department of Environmental Management (IDEM) Nonrule Policy Document W-0051, "Brownfields Program Comfort and Site Status Letters Policy" (April 18, 2003), the Indiana Brownfields Program may issue a Comfort or Site Status Letter to stakeholders at brownfields sites that satisfy the eligibility criteria and conditions of the policy.

Brownfield Site Definition

A brownfield site is defined as a parcel of real estate that is abandoned or inactive; or may not be operated at its appropriate use; and on which expansion or redevelopment is complicated because of the presence or potential presence of a hazardous substance, a contaminant, petroleum, or a petroleum product that poses a risk to human health and the environment. IC 13-11-2-19.3

- It explains the liability exemption or enforcement discretion policy for which the stakeholder has qualified
- It is issued to a party that qualifies for an applicable exemption to liability found in Indiana law or application of an IDEM enforcement discretion policy
- It is not a legal release from liability.
- It includes information on Continuing Obligations

Comfort and Site Status Letters

IDEM - Comfort Letters and Site Status Letters

Must have completed Phase I ESA, Phase II ESA recommended

Comfort Letter

- Issued to a party that qualifies for an applicable exemption to liability found in Indiana law or policy, not a legal release from liability
- Explains applicable liability exemption or defense, or IDEM's exercise of enforcement discretion under an applicable IDEM policy
- Helps with property transactions, lender comfort

Site Status Letter

- Issued to non-responsible party
- Demonstrated that Site currently meets risk-based cleanup criteria as established by IDEM
- Does not address potential liability of the party requesting the letter
- States that current site conditions do not present a threat to human health or the environment, IDEM does not plan to take or require response action

Nominate Sites of Interest

MACOG welcomes site nominations from the public and stakeholders on a rolling basis.

Request for Sites of Interest

MACOG is requesting input from communities and stakeholders on sites of interest in the region to develop and prioritize an inventory of potential brownfields in need of assessment, cleanup, and redevelopment. Examples include:

- Abandoned industrial sites, former dry cleaners, old gas stations, vacant schools, former hospitals
- Properties at community gateways and Main Street areas
- Abandoned or tax delinquent properties
- Privately owned properties where potential environmental issues are a barrier to the sale and redevelopment of the property
- Sites identified for acquisition by local governments to satisfy due diligence requirements

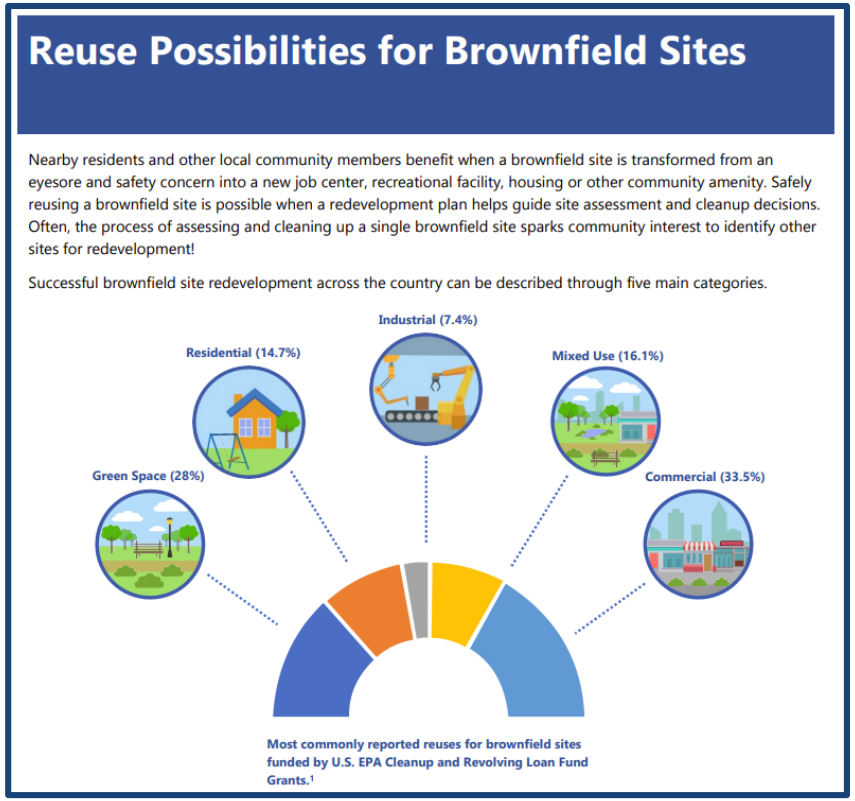
Submit Sites of Interest



www.macog.com/brownfields.html

For more information:

- Contact MACOG:
  - macogdir@macog.com, 574-287-1829
- IFA Indiana Brownfields Program:
  - www.in.gov/ifa/brownfields/
- Environmental Protection Agency:
  - www.epa.gov/brownfields
- Understanding Brownfields Fact Sheets (English, Español): www.epa.gov/brownfields/understanding-brownfields





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