

VOLUNTARY CLEAN UP PROGRAMS IN GEORGIA

AUGUST 27, 2015

OVERVIEW

- Voluntary Remediation Program
- Brownfield Program
- Tax incentives

GEORGIA VOLUNTARY REMEDICATION PROGRAM ACT

- Purpose: “... to encourage the voluntary and timely investigation and remediation of contaminated sites ...and to ensure the cost-effective allocation of limited resources.”
- VRPA became law on June 1, 2009
- Applications accepted starting January 1, 2010
- Revised application checklist posted April 1, 2010
- VRPA Amendments became law on June 1, 2010

VRP APPLICATION

- VRP Application Checklist and \$5,000 fee
- Preliminary Conceptual Site Model
 - Uses all current information
 - Surface and subsurface setting
 - Known or suspected source(s) of contamination
 - How contamination might move within the environment
 - Potential human health and ecological receptors
 - Complete or incomplete exposure pathways that may exist
- Invoicing \$75/hour for EPD overview
- Approximately \$737,000 collected to date

CURRENT STATISTICS

- 95 Applications received
- 85 Applications approved
- 7 Applications under review
- 3 Applications withdrawn or awaiting revisions
- 13 Properties delisted

VRP GROWTH



CONTINUED

- Over 25% of sites listed on HSI (non-Class IV) have applied to VRP.
- 2 VRP properties have delisted since 8/1 and expect several more this year as Program wraps up 5th year of full implementation.
- Institutional controls and consent orders
- HSI Google Map posted to website

BROWNFIELD: FEDERAL DEFINITION

Real property, the expansion, development or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant

OBSTACLES TO BROWNFIELD REDEVELOPMENT

- Assumption of liability upon purchase of brownfields
- Concerns about potential cost of cleanup
- Uncertainty about length of cleanup process

PROBLEMS?

- Too many properties were not being cleaned up/left vacant
- EPA passed amendments to CERCLA in 2002 offering a way forward for bona fide prospective purchasers

GEORGIA BROWNFIELD PROGRAM

- Established in 2003 under the Hazardous Site Reuse and Redevelopment (“Brownfield”) Act
- Employs cleanup standards promulgated under the Hazardous Site Response (state superfund) Act

GEORGIA'S APPROACH TO BROWNFIELD REDEVELOPMENT

- Recognizes that real estate redevelopment creates opportunity for environmental benefits
- Offers incentives for voluntary cleanup

PURCHASER'S RESPONSIBILITIES

- Must apply before taking title (or within the 30-day grace period following purchase)
- Conduct soil and groundwater investigation
- Cleanup of soil and source material to risk reduction (cleanup) standards
- File Compliance Status Report

RESULTS

- 637 applications received to date
- 9,000+ acres enrolled in the Program
- 353 properties have completed the program and received final limitation of liability certificates
- Over 3,000 acres ready for reuse
- Over 700,000 tons of soil remediated

TYPES OF PROJECTS

- Greenspace
- Residential
- Mixed use
- Adaptive reuse
- Industrial reuse
- Industrial redevelopment

BROWNFIELD INCENTIVES

- Liability limitation for prospective purchasers
- Tax incentive provides opportunity to recoup investigation and cleanup costs

MAXIMIZING TAX INCENTIVES

- **Preferential Assessment** for qualifying brownfield property
- **Stacking Incentives** (preferential assessment + tax advantaged leasehold assessment)
- **Tax Increment Financing (TADs)**

PREFERENTIAL ASSESSMENT

Special Ad Valorem Taxation for Qualifying Brownfield Property

- ad valorem tax abatement up to the certified eligible brownfield cleanup costs:
 - property value of a brownfield site may be frozen at the value of such property prior to redevelopment for 10 years or until the property realizes ad valorem property tax savings equal to the certified costs of the cleanup, whichever comes first
 - preferential assessment begins in year following filing of certification with County Board of Tax assessors

INCENTIVE STACKING

- increased emphasis on adaptive reuse and urban renewal
- business increased use of location consulting
- need to combine incentives
- Development Authorities asked to consent to brownfield preferential assessment and tax-advantaged leasehold

INCENTIVE STACKING

- Consider O.C.G.A. § 48-5-7.6(e)(1) provisions governing “disqualification” of preferential assessment upon:
 1. notice by taxpayer to local taxing authority to remove preferential assessment
 2. sale or transfer to person exempt from property taxation or making property exempt from property taxation, **except a sale or transfer to a DDA, URA, JDA or housing authority**
 3. the later of 10 years or extended preferential treatment
 4. tax savings = certified costs of cleanup costs