

Lessons Learned: California Brownfields

It's Real Estate

It's Land Use

It's NOT Superfund or RCRA

Hercules, California

- Coastal Refinery Becomes “Victoria by the Bay”
 - Refinery purchased by NYSE Homebuilder
 - Dismantled
 - Entitled (Redevelopment Area Formed, 800+ Homes)
 - “Constructed” – Remediated, Terraced, Infrastructure Installed, to “Blue Top” Pads for Builders
 - [Also: Wetlands, Species, Archeological/Paleontological Resources]
 - 800+ Homes Built
- Keys to Success:
 - Environmental: Cleanup Standards (“Letter”), Cost Cap Insurance for Buyer, Liability Insurance for Buyer/Seller, Buyer Funds Cleanup
 - Entitlement/Transactional: Purchase Price Tied to Development Yields, Integrated Construction (Remediation/Redevelopment)
- Community/Financial Home Run – Outside RCRA/CERCLA Federal and State Boxes (USTs, ASTs, NPDES, Air Permit Regimes)

Hercules Too . . .

- Explosives Plant Becomes Central “Bayside” Neighborhood
 - DTSC Enforcement Site – Gelsar, to Remediation Financial, to Lewis
 - RFI: Remediated, Wetlands/Species Permits & Implementation (4 Yrs)
..... **NO ENTITLEMENT**
 - Lewis: Entitlement (9 Months), Development Grading, Infrastructure
 - 400+ Homes Including New Downtown
- Lessons Learned: Ignore Real Estate/Land Use & Die
 - Two construction sequences completed with no entitlements
 - 30+% of Site subject to conservation easement from 404 process
 - Extended Time to Yields
 - 20+% Return on Equity – Crash/Burn
 - Service “Partner” Disputes – Insurer and Contractor Losses
 - **VALUE CREATED BY ENTITLEMENT AND TIME TO YIELDS**

Ontario “Crossroads” Project

- Kaiser Steel Production and Fabrication Facility converted to Regional Distribution Centers
 - RCRA TSDf: Closure, Post-Closure, and Consent Agreement Constraints – Seller Developed Remediation Plan and Secured Agency/Buyer Release and Buyer Obligation to Complete Cleanup
 - “Idled” capped areas are unsustainable land uses: issue is how balance geohazard cap issues with feasible use range given cap performance standards in RCRA (as interpreted in California).

Solvent (TCE) Superfund Sites Silicon & San Gabriel Valleys

- Completion of soil cleanup (“NFA” status) allows for new use for source sites; overlying aquifer policy protects passive overlying surface owners
- Long-term groundwater treatment systems remain in place with either buyer or seller; if seller retains obligations/liability, no discount
- Soil vapor modeling dispute has caused chaos: TCE in indoor air
 - Renewed interest in long-term controls (monitoring)
 - Renewed problems with enforcement/accountability of ICs with “springing contingencies”
 - Focus on local government entitlement entity and “enviro reuse zone” overlays for local building inspection implementation

Three Brownfields Lessons

- “Market” Decides Reuse: Real Estate/Land Use
 - Demand and Supply Framework
 - Community Entitlement/Environmental Process
 - Cleanup Cost is Deduction from Land Value
- Entitlement and Time Value of Money Decides Financial Feasibility: Integrate Entitlement/Remediation/Construction
 - Remediate to Planned Land Use
 - Presumptive Remedies and Cleanup Standards are Critical
- Superfund/RCRA are Bad Models for Land Use Management and ICs: Use Land Use Models for Infrastructure Funding and Management
 - Disclosures and Covenants/Conditions/Restrictions
 - Property Tax Surcharges Fund Ongoing Infrastructure including ICs