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)
  - 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