



**TAB**

Technical Assistance  
to Brownfields

**KANSAS STATE  
UNIVERSITY**

# BROWNFIELDS 101

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Regional Asst. Director, KSU TAB



# GROUND RULES



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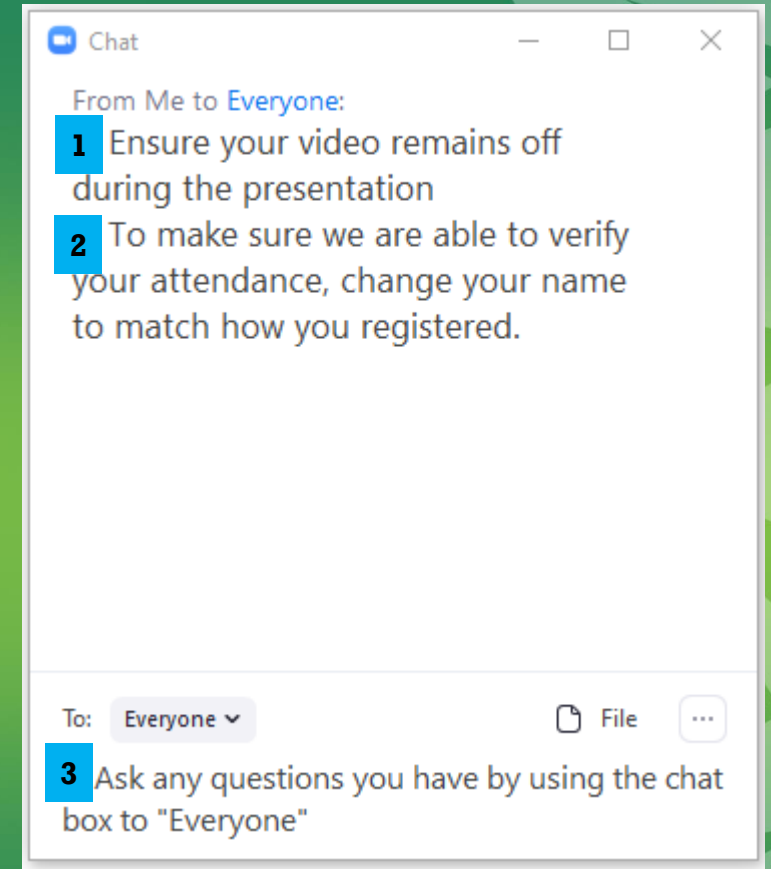
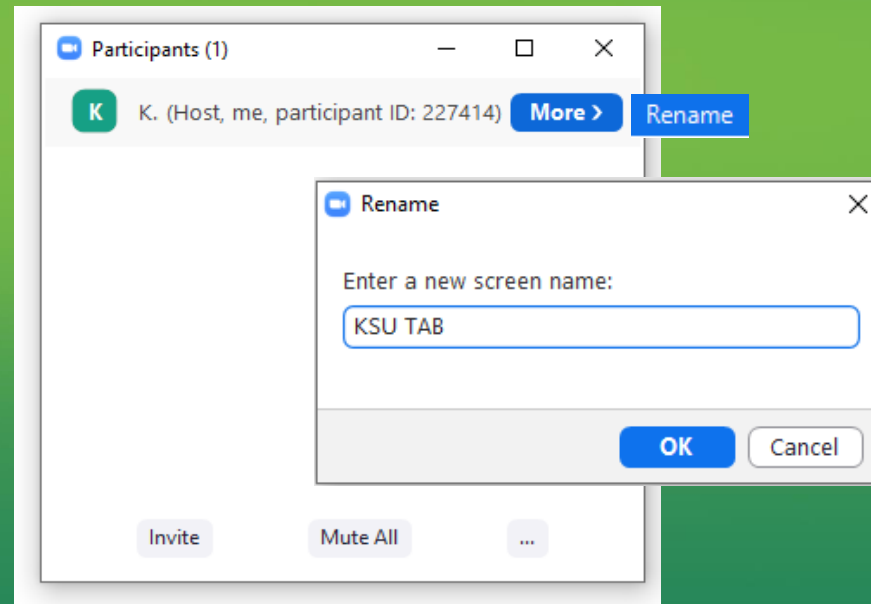
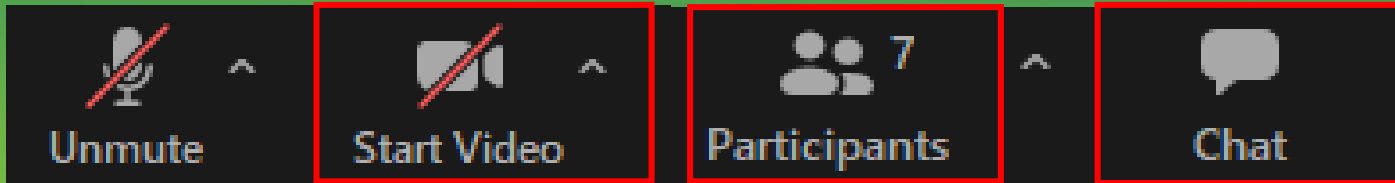
**The presentation is being recorded and will be available on the website. The link has also been placed in the chat box.**

# Using zoom basics

1

2

3



# Technical Assistance to Brownfields (TAB)

## A national program funded by U.S. EPA

- Technical assistance for communities and tribes revitalizing communities through brownfields redevelopment
- Services provide are **free** and tailored to meet specific needs

University of Connecticut EPA Region 1

New Jersey Institute of Technology (NJIT)

EPA Region 2

The West Virginia University Research Corporation

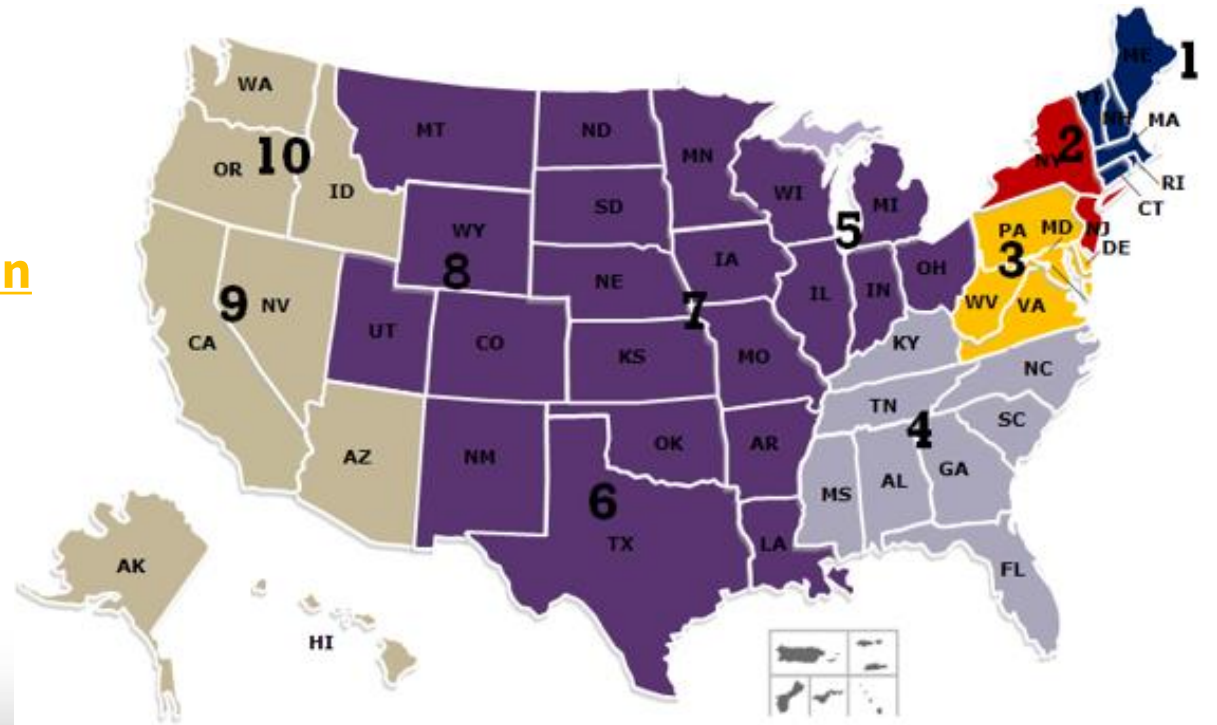
EPA Region 3

The International City/County Management Association EPA Region 4

Kansas State University – EPA Regions 5, 6, 7 & 8

Center for Creative Land Recycling (CCLR)

EPA Regions 9 and 10



# WHAT IS BROWNFIELD?

A brownfield is a property that is difficult to develop because it is contaminated or believed to be contaminated

A site with low to moderate levels of contamination

Including: hazardous, petroleum, asbestos, lead paint, meth- lab contaminants, and mine-scarred lands



**LEGAL DEFINITION OF A BROWNFIELD “...real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”\***

\* (Public Law 107-118 (H.R. 2869) - “Small Business Liability Relief and Brownfields Revitalization Act”, signed into law January 11, 2002).

# Brownfields-Many Property Types

- Churches, Schools
- Gas stations
- Shopping Malls
- Machine shops
- Hospitals, Medical Facilities
- Main Street Buildings
- Apartment Buildings
- Dry cleaners
- Printing shops
- Paint shops
- Auto repair shops
- Shooting ranges
- Marinas
- Agricultural suppliers
- Landfills
- Asphalt plants
- Former coal yards
- Manufactured gas plants
- Scrap yards
- Lumber yards
- Manufacturing facilities
- Tool and die shops
- Oil/fuel terminals
- Mining Operations
- Railyards



# BROWNFIELDS: PERCEPTION OF CONTAMINATION CREATES A “STIGMA”



Often it is the PERCEPTION of contamination that keeps properties from being redeveloped, not the actual presence of contamination.

Once the “stigma” is gone, properties can be returned to productive use.



# Removing the unknowns can help a project advance more quickly



## Not all brownfields are obvious



# THE ORIGIN OF THE BROWNFIELDS PROGRAM: CERCLA

CERCLA (aka Superfund) was enacted “in response to the serious environmental and health risks posed by industrial pollution.”

Until 1980, EPA lacked the legal authority to clean up hazardous waste sites like Love Canal, New York, or to respond to emergencies such as train derailments involving dangerous chemicals.



**CERCLA’s liability scheme is:**

- Wide in Scope
- Strict (it is not based on fault)
- Joint and several

# CERCLA LIABILITY



## **BUYER BEWARE!**

- Under CERCLA, persons may be held strictly liable for **cleaning up hazardous substances at properties that they either currently own or operate, or owned or operated in the past.**
- Strict liability under CERCLA means that liability for environmental contamination may be assigned based solely on property ownership.

# DEVELOPERS, FUTURE OWNERS: WEIGHING BENEFITS VERSUS RISKS

## OPPORTUNITIES

- PRIME LOCATION
- REDUCED PRICE
- EXISTING INFRASTRUCTURE



## RISKS

- LIABILITY
- CLEANUP COSTS
- CLEANUP TIME
- FINANCING
- WEAK DEMAND



# WHY REDEVELOP BROWNFIELDS?

- Preserve community character and history
- Mitigate blight
- Desirable locations that encourage a mix of land uses to provide services that may be lacking
- Increase local tax base and facilitate job growth
- Mitigate public health and safety concerns
- Promote infill and vacant property reclamation
- Reduce the need to develop “greenfields”



# HOW BROWNFIELDS RESOURCES BENEFIT DEVELOPERS

**Eliminates up front out of pocket costs for developers** to determine if there is a problem

Can decrease development/construction costs by reconfiguring the Development Design

Funds Phase I Environmental Site Assessments (ESAs)—Shields prospective purchasers from assuming CERCLA liability

## **Funds Phase II ESAs:**

- soil/groundwater testing and vapor intrusion investigation; building materials testing;
- wetland evaluation; underground storage tank testing and removal;
- geotechnical investigation (must be combined with environmental testing);
- indoor air quality evaluation;
- adjacent property impacts that can impact development/construction

## **Funds Site Specific Remedial Action Planning**

- cost analysis of remediation
- demolition/rehab specs for asbestos/lead paint

# HOW BROWNFIELDS RESOURCES BENEFIT PROPERTY OWNERS (AND THEIR REAL ESTATE AGENT)

- Expedite the Sale: Removing unknowns regarding site conditions that delay or kill the sale
- Having a better understanding of the true market value by having cleanup costs quantified
- Property can be more marketable as issues are ruled out or quantified— avoid low-ball offers due to lack of information
- Gain a better understanding of owner's liability and not passing problem on to your kids or family





# BROWNFIELDS LAWS AND INCENTIVES: ADDRESS ENVIRONMENTAL ISSUES FOR PROPERTY TRANSACTIONS AND EXPANSIONS

## *Liability protection*

- For prospective purchaser, contiguous landowners, and others
- Perform due diligence (environmental assessments) before purchase and cooperate in addressing environmental issues

## *Funding for eligible sites and entities include:*

- Assessment, cleanup
- Redevelopment (primarily non-EPA sources)



# THE BROWNFIELDS REDEVELOPMENT PROCESS

## Plan

Identify Brownfields

Engage the community

Set Redevelopment Goals

## Investigate

Phase I Environmental Site Assessment

Phase II Environmental Site Assessment

Cleanup , if necessary

## Redevelop

Stakeholders & Partners

Financial Resources

# WHO IDENTIFIES PROPERTIES AS BROWNFIELDS?

EPA?

MPCA Brownfields Program?

Your County?

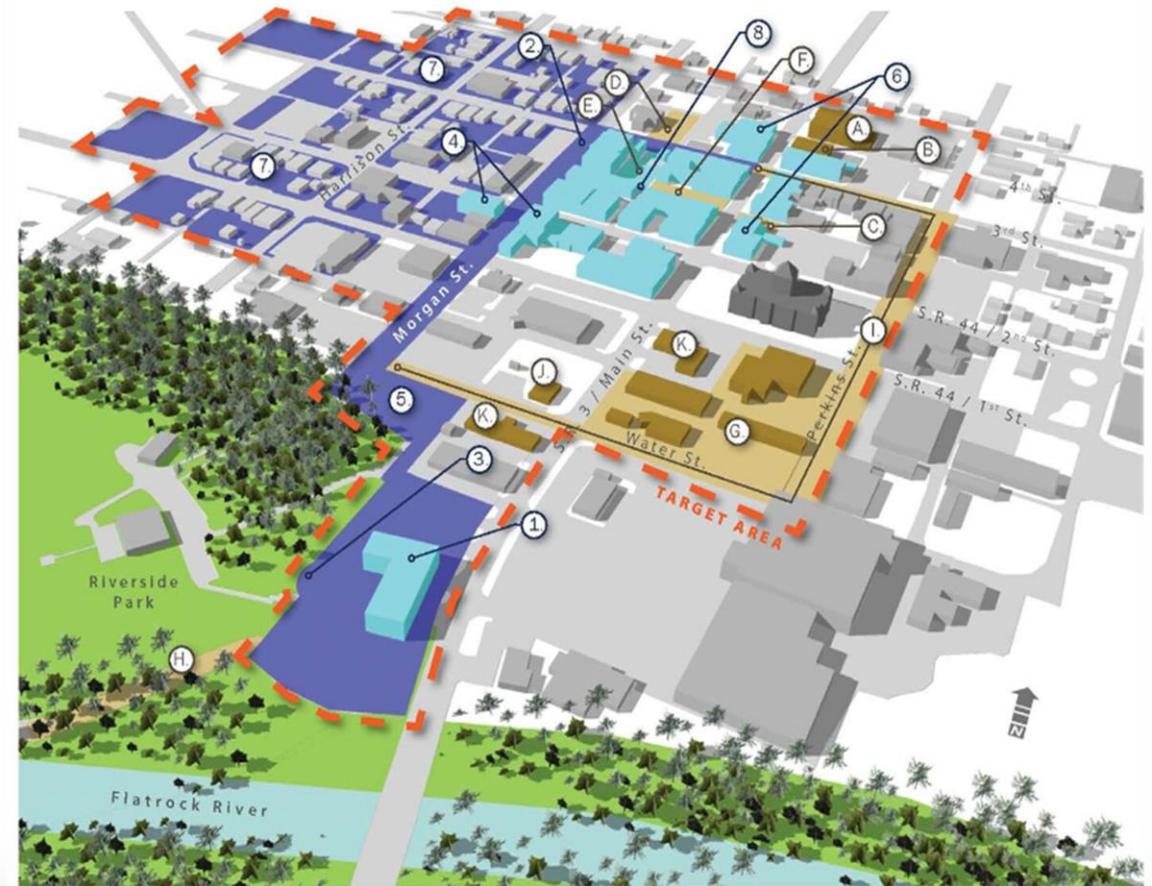
**Brownfields Identification begins in  
your community!**



# APPROACHES TO IDENTIFYING BROWNFIELDS

- Reach-out to Community Stakeholders
- Review Comprehensive Plans, Revitalization Plans, Transportation Plans
- Drive your gateways into Town, or gateways to local amenities, tourism attractions, universities, major employers
- Tax-Delinquent Properties with Development Potential
- Talk to the Real Estate Companies—who wants to buy? Who wants to sell?.

Target Area Map



Re-Imagine, Re-Invest, Re-Discover, a **STELLAR** Rushville

# PRIORITIZE SITES—SET COMMUNITY CRITERIA FOR PRIORITIZATION

*Property Development is Part of a Larger Revitalization Project*

Eligible for government funding

*Development potential for immediate job creation*

Located in the Tax Increment Finance (TIF) district or Revitalization Zone

Quality of Life Issues—community health impacts

*Quality of Life Issues—eliminate unsafe or blighted properties*

Control of Property: can you get access?

*Visibility of the site to the community*

Physical site characteristics: acreage, visibility, etc.

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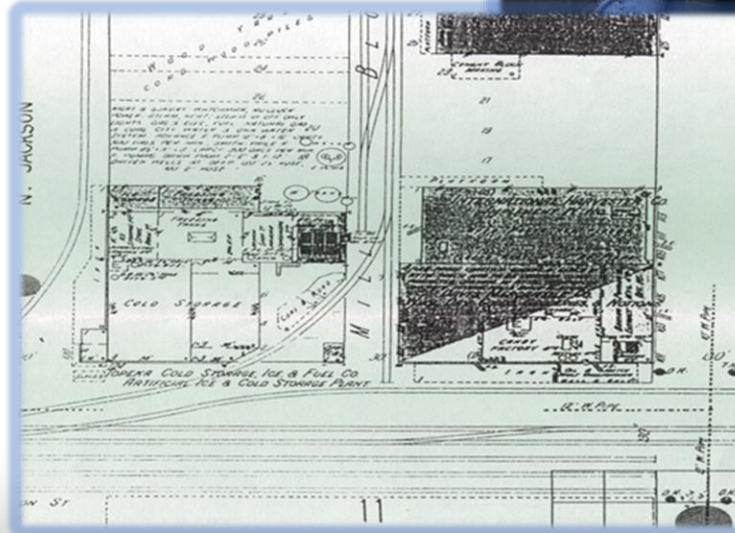
# ALL APPROPRIATE INQUIRY: YOUR LIABILITY PROTECTION

## *EPA Liability protection*

- For prospective purchaser, contiguous landowners, and others
  - Perform due diligence (environmental assessments) before purchase and cooperate in addressing environmental issues
- 
- AAI is the Process Of Evaluating a Property's Environmental Conditions and Assessing the Likelihood of any Contamination

# APPROACHES TO IDENTIFYING BROWNFIELDS

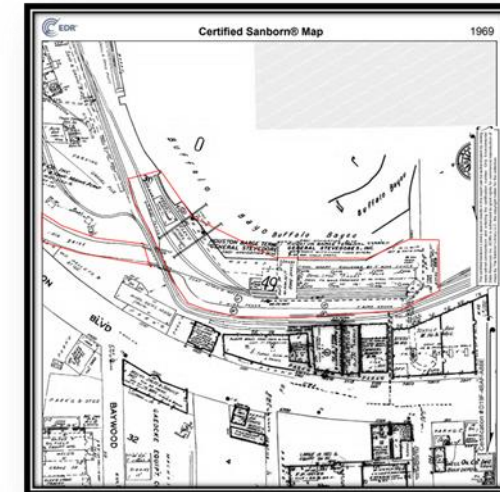
- Review of federal, state, local records
- Visual Inspection of site
- Interviews with current/past owners
- Roadmap for Future Investigations:
  - Identifies Recognized Environmental Conditions
  - Non-Intrusive
  - No sampling or tests





# PHASE I REPORTS IDENTIFY RECOGNIZED ENVIRONMENTAL CONDITIONS (RECS)

- Conditions that indicate a release or threat of a release of any hazardous substances or petroleum...*even under conditions in compliance with laws*
- Examples:
  - Regulatory record of a spill
  - Indication of leaking underground storage tanks
  - Drums/other contaminant containers
  - Historic use by industry that produced, used, or transferred hazardous substances or petroleum products
  - Contamination migrating onto the site from neighboring properties



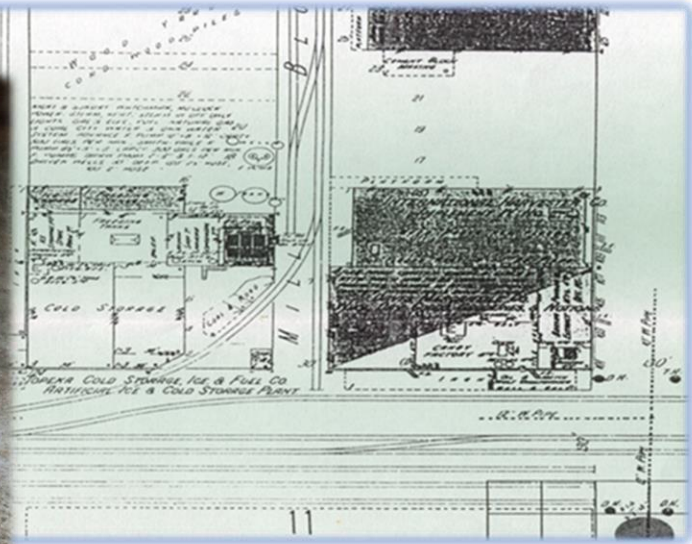
# PHASE II ASSESSMENTS

## Phase II ESA

- What Are Your Recognized Environmental Conditions (REC)s?
- Presence/Absence
- What 's There?
- If It's There—Where?

## Phase II Characterization

- If It's There-How Much?
- Extent/Delineation/  
Quantification
- Feasibility Studies
- Cleanup Plan



# CLEANUP PLANNING

Dirty soil removal or soil management plan

Groundwater cleanup

Demolition or rehab specifications for asbestos, lead paint, mold

Institutional controls:

- As simple as constructing a fence or installing a vapor mitigation system on structures on site
- As complex as development of local laws, re-zoning, deed restrictions
- Waste may be left on site or in process of being remediated if site conditions allow

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# IDENTIFY YOUR PARTNERS AND TEAM

Local/State leadership – Funds to tap into:  
DEED, MPCA, BIL, CDBG, EDA funds, Housing Tax Credits, Historic Preservation Tax Credits, Tax Increment Financing

Public Works, Transportation, Public Safety, Parks, Natural Resources

Private/Local/County Foundations

Regional Planning Commissions

Economic Development interests

Health Department

State and EPA Brownfields Resources





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# **Brownfields Redevelopment State and Federal Resources Getting your Feet Wet!**