

**SOUTH DAKOTA  
BROWNFIELDS REVITALIZATION AND ECONOMIC DEVELOPMENT  
PROGRAM  
FY 2009 WORK PLAN**

**INTRODUCTION**

The state of South Dakota proposes to adopt the following Work Plan for federal fiscal year 2009 as required under ARSD 74:05:12:02. The primary purpose of the Work Plan is to identify proposed annual Brownfields projects to be funded through the Brownfields Revolving Loan Subfund and Brownfields Assessment and Cleanup Subfund and amounts available to fund such projects. The Board of Water and Natural Resource's intent to adopt the Work Plan has been publicly noticed in three state papers: Brookings Register, Rapid City Journal and the Pierre Capitol Journal. Copies of the Work Plan have been provided to those parties requesting a copy. This Work Plan reflects the results of the public's review. (As of this date no public comments have been received.)

The Department of Environment and Natural Resources (DENR) currently has no funds available to capitalize the revolving loan fund.

The department does however have limited funding for the Assessment and Cleanup Subfund. These funds will be used by the department to hire contractors to perform assessment and cleanup work on eligible Brownfields sites. The work plan provides a list of projects and the work that is being performed on each project by the department. In addition, the department may supplement Brownfields Assessment and Cleanup funds with other available funds such as Leaking Underground Storage Tank (LUST) Trust Funds and other appropriate funds. The department estimates that \$300,000 in LUST Trust funds will be used through the Assessment and Cleanup Subfund on LUST eligible activities at Brownfields sites in 2009. These funds will be used to assess and cleanup petroleum contaminated properties that meet the requirements of both the Brownfields Program and the Leaking Underground Storage Tank Program.

**WORK PLAN ELEMENTS:**

1. Information on the Assessment and Cleanup Subfund
2. Table 1 - List of projects being assessed or cleaned up using the Brownfields Assessment and Cleanup Subfund.
3. Board approval of the annual work plan.
4. Criteria and method for distribution of the Revolving Loan Subfund.
4. Goals and objectives of the Brownfields Revolving Loan Subfund.
5. Table 2 - List of eligible Brownfields Revolving Loan Subfund applicants.

## **Brownfields Assessment and Cleanup Subfund**

The department has received funds from EPA for the development and enhancement of a state Brownfields program. DENR has the ability to use a portion of these funds to perform assessment and cleanup activities at eligible Brownfields sites.

The department has been using these funds to assist eligible entities with work to assist in the redevelopment of Brownfields sites. Table 1 lists projects that have been funded or are being funded with Brownfields Assessment and Cleanup sub-funds. Each year the department prepares a work plan and budget which is submitted to EPA. Funding to the states fluctuates each year and is not guaranteed. In federal fiscal year 2009, the department did not receive any additional funds. EPA limited states ability to apply for additional funds based on the amount of unexpended funds that each state had. The department will prioritize the work that is performed in the next year to insure that remaining funds are used to complete the projects that are already in progress. Table 1 contains a list of qualifying projects where assessment and cleanup actions are currently being conducted.

The department currently has selected projects based on the qualifying applicant/project, availability of funds, environmental merits of the project, and public benefit. All projects have been funded based on a first come basis. Due to the increased awareness of the program and the limited funds available, the department will prioritize assessment activities over cleanup activities. Property held by public entities (cities or counties) or non-profit organizations will receive priority over privately held properties. Assessment work will only be performed on privately owned property if the project can be shown to provide a significant public benefit to the community. If funds are available, cleanup activities will be performed on those projects where the cleanup provides a clear public benefit and provides significant protection to human health or the environment.

DENR hires a contractor to perform the necessary work. The department can not reimburse an applicant for expenses that they incurred on the project themselves.

To be eligible for Assessment or Cleanup assistance from the department, the following must occur:

- Assessment and Cleanup funds must be available
- An application must be submitted to DENR.
- DENR must review the application and determine that both the project and the applicant are eligible to receive funding under the federal act.
- The applicant must have a letter of support from the Mayor or City Commission or if the site is located in a rural area, the County Commission.
- EPA must approve of each applicant, project, and the work plans for each phase of the work performed.
- DENR must meet or have a conference call with the applicant to discuss the work needed and to discuss prospective redevelopment plans.
- The Department and its designees must have access to the property to perform the necessary work.
- The work plan and budget for each project must be approved and signed by the Secretary of the Department of Environment and Natural Resources, or the Secretary's designee.

- The applicant must agree to comply with the cleanup requirements of the department.

### Board Approval of the Annual Brownfields Work Plan

It is anticipated that the department will provide Assessment and Cleanup Subfund assistance in those circumstances where the costs of performing the project are low, cleanup could be completed with available funds (under the \$200,000 cap), and there is strong community support of the project.

With the approval of the annual work plan, the Board grants approval to the department to proceed with the expenditure of the funds to perform work that is eligible under federal and state laws. Projects that meet the eligibility requirements of the state and federal law may be added at any time to Table 1: *List of Brownfields Assessment and Cleanup Projects*. The addition of projects to Table 1 allows the department to proceed with the expenditure of funds to perform the assessment and cleanup work as necessary at each site. This work may be initiated prior to the next board hearing as long as the project expenditures are within the guidelines established by EPA. The department will provide the Board with an updated list of projects at each scheduled board hearing when new projects are listed.

Table 1

#### List of Brownfields Assessment and Cleanup Projects 10/01/2008

Start Date	Applicant	Site Name/Location	Assessment, Cleanup, or Other Funds Requested	Amount Anticipated / the Amount Spent as of 10/01/2008*
2003	Watertown Development Corp.	Former Coal Gas Site, Watertown	Assessment/ Cleanup	\$400,000/ -\$331,103
2004	Parker Development Corporation.	Meadows, Parker	Assessment/ Cleanup	\$200,000/ -\$139,805 complete
2004	Parker Development Corporation	North Complex, Parker	Assessment/ Cleanup	\$200,000/ -\$158,600 complete
2004	Yankton Development Corporation	Blocks 47 and 70 Eisenbraun site, Yankton	Assessment/Clean up	\$400,000/ -\$60,793 complete
2005	A& B Business Products	Former Tri-State Mint site	Assessment	\$50,000/ -\$21,467 complete
2005	Phillips Redevelopment—City of Sioux Falls	Main Avenue to 5 <sup>th</sup> Street, Phillips Avenue to 4 <sup>th</sup> Street	Assessment	\$200,000/ -\$0.00
2005	**City of Yankton	East Cornerstone Redevelopment	Assessment	\$300,000/ -\$222,038 complete
2005	City of Pierre	Sioux Avenue Street Project	Leaking Underground Storage Tank Trust Funds	\$200,000/ -\$36,845 complete
2005	Crow Creek Tribal	Crow Creek Tribal	Cleanup	\$69,466/

	Dorm	School, Stephan		-\$69,466 complete
2005	Yankton Development Corporation	Blocks 47 and 70 - Site 2 Yankton	Assessment/Clean up	\$400,000/ -\$426,820 complete (EPA provided a waiver on funding)
2005	City of Aberdeen	6 <sup>th</sup> Avenue Utility Project	Leaking Underground Storage Tank Funds	\$200,000/ -\$158,124 complete
2005	City of Pierre	Pierre VOC (BETX) Investigation	Leaking Underground Storage Tank Funds	\$400,000/ -\$225,963
2005	City of Wagner	Wagner Street and City Project	Leaking Underground Storage Tank Funds	\$150,000/ -\$36,001
2006	Union County	Former Bosse Oil Bulk Site	Assessment/Clean up	\$300,000/ -\$87,372 complete
2006	City of Pierre/DENR	Former Husky Oil Site	Leaking Underground Storage Tank Trust Funds	\$200,000/ -\$0.00
2006	City of Onida/DENR	Abandoned Gas Station – MCTM	Leaking Underground Storage Tank Trust Funds	\$50,000/ -\$0.00
2006	City of Jefferson/DENR	Garvis/Bosse Bulk Site	Leaking Underground Storage Tank Trust Funds	\$200,000/ -\$6,821
2006	City of Highmore/DENR	Abandoned station near Hoffman Trucking - street impact	Leaking Underground Storage Tank Trust Funds	\$20,000/ -\$0.00
2006	Hyde County	Former Straight's Corner	Leaking Underground Storage Tank Trust Funds	\$100,000/ -\$0.00
2006	City of Rapid City	Street and utility project	Leaking Underground Storage Tank Trust Funds	\$200,000/ -\$48,764
2006	City of Brookings	6 <sup>th</sup> Street Utility Project	Leaking Underground Storage Tank Trust Funds	\$100,000/ -\$3,552 complete
2006	City of Huron/DENR	Former R&R Oil	Leaking	\$140,000/

			Underground Storage Tank Trust Funds	-\$89,504 complete
2006	City of Sioux Falls/DENR	Former Bill's Apco	Leaking Underground Storage Tank Trust Funds	\$260,000/ -\$19,413 complete
2006	City of Gary	Old School for the Blind	Assessment/Clean up	\$400,000/ -\$25,768
2006	City of Madison/DENR	Former Jim's Machine Shop	Leaking Underground Storage Tank Trust Funds	\$200,000/ -\$15,073
2006	City of Belle Fourche	Community Bike Path Project	Assessment/ Cleanup	\$200,000/ -\$0.00
2006	BrenkevCo LLC	712-728 North Main and 101 East Falls Park Drive	Assessment	\$200,000/ -\$41,037
2006	Bafna/Stevenson	14 <sup>th</sup> Street Landfill in Watertown	Assessment	\$100,000/ -\$68,879
2006	Oxandaburu/DENR	1740 Dakota Avenue, Huron	Leaking Underground Storage Tank Trust Funds	\$200,000/ -\$3,428
2006	Four J's Station/DENR	105 West 7 <sup>th</sup> Street in Redfield	Leaking Underground Storage Tank Trust Funds	\$200,000/ -\$0.00
2006	Pro Tune Up	405 West 39 <sup>th</sup> Street in Sioux Falls	Assessment/Clean up	\$400,000/ -\$65,674 complete
2006	Belle Fourche Chamber of Commerce	Bushfield Development	Assessment/Clean up	\$200,000/ -\$54,369 complete
2006	City of Huron	Former Huron Dressed Beef	Assessment/Clean up	\$300,000/ -\$50,875
2006	ACG Enterprises LLC	<del>12<sup>th</sup> Street Landfill</del>	Assessment	\$200,000/ -\$0.00
2007	Watertown Development Corp.	Former Coal Gas Disposal Site, Watertown	Assessment/ Cleanup	\$130,000/ -\$36,435
2007	Boyer	Alcester Feed and Grain	Assessment/Clean up	\$200,000/ -\$4,182
2007	City of Canistota	Former Saber Bulk Site	Assessment/Clean up	\$230,000/ -\$19,628
2007	Custer County	Former Bulk Site	Assessment/Clean up	\$200,000/ -\$2,655
2007	City of Sisseton	Sisseton Storm Sewer Project	Leaking Underground Storage Tank Trust	\$200,000/ -\$15,323

			Funds	
2007	City of Sioux Falls	Redevelopment Area of the Phillips to Falls Site	Assessment/Clean up	\$400,000/ -\$10,295
<b>2008</b>	<b>City of Watertown</b>	<b>Former Watertown Ice and Cold Storage</b>	<b>Assessment/Clean up</b>	<b>\$200,000</b> <b>-\$16,541</b>
<b>2008</b>	<b>City of Wolsey</b>	<b>Highway 281 Project</b>	<b>Leaking Underground Storage Tank Trust Funds</b>	<b>\$200,000</b> <b>-0.00</b>
<b>2008</b>	<b>City of Selby</b>	<b>Utility Projects</b>	<b>Leaking Underground Storage Tank Trust Funds</b>	<b>\$200,000</b> <b>-0.00</b>
<b>2008</b>	<b>City of Vermillion</b>	<b>Cherry Street Project</b>	<b>Leaking Underground Storage Tank Trust Funds</b>	<b>\$200,000</b> <b>-0.00</b>

**Bold = new projects**                      Strike through = projects that have been removed or withdrawn

\*Projects using Brownfield funds are limited by federal law to \$200,000 for Assessment and \$200,000 for Cleanup.

\*\* This site was formerly known as Jensen Scrap Yard Main Office site and the applicant was Yankton Development Corporation. The city now owns the property and has re-applied.

**Public Review and Comment**

In accordance with ARSD 74:05:12:02 the department shall develop an annual work plan which will be provided to the Board of Water and Natural Resources within 30 days of the effective date of the rules and prior to January 1<sup>st</sup> each year thereafter. Upon completion of the work plan by the department, the board shall conduct a public hearing and receive comments from the public. The Board shall provide at least 30 calendar days notice of the public hearing prior to adoption of the work plan. This work plan has been provided to the public at least 30 days prior to the Board hearing. Comments to the work plan, if any were provided, will be attached. See Attachment 1.

**Brownfields Revolving Loan Subfund**

**Goals and Objectives**

The Brownfields Revolving Loan Subfund (RLF) may be used for the **cleanup** of eligible Brownfields sites: The Board may issue grants and/or loans to eligible applicants for eligible projects. Some eligible activities are outlined in ARSD 74:05:12:06 and include items such as:

1. capping of contaminated soils;
2. excavation and disposal of contaminated soil;

3. removal of drums or waste piles;
4. drainage controls;
5. chemical treatment; and
6. purchasing environmental insurance;

The Work Plan identifies eligible Brownfields revolving loan projects. The department will review each application to determine if the applicant and the project are eligible under the federal “*Small Business Liability Relief and Brownfields Revitalization Act of 2002*”. Table 2 lists eligible projects where the department has received a complete Brownfields revolving loan application. At this time the department does not have any funds available to capitalize the fund. Revolving Loan Subfund projects may be added during the year to the list by the Board of Water and Natural Resources, if the action is included on the meeting agenda at the time the meeting is posted.

A determination of which eligible projects are funded, the amount of assistance, and the financing terms and conditions will be made by the Board of Water and Natural Resources during federal fiscal year 2006, if Revolving Loan funds are awarded to the State by the federal Environmental Protection Agency.

#### Objectives:

The goals of the Brownfields Revolving Loan Subfund are to fully capitalize the subfund,

1. Maintain a permanent, self-sustaining Brownfields RLF program that will serve in perpetuity as a financing source for the cleanup of contaminated properties such that the cleanup work will assist in the re-development of the property to a better use; and
2. Fulfill the requirements of pertinent federal, state, and local laws and regulations governing pollution control activities while providing the local community with maximum flexibility and decision-making authority regarding the re-development and cleanup of such properties.

#### **Criteria and Method for Distribution of the Revolving Loan Subfund**

The department will discuss all requests for Brownfields funding with the applicant. Based on the needs of the applicant and available funding the department will advise the applicant on their options for Brownfields funding: applications directly to EPA, applications for the State Brownfields Revolving Loan Subfund or State Brownfields Assessment and Cleanup Subfund. Applicants requesting the Brownfields Revolving Loan Subfund will be required to complete an assistance application as outlined in ARSD 74:05:12:07. Applicants that are applying for Brownfields Revolving Loan funds for cleanup actions must also be able to provide a 20 % match. The department will review each assistance application for completeness, technical merit and financial analysis. The department will prepare a summary of the applicant’s financial capacity and provide a copy to the board.

The Board of Water and Natural Resources may base funding decisions on the factors outlined in ARSD 74:05:12:10 which include items such as:

1. Extent that the project facilitates creation, preservation or addition to a park or greenspace
2. Extent that the project meets the needs of the community;
3. Extent that the applicant has the ability to draw on other resources for cleanup funds;
4. Extent that funding will facilitate reuse of existing infrastructure;
5. The amount of funds available for distribution;
6. Compliance with permits and regulations;

- 7. Debt service capability;
- 8. Readiness to proceed; and
- 9. Technical feasibility.

**Loans**

The primary type of assistance to be provided by the Brownfields Revitalization and Economic Development Program – Brownfields Revolving Loan Program is direct loans to fund the cleanup of Brownfields sites in South Dakota. Loan assistance can be provided to municipalities, sanitary districts, counties or other eligible applications.

- ❖ **ESTABLISHMENT OF INTEREST RATES:** The Board may set interest rates based upon on current market rates and current demand for program funds. Interest rates will be reviewed annually and are set to be competitive with other funding agencies. The Board of Water and Natural Resources establishes an interest rate of **2.5 %** for the Brownfields Revolving Loan Subfund. The Board can issue loans for a term of up to 10 years. The term of each loan is at the discretion of the project applicant but can not exceed 10 years.

**Grants**

The Board of Water and Natural Resources may in special circumstances issue grants to eligible applicants for cleanup activities. To be considered for a sub-grant the applicant must demonstrate to the department and Board the following:

- The applicant does not have the financial resources available to perform the cleanup of the property;
- The applicant will not make a profit from the re-sale of the property once cleanup is complete; and
- The cleanup of the property will lead to redevelopment or a “greenspace” that will benefit the community.

The Board must also consider the following when issuing sub-grants:

- The sub-grants can not exceed \$200,000 per site.
- The state must have a 20% match available to meet the federal cost share.
- Only 40 % of the original EPA grant award to the Department may be sub-granted.

Table 2

**LIST OF ELIGIBLE REVOLVING LOAN APPLICANTS AND PROJECTS**

Date	Applicant	Project/ Location	Amount of Loan/Grant requested	Total Amount of Revolving Loan Funds Available
				\$0.00


- Additional information will be provided in the work plan on each eligible application.

**Attachment 1**  
Public Comments on the Annual Work Plan