

**Industrial Land Recycling Fund  
Annual Report to the General Assembly**

**Fiscal Year  
July 1, 2008 – June 30, 2009**



**pennsylvania**

DEPARTMENT OF ENVIRONMENTAL PROTECTION

## **Basis for Report to the General Assembly**

The Land Recycling and Environmental Remediation Standards Act (Land Recycling Act) established the Industrial Land Recycling Fund (ILRF). Under Section 701 of the Act, moneys in the fund are available to the department to implement the provision of the Act.

In accordance with Section 701 (d) of the Act, the department is submitting the following report to the General Assembly for the 2008/2009 fiscal year.

The primary sources of funding for the Industrial Land Recycling Fund are review fees. The Land Recycling Act established modest review fees that remediators must submit to the department with their remediation reports.

The Act sets a fee of \$250 for the submission of most reports and plans. A fee of \$500 is established for the review of the final reports for the most complicated type of cleanup actions. These review fees could be increased, but any substantial increase in the fees may create a disincentive to participate in the voluntary program.

## **Historical Expenditures of the Industrial Land Recycling Fund**

Historically, the commitments and expenditures from the fund were utilized to provide grants through the Brownfields Inventory Grant program. The Brownfields Inventory Grants provided money to municipalities and economic development agencies to assist with the development of brownfield property inventories. If the brownfield properties were available for redevelopment, the grantee gathered basic information about the property and had posted it on the department's Web site via the PA SiteFinder database.

The PA SiteFinder database was an internet based listing of brownfield properties that were available for redevelopment. The PA SiteFinder web site also included information concerning resources available for brownfields buyers and sellers to facilitate the redevelopment of these brownfield properties. In an effort to integrate brownfield properties into the mainstream of real estate market, the decision was made to integrate these properties into the commonwealth's PA Site Search database. The PA Site Search website ([www.pasitesearch.com](http://www.pasitesearch.com)) is maintained by the Team Pennsylvania Foundation and funded by the Department of Community and Economic Development.

Accordingly, the department terminated the Brownfields Inventory Grant program in fiscal year 2005. No new grants were awarded and none of the grants that terminated during the year were renewed. All remaining grant commitments were closed out at the end of that year.

### **Commitments and Expenditures for Fiscal Year 2008-2009**

Fees totaling \$148,250 were collected in fiscal year 2008/2009. During this fiscal year, the department completed several initiatives that were funded by the Industrial Land Recycling Fund. The department completed work on the development of four technical training initiatives identified in last year's report. Utilizing the department's General Technical Assistance Contract, the department tasked two contractors with the development of four technical training courses: Vapor Intrusion, Groundwater Fate & Transport, Ecological Risk Assessment and Human Health Risk Assessment. The four courses were presented in Pittsburgh, Harrisburg and King of Prussia. The department expended \$123,682 on the development and presentation of these courses (see Table 1). Approximately 350 people from the consulting community attended these sessions along with 75 staff members from the department.

With the passage of the Uniform Environmental Covenants Act (UECA), an additional workload has been placed on the department. This includes the development of a web-based registry that has Geographical Information System (GIS) capabilities, the development of new regulations governing the implementation of UECA and the development of a self-inspection and monitoring program. A preliminary investigation of other states with UECA statutes was conducted to determine if an existing registry could be modified for department use. In addition, the department has developed draft regulations for implementing the UECA program.

The department has concluded its analysis of the registry requirements and will be moving UECA through the regulatory process in 2009-2010. These activities did not necessitate the expenditure of funds from the Industrial Land Recycling Fund during FY 08-09, but will result in expenditures in FY 09-10.

**Table 1**  
**Industrial Land Recycling Fund -- 2008-2009 Fiscal Year**

<b>Activity</b>	<b>Amount</b>
July 1, 2008 Balance Forward	\$1,145,832
Fees Collected	+148,250
FY 08-09 Expenditures: Technical Training	-123,682
FY 08-09 Commitments: Remaining costs for Technical Training billed into FY09	-30,403
June 30, 2009 Balance	\$1,139,997

## **Planned Commitments and Expenditures for Fiscal Year 2009-2010**

The following commitments and expenditures are anticipated for FY 09-10 and are described below in more detail:

Activity and Use Limitations Registry Development	\$300,000
Activity and Use Limitations Data Management	\$150,000
DEP/DCNR Water Well Inventory Initiative	\$150,000
Fifteen Year Land Recycling Program Evaluation	\$100,000
Salaries for Program Support	\$150,000

**TOTAL** **\$850,000**

### **Activity and Use Limitations Registry Development**

In some cases, the remediation of contaminated sites may involve the use of an activity and use limitation. Engineering and institutional controls are the two types of activity and use limitations used to maintain the protectiveness of the completed response action. An example of an engineering control is a soil cap that prevents the migration of contamination. Institutional controls may include an Environmental Covenant or deed restriction that restricts use of the property or prohibit the use of groundwater.

The Land Recycling Program currently tracks sites that have an engineering or institutional control with a basic database.

Under UECA, the department is required to and has already begun to develop a public registry of all sites with an environmental covenant. Until a permanent registry is developed, the department will maintain an interim list of sites with an environmental covenant or deed restrictions on its Web site. The list will include basic locational information (ex. street address, municipality, county) about each site as well as digital copies of the applicable environmental covenant and proof of recordation. A list can be found at the following location:

[http://www.ahs.dep.state.pa.us/LandRecycling\\_Brownfields/](http://www.ahs.dep.state.pa.us/LandRecycling_Brownfields/)

The Land Recycling Program intends to use the ILRF to develop a more adequate registry with GIS capability to track these sites. The new system would provide more useful information to the general public and would allow more strenuous monitoring to assure that these cleanups remain protective well into the future. This new system will track activity and use limitations imposed at various clean-up sites and will be procured by contract. It is estimated that the system will cost approximately \$300,000.

### **Activity and Use Limitations Data Management**

Prior to the implementation of UECA in 2008, a number of sites have utilized activity and use limitations in conjunction with a deed restriction to demonstrate the attainment of an Act 2 remediation standard. Under the provisions of UECA these deed restrictions must be converted to an Environmental Covenant by February 2013.

The department has identified approximately 300 of these sites. These sites represent part of the potential universe of sites that have a deed restriction that may require conversion to an environmental covenant per the UECA statute.

The Land Recycling Program intends to use ILRF funds to hire a General Technical Assistance Contractor to review the remediation files at each regional office and identify any site which has a deed restriction that must be converted to an environmental covenant. It is estimated that this task will cost about \$150,000.

The Registry Development and Data Management activities described above will serve as the foundation for the department's Long Term Stewardship program. This program will ensure that the activity and use limitations that are used as part of a risk-based cleanup continue to be protective of human health and the environment, now and in the future.

### **DEP/DCNR Water Well Inventory Initiative**

This initiative represents a joint effort between DEP and DCNR. The department would provide funding through the ILRF for enhancements to DCNR's Water Well Inventory program to enhance its usability. This initiative will provide the department, remediators and the public with much needed data relating to well location, well construction and groundwater usage during and after the Act 2 remediation process. We anticipate this effort will cost about \$150,000.

### **Fifteen Year Land Recycling Program Evaluation**

Pennsylvania's Land Recycling Program is one of the oldest and most successful voluntary cleanup programs in the country and will mark its 15 year anniversary in 2010. The program has accomplished much in terms of improving the predictability of environmental cleanups; thereby making economic revitalization possible on some of the most contaminated properties in the commonwealth. A thorough accounting of the accomplishments of the Land Recycling Program has not been conducted in several years. While the number of approved cleanups and cleanups in progress is easily obtainable through existing department databases, a thorough analysis of how to strengthen Pennsylvania's existing Land Recycling Program elements and enhancements to further impact Pennsylvania's communities through job creation, public and private investment is needed.

Therefore, a General Technical Assistance Contractor will be retained to conduct a thorough assessment of the Land Recycling Program to document program benchmarks and to make recommendations on improvements to the program. We anticipate this effort will cost approximately \$100,000.

### **Salaries**

The deputy secretary for Community Revitalization and Local Government Support is a vital leadership component to the compliment of the Land Recycling Program. The Industrial Land Recycling Fund will therefore provide funding for this position. It is estimated that funding for this position will cost \$150,000 for salaries and benefits.

### **Recommendations to the General Assembly**

The Land Recycling Act continues to be a very effective statute as enacted and the department is not recommending any amendments to the Act at this time. There is an important issue that directly impacts the continued success and effectiveness of the Land Recycling Program that can only be addressed by the General Assembly. The department requests the consideration of the General Assembly in addressing this outstanding issue.

### **Land Recycling Program Funding**

The Land Recycling Program has continued to grow for the past fourteen years and we anticipate that the number of voluntary remediations and the general program responsibilities will continue to grow in the future. The program staff positions utilized by the department to implement the Land Recycling Act are funded out of the Hazardous Sites Cleanup (HSCA) Fund. The continued success of the Land Recycling Program is dependent on a reliable source of funding.

The Land Recycling Act established modest fees that remediators must pay to the department when they submit remediation reports under the program. These fees cover only a small fraction of the total costs for the operation of the Land Recycling Program. These review fees could be increased but any substantial increase in the fees may create a disincentive to participate in the voluntary program. The department does not recommend an increase in the fees as established in the Land Recycling Act.

While a temporary funding solution has been secured, the department requests that the General Assembly provide for a reliable long-term source of funding for the HSCA Fund which will enable the continued success of the Land Recycling Program.