

Brownfield Development Risk Advisory Services

American Risk Management Resources Network (ARMR) provides expert brownfield environmental risk advisory and insurance placement services. Our team has insured over 100 brownfield transactions ranging from small gas station properties to large industrial facility conversions. We assist buyers, sellers and governments in addressing the unique liability challenges associated with successful brownfield development.

Brownfields by their very definition involve properties with environmental liability risk:

A brownfield is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. USEPA

The definition is broad and includes properties that may have contamination. It is a generally accepted principle that reusing a brownfield is preferable to developing greenspace for a host of reasons, but the top four include: 1.) Brownfields tend to be in urban or developed areas where there is demand for their space; 2.) Utility and access infrastructure usually already exists to support them, lowering development costs; 3.) It is preferable to remediate contamination associated with them to protect human health and the environment from further injury; and 4.) For land conservation reasons, it is preferable to reuse a brownfield rather than develop greenspace.



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Brownfields, however, pose many challenges and most of them are associated with liability risk.

Besides zoning and planning considerations, the following brownfield liability risks are directly associated with environmental contamination at brownfields:

- Legacy liability for personal injury
- Personal injury arising from remediation and development activities
- Cost variances to address site contamination
- Personal injury risk for post-development property use

These risks drive the actions and investment considerations made by the three classes of stakeholders involved in brownfield development:

1. Principle Owner/Developers

This class has a direct economic interest in the success of the development and needs to balance its total risk cost against its expected return on investment.

2. Government and Community

This class wants to ensure that the development activities adequately address contamination and incorporate safeguards to protect community health and the environment.

3. Financiers

Lenders are partnered with principle owners in financial risk. They require assurances that environmental issues will not significantly impact project cashflow or impair the value of their collateral interest in the project.

ARMR has advised each of these classes on all issues related to environmental risk:

1. **Deal structure** to take advantage of statutory liability protections and public financing opportunities;
2. **Liability transfer** between parties and financial assurances to support the full performance of the transfer;
3. **Due diligence review** to identify and quantify both known and potential contamination risks and costs.
4. **Remedial design and estimate review** to identify potential for overruns.
5. **Institutional and engineering controls**, activity and use limitations, and long-term stewardship review for risk prevention efficacy and operational cost.
6. **Insurance structure design** and placement for maximum protection of stakeholder's interests and total risk cost minimization. We ensure that the appropriate coverage is in place for:
 - a. Personal injury (bodily injury/property damage) claims;
 - b. Remediation funding for unknown contamination;
 - c. Reopener remediation cost protection;
 - d. Protection for offsite waste transportation and disposal;
 - e. Funding for expected remediation cost overruns when desired;
 - f. Funding for project delay costs caused by unknown environmental conditions when desired;
 - g. Coverage for occupancy operational exposures after development.

With each of these services, we deploy sound risk management protocol: risk identification, analysis, mitigation and monitoring. We understand that these are economic development ventures and that risk costs must be managed and defined to effectuate a financially successful project.