



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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October 28, 2021

David Schumacher, Director
Washington State Office of Financial
Management
PO Box 43113
Olympia, WA 98504-3113

The Honorable Christine Rolfes
State Senate
PO Box 40423
Olympia, WA 98504

The Honorable Steve Tharinger
House of Representatives
PO Box 40600
Olympia, WA 98504

The Honorable Lynda Wilson
State Senate
PO Box 40417
Olympia, WA 98504

The Honorable Mike Steele
House of Representatives
PO Box 40600
Olympia, WA 98504

The Honorable David Frockt
State Senate
PO Box 40446
Olympia, WA 98504

The Honorable Timm Ormsby
House of Representatives
PO Box 40600
Olympia, WA 98504

The Honorable Jim Honeyford
State Senate
PO Box 40415
Olympia, WA 98504

The Honorable Drew Stokesbary
House of Representatives
PO Box 40600
Olympia, WA 98504

RE: Brownfield Redevelopment Trust Fund Account: No activity to report for 2019-21 Biennium

Dear Director Schumacher, and Members of the Washington State House of Representatives and State Senate:

This letter is in fulfillment of reporting requirements outlined in the Model Toxics Control Act (MTCA), RCW [70A.305.140](#). The citation is excerpted below; the full citation is attached.

Per RCW 70A.305.140, MTCA requires the Washington State Department of Ecology (Ecology) to report every odd-numbered year on redevelopment activities funded by the Brownfield Redevelopment Trust Fund (BRTF) Account:

(9) Beginning October 31, 2015, the department must provide a biennial report to the office of financial management and the legislature regarding the activity for each specific redevelopment opportunity zone or specific brownfield renewal authority for which specific legislative appropriation was provided in the previous two fiscal years.

No financial activity to report for 2019-21 Biennium

There was no legislative appropriation for this account during the 2019-21 Biennium, and therefore no activity to report. And, since the last legislative report for this account was submitted in 2019, Ecology has not been notified that other Redevelopment Opportunity Zones (ROZ) or other Brownfield Renewal Authorities have been created by local governments. These are tools intended to help local governments clean up and reuse previously developed properties that are currently abandoned or underutilized.

Summary of ROZs and Brownfield Renewal Authorities developed since 2013

Brownfield Redevelopment Trusts can only fund projects within an established Redevelopment Opportunity Zone (ROZ) or a Brownfield Renewal Authority. A ROZ is a geographic area designated by a city, county, or port district that meets criteria outlined in RCW [70A.305.150](#). A brownfield renewal authority may be established by a city, county, or port district, for the purpose of guiding and implementing a property's cleanup and reuse within a ROZ (RCW [70A.305.160](#)). Since 2013, three local governments have developed a total of five ROZs and two Brownfield Renewal Authorities:

- **Spokane ROZ (2015):** *Hillyard Industrial Area Redevelopment Opportunity Zone*, comprised of four parcels representing about 10 acres in total. All properties within the zone are owned by the City of Spokane.
- **Spokane Brownfield Authority (2015):** *Hillyard Industrial Area Brownfield Renewal Authority*, contained within the larger Northeast Public Development Authority.
- **Bellingham ROZ (2016):** *Bellingham Waterfront Redevelopment Opportunity Zone*, comprised of ten parcels representing about 20 acres. Properties within the zone are owned either by the City of Bellingham or the Port of Bellingham.
- **Spokane ROZ (2016):** *Riverfront Park Brownfield Redevelopment Opportunity Zone*, comprised of 24 parcels representing about 100 acres in total. All properties within the zone are owned by the City of Spokane or the Spokane Parks Board.
- **Spokane Brownfield Authority (2016):** *Riverfront Park Brownfield Renewal Authority*, developed for the purpose of guiding and implementing the cleanup and redevelopment of the properties within the Riverfront Park ROZ.
- **Seattle ROZ (2017):** *Mount Baker McClellan Street Redevelopment Opportunity Zone*, comprised of five parcels representing approximately one-half acre in the Mount Baker neighborhood.
- **Seattle ROZ (2018):** *Grand Street Commons Redevelopment Opportunity Zone*, comprised of 16 parcels representing approximately 3.2 acres in the Mount Baker/North Rainier neighborhood.

Ecology's next steps

To date—eight years after the passage of amendments to MTCA which created the Brownfield Redevelopment Trust Fund tool—no accounts have been established. Ecology identified several possible reasons for this, which we outlined in the report, *Redevelopment Opportunity Zones and Brownfield Redevelopment Trust Fund Accounts in Washington State: 2013-2017*, publication no. 18-09-048, available at <https://apps.ecology.wa.gov/publications/SummaryPages/1809048.html>.

One of the main problems the BRTF Account was trying to solve was local governments' reluctance to initiate and commit local funding for cleanup projects without some assurance that the state will fund its share of the costs and that state funds will be available when needed during the project. This is a particular concern for high-cost, multi-biennial projects. Concerns were heightened in years past due to MTCA revenue volatility and shortfalls.

The BRTF Account, as originally conceived, was intended to address these concerns by creating an actual trust fund where the state could set aside upfront its cost share for a multi-biennial cleanup project. The thinking was that the Legislature would appropriate and transfer funds from what is now the MTCA Capital Account into a site-specific trust fund, a BRTF Account. Local governments could also deposit their own funds into the Account. Once deposited in the Account, the funds would not be subject to further legislative appropriation. Ecology would disburse funds for eligible work as needed during the project. However, the BRTF Account, as passed by the Legislature, did not end up as a trust fund.

There have been changes to mitigate the problems the BRFT Account did not solve.

- In 2019, the Legislature amended MTCA to stabilize and increase revenue to better meet the demands on the MTCA accounts, including cleanup funding for local governments (ESSB [5993](#)). This is expected to mitigate concerns to some extent.
- In 2013, in the same legislation that created the BRTF Account (2E2SSB [5296](#)), the Legislature authorized Ecology to enter into "extended grant agreements" with local governments for cleanup projects extending over multiple biennia and costing more than \$20 million (see RCW [70A.305.190](#)(4)(a)(i) and (5)(a)). Such agreements have a higher funding priority, but do not provide long-term funding guarantees like a trust fund. So local governments still have concerns. Because of those concerns and past MTCA revenue volatility and shortfalls, Ecology has not entered into any such agreements.
- In the 2021-23 biennial capital budget, the Legislature directed Ecology to work with the Port of Everett to develop an extended grant agreement for the Weyerhaeuser Mill A project (SHB [1080](#), Section 3082). In response to the 2021-23 proviso, Ecology is negotiating our first extended grant agreement with the Port of Everett. As Ecology prepares to enter this agreement, we must consider its impact to all local governments with cleanup obligations. Many have small projects that will not qualify for an extended grant agreement and the highest funding priority. Ecology recognizes there is a balance to strike between certainty for the large projects wanting funding guarantees and opportunity for any local government cleanup project regardless of its size.

Ecology will continue to work with local governments on approaches to clean up contaminated sites with redevelopment potential. Subsequent reports to the Legislature may highlight what budgetary, statutory, or regulatory changes might be needed.

If you have any questions, please contact me at (360) 407-7177, Brock.Milliern@ecy.wa.gov.

Sincerely,



Brock Milliern, Program Manager
Toxics Cleanup Program

Director Schumacher, and Members of the Washington State House of Representatives and State Senate

October 28, 2021

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Attachment

RCW 70A.305.140

Brownfield redevelopment trust fund account—Created—Report to the office of financial management and the legislature—Rules.

- (1) The brownfield redevelopment trust fund account is created in the state treasury. All receipts from the sources identified in subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as identified in subsection (4) of this section.
- (2) The following receipts must be deposited into the brownfield redevelopment trust fund account:
 - (a) Moneys appropriated by the legislature to the account for a specific redevelopment opportunity zone established under RCW 70A.305.150 or a specific brownfield renewal authority established under RCW 70A.305.160;
 - (b) Moneys voluntarily deposited in the account for a specific redevelopment opportunity zone or a specific brownfield renewal authority; and
 - (c) Receipts from settlements or court orders that direct payment to the account for a specific redevelopment opportunity zone to resolve a person's liability or potential liability under this chapter.
- (3) If a settlement or court order does not direct payment of receipts described in subsection (2)(c) of this section into the brownfield redevelopment trust fund account, then the receipts from any payment to the state must be deposited into the model toxics control capital account established under RCW 70A.305.190.
- (4) Expenditures from the brownfield redevelopment trust fund account may only be used for the purposes of remediation and cleanup at the specific redevelopment opportunity zone or specific brownfield renewal authority for which the moneys were deposited in the account.
- (5) The department shall track moneys received, interest earned, and moneys expended separately for each facility.
- (6) The account must retain its interest earnings in accordance with RCW 43.84.092.
- (7) The local government designating the redevelopment opportunity zone under RCW 70A.305.150 or the associated brownfield renewal authority created under RCW 70A.305.160 must be the beneficiary of the deposited moneys.
- (8) All expenditures must be used to conduct remediation and cleanup consistent with a plan for the remediation and cleanup of the properties or facilities approved by the department under this chapter. All expenditures must meet the eligibility requirements for the use by local governments under the rules for remedial action grants adopted by the department under this chapter, including requirements for the expenditure of nonstate match funding.
- (9) Beginning October 31, 2015, the department must provide a biennial report to the office of financial management and the legislature regarding the activity for each specific redevelopment opportunity zone or specific brownfield renewal authority for which specific legislative appropriation was provided in the previous two fiscal years.

- (10) After the department determines that all remedial actions within the redevelopment opportunity zone identified in the plan approved under subsection (8) of this section are completed, including payment of all cost reasonably attributable to the remedial actions and cleanup, any remaining moneys must be transferred to the model toxics control capital account established under RCW 70A.305.190.
- (11) If the department determines that substantial progress has not been made on the plan approved under subsection (8) of this section for a redevelopment opportunity zone or specific brownfield renewal authority for which moneys were deposited in the account within six years, or that the brownfield renewal authority is no longer a viable entity, then all remaining moneys must be transferred to the model toxics control operating account established under RCW 70A.305.180.
- (12) The department is authorized to adopt rules to implement this section.