

# Working Redevelopment and Reuse Into the Superfund Process



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# Solar System of Contaminated Properties



**6,400 RCRA Sites**



**40,000 Superfund sites  
(removal & remedial)**



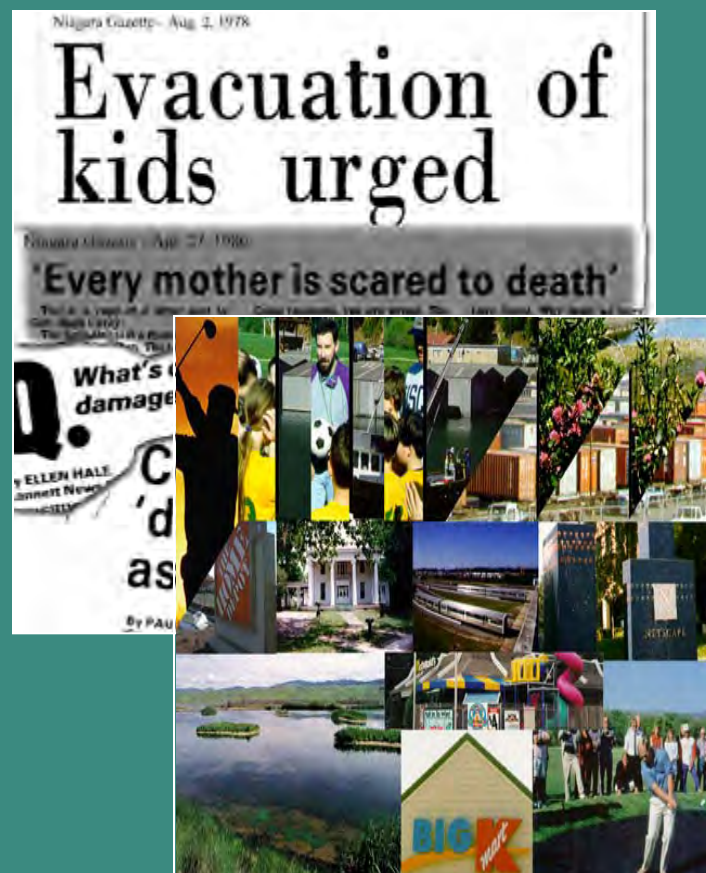
**100,000 - 200,000  
Und. Storage Tanks  
(abandoned)**



**450,000 - 600,000  
Brownfields**

# Evolution of the Focus on Reuse

- Love Canal and the passage of CERCLA
- SARA
- Reforms
- Superfund Redevelopment Initiative
- The Land Revitalization Action Agenda
- Performance measures



# Why consider reuse?

- Helps Protect Human Health
- Protects Site Remedies
- Engages Local Communities
- Brings Environmental and Social Benefits
- Provides Local Benefits



# FITTING REUSE INTO THE CLEANUP PIPELINE

Stage 1: Developing Remedial Action Objectives

Camilla, GA Case Study

Stage 2: Remedy Selection

Stage 3: Remedy Implementation

Woolfolk Chemical Works Fort Valley, Georgia

Stage 4: Long Term Stewardship

Pepper Steel & Alloy Inc. Medley, Florida

# Stage 1: Developing Remedial Action Objectives

Remedial Investigation and Feasibility Study

# How does EPA consider reuse here?

- Discuss RAFLUs with local land use planning authorities, state, officials, property owner and the public
- 1995 Land Use Directive: Understand the RAFLU



“Remedial action objectives provide the foundation upon which remedial cleanup alternatives are developed. In general, remedial action objectives should be developed in order to develop alternatives that would achieve cleanup levels associated with the reasonably anticipated future land use over as much of the site as possible.”

**What can I do to understand what  
the reasonably anticipated land use  
is going to be?**



# Perform a reuse assessment

Use EPA's Guidance, "Reuse Assessments: A Tool for Implementing the Land Use Directive" to gather information you can use about future land use that will inform the baseline risk assessment, RAOs, and subsequent response actions.

# What does a reuse assessment do?

- Identifies broad categories of reuse
- Supports remedy selection in the ROD
- Should reflect what we know about a site
- Explains EPA's current level of understanding and certainty relating to future use
- Describes data elements needing clarification to better anticipate the RAFLU

<http://www.epa.gov/superfund/community/relocation/reusefinal.pdf>



Residential



Ecological



Commercial



Recreational

# EPA's Role in Reuse Assessment:

- Provide oversight of the party conducting the reuse assessment
- Ensure reasonable assumptions are made regarding future land uses
- Coordinate with the State
- Create an inclusive process that involves all relevant stakeholders, including the State

## State Role:

- State responsible for long-term O&M
- State may end up owning the property, giving it direct interest in reuse outcomes
- States are interested in ICs, which may be affected by reuse considerations
- State ARARs may affect reuse
- State agencies involved

# Who are the Stakeholders?

- Site Owner
- Developer
- Potentially Responsible Party (PRP)
- State, Local or Tribal Government
- Community Members
- Community Advisory Group (CAG)
- Any group with vested interest in the site



# Stakeholder Role:

- Involving stakeholders can produce a more successful remedy selection
- Stakeholders can provide betterment/enhancement
- Stakeholders can offer future support of reuse
- Stakeholders can ensure long-term protectiveness

# Use a reuse plan to inform your reuse assessment

A reuse plan can provide information about the future use of the site that may be more specific than what EPA could determine, or provide information about end uses that have a broader acceptance in the community



# Reuse Assessments vs. Reuse Planning

<b>Reuse Assessment</b>	<b>Reuse Planning</b>
<ul style="list-style-type: none"><li>• Part of the remedial process</li><li>• EPA-managed process</li><li>• Pre-ROD focus</li><li>• Identifies broad potential categories of use at a site</li><li>• End result: documentation of reasonably anticipated future land uses</li></ul>	<ul style="list-style-type: none"><li>• Voluntary process</li><li>• Community-based process</li><li>• Pre-ROD focus</li><li>• Identifies a footprint for specific land uses for particular portions of a site</li><li>• End result: site reuse plan</li></ul>



# Talk to Your Community Involvement Coordinator

Learn about any environmental justice concerns, understand what efforts have been made to reach out to the community about future uses of the site, and think about next steps for reaching out to the community

# Investigate available local resources with respect to ICs

ICs are a critical component of the remedy and long term protection. Appropriate and implementable ICs can either greatly support or become a significant barrier to future reuse.

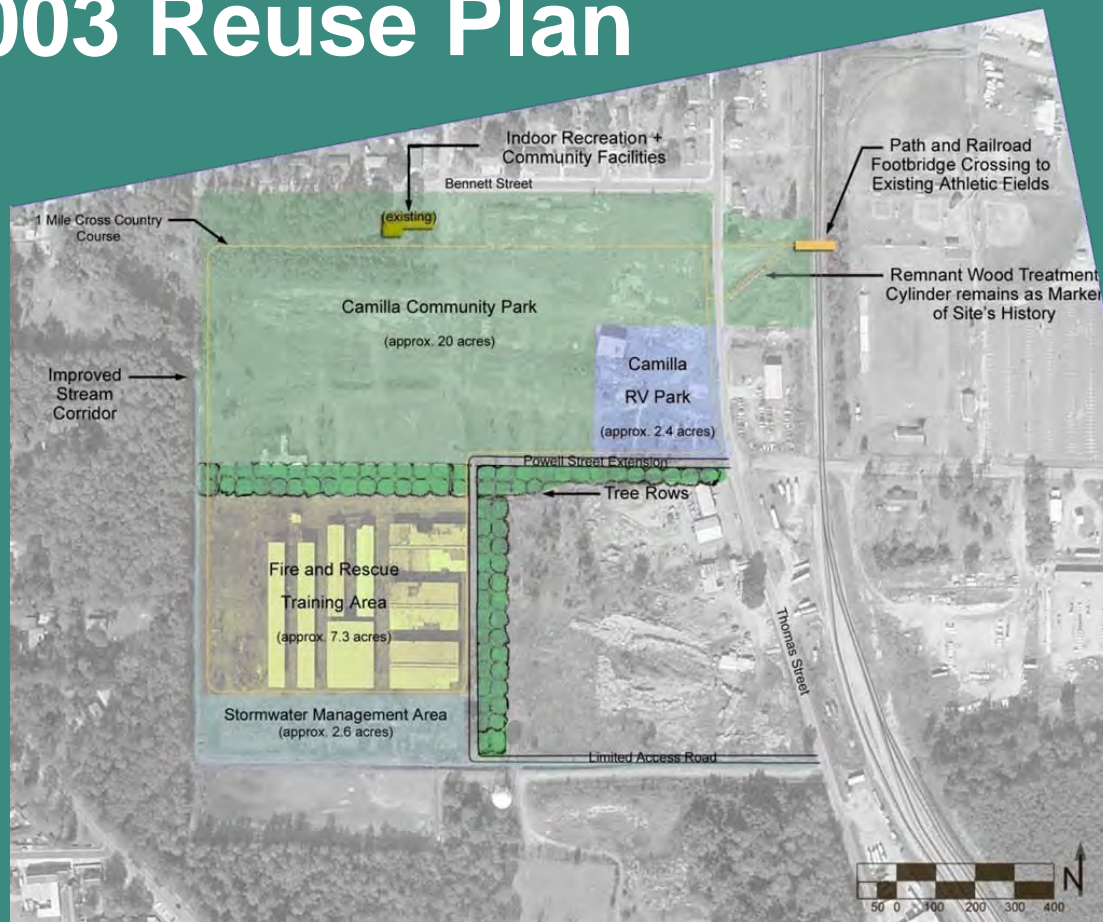
# Camilla Wood Preserving Company Site Region 4 Camilla, Georgia



# Camilla Wood Preserving Company Site: *2002-2003 Reuse Planning Process*



# Camilla Wood Preserving Company Site: 2003 Reuse Plan



# Camilla Wood Preserving Company Site: 2006-2007 Activities



# Camilla Wood Preserving Company Site: 2006-2007 Activities



# Camilla Wood Preserving Company Site: 2008 Site Reuse





# Stage 2: Remedy Selection

## Record of Decision (ROD)

# How should the future use be considered in the ROD?

- **Make sure ROD supports RAFLU**
- Identify outcomes of selected remedy- including available uses of land upon achieving cleanup levels and timeframe
- Acknowledge need for ICs but remain open for more appropriate options
- Keep interested parties aware of timeframe

## **Decisions here matter!!**

Remedy selection decisions determine the size of the area that can be returned to productive use and the particular types of use that will be possible following remediation

# Stage 3: Remedy Implementation

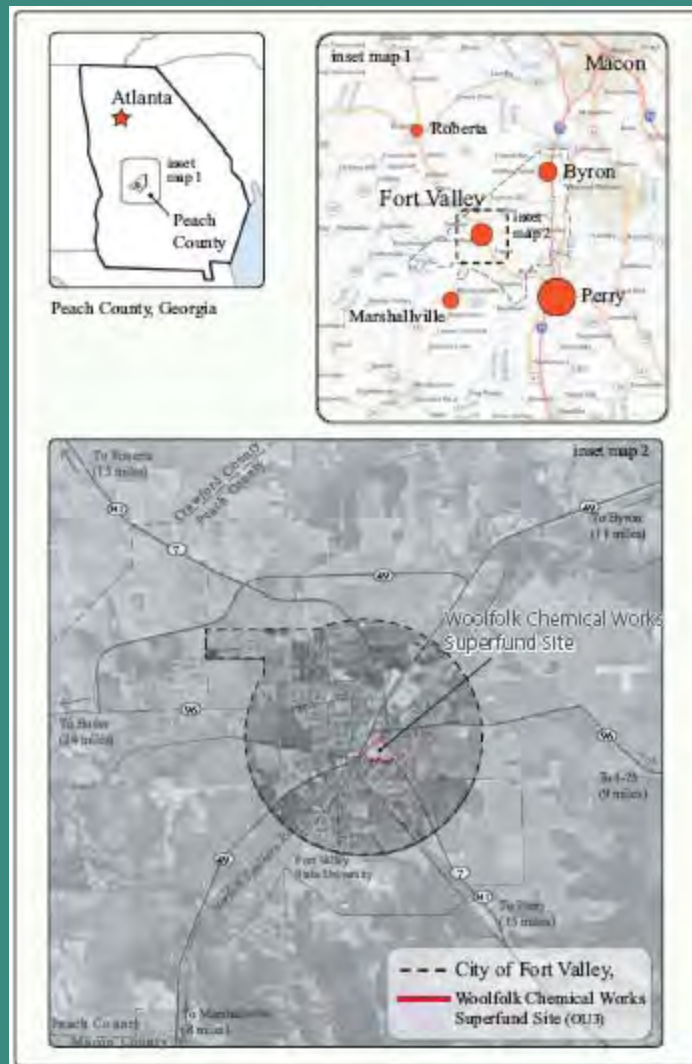
Remedial Design and Remedial Action

# How should you consider reuse during remedial design?

- Remedial Design
  - Ensure RD is consistent with RAFLU where practical; if no reuse plan make sure barriers are minimal
- Remedial action
  - To extent practicable, align cleanup activities with reuse plan
  - Coordinate activities with developer and local government
  - Make sure health and safety issues are addressed
  - Look at ways to accelerate process to facilitate reuse
  - Conduct evaluations to determine whether all or a portion of site is ready for reuse and report the acres

# Woolfolk Chemical Works Region 4 Fort Valley, GA

- **Size:** 31 acres: 18-acre former WCW site 13-acres residential and commercial areas
- **Former Use:** pesticide production, formulation, packaging & blending plant from 1910-1999.
- **Contamination OU 3:** Arsenic Media affected: *Soils, buildings, contaminated media in capped area*
- **Reuse:** OU3



# Woolfolk Chemical Works Region 4 Fort Valley, GA

## Site Remedy:

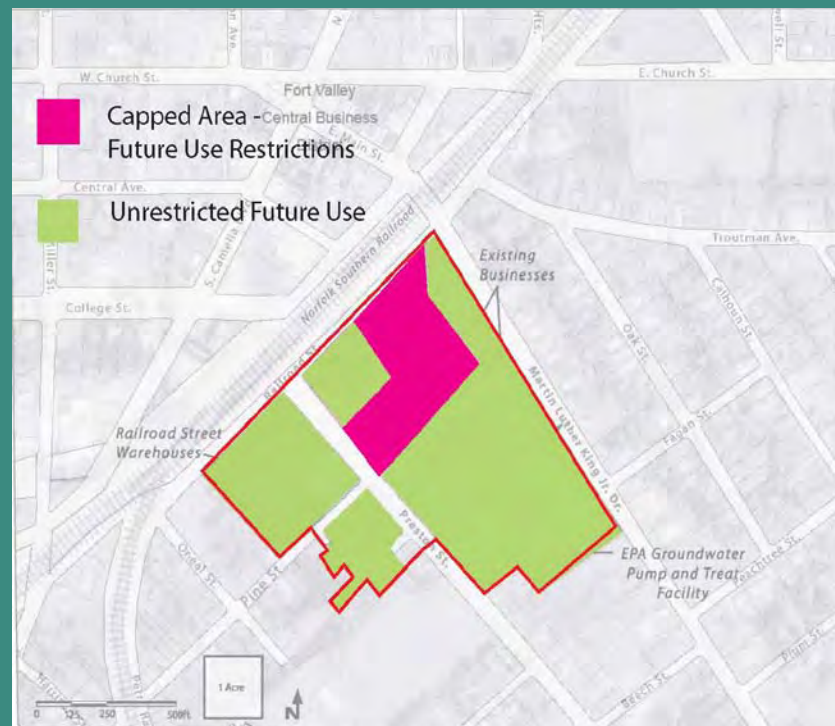
- Remedy for OU 3: addresses the following components of the site
  - Arsenic contaminated soils and contaminated buildings and debris at the former Woolfolk plant site
  - Contaminated materials consolidated in a four-acre capped area
- The ROD for OU 3 was signed in 1998. A 2004 ROD amendment addressed changes in ARARs for arsenic soils
- The remedial action is underway with completion of cleanup expected by 2009



# Woolfolk Chemical Works Region 4 Fort Valley, GA

## Reuse in the Remedial Process: Shared Learning through Site and Community Analysis

- Remedial Action Objectives for OU 3
- Community Goals for the Woolfolk Site
- Land Use Analysis
- Site Analysis
- Future land use framework and long-term stewardship strategy for the site



# Woolfolk Chemical Works Region 4 Fort Valley, GA



## Community Involvement:

- Woolfolk Site Reuse Planning Committee built on the capacity of existing community groups
  - Woolfolk Citizens' Response Group (TAG)
  - Woolfolk Alliance
  - Charles King, RPM, EPA Region 4
  - John Stumbo, Mayor, Ft. Valley, GA
- Nine-Month Process (June 2006 – Feb 2007)
  - Three RPC Meetings
  - One Public Forum



# Woolfolk Chemical Works Region 4 Fort Valley, GA

## Key Outcomes of the Reuse Framework

- Future land use considerations for restricted use area to support cleanup
- Range of future land uses for Woolfolk site to support multiple community goals
- Long-Term Stewardship
  - Ownership scenarios for vacant properties
  - Potential for municipal acquisition
  - Institutional Controls
  - Linking the site to the surrounding community



# Next Steps

- Remedial construction completion expected in 2009
- On-going community outreach and coordination through Woolfolk Alliance / Woolfolk Citizens' Response Group
- Fort Valley's Woolfolk Redevelopment Group



# Stage 4: Long Term Stewardship and Conducting O&M

# How does reuse play into long term stewardship?

- Institutional Controls
- Five-Year Review and Remedy Protectiveness
- Post Construction Completion



# Pepper Steel & Alloys, Inc. Region 4 Medley, FL

- **Size:** 25-acre site
- **Former Use:**
  - Occupied by several different businesses (all industrial)
  - Businesses in operation from 1960s-1980s
  - Listed on NPL in 1984
- **Contamination:** PCBs in oil and some heavy metals in soil



# Pepper Steel Remediation

- PRP-lead (Florida Power & Light and several private property owners)
- Excavation and removal of highly contaminated soils
- Solidifying remaining soils in cement in on-site 11-acre monolith
- Remediation completed in 1989



## Pepper Steel 1989-2002

- Site vacant
- Extensive dumping of debris
- Overgrown with vegetation



## Pepper Steel 2002-2007

- 2002 Five-Year Review was trigger for change
- O&M Plan partially implemented
- ICs revisited
- Reuse began in 2005



# Current Efforts to Support O&M

- Plans and construction are underway on improved drainage systems for the Site
- Debris is being sorted and removed
- EPA is working with site owners and users to implement appropriate ICs





# Reuse Strategies



# What is a PPI Call?

- The PPI Service provides information about specific sites including cleanup status, liability protection/limitation and lien issues, and answers questions about the coordination of cleanup and redevelopment activities at current or former Superfund sites.

# “Prospective Purchaser Inquiry Call”

**Purpose:** service that offers the prospective purchaser (PP) fast, accurate, and comprehensive information to enable the PP to make a timely business decision on whether to purchase or not.

**Benefits:**

- one-stop shopping for information
- access to all of EPA’s revitalization tools
- creates informed PPs that don’t impede cleanup or exacerbate conditions

# STEP 1: Organize the (PPI) Reuse Team

Key Staff on the (PPI) Reuse Team may include:

- RPMs
- OSCs
- Site attorneys
- Risk assessors
- SRI coordinator
- Regional managers
- CICs



## STEP 2: Reuse (PPI) Team Meets Before the Call

The Reuse (PPI) Team meets before the call in order to:

- Share information about the site
  - Site status
  - Future anticipated actions
  - Current and future property restrictions or engineered controls
  - Status of any liens
- Develop a strategy for the call

## STEP 3: The Call or Meeting

- Have a conference call or face-to-face meeting with the Prospective Purchaser
- Prospective Purchaser’s “team” might include:
  - Lender
  - Investor
  - Local government
  - PRP
- Other participants might include:
  - State Agencies
  - Site Owners
  - Communities
  - Special Interest Groups/EPA Partners

# STEP 4: Identify the 4 Issues Critical to a Successful Reuse Project

- 1- **Site status** and future anticipated actions, including institutional controls
- 2- **Compatibility** of proposed redevelopment with cleanup and institutional controls
- 3- **Liability issues**
- 4- **Lien issues** – Can Superfund lien and Windfall lien issues be resolved?



*EPA Region 4 supported the Anodyne Inc. site in North Miami Beach, FL, through the Region's PPI Process*

# Liability Protection: Enhancing Stakeholder Comfort

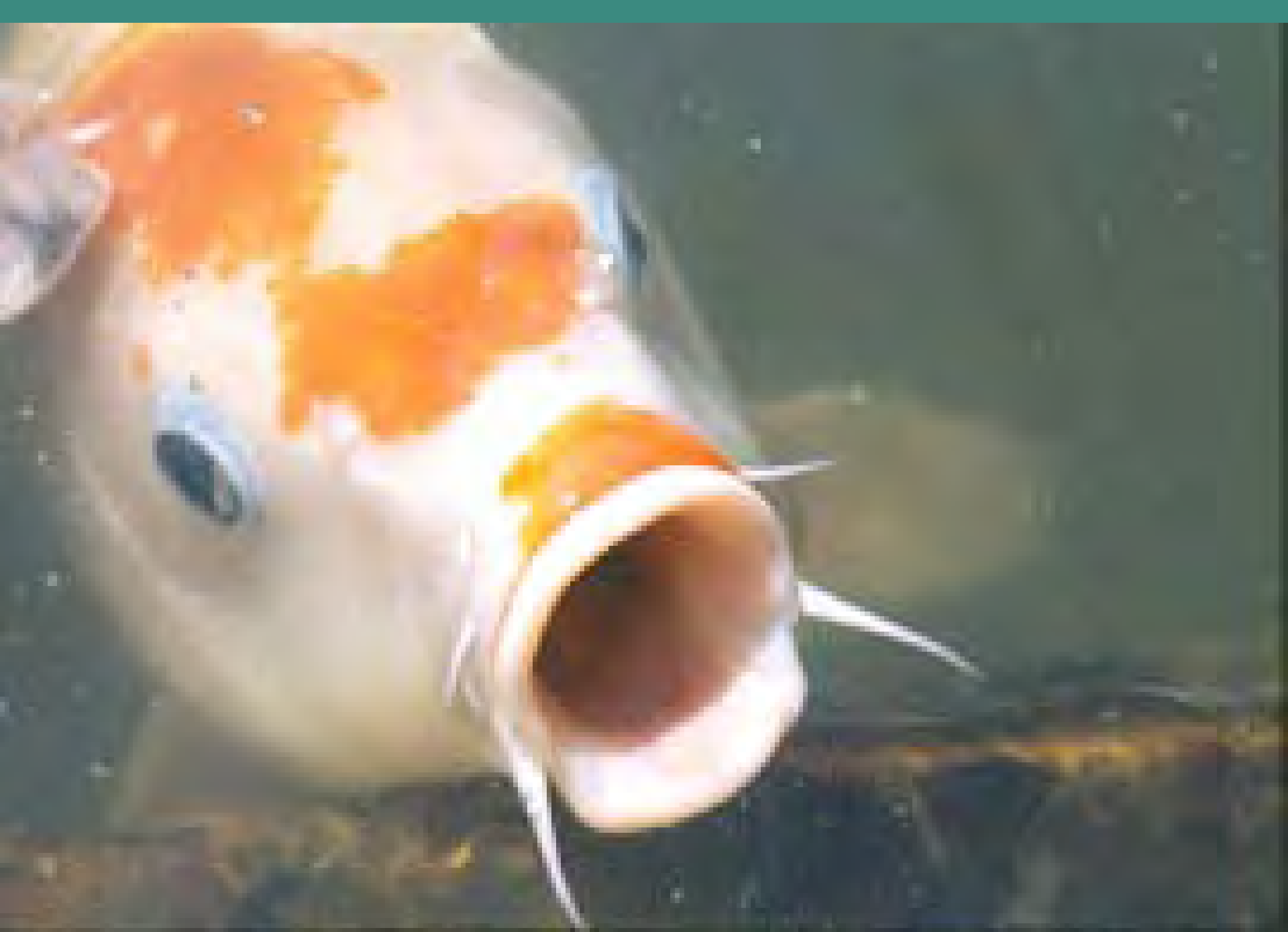
- *2002 Brownfield Amendments*
  - Bona Fide Prospective Purchaser (BFPP) provision
    - main protection for prospective purchasers
      - *achieve & maintain BFPP status*
      - *buy after 1/11/02 & satisfy 8 criteria*
    - Windfall Lien provision
      - *windfall lien only if certain conditions exist*



# Liability Protection: BFPP & Statutory Criteria

- **If a BFPP, then not liable under CERCLA 107**
  - Not a PRP or affiliated with a PRP
  - Disposal occurred before purchase
  - All appropriate inquiries about contamination
  - Provide all legally required notices
  - Take reasonable steps to prevent releases
  - Provide access, cooperation, assistance
  - Compliance w/ institutional controls & no interference with cleanup
  - Compliance with information requests/subpoenas

\*prerequisite: must acquire property after Jan. 11, 2002



# Liens can be negotiated

- Bring Site Attorney and Key Stakeholders together to negotiate liens

# STEP 5: Offer Appropriate Reuse Tools



- Assess the Situation
  - What concerns does the Prospective Purchaser have with purchasing the site?
  - What can be done to alleviate these concerns?
- Offer Appropriate Reuse Tools
  - Consider which tools might help facilitate the reuse process

# QUESTIONS?

**FOR MORE INFORMATION:**

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