Brownfields Issues for Brightfields

Forest County Potawatomi
Case Study
Brownfields Issues for Brightfields

- Superfund sites
- Landfills
- Mine scarred lands
- Site management
https://www.kcet.org/redefine/tribes-sue-over-large-solar-project-in-riverside-county
Brownfields Issues for Brightfields

- Inter-jurisdictional
- Endangered species
- Cultural resources
Forest County Potawatomi Community

• Milwaukee Bio digester and Biogas Facility
Bio digester and Biogas Facility Overview

• 2.0 megawatt bio digester and biogas facility constructed in Menomonee Valley of Milwaukee
• Operates on liquid (pumpable) food wastes, utilizing anaerobic digestion to convert the wastes into a fuel similar to natural gas
• Though pursued primarily for environmental and energy goals, generates revenue from a combination of tipping fees and electricity sold
Tribal/Private/Public Partnership

- Greenfire Management Services (owner’s rep)
- Miron Construction Co., Inc. (design-builder team also inc. Symbiont and Biothane LLC)
- Natural Systems Utilities, LLC (O & M)
- Titus Energy (pre-development work)
- Baker Tilly (financial/tax)
- DOE and Focus on Energy (grants)
- We Energies (utility/tariff)
- Various Waste Haulers/Brokers
Digester Financing Overview

- Tax Equity (through Section 1603)
- Grants
- Self Funding
- Revenue through Electricity Sales and Tipping Fees
- Funding Sources Not Pursued: Bonds, Loan Programs
FCPC Private Letter Ruling

- Private Letter Ruling 201310001
- Requested March 14, 2011
- Received December 5, 2012
- Allows Tribe to transfer tax credits directly to taxable entity through a lease of the renewable energy asset (inverted lease structure)
Private Letter Ruling, cont.

- Removes need for separate project LLC, thereby removing federal tax applicability to upfront lease payments and simplifying deal structure.
- Lease must last six years, but tribes can receive upfront lease payment based on value of tax credit.
- Did not receive in time to use for digester project.
Digester Tax Strategy

• Created FCPC Renewable Generation, LLC, to directly take advantage of tax benefits through a Section 1603 Grant
  • Grant in lieu of ITC or PTC for taxable entity
  • Taxable entity did not need tax burden to offset, so no third party tax investors required
  • Typically equal to 30% of the project’s eligible cost basis
  • Required LLC to incur expenses of at least 5% of project’s eligible costs basis prior to December 31, 2011 in order to “Safe Harbor”
Digester Grants

• United States Department of Energy Community Renewable Energy Deployment (CRED) Grant of $2.6M
  – Majority went to this project
• Energy Grant of $250,000
  – Grant from Wisconsin utilities’ statewide energy efficiency and renewable resource program