

The Role of an Agency in Setting the Policy Agenda

by

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ABSTRACT

This paper examines the impact a government agency can have on setting the political agenda for the agency's policy area. While most literature on the role of agencies in the policy process acknowledges that agencies play a role in developing policy alternatives, it generally dismisses the possibility that the agency might affect the political agenda. The subject of this research is the Environmental Protection Agency's (EPA) Brownfield Initiative from the development of the Brownfield concept in 1992 to enactment of the Small Business Liability Relief and Brownfields Revitalization Act in 2002. The Brownfield problem resulted from provisions of the 1980 Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), better known as "Superfund." Superfund is one of EPA's main pieces of enabling legislation and addresses soil contamination. It defines cleanup standards and liabilities for owners of contaminated sites. Before its revision by the 2001 legislation, Superfund discouraged prospective owners from considering redevelopment and encouraged former owners to mothball sites, which were termed "brownfields." From 1994 on, the EPA promoted a Brownfield Action Agenda to address the problem of thousands of abandoned former industrial properties. The EPA pursued grant programs, administrative remedies, regulatory changes and legislation to encourage private parties to redevelop the contaminated properties. The research evaluates whether these actions fit within expected parameters of agency behavior described by the agenda setting literature or whether they pushed the boundaries of agency involvement in the

agenda setting process. The agency appears to have succeeded in influencing the federal political agenda by defining and promoting the brownfield issue through its grant program and its impact on local press and by organizing interests that were ideologically and economically attracted to the brownfield issue. Brownfield legislation was passed and signed into law in 2001 institutionalizing the brownfield program and amending critical pieces of Superfund legislation related to the redevelopment of contaminated sites.

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LIST OF ABBREVIATIONS

ACF	Advocacy Coalition Framework: a policy making framework associated with academic Paul Sabatier.
ADEM	Alabama Department of Environmental Management: an Alabama state agency delegated by EPA to enforce federal environmental laws
Brownfield 1996-2008	A series of EPA and ICMA sponsored annual conferences starting in 1996 and entitled “Brownfield 1996,” “Brownfield 1997,” etc.
CANDO	Chicago Area Network of Community Development Organizations: an early Brownfield advocate
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act: 1980 authorizing legislation for EPA’s hazardous waste activities
CERCLIS	Comprehensive Environmental Response, Compensation and Liability Information System: a database of sites reported to be contaminated from which the National Priority List is selected
CRESP	Consortium for Risk Evaluation with Stakeholder Participation: a DOE and EPA contractor hired to monitor the Brownfield program
CSI	Common Sense Initiative: Federal Advisory Committee (FAC) established by EPA from 1995-1998.
DOE	Department of Energy: US government agency overseeing nuclear power and energy policy
EJ	Environmental Justice: a movement addressing mainly the proximity of minority communities to hazardous waste sites and pollution generators
EPA	US Environmental Protection Agency
FAC	Federal Advisory Committee: a consultative body established under FACA (below).

FACA	Federal Advisory Committee Act: 1972 designed to introduce transparency into federal advisory bodies.
Fleet Factors	<i>United States v. Fleet Factors Corp.</i> : a 1991 US Supreme Court decision
ICMA	International City/County Management Associations: a perennial sponsor of the Brownfield Conferences
IRM	Institute for Responsible Management: EPA contractor hired to evaluate the Brownfield Demonstration Pilot program
NAACP	National Association for the Advancement of Colored People: national civil rights organization
NALGEP	National Alliance of Local Government Environmental Professionals: trade association supportive of brownfield efforts
NBA	The National Brownfield Association: Brownfield practitioner trade association heavily influenced by the “transaction facilitation community ¹ ” particularly specialty developers and insurance firms
NEJAC	National Environmental Justice Advisory Council: a FAC formed by the EPA instrumental in giving shape to the Environmental Justice movement
NEMW	Northeast-Midwest Institute: a think tank funded by US Congress to study regional post-industrial problems
NLC	National League of Cities
NMED	New Mexico Environmental Department
NPL	National Priority List: the list of sites eligible for Superfund cleanup
NSF	National Science Foundation: independent agency of the US government that funds general science research
OSWER	Office of Solid Waste and Emergency Response: the division of EPA directing Superfund and Brownfield activities
PRP	Potentially Responsible Parties: an interest deemed responsible under CERCLA’s enforcement regime of joint and severe liability
SARA	Superfund Amendments and Reauthorization Act, 1986

¹ See this text, p. 57.

Superfund Funding mechanism established by CERCLA; also used to describe CERCLA
USCM US Conference of Mayors

Terms and Expressions

- Brownfield** According to the Brownfield Act, a Brownfield is “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant” (EPA, 2002).
- Brownfield Act** Public Law 107-118 (H.R. 2869): Small Business Liability Relief and Brownfields Revitalization Act
- Brownfield Action Agenda** Administrator Carol Browner’s January 1995 announcement of the EPA’s commitments to revitalize contaminated property through “Brownfield demonstration pilots; clarification of liability and cleanup issues; partnership and outreach; and job development and training” (EPA, 1995a).
- P/A Dichotomy** The politics-administration dichotomy proposes that the process of decision-making by elected officials ought to be separated from the execution of those decisions by professional administrators.
- Policy Agendas Project and Congressional Bills Project** Two related websites containing publicly accessible databases. Since the projects are supported by funds from public institutions (National Science Foundation, University of Texas at Austin, University of Washington, and Pennsylvania State University) all the databases are available to the public (Jones, Wilkerson, & Baumgartner, 2008; Adler & Wilkerson, 2004).
- Reinventing Government** The 1992 book *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* by David Osborne and Ted Gaebler inspired the incoming Clinton Administration to form the National Partnership for Reinvention. From 1993 to 2000, the reform effort set out to: “Creat[e] a government that works better and costs less by: putting customers first; cutting the red tape; empowering employees to get results, and; getting back to basics” (Gore, 1993).

INTRODUCTION

The notion that agencies, and especially their career, or non-appointed, employees, might play a significant role in setting policy agendas runs counter to Woodrow Wilson's paradigmatic conception of public administration and challenges limits noted by subsequent observers of the policy process, even as they rejected aspects of Wilson's formulation. Wilson (1997, first published 1886) prescribed that the sole task of public service was to efficiently carry out policies decided by Congress or another political sovereign. He proposed to create a public service founded on a dichotomy between politics and administration. His model required the creation of a technically proficient and professionally managed corps of officials.

Since Wilson formulated his model in "The Study of Administration" in 1886, political scientists studying the institutions so charged and so designed have noted differences between their observations and the proposed model. The modern bureaucracy seems to honor Wilson, so to speak, in the breach. Virtually every observer questions the existence, and even the possibility, of realized managerial efficiency. Contemporary literature on policy development admits a wider range of participants into the process of policy development than either Wilson or his early critics would have imagined possible. However, in the main, the literature assumes that agencies play a negligible role in setting the policy agenda.

This dissertation examines the role an agency can play in setting the agenda for its own policy concerns. Agenda setting is the process by which problems or issues are placed before the public, elected officials and agencies for the development or selection of policies (Cobb & Elder, 1983; Kingdon, 1995). The development of the agenda is not a unitary process. The issues that the public discusses are called by Roger Cobb and Charles Elder the “systemic agenda” or by John Kingdon the “problem stream.” Issues take on the order implied by the term “agenda” as they are placed on the “government” or “institutional” agenda (Cobb & Elder, 1983, pp. 85-87) for serious consideration by governmental bodies and possible resolution by legislation, regulation or court decision. Kingdon describes the list of issues that high government officials and people close to them are interested in as the “governmental agenda” and distinguishes this from the “decision agenda” of issues on which action is, or is not, to be taken (p. 4).

This research will focus on the aspect of the agenda process described by Cobb and Elder as the government agenda or by Kingdon as the decision agenda: the elevation of issues for serious consideration by Congress. A distinction between this aspect and the generation of policy alternatives is made to emphasize that most students of the process consider influencing the government agenda to be outside the power or permitted scope of the agency. Routine discussions of policy alternatives are assumed to be the work of agencies while activities that might be termed promotional and are geared toward organizing constituents to support a policy initiative are assumed either off limits to the agency or beyond its ability. This research will focus on the latter as agenda setting.

The question posed by this research deals not with the agenda process itself but rather with the cast of characters that make up that process and their respective roles.

This is a different question than whether agencies play a role in developing policy, a point conceded to one degree or another, by most contemporary researchers. It is a different question, not least, because it raises the possibility of the agency maintaining a multiplicity of relationships outside the context of that between the agency and its political sovereigns. Secondly, as opposed to group theories, in which the control of an agency by a political principal is replaced by its control by private interests (Cater, 1964; Truman, 1951), or capture theories, in which the agency's narrow interests alienate the political leadership from their appointers (Becker, 1983; Stigler, 1971; Peltzman, 1989), it raises the possibility that the agency, to a degree, manages the relationships with these parties. Third, it suggests that the agency might have policy interests that are not dictated by the maximization of organizational perquisites or "rent seeking" as suggested by Downs (1967) or Niskanen (2001). Finally, it requires that the agency itself have means to affect the agenda. The possibility that an agency could set out to place the very policies on the agenda that it will later carry out flies in the face of Wilson's paradigm, just as it confirms the worst fears of those fearful of "Big Government." Contemporary theorists reviewed here, such as Wood, Waterman, Jones, and Baumgartner are uncomfortable with this possibility; however, their theories admit the possibility to one degree or another and the narratives of their research provide much evidence of agency independence.

This paper investigates this question by examining the activities of the US Environmental Protection Agency (EPA) in carrying out what it called the Brownfields Action Agenda, a "reinvention" initiative of the first Clinton Administration. In this initiative, EPA administrators appeared to change their approach to environmental

regulation from a rule-based enforcement regime to an arguably more flexible, risk-based, regime of negotiated and specific agreements.

The Evolution of the Brownfield Issue

In 1991, Charles Bartsch of the Northeast-Midwest Institute (NEMW), a think tank focused on economic problems of urban and industrial decline, invented the brownfield concept, which champions the redevelopment of industrial sites impaired by environmental contamination (NEMW, 2006). It was among the ideas found attractive and “elevated” (Kingdon, 1995, p. 28) by the incoming Clinton Administration. Carol Browner, EPA Administrator, announced the EPA’s “Brownfield Action Agenda” in 1995, originally comprised of demonstration grants to cities, called Brownfield Demonstration Pilot Grants, rule clarifications, outreach activities and job training for cleanup workers (EPA, 1995a). Approximately eight years later, President George W. Bush signed Public Law 107-118 (H.R. 2869): the Small Business Liability Relief and Brownfields Revitalization Act.

The brownfield issue provides a discrete episode through which to examine the evolution of a policy -- from the recognition by a variety of constituents of a social problem and its definition as the Brownfield Problem, through its development as an issue or set of policy alternatives by policy entrepreneurs, to the enactment of policy through legislation and to a degree, the institutionalization of the program and an entire industry that operates under its rules.

While seemingly matter of fact and pragmatic, the Brownfield Initiative was propelled by intense conflicts within the EPA, between the EPA and its stakeholders and

among the stakeholders themselves. These parties included, among others: businesses that contaminated the properties; new firms that wanted to reuse them; trade associations that represented both sets of businesses; municipalities eager for new development and their associations, such as the National League of Cities (NLC) and the US Conference of Mayors (USCM); communities reacting to threats of greater contamination; and advocates of various related issues, especially environmental advocacy organizations, notably the Sierra Club and the then emerging “environmental justice” movement, but also a variety of urban advocates of diverse approaches from the conservative Manhattan Institute to a multitude of local community development organizations. Scientific and technical professionals and their associations were also an important constituency with considerable stake in the outcome of legislation and regulations.

Brownfield Background

The provisions of the 1980 Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund created a complex web of liabilities and a presumption of high costs of cleanup to pristine standards. Although the Superfund created a tax supported cleanup fund, the law placed first responsibility for paying for cleanup on all parties in the historical chain of ownership of the contaminated property, regardless of their involvement in the original contamination. Upon its designation of a site for cleanup, the EPA would charge each of the current and former owners for the full cost of cleanup under an “equal and several” provision. The “Potentially Responsible Parties” or PRP’s would have to work out, usually through expensive legal maneuvering, their respective shares of the cost.

Wrangling among parties was exacerbated by the huge cleanup costs resulting from the mandate to restore the site to virtually pristine condition. This proved to be very costly, not least because of the increased expenses of disposing of the hazardous wastes carted off the site to specially constructed landfills. The costs of Superfund cleanups were so great and the wrangling so intense that by 1995, some 20 years after the passage of Superfund, as few as eight sites had been cleaned up.

Triggering Event

In 1990 the US Eleventh Circuit Court ruled that a financial company, Fleet Factors Corp., could be held liable for contamination on a site that took place while the operating company was in bankruptcy and Fleet Factors was involved in its management as a major creditor. This ruling caused “shock waves” throughout the financial industry (Bartsch, Collaton, & Pepper, 1996). Banks basically stopped lending on any properties that might be thought contaminated, which included almost all urban lands, because they might be held liable for any environmental problem associated with the property. Mayors of former industrial cities, already beset by declining economies and often pleading with banks to expand investment in their inner cities, reacted strongly.

The brownfield problem was twofold: on the one hand, the legacy of contaminated industrial sites presented risks and costs that had negative effects on many communities. Even without EPA regulation, it is likely that outrageous actions of some firms would have created some risk of liability for the owners of contaminated properties. The existence of these contaminated sites and the glacial pace of efforts to clean them up constituted a “real world” problem that affected communities, businesses and local

governments. On the other hand, the Brownfield problem was a creation of a peculiar regulatory regime that encouraged firms to ignore and conceal rather than correct problems and to shift rather than accept blame. The Superfund had become a stand-off, in which the regulators refused to soften their stance and property owners refused to cooperate. By the 1990's, this policy problem was widely recognized by virtually all EPA stakeholders and had entered the political discussion, if not the agenda, in a low level wrangling over Superfund reauthorization (Nakamura & Church, 2000).

The Brownfield Action Agenda addressed a class of sites that were economically attractive provided the costs of cleanup could be minimized. The promise that a pragmatic cleanup standard would result in a quicker pace of cleanup was a powerful argument for the program, although it was problematic from the standpoint of the environmental movement.

The EPA proposed "risk based" clean-up standards that would vary according to the risks posed by the proposed use. For example, the paradigm of the extreme cleanup was represented by reuse of the contaminated industrial site as a playground, necessitating a clean-up to virtually pristine condition. If the proposed use was, instead, a commercial building surrounded by a paved parking lot, the brownfield approach suggested a less stringent cleanup standard, in accordance with the expected reduced risk of human contact.

Friends and Foes

The Brownfield Initiative brought forth proponents and opponents. Among the first to develop the issue and among its most politically powerful advocates were urban

elected officials and organizations representing them, such as the International City/County Management Associations (ICMA), National League of Cities (NLC), Association of Black Public Administrators, and the US Conference of Mayors (USCM). They often received strong support from their Congressional delegations. City administrators and elected officials, especially those from industrial cities, hoped that brownfield redevelopment would revitalize their tax base and enhance employment. Those from rapidly growing cities, like Atlanta or Seattle, saw major commercial potential in old ports or industrial plants. City governments responded both to the interests of businesses and to the often minority neighborhoods that surrounded them. Organizations representing local governments, and particularly the ICMA, remain the EPA's most visible partners in promoting the brownfield program, even as it evolved following the passage of legislation.

Perhaps the most directly affected were the owners of contaminated sites. Surprisingly, they were not uniformly enthusiastic about the Initiative. The extreme difficulty of a Superfund cleanup had created among many owners a reasonable expectation that if they could keep their contaminated site out of the public eye, they could avoid cleanup costs and incur only modest expenses of managing the site and public perceptions of it. This strategy was frequently undermined by business changes such as bankruptcies and buyouts, real estate pressures and public attention brought to the site by cities looking for development sites, neighborhoods near the site and environmental advocates.

Industry groups, such as the American Iron and Steel Institute (AISI) were generally positive about the Brownfield Initiative, although their version was often quite

different than the EPA's. One recurring difference was industry's proposal for the end of strict environmental liability for brownfield participants and for a form of retroactive "absolution" for environmental liability.

On the opposite pole of interest, environmental advocacy groups were skeptical, at best, about the proposal to create relaxed cleanup standards. The Sierra Club in 1996 embraced the high standards of the Superfund and essentially ignored the implications of the glacial pace of cleanup under that program at that time. In contrast to the industry view, and typical of environmental interests, the Sierra Club placed great stock on the strict and permanent liabilities under the Superfund (Sierra Club, 1996). Environmental advocacy organizations have always been a major constituency of the EPA with the groups having a strong influence inside the agency. Many mainline organizations were routinely involved in the policy forums convened by the EPA.

The period generally coinciding with the development of the brownfield concept also saw the emergence of Environmental Justice (EJ) as a major concern. EJ advocates originally focused on the proximity of waste sites to minority communities because of the health hazards associated with those sites. They came to play an important, but complex, role in the development of brownfield policy. While hard line environmentalists sometimes enlisted EJ advocates in their efforts to oppose any "weakening" of standards, the development of the EJ agenda also challenged many of the practices of the environmental movement such as its emphasis on rural and suburban issues, aesthetics at the expense of economics and its overwhelmingly white and middle class constituency. EJ functioned, in some ways, as a counterweight to the environmentalists; simultaneously

with the development of the Brownfield initiative, the EPA encouraged the development of EJ organizations by local civil rights and community organizations.

Finally, the Brownfield Initiative became the focus of a cluster of professional, real estate, and financial firms that performed site remediation services. These included geo-technical consulting firms, real estate developers, banks, and insurance companies that specialized in aspects of redevelopment. Some of the major firms formed a trade association, the National Brownfield Association (NBA), which conducts educational and promotional activities around the brownfield issue, focusing on techniques for remediation and success stories.

Brownfields were never a major issue on the level of Civil Rights, the War on Terror, or, for that matter, the environmental battles that led to the troublesome legislation that brownfields attempted to ameliorate. They were, however, of sufficient interest to enough organized interests that a significant record of opinion, actions and government response exist to study the development of the issue. From a distinct origin in the early 1990s to legislation in the early 2000s, brownfields evolved from a problem to an issue, then to an informal program and finally to the law of the land. The EPA has recorded thoroughly its official role, and many informants will provide depth to their official statements.

Government Failure

The wide range of participants in this policy discussion suggests that the brownfield issue had an ideological element. The prototypical Superfund site was the infamous “Love Canal,” a Buffalo, New York site poisoned by thousands of buried

drums of toxic wastes upon which a housing subdivision and schools were constructed to horrible consequences (Beck, 1979). The scandal associated with this site was the impetus for passage of the Superfund legislation. Prevailing thinking of the day called for the restoration of sites designated for Superfund cleanup to virtually pristine conditions. The rhetoric of the proponents of the legislation and the resulting cleanup standards had a decidedly anti-corporate character; on the other side, extreme statements and intransigence characterized industries' early opposition to Superfund.

Twenty years after its passage, only a handful of sites, eight by one reckoning, had been cleaned up. Brownfields came to be regarded by virtually all parties as a negative but unintended consequence of Superfund. In this respect the brownfield problem was created by a "government failure" (Grafton & Permaloff, 2001, p. 214; Weimer & Vining, 1999). The brownfield program was based on the acceptance of this definition of the problem by the Clinton Administration, many interests within the EPA and many of the EPA's traditional stakeholders. This, together with industries' adoption of a more pro-environmental stance, created conditions for a degree of ideological consensus, making the brownfield issue a small sample of the broader liberal-conservative consensus on environmental issues noted by Grafton and Permaloff (2001). However, within the theoretical consensus about the desirability and possibility of resolution, many particular battles were fought and the apparent ideological consensus appeared at times to mean in practice little more than arguing in the same room. It is that feature that makes the brownfield issue one which can be used to examine the conflict, rather than the harmony, inherent in the environmental consensus.

Selling the Brownfield Idea

The EPA employed a wide range of techniques in its reinvention initiative: rule making; legal rulings; demonstration grants; consulting contracts; conferences; advisory bodies, especially the establishment of a Federal Advisory Committee (FAC), the Common Sense Initiative; negotiations with state agencies, industry groups and individual businesses. The EPA involved a wide range of stakeholders, or external interests, in promoting the effort. On the surface, at least, these are not the actions of an agency awaiting direction but rather one that looks like a policy maker, if not an agenda setter. The following research will focus on three constituent oriented components of the EPA's efforts: the Brownfield Demonstration Pilot Grant Program, the Common Sense Initiative and the annual EPA/ICMA Brownfield Conferences.

If agency administrators were simply following the dictates of the Clinton Administration transmitted through its appointed agency head, their actions would fall into a traditional principal-agent framework. However, both appointed leadership and career staff consciously, even self-consciously, promoted this change. Nor was EPA staff of one mind on the program or its implementation. They reflected the range of views of EPA constituents. The role of staff and the strategic involvement of stakeholders are at the heart of this research.

The brownfield concept originated in local efforts and quickly became a national issue due to the Clinton Administration's interest in the concept and because of the abovementioned aspect of government failure: it was the federal regulatory regime that, in part, caused the problem. The EPA was actively involved in promoting state brownfield programs. Federalism allowed the EPA to delegate considerable enforcement

authority to the states, most of which had developed state regulatory agencies that mirrored the EPA, such as the Alabama Department of Environmental Management (ADEM). Soon after Congress passed the Brownfield legislation, forty-nine states had already passed versions of the legislation under EPA guidance (EPA, 2005a, pp. 145-148). If the EPA deemed the state program compatible with its approach, it could delegate to the state the power to approve any remediation plan for a non-Superfund site, without further EPA review.

Was the EPA's promotion of the Brownfield Action Agenda an effective attempt to place an issue on the federal policy agenda and to move toward enactment of that policy through legislation and/or significant regulatory reform? Or was the effort a strategic attempt to preserve the agency's operating mode under the existing legislation? These questions are the basis of the hypotheses tested by the following research.

Structure of Dissertation

Following its introduction, this dissertation reviews literatures in three areas. First, it will establish that students of government agencies and agenda setting generally view the agency as a passive participant in the agenda process. This view is mainly expressed in prescriptive literature and colors other scholars' descriptions of the process. Second, it will establish that the dominant agenda theorists exclude agencies from the agenda process, following the prescriptive passive agency model. In this section, special attention will be paid to the work of the Jones and Baumgartner who provide a model for testing the relationship between various factors in the agenda setting process (Jones &

Baumgartner, 2005). The literature review will conclude with a summary of scholarly attention to the brownfield issue as a policy process, as opposed to its merits as a policy.

A description of the methodology of the research follows the literature review. This dissertation combines qualitative and quantitative methods. It defines issues through the use of a case study and tests resulting hypotheses using a quasi-experimental method. The case study is used to develop hypotheses and identify variables; the experimental method is used to test the hypotheses. Linking the two methods are three databases that, while assembled from public records, are unique to this research.

The results of the research will follow the description of methodology. This section will summarize the development of brownfields from a concept to a program, an evolution that takes place both within and outside of the EPA. This development identifies several critical factors that have a bearing on the subsequent discussion of the impact of the agency's actions on the political agenda. First, the history identifies the problem that is at the root of the brownfield issue. Second, it identifies the parties and interests that are affected by the issue and subsequently are stakeholders and constituents. Third, it provides some insight into the political context in which the EPA found itself, especially with regard to the Superfund program. The case study will conclude with the development and announcement of the EPA's "Brownfield Action Agenda," which marks the beginning of the actions of the agency as such, rather than various individuals within it.

The remainder of the results chapter analyzes the impact of the Brownfield Action Agenda. The impact of the grant program, because its activities lend themselves to the creation of a substantial time series, geographically coded database, is subjected to a

quantitative analysis. A measure of agency activity is added to the Policy Agenda Project model of Congressional-public issue congruence and found to have an impact, through the press, on the attention Congress pays to the brownfield issue. Two other activities undertaken by the EPA, the Common Sense Initiative and their sponsorship of a series of annual conferences, are then reviewed in light of the previous analysis. Both are seen to have potential impacts on Congress; furthering the organization of critical constituencies.

The aim of this research is not to simply choose between existing models of agenda setting; nor may a simple choice be possible. Scholars describing the agencies are, to a degree, like the blind men characterizing the elephant. One may be exploring a tusk, the other a foot while yet another contemplates the tail. Even if this research shows the EPA and its staff have acted like full-blown policy entrepreneurs (Kingdon, 1995), the Sugar Lobby may still animate an iron triangle in the Agriculture Department (Cater, 1964), while the Department of Homeland Security might be kept alive by Niskanen-ian self seeking (Niskanen, 2001) and the Interagency Council of Homelessness might be a hornet's nest of advocacy coalitions (Sabatier, 1993). Better understanding of an agency's efforts to affect the policy agenda may enrich policy students' overall picture of the bureaucratic elephant and create some avenues for further research.

LITERATURE REVIEW

This review of literature will primarily attempt to place the research question in a theoretical context and secondarily to survey the scholarship considering the broad topics of Brownfields and Superfund reform. A theme that runs through the theoretical literature is the increasing complexity of governmental decision-making. However, just as scholars recognize this trend they seem to resist admitting the agency, particularly its career staff and culture, to the agenda setting mix. It is impossible to begin the consideration of the role of agencies in any context without noting the foundation of public administration theory, if only because the prescriptions against agency activism were so clear-cut. The consideration of Wilson and his contemporaries is not, however, to make the politics-administration dichotomy (“P/A dichotomy”) a straw man, but rather to identify the root of what seems to be a systematic tendency to deny government agencies a role in agenda setting.

The Classics’ Diminution of the Agency’s Role

American political theory has a problem incorporating American bureaucracy. The US Constitution did not explicitly prescribe a role for a bureaucracy. Its authors, educated, worldly and traveled, were aware of bureaucracies in England, elsewhere in Europe and in the Orient. They might have associated bureaucracy with the despotism of the Old World. That they chose not to treat the subject, aside from allowing Congress to

create departments and offices as required to carry out their duties (US Constitution, Article I) and the president to appoint their leaders (Article II), suggests that they may have wished to not have a bureaucracy. Conversely, that they also chose not to circumscribe whatever executive organization would be created suggests that they may not have seen bureaucracy as inherently problematic or at least may have felt it could be controlled by the powers of appointment and budget. For whatever reasons, for good or ill, America today has a bureaucracy and its nature and behavior is the subject of much interest, both scholarly and popular.

Popular political culture suggests that bureaucracy is a self-acting and inexorable force. It certainly is a popular issue around which politicians may define themselves. Presidential campaigns have promised small government and more efficient problem solving. For example, a 1976 campaign flyer described candidate Jimmy Carter as a problem solver who would bring the “complicated, confused, overlapping and wasteful federal bureaucracy” under control and make it “efficient and effective” (Carter & Mondale); Ronald Reagan famously proclaimed, in his 1981 Inaugural Address that “...government is not the solution to our problem; government is the problem” (Reagan, 1981); and in his first Inaugural Address, Bill Clinton claimed that the Superfund “just increase[s] lawyers incomes” (1993) instead of cleaning up sites. He charged his Vice-President, Al Gore, with “reinventing government,” a task which led to, among other things, the subject of the current research. Clinton again solemnly proclaimed, in his 1996 State of the Union Address, “The era of big government is over” (1996), and George W. Bush campaigned against the increased government spending of the health

and education proposals of Al Gore and John Kerry (Debate, 2000; West, 2000; Debate, 2004; Sanger, 2004).

A self-professed conservative, George W. Bush was widely attacked in conservative circles as a “big government” conservative. For example, in a January 10, 2006 opinion piece, George Will suggests that the very size of government stymies the efforts of politicians to control the behemoth (Will, 2006). A Google search of “big government” conducted by the author on March 12, 2006 found 350,000,000 references. Among the first 11, only one did not address the betrayal by George Bush of conservative, small government principles.

The above are not scholarly opinions, of course. However, political scientists and students of public policy do not develop their theories in a political vacuum. They are well aware of the wellspring of popular concern about uncontrolled bureaucracy. Baumgartner and Jones describe the question “How much government?” as “...the great policy issue of the twentieth century...” (Baumgartner & Jones, 1993, p. 21)

The massive federal response to the economic crisis that unfolded from 2007 has changed somewhat the terms of this general discussion, giving heart to those supporting a permanent expansion in the role and size of the federal government. However, even a clearly expansionist administration focuses more on transparency and accountability than its predecessor, is more responsive to the constraints of the huge deficit and shows every sign of scaling back its efforts as recovery takes hold. Even the crisis response clearly takes place within the well-established biases of American politics.

In recognition of the Anglo-American tendency to constrain executive power in government, and possibly to address popular political prejudices of their day, classical

public administration theory holds that agencies should play no role in the development of general law or general plans (Gulick, 1937; Wilson W. , 1997). These are the concerns of the legislature. In seeking to establish a professional corps of public servants that would replace the unrestrained patronage system, Wilson had to avoid Americans' fears that he was establishing a Continental-style, elite bureaucracy that would be unresponsive to American needs (Wilson W. , 1997). He addressed those fears by proposing a wall between politics and administration.

Wilson was writing a proposal. His theory was prescriptive, not descriptive. This system of public administration did not exist. His conceptualization had a huge impact on the subsequent practice and theory of public administration. In the Wilsonian paradigm, the agency does not develop policy, much less set the agenda. This assumption is carried through most agenda theorists.

Since Wilson wrote, political scientists observed agencies and bureaucrats acting in the policy process. The theory of the government agency has evolved quite a way from the clear-cut verities of the "P/A Dichotomy." However, while subsequent students of public agencies had the advantage of being able to describe what they saw, they carried the burden of Wilson's formulation.

Much of the popular and scholarly critique of bureaucracy focuses on its inefficiency in carrying out the mandates of the legislature. For example, while Wilson's classic theory differs with the more theories of modern Downs(1967) or Niskanen(1971) regarding the efficacy of the organization, they do not disagree on the relative roles of the political process and the bureaucracy. Both accept a principal (or sovereign)-agent framework for looking at bureaucracy. However, in describing the actions of bureaus

and bureaucrats, Downs sees shirking and self-seeking everywhere while Wilson hoped to see discipline and leadership.

In recognizing an apparent independence in a bureau's initial "zealous" phase, Downs comes close to suggesting that an agency might attempt to impact the policy agenda (1967). But he is fundamentally committed to the principal-agent model. To the extent that the zealots exceed the real interest of Congress in their agency's mission, they are demonstrating the weak control that the principal, Congress, has over its agent, the agency. Furthermore, zealotry is only a passing phase: as the bureau progresses in its life cycle and matures, the initial impulses of formation are abstracted and turned into a self-justifying ideology as the bureau settles into permanence.

The effect of private interests on agencies also challenges the Wilsonian relationship of agency to political principal. Group literature, such as Truman (1951) or Cater (1964), suggests that agencies may be subject to private forces outside the governmental process. This strain of study is of particular importance to this research. It will explore the EPA's use of a Federal Advisory Commission or FAC, an institution usually thought to be a mechanism of private influence on public agencies.

As policy studies developed, students recognized a role for agencies in the policy process. Agency employees make street-level policy decisions (Lipsky, 1980); agencies may advocate among the public for their programs (Selznick, 1997); their experience in implementing policy sometimes informs subsequent policies (Pressman & Wildavsky, 1984; Kingdon, 1995); or their staff may actively take part in the development of policy alternatives as entrepreneurs (Sabatier & Jenkins-Smith, 1993; Kingdon, 1995).

However, Wilson's paradigm generally remains an anchor, especially with regard to that part of the policy process described as agenda setting.

Agenda Setting

Agenda setting involves the public recognition, definition and political resolution of broad policy concerns. It is by nature a public and political process. Agenda setting involves both government and non-government influences.

Cobb and Elder (1983) analyze agenda building as a process that arises out of conflict among groups. Writing in the early 1970s, they presented labor and civil rights movements as their examples. They observed the difficulty of breaking in to the agenda building process. They relied heavily on Schattschneider's (1988) view that interests attempting to get on the agenda found it necessary to "expand conflict" to overcome the "mobilization of bias" toward established interests and their status quo. They see the political establishment, especially the bureaucracy, with its ability to mobilize bias toward the status quo, as the barrier to entry of "systemic" issues to the political agenda. Cobb and Ross (1997) expand this theme in later work focusing on "agenda denial."

Cobb and Elder define an agenda trajectory that travels from problem through conflict to policy. The brownfield case seems to follow that trajectory. As such, it provides a vehicle to look at the role of the agency in the process of setting the agenda. However, Cobb and Elder's bureaucracy clearly fits the classic administrative model, in which the agency's agenda setting role, if any, is to resist the expansion of the agenda. The EPA claimed to be doing the opposite and, as discussed briefly above, made many efforts that seemed aimed at "expanding the conflict," presumably to force the attention

of Congress. In their research into Superfund Reauthorization, Nakamura and Church (2000; 2003) suggest that the EPA's reinvention effort was designed, in fact, to avoid Congressional "fixing". This difference provides the basis for one of the hypotheses suggested below: *the EPA was actually trying to keep the Superfund off the Congressional agenda.*

Kingdon (1995) elaborates on Cobb and Elder's conflict based model by proposing that the agenda process comprises three streams: problems, policies and politics. The first stream comprises problems or issues perceived by the public as very important. Policies exist in a second stream, looking for problems to attach themselves to, promoted by a range of policy entrepreneurs. The political stream is comprised of a variety of government actors who are dominated by the President and Congress. It is the President and Congress who, for Kingdon, really dictate the policy agenda. Kingdon's interviewees find the President, his staff and his appointees to have the greatest ability to affect the "systemic agenda" by speaking directly to the people. Congress's sequential action on legislation, however, defines the political agenda (Kingdon, 1995, pp. 21-30).

Policy is created when the three streams of problem, policy and politics align creating a window for action. If the agenda setting process goes its course, the government reacts to the public's concerns in a series of actions that culminates in a terminal event, such as the creation of a new agency, the passage of substantially new legislation or promulgation of significant regulations. The government acts.

Kingdon dismisses the role of career agency personnel in the agenda development process in a section entitled "By Contrast: Civil Servants," writing, "with respect to agenda setting, then, a top down model of the executive branch seems to be surprisingly

accurate. We discovered that the President can dominate his political appointees, and that the appointees can dominate the career civil servants” (Kingdon, 1995, pp. 30-34). His interviews of agency and Congressional professionals involved in the policy process included a question about “career civil servants.” In general, the interviewees felt that agency personnel were “important” but not “very important” in setting agendas. Kingdon noted exceptions, particularly in presidential appointees. For example, he discussed in detail Secretary of Health Education and Welfare’s Califano’s anti-smoking initiative as an example of an appointee’s initiative.

Kingdon makes a distinction between “the agenda” and “the alternatives” (p. 32). Alternatives are the substance created by the policy stream, which is populated by Congressional staffers, think tanks, journalists, and, occasionally, politically savvy bureaucrats. For him, the career civil servant is an alternative generator. He further identifies the bureaucrat’s resources: longevity, expertise, and relationships, particularly with Congress. Of this last, Kingdon specifically dwells on the role of the bureaucrat in the iron triangle of interest group, committee, and agency. The bureaucrat can use passive tactics, such as leaks, to influence the outcome of legislation (p. 34). In the end, Kingdon concludes, “career civil servants seem much less important...” than “...key members of Congress and their staffers” (p. 44). Kingdon is a frequently cited agenda theorist, so his exclusion of the agency and particularly its career staff from the agenda setting process clearly provides a hurdle for any suggestion to the contrary.

Baumgartner and Jones describe the irregular progress of policy formulation as a “punctuated equilibrium,” in which significant acts of political choice, such as major legislation or creation of agencies, dramatically interrupt the routine and fairly continuous

workings of government (Baumgartner & Jones, 1993; 2002; Baumgartner F. , 2006).

The discontinuity is caused by a conflict between inputs from the multiple and complex issues arising from significant social events and the need to address this multifarious “stream” of issues in an orderly, step by step manner. The orderly process is “the agenda.”

The agenda is a serial, one-after-another, process (Baumgartner & Jones, 1993) because legislative bodies and executives, and in a different manner, agency heads, are typically singular. There is only one President and only one Congress. They are besieged by information and demands on their time, and most importantly, their attention. They must act on one item at a time and then move on to the next. Once an agenda item is decided, by one of the methods above (or by compromise or defeat), the body goes on to another item. The agenda item then goes on a kind of autopilot in Congressional committee or in agency rulemaking. The decision may or may not resolve the fundamental issue at stake. If it does not, the issue will need to get back on the agenda.

Agencies, in contrast, are parallel by nature. Due to their organization and division of labor, they can process multiple programs and issues at one time. The agency’s strength, and its reason for being, is implementation. Feedback from the experience of implementation is regarded as one of the agency’s principal contributions to policy making. Agencies are part of the negative feedback process that maintains the governmental system in equilibrium. The agenda is addressed when the status quo stops working and a positive feedback of increased issue importance develops. It is for this reason that Baumgartner and Jones do not consider agencies as part of the agenda process, although they do not argue against their inclusion.

The case that is the subject of this research seems to challenge this separation with regard to the agenda. The EPA, in the “Brownfield Action Agenda” proclaimed its strategy of regulatory reform in which it proposed to address as many issues as possible within the context of existing legislation by issuing letters of clarification, making formal assurances and promulgating rules (EPA, 1995a). EPA Administrator Carol Browner proposed the process as a classical agency activity, albeit one that was improved and oriented toward correcting an agency problem. First, it appears that the “serial,” agency oriented process was inadequate to achieve the aims of the brownfield program. Second, it appears the program aimed to promote, not merely shape, legislative action. Exploring the reality behind this appearance is an important theme of this research.

Another feature of the attention model is the role the press plays in communicating the public agenda to the Congress: Jones and Baumgartner observe “issue congruence” (2005, pp. 249-269) between the issues that Congress attends to and the issues that are on the public’s mind. This research will utilize their model of attention, and particularly the relationship they observe among Congress, the press, and the public, as an important part of its method. The attention model will be addressed more fully below.

In another context, Baumgartner (2006) finds environmental policy a fruitful area in which to view the workings of punctuated equilibrium, in which a relatively stable system characterized by a series of incremental changes suddenly and dramatically changes before returning to a different but similarly stable state. In the chapter, he notes the congruence of rapid rise of the environmental issue in the 1960s, Congressional attention to the issue and increasing budgets. He mentions in a summary of the

punctuated equilibrium model two interrelated factors, symbol and venue, change in which often accompanies dramatic policy change (2006, p. 26). Finally, the chapter emphasizes the unpredictable nature of policy change and, regarding policy entrepreneurs, states that their efforts to create the positive-feedback cascades that lead to change “should usually fail” (2006, p. 38).

In an aptly titled essay “Triangles, Networks, and Hollow Cores: The Complex Geometry of Washington Interest Representation,” Salisbury, Heinz, Nelson, and Laumann (1992) contend that the expansion of government activity and increasing organizational interdependence of society make simplified policy models like Truman’s well organized associations or Cater’s “Iron Triangles” poor descriptors of the process. Even the concept of “networks” is over simplified.

Heclo (1978) was among the first to give the proliferation of policy actors a name: issue networks. Interestingly, he viewed this radical expansion as a detriment to good policy development and as fundamentally anti-democratic. Participants in the networks tend to be advocates, leaders of “public interest” organizations, journalists, scientists and other technical workers and, critical for this discussion, government employees. Heclo observed, “the proliferation of administrative middlemen and networks of policy watchers offers new strategic resources for public managers” (p. 117). This research examines these very strategic resources.

In current usage, issue networks tend to be seen as an entrance for broader and more democratic involvement in policymaking; as a “countervailing force” against financially or politically more concentrated interests. This collection of styles comprises those who develop the content of Kingdon’s “policy stream.” The network concept

illuminates the development of the brownfield initiative in at least two ways. First, a network of urban economic development practitioners, environmental justice advocates, and environmentalists clearly interacted with EPA staff to develop the brownfield concept, a narrative this paper will develop later. Second, the EPA appeared to have successfully developed and expanded this issue network as part of its advocacy of the brownfield initiative, not least by the grant program, but also with consulting contracts, government funded advisory committees and the encouragement of a trade association-like series of conferences. In noting the relative lack of staff increase in the federal bureaucracy as budgets increased exponentially, Hecló's essay describes exactly these external relationships and suggests that the development of the network is, to a degree, a willing creation of the short-handed bureaucracy (1978).

Finally, Hecló notes that, while the numbers and qualifications of individuals involved in the networks increase, they are less, not more, connected to the voting public. Hecló finds the network system of policy profoundly undemocratic.

Advocacy Coalitions, as described by Sabatier and Jenkins-Smith (1993), are mainly concerned with highly technical and stable policy systems. The brownfield case might have been a model subject for their approach for several reasons: Superfund created, as described above, a nearly twenty-year stalemate at the time of the creation of the brownfield program. Arguments on either side were highly technical and involved core values. Perhaps the EPA intended for the brownfield initiative to continue the stable (but unproductive) equilibrium of Superfund. If it had, the brownfield issue would have matured into an Advocacy Coalition Framework (ACF) case study. However, it makes a better example of an unstable system, as evidenced by the relatively rapid transformation

from problem to program to law. Whatever the EPA's original intent, movement on the issue became agenda-oriented and the agency seemed to play a role not only in the development of alternatives but in raising awareness of the issue and in organizing constituents.

However, following the passage of legislation, which established the main structural reforms sought by the brownfield advocates, the shape of the policy discussion, focused on the development of regulations came to look like the very picture of an issue network or advocacy coalition. Teams of technical experts, advocates of particular industry, community or professional interests and EPA officials met under the guidance of hired facilitators over two years to create the procedures or administrative policy that reflected the changed legislative mandate (EPA, 2003; Podziba, 2004). Following the publication of the agreement in December 2004, the EPA revised the rule and republished in 2005. All Appropriate Inquiries went into effect in November 2006, approximately four years after Congress passed the law requiring it.

Both issue networks and the ACF continue a trend in agenda theory that recognizes more and more participants in the policy process. Specifically, these theories give the roles of journalists and agency staff more weight than in most policy studies. The policies that ACF advocates focus on are mainly rule and regulation based, not legislative. They are well suited to the expanded sub-government approach, such as Truman might envision in the present day.

Consideration of the EPA

Not surprisingly, the EPA is a frequent subject for research into the behavior of agencies. Wood (1988), Wood and Waterman (1994), and Waterman, Rouse and Wright (2004) have used the EPA and environmental issues in their principal-agent oriented research. Waterman, Rouse and Wright recognize limitations of the principal-agent framework and develop a typology of agency types that is useful. Nakamura and Church (2000; 2003) have looked explicitly at the issues surrounding the Superfund and its reauthorization. Close observers of the EPA, the researchers focus principally on the internal workings of the agency and pay little attention to the external activities that are the subject of this research. For instance, they do not consider the activities of the EPA's Common Sense Initiative, which addressed brownfield and Superfund issues in at least one of its industry groups, and was a component of the "Brownfield Action Agenda" referenced above. Nor do they look at the political impacts of the brownfield program except as it impacts Superfund Reauthorization. Finally, Coglianesse and Allen (2003) discuss the Common Sense Initiative in detail but do so totally within the realm of "consensus based rule making." They do not address the issues of the legislative context, agency reform or the impact of conflicts within the agency on the consensus building process. Their perspective is similar to consultant facilitators hired by the EPA to run the Common Sense Initiative (for example, Podziba, 1998).

Wood (1988) and Wood and Waterman (1994) present convincing evidence that EPA career civil servants thwarted policy objectives of the Reagan administration and provoked a crisis of leadership that ousted and replaced an agency director with one more aligned with previous agency policies. Interestingly, the rebellion took the form of

increased enforcement actions as the budget and manpower of the agency decreased. If this was an example of shirking, it was ideological shirking rather than Downsian “rent-seeking” behavior. They further demonstrate that the Reagan administration was able, through the powers of budget and appointment, to control the rebellion and substantially reduce the power and size of the agency. Wood and Waterman conclude that bureaucracies are responsive to their political principals: they are capable of rebelling but are ultimately subservient (1994).

One can interpret the facts cited in their account to support interpretations other than the one that they propose. While demonstrating the ultimate ability of a political principal to control the action of a bureaucratic agent, they provide evidence for those who suspect that the bureaucracy is able to exert important independent initiative. The main support they provide for a counter conclusion is the very magnitude of the effort required to bring the bureaucracy back into line. The principal’s efforts were, in fact, counterproductive, until the big stick of massive budget cuts was applied.

Wood and Waterman appear to force their data. If the influence of a principal over its agent is integral to the relationship, a small investment in control should result in a small correction on the part of the agent. If successive actions have only a little, or a negative, effect on the actions of the agent, the underlying relationship is called into question. To state the matter quantitatively, the relationship has great elasticity. This is especially the case when the agency has multiple principles.

J. Q. Wilson (1989, p. 156) discusses the issues of multiple principals and finds it more surprising that bureaucracies work at all than that they shirk or subvert. He further

identifies the policy preferences of the bureaucrat as an important cause of weakness in the principal-agent relationship.

The conclusion of Wood and Waterman, like much principal-agent literature, is prescriptive, bringing it into conflict with the observations upon which the conclusion is thought to be based (much like W. Wilson's P/A dichotomy with which it shares a basic perspective). It asserts that bureaucratic agents *ought* to follow the instructions of political principals. However, description of the principal-agent relationship focuses on the failure of these relationships. Wood and Wood and Waterman describe the Reagan administration and the EPA as an exasperated master and his dog: once beaten into submission, the dog knows who is boss. Neither addresses the condition of multiple principals and the freedom established for the bureaucrat under those circumstances (Wood, 1988; Wood & Waterman, 1994).

Further, the deep well of public support for environmental quality increases the difficulty of applying simple, one principal, or complex, multiple principal (e.g. Congress and president; Congress, president and industry) models to the analysis of the EPA. When they considered the EPA, proponents of an economic view of public opinion and agency behavior regarding the environment (Downs, 1972; Niskanen, 2001) simply underestimated the significance of broad public environmentalism noted by polls over decades (Gillroy & Shapiro, 1986; Saad, 1999; Associated Press, 2000; The Economist, 2000; Munch, Lahusen, Kurth, Borgards, Stark, & Jaub, 2001; Rootes, 2001; Saad, 2001). While aspects of the issue continue to spark controversy, the environment has become an issue on which former ideological opponents have found considerable common ground (Grafton & Permaloff, 2001). Rather than fading into history as Downs

predicted (1972), environmentalism, has become a fundamental value to voters in the U.S. and throughout the developed world. The existence of this support surely figures into EPA independence, whether or not agency administrators are active in generating such support, as Selznick (1997) might advocate, or as this research will explore.

Waterman, Rouse and Wright develop a flexible model of bureaucratic behavior and describe the pure principal-agent model as a “Theoretical Cul De Sac” (2004, p. 19). Even within a single principal model eight modes of principal-agent relationship are identified based on information asymmetry (four modes) and goal conflict (conflict/agreement). They identify nearly 20 principals for the EPA and the New Mexico Environmental Department.

Nakamura and Church (2000; 2003) address the issues of Superfund reauthorization and reinvention from the perspective of regulatory reform and improved rulemaking. Their research is based on many interviews of EPA officials and EPA stakeholders since passage of Superfund. While they address the legislative issues surrounding Superfund reauthorization, they do not address the development of brownfield legislation from the perspective of the agency’s impact on the legislation. They also pay scant attention to the development of the brownfield issue by interests outside the agency and the interaction of career employees with those interests and their actions inside the agency. In their view, brownfields came into being with the announcement of the Brownfield Action Agenda and reinvention initiative and were part of the solution to the EPA’s Superfund problem and Superfund reauthorization and reform eclipse the real world issues that generated the brownfield program.

Coglianesse and Allen (2003), in a rare scholarly consideration of the EPA's Common Sense Initiative (CSI), conclude from their observations that consensus based rule making is generally impossible. More importantly, they note that legislation limited the EPA's efforts to reform itself. The CSI proposed a broad agenda of change in seven industrial sectors but developed only a few actual projects. Oddly, they do not place the CSI in the context of FACs, many of which work quite well on a consensus basis, but in which there is a much narrower range of constituents. The CSI pulled virtually all EPA constituents into the mix resulting in a lively, but, according to Coglianesse and Allen, unproductive project².

Summary of Literature Review

Students of policy have begrudgingly admitted bureaucrats into the policy making process. This is not merely an accommodation in theory but a reflection of the change in agencies and the context in which they operate. Increasing technical and legal burdens of government have exaggerated information asymmetries, giving many agencies the upper hand in dealing with their political principals. Yet, agenda theory relegates the agency to a minor role.

Recent scholarship has argued for a more nuanced view of relations between bureaucratic and political actors than that allowed by the principal-agent framework. This research examines the possibility of the bureaucratic actors directly engaging the political process to promote policy preferences. This research tries to apply a descriptive rather than prescriptive analysis to the actions of at least one agency in one case. Should

² The CSI was one of the most expensive FAC's ever convened.

the research reject the hypothesis of agency irrelevance in the agenda process and find the agency to be an actor in that process, the scope of responsibility for public managers will be raised beyond that of faithful execution.

METHODOLOGY

This dissertation combines a qualitative research approach with time series analysis of data series identified in the course of research. Agenda studies are typically based on a qualitative or narrative approach (Cobb & Elder, 1983; Schattschneider, 1988; Kingdon, 1995). Baumgartner notes that agenda studies tend to focus on dramatic change, which lends itself to such an approach, while policy studies typically address the difficulties of change and are more focused on “incrementalism and institutional analyses” (2006, p. 4). Study of the role of the agency in the agenda process may require a combination of these approaches, and this may be a reason why observers leave the agency out of the more dramatic narratives of agenda setting.

Because this author’s study focuses on one issue and essentially on one venue, it approaches the subject using evidence from three or more sources. This method of triangulation is an element of design that increases the validity of the observations (Yin, 2003, pp. 97-99). In this research both “data triangulation” and “methodological triangulation” (Stake, 1995, p. 107) are used.

This research design combines qualitative and quantitative methods. It utilizes case study methods to define the issue and identify potential variables; it uses quantitative methods to examine the relationship between the variables. The quantitative technique is a time series, a quasi-experimental design as described by Campbell and Stanley (1963, pp. 37-46). Time series designs and their related analysis techniques are especially suited

to examination of real world activities that have already occurred and for which over time data exist.

Data Sources

Although this study bases its conclusions on data developed in the course of this research, I must state my prior involvement in the subject area of brownfields, the experience of which has doubtless guided my selection of material and informants. I submitted a proposal to the EPA in 1994 on behalf of the City of Birmingham that led to its being named one of the first fifteen “National Brownfield Assessment Pilots” in September 1995. From then until October 1998 I was the City’s Brownfield Program Manager. As such, I participated in a number of workshops organized by the EPA, including the second EPA/ICMA Brownfield Conference, held in Kansas City, Missouri in 1996, and discussions organized by consultants hired by the EPA. In addition, the EPA chose Birmingham’s pilot as a model to participate in the Common Sense Initiative’s Iron and Steel Subcommittee, and I represented the City in this committee.

The Birmingham Brownfield Pilot was used as an example in four “Brownfield Success Stories” published on the EPA Web Site (EPA, 1998b). The Birmingham Pilot was one of several subjects for the book *Turning Brownfields into Jobfields* (Van Horn, Dixon, Lawler, & Segal, 1999).

In addition to my direct experience as a brownfield practitioner between 1994 and 1998, I subsequently participated in several professional meetings both in my capacity as a federal employee in another agency and as a researcher. These included two meetings of the Brownfield Task Force in Birmingham, hosted by the Regional Planning

Commission of Greater Birmingham, which involved local developers and geotechnical consultants. I also attended an EPA National Association of Development Organizations (NADO) workshop in Selma, Alabama in July 2006 and Brownfields 2006, a major national trade fair involving over 6000 brownfield developers and “transaction facilitators” and EPA and local government staff.

There is a vast literature about environmental issues in general, the role of the EPA, Superfund and brownfields, as indicated by Table 1 below. Even allowing for duplicate hits, these numbers are significant. They show an extremely wide interest in environmental issues generally and the EPA, more specifically. Taking the references as relative measures of attention in the broad (Google), the reading (Amazon) and the academic (JSTOR) publics, the number of these references closely follow the taxonomy of the brownfield issue: it is a subset of the Superfund issue, which in turn is a component of the Hazardous Waste problem, and so on under the broad category of environmental interest.

Search Topic	Google Hits	Amazon Books	JSTOR Reference
Audience	“Broad”	“Reading”	“Academic”
“Environmental”	284,000,000	232,081	180,940
“Environmental Protection Agency”	61,900,000	23,850	17,076
“Hazardous Waste”	11,500,000	15,368	4,989
“Superfund”	7,590,000	5,465	975
“Brownfield”	4,050,000	3,047	632

Table 1: Brownfield Issue Taxonomy, Google, Amazon, and JSTOR Internet Searches, May 3, 2007

This dissertation cannot and will not attempt to knit the entire literature together but will instead use some of it to define a context for the subsequent examination of the actions of the EPA on the specific case at hand. It will position the brownfield issue

within both the broad environmental policy framework and more specifically within the “Hazardous Waste” subtopic (Jones, Wilkerson, & Baumgartner, 2008) encompassing Superfund. It will reference mass publications, and the periodicals and pronouncements of trade association and advocacy organizations. However, the majority of the case will focus on the framework of related policy, regulatory and legislative changes over a roughly ten-year period from 1991 through 2002. This period encompasses the Clinton–G. H. Bush presidential race of 1992 through enactment of the Small Business Liability Relief and Brownfields Revitalization Act in January 2002 by President G. W. Bush.

This dissertation analyzes other documentary evidence of actions of the EPA and the participation of stakeholders in the process, such as FAC records of participation, budgets, personnel, and public promotional efforts, public statements and reports. One would expect this information to support the conventional wisdom regarding the interaction of agencies and their constituents. This suggests another hypothesis: *the EPA’s external efforts were dictated by its stakeholders, in particular the business interests assumed to dominate a regulatory agency.*

Finally, this paper includes data from eleven interview subjects who participated in the brownfield program during the period studied. These include appointed and career EPA employees, lawyers, technicians, advocates and consultants. The interviews took the form of informal, but directed, discussions. The author knew some participants personally, while other’ participation was requested based on their critical role in the development or execution of the program. Under the protocols of the Auburn Institutional Review Board, the subject’s identities and their precise words are confidential or unattributed.

The interviews played two significant roles. First, they were tremendously important in ordering the events of the brownfield concept's development and suggesting new sources of research. Second, they were able to address the issue of the EPA's "intention" in ways that were invisible behind opaque official statements and policy papers. Table 2, below, summarizes questions that formed the basis of the interviews.

<ol style="list-style-type: none"> 1. Classification 2. Describe your involvement with the EPA's Brownfield Initiative. 3. In what capacity(ies) did you work with the EPA. (Grantee, contractor, regulated industry, developer, litigant, adviser, career employee, political appointee) 4. With whom at the EPA did you have direct contact? (program officers, grant technical officers, career staff, appointed staff, lawyers, scientists) 5. If EPA employee, what type contact outside the organization did you have? Grant manager? Regulator? Public information? 6. How would you describe the attitude of the organization (whether inside or outside of the PA) you represented toward organizations and issues such as: <ol style="list-style-type: none"> a. the EPA generally; b. the Brownfield Initiative; c. EPA reinvention initiatives generally; d. the Common Sense Initiative; e. appointed officials at the EPA, especially Administrators Browner and Whitman; f. key Brownfield officials: such as Linda Garzinski or Marjorie Buckholz; g. the Clinton and Bush administrations. 7. Where did the Brownfield idea come from? Where did the program originate? 8. What forces were the most important in promoting the Brownfield idea; and later supporting the program? 9. What was the role of the EPA, considering career and political staff separately, in promoting the Brownfield program?

Table 2: Interview Questions

Rather than develop a narrative of the process, this section will attempt to define critical moments such as triggering events and legislative landmarks and to identify key relationships. A triggering event can be a "technological change in the environment that

creates heretofore un-discussed issues” (Cobb & Elder, 1983, pp. 84-85). The US Supreme Court decision in the case *United States v. Fleet Factors Corp* (described in depth below) was the triggering event that created the discussion about brownfields. The decision led to a radical change in the underwriting criteria for loans on previously used properties.³ Legislative landmarks will refer to bills introduced and bills passed. They are landmarks because they represent action, in contrast with the talk, which is also measured by the *Congressional Record*. There is, of course, a necessary relationship between talk and action, but, while talk is a measurable indication of attention, talk alone does not qualify as a landmark. Finally, critical relationships are the connections between the EPA and constituents, interest groups or Congressional actors that have direct bearing on the brownfield issue. For instance, the EPA’s critical relationship with the chair of an appropriation subcommittee might have influenced their decision to start the brownfield program in the city they represented.

Analysis of the course of brownfield legislation and related regulatory changes, waivers and administrative remedies will provide some insight into another hypothesis that applies the hypothesis to legislative developments: *the lack of legislation was the intended aim of the EPA; congressional forces were determined to do away with Superfund legislation and the brownfield “agenda” was a blocking or palliative effort.*

This context is critical for two reasons. First, it will give the reader some understanding of the broader institutional, group and political forces at work on environmental policy. Second, and more important for the questions investigated in this

³The Fleet Factors decision would probably not fit the definition of Baumgartner and Jones, who see the triggering event as causing the cascade of positive feedback, unless a cascade can take a decade. The events that led to the passage of legislation in 2001 are suggested in the conclusion of this dissertation.

research, it will be the basis for determining the agency's "motive" or "interest." Implicit in the idea that the agency might affect the agenda setting process is the idea that it would have a reason to do so. Even if that motive is a hypothesis-supporting "self preservation," it is the context that defines the threats to the agency. Conversely, if contrary to the hypothesis, the agency seems to have a policy motive, the substance of what it is trying to change is important to understand.

Within this general context, established by summarizing key events, the analysis will look in detail at a complex of activities styled by the EPA as the "Brownfield Action Agenda," which included: administrative reforms; demonstration grants; state voluntary cleanup programs; involvement of the brownfield issue in the Common Sense Initiative; and other promotional activities (EPA, 1995a). The text of the "Brownfield Action Agenda" is reproduced in full as Appendix A of this dissertation. Of the activities proposed, the demonstration grant program and its associated Job Training and Revolving Loan Fund grant programs proved to be the most interesting and amenable to analysis. The program of brownfield grants was sustained, geographically dispersed and financially significant. Records of grant recipients are fairly easily accessed. A database constructed from these records is described below.

The Policy Agenda Project

The huge National Science Foundation-funded databases created by Frank Baumgartner's "Policy Agendas Project" and "Congressional Bills Project" were major sources of information about and insight into the issue context for this research (Adler & Wilkerson, 2004; Jones, Wilkerson, & Baumgartner, 2008). These databases contain

information since 1947 from sources such as *New York Times* articles, Congressional hearings, Gallup Poll data on “Most Important Issue,” State of the Union speeches, and federal budgets. The data are coded in a policy taxonomy. Broad policy areas such as the economy, national defense, crime or environment are subject headings and coded with a single digit, for example “7. Environment,” and subtopics are given more precise designations, such as “704: Hazardous Waste and Toxic Chemical Regulation, Treatment, and Disposal.” Using this database, then, it is possible to track public interest in, for instance, the environment and compare it to Congressional attention to that topic and to changes in the budget for environmental programs. Since the project is primarily funded by the National Science Foundation, it is freely available to the public.

The database covers a wide array of policy areas and provides specific information about the evolution of the environment issue, of which this paper’s subject is but a minor portion or sub-subtopic. The database shows the increasing importance of the policy sub-area of which brownfields is a part, namely Hazardous Waste.

More important than the issue background the database illustrates is Baumgartner and Jones’s description of a tool which connects the public agenda and the political agenda, namely, the media (Baumgartner & Jones, 1993; Jones & Baumgartner, 2005). They suggest: “It is possible that the relationship between an objective indicator of conditions and the governmental agenda is mediated by public and media attention” (Jones & Baumgartner, 2005, p. 211). Whether the press is a signifier of public interest or a mechanism of influence may depend on the issue; the authors identify strong “issue congruence” between public opinion, evidenced in polls, and press coverage.

This research uses variables that are similar to those of the Policy Agenda Project but created to capture variables that suit the narrowness of the brownfield policy initiative. For instance, public interest in the brownfield issue would not have been measured by the Gallup polls, which constitute the main measure of public interest for the Policy Agenda Project. However, Gallup measures and the Policy Agenda Project codes the public's interest in a larger area of interest, Hazardous Waste. This paper refers to the Policy Agenda Project's coded version of Gallup's "Most Important Problem" variable in the discussion. "This dataset codes public opinion polls from Gallup's Most Important Problem Survey using the Policy Agendas Project's content coding scheme" (Feeley, Jones, & Larsen, 2001, p. 1). Gallup monthly asks a sample of approximately 1000 Americans an open-ended question: "What do you think is the most important problem facing this country today?" (Gallup, 2009). The perennial problems at the top of the list are the economy and foreign affairs. Rarely do more than five percent of those polled consider problems such as health care or environment most important.

This research does not intend to illustrate the most important feature of Jones and Baumgartner's theory, namely punctuated equilibrium. Rather it explores a mechanism that influences the serial attention cycle by which Jones and Baumgartner differentiate the agenda process from the "parallel" activities of the agency and of Congressional committees and, indeed, the actions of individual Congressman. However, this paper speculates on the conditions that allowed the brownfield issue to transmute from an unofficial program in equilibrium into legislated and fully funded program associated with a major reform in the Superfund legislation that brought it into being.

Answers to the questions posed by this research are not to be found directly in the Policy Agenda Project databases for two reasons: First, and most important, the only variable in the Policy Agenda Project database that impacts the agency is Budget. There is no measure of agency activity in general, and particularly those activities that are the subject of this research. Second, within the Policy Agenda Project issue taxonomy, the Policy Area and Subtopic categories are too broad to detect the brownfield issue. The activities examined here are only a small portion of the Policy Agenda Project subtopic “704. Hazardous Waste....” The subject of this research, if it were large enough to receive a Policy Agenda Project code, would probably receive five places. “704xy. Brownfields” would be found within the category “704x. Superfund”

Original Data Sources

To correct the first deficiency, the EPA’s internet listing of Brownfield Demonstration Pilot and Revolving Loan Fund grants (EPA, 2006) was accessed to create a geographically coded, time series database. This database is described in detail below, and is the source for several GRANTS variables, which are described in more detail below.

The narrower policy area of brownfields required the creation of several time series databases modeled on press and Congressional attention databases of the “Policy Agenda Project” but which detail similar activities in a narrower field (brownfields) as opposed to “Hazardous Waste.” These databases were assembled from publicly available records. They include a database of press attention to the brownfield concept, detailed below and two databases of Congressional attention to the brownfield concept, one based

on *Congressional Record* mentions of “brownfields” and the other of bills introduced that reference “brownfields”, also detailed below. They parallel Policy Agenda Project databases that are coded to the subtopic level and include “Hazardous Waste and Toxic Chemical Regulation, Treatment, and Disposal.” The relationships among those databases suggested that the brownfield databases might be useful and subsequent use of the brownfield databases suggests that the Policy Agenda Project approach is scalable to fairly narrow policy areas, for those willing to mine new sources of data. The database of press and Congressional attention are used to create several MPRESS and CRECRD variables, which are described in more detail below.

Database #1: Brownfield Grants Funding

The EPA Web site (www.epa.gov) contains a wealth of archival material. From this source, a database was compiled of selected information on all 1435 Brownfield Grants in the period 1995 to 2006, of which 435 were made in the period studied here. Information included: date of grant; amount of grant; type of grant; to which governmental unit the grant was made; and the location of the grant. The database contains links to all the fact sheets, of which a sample is displayed in Figure 2. Inclusion of data from the fact sheets would allow for other types of analysis, for example of the types of grantees or activities funded over the years, such as that contemplated by Greenberg and Hollander (2006), but these are beyond the scope of this research.

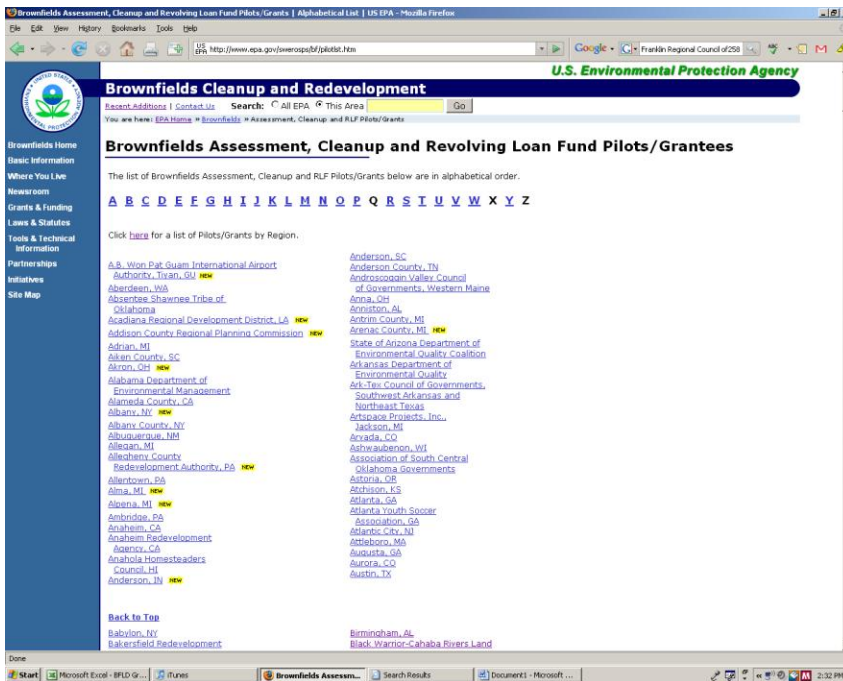


Figure 1: EPA's Brownfield Grant Web Page (<http://www.epa.gov/swerosps/bf/pilotst.htm>)

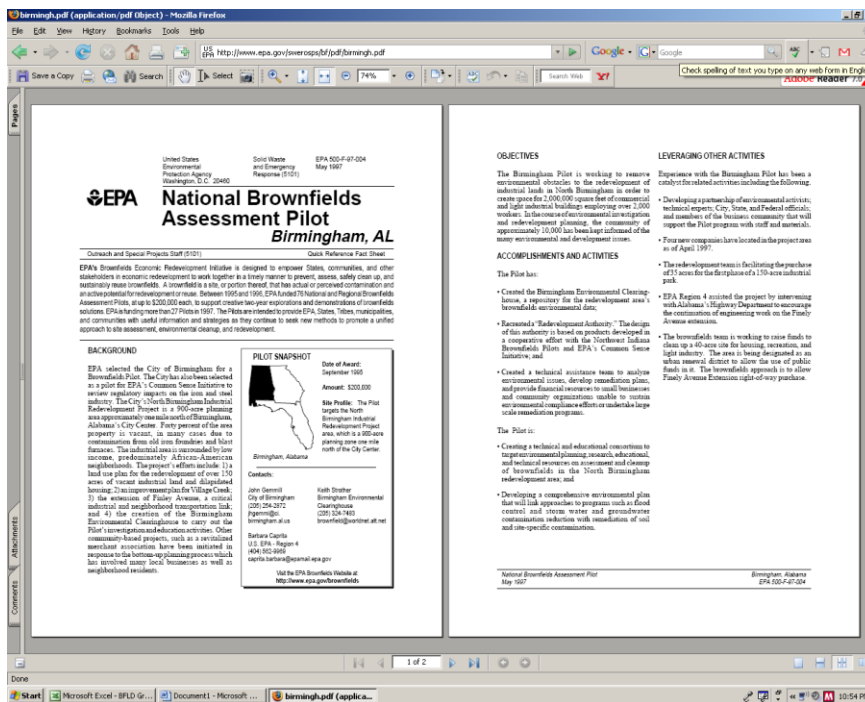


Figure 2: Sample Brownfield Fact Sheet, Birmingham, AL (<http://www.epa.gov/swerosps/bf/pdf/birmingh.pdf>)

The date, funding, and location information allow the intensity (funding) and geographic focus (location) of EPA's efforts through the "Pilot Grant" program to be measured over time. These measures are either identical or comparable to measures of other factors in agenda setting, such as committee hearings or attention in the press. This database is the source of the variable GRANTS, described in more detail below, and variations thereof.

Figure 1 shows a web page accessed on November 8, 2006. It provides links to all Brownfield grantees. Each link in turn connects to "Fact Sheets" for each grant received by the grantee that lists the award date, type and amount (Figure 2).

The data on the EPA site, and the particular section used here, was also the basis of an *American Journal of Public Health* article (Greenberg and Hollander, 2006) that assessed the characteristics of Brownfield Grant recipients. Their study also used a wide range of interviews some of which highlighted the influence of policy entrepreneurs in and out of the EPA in promoting the program. Theirs was a program innovation diffusion study that assigned the EPA a significant role in promoting the programs but did not attempt to link the program to policy agenda issues. Rather, it weighed the success of the program in accomplishing the task of eliminating Brownfields, perhaps too heavy a burden for a program explicitly designed as a demonstration or pilot project. Their period of study generally coincides with that of this research, except that it does not include any of the grants made under the authority of the 2002 Small Business Liability Relief and Brownfields Revitalization Act, signed into law on January 11, 2002. That Act resulted in a large increase in Brownfield funding, shown in Figure 3 below, increased grantees ability to spend grant funds on cleanup rather than assessment

activities, and expanded the potential targets of the grants to problems that were prohibited under the previous enabling legislation, for example to petroleum contaminated sites. More fundamental, the legislation changed a number of provisions in the Superfund legislation that made Brownfield cleanup more attractive to investors.

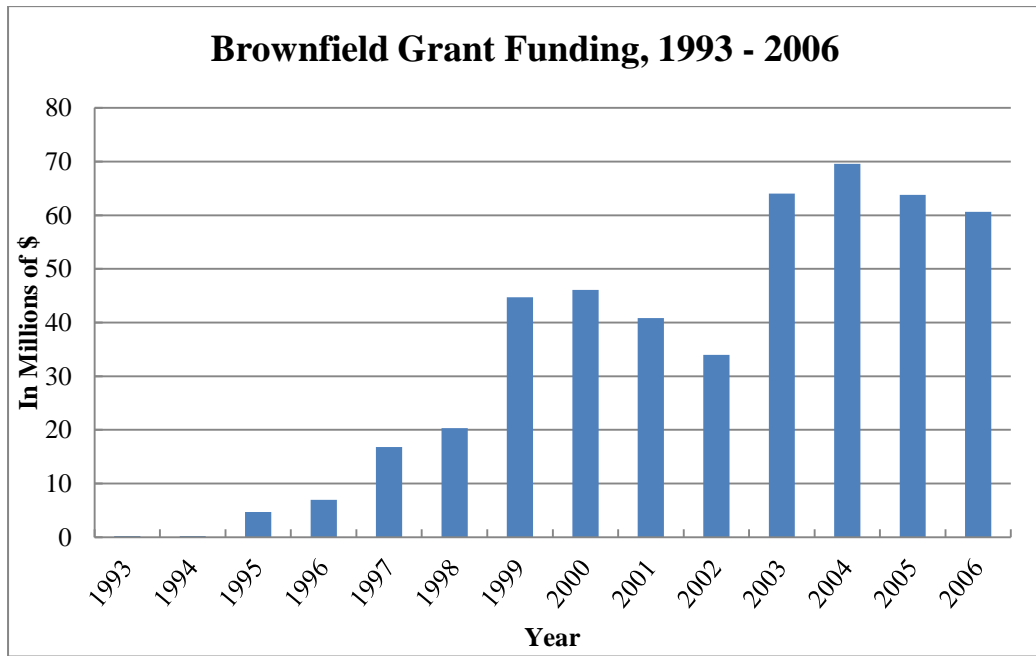


Figure 3: Brownfield Grant Funding 1993 - 2006

Figure 3 shows that two major Congressional actions dramatically changed Brownfield grant funding. The first was the authorization of Brownfield Pilot expenditures in the Fiscal Year 1997 Appropriations Bill. Signed on September 30, 1996, the appropriation bill for the first time gave EPA budget authority to fund the program. In Fiscal Year 1997 the EPA's authority was \$37.7 million (Reisch, 2001). 1997 and 1998 show a program funding doubling, although funding does not reflect the full appropriation, perhaps due to a lag in the grant application process. The second major Congressional action was the passage of the Small Business Liability Relief and Brownfields

Revitalization Act, establishing the program by law and also authorized a major increase in funding. Likewise, the effect of the 2002 law is delayed until later years.

Only the very low funding levels from 1993 through 1996 provide a clue to the controversies surrounding the EPA's initiation of this program administratively, without Congressional authorization or appropriation (Reisch, 2001). That funding, however, may have been the tail that wagged the dog.

Database #2: Press Attention to the Brownfield Issue

New York Times

As the US "newspaper of record" the *New York Times* is used by the "Policy Project" as a measure of public attentiveness to major issues. As of spring 2007, more than 44,000 major articles in the *Times* are coded to fit the issue organization common with the other databases. Coding allows their analysis in relation to other key agenda variables organized by the Policy Project. Jones and Baumgartner show that Congress tends to be responsive to public opinion as reflected in that newspaper (2005, p. 211).

The *Times* database included in the Policy Project shows that the media has a sustained but moderate interest in "the environment", similar to that, shown by polling data, of the public's choice of "the environment" as the Most Important Issue. The term "Brownfield" is not mentioned in the Policy Project's *Times* database, however, nor are several related phrases such as "industrial waste," "industrial site" or "contaminated site." On April 17, 2007 I searched for the term 'Brownfield' in the *New York Times* online

archive and discovered 53 articles⁴. I created a database from the search. The frequency with which the *Times* mentioned the term “Brownfield” is illustrated in Figure 4 below.

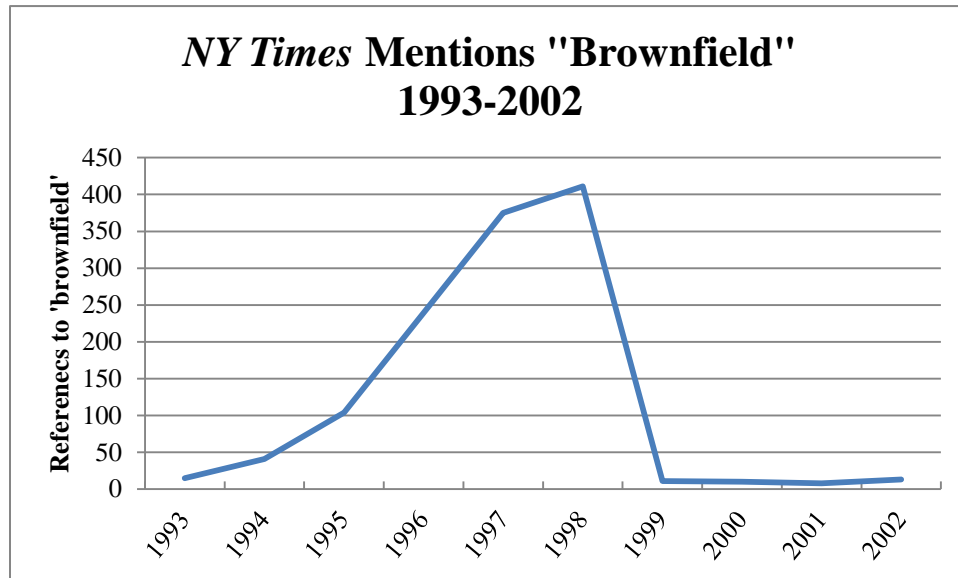


Figure 4: New York Times Mentions "Brownfield," 1993-2002

The growth in attention paid by the *Times* to the Brownfield issue conforms to the general growth of the program, reflects critical Congressional actions, and considerably lags the program’s expansion across the country. This demonstrates little more than that the *Times* and the Brownfield issue exist in the same universe, so to speak.

The Policy Project’s *Times* database is deficient as a measure of interest in the Brownfield issue because their scope does not match. The coding schemes of the Policy Project track and compare factors relating to the movement of broad policy areas.

Brownfields is a relatively small program budget wise and a narrow program within the context of the broad issue of “the environment” or even of the issue subsection

⁴ An earlier search uncovered a 103 of articles, suggesting that there might be a “decay” in the database and that both listings may be samples rather than a comprehensive list of all articles. However, both show similar distribution over the 10-year period, suggesting, again that if the list is a sample it is fairly representative.

“Hazardous Waste.” Even the smaller database of Brownfield articles is problematic. Most of the *Times*’ coverage was local. Unless one makes the unwarranted assumption that the *New York Times* is merely reflective of a national consensus, the data from this one local paper is not useful to show the development of the idea and program from its geographic roots. In fact, the Cleveland *Plain Dealer* was publishing frequent articles two years before the *Times* mentioned Brownfields.

Major newspaper articles mentioning Brownfields issue

To create a measure of nationwide press attention to the Brownfield issue, I conducted a series of full-text LexisNexis Academic queries for all “General News” articles in “Major Papers” in which the word “Brownfield” appeared. A database was compiled of the date and publication of relevant articles. Relevant articles included any mention of “Brownfield” in the context of industrial sites, urban policy or state or federal programs. I eliminated articles by the syndicated movie critic Paul Brownfield, letters from J.R. Brownfield, an inveterate letter writer to the *Houston Chronicle*, and numerous announcements of weddings, deaths, and promotions of many members of Brownfield families around the country. Similar searches were conducted and filtered in that manner for the years 1993 through 2002. This search identified 2112 articles published in 25 papers between 1993 through 2002.

The date and publication information allow press attention to the Brownfield issue to be measured in intensity (frequency of mention) and geographic focus (location of newspaper) over time. These measures are either congruent or comparable to measures of other factors in agenda setting, such as committee hearings or grant funding. This database is the source for the variable MPRESS and variations thereof.

Database #3: Congressional Attention to the Brownfield Issue

The Congressional Record is the official record of the proceedings and debates of the United States Congress. It can be word searched on the Thomas website. On April 27, 2007, the Congressional Record was searched iteratively for the years 1993 to 2002 for mentions of the word “brownfield” using standardized search parameters. Similar searches were conducted and filtered in that manner for the years 1993 through 2002. This search identified 449 records mentioning the term “brownfield”. These were organized into an Excel database compatible with other databases for press attention and grant activity, save for they had no geographic identifier. This database was the source of the variable CRECRD and variations thereof.

Experimental Model: Grants, Press and Congress

In explaining the “congruence” of the issues to which Congress pays attention and the issues that concern the public, Jones and Baumgartner propose that the press “mediates” real world problems to Congress (2005). In other words, members of Congress do not always respond directly to real world problems or to the needs of constituents; rather, they become aware of issues through the press.

The general public, like Congress, probably becomes aware of issues through the press. This would be particularly true for issues as narrow as brownfields. However, narrower publics, or interests, are more closely attuned to problems within their own sphere, particularly when those publics are organized by trade and professional associations and advocacy organizations, as were the EPA’s constituents. Nakamura and Church describe the EPA’s major Superfund stakeholders, organized to discuss legislative reform, thus: “...relevant agencies and departments, legislative staff, the

environmental community and lawyers and policy staff of the major PRP's and the insurance industry" (2000, p. 13) and elsewhere "...from the environmentalists to the major PRP and their trade associations" (2003, p. 82). These are diverse constituents but hardly a broad cross section of the American public.

In promoting Superfund reform generally, and the brownfield program specifically, the EPA seemed to work through the mediating mechanisms of the press and its constituent organizations or stakeholders. The availability of the databases described above makes possible a semi-experimental test of the model of press-mediated agency influence on Congress. The Press Mediated Agency Influence Model is illustrated below:



Figure 5: Press Mediated Agency Influence Model

While a quantitative test of this model's application to the EPA's organized constituent activities, particularly the Common Sense Initiative, is not possible, the model of mediating agency influence on Congress through a third party will be explored in the case study. In this instance, the mediating entity would be the stakeholders that were organized by the EPA. The Common Sense Initiative gives some insight into how the EPA might have influenced advocacy groups from protesting their reinvention efforts such as brownfields. Nakamura and Church observe that the environmental advocacy groups might have opposed EPA's Superfund reforms, and by implication, the brownfield program, through court challenges: the EPA acted to co-opt this opposition.

Variables

Each database described above was used to create a variable to capture, respectively, the actions of the EPA, press and Congressional attention to the brownfield issue, and Congressional action, as shown in Table 3 below.

		Description	Source
Independent Variables	Expected Sign		
GRANTS	+	# of Brownfield Demonstration Pilot or Revolving Loan Fund (RLF) grants	Published EPA databases
MPRESS	+	# of articles using the term “brownfields” in “Major Newspapers”	Keyword search of <i>Lexis-Nexis Academic</i>
Dependent Variables			
MPRESS	+	# of articles using the term “brownfields” in “Major Newspapers”	Keyword search of <i>Lexis-Nexis Academic</i>
CRECRD	+	# of mentions of the term “brownfields” in the <i>Congressional Record</i>	Keyword search of the <i>Thomas</i> web site
CBILLS	+	# of Bills introduced in Congress (by either House or Senate) which mention “brownfields”	Keyword search of the <i>Thomas</i> web site

Table 3: Summary of Independent and Dependent Variables

All independent and dependent variables are collected monthly between January 1993 and December 2001. As described in the Press Mediated Agency Influence Model, GRANTS is an independent variable expected to increase the number of articles using the term “brownfields” (MPRESS). MPRESS in turn is expected to influence congressional behavior seen in variables CRECRD and CBILLS. The most critical dependent variable, in a sense, is CBILLS. Until a bill upon which to vote has been introduced, the Congressional decision agenda has not been affected. These incidents, however, are so

infrequent that they have no amplitude and are introduced into the analysis only as points of reference.

As previously noted, MPRESS, CRECRD, and CBILLS are similar to the Policy Agenda Project measures of press and Congressional attention that uses Gallup research on the public's "most important issue" to represent the public's interest in various issues. The issues measured by those polls are broad categories such as "the Environment" or "Crime." Jones and Baumgartner demonstrate a congruity between public, press, and Congressional interest in issues (2005). It is assumed here that, compared with those broad issues, the brownfield issue is a narrow one and would not register in national polling data such as Gallup. However, a similar relationship between the corresponding variables studied in this research is shown.

In addition to the qualitative case study, the quantitative section will use Pearson's correlations to analyze the relationship between each of the independent and dependent variables.

Hypotheses

Was the US Environmental Protection Agency's self-described Brownfield Action Agenda a realistic attempt by the agency to place an issue on the federal policy agenda and to move toward enactment of that policy through legislation or significant regulatory reform? Or, was the Brownfield Action Agenda a strategic attempt to preserve the agency's preferred mode of operations in the face of a deregulatory onslaught? The preponderance of theoretical opinion cited above on this question suggests the following hypothesis, based on the assumption of agency self interest or shirking: *The EPA's*

promotion of the Brownfield Agenda was strategic and intended to thwart congressional attempts to constrict the agency. Significant evidence the EPA acted to define and effect a positive change in legislation and/or regulation calls into question this hypothesis and supports the notion that the agency was indeed a factor in setting the policy agenda. The EPA's activities on the brownfield issue seem, by appearance and their own description, to contradict the assumption of no significant agency influence on the policy agenda.

Agency theory admits another cause of straying from the interests of the political principal, namely the capture of the agency by the interests it regulates. This suggests another hypothesis: *The EPA's stakeholders, in particular the business interests assumed to dominate a regulatory agency, dictated by its brownfield strategy.* The existence of multiple stakeholders with conflicting interests would begin to confound this hypothesis. Evidence of the agency's strategic influence on its stakeholders would give more cause to reject the hypothesis.

The basic question raised by this research is whether a policy interest, rather than narrow self-interest or the interest of a constituent, can motivate an agency. This research provides an opportunity to examine a third hypothesis that partially bridges the gap between shirking or capture and the policy motivation. This hypothesis addresses the EPA's direct involvement with the Congressional agenda, but from a mode thought compatible with a passive bureaucracy: *The EPA used the brownfield "agenda" to block congressional forces determined to do away with Superfund legislation.*

RESULTS

Organization of the Section

This section must place the brownfield issue in its context. It will first characterize the EPA, the political setting in which it operates, and the constituencies that surround it. Second, it will discuss the problem of Superfund, the legislation that gave the EPA power to force firms to pay for cleaning lands they contaminated. The brownfield idea and program developed from among EPA constituents affected by the Superfund. In order to clarify this development, a timeline will provide a schematic to simplify a complex narrative. EPA implementation of the multifaceted “Brownfield Action Agenda” provided evidence of agency action, the effects of which on the agenda process might be measured and analyzed.

The narrative, or case study, provides a framework for the subsequent statistical analysis of the variables described above in “Methodology.” Portions of the narrative are examined in detail to better understand relationships between the variables. Critical events in the narrative provide points at which to develop alternative analytics.

The Environmental Issue and the EPA

President Richard Nixon created the EPA by executive order in 1970 on the crest of an upsurge in public attention, epitomized by the first Earth Day, to the environmental

issue which then concerned primarily air and water pollution (Grafton, 1975). Both the EPA's formation and Earth Day were merely emblematic of significant public, Congressional, interest group and political attention to environmental issues. The EPA brought together legislative powers and staff from several agencies and was established with a strong regional structure in keeping with Nixon's federalism. As Figure 6 shows, the period from 1960 to 1970 saw a five-fold increase in Congressional hearings on the environment and a ten-fold increase in *New York Times* articles on the issue preceding a huge spike in the budget for Pollution Control and Abatement. (The huge budget increase between 1972 and 1974 is an aberration. It was caused by the inclusion of a spate of sewer projects in early EPA budgets.)

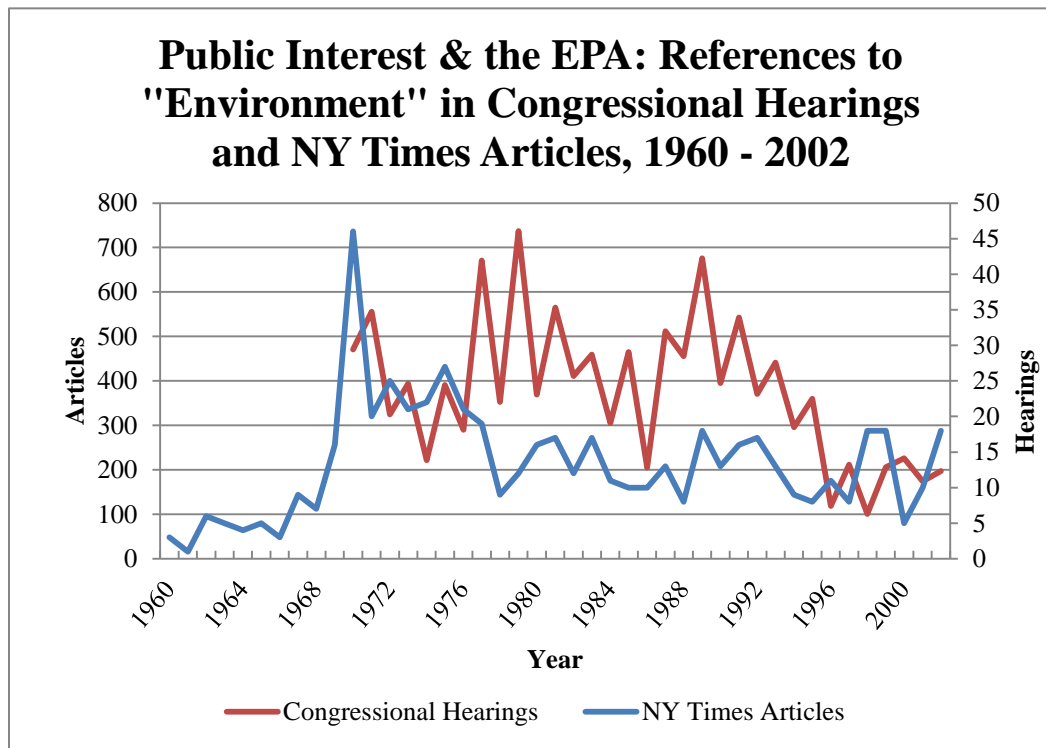


Figure 6: Public Interest & the EPA: References to "Environment" in Congressional Hearings and NY Times Articles, 1960 - 2002

Writing in 1972, Anthony Downs suggested that public interest in the environmental issue would experience decay similar to that of the public's interest in issues such as civil rights or crime, issues which essentially dropped from public consciousness after a moment of intense attention. Downs recognized that the environment was different than these more fleeting issues but nonetheless predicted that it would soon decay to insignificance. Figure 6 shows that his prediction did not come to pass. Instead, public, press, and Congressional interest in environmental issues became more or less permanent, fading and recurring frequently, but never long disappearing. Congress showed more consistent interest in the environmental issue than the general public, perhaps in response to various groups with interest in particular environmental issues. In addition, the environmental issue itself has gone through many transformations, being at the heart of both narrow, neighborhood related issues often characterized as "NIMBY" (Not In My Backyard) issues, and global concerns such as global warming, an issue that could be argued has raised environmental concern to its highest level ever, and interestingly, in certain respects level the framework of the EPA's regulatory powers.

The environmental issue has broad public support noted in polls over decades (Gillroy & Shapiro, 1986; Saad, 1999; Associated Press, 2000; The Economist, 2000; Munch, Lahusen, Kurth, Borgards, Stark, & Jaub, 2001; Rootes, 2001; Saad, 2001). While particular aspects of the broad environmental issue continue to spark controversy, the environment has become an issue on which former ideological opponents have found considerable common ground (Grafton & Permaloff, 2005).

In addition, the general issues of the environment and its component issue areas, such as air pollution, water pollution, or hazardous wastes, have important constituents beyond the public. Although established by an executive order, the EPA inherited from its constituent agencies and their founding legislation broad rule making authority, strong enforcement powers, and the ability to undertake corrective actions in emergencies. A recent Supreme Court decision (*Massachusetts, et al., Petitioners v. Environmental Protection Agency, et al., 2007*), for example, directed EPA to promulgate rules where the agency previously had demurred. Due to this strong regulatory and enforcement role, the EPA has a complex of constituents ranging from “public interest” groups to regulated industries. Public interest groups are by no means all on the side of stronger enforcement and include unions and business trade associations as well as environmental groups. EPA’s emergency response responsibility has also attracted a large constituency of engineering firms and other technical professionals. The technical nature of the EPA’s subject matter has also made it a magnet for scientists and health professionals. The community impact of the decisions made by the EPA has also mobilized an array of parochial organizations representing minority communities, particular natural features, such as a beach, a stream or a species, and a range of other localized issues.

Groups advocating stronger environmental enforcement are not necessarily of the same mind. They often have widely divergent opinions: for example, in the period under study, emergent environmental justice (EJ) organizations, ranging from the pro-business NAACP to the left-populist Southern Organizing Committee, clashed with, and then joined main line conservation groups such as the Sierra Club and the World Wildlife Federation. EJ groups emphasized issues such as location of waste facilities such as

garbage dumps in minority neighborhoods while the Sierra Club and others focused on preservation of natural habitats. As a case in point, all at one time opposed the Brownfield Initiative and later embraced it.

Regulated industries themselves had widely differing approaches to EPA rules. “Heritage” steel companies, such as USX (formerly US Steel) and Bethlehem Steel, burdened with old plants and contaminated sites, were much more antagonistic to EPA hazardous waste regulation than the newer “mini-mills” that had much greater freedom to choose sites, were in an investment mode rather than a preservation mode, and were much more profitable.

Polling data such as Gallup’s “Most Important Problem” and Congressional interest measured by Congressional hearings, both cited by the Policy Agenda Project, indicate a broad public interest in environmental issues and therefore the EPA and its actions. That interest is as complex as it is broad. The structure of that support, as experienced by the EPA, is indicated by the broad range of participants in the EPA’s Common Sense Initiative (CSI), to be considered in more depth later in this research.

The CSI, one of twenty-four FACs convened by the EPA in 1995, involved some 151 meetings at a cost of \$2.8 million. In 1996, one of twenty-eight FACs, it held ninety-nine meetings at a cost of \$3.6 million (FIDO, 2007). An EPA promotional brochure on CSI thanked the hundreds of participants who were invited and served officially, listing 130 for the 1998 year alone (EPA, 1998a). In the same year, representatives from City of Gary, USX, the National Audubon Society, United Steelworkers of America, J&L Specialty Steel, Group against Smog and Pollution, the Sierra Club, AK Steel, Bethlehem

Steel, Save the Dunes, Friends of the Earth and the City of Atlanta served on the Iron and Steel Subcommittee, one of six sector groups.

One sees a stark contrast between the context of interests in which the EPA operates and an agency of the Truman type. Truman (1951) devoted a great deal of attention to the relationship between the American Farm Bureau Federation and the US Department of Agriculture in the 1930s and 1940s. No doubt the USDA listened to other interests but this was the USDA's major interest group relationship for decades. Cater (1964), more pointedly, described the long term group-agency relationships, such as that between the sugar industry and the Director of the USDA's Sugar Division, as two legs of an iron triangle or sub-government. For both Truman and Cater, neither of whom ruled out the agency's self interest, there was no question that the direction of the influence went from interest to agency. The interest context of the EPA is qualitatively more complex and reflects a tendency toward complexity noted by Salisbury et al., who, while recognizing that iron triangles still exist in "modest jurisdictional niches" (1992, p. 149), question the ability of "geometric" images to capture the contemporary relationships of policy advocates and government officials.

To summarize the brief characterization above: the EPA is a regulatory agency operating with broad legislative mandate, strong regulatory authority and administrative power, with a significant degree of broad public support; bipartisan, although not universal political support; and, a complex set of constituency relationships. These characteristics are important in understanding the abilities of the agency to act in the public arena, the investigation of which is the subject of this research.

Superfund and its Discontents

The passage of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund set the conditions for the development of the brownfield concept and subsequent interest and movement. Congress maintained a high degree of interest in environmental issues, despite a slackening of interest among the broad public, as indicated by Figure 6. They passed the law in response to the 1978 discovery of a waste dump buried under Love Canal near Buffalo, New York (Landy, Roberts, & Thomas, 1994; Stroup, 1996). Before Love Canal, the issue of “Waste” was primarily one of solid waste or sewage. Henceforth, the term “Waste” was usually preceded by “Hazardous.”

As seen in Table 4 and Figure 7, Superfund was passed in 1980 on a wave of Congressional attention, a minor up-tick in press attention and relatively low public attention to environmental issues (Landy, Roberts, & Thomas, 1994; Stroup, 1996). Given the extremely localized nature of hazardous waste problems (the waste in question is typically buried underneath a particular party’s property) as opposed to more generalized, and un-attributable, problems like air or water pollution, much of Congress’s attention may be due to the intense involvement of local interests and its communication by local press. Additionally, the nexus of local problem and individual culprit provided a rich vein for journalism and entertainment. For example, the movie *Erin Brockovich* (2000) and the book and movie *A Civil Action* (1996) are based on Superfund-like cases. “Hazardous Waste” became a major topic of Congressional hearings on the environment from 1978 until 1996. It had the largest share of Congressional environment topic hearings in fourteen of twenty-five years and over twenty percent of the total in eleven of

the twenty years (Jones, Wilkerson, & Baumgartner, 2008). The peaks shown in Figure 7 correspond roughly to the hearings around the formation of the EPA (1970), the passage of CERCLA (1980), and SARA (1986).

Brownfield Time Line: 1980 – 2002		
<i>Year</i>	<i>Milestones</i>	<i>Political Climate</i>
1980	Superfund (CERCLA)	Carter administration; Reagan election, Senate turns Republican
1985	Superfund reauthorization (SARA)	Reagan’s anti-EPA actions rebuffed; distrust of Reagan’s EPA Administrator
1991	United States v. Fleet Factors Corps	Democratic Senate until 1986, Bush Administration, Economic Slowdown
1991	September: First informal Brownfield Conference	
1992	2 nd Brownfield Conference	November: Clinton Election
1993	July: Cleveland Field Hearing	January: Clinton Inauguration
1993	September: First Pilot Grant (Cleveland)	Clinton and Browner on defensive with Congress, Cities
1993	US Conference of Mayors lobbies Browner	
1994	February: Executive Order 12898 (EJ)	
1994	September: Pilot Program announced	
1995	Brownfield Action Agenda published	November 1994: Republicans control both House and Senate; Clinton and Browner on defensive with Congress
	1 st EPA/ICMA Brownfield Conference	
1997	1 st Budget Authority for Pilot Program	Wide congressional support after approximately 136 grants totally over \$12,000,000.
2000		Election of George W. Bush; economic stagnation
2001	Passage of Small Business Act	Post 9/11 economic slowdown
2002	President Bush signs the Brownfield Bill	

Table 4: Brownfield Timeline 1980 - 2002

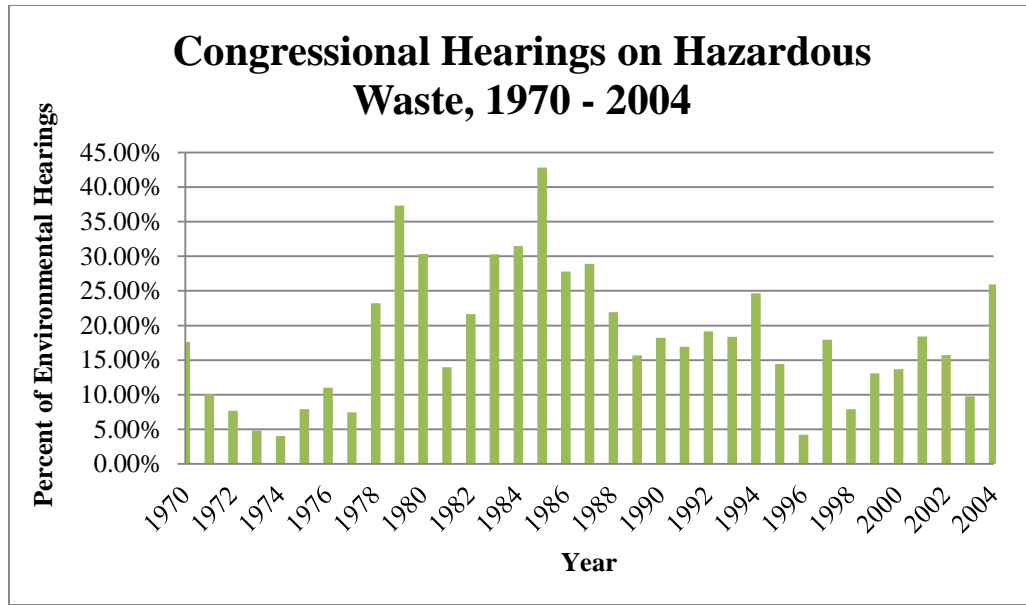


Figure 7: Hazardous Waste as a Percent of Congressional Environmental Hearings, 1970 – 2004 (Jones, Wilkerson, & Baumgartner, 2008)

EPA informants who participated in early discussions about Superfund confirm that the original conception of the hazardous waste issue was local and limited. According to several EPA and business informants, Superfund originally envisioned several dozen hazardous waste sites that could be cleaned up in fairly short order. The catalog of potential Superfund sites, the National Priority List (NPL), grew so alarmingly that by 1986, when Superfund was reauthorized by the Superfund Amendments and Reauthorization Act (SARA) there were 888 (EPA, 1986) sites on the NPL or Superfund. Another list, the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS), comprises candidates for the NPL and is more than ten times longer than the NPL.

The explosion in the number of identified sites and the difficulty cleaning them up resulted not from an expanding definition of contamination but from a combination of factors. Superfund designation raised the possibility of an EPA funded cleanup or a

chance to stick a polluter with the cleanup costs. The EPA, polluters and victims of pollution alike had an interest in adding sites to the list. The ramifications of the Superfund liability scheme and the difficulty of assessing costs of cleanup were unknown at the time of passage.

Between 1980 and 1986, while the EPA added 888 sites to the NPL, they counted only 16 cleaned up, with construction activities complete. The SARA amendments slowed down site cleanup even more. By 1992, *reform* of Superfund was an integral part of *reauthorization*. Superfund was widely agreed to be problematic if not fatally flawed (Stroup, 1996). Further, Superfund's authorization was to expire in 1994.

In President Bill Clinton's first State of the Union address, Superfund reform was the only environmental issue mentioned (1993). Republicans gained control of the House of Representatives in 1994 and were openly hostile to the Superfund program. By the 1996 election, the likelihood of Superfund reauthorization, and particularly of restoring its funding, was remote. However, the liability scheme of Superfund remained in effect and discontent with the liability issues of Superfund was an ongoing impetus to interest in brownfields. One may wonder if the EPA's Brownfield Agenda was, in fact, an effort to show that some of the more obnoxious aspects of Superfund could be managed without doing away with the founding legislation, a view suggested by the analysis of Nakamura and Church (2000; 2003). The role of the EPA in this debate will be explored below.

Virtually every EPA informant interviewed by this researcher and most non-EPA interviewees were reluctant to admit a motivating connection between the EPA's Superfund problem and the Brownfield Agenda. To participants in the brownfield interest community the brownfield issue and program appeared to have its own logic.

Despite their perceptions, obvious connections exist, which may or may not indicate motivation for the EPA. For example, until brownfield legislation became law in 2002, funding for the brownfield program was taken from the Superfund budget, first administratively and then with Congressional approval through the appropriations process (Reisch, 2001). Further, the brownfield program was promoted by the EPA to big city mayors as “a package of relief” from Superfund regulations. An EPA press release describing EPA Administrator Browner’s speech to the U.S. Conference of Mayors explained the brownfield program as “Phase 2 of the Superfund Administrative Improvements” and promised to “release a package of reforms to limit liability in developing hazardous waste sites” (EPA, 1995b). Were it not for some operational separations between the programs (e.g., designated Superfund sites could not receive brownfield funds) a naïve observer would suspect that the informants protested too much.

A characteristic of the Superfund issue that distinguishes it from other environmental issues is the *particularity* of the individual cases. Superfund issues, and brownfields, are about *sites*. While it is the connection of those sites to a broad issue of public health, namely the purity of drinking water, that gives the Superfund its legislative mandate, Superfund polluters and brownfield developers come together around specific pieces of property. Every site, whether Superfund, potentially Superfund or brownfield, has a set of constituents or interested parties that include property owners, neighbors, immediate communities, prospective owners and local governments, all of whom might be involved in routine property matters, and adds to those civilian interests a collection of federal and state regulators, environmental advocacy organizations and environmental

justice organizations. The nexus of the individual property in question brings them together and the normally complicated business of real estate becomes very complex.

As newly elected President Clinton pointed out in his Inaugural speech, by the early 1990s the intractability of these complex local problems had created more benefits for lawyers than the communities affected. This comment points to an additional constituency peculiar to Superfund/brownfield issues: the professionals aptly described by a non-EPA informant as “the transaction facilitation community.” These are lawyers and remediation professionals such as geologists, engineers, construction firms, finance experts, specialized investment firms, insurance firms and others, a portion of whose business is brought into being directly by the EPA’s expenditures but more importantly by the regulatory regime created by the EPA. A geotechnical firm informant and several EPA informants noted the transition of water engineers to site remediation engineers as the EPA left the waste and water fields and Superfund developed. The role this community may play in promoting the brownfield policy agenda will be addressed later.

1991: Origin of the Brownfield Idea

Urban oriented policy entrepreneurs who mainly operated outside the EPA but who had connection with individuals in EPA initially created the brownfield concept. Success has many parents and just a partial list of those claiming the brownfield idea are: the North East Mid West Institute (NEMW), particularly Charles Bartsch (NEMW, 2006); organized community development practitioners, exemplified by the Chicago Area Network of Community Development Organizations; Charles Powers of the Consortium for Risk Evaluation with Stakeholder Participation (CRESP) and the Institute

for Responsible management (IRM); the US Conference of Mayors (USCM); National Environmental Justice Advisory Council (NEJAC); EPA Region V and in particular managers like Bob Tolpa who led the Northwest Indiana Initiative, a multimedia enforcement effort; various individuals in EPA Headquarters, particularly Marjorie Buckholtz and later Linda Garzinski (Stone 2003, EPA and business informants); and numerous early and green practitioners. None is without a claim on the initiative because the early notion of reusing contaminated sites grew from the necessities of economic development in “de-industrialized” urban areas and the above-described consequences of Superfund. The role of these entrepreneurs was to synthesize a nascent movement into a national concept. One informant described the process as “branding” an approach to industrial sites that was spontaneously developing in several areas.

In 1991, the U.S. Supreme Court ruled in *United States v. Fleet Factors Corp.* (Fleet Factors) that financial institutions could be liable under Superfund for properties over which they assumed control during bankruptcy proceedings (*United States v. Fleet Factors Corp.*, 1990). This ruling caused bankers in many cities to pull out of or refuse to consider financing inner city economic development deals. They loudly proclaimed this to mayors and economic and community developers.

Fleet Factors is widely cited as the triggering event of the brownfield concept. It created a new community of interest in this hitherto arcane area of environmental law and regulation. Mayors and other city officials became conversant in the fine points of environmental law in order to save critical economic development projects. By 1993 the US Conference of Mayors was a significant proponent of the brownfield message and was pitching to EPA administrator Carol Browner the need for a program to address the

unintended consequences of Superfund on economic development in their cities (Sheahan & Coley, 2002). These national concepts gestated in a Midwest incubator before they burst on the national scene.

The actual expression of the brownfield idea came from several sources in the Midwest, or in EPA Region V. In the Midwest, the crisis caused by Fleet Factors led to, among other things, the first conference at which the brownfield concept, in a primitive form, emerged. The Economic Development Administration of the US Department of Commerce, the National Trust for Historic Preservation and the Chicago Area Network of Development Organizations (CANDO) convened the conference, entitled “New Life for Old Buildings,” in fall of 1991. The booklet accompanying the conference explained the economic development case for a brownfield program, without, however, mentioning the term (Bartsch, Andress, Seitzman, & Cooney, 1991).

The modern use of the term “brownfield” in the US⁵ is thought to have originated at the first self-described “Brownfield Conference” the following year in Chicago. The conference, also funded by the EPA and supported by CANDO, was described by EPA and professional informants in attendance, as an almost cult-like gathering of about thirty-five people, including, significantly, several EPA Region V staffers. These policy innovators saw opportunity in the connection between environmental contamination and economic development when their peers saw only disaster. However, the economic and community development needs of cities and the analysis of the potential benefits of reuse did not translate directly into an environmental program.

⁵ Like several urban economic development initiatives of the 1980s and 1990s, such as Enterprise Zones, the Brownfield idea originated in the United Kingdom.

Literature from these early discussions demonstrates a gulf between the brownfield advocates and the EPA's regulatory culture and constraints. EPA lawyers admonished Marjorie Buckholtz, an early proponent of the brownfield concept in EPA headquarters, "This is not the Environmental Real Estate Agency" (Stone, 2003, p. 134). According to several informants, another strain of policy entrepreneurship, developed by Chuck Powers of CRESP/IRM, bridged this gap. Powers connected the idea of risk-based assessment, community involvement, end use based cleanups to the economic, and community development needs of the cities. Powers' formulation of a community-based risk education and assessment process, which he developed as an advisor to the US Department of Energy, was an invitation to both community-based organizations and the nationally organized and ideologically oriented EJ organizations to participate.

1993: Pilot Program Piloted

Cleveland was an auspicious location from which to push the brownfield idea toward action. Democratic Congressman Louis Stokes had represented Cleveland's predominantly African-American East Side since 1968. In 1993, he was the chair of the House Appropriations Committee's "VA, HUD, and Independent Agencies" subcommittee. The EPA was one of the agencies over whose budget Stokes had considerable influence. Charles Bartsch organized a July 19, 1993 congressional field hearing in Cleveland that included Marjorie Buckholtz and Office of Solid Waste and Emergency Response (OSWER) Deputy Assistant Administrator Rich Guimond and NAACP Executive Director Ben Chavis (Robles, 1993). An EPA informant claimed that Guimond's predecessor, Don Clay, was focused on Stokes and was reported to have said,

“Stokes hates us,” because of the Superfund and directed his staff to come up with something that would show the Superfund issues to be tractable. Although Clay was no longer in office, the concern and the effort continued after the Clinton election. Stokes was more powerful with a Democratic President but still frustrated by the negative effects of Superfund on his city and presumably on his constituents.

The participants in the July 1993 Congressional field hearing, whom EPA career staff and the NEMW organizer invited, revealed something of the role of the emerging EJ interest. Chavis, before his selection as the Executive Director of the NAACP, was on staff of the United Church of Christ. There he published a report by Charles Lee that coined the term “environmental racism” that documented the ill effects on minority communities of their proximity to garbage and hazardous waste sites (United Church of Christ Commission for Racial Justice (UCC), 1987). According to an environmental justice informant and published sources, the emerging EJ movement targeted both the mainstream environmental movement and the EPA due to their focus on technical/scientific and conservation of nature issues to the exclusion of economic and social justice issues (Chang & Hwang, 2000). EJ’s interest in economic issues pointed it toward alliances that exacerbated conflicts between advocates for economic and environmental issues.

As NAACP Director, Chavis drew fire for his accommodation with polluters and especially for the NAACP’s advocacy of the exclusion of small businesses from the strict liability schemes of Superfund. According to informants active in EJ, this made Chavis and the NAACP important supporters of the brownfield initiative but, in the EPA’s eyes, unreliable allies in their fight for Superfund Reauthorization. This was not

particularly a problem for Chavis and most EJ activists as they felt that the ecology-oriented environmental movement was a weak advocate for minority interests. In fact, they had suggested that the predominantly white and suburban “enviro” interests blinded the EPA to minority and inner city issues.

The EPA courted the EJ movement. The agency became a large funding source of the EJ movement, hiring many of its proponents as consultants and employees, initiating a series of EJ grants. In February 1994, President Clinton issued Executive Order 12898 that required that all federal agencies develop mechanisms to include minority concerns as they addressed environmental issues.

The Cleveland Congressional visit was the beginning of the Brownfield Pilot Program. According to EPA informants, funds for the Cleveland program were committed without permission from the EPA accounting hierarchy, much less Congress. Congress was not to budget funds for the Brownfield Pilot Program until 1997, after some \$30 million had been spent (Reisch, 2001, p. 7). The Cleveland Brownfield Demonstration Pilot was funded September 1993 (EPA, 1997), but according to EPA informants, it was in the works months before the July 1993 Congressional visit -- and also long before the Conference of Mayors delegation, led by Chicago Mayor Richard Daley Jr., appealed to Carol Browner for a program to address idled industrial sites that were plaguing the cities.

1995: EPA’s Brownfield Action Agenda

Soon after taking the job as EPA administrator in 1993, Carol Browner was briefed about the nascent brownfield program. According to an EPA informant, she

asked the staffer, “Whose program is this?” She was told that, although it had originated during the Bush administration, it had not yet been announced, so it could be hers. At the time, the EPA had not fully adopted the brownfield idea since it did not contain an established method of addressing either environmental activist concerns about weakened standards or environmental justice and community issues about the future risks of redeveloped sites. Several informants recalled that some supporters of the brownfield concept expected the US Department of Housing and Urban Development (HUD) or the Department of Commerce’s Economic Development Administration (EDA) to take up the initiative rather than the EPA. However, the concept fit well with several Clinton Administration and EPA objectives. This doubtless helped to keep the idea in the policy mix as it was elaborated and fit into the EPA framework.

It is easy to forget, 15 years after the fact, that the resurgence of urban issues in the early 1990s was due to the 1992 Los Angeles riots. The Conference of Mayors’ advocacy of the brownfield idea, with its promise of restoring central city jobs, was given extra resonance by this context. Further, brownfields was a perfect example of “Government Reinvention” according to Robert Stone, who was the Clinton Administration’s Reinvention Czar. Reinvention was a signature initiative of the Clinton 1992 campaign, and in his administration he appointed Vice President Al Gore to promote efficiency and modern management in the federal bureaucracy (Stone, 2003). Finally, the brownfield idea was a perfect candidate for use as a Clintonian “triangulation” tool aimed at neutralizing the newly elected Republican Congress, which was thought to be determined to do something about Superfund and generally not

favorably disposed toward the EPA or regulation generally. An opportunity for the EPA to recast itself as an economic development force might have been too good to pass up.

EPA Administrator Carol Browner announced “EPA’s Brownfields Action Agenda” at the 1995 Convention of the US Conference of Mayors. The activities proposed in the Agenda, and their effect upon the agenda of Congress, are the major subject of this research. In addition, it will look at an explicitly promotional initiative in which the EPA made a considerable investment, a series of Brownfield Conferences that occurred annually between 1995 and 2006 and at a FAC, the Common Sense Initiative, in which the brownfields initiative was a significant, but secondary, theme.

The Agenda is an expansive, conceptual proposal composed of four major parts: “1) Brownfields Pilots; 2) Clarification of Liability and Cleanup Issues; 3) Partnerships and Outreach; and 4) Job Development and Training” (EPA, 1995a, p. 1).⁶ The Agenda describes most of the activities that the EPA subsequently undertook to promote the brownfield program, save one: the annual Brownfield Conferences.

The major components of the EPA’s Agenda were evaluated for their suitability for the current research. Several projects were promising. For example, the spread of the State Voluntary Cleanup Program (VCP) showed the results of a persistent effort by both the states and the EPA to develop expedited cleanup programs. This research will look at this initiative but, as a subject of analysis, it suffers from too few data points and, further, each VCP approval is individually quite complex. The proliferation of state VCP’s may illustrate the EPA’s ability to use the structures of federalism to promote its agenda and thus contribute to the overall picture of EPA’s agenda-oriented activities, but it does so

⁶ The Agenda is reproduced in full as Appendix A.

weakly due to the paucity of data and to the complex path by which the EPA's influence on state bureaucracies might make its way back to Congress, whose agenda is the specific subject of this research. In addition, while the period 1988-2002 saw 48 states develop voluntary clean-up programs, only 17 were approved by the EPA with memoranda of understanding (MOA's) (Bartsch & Deane, 2002; EPA, 2005a).

Purely administrative initiatives also do not provide many data points. The EPA issued too few "Comfort Letters" or "Prospective Purchaser Agreements" (both highly qualified administrative statements intended to facilitate real estate transactions thought to have a high degree of enforcement risk) to analyze as a group, although, no doubt, individual stories of their negotiation and execution would be of interest.⁷ Likewise, Carol Browner's announcement at the US Conference of Mayor's Convention in 1995 that 24,000 CERCLIS sites were to be "archived" (removed from the list of possible Superfund sites) had great symbolic value. The very size of the action drew attention, but the relationship between the CERCLIS, a database of possible Superfund sites and the National Priority List, a much shorter list of sites that were due to be cleaned up by Superfund, was so arcane that few were impressed. Indeed, some states, which had invested a considerable amount of their own and EPA's funds in managing the archive under their federalism responsibilities, actually refused to echo the EPA's archive action. While the EPA's action and the states' reaction would make an interesting story, their effects on the agenda process would be difficult to measure.

⁷ Nakamura and Church (Nakamura & Church, 2000, p. 30) cite EPA sources claiming that as of 2000, only three hundred non-binding "Comfort Letters" and one hundred "Prospective Purchaser Agreements" were issued.

Of the items detailed in the Brownfield Action Agenda, the Pilot Program and the Common Sense Initiative best lent themselves to analysis. Information on the date, amount and location of the Pilot Program grants was readily available, allowing the construction of a time series. The Common Sense Initiative, as a FAC, was the subject of several reports that included its budget and lists of its participants.

The Pilot Program: 1993 - 2001

The Pilot Program was the EPA's most sustained, significant and, arguably, effective effort to promote the brownfield concept. In the period of study, 1993 - 2001, the EPA made some 622 grants that reached every state in the union at a cost of \$180 million. Critical variables from Pilot Program data, namely the date, location and amount of grant, make a geographic and time series which can be compared to other related data, such as the location and date of news stories and the date of Congressional hearings and, indeed, even the principals of the Congressional attention.

As described in the methodology section, the time series variables are: GRANTS, measuring the number of Pilot Program awards; MPRESS, measuring the number of major press references to "brownfields;"⁸ CRECRD, measuring the number of references to "brownfields" in the *Congressional Record*; and finally CBILLS, measuring the number of bills introduced in Congress that reference "brownfields." Both GRANTS and MPRESS include location data and the dollar amount of the grants.

⁸ The major press category of Lexis-Nexis includes a few national newspapers, such as the *New York Times* and *Wall Street Journal* but mainly consists of significant local papers such as the *New Orleans Times-Picayune*, the *Cleveland Plain Dealer*, the *Boston Globe*, and the like. Most citations were in fact local stories, even in the papers of more national scope.

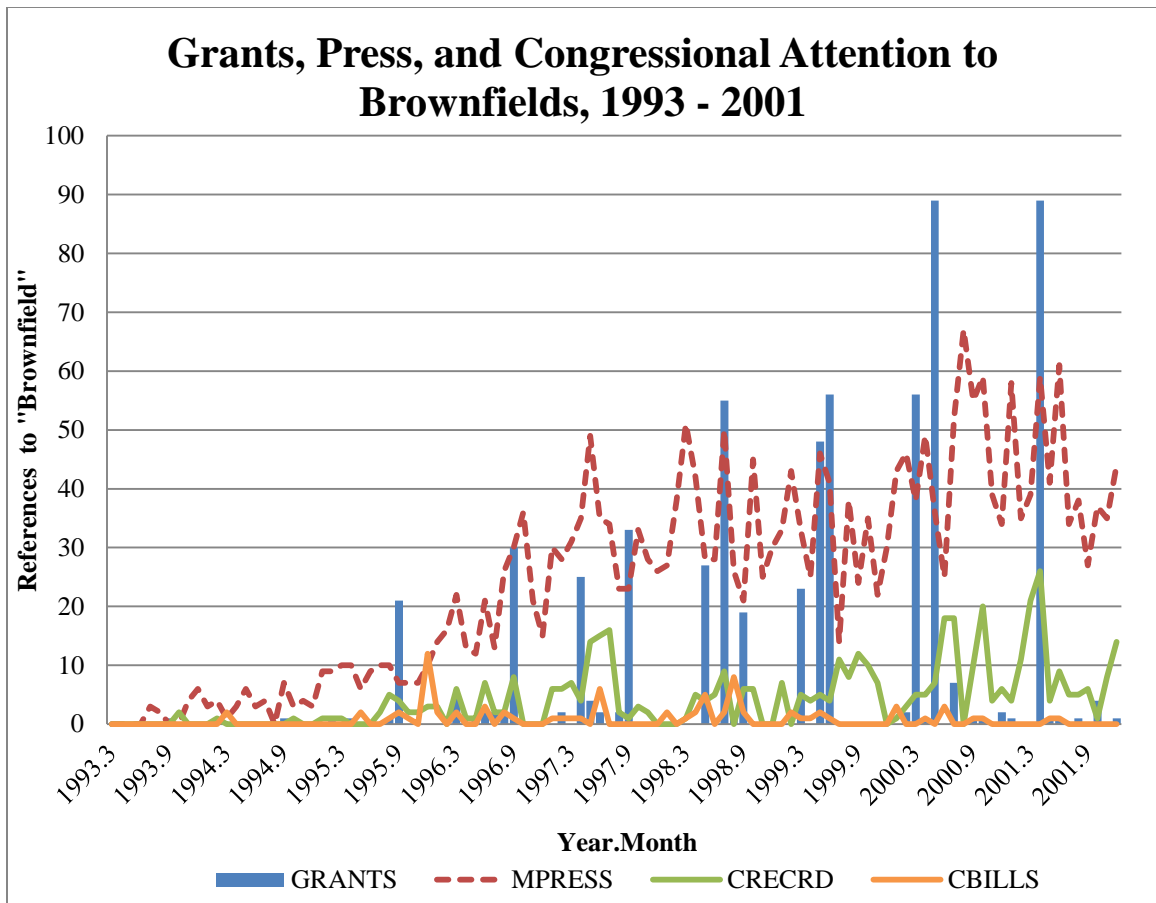


Figure 8: Comparison of Pilot Program Awards and references to “Brownfield” in the Major Press, Congressional Record, and Legislation, 1993 - 2001

Figure 8 displays the variables GRANTS, MPRESS, CRECRD, CBILLS on a time scale with no smoothing or scaling. The figure shows a dramatic association between grants, press coverage, and congressional attention that gives the reader a graphic representation of Jones & Baumgartner’s (2005) concept of “Issue Congruence.” The magnitude of Congressional attention shows a high point around the 1997 inclusion of the Brownfield Program in the appropriation bills, which marked the end of the program’s early phase as an EPA administrative initiative. It shows another high point toward the end of the series, which is associated with the passage in September 2001 of

the Small Business Liability Relief and Brownfields Revitalization Act, the first legislation that officially enabled the program.

Both of these Congressional actions allowed an increase in EPA's Brownfield Grant Programs, with brownfield spending rising from \$8.2 million to \$37.7 million following inclusion in the appropriations bill (Reisch, 2001, p. 14) and from approximately \$92 million to \$200 million with the passage of the Small Business Liability Relief and Brownfields Revitalization Act. However, the figure shows the program was created and attracted press attention *before* Congressional notice, much less legislative action. As discussed above, the EPA created the grant program within the administrative prerogatives of the Superfund program, not at the bidding of Congress as a body, but rather supported by relationships between EPA staff and leadership and individual Congressman. The program always received its main support from individual Congressman in industrial districts heavily impacted by brownfields, much as it was strongly supported by mayors of older industrial cities. These Congressmen introduced bills that were never acted upon by the Congress as a whole, often linked to other local issues. One informant referred to a "Green Triangle," comprised of EPA career staff, congressional committee staff and environmental activists, as the source of support for the program. Another informant described EPA career staff's desire to keep the program "under the radar."

This research does not question Congress's ultimate power of the purse. Rather, it looks at whether the actions of the agency affect the Congressional agenda. In that regard, the broad look afforded by Figure 4 above does not clearly indicate the direction of influences between MPRESS and GRANTS. For example, it shows grants and press

attention as tracking closely, but it does not clearly indicate that one or the other is leading. It would not be surprising to find that the press influenced the Congressional agenda. The hypothesis-confounding conclusion would be that the agency's Brownfield Action Agenda in fact drove the public attention. This possibility will be explored through a close look at the grant-making activities of the agency and the press reaction in the first two years of the program, before significant Congressional attention. In addition, the general increase in attention will be removed from the data to make the variable more amenable to temporal comparison.

Examination of these databases in their temporal and geographic relation offers a few snapshots of the connection between the grants and their press treatment. Two examples give a detailed look at their interaction and may begin to show the direction of the influence.

The Cleveland example is a good place to begin, as it was the site of the first brownfield grant in 1993. In addition, the *Cleveland Plain Dealer* contained the first press mention of the term "brownfields" in the sense used in this research. As described above, the EPA targeted Cleveland because Carl Stokes, who sat on their Congressional Appropriations subcommittee, lived there. EPA informants claimed that Cleveland and Stokes were important to senior Bush Administration EPA staff and that in fact, the brownfield concept had been developed in the pre-Clinton period.

Also discussed above, the brownfield concept originated among activists in the Chicago-Northwest Indiana area, not in Cleveland. The EPA's organizational boundaries are porous for policy entrepreneurs, both within and without the agency, according to EPA and business informants (one of whom said the "EPA leaks like a sieve") and

scholarly observers of the EPA (Landy, Roberts, & Thomas, 1994). Table 5: EPA Actions, Press Response, and Congressional Reaction Timeline, 1992 - 1994, illustrates

EPA Actions, Press Response, and Congressional Reaction Timeline, 1992 - 1994			
Year	EPA Actions	Press Response	Congressional Reaction
1992	<ul style="list-style-type: none"> Brownfield program developed by EPA staff in last months of George H. Bush Administration 		
1993	<p><u>February – June:</u></p> <ul style="list-style-type: none"> Cleveland grant funds secured administratively Cleveland Congressional Hearing planned with Stokes staff, NEWI, EJ, EPA staff <p><u>September:</u></p> <ul style="list-style-type: none"> Grant announced 	<p><u>July:</u></p> <ul style="list-style-type: none"> Press coverage of hearing limited to 3 incidents including national coverage <p><u>August:</u></p> <ul style="list-style-type: none"> Discussion of possible grant limited to 2 local incidents <p><u>November:</u></p> <ul style="list-style-type: none"> 4 mentions of Grant in major press <p><u>December:</u></p> <ul style="list-style-type: none"> 6 mentions of grant program 	<p><u>February:</u></p> <ul style="list-style-type: none"> Carol Browner confirmed by Senate <p><u>October:</u></p> <ul style="list-style-type: none"> 2 mentions of brownfield program in <i>Congressional Record</i>
1994		<p><u>January:</u></p> <ul style="list-style-type: none"> 3 mentions of program in major press <p><u>February:</u></p> <ul style="list-style-type: none"> 4 mentions of program in major press 	<p><u>March:</u></p> <ul style="list-style-type: none"> 1st Brownfield Bill introduced

Table 5: EPA Actions, Press Response, and Congressional Reaction Timeline, 1992 - 1994

the beginning of the brownfield issue. A close examination of the variables mentioned above over the space of a year will begin to illustrate a mechanism by which the grant process may have affected the public and political agenda. In June 1993, the public, outside the confines of the insiders, was ignorant of the brownfield concept. In July, the *Cleveland Plain Dealer* published three articles on the subject of brownfields, the first published by a major newspaper anywhere in the US. One reported on a Cleveland area brownfield working group and another, on July 20, reported on the Congressional Field Hearing at which Congressmen Stokes, Regula and others met with EPA staffers, EJ activists and NEMW policy entrepreneurs (Mangels; Marrison; Robles). In August, Lexis-Nexis reports articles by Neil Pierce on the subject of brownfields in the New Orleans *Times Picayune* and the Portland *Oregonian*. In September, Cleveland received the first brownfield grant, which we know from EPA informants, was in the works since the G. H. Bush administration. On October 19, 1993, Congressman Stokes made the first mention of brownfields in the Conference Report of H.R. 2491 (1995).

With regard to the public events noted by these variables, this sequence illustrates several mechanisms that will affect the further analysis. First, the date of the grant award is but a point in time frame that describes the grant event. Prior to award, there is the application process, informal in the case of Cleveland and more formalized subsequently, speculation in the press about who might get the award, and the actions of those applying. After the award, there is increased attention in the press to the novel concept, the promise of the project and other attention as the idea become current. Congressional attention to the concept followed increased press attention to the grant.

The variable GRANTS, then is not merely a point in time but has a duration. In the Cleveland example, the event begins a few months before the grant and might last the better part of a year after. The illustration in Table 5 is of the first pre-program grant but the pattern repeats throughout the history of the program. Appendix B (see page 144) reproduces the EPA's first grant announcements and the dates of publication, application deadline and award announcements show the duration of the grant event, which is reflected in the time series by counting each event in multiple months.

In the first year of recorded brownfield history, Lexis-Nexis records thirty-five brownfield articles in "Major Papers." Nineteen of these were from the *Cleveland Plain Dealer*, five from the *Pittsburg Post Gazette*, four from the *Columbus, Ohio Dispatch* and one from the *Buffalo News*. The only national paper to pick up the brownfields story was the always-thoughtful *Christian Science Monitor*. Since syndicated columnist Neal Pierce has national range⁹, his article may have appeared in more than the two publications that reported it in LexisNexis's "Major Press" database.

The profile of attention that this coverage presents is curious: extreme local coverage of an issue that a syndicated columnist almost immediately picks up but remains unnoticed by significant national newspapers. During the twelve months of the example, press attention to brownfield extends only to a few industrial cities within 200 miles of Cleveland. It is worthy of note that the *Washington Post* and *New York Times* did not run a brownfields story until November and December of 1995 respectively, more than two years after the *Cleveland Plain Dealer*.

⁹ Pierce's home base is Washington, DC but he covers developments in state and local government across the US.

The spread of interest in the brownfield problem and program had the EPA and the prevalence of brownfields as its nexus, as distinct from a simple diffusion model that might spread through geographic proximity. At least through the early history of the program, several informants confirmed that Regions 1 (New England) and V (Midwest) were “hotbeds” of interest in the problem and the program; these are, of course, the principal industrial areas affected by the decline of manufacturing.

Brownfield history suggests that, while it did not invent the brownfield idea, the EPA was present at its conception, so to speak. According to informants inside and outside the EPA, the agency is porous to various policy communities who promoted brownfields. Landy, Roberts and Thomas’s (1994) account of the formation of the EPA (Chap. 2) and their description of the creation of Superfund (Chap. 5) reinforce this observation. Most persuasively, the rapid pace of diffusion from relentlessly parochial coverage of the brownfield issue to nationally syndicated promotion and the speed at which the EPA committed resources suggests a coordinated promotional approach.

Stone (2003, pp. 133-134) provides more evidence of the activist role of the EPA in the diffusion of this concept. Bob Stone was Vice-President Al Gore’s “Reinvention Czar” and took special interest in the above-mentioned activities of the Office of Solid Waste and Emergency Response (OSWER) and Assistant Administrator Guimond and staffer Marjorie Buckholtz as they repositioned the EPA. EPA informants confirm that the Cleveland Brownfield Working Group was known to EPA staff from its inception and that coordination took place between EPA staff and Cleveland local interests well in advance of the official activities, as might be expected of a well staffed outreach effort.

An additional observation can be drawn from the Cleveland example. The data point of grant award date in itself may be misleading. The Cleveland example illustrated how a period of preparation preceded the grant announcement. In Cleveland's case, this preparation was largely behind the scenes. The story was revealed through interviews of informants who participated in the actual meetings. In later grants, which were competitive in nature, local preparation was triggered by Federal Register announcements of funding availability. These announcements were buttressed by promotional efforts by EPA staff. Several EPA informants independently used the term "sell the program" to describe the promotional activities, regarding the grant, of staff assigned to the brownfield project as it matured.

If the Cleveland story suggests a coordinated national plan played out on a local stage, examples from New England illustrate other grant-press dynamics. New England (Region I) did not receive a grant until 1995, even though New England is a populous area with a many abandoned industrial sites. Region I has only two newspapers in Lexis-Nexis's "Major Newspapers" category.

Grant and press activity were compared within that region alone by creating a subset of the variables MPRESS and GRANTS to include data from Region I only, MPRESSR1 and GRANTR1. As shown in Table 6 (page 86), the Pearson correlation coefficient of these two variables is only .156, illustrating an insignificant positive correlation between the number of Brownfield Demonstration Pilot or revolving loan Fund grants in Region I (GRANTR1) and the number of references to "brownfields" in major newspapers within Region I between 1993 and 2001.

A new variable was then constructed to lag the effect of the grant backward three months to roughly the date of the announcement of funding availability and forward one month to cover the news of the announcement. The expanded variable GRANTR1X had a significant and slightly larger Pearson correlation coefficient of .315 with press attention (MPRESSR1). Because the data are collected monthly, GRANTR1X was able to correct the narrowness of the data and made the data more continuous, but still weighted toward the preparation period, rather than the announcement. Although extending the duration of the grants leads to much higher grant values due to overlapping periods, a general increase in the amplitude of a variable would not change the correlation of that variable with another. The increased amplitude from overlapping grants accurately reflects the increased opportunities for press attention. These examples supported the use of the extended variable GRANTX instead of the original GRANTS for future analysis.

Pearson Correlation Coefficients: Grants, Extended Grants & Major Press Region I: 1995 – 2001		
Variable	MPRESSR1	GRANTR1
MPRESSR1	1	
GRANTR1	.156	1
GRANTR1X	.315(**)	.458(**)
n = 67 ** = correlation is significant at the .01 level (2-tail test)		

Table 6: Pearson Correlation Coefficients of Grants, Extended Grants and Major Press within Region I, 1995 – 2001

Moving beyond Region I to examine the national impact of the grants, the extended grant variable was used to examine the relationship between extended grants (GRANTX), major press coverage (MPRESS) and mentions in the Congressional Record (CRECRD) over the entire period of the grant activity (1993 to 2001). Table 7 (page 87), shows a significant and positive correlation between GRANTX and MPRESS, which

may suggest that an increase in extended grants led to an increasing number of major paper press coverage between 1993 and 2001, supporting the Policy Agendas Project model of press influence on Congressional attention. CRECRD was found to have a significant and positive correlation with both GRANTX and MPRESS, although there was a larger correlation found between congressional attention to “brownfields” and the major press (.553). Pearson correlation coefficients cannot indicate the direction of such a relationship, so it is unclear whether congress or the press is motivated first. The correlation between GRANTX and MPRESS neither made a case for the direction of the effect nor controlled for the general increase in interest in the brownfield issue.

Pearson Correlation Coefficients: Extended Grants, Major Press, & Congressional Attention 1993 – 2001		
Variable	GRANTX	MPRESS
GRANTX	1	
MPRESS	.471(**)	1
CRECRD	.289(**)	.553(**)
n = 106		
** =correlation is significant at the .01 level (2-tail test)		

Table 7: Pearson Correlation Coefficients of Extended Grants, Major Press, and Congressional Attention, 1993 - 2001

Analyzing the database before and after Congress appropriated funds for the brownfield program may provide a way to examine this effect. The reader will recall that in 1997, Congress made the first appropriations of funds for the brownfield program. Before that appropriation the EPA had financed the program administratively, without any Congressional mandate and with considerable consternation in some quarters in the agency. The grants funds were taken out of the Superfund by administrative fiat.

According to EPA informants, staff who were uncritical Superfund loyalists looked at brownfields as a concession to corporate interests that weakened their regulatory regime.

Table 8 and 9 below split the data into two periods: pre-appropriations (March 1993 – September 1997) and post-appropriations (October 1997 – December 2001) and show the relationship among the three variables: GRANTX, MPRESS, and CRECRD. In comparing the two tables, it is clear that the correlations between all variables are much more significant in the pre-appropriations period (Table 8). In this period, grant activity (GRANTX) was found to have a high positive correlation with both MPRESS and CRECRD (.811 and .695, respectively). Congressional attention was also found to have a positive and significant correlation with both GRANTX and MPRESS.

Pearson Correlation Coefficients: Extended Grants, Major Press, & Congressional Attention Pre-Appropriations (3/93 – 9/97)		
Variable	GRANTX	MPRESS
GRANTX	1	
MPRESS	.811(**)	1
CRECRD	.695(**)	.744(**)
n = 55 ** =correlation is significant at the .01 level (2-tail test)		

Table 8: *Pearson Correlation Coefficients of Extended Grants, Major Press, and Congressional Attention, Pre-Appropriations (3/1993 – 9/1997)*

Pearson Correlation Coefficients: Extended Grants, Major Press, Congressional Attention, & Grants Post-Appropriations (10/97 – 12/01)			
Variable	GRANTX	MPRESS	CRECRD
GRANTX	1		
MPRESS	.065	1	
CRECRD	.030	.235	
GRANTS	.262	.189	.248
n = 51 ** =correlation is significant at the .01 level (2-tail test)			

Table 9: *Pearson Correlation Coefficients of Grants, Extended Grants, Major Press, and Congressional Attention, Post-Appropriations (10/1997 – 12/2001)*

However, in the post-appropriation period the strong association of grant activity (GRANTX) and major press attention (MPRESS) disappears, in fact turning into a statistically insignificant minimal association. It appears that the very large increase in grant activity (GRANTX) enabled by Congress's appropriation of funds actually reduced the news worthiness (MPRESS) of the program, per se.

The extent of changed relationships is apparent by examining the GRANTS variable also in Table 9, and finding that in the post-appropriation period, the grant award is the event that has the strongest relationship to major press and Congressional attention.

However, none of the relationships is strong. Grants are associated somewhat more closely with Congressional attention than with press attention, but no coefficients are statistically significant at .05 level. In the pre-appropriations period, the grant announcement, technical sessions and seminars were promoted by EPA, trade associations and advocacy groups, all of whom had considerable access to the press and Congress. The appropriations marked an acknowledgement of the program, made the grant process more routine, and, one may speculate, reduced the necessary level of advocacy by brownfield proponents. This supports the suggestion by informants that a sort of "skunk works"¹⁰ atmosphere existed at the EPA, one that would have been encouraged by the "reinvention" proponents who had a strong anti-bureaucratic inclination. The introduction of Congressional appropriations may also have encouraged the expanded definition of eligible brownfield projects which increasingly included open space, recreation and waterfront (harbor) projects, that is ones less associated with gritty

¹⁰ A "skunk works" is a group working within a bureaucratic organization that carries out necessary but unauthorized functions. The original skunk works was a division of the defense contractor Lockheed Martin that developed in secrecy the P-38, a World War II advanced fighter, and, later, spy planes such the U2 and the SR-71 Blackbird.

industrial neighborhoods and which, one might assume are more dispersed among a range of locales (and congressional districts.)

Contracts, Grants, Common Sense Initiative and “Brownfields 199x”

Over the years, EPA spending authorized by CERCLA has constituted approximately one third of that part of the EPA budget that is not received by the states (GPO, 2008). Unlike the areas in which EPA activities are primarily regulatory (scientific and enforcement), Superfund spending includes substantial amounts of clean-up expense. These funds go primarily to outside contractors for services that include scientific, technical, engineering and construction costs associated with cleanup of the worst sites and those for which cleanup costs cannot be recovered. Well-known firms that do this work for EPA include CH2M Hill, Malcolm Pirnie and Weston (Engineering News-Record, 2007). Under the Brownfield concept, these firms would be needed to do similar, if less dramatic, cleanup work for private clients. The sluggish pace of Superfund cleanups in the early 1990’s also gave these firms an interest in promoting a less complex cleanup regimen. National environmental service firms such as Weston, CH2M Hill and Malcolm Pirnie actively solicited business from Brownfield Demonstration Pilot Grant winners and likewise were exhibitors or sponsors in the brownfield trade shows, described below. The *Engineering News Record*, a trade journal of the broader engineering industry, of which these firms were a part, followed brownfield legislative progress and redevelopment projects (Rubin, Powers, Illia, Powers, & Buckley, 2006).

Brownfield advocates and practitioners frequently claimed brownfield projects are essentially complicated real estate deals. This distinguishes them from Superfund style enforcement and hazard removal projects. It also is the reason for proliferation of professionals described by an informant as the “transaction facilitation community.”¹¹

Several informants recognized the role that this group plays as a constituent of the EPA. Some, such as geotechnical engineers, developed their practices as contractors to the EPA, adapting to the times, as noted above, by moving from sewer projects to site cleanups. Others, such as lawyers, developed long standing relationships with the EPA while representing corporate clients. The Brownfield Initiative brought new professionals into the fold, such as niche land developers, like Cherokee Investments, of North Carolina, that specialize in brownfield projects or insurance companies, like AIG, with environmental insurance products. Hundreds of private firms selling technologies useful to brownfield projects, such as geographic information systems (GIS) or specialized remediation technologies cluster around the Brownfield Initiative.

Concentrated constituent activity led to the coalescence of various professional organizations, at first within broader professional organizations, such as the “Environmental Transactions and Brownfield Committee” of the American Bar Association. On its web page it describes itself as “one of the largest and most active committees in the [Environment, Energy and Resources] Section (Edwards, 2007). There are several national organizations of brownfield professionals or “practitioners” as they style themselves. The National Brownfield Association (NBA), established in 1999,

¹¹ Interview subjects are significant sources of information on the development of the brownfield program. According to Institutional Review Board (IRB) protocol they will remain anonymous. Where appropriate, they will be referred to as their professional type. Refer to Appendix XX for more detail.

publishes *Brownfield News*, which has a circulation of 20,000. The NBA is today organizing a national brownfield conference outside of the context of the EPA and ICMA sponsored Brownfields Conference series.

While the EPA has always been a focus of attention of traditional environmental advocacy organizations, such as the Sierra Club, the peculiarities of brownfield redevelopment projects brought forth new legions of nonprofit community organizations, environmental justice organizations and technology advocates. These organizations were enlisted into a relationship with the EPA and environmental projects similar to that of the technological and legal “transaction facilitators” due to the premium that the brownfield concept placed on “risk education” and “community-based risk assessment.” The processes were to directly involve affected communities in decisions on acceptable clean-up standards and alternative uses of formerly contaminated properties.

The EPA encouraged development of such organizations. It convened an early EJ advisory board (National Environmental Justice Advisory Committee or NEJAC) and contributed significantly to the development of the literature through consulting contracts with the NAACP and other organizations. Indeed, the United Church of Christ, which published one of the first and most influential writings on environmental justice, was an endorser of the first national brownfields conference in 1997. The EPA encouraged the formation of local advocacy organizations such as “Friends of Village Creek” in Birmingham, Alabama. One informant commented that the complex of organizations and trades brought into being by the brownfield program constituted a considerable lobbying force.

The EPA sought to organize these external interests in two specific projects that are of interest to this research. The first is the Common Sense Initiative or CSI, a FAC, which met from 1995 to 1997 and addressed the brownfield issue primarily through its Iron and Steel Committee. The second was its support of a series of annual conferences the EPA cosponsored with the ICMA entitled “Brownfields 1997” through “Brownfields 2008” and collectively referred in this paper as Brownfield Conferences.

The CSI was a consultative body organized under the FAC Act (FACA). Administrator Browner included the CSI in the Brownfield Action Agenda. EPA’s promotion of CSI as “cleaner, cheaper, and smarter” was based on two proposals: one, that rules could be negotiated between regulators, affected communities and the regulated industries; and, two, that the context for these negotiations was in “sectors,” looking at the totality of issues that impacted whole industries in a coordinated fashion. These approaches were proposed by many EPA enforcement staff, according to EPA informants, because of the painfully slow pace of regulatory efforts in communities affected by major industries, such as the steel mills in the Chicago/NW Indiana area. While the Common Sense Initiative was described as part of the Brownfield Action Agenda (EPA, 1995a), brownfield was only a small portion of the CSI’s agenda, primarily considered within the Iron and Steel Committee, one of six industry sectors that comprised the CSI.

Table 10 lists the members of the Brownfield Subcommittee of the Iron and Steel Subcommittee. It illustrates the carefully arranged diversity of interests that the EPA invited to the CSI and thus sought to harmonize. CSI participants generally fell into three categories: government regulators; industry (archly titled by several informants as the

“regulated community”); and a collection of advocacy, community and labor groups here described as “public interest” groups.

Members of CSI Iron & Steel Subcommittee, 1995	
Industry:	
Gary Miracle	A. K. Steel Corporation
Augustine Moffitt	Bethlehem Steel Corporation
Dennis Poulsen	California Steel Industries Inc.
Michael Peters	Environment Structural Metals Inc.
Steven Rowlan	NUCOR Steel
Michael Gipko	J & L Specialty Steel Inc.
William West	LTV Steel Company Inc.
Leonard Wisniewski	Republic Engineered Steels
Jack Sheehan	United Steelworkers of America
Michael Wright	United Steelworkers of America
Government:	
Michael O’Connor	Indiana Department of Environmental Management
Cecil Lue-Hing	Metro Water Reclamation District of Greater Chicago
Charles Williams	Minnesota Pollution Control Agency
Bob Perciasepe	U.S. EPA
Mahesh Podar	U.S. EPA
Dave Ullrich	U.S. EPA Region 5
Charles Carson	U.S. Steel Group
Public Interest:	
Lisa Kahn	Friends of the Earth
Dorreen Carey	Grand Calumet Task Force
Marie Kocoshis	Group Against Smog and Pollution
Orrin Williams	People for Community Recovery
Public Interest, cont:	
Cynthia Warrick	Sustainable Solutions
Joyce Kelly	Wildlife Habitat Enhancement Council

Table 10: Members of Common Sense Initiative Iron and Steel Subcommittee, 1995

Over the four years it existed, CSI included over 350 different individuals and numerous other informal participants and staff. Summarizing the distribution of these participants by category over time requires the assumption that the group was comprised of a set of categorical positions that were populated by different organizations and people

as the group progressed. Table 101 shows the maintenance of a similar distribution over the course of the CSI:

CSI Interests: 1995 - 1998					
		Government	Industry	Public Interest	Total Members
1995	<i>Council</i>	13	6	11	30
	<i>Auto</i>	8	7	12	27
	<i>Electric</i>	13	10	11	34
	<i>Iron and Steel</i>	6	9	8	23
	<i>Metal Finishing</i>	10	7	9	26
	<i>Petroleum</i>	10	6	10	26
	<i>Printing</i>	10	8	10	28
	TOTAL	70	53	71	194
1996	<i>Council</i>	14	6	15	35
	<i>Auto</i>	8	9	12	29
	<i>Electric</i>	12	8	13	33
	<i>Iron and Steel</i>	7	9	11	27
	<i>Metal Finishing</i>	10	7	8	25
	<i>Petroleum</i>	11	6	12	29
	<i>Printing</i>	13	10	10	33
	TOTAL	75	55	81	211
1997	<i>Council</i>	13	5	8	26
	<i>Auto</i>	6	6	8	20
	<i>Electric</i>	10	6	8	24
	<i>Iron and Steel</i>	8	8	9	25
	<i>Metal Finishing</i>	10	6	9	25
	<i>Petroleum</i>	9	3	6	18
	<i>Printing</i>	8	8	7	23
	TOTAL	64	42	55	161
1998	<i>Council</i>	13	5	8	26
	<i>Auto</i>	0	0	0	0
	<i>Electric</i>	10	6	8	24
	<i>Iron and Steel</i>	7	8	10	25
	<i>Metal Finishing</i>	10	6	7	23
	<i>Petroleum</i>	7	3	3	13
	<i>Printing</i>	12	16	6	34
	TOTAL	59	44	42	145
	GRAND TOTAL	268	194	249	711

Table 11: Common Sense Initiative Interests, 1995 - 1998

Many participants in the CSI were reimbursed for the expense of attending. Many were paid as consultants. Meetings were facilitated, assisted with technical tasks,

recorded and assessed by professionals under contract with the EPA. CSI cost some \$14.9 million over its four year life. During that time, when there were roughly one-thousand FACs, the CSI took a little more than two percent on average of the total amount spent on such committees, making it one of the most expensive FAC's ever (FIDO, 2007). The CSI demonstrates EPA's aggressive approach to building support for its initiatives. Unfortunately, it suffers as a subject in this research for two reasons. First, although CSI was prominent in the EPA's promotion of its Brownfield Action Agenda, brownfields played only a minor role within the overall scope of the CSI. It bears noting, however, that the industry group in which the brownfield project was discussed was the very one that was most connected to the region in which the program got its start: Iron and Steel in the Midwest.

The EPA contributed also to the transformation of this complex of organizations and trades into what was in effect a trade association. Since 1997, the EPA has partnered with the International City Managers Association and the National Alliance of Local Government Environmental Professionals and others to produce a series of annual brownfield trade shows, entitled "Brownfields 1997" through "Brownfields 2006." The show is now biannual. It grew from approximately 1500 participants at its first show in Kansas City to 6000 participants in 2006. The cost of EPA's sponsorship of these events was estimated by an informant, a former EPA employee, to be in excess of \$6 million annually. The ICMA and other sponsors and active participants of the event, such as NEMWI, are significant recipients of EPA grants for research and other technical services. Between 1996 and 2008, the ICMA received over \$15 million; NEMWI, almost \$3 million (EPA, 2008).

The constellation of organizations represented by the sponsors of the brownfield conferences is a nascent “brownfield Industry.” Unless one takes into account the role of the EPA, however, the group lacks the formality of a Truman style interest group. There is not a single formal association of professionals to represent the industry to the government agency. Trade associations derive their influence from their broad membership and representation and so must continually provide benefits to members. Not all such benefits are material, however. Cigler and Loomis (1998), among others, suggest that the members of interest groups are not solely attracted by the influence that membership may bring them but by additionally, and sometimes principally, by informational and solitary benefits that include education about the trade, such as exchange of market and technological information, and networking for business contacts and personnel. They further cite the role that government plays in the formation of interest groups, using as an example the relationship between the Army Corps of Engineers and BASS, an association of bass anglers that fish mainly in lakes created by the Corps. Lowi, points to the administrative dimension of trade groups in that their formal structure plays a role in forming an industry as it coordinates its efforts (1969, p. 30) and cites Truman (1951) in his discussion of such formal groups.

Legislative Action

This dissertation looks into the agency’s impact on legislative action, and particularly on the passage, in 2001 of legislation that formalized the brownfield administrative reforms in law and regulation. Were it not for passage of this legislation, the paper’s suggestion of agency influence would be beside the point. However, the

research has shown that the grant making activities of the agency garnered the attention of Congress. It has shown how the agency acted as a nexus for a range of groups interested in the brownfield issue. Some informants suggested these groups, in turn, might influence Congress in their own interest. The agency's administrative powers extended to the States, to whom the EPA delegated powers to resolve cleanup issues on non-Superfund sites. All these, one might presume, provide a fertile ground for influencing Congressional action. Evidence of influence, however, begs the question of how these forces impact the policy agenda, which we defined as the decision agenda. In other words, how is agency-generated Congressional attention and talk translated into legislative action?

One possible answer could be that the EPA won its legislation by sheer persistence. Starting with a program that was popular within a limited constituency, the agency, responding to a decline in attention to inner-city redevelopment, adapted the distribution of the pilot awards. The grant process created categories for recreational and open space uses and awarded more grants to downtown and residential projects. The agency also altered the geographic distribution of the grants away from the industrial regions of Chicago (Region V), Boston (Region I), and New York (Region II) until the grants were spread evenly across the country. The geographic spread of the program, noted earlier in this paper and interpreted by Greenberg and Hollander (2006) as policy diffusion, and the expanded mission for the grants were both sensible strategies for broadening Congressional support of the program, mitigating the program's original narrow appeal to job- and tax-starved inner city communities in the "rust-belt" regions. State voluntary cleanup programs were proposed in virtually every state. Trade groups

within the legal profession, the environmental cleanup trades and in the development and finance communities were familiar with the ideas and practice. By the end of the Clinton Administration, brownfields was a commonplace. Why would Congress not act? In fact, Congressional attention to brownfields issues was flagging toward the end of the Clinton Administration, even more than it had after the program was officially funded in 1997. Apparently, broad acceptance of an idea does not translate into action.

Another factor might be the change in ideological forces or partisanship in Congress and the administration observed in the period studied here, from 1992 to 2002. While the brownfields concept, and indeed the program itself, originated in the waning days of the George H. W. Bush administration, only after the 1994 Republican capture of the House of Representatives and the Clinton Administration's fear of Congressional dismantling of Superfund did it become the signature environmental initiative of the Clinton administration. Few changes were made to Superfund during the Clinton administration. The administration's advocacy of the Brownfield Action Agenda and its set of administrative actions, which included the Brownfield grant program and limited regulatory relief, might have contributed to forestalling Congressional action. If the EPA's only intent was to preserve Superfund, its success might demonstrate an ability to impact Congress's agenda, if only negatively. If its efforts were simply to forestall action on Superfund, one would expect a new Administration to make sweeping changes. However, in spite of the ascendance of a Republican administration and maintenance of a strongly Republican Congress, this did not happen. It is suggested above that, in spite of considerable differences on environmental issues, that the environmental values reflected

in the Superfund ensured that it would be protected to a degree and not destroyed outright, regardless of what some in the EPA thought.

The model of Congressional attention in which the agency created a passive consensus accepting of Brownfields but requiring no action also supports another, more likely cause for Congressional action: increased attention to economic decline in 2001. The condition that appeared to break the deadlock that had prevented Congress from acting was the perception of and the actual deterioration of the national economy as illustrated by Figure 9 below (data normalized for visualization):

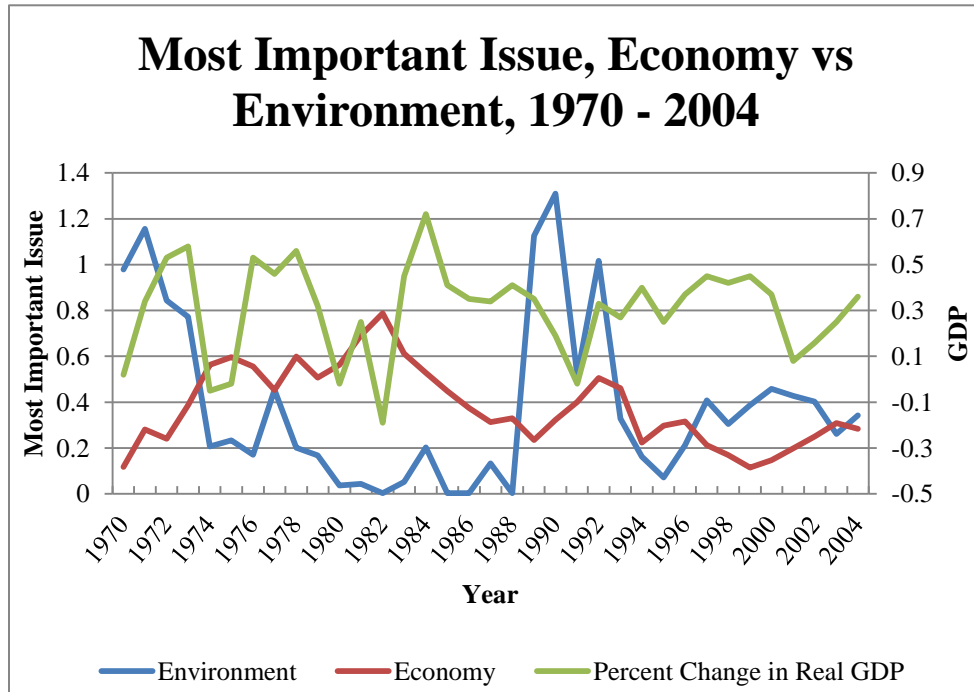


Figure 9: Most Important Issue, Economy versus Environment, 1970 – 2004 (Source: (Jones, Wilkerson, & Baumgartner, 2008; BEA, 2008)

The US Gross Domestic Product shrank in 1991 (-0.2%) and slowed almost to a stop (0.08%) in 2001 (BEA, 2008). The 1991 slowdown was a critical concern at the time that the Brownfield concept was originated and the first demonstration pilot projects were commenced. Brownfields’ concern with community revitalization and jobs had

originally put the initiative at odds with most environmental groups but, as noted above, those objections were resolved. However, robust economic growth coincided with the years of Congressional attention but collective inactivity on the Brownfield issue. Figure 5 also shows the high rate of growth throughout the years of the Clinton Administration, a factor that might have contributed to Congress's failure to act on the several attempts at Brownfield legislation as well as other urban economic development agendas oriented toward older industrial cities.

The model of Congressional attention this paper used above assumes that Congress is responsive to public opinion as reflected in the press. The decline in economic growth of 2001, while not severe in comparison to the economic contraction of 1991, clearly resulted in increased importance of the economic issue.

CONCLUSION

This research tests three hypotheses:

- 1) **Shirking:** EPA strategically promoted the Brownfield Agenda to thwart congressional attempts to constrict the agency.
- 2) **Capture:** EPA stakeholders, in particular the business interests or regulated community, dictated their external efforts.
- 3) **Blocking:** EPA aimed to prevent legislative action; congressional forces were determined to do away with Superfund legislation and the Brownfield “agenda” was a blocking or palliative effort.

Shirking

Hypothesis 1 was intended to test whether the Brownfield initiative fit within expected bureaucratic behavior under a principal-agent (or politics-administration dichotomy) model. The EPA’s interest in the Brownfield program would be an exercise in “shirking” congressional or executive direction. The EPA’s positive motivations would be expressed in budgets, headcount and other indicators of “rent-seeking” behavior, that is increasing the freedom of the agency while limiting its accountability or, defined alternatively, expanding the benefits to the agency while limiting the output of the agency. Evidence that would support the hypothesis would suggest that the EPA did

little to actually promote the initiative but rather used it as a “talking point” or window dressing for other actions.

For this hypothesis to be rejected does not require the absolute absence of such behaviors and motivations. It only requires that there be strong evidence of other factors. On the positive side, these could include managerial and administrative independence and staff initiative and creativity in pursuing legislated objectives, the promotion of secondary legislation to “fix” major legislation. On the negative side, it could include catering programmatically to individual Congressmen (as opposed to Congress as a body); using the Brownfield Initiative as a stalking horse for some major interest; or knowingly breaking laws and regulations. Further, it requires that significant forces within the agency, other than appointed senior staff, conduct these activities so that the agency itself might be said to be carrying out these activities. These actions must not fall into the category of Downsian “zealotry;” in other words, they cannot be attributed to the youth of the agency since in the political economic framework these actions are the exception to bureaucratic behavior that proves the rule, so to speak. Finally, the actions to promote the Brownfield Agenda have to be credible. Speeches in favor of the initiative by the Chief EPA administrator alone would not be sufficient to show the action of the agency.

Contrary to those who saw a dangerously hostile Congress, especially after 2004, even the Republican majority was divided on Superfund; EPA was trying to fix Superfund that was, for all its flaws, a major piece of legislation with broad general support, and funding for which comprised a large portion of its budget. In the waning days of the George W. Bush administration, the EPA was working with Congress and business and environmental constituents to fashion a package of Superfund reforms

(Nakamura & Church, 2000; 2003). This formed the basis of the Clinton administration reauthorization proposal that failed to gain Congressional support in the highly charged atmosphere following the 1994 Congressional election. Brownfields was not included in this proposal, although several of the reforms, such as the *de-minimus* exemption from Superfund enforcement, were taken up by Brownfield advocates and eventually became part of the 2002 Brownfield legislation.

The initiative developed within the agency staff in conjunction with policy entrepreneurs outside the agency. The EPA connected directly and at many levels (regional and headquarters) with significant constituencies such as mayors and environmental justice advocates. Agency personnel connected directly and at both the regional and headquarters level with members of Congress and Congressional staff. The initiative was aggressively “sold” by mid level agency staff, according to EPA informants and informants who worked with them.

Agency staff used unorthodox means of funding the initiative that resulted in a significant level of expenditures before Congress appropriated any funds. Particularly in the pre-appropriation phase, the grant program has been shown to strongly influence press coverage of the issue and have a less strong but significant interaction with Congressional discussion.

Hypothesis #1 is rejected: EPA actively took part in the agenda setting process for reasons that seem more connected with its legislated mandate and the interests of public constituents than its own narrow agency interests. The agenda oriented actions were not only at the appointed, executive level but originated from career staff members who were in discussions with a range of constituents.

Capture

Hypothesis #2 tests the agency independence conclusion from a different direction; namely that of the agency's capture by non-governmental constituents; particularly for a regulatory agency, the regulated community.

EPA has multiple constituencies, including Congress, public advocacy organizations, industries potentially subject to EPA enforcement actions (described as the "regulated community" by several informants), industries whose work is created by EPA regulatory activities, and related professional organizations. Through activities such as the Common Sense Initiative and involvement in Brownfield Conferences the EPA seems to make efforts, at least, to, charitably, harmonize the interests, or, less charitably, play them all for their own ends. This is nowhere more evident than in the EPA's encouragement and promotion through grants and contracts of environmental justice and community organizations. While these groups were no doubt happy to receive such treatment, there can be no question as to the direction of the influence. EPA was clearly fostering a countervailing force against both its industrial and environmental clients.

The EPA is aided in its independence by the strength of environmental enabling legislation. Whatever its flaws, environmental law gives the EPA exceptional powers to create and enforce regulations based on the recommendations of its staff. These powers are not without restraint. For instance, the Council on Environmental Quality serves as a review board with considerable policy making influence over the EPA and is appointed by the President

Lastly, the Final Rule developed from the 2001 legislation does not support the "free ride" for industry that the support of the agency-capture hypothesis would call for.

The eventual product of the legislation was the publication, in 2006, of a new rule that codified a method of site evaluation, called “All Appropriate Inquiries,” that, if followed, would result in significant release from Superfund liabilities for innocent past owners, operators who contributed very little to site problems, and most importantly, prospective purchasers. The procedure requires significantly more professional input than the previous process. It could be argued that the professional dominated process which resulted in increased professional review of Brownfield projects was a form of capture. However, the EPA does not, for the most part regulate professionals such as engineers, lawyers or real estate developers and because of that, professional bias is not the same as capture by the regulated community. It may be capture of another sort.

Hypothesis 2, the notion that the agency’s interest in the Brownfield concept was simply to facilitate the interests of the industry it regulates, is rejected due to the multiplicity of interests reflected in the Brownfield legislation and subsequent regulation. That the EPA is influenced by a range of interests, some of which are formally incorporated into the policy process, is not disputed. That there is a single captor of the agency, however, is.

Blocking

With regard to Hypothesis #3, that EPA proposed Brownfield reforms simply to block legislative action on Superfund, while there certainly were signals that the EPA, and Superfund in particular, was targeted by the organizers of the Republican majority newly elected in 1994, there is little evidence that this was a credible threat in the face of general bipartisan support for environmental issues. Brownfield legislation was

introduced regularly by Republicans and Democrats alike. Traditional Republican business constituencies supported the concept as did traditionally Democratic ones such as mayors of large cities. The grant program, while starting in the industrial Midwest, developed in all regions. While starting as an urban program, Brownfield grants eventually were popular in rural and suburban areas as well.

Further, support for the EPA remained relatively stable in terms of budget and staff, as demonstrated in Figure 10. The EPA has always had strong opponents in Congress and in various Administrations, but they have never prevailed. Even the Reagan cutbacks on the EPA scarcely dented staffing levels and had little long-term effect on budget.

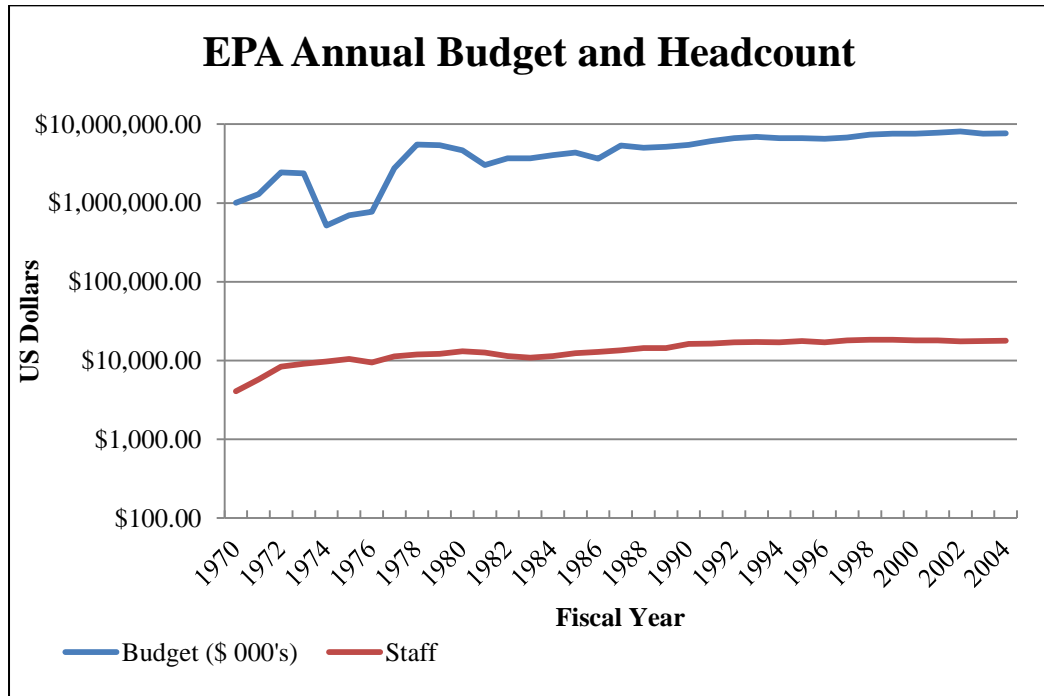


Figure 10: Environmental Protection Agency Annual Budget and Headcount, 1970 – 2004 (EPA, 2007)

Wood and Waterman (1994, pp. 69-73) studied clean air enforcement activities by the EPA during this period and noted that, in spite of cutbacks, enforcement activities

actually increased. If anything the EPA's strong legislative mandate paired with its history of direct, two-way relations with Congress noted by Landry, Roberts and Thomas (1994) suggests that Congress was not a real threat to the existence of EPA or any of its critical programs.

A variant of the "hostile Congress" hypothesis might be one that looks at partisan gamesmanship. With a Democratic President, a Republican Congress, and relatively good economic times the logic of the Brownfield program might not have been appealing enough to overcome partisanship and give the Administration what would seem a victory. If economic times had been worse, as the previous section suggests, the Brownfield program might have had more urgency.

What IS the Agency's Role?

The rejection of the above hypotheses leaves questions about the agency's role. How can they be expressed in positive terms? At the very least, this research suggests that agencies have means with which to affect Congressional actions and the policy agenda. That they do not have a singular authority over the policy agenda is a poor reason not to consider their influence. Agenda studies have admitted an increasingly diverse range of actors and this research suggests that in many cases the agency might be a critical one. Additionally, it suggests that when agencies themselves are studied, the policy objectives of the agency itself might be considered among their motivators.

The Bush administration provided several large examples of agency policy promotion in the very public discussion of military policy prior to the second Gulf War and in the formation of the Department of Homeland Security. To view either of these

major policy discussions without looking at the role that the various agencies involved, or looking at their roles as mere bureaucratic rent maximization, seems shortsighted.

The housing, financial and economic crisis that began to unfold in 2007 and the election of a new administration in 2008, with majorities in both houses of Congress, directed attention to the role of agencies such as Fannie Mae, Freddie Mac and regulators such as the Security and Exchange Commission. In addition, they have caused a reevaluation of the roles of government and the market. The extent of government intervention in the crisis has, while not wiping away the anti-government bias that characterizes American political discussion noted in the beginning of this paper, removed the presumption that government initiative is doomed to failure, just as it has shaken blind faith in the market and business. There is considerable pressure for agencies to exercise more initiative in developing and executing programs, which may increase the extent to which they promote their ideas for doing so to Congress.

Especially apparent in the case of Fannie Mae was their promotional activity, which included outright lobbying, the creation of foundations that closely supported management objectives and Partnership Offices in many states that were explicitly charged with building profitable relationships with local governments and communities. While many blamed greed for Fannie Mae's downfall, their activities were definitely constrained by policy and ideology. Their approach was articulated, by leadership and staff alike, as a superior one to other housing programs that depended on government staff and funding. This may appear, in retrospect, disingenuous since it served, for a time, to enrich executives and stockholders alike. Nonetheless their approach of buying

mortgages and subsidizing affordable housing activities with the jumbo loan business, was clearly a policy preference and clearly supported by many in Congress.

In addition to suggesting the utility of recognizing the role of the agency in agenda studies, this research may have methodological implications. The relationships among the grant, press and congressional attention databases developed for and used in this paper suggest that the Policy Agenda Project approach is scalable to narrow policy areas, for those willing to mine new sources of data.

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APPENDICES

Appendix A: The Brownfield Action Agenda¹²

The U.S. Environmental Protection Agency (EPA) firmly believes that environmental cleanup is a building block to economic development, not a stumbling block - that revitalizing contaminated property must go hand in hand with bringing life and economic vitality back to the community. EPA's Brownfields Economic Redevelopment Initiative will empower States, localities, and other agents of economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse Brownfields. Brownfields are abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination. Benefits of the Brownfields Initiative will be realized in affected communities through a cleaner environment, new jobs, an enhanced tax base, and a sense of optimism about the future.

On January 25, 1995, EPA Administrator Carol Browner announced the Brownfields Action Agenda which outlines EPA's activities and future plans to help States and localities implement and realize the benefits of the Brownfields Initiative. Implementation of the Brownfields Action Agenda will help reverse the spiral of unaddressed contamination, declining property values, and increased unemployment often found in inner city industrial areas, while maintaining deterrents to future contamination and EPA's focus on assessing and cleaning up "worst sites first." The Brownfields Action Agenda is a "work in progress" and will continue to evolve as EPA seeks advice and input from a broad range of stakeholders.

¹² Reproduced in its entirety

The efforts outlined in the Brownfields Action Agenda can be grouped into four broad and overlapping categories: Brownfield Pilots, Clarification of Liability and Cleanup Issues, Partnerships and Outreach and Job Development and Training.

- EPA will select 50 States, cities, towns, counties, and Tribes for Brownfields pilots by the end of 1996. The pilots, each funded at up to \$200,000 over two years, will test redevelopment models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated public and private efforts at the Federal, State, and local levels.
- EPA is working with States and localities to develop and issue guidances that will clarify the liability of prospective purchasers, lenders, property owners, and others regarding their association with and activities at a site. These guidances will clearly state EPA's decision to use its enforcement discretion in specific situations not to pursue such parties. EPA anticipates that these clear statements will alleviate concerns these parties may have and will facilitate their involvement in cleanup and redevelopment.
- EPA is committed to building partnerships with States, cities, and community representatives and among Federal agencies to develop strategies for promoting public participation and community involvement in Brownfields decision making.
- EPA Brownfields staff, local contacts, and community colleges have established partnerships to develop long-term plans for fostering workforce development through environmental education, ensure the recruitment of students from socio-economically disadvantaged communities, provide quality worker training, and allow local

residents an opportunity to qualify for jobs developed as a result of Brownfields efforts.

This document outlines the specific activities planned under each of these four areas and their associated benefits.

I. Brownfield Pilots

Brownfields pilots are intended to provide EPA, States, and localities with useful information and new strategies for promoting a unified approach to environmental assessment, cleanup, and redevelopment. Experience gained from the pilots, along with partnerships and outreach activities, will provide a growing knowledge base to help direct the Brownfields Initiative.

Through the Brownfields pilot program, EPA will work with cooperative agreement recipients and other stakeholders to better understand and overcome unnecessary or perceived liability barriers to the cleanup and redevelopment of Brownfields. EPA has already seen dramatic results from a \$200,000 pilot awarded to Cuyahoga County (Cleveland), Ohio in November 1993. This was the first National Brownfields pilot funded by EPA. As a result of this pilot, \$1.6 million in private cleanup dollars has been leveraged, \$110,000 in private foundation money has been invested, and over \$625,000 has been generated in new tax dollars. In addition to these evolving numbers, nearly 100 new jobs have been created, and additional jobs are expected in 1996. Seventeen additional National pilots are currently underway in Baltimore, MD; Birmingham, AL; Bridgeport, CT; Detroit, MI; Indianapolis, IN; Knoxville, TN; Laredo, TX; Louisville, KY; New Orleans, LA; Northampton County-Cape Charles, VA; Oregon Mill Sites; Richmond, VA; Rochester, NY; Sacramento, CA; St. Louis, MO; Trenton, NJ;

and West Central Municipal Conference, IL. In October 1995, EPA announced eleven Regional pilots in Boston, MA; Buffalo, NY; Dallas, TX; Duwamish, WA; Illinois; Indiana; Minnesota; Philadelphia, PA; Pittsburgh, PA; Sand Creek Corridor, CO; and West Jordan, UT. Ten additional National pilots will be announced in January 1996. Specific activities and their associated benefits in this area include:

Brownfields Economic Redevelopment Pilots (1995 - 1998)

Actions

EPA will fund at least fifty Brownfields pilots by the end of 1996, at up to \$200,000 each, to support creative two-year demonstrations of assessment activities leading to cleanup and redevelopment solutions.

- EPA awarded the first pilot in Cleveland, Ohio in 1993.
- EPA awarded two pilots at the end of 1994 in Bridgeport, Connecticut and Richmond, Virginia.
- EPA awarded fifteen additional National pilots in July 1995.
- EPA awarded eleven Regional pilots in October 1995.
- EPA will award ten new National pilots in January 1996.

Benefits

- Encourages community groups, investors, lenders, developers, and other affected parties to join forces and develop creative solutions to assess and clean up contaminated sites and return them to productive use;
- Provides concrete data on Brownfields issues that highlight positive aspects of EPA's waste policies and identify areas that could be improved; and

- Provides models of administrative, managerial, and technical processes from which States and localities can learn as they set up processes to assess, cleanup, and redevelop sites of their own.

II. Clarification of Liability and Cleanup Issues

A significant barrier to assessing, cleaning up, and redeveloping Brownfield sites is the public's apprehension about becoming involved with a site for fear of inheriting cleanup liabilities for contamination they did not create. EPA is attempting to address the concerns of communities, lenders, property owners, municipalities, and others by clarifying relevant liability issues. Clarification of liability issues will encourage the purchase, cleanup, and redevelopment of sites that might otherwise be avoided due to an exaggerated sense of the risk of incurring Federal liability.

Specific liability issues targeted by the Brownfields Initiative to date include prospective purchaser liability, the liability of owners of property containing contaminated aquifers, lender liability, municipal acquisition liability, and lender liability at Underground Storage Tank (UST) sites. EPA also archived 24,000 of the 40,000 sites which had been listed in the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) database where no further Federal action is planned. This action should reduce any stigma associated with Federal involvement at these sites and remove potential obstacles to their cleanup and redevelopment.

Specific activities and their associated benefits in this area include:

1. Archiving 24,000 CERCLIS Sites (Completed February 1995)

Actions

EPA archived approximately 24,000 sites, out of a previous total of 40,000 sites, from CERCLIS. Many of these sites were found to be clean, while others are being addressed by State cleanup programs.

- EPA plans to improve access to information gathered during the investigations conducted at these sites.
- EPA plans to further clarify the risk, or lack of risk, of incurring Federal liability at these sites.

Benefits

- Clarifies that the Federal government is unlikely to have any further Superfund interest in these archived sites;
- Clarifies for the lending and business communities the distinction between archived sites and those remaining on CERCLIS; and
- Encourages cleanup (if any contamination remains) and economic redevelopment of these properties.

Guidance on Agreements with Prospective Purchasers of Contaminated Property (Issued May 1995)

Actions

EPA issued guidance on Agreements with Prospective Purchaser of Contaminated Property in May 1995 which expands the circumstances under which EPA will consider such agreements.

- The guidance states the situations under which EPA may enter into an agreement to not file a lawsuit against a prospective purchaser of a contaminated property for contamination that existed prior to the purchase.

Benefits

- Eliminates much of the “retroactive liability” concern associated with purchasing contaminated or previously contaminated property where some evidence of Federal environmental interest exists; and
- Encourages parties to purchase, assess, cleanup, and redevelop Brownfields they might otherwise avoid due to a reasonable fear of incurring Federal liability.

Policy Toward Owners of Property Containing Contaminated Aquifers (Issued May 1995)

Actions

EPA issued a general policy statement regarding the liability of owners of uncontaminated property containing groundwater that has been contaminated by a neighboring property.

- The policy statement provides assurance that EPA does not anticipate suing the property owner for groundwater contamination if the owner did not cause or contribute to the contamination.

Benefits

- Removes major roadblocks to the redevelopment of properties containing contaminated aquifers
- Allows these properties to be bought and sold free from the impediment of direct Federal liability.

Land Use in the CERCLA Remedy Selection Process (Issued May 1995)

Actions

EPA issued guidance regarding the increased consideration of anticipated future land uses in remedy selection decisions at National Priorities List (NPL) sites.

- The guidance encourages discussions among local land use planning authorities, other officials, and the community as early as possible in the site assessment process.

Benefits

- Ensures that EPA considers future land use during Superfund cleanups;
- Fosters greater community support for selected remedies; and
- Facilitates expedited, more cost-effective cleanups.

Model Comfort Letter for Transfers of Federally Owned Property (Issued August 1995)

Actions:

EPA issued a Model Comfort Letter Clarifying NPL Listing, Uncontaminated Parcel

Identification, and CERCLA Liability Involving Transfers of Federally Owned Property which addresses various issues concerning perceived NPL stigma and Superfund liability.

- The letter clarifies some common misunderstandings about NPL listing and CERCLA liability and highlights certain provisions concerning the transfer of federally owned properties. Additionally, it clarifies that parcels of military bases identified as uncontaminated under the Community Environmental Response Facilitation Act (CERFA) are not part of the NPL listing.

Benefits

- Reduces the perceived NPL stigma at closing military bases
- Encourages the redevelopment of decommissioned military bases

Underground Storage Tank (UST) Lender Liability Rule (Issued September 1995)

Actions

EPA issued a regulation clarifying when a lender may be exempt from UST liability.

Benefits

- Removes a major barrier to financing the cleanup and redevelopment of UST sites, which constitute a large percentage of Brownfields nation-wide.

Policy on CERCLA Enforcement against Lenders and Government Entities That Acquire Property Involuntarily (Issued September 1995)

Actions

EPA and the Department of Justice (DOJ) jointly issued a memo explaining their policy on CERCLA enforcement against lenders and government entities that acquire property involuntarily. The memo states that EPA and DOJ intend to apply as guidance the provisions of the “Lender Liability Rule” promulgated in 1992.

- EPA and DOJ will not pursue cleanup costs from those lenders that provide money to an owner or developer of a contaminated property, but do not actively participate in daily management of the property.
- CERCLA releases from liability governmental units that involuntarily take ownership of property through the operation of Federal, State, or local law. EPA

clarified which actions would be considered “involuntary” and would therefore not subject the governmental unit to potential liability.

Benefits

- Increases the availability of financing for parties willing to assess, cleanup, and redevelop sites by assuring lenders that EPA will not hold them liable for cleanup costs of land they simply accepted as collateral for a loan
- Fosters economic redevelopment efforts by removing barriers that hinder financing options
- Encourages municipalities to start the process of getting a site assessed, cleaned up, and put back into productive use by addressing concerns about Federal Superfund liability.

Draft Soil Screening Guidance (Issued December 1994)

Actions

EPA issued a draft guidance which will help decision-makers quickly determine which portions of a site require further study and which pose little risk to human health and may therefore be ready for redevelopment even without extensive cleanup.

Benefits

- Streamlines the study of toxic chemicals in soils at Superfund sites
- Removes barriers that currently hinder the redevelopment of sites, or portions thereof, that pose little risk to human health
- Allows cleanup efforts and funding to target those areas truly requiring remediation
-

Risk-Based Corrective Action (RBCA) at Underground Storage Tank Sites (Initiated 1994)

Actions

EPA has adopted the Risk-Based Corrective Action (RBCA), decision-making model at UST sites as a method of risk management. RBCA is a framework for considering both the contamination and the site-specific factors to determine the danger to human health and the environment from a given release.

- EPA is providing training to State UST program staff in this approach, enabling them to create systems appropriate for their own States.

Benefits

- Allows environmental response action at all contaminated UST sites, while focusing public cleanup and oversight resources on those sites posing the highest risk
- Allows more UST sites to be "closed," and thus available for reuse

Corrective Action at RCRA Sites (Planned December 1995)

Actions

EPA is revising its proposed corrective action regulations (known as the "Subpart S" rule) for Resource Conservation and Recovery Act (RCRA) sites. EPA's Corrective Action program exists to clean up currently operating hazardous waste treatment, storage, or disposal facilities that are seeking or required to have a permit under RCRA. These sites often contain inactive, contaminated plots awaiting cleanup.

- EPA plans to issue a notice explaining the status of this action in December 1995 and to finalize and re-propose this part of the rule in the spring of 1997.

Benefits

- Provides incentives for streamlined remediation at operating RCRA sites
- Creates a consistent, holistic approach to RCRA facility cleanups
- Establishes protective, common-sense cleanup goals at RCRA sites

III. Partnerships and Outreach

EPA is committed to building partnerships with States, cities, and community representatives to develop strategies for promoting public participation and community involvement in Brownfields decision making. EPA will continue to work with other Federal agencies, on a national and local level, to ensure a coordinated Federal approach to encouraging the cleanup and redevelopment of Brownfields. EPA is also forming partnerships with States, cities, and other for-profit and non-profit organizations to streamline and improve Brownfields efforts.

Specific activities and their associated benefits in this area include:

1. Regional Brownfields Coordinators (Completed Spring 1995)

Actions

Each of EPA's 10 Regions has designated a Brownfield's Coordinator and Brownfield's Team members.

Benefits:

- Helps guide Region-specific projects to promote Brownfields assessment, cleanup, and redevelopment
- Enhances communication between EPA Headquarters and the Regions, thereby keeping both abreast of new information and ideas in the Brownfield arena

- Provides a forum for EPA Headquarters and the Regions to work together toward the development of national Brownfield Initiative strategies.

State Voluntary Cleanup Programs (Workgroup formed Spring 1995)

Actions

EPA is working with States, other Federal agencies, and the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) to assess how the possible endorsement of State voluntary cleanup programs could encourage Brownfield cleanup and redevelopment by assuring property owners that State approval of a voluntary cleanup holds virtually the same authority as Federal approval.

Benefits

- Mitigates the threat of Federal involvement at sites cleaned up under “endorsed” State programs
- Streamlines the cleanup and redevelopment processes by eliminating any perceived need for site-specific Federal sign-off at sites cleaned up under a State voluntary cleanup program
- Helps reduce the transaction costs of cleaning up Brownfields, thereby clearing the way for traditional market forces to initiate redevelopment
- Allows Federal cleanup efforts and funding to target the “worst” sites first

Revised Community Reinvestment Act (CRA) (Issued May 1995)

Actions

EPA coordinated with the Office of the Comptroller of Currency to revise the Community Reinvestment Act (CRA) to support the goals of the Brownfields Initiative.

Under the CRA, enacted in 1977, financial institutions are required to make loans to meet the needs of their communities, including low- and moderate-income areas.

- The revised CRA regulations allow banks to meet their CRA obligations by making loans for the cleanup or redevelopment of Brownfields as part of their community revitalization efforts.

Benefits

- Provides incentive for banks to finance Brownfields projects; and
- Represents the first time banks have been given CRA credit for any environmentally-related lending.

NEJAC's Public Dialogues on Urban Revitalization and Brownfields (Conducted Summer 1995; follow-up ongoing)

Actions

The National Environmental Justice Advisory Council (NEJAC) conducted a series of one-day dialogues across the country in an effort to involve community groups and environmental justice advocates in the Brownfields Initiative by encouraging them to discuss their hopes, concerns, and recommendations for implementation in their city.

- Public dialogues were conducted in Boston, MA, Philadelphia, PA, Detroit, MI, Oakland, CA, and Atlanta, GA.
- NEJAC plans to issue a report that will include a summary of the Public Dialogues and subsequent recommendations for improvements to the Brownfields Initiative in November 1995.

Benefits

- Provides communities with an opportunity to discuss grassroots issues related to urban revitalization and Brownfields and to develop innovative solutions to Brownfields-related problems
- Serves as an effective mechanism for disseminating Brownfields and urban revitalization information to the public
- Allows EPA to gather input from and develop partnerships with affected communities
- Helps EPA develop recommendations for Brownfields policy guidance, grant criteria, regulatory developments, and program activities
- Connects other Federal agencies to communities to identify and address problems related to grassroots urban revitalization

Intergovernmental Personnel Assignments (IPAs) to States and Municipalities (On-going; at least one per Region by December 1995)

Actions

EPA has assigned eight staff members, through IPAs, to help develop State and local Brownfields programs. Currently, two staff members each are assigned to Chicago, Illinois and within the State of Colorado; and one each to Dallas, Texas; Detroit, Michigan; East Chicago, Indiana; and East Palo Alto, California. Additionally, one staff member will be stationed in Los Angeles, California.

Benefits

- Helps EPA develop an understanding of the challenges faced at the State and local levels in implementing assessment, cleanup, and redevelopment efforts

- Enhances the Brownfields Initiative by promoting dialogue and encouraging understanding among Federal, State, and local environmental agencies with common environmental and redevelopment goals.

Partnerships with Other Federal Agencies (On-going)

Actions

EPA signed a Memorandum of Understanding (MOU) with the Economic Development Administration of the Department of Commerce to consult on economic redevelopment and reuse of Brownfields to ensure that sound environmental and economic development principles are followed, and to share knowledge and serve on advisory groups regarding Brownfields projects

- EPA is working with the Department of Labor (DOL) to provide the youth of Brownfields communities with environmental training and job opportunities through DOL's Job Corps program
- EPA is working with the Department of Housing and Urban Development (HUD) to understand the factors that impact urban investment and redevelopment decisions, and to collaborate in cities designated as Enterprise Zones/Enterprise (EZ/EC) Communities, where appropriate

Benefits

- Provides a Federal forum for understanding and assisting in the transition from site assessment and cleanup to site redevelopment
- Assures that residents of Brownfields communities are trained for jobs that will allow them to benefit professionally from industrial and commercial activities associated with site cleanup

- Provides valuable information to ensure the successful evolution of the Brownfields Initiative
- Provides a more comprehensive Federal approach in local communities through more effective coordination

Common Sense Initiative (CSI) Industry Groups (On-going)

Actions

EPA launched the Common Sense Initiative (CSI) last year to work with selected industries, environmental and public interest groups, State regulators, and other stakeholders to achieve "cleaner, cheaper, and smarter" environmental protection. EPA will seek the input of CSI industry sector groups on relevant Brownfields activities.

- The Iron and Steel CSI sector group is already developing a Brownfields strategy, and has started discussions on possible project proposals.

Benefits

- Provides the opportunity to focus on industry-specific solutions to the economic redevelopment challenges of certain Brownfields.

Research Efforts (On-going, initiated in 1993)

Actions

EPA is funding a series of studies that explore the scope and nature of the Brownfields dilemma. Partners in these studies will include for-profit, non-profit, and government entities

- EPA and HUD have conducted a joint research project to obtain information on factors impacting urban investment and redevelopment decisions. Both EPA and HUD recognize that to facilitate the assessment, cleanup, reuse, and

redevelopment of Brownfields - legal, financial, regulatory impediments, and opportunities must be considered

- EPA and DOL have joined forces in an effort to better understand the impact that environmental hazards and the environmental regulatory process may have on urban redevelopment. The study will also examine the role of institutional and organizational structures, both in the private and public sectors, in determining how risks affect environmentally-sensitive investment decisions
- EPA and the Institute for Responsible Management (IRM) have entered into a cooperative agreement to provide assistance to States and localities that are attempting to address and promote appropriate reuse of hazardous waste sites
- EPA is conducting a study to determine the extent of existing risk transfer mechanisms (i.e., environmental liability insurance), the risks these mechanisms actually cover, and the impediments for future transfer of risk. EPA will then determine opportunities for encouraging the availability and use of these mechanisms to further the assessment, cleanup, and redevelopment of Brownfields

Benefits

- Provides valuable information that will make Brownfields pilots and independent assessment, cleanup, and redevelopment efforts better focused and more effective
- Helps EPA understand and convey the lessons of the pilots to one another and to other interested States, municipalities, Tribes, and communities
- Provides a foundation for encouraging investors and developers to invest in and develop Brownfields

IV. Job Development and Training

EPA Brownfields staff, local contacts, and community colleges have established local partnerships to develop long-term plans for fostering workforce development through environmental education, ensuring the recruitment of students from socioeconomically disadvantaged communities, and providing quality worker training to local residents so they can qualify for jobs developed as a result of Brownfields efforts. Specific activities and their associated benefits include:

1. Hazardous Materials Training and Research Institute (HMTRI) (On-going)

Actions

EPA is working with the Hazardous Materials Training and Research Institute (HMTRI) to expand training and curriculum development at community colleges located near Brownfields pilot sites

Benefits

- Fosters workforce development in Brownfields pilot communities
- Prepares local citizens for Brownfields-related employment in their communities.

2. Environmental Workforce Initiative, Cleveland, Ohio (On-going)

Actions

EPA provided Cuyahoga Community College (Tri-C) in Cleveland with funding to improve local workforce development through environmental education, outreach, and training.

- Tri-C staff are conducting community outreach activities to recruit students from socioeconomically disadvantaged communities and others to provide environmental information to environmental justice (EJ) neighborhoods.
- Tri-C established a community/business task force to ensure broad participation and input in these efforts.

Benefits

- Ensures that Cleveland's redevelopment efforts benefit from the trained workforce needed to revitalize contaminated properties
- Involves the community in the Brownfields effort
- Informs community members of how the Brownfields Initiative will affect them
- Links local residents to emerging local job opportunities.

3. Rio Hondo Environmental Education and Training Center, Whittier, California (On-going)

Actions

The Rio Hondo Community College District, through an agreement with EPA, has established an environmental education and job training center to provide comprehensive technician-level training on Superfund-related subjects, issues, and methodologies. The college is adjacent to one of Los Angeles County's landfill sites. The college's student enrollment is indicative of the community population--over 64% Hispanic and 33% from other minority groups.

Benefits

- Assures that the area's redevelopment efforts have the trained workforce needed to revitalize contaminated properties

- Involves community members in the Brownfields effort

4. Environmental Job Training and Education Summit, Bridgeport, Connecticut (On-going)

Actions

The City of Bridgeport's Office of Planning and Economic Development (OPED) held an Environmental Education and Job Training Summit in June 1995 to share information and ideas on the Brownfields Initiative.

- The City continues to coordinate closely with Housatonic Community College, Sacred Heart University, and community-based organizations that are developing quality environmental education and training programs.

Benefits

- Provides a forum for community, government, and business representatives to discuss relevant issues and plan collaborative efforts
- Involves community members in the Brownfield effort
- Ensures that the area's redevelopment efforts have the trained workforce needed to revitalize contaminated properties

Appendix B: EPA Brownfield Grant Announcements

First Grant Announcement – November 21, 1994

[Federal Register: November 21, 1994]

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5110-5]

Comprehensive Environmental Response, Compensation and Liability Act CERCLA) or Superfund, Section 104; Announcement of Competition for Final Five Brownfield Economic Redevelopment Initiative Pilots

SUMMARY: The Environmental Protection Agency will begin accepting proposals for Brownfield Economic Redevelopment Pilots beginning December 1, 1994. The application period will close March 1, 1995, and the Agency intends to competitively select five Pilots by June 1, 1995.

Second Grant Announcement – February 21, 1994

[Federal Register: February 21, 1995]

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5156-2]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Section 104, Announcement of Extension of Application Deadline for the Competition for Brownfields Economic Redevelopment Initiative Pilots

AGENCY: Environmental Protection Agency.

ACTION: Notice to extend application period.

SUMMARY: The Environmental Protection Agency will accept proposals for Brownfields Economic Redevelopment Pilots beginning immediately. The application period which was to close March 1, 1995, has been extended to close April 17, 1995. For those applications received by March 1, 1995, the Agency intends to competitively select five Pilots by May 17, 1995. For those applications received by April 17, 1995--combined with those applications received by March 1, 1995 but not selected for the May 17, 1995 awards--the Agency intends to competitively select ten Pilots by July 21, 1995.

DATES: This action is effective as of December 1, 1994, and expires on April 17, 1995. All proposals must be received and/or post marked by the expiration date cited above.

Third Grant Announcement – September 22, 1995

[Federal Register: September 22, 1995]

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5301-5]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104; Announcement of Application Deadline for the Competition for Brownfields Economic Redevelopment Initiative Pilots

AGENCY: Environmental Protection Agency.

ACTION: Notice of application deadlines, revised guidelines.

SUMMARY: The United States Environmental Protection Agency (EPA) will continue to accept proposals for the national Brownfields Economic Redevelopment Pilots. EPA received over 100 applications for the deadlines of March 1, 1995 and April 17, 1995; from these applications

EPA was able to select 15 national pilots which were announced on July 26, 1995. EPA will select a total of twenty additional pilots in 1996 during the next two rounds of the competition: The next two upcoming deadlines for these rounds are November 17, 1995 and March 4, 1996. All applications received by March 1, 1995 and April 17, 1995--but not chosen as national pilots in the July 26, 1995 announcement--will continue to be considered by EPA during the subsequent two rounds of this competition.

To further improve the competition process, EPA has made clarifications to the Application Guidelines for Demonstration Pilots (revised edition September 1995). However, those entities which submitted applications by March 1 and April 17 will not be required to re-submit their applications. Nonetheless, EPA urges these applicants to review the clarifications and determine whether they wish to revise and resubmit their applications.

DATES: This action is effective as of December 1, 1994, and expires on March 4, 1996. All proposals must be postmarked or sent to EPA via registered or tracked mail by the expiration dates cited above.

Fourth Grant Announcement – November 5, 1996

[Federal Register: November 5, 1996]

ENVIRONMENTAL PROTECTION AGENCY

Announcement of Application Deadline for the Competition for the
1997 National Brownfields Assessment Demonstration Pilots

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Application Deadlines and Revised Guidelines.

SUMMARY: The United States Environmental Protection Agency (EPA) will begin to accept proposals for the National Brownfields Assessment Pilots. The Brownfields assessment pilots (each funded up to \$200,000 over two years) test assessment, models in the context of cleanup and redevelopment planning, direct special efforts toward removing

regulatory barriers without sacrificing protectiveness, and facilitate coordinated environmental cleanup and redevelopment efforts at the federal, state, and local levels. EPA expects to select 25 additional National Brownfields Assessment Pilots by March 1997. The deadline for new applications for the 1997 assessment pilots is January 13, 1997. Previously unsuccessful applicants are advised that they must revise and resubmit their applications. Applications submitted before November 1, 1996, will not be considered for the 1997 National Brownfields Assessment Pilots.

The National Brownfields Assessment Pilots are administered on a competitive basis. To ensure a fair selection process, evaluation panels consisting of EPA Regional and Headquarters staff and other federal agency representatives will assess how well the proposals meet the selection criteria outlined in the newly revised application booklet *The Brownfields Economic Redevelopment Initiative: Application Guidelines for Brownfields Assessment Demonstration Pilots* (October 1996).

DATES: Applications will be accepted as of November 1, 1996 through January 13, 1997. All proposals must be postmarked or sent to EPA via registered or tracked mail by January 13, 1997.

Fifth Grant Announcement – October 30, 1998

[Federal Register: October 30, 1998 (Volume 63, Number 210)]

[Notices]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6182-5]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104--Announcement of Proposal
Deadline for the Competition for the 1999 National Brownfields Assessment Demonstration Pilots

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposal deadlines, revised guidelines.

SUMMARY: The United States Environmental Protection Agency (EPA) will begin to accept proposals for the National Brownfields Assessment Pilots on October 30, 1998. The Brownfields assessment pilots (each funded up to \$200,000 over two years) test cleanup and redevelopment planning models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated environmental cleanup and redevelopment efforts at the federal, state, and local levels. EPA expects to select up to 100 additional National Brownfields assessment pilots by May 1999. Applications will be accepted on a "rolling submissions" schedule. The deadlines for new applications for the 1999 assessment pilots are December 11, 1998, and March 22, 1999. Applications postmarked after December 11, 1998, will

be considered in the second round of competition. Previously unsuccessful applicants are advised that they must revise and resubmit their applications.

The National Brownfields assessment pilots are administered on a competitive basis. To ensure a fair selection process, evaluation panels consisting of EPA Regional and Headquarters staff and other federal agency representatives will assess how well the proposals meet the selection criteria outlined in the newly revised application booklet *The Brownfields Economic Redevelopment Initiative: Proposal Guidelines for Brownfields Assessment Demonstration Pilots* (October 1998).

DATES: This action is effective as of October 30, 1998, and expires on March 22, 1999. All proposals must be postmarked or sent to EPA via registered or tracked mail by the expiration dates cited above.

Applications postmarked after December 11, 1998, will be considered in **the second round of competition.**