COMMUNITY INVOLVEMENT IN BROWNFIELD REDEVELOPMENT MAKES CENTS: A STUDY OF BROWNFIELD REDEVELOPMENT INITIATIVES IN THE UNITED STATES AND CENTRAL AND EASTERN EUROPE

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I. INTRODUCTION

The metropolitan area of Atlanta, Georgia is currently going through a period of unprecedented urban growth and revitalization.\(^1\) Spurred by the problems associated with the suburban sprawl of the 1980s and 1990s, metropolitan-Atlanta counties are now a patchwork of single-family homes, subdivisions, office parks, and commercial and retail establishments with traffic problems rivaling cities such as Los Angeles and New York.\(^2\) Urban revitalization is a logical solution to alleviate these problems. Arguably, the most visible example of this urban growth movement in metropolitan Atlanta is the development of Atlantic Station, a 138-acre mixed-use development site including retail, residential, commercial, and public space.\(^3\) Apparent from the exponential economic and social growth in the area, the development is considered an enormous success.\(^4\) However, not so obvious is the fact that the land on which the development now sits was formerly contaminated with industrial by-products of the Atlantic Steel mill.\(^5\) This type of land is termed a brownfield site, defined by the Environmental Protection Agency (EPA) and federal law as "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."\(^6\)

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\(^4\) See Chamberlain, *supra* note 3 (describing the Atlantic Station development as exceeding expectations and a "boon to commercial real estate" in the area).


Brownfield sites are a pervasive problem in the United States. The EPA estimates there are 450,000–500,000 such sites in the country.\(^7\) Like the site of the Atlantic Station development, most U.S. brownfields are found in dense urban core areas, an indirect result of the industrial revolution.\(^8\) These sites are often in proximity to existing infrastructure and transportation hubs,\(^9\) making the location of brownfields very appealing to developers and investors. However, the potential for incredible environmental liability and the uncertain costs of cleanup have traditionally kept financiers at a distance.\(^10\) Recent amendments to federal law, as well as state-led voluntary cleanup programs, have paved the way for brownfield sites to become viable and attractive options for “smart growth” development and urban revitalization.\(^11\) The Small Business Liability Relief and Brownfields Revitalization Act (Brownfields Amendment)—passed in 2002 as an amendment to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)—provides for federal funding of assessment and cleanup at brownfield sites.\(^12\) In addition, state-led voluntary cleanup programs eliminate many of the federal CERCLA-related obstacles that previously plagued such properties, offering attractive options for developers who want to remediate and develop brownfield sites.\(^13\)

In some states, however, it is recognized that brownfields remediation should encompass a wider range of goals than simply encouraging developers to invest in such properties.\(^14\) The potential effect of redevelopment on existing

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\(^9\) Id.

\(^10\) See id. (discussing significant obstacles to brownfield redevelopment); see also McMorrow, *supra* note 3, at 1087 (explaining that it is often cheaper for a landowner to take his property off the market than it is to cleanup or sell it).


\(^12\) Julianne Kurdila & Elise Rindfleisch, *Funding Opportunities for Brownfield Redevelopment*, 34 B.C. ENVTL. AFF. L. REV. 479, 481 (2007).

\(^13\) McMorrow, *supra* note 3, at 1117–18.

citizens and surrounding areas is often overlooked in the brownfields redevelopment calculus.\(^\text{15}\) Without redevelopment, these underutilized and abandoned brownfield sites frequently plague surrounding areas with urban blight and depressed property values.\(^\text{16}\) The redevelopment of such sites can lead to economic prosperity; however, along with that prosperity often comes an increase in the area's property values, which can indirectly lead to problems of gentrification—\(^\text{17}\) the displacement of poor occupants by an influx of middle- or upper-class residents.\(^\text{18}\) Involving the public in the early stages of planning for brownfields redevelopment could alleviate some of this disparity. New Jersey is one state that has recognized this idea, paving the way with its Brownfields Development Area (BDA) Initiative.\(^\text{19}\) Discussed in more detail in Part III, New Jersey's BDA approach allows various stakeholders, including owners, developers, community groups, and local residents, to have a voice in the redevelopment process from design to implementation.\(^\text{20}\)

The problem of underutilized or abandoned contaminated land is not confined solely to the United States. On the contrary, brownfields can be a problem for any industrialized nation.\(^\text{21}\) Years of neglect and mismanagement of the environment and overuse of its natural resources make the problem of contaminated land especially acute for the countries of Central and Eastern Europe (CEE countries).\(^\text{22}\) Coupled with the problems surrounding the fall of communism in the late 1980s, and the subsequent transition to a market-based economy, redevelopment of contaminated land presents CEE countries with a unique issue unparalleled in the United States and Western Europe.\(^\text{23}\)

\(^{15}\) Id.


\(^{20}\) Id.; see also infra notes 112–18 and accompanying text.


\(^{22}\) Yaakov Garb & Jirina Jackson, *Central Europe's Brownfields: Catalysing a Planning Response in the Czech Republic*, in *SPATIAL PLANNING AND URBAN DEVELOPMENT IN THE NEW EU MEMBER STATES: FROM ADJUSTMENT TO REINVENTION* 271, 272 (Uwe Altrock et al. eds., 2006).

Nevertheless, CEE countries can benefit by implementing Western brownfields revitalization policies and programs. In the 1990s, many CEE countries experienced economic growth for the first time in decades.  

24 Between 2004 and 2007, ten CEE countries successfully joined the European Union (EU).  

These countries face conflicting challenges of needing to effectively build their national economies while adhering to principles of sustainable development and the EU's demanding environmental regulations.  

25 A Western model of brownfields redevelopment that encourages public participation, sustainable development, and smart growth urban revitalization initiatives would greatly benefit this region.

This Note addresses the competing environmental and development problems facing Central and Eastern European countries and argues that recent U.S. initiatives addressing brownfields revitalization can be molded to fit the unique circumstances of the region and aid in promoting urban development, environmental protection, and economic prosperity. Part II of this Note briefly discusses the initial U.S. response to the problem of contaminated land through CERCLA, the indirect proliferation of brownfield sites due to CERCLA liability, and recent federal and state solutions to the brownfields problem. Part III discusses the value of brownfields redevelopment, while addressing possible problems, and examines recent U.S. trends involving community stakeholders in the redevelopment process. Part IV describes the unique circumstances of the Central and Eastern European brownfields problem and argues that CEE adoption of recent American and Western European trends, such as increased community involvement and integrated decision making, would create a more

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25 Simin Davoudi, EU Enlargement and the Challenges for Spatial Planning Systems in the New Member States, in SPATIAL PLANNING AND URBAN DEVELOPMENT IN THE NEW EU MEMBER STATES: FROM ADJUSTMENT TO REINVENTION, supra note 22, at 31, 31; see also Romania and Bulgaria Join the EU, BBC NEWS, Jan. 1, 2007, http://news.bbc.co.uk/2/hi/europe/6220591.stm (marking the accession of Romania and Bulgaria to the European Union in 2007).

26 See John M. Kramer, EU Enlargement and the Environment: Six Challenges, in EU ENLARGEMENT AND THE ENVIRONMENT: INSTITUTIONAL CHANGE AND ENVIRONMENTAL POLICY IN CENTRAL AND EASTERN EUROPE 290, 290-91 (JoAnn Carmin & Stacy D. VanDeveer eds., Routledge 2005) (discussing the EU accession process and requirement to adopt the acquis communautaire, or common body of EU legislation, including stringent EU environmental regulations).
localized fit between development goals and community concerns. This adoption of Western trends would in turn aid the region in achieving its goals of economic revitalization, sustainable development and environmental protection. Finally, Part V concludes with suggestions for continued improvement of urban redevelopment and brownfields policy in Central and Eastern Europe.

II. U.S. FEDERAL AND STATE BROWNFIELD POLICY

A. Background on CERCLA—The Evolution of the Brownfields Problem

During the late 1970s and early 1980s, a number of highly publicized, horrific environmental disasters increased public awareness about environmental issues and prompted a flurry of congressional activity directed towards cleaning up and protecting the environment. In response to catastrophes, such as the Love Canal incident, Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Administered by the EPA, CERCLA establishes stringent standards for the cleanup of contaminated properties and extends liability to a wide range of parties for the cost of remediation at those sites. These “potentially responsible parties” (PRPs) include current and former owners or operators of the contaminated land, parties responsible for disposal or treatment of the hazardous substance, and those who transport the hazardous substance to the site. Under the CERCLA liability scheme, any of these PRPs could be held strictly liable for any threatened or actual release of a hazardous substance at a site with which they were involved. Strict liability attaches regardless of contribution to or causation of the contaminating release. In addition, CERCLA imposes joint and several liability under most circumstances; thus,

27 See McMorrow, supra note 3, at 1090–91 (discussing the historical context leading up to the passage of CERCLA and the Resource Conservation and Recovery Act of 1976 (RCRA)).
28 Andrew O. Guglielmi, Comment, Recreating the Western City in a Post-Industrialized World: European Brownfield Policy and an American Comparison, 53 BUFF. L. REV. 1273, 1303–04 (2005). The Love Canal incident involved the exposure of residents of Niagara Falls, New York, to toxins left in the soil many decades earlier, causing liver abnormalities, birth defects, miscarriages, epilepsy, and other injuries. Id. at 1304.
30 McMorrow, supra note 3, at 1093.
31 Id.
32 Freeland, supra note 7, at 185.
any or all PRPs could be held liable for the entire cost of cleanup and remediation. A right to contribution among PRPs was created by the Superfund Amendment and Reauthorization Act of 1986 (SARA), the first amendment to CERCLA following its enactment in 1980, allowing PRPs to go after other PRPs to recover a portion of cleanup costs. This right to contribution provided some relief to the pool of PRPs; however, it offered little comfort in terms of the high cost of litigation and the likelihood of responsible party insolvency.

The principal federal pollution cleanup policies of CERCLA and SARA rely primarily upon voluntary cleanup and subsequent litigation by the purchaser of the site to recover from parties responsible for the condition of the land. The state or federal government is often the purchasing party of such properties. State and federal agencies have limited resources; thus, they typically focus on only the most symbolically visible sites. Because of this, the EPA created the National Priorities List (NPL), a list of the most contaminated sites in the country. When the EPA, state government, or both remediate an NPL site, each can draw upon the Superfund to front-load their investigatory and cleanup expenses. Brownfield sites, however, typically do not meet the contamination levels necessary for inclusion on the NPL; thus, any government response to these sites would not qualify for aid from the Superfund.

While CERCLA provides the government with a powerful set of tools for remediating contaminated property, the government’s focus on only the most contaminated sites, CERCLA’s wide net of liability, and the potential for extremely high cleanup costs resulted in the abandonment of thousands of contaminated brownfields across the country. Owners of these once industrial or commercial sites typically mothballed any further development by failing

33 McMorrow, supra note 3, at 1093–94.
35 Kushner, supra note 17, at 868.
36 Id.
37 Id. at 869.
40 See McMorrow, supra note 3, at 1095 (discussing the negative impact of CERCLA on the private development of brownfields).
41 Id.
either to transfer it to other ownership or to put it back into productive reuse.\(^4\)

These sites often languish in disuse due to the fear of accompanying environmental costs.\(^3\) The costs of continued disuse can be immense, both economically and socially.\(^4\) Such dormant, underutilized properties not only lead to environmental and human health problems but also contribute to the problem of urban decay, a process by which a city, or part of a city, falls into a state of disrepair.\(^5\) Urban decay is characterized by depopulation, high unemployment, increased crime rates, poverty, and the decline of urban-poor and minority neighborhoods. Populations surrounding typical urban brownfields suffer from a pervasive sense of hopelessness and despair.\(^6\) These desolate and unfriendly urban landscapes, along with the fear of exponential environmental liability, have lead developers to look outside the city for their improvement projects, causing overdevelopment of "greenfields," or pristine, underdeveloped land typically located in low density suburban areas.\(^7\)

Greenfields provide an attractive alternative for developers because they require little or no environmental remediation and thus result in fewer attendant delays.\(^8\)

B. Federal and State Solutions

A variety of programs and legislative initiatives have emerged since the early 1990s to address the concerns of those seeking to finance and undertake brownfield redevelopment projects, with the goal of encouraging the recycling of abandoned brownfield sites rather than the development of pristine


\(^{43}\) Id.

\(^{44}\) Id. at 244.

\(^{45}\) Id.

\(^{46}\) See Freeland, *supra* note 7, at 187 (discussing the impact of brownfield sites on inner-city populations).


\(^{48}\) Id.
"greenfields."49 Both the federal government and many states have created legislation addressing brownfields.50

1. Brownfield Economic Redevelopment Initiative

Established in 1994, the first program designed to tackle the brownfields problem at the federal level was the Brownfields Economic Redevelopment Initiative (Brownfields Initiative).51 Administered through the EPA, the Brownfields Initiative is a policy-based program designed to empower states, communities, and other stakeholders to work together in order to assess, clean, and sustainably reuse brownfield sites.52 The EPA carries out these goals through the use of funding initiatives, including assessment demonstration pilot programs (which allow the state to assess brownfield sites and test cleanup and development models), job training pilot programs (which provide training for residents to facilitate cleanup of brownfield-affected communities and train workers for future employment in the environmental field), and revolving loan-fund programs for cleanup (which capitalize funds to be loaned for brownfield cleanup).53 While the Brownfields Initiative is still in existence and by many accounts has been considered a success, for prospective developers, these types of programs and limited legislation do not offer the kind of security necessary to move redevelopment projects forward.

2. State Voluntary Cleanup Programs

In response to limited federal guidance and cleanup focus on NPL sites, states were primarily left to consider how best to remediate hazardous waste contamination at non-NPL brownfield sites located within their borders.54


50 Id. at 318.


54 See Eisen, supra note 14, at 729–30 (noting many states have developed systems to guide
Many states created voluntary cleanup programs (VCPs), with the goal of preventing contaminated property from going unnoticed, expediting investigation and remediation, and providing guidance on potential liability and cleanup costs to prospective developers. Typically these programs depend on landowners and developers initiating contact with the state through an investigation or remediation proposal for a particular piece of property. In return, the state provides for some form of liability protection such as a memorandum of understanding (declaring the state will bring no further enforcement actions), a certificate of cleanup completion, or a formal covenant not-to-sue.

Although these protections from liability were a much-needed step in the right direction, they fell short of being able to protect prospective developers from federal cleanup liability under CERCLA. This threat of federal liability was very real due to the listing program set-up under CERCLA. The program, embodied in the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS), was intended as an inventory of known or suspected contaminated sites rising to the level of Superfund sites. However, over the years, thousands of sites (many of them brownfields) were added to the inventory based on incomplete and vague information. Due to these defects in data collection, a brownfield site’s mere listing on CERLIS led to mistaken presumptions in the real estate and lending community that these sites carried a serious environmental risk. Because the threat remained that a site would be listed on the NPL and could thus be subject to federal Superfund-based cleanup action, protective legislation was a necessary step to quell the fears of developers wary of taking on projects that might end up costing more than their return on investment.

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developers in the process and ensure compliance with federal law).

56 Eisen, supra note 14, at 730–32.
58 Freeland, supra note 7, at 191.
59 Donald Crocker & Gerard D’Souza, Spatial Characteristics of Delisted CERCLIS Sites: An Application and Some Policy Implications for Brownfield Redevelopment, 4 ENVTL. PRAC. 19, 19 (2002).
60 Id. at 21.
3. The 2002 Brownfields Amendment

In response to these problems and the continued proliferation of brownfield sites across America, Congress passed the Brownfields Revitalization and Environmental Restoration Act (Brownfields Amendment) as part of the Small Business Liability Relief and Brownfields Revitalization Act, a 2002 amendment to CERCLA. At its core, the Brownfields Amendment functioned in two major ways: (1) to provide federal funding for state and local brownfields cleanup and development programs, and (2) to limit liability under federal law for purchasers and developers who clean brownfields pursuant to state cleanup programs.

The Brownfields Amendment essentially codified the EPA's existing Brownfield program by authorizing revitalization funding for grants and loans. The Brownfields Amendment made available three types of funding: (1) grants for environmental assessments, (2) grants to establish a revolving loan-fund for brownfields efforts at the state or local level, and (3) cleanup grants. Entities determined eligible by the EPA are entitled to receive up to $200,000 per site for assessment and cleanup grants, while state and local governments can receive up to $1 million to establish a local revolving loan-fund program.

The Brownfields Amendment also established defenses to CERCLA liability, including the "contiguous landowner defense," and the "bona fide prospective purchaser" exemption. The contiguous landowner defense exempts from CERCLA liability property owners whose neighbors cause pollution that travels onto their properties. The bona fide prospective purchaser (BFP) exemption, especially relevant to prospective developers, is an updated approach to protections afforded via the prospective purchaser

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62 See Kushner, supra note 17, at 867–68 (noting the drawbacks of CERCLA and the need for the Brownfields Amendment); Kurdila & Rindfleisch, supra note 12, at 481–85 (discussing funding options under the Brownfields Amendment).
63 Kurdila & Rindfleisch, supra note 12, at 481–82.
64 Id.
65 Id. at 482–83; see also U.S. Environmental Protection Agency, Grants and Funding, http://www.epa.gov/swerosps/bf/pilot.htm (last visited May 30, 2009) (discussing the EPA's Brownfields Program and a variety of other funding and grant opportunities).
66 Paddock, supra note 8, at 10,625.
67 See McMorrow, supra note 3, at 1105 (explaining what a property owner must do to qualify for the defense).
agreement (PPA) program employed by the EPA since 1989.68 Under a PPA, the EPA essentially negotiates a site-specific settlement with a prospective brownfield site purchaser in return for government-based funding of the cleanup and remediation.69 Although useful for purchasers, PPAs generally offer no protection for the seller of contaminated property.70 Also, PPAs are typically time-consuming and costly to develop.71 The BFP exemption, on the other hand, allows purchasers to “have the liability protection by operation of law currently available only through a prospective purchaser agreement without the time and expense of negotiating such an agreement.”72 To qualify for BFP status, the prospective purchaser must conduct an all appropriate due diligence inquiry and fail to discover or have reason to discover the contamination.73 To protect against purchases by real-estate speculators (buyers with no intention of redeveloping a site, who instead hold on to it hoping its property value will rise after cleanup), Congress enacted a windfall lien provision in the Brownfields Amendment.74 This allows the federal government to place a lien on the property should the EPA expend more resources than initially projected in remediation.75 The lien amount can only be imposed to the extent the government’s response actions have increased the fair market value of the property.76 Congress also provided for limitations on federal liability for entities engaged in state-led remediation programs. There are two aspects to such limitation on federal enforcement: (1) a state’s petition for official federal deference to state cleanup programs, and (2) qualification for a bar on enforcement.77 Upon request by a state, the EPA is to generally refrain from

69 Id. at 1556–57.
70 See id. (emphasizing the goal of PPAs is to protect the new owner from possible claims for liability for pre-existing contamination at the site).
71 See id. at 1556 (noting PPAs provide actual resolution of any and all legal liability the prospective purchaser might incur and are granted to only a few prospective purchasers).
72 McMorrow, supra note 3, at 1107.
73 Mugdan, supra note 68, at 1559–60.
74 Sommers, supra note 47, at 276.
75 Id.
76 Id.
77 See Kelly J. Shira, Returning Common Sense to Cleanup? The Small Business Liability Relief and Brownfields Revitalization Act, 34 Ariz. St. L.J. 991, 1008 (2002) (noting Congress wanted to give deference to state brownfields programs but also establish a uniformity in the standards).
adding a property to the NPL where a party is pursuing cleanup of the site under a state voluntary cleanup program. In order to grant such deference, the EPA must first determine that the state’s own response measures adequately address the site’s cleanup needs. The enforcement-bar provisions of the Brownfields Amendment require the EPA to avoid initiating administrative or cost-recovery actions against sites subject to a state response plan. That said, the EPA is barred from bringing an enforcement action only if the state "maintains a record of sites where response actions have been completed, indicates whether the site is suitable for unrestricted use, and identifies any institutional controls relied upon in the remedy."

Although many states developed brownfields cleanup and reuse programs prior to 2002, the additional incentives contained within the Brownfields Amendment prompted many to amend their laws and programs. In effect, this led to the standardization of state-led remediation programs, providing needed certainty to developers and state officials alike, resulting in an overall increase in the number of response actions initiated at the state level.

III. THE VALUE IN BROWNFIELDS REDEVELOPMENT AND THE NEED FOR COMMUNITY INVOLVEMENT

A. Urban Revitalization

Redevelopment of brownfields can support the process of urban revitalization, thus serving to reverse the negative effects of suburban sprawl. Problems associated with suburban sprawl, such as the loss of pristine greenspace and increased traffic, have raised America’s awareness of the need for smart growth and urban revitalization of its inner cities. While urban revitalization is related to the concept of urban renewal, a controversial model for land redevelopment that originated in the 1940s and 1950s involving

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79 Id.
80 Freeland, supra note 7, at 188–89.
81 Edwards, supra note 55, at 102.
82 Id. at 104.
83 Id. at 99.
84 See Kushner, supra note 17, at 857, 870–71 (arguing that “[r]edeveloping brownfields is important because it may offer the key to urban revitalization”).
85 See Paddock, supra note 8, at 10,623 (“Critics argue that the consequences of unchecked suburban sprawl include vast degradation of green space[,] . . . increased commutes and congested traffic patterns[,] . . . as well as diminished tax revenues for urban centers.”).
techniques such as the destruction of businesses, the relocation of people, and the use of eminent domain to reclaim private property for city-initiated projects, the two approaches are meaningfully and significantly different. Categorized more as the reverse of suburban sprawl, urban revitalization projects typically involve a mix of renovation, selective demolition, commercial development, and tax incentives in hopes of revitalizing urban neighborhoods without displacing existing citizenry. Brownfields redevelopment often envisions the replacement of dilapidated industrial structures with those of higher quality and potential for beneficial use. Along with revitalization of the inner city, cleaning up and reinvesting in brownfields properties can help solve the problems associated with suburban sprawl by taking development pressures off of undeveloped greenfields, allowing them to be open to conservation and greenspace preservation initiatives. In turn, this both improves and protects the environment.

Brownfields policies and smart growth initiatives are often synonymous with each other. The majority of brownfield sites are located in urban areas, which is "ideal for the higher-density, pedestrian-friendly, resource-conserving infill developments sought by smart growth advocates." Developing brownfields within the urban core of a city provides many opportunities. The sites are often large and located near existing infrastructure, including transportation and utility systems. Because the sites are located within the densely populated city, the developments are often within striking distance of large populations that can provide jobs and clientele for new commercial and retail developments. Brownfields redevelopments can also bring retail stores, apartments, and parks together at the same urban site, creating "work, live, play communities," such as Atlantic Station.

Along with the benefits attendant with smart growth and urban revitalization, brownfields redevelopment also promotes the goals of environmental justice. Environmental justice concerns the fair treatment of all

87 Kushner, supra note 17, at 859–60.
89 Paddock, supra note 8, at 10,624.
90 Eisen, supra note 14, at 749.
92 See id. at 248 (noting decay usually occurs near downtown areas).
93 Eisen, supra note 14, at 749.
people with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Brownfields redevelopment is closely associated with environmental justice because it often targets lower-income, urban-poor neighborhoods suffering from economic despair and blight. Public participation is an integral component of a successful brownfields project incorporating environmental justice concerns. However, most state brownfields programs use traditional public-private partnerships that do not require community involvement as a substantive component of the redevelopment process. This leaves the door open for the development of sites that can be wholly out of proportion to local community needs, leading to side-effects such as gentrification, or even an overall lack of affordable housing.

B. The Need for Community Involvement

While brownfields initiatives can promote the goals of urban revitalization, smart growth, and sustainable development, the great majority of brownfields policy has focused on providing incentives for developers as opposed to community-focused development. It is important to ask whether development is truly smart if it consists of expensive office space and high-priced condos that defeat neighborhood expectations of affordable housing. Promises by developers and local officials will not translate into beneficial outcomes, particularly if residents have little say in planning for the remediation and reuse of the site. Brownfields redevelopment, "like any urban land use development process, is subject to . . . [political manipulation] . . . and a resulting distrust by local residents." Brownfields redevelopment negotiations ordinarily take place between developers and local officials. This public-private partnership can give developers quite an advantage.

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96 Id. at 295.
97 See id. (noting that brownfields redevelopment occurs most frequently in affluent areas).
98 Eisen, supra note 14, at 728.
99 Id. at 751.
101 Eisen, supra note 14, at 751.
102 Id. at 754–55.
Developers may choose to reach out to the affected community, but under most state remediation programs, they are not required to do so.\textsuperscript{103} A community might seek inclusion in the decision-making process for a particular brownfields redevelopment project for a number of reasons. Nearby residents of a contaminated site may be wary of new industrial activity in the area and want reassurance that the proposed development will not expose them to hazardous wastes.\textsuperscript{104} This issue is most likely raised if the community is concerned about a state cleanup standard that allows more contamination to remain on the site than the rigid CERCLA standard would permit. In addition, neighborhood residents may want to call attention to certain attributes of the site that may affect remediation.\textsuperscript{105} For example, if children frequently use the property as a short-cut to or from school, the risk of exposure to various contaminants may increase unless residents are able to advocate for a more stringent cleanup standard or the use of institutional controls such as warning signs and fencing. Local residents may also want to share information to enhance a development plan, requesting, for instance, that trees be planted on one side of the project to act as sound buffers, or parking lot entrances be placed strategically to reduce traffic flow on residential streets frequented by children.\textsuperscript{106} Above all, the public will want to be involved simply to know about remediation activities in their locality.\textsuperscript{107}

Moreover, from the developer’s perspective, public approval of a brownfields redevelopment proposal can also be integral to the project’s ultimate success. In order to build on a brownfield site, the developer not only has to comply with federal and state environmental regulations, but he also has to seek approval through the typical channels of local land use planning and zoning boards.\textsuperscript{108} Under some circumstances, community opposition to such redevelopment can delay the project for a number of years. In Denver, for example, community activists opposed the redevelopment of a brownfield site until the developer agreed to invest in the neighborhood.\textsuperscript{109} Faced with this

\textsuperscript{103} Id.
\textsuperscript{104} See D. Evan van Hook et al., The Challenge of Brownfield Clusters: Implementing a Multi-Site Approach for Brownfield Remediation and Reuse, 12 N.Y.U. ENVTL. L.J. 111, 140 (2003) (outlining of proposed plan to include the preferences of local residents in brownfields development initiatives).
\textsuperscript{105} Id.
\textsuperscript{106} Id.
\textsuperscript{107} See id. at 139 (noting the importance of “stakeholder involvement” in the brownfield redevelopment and reuse process).
\textsuperscript{108} Lynn Singband, Brownfield Redevelopment Legislation: Too Little, But Never Too Late, 14 FORDHAM ENVTL. L.J. 313, 333 (2003).
\textsuperscript{109} Mark P. Couch, Invest in Area, Group Urges Gates Redevelopers, DENVER POST,
opposition, Denver's Planning Board delayed a decision to declare the site blighted—a decision that would have triggered further financial incentives for the development—on grounds that the developer's plans were incomplete. 10 Three years of negotiations ensued between the city representatives, the developer, and the local community. 11

Some states explicitly recognize that brownfields remediation should take place in conjunction with community involvement. New Jersey's Brownfields Development Area (BDA) initiative 12 is a shining example of a state-led program requiring such involvement in the development process. Established in 2002, the BDA approach requires the state environmental group, the New Jersey Department of Environmental Protection (DEP), to work with communities containing multiple brownfield sites in close proximity to each other to design and implement remediation and reuse plans for each property simultaneously. 13 The BDA initiative is meant to provide a redevelopment framework for urban communities with properties that have not attracted adequate private development due to their location and degree of contamination. The first step in the process involves an application by a community-based "steering committee" explaining why a proposed area should qualify as a BDA. 14 The DEP requires a heightened level of community involvement in the application process before it will accept and consider the proposal. 15 Among the various requirements is documentation evidencing support from local community members and community or civic organizations. 16 The application also requires a discussion of overall community aspirations for the brownfields redevelopment within the BDA. 17 In addition to brownfield properties, the application also takes into consideration the uses of non-brownfield properties, other area features, and

Apr. 18, 2003, at C3.

10 Id.


12 N.J. Dep't of Env'tl. Prot., Brownfields Development Area Initiative, supra note 19.

13 Id.


15 Id.

16 Id.

17 Id.
existing infrastructure. The DEP then engages in a careful selection process (based on the level of community support and participation demonstrated in the applications), designating a certain number of BDA projects each year. This approach achieves the goal of remediation and revitalization of entire communities and neighborhoods, instead of just the individual properties themselves. New Jersey has made a significant attempt to bring together developers, government officials, and community stakeholders in a coordinated way that yields effective remediation and economic benefits for everyone involved.

IV. THE BROWNFIELDS PROBLEM IN CENTRAL AND EASTERN EUROPE

Abandoned and idled contaminated land is not a problem confined to the United States. In fact, issues related to land contamination and reuse can occur in every industrialized country and region. The problem of land contamination, generally, and brownfields redevelopment, specifically, is especially acute in the countries that make up Central and Eastern Europe. Decades of rapid industrialization and extreme overuse, coupled with little concern for the environmental effects of such activities, resulted in a multitude of environmental problems.

The fall of the Soviet Union in 1991, with the advent of decentralization and the transition to market-based economies, created a desire to transfer state-owned properties into private hands. The extent of the CEE brownfields problem was not apparent immediately after this economic transition, but grew as industries began to fail and properties began to deteriorate. Brownfields became an issue during the privatization process, especially with the reluctance of foreign investors to purchase sites that were or might be contaminated. After the fall of socialism, most CEE countries were left without workable or clear guidelines regarding cleanup liability, making foreign investors and developers reluctant to touch such sites and instead all too eager to invest in

118 Id.
119 Id.
120 Vanheusden, supra note 21, at 560.
121 Stuart Duffield et al., Land Recovery and Man-Made Risks: A Perspective from the EU Accession Countries, 78 J. HAZ. MAT. 91, 92 (2000).
122 Id. at 92.
123 Id. at 94–95.
124 Garb & Jackson, supra note 22, at 276.
125 Id.
pristine greenfield sites located at the outer limits of cities. With continual increases in untouchable sites across the urban landscape came increases in the scale and seriousness of the brownfield problem in CEE countries.

While the details of the brownfields problem and legislative reactions to it vary from country to country, many of the underlying problems related to the remediation and reuse of contaminated land are common to all CEE countries. Universal issues across the region involve determining methods for auditing and measuring land contamination, prioritizing and registering contaminated sites, setting standards and limits on liability, and developing effective public-private financial structures and incentives. Moreover, along with country-specific national concerns over how best to handle land contamination, ten of the sixteen CEE countries successfully joined the European Union (EU) between 2004 and 2007 and in doing so became subject to the EU's regulations, directives, and policies on protecting human health and the environment. While these CEE accession countries are experiencing newfound growth and economic prosperity, complying with EU environmental regulations and directives has been a drain on these national economies due to the extent of environmental damage in the region.

Involving community stakeholders in the brownfields redevelopment process may be an important step in solving the competing concerns described above. EU regulations and directives as well as existing CEE national law and policy have overlooked the importance of this involvement. CEE countries thus have an opportunity to learn from recent U.S. initiatives and state programs focused on multi-stakeholder participation in the brownfields redevelopment process.

126 Id.
128 Id. at 4–7; see also Guglielmi, supra note 28, at 1282–88 (discussing the history and evolution of European brownfield policy).
129 Kramer, supra note 26, at 290–91; see also Eva Kruzikova, EU Accession and Legal Change: Accomplishments and Challenges in the Czech Case, in EU ENLARGEMENT AND THE ENVIRONMENT - INSTITUTIONAL CHANGE AND ENVIRONMENTAL POLICY IN CENTRAL AND EASTERN EUROPE 99, 103–07 (JoAnn Carmin & Stacy D. VanDeveer eds., Routledge 2005) (discussing the implementation challenges of EU law in the Czech Republic).
This Part first discusses the extensive urban brownfields problem in CEE countries as a legacy left over from the socialist regime. Next, this Part briefly discusses the effects of transition and EU membership as it relates to the evolving policy and regulation of brownfields redevelopment. The proliferation of region-wide research organizations addressing the European brownfields problem plays an influential role in guiding policy and decision making in CEE countries and in Western Europe. Finally, this Part provides a background for understanding the importance of community involvement in CEE brownfields redevelopment by examining the influences of Principle 10 of the U.N.'s Rio Declaration on public participation in environmental decision making and the subsequent requirements of the 2004 Aarhus Convention.

A. The Post-Socialist Legacy of Widespread Brownfields in CEE

While there is no universal definition across CEE and Western Europe for what qualifies as a brownfield site, the most common understanding is that a brownfield is formerly developed land that is currently underused, vacant, or derelict, and is possibly contaminated.131 In CEE countries, such land has been left idle in large part due to the past dynamics of socialism and the circumstances of transition from a socialist regime to a market economy.132 These circumstances left CEE countries with an abundance of brownfields, especially urban brownfields, and with a greatly reduced ability to market the recycling of these properties back into productive use.133

For many reasons, most CEE brownfields are concentrated in urban areas. First, under socialism, with no capital or real estate markets to speak of, state companies did not consider the cost of land, construction, or operations when making decisions.134 Instead, ideological or political considerations would dictate the location of industrial sites, as evidenced in the positioning of two large steel mills next to the city of Krakow, Poland.135 These steel sites were

131 Garb & Jackson, supra note 22, at 271.
132 See Petr Pavlinek & John Pickles, Environmental Pasts/Environmental Futures in Post-Socialist Europe, in EU ENLARGEMENT AND THE ENVIRONMENT: INSTITUTIONAL CHANGE AND ENVIRONMENTAL POLICY IN CENTRAL AND EASTERN EUROPE 237 (Joann Carmin & Stacy D. Vandeveer eds., Routledge 2005) (describing the challenges associated with the economic changes, and accession to the EU, including costly environmental requirements that may limit the viability of brownfields revitalization).
133 Id. at 255; see also Garb & Jackson, supra note 22, at 276 (describing the problems associated with redeveloping urban brownfields).
134 See Pavlinek & Pickles, supra note 132, at 242 (noting that during the socialist era more attention was paid to "short-term industrial output" than environmental economic planning).
135 See G. Nelson Smith, III, The Real Challenge to the Polish Revolution: Cleaning the
placed, not because of their proximity to steel resources, but instead with the purpose of diluting the intellectual and religious character of the city. Thus, production facilities were situated in prime urban sites adjacent to central locations, instead of in more traditional, remote, and suburban areas located on the periphery. Additionally, in command-and-control economies, long-range plans and quotas regulated the allocation and production of raw goods. Inflexibility and bad predictions about supply and demand led the government to set aside large areas of land for the storage of raw materials and finished products, often for extended periods of time. Thus, CEE cities (even those that are not heavily industrial) have two to three times the amount of space devoted to current or past industrial uses than their Western counterparts. The amount of land devoted to industrial uses is even higher in primarily industrial cities, like those in the Silesian region of Poland and the Czech Republic, causing massive brownfields and restructuring problems for these cities. In addition to urban brownfields created by the socialist command-driven policies of over consumption and disregard for market-based valuation, additional brownfields were created due to the demilitarization of old Soviet military bases.

B. The Effect of EU Membership

Despite the complexity of issues faced by most CEE countries after the fall of Soviet communism in 1989, by the turn of the century many countries were successfully transitioning to market-based economies and were for the first
time experiencing economic growth and prosperity. Evidence of this can be seen in the wave of CEE country accession into the EU in both 2004 and 2007.\textsuperscript{143} As part of EU accession, each member country was required to adopt, implement, and enforce the EU's \textit{acquis communautaire}, or in other words, to agree to harmonize existing EU law with its own national legislation.\textsuperscript{144} The vast body of the \textit{acquis communautaire} is comprised of a variety of specific legislative measures, including EU regulations and directives, such as the recently passed Environmental Liability Directive.\textsuperscript{145} Membership in the EU requires that each member state adopts its own enforcement and implementation policies, using EU directives and regulations as a guide.\textsuperscript{146}

As part of the process of \textit{acquis communautaire}, the CEE accession countries are also required to adopt the environmental policy of the EU.\textsuperscript{147} EU environmental policy is primarily expressed through Environment Action Programmes (EAPs).\textsuperscript{148} The EAPs are designed to cover conduct for a specified period of years, and establish guidelines member states are to follow.\textsuperscript{149} "The EAPs have grown in importance and scope, from the First EAP that laid out general principles to protect clean air and water, to current programs committed to biodiversity of species and minimizing climate change."\textsuperscript{150} The issue of brownfields is part of the EU's Sixth EAP. Two out of seven thematic strategies—the Thematic Strategy on the Urban Environment\textsuperscript{151} and the Thematic Strategy on Soil\textsuperscript{152}—specifically deal with

\begin{itemize}
\item\textsuperscript{144} Kramer, supra note 26, at 290.
\item\textsuperscript{145} See id. (defining the \textit{acquis} and discussing how "the environmental \textit{acquis} comprises an integral component").
\item\textsuperscript{146} See id. (describing the adoption of the \textit{acquis} as entailing three elements—transposition, implementation, and enforcement—of which transposition involves incorporation into national legislation).
\item\textsuperscript{147} Kramer, supra note 26, at 290.
\item\textsuperscript{149} Guglielmi, supra note 28, at 1281.
\item\textsuperscript{150} Id.
\item\textsuperscript{152} REG'L ENVT. CTR., CONTAMINATED LANDS IN ACCESSION COUNTRIES: BENCHMARKING
brownfields. The Thematic Strategies are a new way of developing environmental policy for complex priority problems that require a broad, strategic approach. In addition, the Thematic Strategies focus on an integrated approach (the effects of decisions in one policy area that have consequences on the others) and on implementation issues.

The focus of the Thematic Strategy on Urban Development is to remediate land in cities to promote sustainable urban development. In a Communication on the Urban Environment, the European Commission specifically discussed the impact that brownfield sites have on suburban sprawl. Many of the same problems associated with suburban sprawl as experienced in the United States, including the degradation of cities and the subsequent development of pristine, uncontaminated land outside of the city center, are evident in member countries as well. The Communication provides for the possibility of a framework that would allow an integrated environmental management plan to be implemented in European localities. This notion was attacked, however, on grounds that brownfields and greenfields development best fall under the rubric of spatial and land use planning, and thus is best left to be divided among the national, state, and local governments. This principle, which evolved from the Environmental Action Programmes and the Community Environment Policy, is an essential consideration in brownfields redevelopment because it is contingent upon which level of government (i.e., supranational, national, regional, or local) should pursue and oversee brownfield projects.
The principle of subsidiarity also has important implications for the EU’s proposed soil protection strategies. The Thematic Strategy on Soil Protection brings to light the glaring pervasiveness of the land contamination problem in Europe. In a Communication in 2006, it was estimated that there are about 3.5 million potentially contaminated sites, with 500,000 sites significantly contaminated and in need of immediate remediation.\textsuperscript{161} Out of the Soil Thematic Strategy came a proposal for a Soil Framework Directive with the objective to protect soils across the EU.\textsuperscript{162} The Directive calls for the identification of risk areas, the establishment of an EU-wide inventory of contaminated sites, preparation of required soil status reports, and a mechanism for financing the remediation of orphan sites.\textsuperscript{163} The proposed Directive would require member states to take specific measures to address soil threats, but it would leave these states a large degree of freedom in how to implement this requirement.\textsuperscript{164} While reasonable estimates put the total costs of cleanup associated with these sites between 2.4–17.3 billion euros annually,\textsuperscript{165} not all costs would be incurred simultaneously and the distribution would be even among member states because of their varying degrees of soil contamination.\textsuperscript{166} This Directive would have serious implications for the CEE accession countries due to the region’s severe land contamination problem.\textsuperscript{167}

C. Regional Information-Sharing Networks

While most of the environmental focus at the EU level has been on traditional air, water, and waste issues, with limited attention targeted to


\textsuperscript{163} Thematic Strategy for Soil Protection, supra note 161, at 8.

\textsuperscript{164} Id. at 7.


\textsuperscript{166} See id. at 23–26 (discussing the varied impact of soil contamination on EU member states).

\textsuperscript{167} See discussion, supra Part IV.A.
brownfields redevelopment, the EU does play an important role as a central coordinating and information-sharing body.\textsuperscript{168} Regional information networks with EU involvement include NICOLE (the Network for Industrially Contaminated Land in Europe), ANCORE (Academic Network for Contaminated Land Research in Europe), and CABERNET (Concentrated Action on Brownfields and Economic Regeneration Network).\textsuperscript{169} Another such research project is RESCUE (Regeneration of European Sites in Cities and Urban Environments), supported by the European Commission and focused specifically on brownfields.\textsuperscript{170} RESCUE is a group of experts who began to examine case studies in France, England, Poland, and Germany in 2002 to find common trends in brownfields redevelopment.\textsuperscript{171} The group's objectives are to make brownfields redevelopment a key part of the EU's strategy on sustainable urban development and to show the EU what tools are necessary to maintain sustainability.\textsuperscript{172} The project was designed to take place over a thirty-six-month period and culminate in a "Manual of a European System Approach for Sustainable Brownfield Regeneration"; however, this manual is still forthcoming.\textsuperscript{173} Once published, the RESCUE manual is expected to accelerate brownfields redevelopment throughout the European Community and the EU accession countries by introducing a new, integrated approach for all stakeholders.\textsuperscript{174} The manual will provide much-needed checklists, performance indicators, evaluation criteria, and examples of best practices that have been evaluated within the study.\textsuperscript{175} Both guidance and decision making tools are expected to be included in the manual.\textsuperscript{176}

Another brownfields research organization is CLARINET (the Contaminated Land Rehabilitation Network for Environmental Technologies), funded by the Environment and Climate Programme of the European


\textsuperscript{172} Id.

\textsuperscript{173} Id.

\textsuperscript{174} Id.

\textsuperscript{175} Id.

\textsuperscript{176} Id.
In 2002, this group published a report on brownfields redevelopment based on research by academics, national policymakers, government experts, consultants, and industrial landowners from sixteen Western European countries. CLARINET reported that European policies regarding brownfields were only present in the most industrialized countries. These countries, however, had no national plan for brownfields but only piecemeal support for various local or regional efforts. In its report, CLARINET also argued that brownfields pose both environmental problems related to human health and special planning problems for urban development. CLARINET proposed that successful brownfields redevelopment needs to have an integrated approach that addresses environmental and spatial planning problems simultaneously. This type of integrated approach is a recent trend in U.S. brownfields policy; however, as of yet, neither CEE nor a majority of U.S. states follow it. New Jersey is one U.S. state setting the trend for this kind of integrated brownfields redevelopment approach through its BDA initiative, discussed in Part III of this Note. New Jersey succeeds in its goals of revitalizing communities and neighborhoods, as opposed to just individual brownfield properties, by involving a variety of state agencies and offices, such as the Economic Development Authority, the Department of Community Affairs, and the Office of Smart Growth.

D. Citizen Participation

Internationally, the first relevant legal development regarding public participation in the environmental decision-making process began at the Rio de Janeiro summit in 1992, also known as Earth Summit. Prior to 1992,  

179 Id. at 1.
180 Id.
181 Id.
182 Id. at 4–5.
183 N.J. Dep’t of Envtl. Prot., Brownfields Development Area Initiative, supra note 19.
public participation was considered a matter of national prerogative as opposed to a multi-national obligation. The Rio Declaration consisted of twenty-seven principles intended to guide future sustainable development around the world. Principle 10 lays out the guidelines for public participation as follows:

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Numerous environmental instruments now contain the three procedural rights—access to information, participation, and access to judicial proceedings—outlined in Principle 10. Various international efforts to promote procedural rights in environmental decision making produced a landmark agreement in the U.N. Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters, also known as the Aarhus Convention.

The Aarhus Convention (the Convention) is the first multinational environmental treaty to focus exclusively on the obligations of signatory nations to their citizens in the context of public participation. The UN informal name of the conference, “Earth Summit”).

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185 Id.
adopted the Convention on June 25, 1998. The Convention entered into force in October 2001, covering three principal issues pertaining to the rights of citizens: (1) access to information, (2) public participation, and (3) access to justice. Framed as an elaboration of Principle 10 of the Rio Declaration, the Convention recognizes that "[t]he serious environmental, social, and economic challenges faced by societies worldwide cannot be addressed by public authorities alone without the involvement and support of a wide range of stakeholders, including individual citizens and civil society organizations."

The Aarhus Convention recognizes that public participation in environmental decision making is not a luxury; rather, it is a right. All citizens have the right to be able to voice concerns over matters affecting them. Under the auspices of the Convention, public participation is championed as a prerequisite to transparent, open, and democratic governance and environmental policy implementation. The benefits of public participation on an international stage are numerous and mirror the benefits of greater community involvement in U.S. brownfields initiatives discussed in Part III. These advantages include greater public support for environmental regulations, the quality of which is enhanced by including a variety of viewpoints in its development.

The Aarhus Convention has been widely ratified across Europe and has significantly influenced EU-based legislation as well as the jurisprudence of the European Court of Human Rights. Most CEE countries have also accepted the obligations of the Aarhus Convention by becoming signatory nations. The Regional Environmental Center for Central and Eastern Europe (REC) is a key organization that provides funding, guidance, and support for CEE

190 Aarhus Convention, supra note 188.
191 Pedersen, supra note 189.
194 Aarhus Convention, supra note 188, pmbl.
countries in implementing the Convention. As an independent, not-for-profit international organization, the REC promotes cooperation in CEE countries among non-governmental organizations, governments, businesses, and other environmental stakeholders by promoting “the free exchange of information and public participation in environmental decision making.”

V. CONCLUSION

Initially, EU and U.S. brownfields initiatives and policy would appear to provide little guidance to CEE countries wishing to implement redevelopment programs of their own. For example, U.S. policies such as government-issued financial incentives and liability exemptions are limited to the United States in the scope of their applicability. However, broader policies like those being implemented in states, such as New Jersey, requiring community involvement to qualify for government assistance, are both applicable and achievable in the CEE context.

Within CEE countries, the approach of each country to brownfield redevelopment is shaped by the degree to which that country is burdened by contaminated land, as well as by factors such as open land availability, population density, and other governmental priorities. Politics, social policy, and tradition vary from one country to another. Similarly, within the United States, the myriad of state-created solutions to the brownfields problem reflect the differences in state politics, custom, and policy, including the governmental priority, or lack of priority, placed on redevelopment. The importance of community participation in the brownfields redevelopment process is universal, however, and can be applied regardless of region, country, or state.

In CEE countries, the problems associated with brownfields redevelopment and reuse are numerous and complex. A number of important factors must be considered before community involvement can be incorporated into the brownfields redevelopment process. First, the EU must provide clarification on precisely what qualifies as a brownfield. The EU member states, including CEE accession countries, lack a harmonized definition of brownfield, resulting in their inconsistent use of the term. Other terms such as “contaminated” or “derelict land” are often used interchangeably with brownfield. Along with the myriad of terms used to describe this land, property classified as a brownfield as used in CEE national policy or legislation may encompass land that is simply underused, vacant, or derelict, without accompanying contamination.
A precise definition of what qualifies as brownfield land would help streamline and facilitate the process of inventorying, registering, and prioritizing contaminated sites. Uniform procedures for performing environmental audits as well as delimiting the standards of liability would allow for smoother formation of private-public partnerships between the state, and foreign and local developers and investors.

Along with the factors listed above, European countries must take into account the regional differences in land use and planning when incorporating U.S. models of community involvement. Western European countries place a high value on spatial planning, with local governments exercising extremely strong planning and land use authority. In Europe, policymakers typically approach brownfield sites as part of an integrated planning and redevelopment framework, and are more likely to use such an integrated approach than in the United States, where state environmental agencies lie at the heart of cleanup decisions. Overall, the U.S. approach to brownfields redevelopment involves giving greater remediation decision-making power to the states and state environmental agencies, with the United States relying more heavily on the private sector than on powerful government planning efforts.

It is in this planning context that lessons could be learned on both sides of the Atlantic. Because the U.S. brownfield problem has historically been seen as simply an environmental contamination problem, much of the brownfields work in the United States has been left to local, state, and federal environmental agencies. This singular focus does not allow for an integrated approach like that employed in EU countries. Instead, U.S. environmental agencies are forced to make development planning decisions, outside their areas of expertise.

Like the evolving CEE brownfields policy, second-generation U.S. brownfield policies should allow for more area-wide, community-focused, and interdepartmental processes like the New Jersey BDA initiative in order to capitalize on the economic promise of brownfields redevelopment. An approach like the BDA initiative has the potential for considerable advantages over parcel-by-parcel brownfields redevelopment, and brings brownfields revitalization closer to the ideal of sustainable smart growth rather than leaving the process in the hands of individual developers and state environmental agencies.

As part of an integrated approach, public participation must be encouraged. International laws such as the Rio Declaration and the Aarhus Convention strengthen this need, and to an extent, mandate that the community be involved in environmental decision making. The criticisms of public participation, including high costs and delay in the decision-making and development
processes, are far outweighed by its benefits. Public participation can further the interests of individual community members, in turn furthering the interests of the community itself. Giving a voice to members in the community acts as a limit on the power of public authorities, and this public control, in turn, leads to better decisions. Participation can also lead to better decision making processes by integrating a diversity of knowledge and experience, as well as by broadening the scope of decision making. In addition, effective public participation in the brownfields redevelopment process is a key element of sustainable development. While community involvement and public participation cannot solve all problems associated with brownfields redevelopment in CEE countries, they are easy and workable steps in the right direction.