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TOXIC TEMPTATION

**The Revolving Door,
Bureaucratic Inertia and the
Disappointment of the
EPA Superfund Program**

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Eric J. Greenberg

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"Let the public service be a proud and lively career. And let every man and woman who works in any area of our national government, in any branch, at any level, be able to say with pride and with honor in future years: 'I served the United States government in that hour of our nation's **need**.'"

-- *John F. Kennedy*

"To the extent that the public believes that people who move in and out of government are doing so in order to advance their own economic interest as opposed to representing the public interest when they are in government, that's not a good thing for **society**."

-- *William D. Ruckelshaus, EPA's first and fifth Administrator, 1991*

"I've had it with patriotism: I'm into greed now."

- *Anne Gorsuch Burford, EPA Administrator, 1981-1983, to Regardie's Magazine, August 1984*

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EXECUTIVE SUMMARY

Superfund, the multi-billion dollar program to clean up the nation's worst toxic waste sites, is a promise unfulfilled. Conceived in secrecy and confusion in the waning days of President Jimmy Carter's administration, the program has been plagued with fraud, political manipulation, influence-peddling and contractor terrorism.

As of December 1992, the Environmental Protection Agency (EPA) has placed more than 1,200 of the so-called most dangerous hazardous waste sites in the country on the Superfund National Priority List (**NPL**). But the past decade, despite billions of dollars spent, the EPA has cleaned up fewer than nine percent of them. The remaining 91 percent continue to contaminate water supplies, destroy environmental habitats and contribute to human illness, birth defects, respiratory problems, miscarriages, cancer and even deaths, according to one federal study. Most of the **hazardous** waste sites already accounted for are **in** residential **areas**.

Some of the worst polluted sites **in** the nation have not even yet been placed on the national priority list.

Formulated behind closed doors in 1980, the Superfund program during the Eighties immediately fell into disarray, hampered by high turnover as employees at all levels left to work for environmental contractors, corporate polluters or law firms. Morale plunged for those who remained. A recent government report revealed that lawyers wind up with most of the money allocated to clean up the toxic sites. Superfund has also fallen victim to partisan politics and has been used as a tool to sway voters at election time. And it has suffered from bureaucratic inertia and at times, ideology, most recently from the now-defunct Council on Competitiveness, headed by former Vice President Dan Quayle.

Indeed, in recent years, there have been serious questions about not only the sheer competence and management of the EPA Superfund program, but the actual intent and the degree of aggressive pursuit by Superfund managers.

The Center for Public Integrity has learned that:

- * The EPA has failed to collect Superfund costs of nearly \$4 billion since the program began.
- * The U.S. government stands to lose as much as \$5 billion in potentially recoverable cleanup costs from corporate polluters over the next six years if immediate legal action is not taken. One EPA Superfund expert calls the situation a crisis.
- * **Superfund's** toughest provision to penalize uncooperative corporate polluters has been implemented fewer than 25 times since 1981. To date, the agency has collected treble damages in only three **cases**. It remains unknown how many cases, and how much money, were simply never pursued.

Part of the problem appears to be the close relationship between the regulators and the regulated. EPA seems to have become a training academy for high-paying jobs in the private sector.

The Center has found an endless procession of hazardous waste **policy** decision-makers who have gone

through the "revolving door" from government to industry. Of the top EPA officials who have worked with toxic waste clean-ups and **left** government since 1980, the Center found that 80 percent of them have gone to **firms** holding Superfund clean-up contracts or have consulted with or given legal advice to companies about dealing with Superfund.

The Revolving Door

Superfund is basically a sum of **money**, now some \$15 billion, set aside to finance the cleanup of abandoned or inactive polluted properties. The money comes from taxes on polluting industries, from legal action against polluters at specific sites and from congressional appropriations — that is, the taxpayer.

The EPA routinely contracts out Superfund clean-up projects to private firms. Contract costs have skyrocketed. The agency paid Superfund contractors \$200 million in 1982; by 1989 those payments had soared to somewhere between \$1.2 billion and \$1.4 billion.

Environmental consulting firms, eyeing the billions of dollars available in Superfund, regularly hire EPA and Superfund officials, who then help win contracts. In what has been dubbed "contractor **terrorism**," consultants often know more about Superfund than EPA staff do and exert influence accordingly. Contractors have written EPA regulations and policy and shaped key decisions as to how and when toxic sites are cleaned up. And government attorneys who helped draft and enforce Superfund regulations have gone into private practice, where they helped corporate polluters navigate around those same regulations and sue the EPA. Such tactics can stall clean-up operations for months or years.

In addition, ethical scandals during the Reagan-Bush years, the thwarting of proposed Superfund safeguards by the **Bush-Quayle** administration, low pay and a lack of expertise both in Washington, **D.C.**, headquarters and at EPA regional offices have led to severe morale problems. Bad morale, in turn, has prompted employees to travel out the revolving door and into the private sector, often to Superfund **contractors**.

By the end of the Bush administration, the EPA had had just six administrators since its creation in **1973**, and *all* have gone through the revolving door to the private sector or the industry-financed, non-profit community. William Ruckelshaus, who was the first administrator under President Nixon and returned to head the agency under Reagan, is chairman and chief executive officer of Browning-Ferris Industries, the nation's second largest waste management company. Russell Train became chairman of Clean Sites **Inc.**, a consortium of chemical manufacturers and environmentalists that obtains large Superfund remediation contracts. Douglas Costle, administrator under **Carter**, founded and later sold an environmental testing **firm**. Anne **Gorsuch** worked as an environmental lawyer after being forced out of the EPA. Lee Thomas, Reagan's last EPA administrator, immediately became head of an environmental engineering and consulting company and just last month was named senior vice president of environmental and government affairs for the Georgia Pacific Corporation. Bush's EPA chief, William Reilly, came the other direction through the revolving door; he formerly headed the Conservation Federation but has longstanding ties to industry groups. In February 1993 he returned to World Wildlife Fund.

In a poignant example of the revolving door, one government attorney named Stephen Ramsey who helped develop the regulations for enforcing **Superfund's** liability provisions to ensure corporate polluters paid

for the cleanup turned around and took a job with a high-priced Washington law **firm** showing clients how to stonewall the rule. There are numerous examples of such cases on the local, regional and national **levels**.

The Impact

Superfund's problems mean that time and money are wasted while millions of **citizens**, in virtually every part of the United States, continue to live around abandoned toxic waste sites that leak hazardous chemicals and heavy metals into the air and groundwater.

The consequences for the taxpayer? Perhaps billions of dollars poured into inflated contracts and ineffective studies by companies that employ former EPA officials or relatives of current EPA staff. A 1991 congressional investigation found that EPA internal auditors failed to pursue potential waste and fraud in consulting contracts worth some \$8.6 billion. One contractor billed Superfund for \$5 million in unallowable but unquestioned costs, including a "**rent-a-clown**."

Most importantly, toxic sites are not being cleaned up. At the National Priority List's number one site -- the Lipari landfill in Pitman, New Jersey — millions of gallons of toxic waste have been spreading for more than two decades. Lipari has been at the top of the NPL for 10 years. Yet the actual clean-up is only now beginning, and is expected to take another seven years to complete at a cost of \$50 million. EPA officials currently estimate that Superfund clean-ups cost an average of \$26 million per site.

Also not being addressed is the crucial question as to whether the EPA should even be attempting to clean up certain hazardous waste sites where it might be cheaper, safer, and more efficient to merely fence it off and contain the pollution. The contractors and former EPA officials making money off the program are not likely to initiate that debate.

In the meantime, the National Priority List is expected to nearly double by **1995**. Some experts say as many as 1,000 new sites will be added, and predict that many will be more hazardous than the sites currently listed. And there are 34,000 other hazardous waste sites waiting to be analyzed for placement on the list. The estimated total bill for America: \$500 billion — the size of the savings and loan bailout.

President Bill Clinton and Vice President Albert **Gore**, Jr., campaigned heavily in 1992 on environmental issues. And in recent weeks, the President has strongly criticized the EPA Superfund program, which expires in 1994.

"I'd like to use that Superfund to clean up pollution for a change, and not just to pay **lawyers**," he said in a speech to a joint session of Congress in February.

Clinton's proposed budget calls for a \$308 million reduction in Superfund spending, shifting more of the costs to the private sector, in opposition to the shift to public funding that industry advocates.

The issues for the new Administration, for the new Congress, and for the American people are quite clear: is the public policy concept of a Superfund program targeting emergency toxic sites fundamentally sound? Can public service become sufficiently elevated and respected so that the best and the brightest officials remain

in government? Can the EPA **Superfund** program, **operating** amidst **Washington's** corrupt, mercenary culture, function with real independence, in which the regulators and the regulated are truly institutionally separate? Can the Environmental Protection Agency become sufficiently strong so as not to depend so inordinately on outside industry consultants? Will the President's new post-employment restrictions actually slow the Superfund revolving door?

The Superfund **reauthorization** hearings have already begun. As this nation begins to grapple with the future of the Superfund program, these kinds of questions must be answered.

INVESTIGATIVE METHODOLOGY

The toxic waste clean-up program commonly called **Superfund** was created by the Comprehensive Environmental Response, Clean-up and Liability Act (**CERCLA**) passed in 1980. Until now, no in-depth study, either in technical journals or the mass media, has examined the role of officials directing the program from Washington, **D.C.**, and where they have gone after leaving government service.

This Report focuses on senior officials in the **EPA's** Washington headquarters who have played managerial roles in the hazardous waste clean-up program since its inception. The study, however, is not meant to be a comprehensive history of Superfund. The EPA may not be one of the federal government's largest agencies, but including biographical profiles of *all* Superfund officials at the Washington headquarters and in the 10 regional offices proved **unrealistic**.

*

Many positions in the EPA have had responsibility for the hazardous waste clean-up program and several job titles have changed, so we have identified and traced the relevant positions as they applied to regulating clean-ups under Superfund. These positions include administrator and deputy administrator, assistant administrator for solid waste and emergency response, director of waste programs enforcement, director of enforcement and compliance monitoring, director of the National Enforcement and Investigations Center and director of emergency and remedial **response**.

We include a profile of the EPA regional office in Chicago, which was long considered a "clean" regional headquarters, but later was criticized by the EPA inspector general for its lax enforcement of ethics codes.

An EPA historian position and EPA archives were implemented in April of 1991, yet various EPA officials said that the EPA did not keep a detailed list, either in its archives, personnel office or the **headquarter's library**, of biographical information on all former officials who have served with the **agency**. We were able to obtain **financial** disclosure reports from the Office of Government Ethics for those EPA political appointees who required Senate confirmation. But records were only available for officials appointed since 1985.

The Center confirmed the tenures of Superfund officials by looking back through annual editions of the *U.S. Government Manual* from 1980 to 1990. This official publication lists all senior personnel in every federal agency. Occasionally, officials who served only a few months with the agency were omitted from the *Manual*. The Center identified them during the process of interviewing and by searching other references, such as the commercially published *Federal Staff Directory*, from its first edition in 1982 to today, and the *Congressional Directory*, a manual published by Congress. However, names of several EPA officials who worked on the Superfund program may not be contained here.

Equipped with a master list of former Superfund officials, we checked the names in indexes of newspapers, magazines and technical publications including the *New York Times*, *Washington Post* and *Wall Street Journal* from 1979 to the present. Magazines were checked through the *Reader's Guide to Periodical Literature* from 1979 to present. The *National Newspaper Index* and the *National Magazine Index* at the Library of Congress were also used, as were assorted files with the National Technical Information Service.

We also checked the names of former officials, and the companies that employed them after government service, with such technical publications as the *Environment Reporter*, *Chemical Marketing Reporter* and *International Environment Reporter*, all published by the Bureau of National **Affairs**; *Waste Age*; **HazMatNews**; **Barron's**; *Business Week*; *Who's Who in America*; *EPA Journal*; *Pollution Engineering*; and **Martindale-Hubbell's** directory of American lawyers. The Center also tracked the name of every former Superfund official involved in lobbying in the reference publication *Washington Representatives* since 1980.

The Center tried to verify employment with the EPA personnel office and through Senate and House of Representatives lobbying disclosure records. Staff members of the Senate Governmental Affairs Committee and the House Government Operations Committee were helpful in providing information on the whereabouts and activities of former officials with the Superfund program.

The Center attempted to interview every senior EPA official associated with Superfund since 1980 - 24 officials from Florida to California. Every former Superfund official was contacted, and nearly all of them were interviewed. For example, former EPA administrator Anne **Gorsuch Burford** and William **Hedeman**, director of Superfund in 1985, were not interviewed. Burford did not return phone calls. Hedeman died last year.

We also interviewed environmental experts in the EPA and state environmental agencies, in the hazardous waste clean-up industry and law firms, in universities and on Capitol Hill. They provided insights on the former officials, and on the impact of the **EPA-industry** "revolving door" on Superfund and its projects.

One cautionary note. The numbers cited in this study -- the number of hazardous toxic sites placed on the Superfund National Priority List, the amount of money collected and collectable from polluters, the number of Superfund sites cleaned up, etc. — vary and are frequently confusing. There have been numerous studies, all replete with estimates and numbers, and EPA has not only constantly changed these figures, some of the definitions (**E.G.** what is "cleaned up") and criteria for the data have changed over the **years**.

YEARS OF WARNING

It shouldn't come as a surprise that Superfund is in trouble. For years, investigators from congressional committees, the General Accounting Office (GAO) and the EPA's own inspector general (IG) have been reporting mis-spending by contractors and lax controls within the agency.

March 1992 GAO testimony for a House Committee on Energy and Commerce subcommittee on oversight and **investigations** hearing discussed millions of dollars in waste and fraud by a major Superfund contractor, **CH2M HILL Inc.**, of Denver. Investigators found that more than 96 percent of the time sheets submitted for Superfund work at **CH2M HILL's Corvallis**, Oregon, site had been changed without explanation, and the EPA's internal auditor never bothered to question the **changes**. The GAO reported that **CH2M HILL** also billed the government for \$5 million in unallowed overhead costs, including baseball tickets, liquor and a "rent-a-clown" for a picnic.

The relationship between CH2M HILL and EPA has been close at the personnel level. For example, CH2M HILL has a person conducting "business development activities" and also serving as director of solid and hazardous waste policy for its hazardous waste division. That person is Steffen **Plehn**, formerly an EPA deputy administrator for solid waste. Plehn told the Center he has "never done any business development at EPA relating to the Superfund **program**."

In 1991, the program received criticism from within EPA. The EPA inspector general went looking for wasteful spending in 1991 and found it. One contractor billed the EPA \$150 a month for potted office plants. Other contractors charged the agency for a Christmas party, business cards and unused office space. The contracts under scrutiny involved \$265 million in contract money spent between 1988 and 1991.

William K. Reilly, then the EPA administrator, admitted that contractor expenditures for Superfund had not been adequately monitored. He called the questionable expense "**inappropriate**" but noted that they were allowable under federal guidelines and did not constitute fraud. At the same time, however, he ordered the re-examination of 45 Superfund contracts with 23 companies, worth a potential \$6.6 billion.

In addition a recent national survey of **five** major corporations by the Rand Institute for Civil Justice, released **in** May 1992, found that only 12 percent of money designated for Superfund work was actually spent on cleaning up the contaminated sites. The balance was spent on lawyers' fees, hotel and airline bills for meetings and other expenses not related to clean-ups.

This recent wave of disclosures is actually the second to hit Superfund in its 12-year history. Concern over contractors who are former EPA officials, and their potential influence over the Superfund program, prompted a series of scathing reports detailing abuse in the program for three consecutive years at the close of the **1980s**.

The performance of contractors hired by the EPA to sample, test and analyze data was found to be unsatisfactory, according to a June 1988 survey of an EPA clean-up technology demonstration program by the congressional Office of Technology Assessment called "A Special Report of **OTA's** Assessment on Superfund **Implementation**." One official said that contractors "continue to analyze and re-analyze the same data, making

more money for themselves and taking dollars away from both industry and **EPA**."

A 1990 report by the Hazardous Waste Treatment Council, the **nation's** largest association of hazardous waste treatment firms, said of **Superfund**: "For the first four or five years it accomplished absolutely nothing except creating a huge new industry of environmental consultants who put that \$1.5 billion into their pockets by studying sites, taking literally years to figure out what the site is like and what kind of remedies might be **used**."

The **GAO**, the investigative arm of Congress, issued detailed reports on Superfund waste, fraud and abuse in 1988 and 1989. And in 1990, the GAO revealed that one of the most important controls over contract costs, audits of contractors' records that back up their reported costs, had been neglected, costing taxpayers millions of dollars. Many of the biggest contractors cited in the GAO probe were companies employing top former EPA officials.

The GAO took yet another look in 1991 and concluded, "Despite several years of GAO's reporting on deficiencies in **EPA's** Superfund contract management, EPA has not adequately addressed most of GAO's recommendations to reduce the program's vulnerability to fraud, waste and **abuse**." Two key problems cited by the study were continued lack of control of contractor costs and the EPA's hiring of more contractors than it needed.

The GAO added: "Superfund remains vulnerable to contractors' conflicts of interest because EPA contracting officials still need better guidance, and field checks of contractors' compliance with conflict-of-interest rules have not yet been **performed**."

Just who are these contractors? What are their connections with the EPA? And why has the agency failed to rein them in?

Sen. David **Pryor** (D-AR) calls them "an invisible and expensive army of **1,400** contractors operating with little if any EPA **oversight**." Pryor, who has held a series of hearings about the EPA since 1986, alleges that a "buddy system" between the agency and the private sector contributes to the continued waste of taxpayer money.

"For years we have allowed agencies and contractors to treat the federal treasury like it was an open money **sack**," Pryor charged at a hearing **last** March. "Why do the taxpayers keep getting billed for supporting this gravy train?"

Pryor was particularly incensed in 1989 when he learned that contractors were helping the EPA write its regulations. One such case involved the Superfund Hotline, an information line for industry and the public. "When I discovered that EPA was using a contractor to interpret regulations to the public on the Superfund Hotline, I asked GAO to look into that," Pryor said. "GAO concluded that it is inappropriate for contractors to interpret **regulations**."

The Senator had another example: EPA's reaction to a GAO report last year that criticized EPA's management practices. Said Pryor: "EPA paid a consultant \$20,000 to draft the response to GAO's **criticisms**."

THE EVALUATION PROCESS: TAKING THE EASY WAY OUT

Contractors' dominance of Superfund can be blamed, at least in part, on the Superfund clean-up process itself — a process that is complicated, time-consuming and costly.

When a toxic site is identified, the EPA analyzes it to see if there is an immediate health hazard requiring an emergency response. The agency tries to move quickly to contain the site and on-site emergency response specialists move to limit the spread of pollutants.

But after emergency action, or if none is necessary, the EPA takes an average of eight years just to begin a clean-up. Most of that time is spent by contractors and consultants in study and review. The clean-up itself takes an average of two years.

This lengthy process starts with a study to determine if the hazardous site should be placed on the National Priority List (NPL). The evaluation, called the Hazardous Ranking System, analyzes the nature of the contamination and its effect on the community. Once a site is put on the NPL, there follows a preliminary assessment, a field investigation, various feasibility studies and decisions about the clean-up options, including whether the contamination should be removed or contained. It is during the remediation phase, finally, that actual long-term clean-up occurs.

The very term National Priority List is misleading, suggesting that the over 1,200 sites are the most hazardous in the nation. That is not so. And there is no effective method to put the worst sites at the top of the list. When the Superfund program began, the EPA quickly placed hundreds of sites on the NPL. Some of these are now considered by the EPA and state environmental officials to be less hazardous than sites discovered more recently. But the older sites continue to be ranked among the worst.

Thus, in Ohio, state officials identified 400 sites needing Superfund field investigations, but only 34 are on the NPL. But in North Carolina, one Superfund site where problems were completely resolved in 1987 was still listed in 1990, when the EPA still had \$750,000 budgeted to study what future clean-up action would be needed.

According to a Superfund study conducted by the Senate Budget Committee in 1990, "EPA and state officials readily admit the NPL includes sites which should not be listed, and ignores many sites which warrant a high clean-up **priority**."

BAD CLEAN-UP PLANS

Not only are the listed **Superfund** sites not getting treated, but for the few sites that are, clean-up plans are often seriously inadequate, according to a May 1992 General Accounting Office **study**. At risk is no less than the long-term protection of human health and the environment, the GAO stated.

"GAO's case studies of 34 clean-up plans detected problems that raise serious questions about the completeness and consistency of clean-up decisions . . .," the report stated. "GAO reviewed sites where clean-up decisions had been made despite the fact that clean-up goals were not established for hazardous contaminants or were not set for all polluted media, such as soil or groundwater. Other clean-up plans had insufficient justification for selecting a particular clean-up remedy.

"Such plans do not meet EPA's program guidance and provide inadequate assurance that the selected clean-up remedy will provide sufficient long-term protection of human health and the **environment**."

The EPA often lets the "potential responsible polluter" (**PRP**) manage the clean-up. The GAO found that this policy only makes things worse. The report said that polluters proposed nearly twice as many inadequate clean-up plans as the EPA. Problems with contractors and lawyers, some of them former EPA officials, were cited as the root of the problem.

"While site studies and clean-ups continue to be managed by both EPA and **PRPs**, the Congress and representatives of environmental advocacy groups are concerned that EPA emphasis on enforcement and desire to achieve settlements with PRPs may result in clean-ups that are less stringent and **permanent**," the report stated.

Environmental groups and the Office of Technology Assessment have argued that PRPs generally favor less expensive plans to contain but not remove the pollutants. Similarly, critics are concerned that **PRPs'** unwillingness to use more expensive treatment is causing the EPA to select and approve containment **remedies**.

Industry representatives maintain that containment is often appropriate for reducing health risks. They say that the EPA often overestimates actual risks, resulting in overly stringent and expensive clean-ups.

Meanwhile, clean-up contractors told the GAO that containment is often appropriate for sites that are operating industrial facilities because "treatment may disrupt operations and could subject workers to even greater **exposure**."

Nonetheless, the GAO report states that EPA officials agreed with the GAO's findings that substantial questions remain about the protection of human health and the environment at clean-ups managed by responsible parties rather than the EPA. Said the GAO: "At comparable sites where responsible parties are containing waste and EPA is treating it, the responsible party cleanups may not provide the same level of long-term protection as the EPA clean-ups. Given that EPA will continue to rely on PRPs to finance and manage clean-ups, it is important the agency ensure that the clean-up remedies used at these sites will adequately protect the public from adverse health and environmental consequences in the **future**."

The EPA would seem to have sufficient resources for that task. The agency now has 18,000 employees and an operating budget of \$4.5 billion. **Superfund** accounts for 20 percent of EPA staff time and more than 40 percent of the agency's budget.

Despite these resources, the EPA is salted with contract workers. During a 1989 hearing conducted by **Pryor's** subcommittee, the EPA's director of procurement and contract management, David J. O'Connor, admitted that the agency does not know exactly how many contract employees it uses.

When **Pryor** asked if anyone had done a cost-effectiveness study to justify the contracting **procedures**, O'Connor replied, "No formal analysis, Mr. Chairman."

Under questioning, O'Connor testified: "We know the number of EPA employees, of course. The number of contractor employees is much more difficult to determine, and one of the reasons . . . is that [with] the predominant type of contractor, EPA is not buying let's say 10 people whose names you can click off." The EPA buys "a range of **hours**," O'Connor said.

O'Connor continued: "**And** if the number of hours you use in one year on one contract amounts to 20 man years, there may have been 75 or 80 people involved in that amount of time. So **it's** very **difficult**."

The EPA also fails to ask contractors who their other clients might be. "Most if not all" of the contractors simultaneously work for companies regulated by the EPA, O'Connor said.

Pryor asked, "How do you determine if there might or might not be a conflict of interest, if you don't know who else they work for?"

O'Connor said it was a matter of "aggressively managing the process," adding: "We recognize particularly **in** our Superfund program that there is a very high potential for conflict. . . . The contract provisions dealing with conflicts are very, very strong to prevent the involvement of our contractor with anyone else who may be a responsible party or have involvement at the particular **site**."

Those provisions are inadequate, according to Pryor's subcommittee, which has been investigating the explosion of contracting **in** the federal government. The EPA should consider whether a contractor may be working on pollution elsewhere, said subcommittee senior staff member Rick Goodman.

"The EPA does not even recognize this as a **problem**," Goodman said in an interview with the Center. "**You're** sending somebody out not just to drive a bulldozer at a Superfund site but also to clean it up and provide the public with a level of certainty that is safe after it is cleaned up. But the government is using a third party to do the work. Who else is that third party working for? If the entity also has a relationship with a **polluter**, you create a situation where there is an appearance of a conflict of **interest**."

The essential question is of **contractors' accountability**, Goodman said: "Will they enforce the law and provide the same level of comfort to the public while working for the EPA if they work for the polluting company at 10 other **sites**?"

FORGING SUPERFUND

In the '70s, environmental investigators increasingly found old waste sites. For example, sewer workers in **Lowell, Massachusetts**, were overcome by fumes from high concentrations of **toluene**, a carcinogenic organic solvent, in August 1977. The toluene buildup was tracked to **almost** 15,000 corroded, leaking drums of chemicals that had been left by **Silresim Chemical Corp.**, a waste disposal company that filed for bankruptcy in December 1977 and left the site in January 1978. The Massachusetts environmental agency spent \$1.5 million trying to clean the site, a project that still hasn't been completed.

Perhaps more than any other environmental disaster, Love Canal was the catalyst for **Superfund**. In 1978, families living **in** the small community near Buffalo, New York, were discovered to suffer from high incidences of health problems: miscarriages, still births, birth defects, low birth weight babies, skin rashes, respiratory illnesses, urinary disease and cancer. The suspected cause was 20,000 tons of chemical wastes buried in pits by the Hooker Chemical Corp. before the area became residential.

All over the country similar toxic time bombs lay buried in what one EPA study estimated to be anywhere anywhere from 1,200 to 34,000 hazardous waste dumps. The EPA maintained that it could not clean up these sites because they were not considered "imminent hazards" under the **agency's** only toxic waste law, the 1976 Resource Conservation and Recovery Act (RCRA), which had been passed to prevent oil spills and control chemical pollution caused by working plants. RCRA did not address the issue of abandoned **dumps**. The EPA asked Congress for the authority to go after companies responsible for the pollution.

But the political atmosphere **in** the late '70s was not conducive to more regulation. Even before Reagan came into office with a vow to dismantle the federal regulatory bureaucracy, double-digit inflation was prompting complaints about regulatory costs to businesses.

Advisors to President Jimmy Carter became concerned that regulations were one of the chief inflationary culprits. At **Strauss's** prompting, Carter set up the Regulatory Analysis Review Group, led by chairman of the Council of Economic Advisers, Charles **Schultze**. Carter told the RARG to review regulations oppressive to industry and come up with alternatives.

Then Love Canal showed the world that what scientists and government officials believed would never happen, could happen: Hazardous waste, buried underground for decades, could contaminate drinking water supplies and cause harmful birth defects — even trigger rare cancers in people living nearby. As the public outcry increased, many more long-forgotten hazardous waste sites were discovered across the **country**. Government officials, members of Congress and state legislators came under intense pressure to act.

One such congressman was James Florio (**D-NJ**), whose district included Pitman, a town of 10,000 about 30 miles from Philadelphia. Toxic waste was found seeping into a lake in Pitman, and Florio (now governor of New Jersey) became one of the first members of Congress to introduce a bill that assessed a tax on **polluters**. That proposal eventually evolved into Superfund.

In 1979, a study conducted by the consulting **firm** Fred C. Hart Associates for the EPA showed that serious health and environmental dangers lay buried in from 1,200 to 34,000 sites. Hart identified "illnesses,

injuries, poisoning cases and deaths" at more than 200 of the sites studied.

Also in 1979, the so-called Valley of the Drums was discovered near Louisville, **Kentucky**: 17,000 drums of unidentified toxic chemicals leaking into a branch of the Ohio River. The drums had been dumped in a **17-acre** field by a waste hauler who told his customers, mainly small businesses, that he was taking the wastes to a treatment center. The EPA figured then it would cost \$100 per drum to analyze and dispose of the waste.

That same year, the EPA accused Salisbury **Laboratories**, a pharmaceutical plant in Charles City, Iowa, of dumping arsenic-laden wastes **in** a field since 1953. The arsenic had reached a nearby river that was part of the town's drinking water supply. Digging up the landfill and moving the contaminated soil cost about \$30 million. **Salisbury's** net worth was only \$5 million.

In 1980, a press conference at a toxic waste site **in Elizabeth**, New Jersey, by several members of Congress announcing their support for the **Superfund** bill had to be cancelled when several of the 40,000 barrels of chemical wastes at the site caught fire, triggering a massive explosion. William **Carracino**, president of Chemical Control Corp., the company that maintained the site, was later convicted along with four other company officers of emptying chemical wastes into a nearby creek and into a sewer, abandoning chemical waste drums, and mixing toxic waste with municipal garbage and dumping the tainted mixtures in municipal landfills. Thirteen years later, the site still hasn't been cleaned.

By 1979, the Justice Department and EPA joined forces in an attempt to investigate 300 toxic waste dumps every year. They were hoping to indict 50 suspected dumpers annually, and asked Congress for \$130 million to hire 200 investigators.

Representative Florio and other members of Congress started introducing Superfund proposals in February 1979. A waste clean-up program was proposed that would first recover clean-up costs by suing responsible polluters, and would use the funds appropriated for the program only if the total costs couldn't be found through lawsuits.

One proposal charged three cents a barrel of oil from refineries and 60 cents a barrel from chemical companies; firms that shipped arsenic, mercury, chlorine or other highly toxic materials would be assessed up to \$5 a ton. The plan was to have the Superfund grow about \$300 million a year with a cap of \$6 billion.

The EPA under President Carter proposed its own Superfund measure, in which the fund would be only \$1.6 billion by 1984. The EPA would get \$250 million in 1980, \$375 million in **1981**, and \$500 million a year in 1983 and 1984 from taxes on the chemical and oil industry.

Predictably, the bill ran into fierce opposition. Oil and chemical companies resisted the prospect of new taxes and regulation. In addition, so many congressional committees had by 1980 jumped on the toxic waste removal issue that jurisdictional squabbles threatened the passage of any Superfund measure that year. In fact, even Florio encountered the wrath of his committee chairman, John **Dingell (D-MI)**, who was angry over portions of **Florio's** Superfund proposal. Another potential player was President **Carter's** Regulatory Analysis Review Group. Critics charged that the RARG approach stalled new environmental regulations at a tune when

quick clean-up authority was **necessary**.

EPA Administrator Douglas Costle lobbied for **Superfund**. "Both industry and consumers have financially benefited from cheap and unsafe disposal practices in the past and therefore both should share in paying for the remedies we must now **pursue**," he said in 1979. He said the EPA would constantly monitor how well the Superfund clean-ups were working, and would conduct a study in 1984, when Superfund would **expire**, to see if it warranted **reauthorization**.

SUPERFUND'S SECRET HISTORY

The federal legislation that created Superfund was born in secrecy and confusion in the waning moments of the lame-duck, Democratic-controlled 96th Congress.

To this day it remains unclear who participated in the backroom meetings when an unnamed piece of legislation was haphazardly thrown together by a group of unnamed senators **who**, with no written record, then coerced the House of Representatives to pass the legislation.

"It was considered and passed, after very limited debate, under suspension of the rules, in a situation which allowed for no amendments," said Columbia University professor Frank P. Grad, a Superfund expert. "Faced with a complicated bill on a **take-it-or-leave-it** basis, the House took it, groaning all the **way**."

Even the origin of the name Superfund is **murky**. Unlike other key governmental agencies, the EPA did not employ an agency historian until April of 1991. Consequently, the official history of the 23-year-old EPA, and more specifically Superfund, had to be reconstructed long after the event, according to EPA librarian Craig Lelansky.

One story has it that the name Superfund was derived from the original intent of the legislation -- to create an oil company-funded reserve to clean up spills from supertankers. "That's anecdotal, and the best we can do so far," in nailing down **Superfund's** etymology, Lelansky said.

The way the Superfund law was fashioned is even less straightforward.

Shortly before the November 1980 presidential election, the House passed two waste cleanup bills: H.R. 7020 concerned abandoned waste sites. H.R. 85 dealt with oil spills, according to the Legislative History of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 published by BNA in 1983.

H.R. 7020, sponsored by Rep. James Florio (**D-NJ**), permitted courts to consider the legal concepts of strict, joint and several liability: "strict" liability meaning that the responsible polluter is liable to pay for the clean-up whether there was negligence or not, "joint and several" meaning that if there are several responsible polluters, each one could be considered liable for the cost of the entire clean-up.

There would be exceptions to the concept of strict, joint and several liability, however. Vice President Al Gore, then a Democratic congressman from Tennessee, speaking on the House floor, added to the bill a list

of factors that a court could use to equitably apportion the responsibility of the clean-up, using factors such as the quantity of hazardous waste left by each polluter, degree of **toxicity**, degree of negligence and level of cooperation with government authorities.

Gore's factors would have made the bill more in line with common law liability principles. But his amendments did not make it into the final draft.

But on the Senate side, things were in turmoil. The election had given the GOP a Senate majority; the Democratic leadership now had just a few weeks to push its agenda. The Environment and Public Works Committee reported S. **1480**, a companion bill to **Florio's** -- but its liability provisions were sharply opposed by Minority Leader (soon to be majority leader) Howard Baker (**R-TN**); Pete V. **Domenici (R-NM)**; and Lloyd Bentsen (**D-TX**), now Treasury secretary.

The trio opposed changing the liability rules retroactively. "The issue of applying the new standards retroactively remains a troubling one," they wrote in dissenting views, according to a congressional report entitled *The Legislative History of the Comprehensive Environmental Response, Compensation and Liability Act of 1980*.

"While the committee accepted a Domenici amendment to limit the scope of the **retroactivity**, the issue remains unresolved. To expect individual businesses to absorb the costs imposed by a doctrine not consistent with American standards of jurisprudence is not only unreasonable, but may be **unconstitutional**," they wrote.

Without the support of these three senators, S. 1480 stood virtually no chance of passage. However, on November 14, 1980, Environment and Public Works Committee Chairman Jennings Randolph (D-WV) and Robert T. Stafford (**R-VT**) the ranking minority member, announced they would introduce a compromise.

When the compromise bill came to the floor on November 20, Baker went on record opposing it.

The next several days saw a whirlwind of debate and closed-door negotiations about **Superfund**, prompting caution and criticism from several newspapers:

"The **Superfund** bill may even be as its proponents have it, the most important environmental legislation of the Eighties," said the *Wall Street Journal*. "But if so, **it's** worth spending the time to get it **right**."

The *Washington Star* said: "The frenzied atmosphere of a lame-duck session is not the climate in which to translate urgency [regarding the toxic waste issue] into **law**."

Nevertheless, on November 24, 1980, a radically altered compromise bill was reported out, cosponsored by Baker, who had opposed S. 1480 as well as the original compromise language.

Because the negotiations occurred in private, **off-the-record** discussions, "no part of the deliberations could be incorporated into the legislative history. According to Alfred R. Light, an associate professor of Law at St. Thomas University in Miami, Florida, in his Superfund report *CERCLA Law and Procedure*: "No transcripts of committee hearings or bill mark-ups are available for examination, nor was any committee or

conference report issued with the compromise **bill**."

In discussing the closed-door proceedings, Sen. Randolph only said that the committee had "during the past several days approximately 25 or 30 senators from varying viewpoints and backgrounds, experiences, contacts, and interests participating in the **discussions**."

Kept hidden from the public were the concerns and **proposals** of the senators who sat **in** on those discussions, what they objected to, and what proposals they argued **in** favor of.

Randolph publicly reiterated his personal support for the original S. 1480, and explained the concessions made in the face of opposition by Sens. Bentsen, Baker and **Domenici**.

Randolph also noted that the back-room negotiations had deliberately created ambiguity or equivocation **in** the bill by deleting provisions that had resolved legislative policy choices in S. 1480, according to the **CERCLA** Legislative History report. Instead, he said, the courts would have to deal with resolving the ambiguities that the unnamed back-room negotiators could not.

Meanwhile Stafford, in attempting to explain the secret compromise, admitted that with no records or transcripts available, it was not really clear what the senators would be voting on.

"I am afraid that there may still be some confusion in the minds of some Members as to what was deleted from S. 1480 in our original compromise," said Stafford, according to a 1980 *Congressional Record*.

Stafford then cited several examples "in somewhat confused language," according to the report by Alfred Light. "For example he stated: '**We** [the negotiators] eliminated the scope of **liability**.'" But technically that was not correct. What quickly became clear was that several senators disagreed on what they had agreed to -- or thought they had.

"Several senators engaged **in** staged colloquy with Sen. Randolph, the bill's floor leader, on matters of vital concern to **them**," Light's study said. "For example, Sen. Bill Bradley (**D-NJ**) had a **question-and-answer** session on tax preemption to '**clarify**' that the New Jersey spill fund had not been pre-empted, despite the plain language of the statute to the contrary, according to the Legislative **History**."

"On many issues, senators who had been involved in the back-room negotiations flatly contradicted each other on the floor," said Light.

The Senate passed the bill that same day, November 24, 1980.

Now the House and Senate each had a **Superfund-type** bill. But the two versions would have to be reconciled, and it was the House's turn to act. House members could adopt the Senate's version or, as often happens, change it and return it to the Senate for one more vote.

Randolph and Stafford sent Florio an ultimatum: If the House wanted a **Superfund** bill, it had to take the Senate's **mysteriously-arrived-at** language as it is.

Standard legislative procedure was ignored. Because there was no House-Senate **conference**, there was no House-Senate conference report, a thorough description of the provisions in a bill which Congress passes.

The Randolph-Stafford letter read: "On Monday, November 24, the Senate passed a compromise '**Superfund**' bill and sent it to the **House**... That the bill passed at all is a minor wonder. Only the frailest moment-to-moment coalition enabled it to be brought to the Senate floor and considered. Indeed, within a matter of hours that **fragile** coalition began to disintegrate to the point that, in our judgment, it would now be impossible to pass the bill again, even unchanged. Had we changed even a coma [sic] or a period, the bill would have failed. With the evaporation of the balance of interests which permitted us to go to the Floor in the first place, amendments to the bill will kill it, if it is returned to the **Senate**."

It did not escape the House's notice that the Senate bill was flawed **and** had been sent over with numerous technical **errors**. But it appeared the House's hands were tied, causing Florio to apologize for the circumstances on the House floor.

Rep. James T. Broyhill (R-NC) balked at the sloppy Senate **package**. "It offends my sensibilities as a person and it offends my sense of responsibility as a member of Congress. This bill is technically flawed. A cursory reading reveals hundreds of **errors**."

Congressman William Harsha (R-OH), also objected, calling the proposed bill "a welfare and relief act for **lawyers**."

Other House members -- even those who supported the bill -- protested the unorthodox legislative procedure dictated by the Senate.

"Our legislative counsel briefly looked at this bill and found 45 technical **errors**," railed Rep. Gene Snyder (R-Ky.) "There is no telling how many he could **find** if he got to study it a little bit."

Other House members provided their own contradictory explanations of a bill they had no role in crafting. Nevertheless, they passed it, and outgoing President Jimmy Carter signed it into law on December 11, 1980.

But the confusion would come back to haunt Congress. Several lawmakers later tried to clarify ambiguities in the law in "**after-the-fact**" statements read into the *Congressional Record* - even though they said earlier that the ambiguities were inserted deliberately.

"The post hoc legislative history **reemphasizes** the congressional intent to leave the resolution of complex legislative choices to the courts," said Light. "These *post hoc* statements demonstrate the treachery of using the confused discussions on the Senate and House floor as a guide to the meaning of **CERCLA**."

He cited, for example, comments made by Stafford a year and a half after Superfund was passed, that "the floor statements which are most relevant are those of the bill's drafters, including **myself**."

Stafford admitted, "Frankly, in the confusion which surrounded those final days, I may have slipped

up once or **twice**... I do not attach any moral blame to these attempts to take advantage of the law's apparent silence. In fact, I anticipated that this would **happen**."

Rep. Snyder, during the **Superfund reauthorization** five years later, decried the Senate's fabricated history of **CERCLA**.

"The vast majority of the '**legislative history**' was not actually spoken on the floor of the other **body**," he said. The total debate time was **only** 30 minutes and very little of the actual debate dealt with the specifics of the legislation. Yet the *Congressional Record* is filled with what would have been hours and hours of **debate**. Almost all of this detailed explanatory material was simply inserted **in** the *Record* and was not actually brought to the attention of the members of the other body before they voted on the Superfund **Reauthorization Act**."

The official "legislative history" of Superfund is summarized by Columbia University professor Frank P. Grad, who was appointed to a Superfund study group, analyzing hazardous waste legal remedies pursuant to CERCLA during 1981.

In his "Treatise on Environmental **Law**," Grad said that scholars trying to piece together the early legislative history of Superfund could not even agree which predecessor bills were relevant in the genesis of CERCLA. Some cite the early H.R. 7020. Stafford, in 1981 insisted that S. 1480, which had been unacceptable to Bentsen, **Domenici** and Baker, was the basis of the legislation that came out of the back-room maneuvering.

"The enacted compromise was drafted by whittling away sentences, phrases or pages of S. 1480 to arrive at a politically acceptable bill," Stafford said. "Much of S. 1480 was **left** by the wayside, but a great deal of it remained when the process was completed. Thus, although there was no committee report per se, the report on S. 1480 remains very relevant in construing the compromise **law**."

Five years later, when Congress was discussing the reauthorization of Superfund, there were public sessions and a carefully worded House-Senate conference report. But "the most important debates were, as in 1980, behind closed **door**," said Light.

"Confused is the most charitable characterization of the legislative process that spawned CERCLA," said Light. "No authoritative legislative history exists on many of the major liability issues that the courts have had to confront. Any legislative history extant is often of the type that House members so rightly criticized in 1986."

But after enactment, money to launch Superfund would not be forthcoming for another eight months, according to the late William **Hedeman**, the first immediate director of the program in the Reagan-Bush administration.

Hedeman was a lawyer with one year's experience at the EPA, in the Office of Federal Relations, when Anne **Gorsuch** tapped him to head Superfund in June 1981. When **Gorsuch** later wrote her memoirs, she quoted Hedeman recounting the neglect of Superfund by both Congress and the White House after its birth.

"The Superfund law had been passed **in** December of 1980, and Congress had not appropriated any

money to run the program until August of 1981. So, because of **Congress'** slowness, one year of the program had been **lost**," he **said**.

But more woes followed. The EPA in 1982 wrote and then rewrote the National Contingency Plan -- rules to guide **Superfund's** operation. The agency was promptly sued by the Environmental Defense Fund, which alleged that the plan gave the EPA too much leeway in implementing Superfund regulations.

The Environmental Defense Fund "argued that the plan was so flexible that it wasn't a plan of any **sort**," **Hedeman** recalled, "[**that**] it completely eliminated any public involvement in agency decision-making; it had no standards on how clean is clean or the direction that the agency should go in cleaning up sites; and it prohibited the listing of federal facilities on the national priority list, among other **things**." The EPA eventually settled the lawsuit, and a new National Contingency Plan was prepared three years later.

Hedeman observed that environmental critics of Gorsuch and the Reagan policies "could get their best shot at an infant program because it is the most vulnerable. We did not know when she [Gorsuch] came in how many sites existed out there that presented a problem. [**But**] we also knew that whatever we are dealing with would take an awful long time to **fix**."

When Gorsuch left the EPA in 1983, exactly six of the 405 Superfund sites on the NPL had been cleaned up. By 1986 the NPL increased to 812 — and still only six sites had been cleaned up, Hedeman observed.

"It illustrates the point that these abandoned hazardous waste sites are a bear to deal with, highly controversial, technically impossible to deal with at once in any clear **fashion**," Hedeman said. "And if you really wanted to pick a program to attack, Superfund was the most logical because it had not become entrenched, it had not had a direction, the resources needed to run it had not even been appropriated by the Congress until August of 1981, and it was very unclear where everybody wanted to **go**."

Hedeman said the Reagan Administration worsened the situation: "The administration had no perception whatsoever of the national public hysteria over the problems of the nation's hazardous wastes. Instead, the approach was tempered with an **overzealousness** towards turning the environmental programs back to the states, getting the federal government out of the picture, and moving to reduce taxes and deficit programs. No one stepped back to look at the big picture as it really was perceived by the **public**."

Congress did not intend for American taxpayers to pay for Superfund. Costs were to be borne by others, particularly the parties found to be responsible for the pollution, and the law empowered the EPA to pursue polluters for the clean-up money.

After identifying the responsible polluter, the EPA sends a letter requesting information about its activities at the site. If the polluter cooperates, the EPA can negotiate an agreement about how the site should be cleaned. The agency also has the option of using Superfund money for the clean-up before attempting to recover the cost from the responsible polluter.

The Superfund law has a powerful "hammer" provision, Sections 106 and 107, which lets the EPA issue

unilateral administrative orders to compel clean-up action by a responsible polluter if there is an "imminent and substantial" danger to public health, welfare or the environment. If the polluter fails to comply, the case can be referred to the Justice Department. The EPA can use Superfund money for the clean-up and then try to recover the cost plus fines **totaling** three times the price of the clean-up.

But according to figures obtained by the Center, there are only 25 cases to date where the Agency has sought treble **damages**. Of those, the EPA has collected the damages in only three cases totaling about \$4,350,000. The EPA is currently seeking to collect at least \$10 million from the remaining cases. However it is unknown how many treble damages cases were never pursued.

"That information is not easy to **obtain**," explained Bruce **Pumphrey**, section chief of the contract and planning branch of the regional planning section of the CERCLA enforcement division. To identify potential treble damage cases, "you would have to go through each case on a site by site **basis**," he explained. Asked how much money the Superfund could have realized if more treble damage cases were pursued, Pumphrey said: "**That's a real good question.**"

Meanwhile other Superfund records obtained by the Center and previous government studies point to the EPA's consistent failure to use its "hammer" effectively to get corporate polluters to pay the full amount of their liability. According to a 1989 GAO report the agency has also failed to seek recovery of Superfund money spent when polluters balked at payment. Only \$252 million had been recovered from responsible polluters by the agency through April 1990 -- less than 12 percent of the \$2.2 billion identified by the EPA as recoverable.

And the Center has learned that the EPA is in danger of losing the chance to collect as much as \$4.8 billion from corporate polluters over the next four years.

The statute of limitations will soon run out on the **Agency's** ability to **file** suit to recover from potentially responsible polluters for billions of dollars in Superfund money the government has already spent to clean up toxic waste sites, said Chad Littleton, a program analyst in the cost recovery branch of the CERCLA enforcement division. If corrective steps aren't taken, the EPA will have to write off the lost funds beginning in 1997. The loss will be significant: One year's sum will total the equivalent of all the money the Agency has collected since the program began, he said.

The problem is that the statute of limitations for a large volume of Superfund sites runs out beginning in **1994-95**. Those projects will include some of the most expensive clean-up projects to date.

"There are a slew of them coming in, about 200 to 300 a year, coming down the pipeline at about \$16 million a **pop**," said Littleton. "It's a crisis. There are a lot of dollars at risk if they don't change the ground rules dramatically.

Littleton said the Agency must swiftly reformulate its enforcement and legal work plan to prepare for the onslaught of statute of limitation cases coming due.

Meanwhile, out of a total \$6.2 billion in theoretically recoverable Superfund costs since the program

began, the EPA has to date pocketed only \$808,000, according to the figures obtained by the Center. The Agency is currently seeking to recover **another** \$932,000. That accounts for nearly \$1.8 billion.

But the Center has learned that the EPA has never even attempted to recover roughly **\$2.5** billion in what Littleton calls indirect costs to Superfund from cleaning up toxic sites polluted by industry and others. These include incidentals like the salaries of EPA employees and overhead, costs which the agency is entitled to secure.

"We have not been aggressive in getting indirect costs," Littleton said. "We [in Washington headquarters] **haven't** told the regions they are supposed to do it and go after the full **amount**."

Political influence been a factor, he said. "That comes in," Littleton said of political influence. "There has been a feeling here that we don't want to make it worse for industry. There is some politics involved when the issue is putting people out of business. You hear a lot of **stories**."

Littleton also noted the practical matter of the agency setting an ambitious goal of collecting direct and indirect costs and then failing, which could reflect badly on the regional manager making the estimate.

"I think **what's** been happening is you have to remember in government the measure of success is **nebulous**," he said. "Why overextend? People would rather set a goal that you are likely to achieve than one you can surely **achieve**."

The EPA has not yet begun to seek about \$600 million in achievable Superfund recovery costs where the statute of limitations has just begin ticking, Littleton said.

The EPA estimates that it has abandoned attempts to recover \$91 million. But Littleton said that figure is very **low**, and estimates that the real figure will be at least double that amount. "That wouldn't surprise us in the least," he said. "It's been substantially **underreported**."

In addition, of the total \$3.8 billion eligible recoverable direct costs to the EPA for using Superfund money to clean up waste sites, \$1.4 billion is unaccounted for, he said.

"We can't find it," he said. "These are the costs written by the contractors. We don't trust it [the numbers] anymore and are trying to come with our own. Make a fresh **start**."

EPA had already written off any hope in collecting another \$2.6 billion in indirect Superfund costs that might potentially have been recovered from the polluters, according to the agency's latest figures. Politics played a factor in some decisions not to pursue the cases, Littleton said.

"Cost recovery is a weak **point**," he said.

One initial problem with the Superfund law was that it included no methods for setting financial and clean-up priorities. The National Priority List was later created, based on a Hazardous Ranking System that analyzes contamination and its potential danger to the community through a system that calculates the risk and

pathways of exposure to the public of the hazard. But no rules were set up to decide which sites would be tackled first. **Further**, there was almost no central authority to supervise individual site clean-ups.

A 1988 study by the Office of Technology Assessment criticized Superfund for "too much flexibility and lack of central management. EPA regions, contractor companies and workers have substantial **autonomy**," the report said. This and other studies also **criticized** regional Superfund site managers for being too inexperienced to handle multi-million dollar, technically sophisticated clean-ups, and for being easily intimidated by attorneys and technical specialists from large companies also involved in clean-ups.

The **Gorsuch** Years

In November 1980, another obstacle to Superfund emerged: President-elect Ronald Reagan, with his message of economic reform and "getting government off Americans' **backs**." The Reagan team at the EPA was starkly different from any EPA administration since its founding in 1970.

Jimmy Carter had picked officials from state governments and was not loath to hire attorneys and other officials from environmental **groups**. For example, Carter took J. **Gustave Speth** from the Natural Resources Defense Council (NRDC) to be one of the three members of the White House Council of Environmental Quality; (Speth later became head of the World Resources Institute and resigned on January 11, **1993**, to head the Clinton transition team for environmental **matters**. As of this writing he is a private **citizen**.) David Hawkins also was hired from the NRDC to become the **EPA's** assistant administrator for air, noise and radiation. He is currently **NRDC's** senior attorney for the air and energy program. Reagan's environmental officials Lavelle and Habicht, by contrast, were culled from industries, including companies regulated by the EPA.

When Reagan took office, rumors briefly flourished in Washington that he would appoint moderate environmental officials, because of concern in Congress that conservative, industry-oriented appointees would set back environmental issues embraced during the previous three years. Wall Street knew better. During the Reagan transition, stock prices in landfill firms, including Waste Management and Browning-Ferris Industries, started rapidly rising. The reason: Investors saw that environmental restrictions, including waste clean-ups, would be eased.

Rumors of a moderate EPA team were quickly dispelled by the appointment of Anne Gorsuch as administrator. Gorsuch was a two-term Colorado legislator from Denver known for her unflinching support of ***laissez faire*** economic **policies**. Gorsuch came with the approval of such prominent Reagan campaign supporters as conservative beer magnate Joseph Coors; James Watt, head of the Mountain States Legal Foundation and Secretary of the Interior and Robert **Burford**, former speaker of the Colorado House of Representatives and later head of the Bureau of Land Management. (Anne Gorsuch and Robert Burford married in 1983 and divorced in 1991.)

Allegations against the Superfund program -- including lax management and conflicts of interest - mounted until **1983**, when a political explosion erupted at the EPA and on Capitol Hill. According to a GAO report issued in **1985**, exactly **five** of the **600-plus NPL** sites had been cleaned up by 1983. Regulatory relief had apparently been transformed into sweetheart deals between regulators and polluting industries, and inaction on hazardous waste clean-up sites.

Congressional fury against EPA management centered on **Gorsuch** and her **Superfund** director, Rita **Lavelle**. It was revealed that Lavelle had not recused herself from dealing with her former employer, **AeroJet-General, Inc.**, which was one of the major responsible parties for the Superfund clean-up of the **Stringfellow** Acid Pits in Riverside, California. In addition, a memo written by Lavelle accused EPA General Counsel Robert Perry of antagonizing "this administration's main constituency, the business **community**."

Gorsuch and Lavelle allegedly injected politics into Superfund decisions. In 1982, Lavelle reportedly expedited funds for an Indiana Superfund project to benefit Sen. Richard Lugar (**R-IN**), who was then running for re-election. The same year, when former California governor Jerry Brown was launching a U.S. Senate campaign heavily based on environmental issues, Gorsuch was quoted as telling EPA and CEQ officials that she would slow down the Stringfellow clean-up because "I'll be damned if I let Jerry Brown get credit for that."

Gorsuch was also suspected of deliberately slowing down the Superfund program so that when **reauthorization** came due, the agency could claim that no more money was necessary for toxic waste **clean-ups**. If Congress bought that argument, Superfund -- still vigorously opposed by the chemical, manufacturing and oil companies — could be discontinued. For her part, Lavelle claimed to have been taking orders from her contacts in the Reagan White House: White House Counsel Edwin Meese and Craig Fuller, secretary of the cabinet council.

Burford fired Lavelle in February 1983 and the next month resigned under pressure. On May 18, 1983, the House of Representatives voted 413-0 to find Lavelle in contempt of Congress. That year she became the first executive branch official ever convicted of perjury before Congress; the perjury and conflict of interest charges put her in prison for four months.

Meanwhile, toxic waste sites lay uncleaned. In Nitro, West Virginia, thousands of containers of hydrogen cyanide and other substances lay rusting at a chemical plant surrounded by a community of 8,000. Although the EPA in 1976 had ordered **Fike** Chemicals, the company owning the site, to eliminate pollution of nearby groundwater, the agency didn't sue Fike until 1980, and it wasn't until November 1982 that Fike and the EPA filed a consent decree. Fike agreed to a complete clean-up, which it claimed would cost \$250,000 to \$300,000. The plant was never cleaned. In 1989, Fike went out of business, and the plant was abandoned.

At the number one waste site, the Lipari Landfill in Pitman, New Jersey, the EPA in 1983 tried to contain the waste by pouring a clay barrier into a three-foot wide, 50-foot long ditch around the site. The wastes were covered with a dome of plastic and clay. But the dump still leaked -- about 2,500 gallons of toxic wastes every day. Estimates for the Lipari clean-up cost shot up to \$250 million and more. The site is still contaminated.

The Burford and Lavelle cases, which collectively became known as "**seweragate**," shattered the Reagan EPA's **credibility**. Meanwhile, a mystery remains about the role of the Justice Department and the White House in the political manipulation of Superfund.

Two House panels had been looking at Superfund: a Committee on Public Works and Transportation chaired by Rep. Elliot **Levitas** (D-GA) and the Energy and Commerce investigations subcommittee chaired by

Dingell. As congressional concern grew, the Reagan administration slammed the door on the probes, withholding **Superfund** files under claims of executive privilege.

Levitas said his initial goal was merely to help improve the Superfund program. "When I became chairman of this subcommittee, the Superfund program had just recently been put into place, and one of the things I felt needed to be done was to take a look at the new programs before they got out of whack, in order to make them workable, rather than just doing a retrospective autopsy on **them**....**So** I decided in 1981 to start really just an oversight review of the hazardous waste program and some other programs that were being administered by the EPA at that tune.

"And as far as I was concerned, it was just a routine exercise in **oversight**," Levitas said. "I was not aware at that time that **Dingell's** people were also interested. So I put some top people on what was just a routine **investigation**."

Soon, though, Levitas became upset about Gorsuch's decision to permit sanitary landfills to continue to receive liquid waste, and he called a hearing on the issue. Suddenly, the subcommittee found itself unable to get documents from **Gorsuch** or the EPA.

"This is the spring of 1982, and we're still conducting the investigation on a plodding basis," said Levitas. "And then, boom, the door got closed. I realized we were going to have a fight, not only about the program itself, but we were headed for a major fight over the executive-congressional **prerogatives**."

Years later, Gorsuch admitted that the allegations were correct — that the Reagan administration had manipulated Superfund for political purposes. In her autobiography, *Are You Tough Enough?*, published in 1986, Gorsuch said that hand-written **memos** discussed decisions to fund Superfund projects before an election for political advantage, and that the memos "very conveniently got lost" in the Justice Department when Congress tried to get them.

Gorsuch wrote that the notes had been taken during a meeting of EPA and Justice Department lawyers September 7, 1982, at the office of Carol **Dinkins**, a high-ranking Justice Department attorney. The Justice Department had already begun its own criminal investigation of the Superfund scandals. Gorsuch notes that Dinkins was not present at this meeting.

"The notes reflected, in three separate **cases**, an understanding that someone at the meeting had clearly said that the decision to fund certain Superfund sites should be made before the upcoming elections in order to gain political advantage and good **faith**," Gorsuch wrote. "One note contains the words '**election tracking**;' another says, '**Oct. 8** is our political **deadline**;' and the third contains the sentence '**C.A.** [probably consent agreement] not signed, won't be signed in the near future (could be signed again in Nov - when not so **hot**).'"

Gorsuch said that "a decision to fund (or not to fund) a Superfund site at a certain tune for purely political considerations, which is obviously **wrong**, had been **discussed**. And which to me is far worse, such a discussion took place in the presence of Justice Department attorneys — at a tune of intense public and media interest in the possibility of wrongdoing at EPA -- and not one of them raised an **objection**."

Gorsuch said that once the EPA discovered the secret **Superfund memos**, steps were taken to get the evidence to **Dingell's** subcommittee. EPA General Counsel Robert Perry informed EPA Assistant Administrator John Daniel about the memos. Daniel directed Perry to send them to Capitol Hill and advise the Justice Department. **Dinkins** told Perry that the memos could be evidence in the Justice Department's own investigation, and that he should deliver the memos to her for forwarding to Congress.

"But when **he** got to her office he found not only Carol Dinkins, but also Ed **Schmults**, the deputy attorney general — which indicated to him [Perry] that this was a pretty high-level **matter**," Gorsuch later wrote.

Recalled Daniel: "Perry gave the documents to Dinkins who then gave it immediately to Schmults, and the clear understanding was that they would see that this important information got to **Congress**, and they would let the people in their criminal division know about it so it would not in any way interfere with their criminal **investigation**."

The documents were not delivered to Congress until nearly seven months later — after Gorsuch had already resigned under pressure by the Reagan White House.

"And in fact, [the **file** of memos] might never have made it over had it not been discovered by some of John Dingell's own people who had been given *cane blanche* permission by Bill Ruckelshaus, the new EPA administrator, to look through any files they wanted to," Daniel said. "And when they found it and read the notes that indicated that the people at this meeting were talking about scheduling the announcement of Superfund grants to coincide with the 1982 elections, their eyes popped out."

Gorsuch later said she tried to bring the secret memos to the attention of Attorney General William French Smith. She said she was blocked by Dinkins and Schmults, who promised to "take care of" the matter and deliver them to Congress.

"To me there is no question that the Department of Justice purposely held back [the memos] from **Congress**," she wrote.

"What did the White House have to hide?" **Levitas** asked. "There *were* political considerations taken into account in the Superfund. There was a certain mismanagement of that program. There *was* White House involvement. You don't have 150 conversations that are logged - forget how many are not logged -- between an administrator for hazardous waste programs and a deputy to the chief of staff of the White House [without **it**]. That's Rita **Lavelle** and Craig Fuller among others. I don't know if that's on the public record, but the documents are there. So I think there were things to **hide**."

Levitas added: "To raise questions of executive privilege about documents that no president of the United States will ever see in his life was a bit specious. ...We **weren't** talking about contras operating in Nicaragua and we weren't talking about atomic bomb secrets; we were talking about the Superfund program__This matter was one of major constitutional confrontations, certainly since Watergate, and one of the key constitutional confrontations of this **century**."

And what did the Justice Department gain from fighting to keep Superfund documents away from

Congress?

"For the first time in history a Cabinet-level official [Gorsuch] was held in contempt of Congress," **Levitas** said. "Now that is a precedent that this administration has gamed for itself. We went through almost 200 years as a republic without ever having a Cabinet-level official be held **in** contempt of **Congress**."

Dingell, in an interview for **Gorsuch's** book, also said the **Superfund** scandal seemed to reach into the White House and Justice Department.

"There were continuing **discussions**, which went on during this matter, rather during the events that led to this **matter**, which involved people at EPA with people **in** the Justice **Department**," **Dingell** said. "I don't believe that has ever appeared in public **testimony**."

The sequel to the Superfund scandal was also less than tidy, he said, as it complicated **Congress'** ability to formulate legislation to reauthorize Superfund, which was supposed to occur **in** 1984, but was not drafted and enacted until 1986.

"... the sequel is also the fact that the Congress tried to write a new Superfund law with different funding procedures relative to clean-up. We are, by the way, still struggling with the damned issues relative to Superfund - hazardous waste - and we are finding a continuing flow of fresh and **horrific** problems. We have found that groundwater contamination is a very serious problem, and it is one which may exist in geological time. And this is a precious resource that we have no right to defile for the **future**."

The Reagan White House desperately needed a white knight to restore public faith in the agency, and found one **in** William **Ruckelshaus**.

Ruckelshaus established his reputation for integrity in 1973 when, as deputy attorney general under President Richard Nixon, he had refused to **fire** Watergate Special Prosecutor Archibald Cox and resigned. Equally important, Ruckelshaus served as the EPA's first administrator, from 1970 to 1973. He was confirmed by the Senate for his second stint at the EPA on May 17, 1983.

Son of Superfund

The Reagan administration did not achieve its alleged goal of derailing the Superfund **reauthorization**. But the Superfund scandals complicated the ability of Congress to formulate the reauthorizing legislation, **Dingell** said. The reauthorization bill was supposed to be considered in 1984; it was not drafted and enacted until 1986.

The inventory of contaminated sites was growing much faster than the number of sites remediated under Superfund. In 1984, the EPA listed 538 sites on the NPL, of which 194 hadn't been touched. By 1986, the NPL had grown to 888 sites. Just 13 had been cleaned up. In all, EPA officials had identified 25,000 suspected toxic waste sites.

Predictions from the GAO were even worse: an eventual 300,000 waste sites for Superfund to deal with.

"The full size and extent of the hazardous waste site problem in the United States is not fully **known**," the GAO reported in March 1985. "Few federal studies on the health risks posed by these sites have been completed. Without knowing the number of hazardous waste sites in this country or the extent of the health risks associated with them, the Congress, EPA and the public cannot be sure that human health and the environment are being adequately **protected**."

In the meantime, EPA leadership had changed once again. After barely a year at the helm, Ruckelshaus resigned in 1984, citing "gains in credibility at the EPA," and took a job at Weyerhaeuser Co., the Seattle-based lumber company. Lee Thomas, director of **Superfund** under Ruckelshaus, took over as administrator.

With one eye on voters, Congress embraced the new Superfund bill -- environmental sensitivity was an important issue in the 1986 races. The Republican-held Senate was especially nervous, afraid of voter retribution for the scandals involving **Burford** and **Lavelle**.

In this climate, the Superfund Amendments and **Reauthorization** Act (SARA) easily passed - 88 to 8 in the Senate, 387 to 27 in the House. President Reagan signed it into law that October.

SARA gave the EPA \$8.5 billion, along with a goal of cleaning 375 dumps by 1991. The new law made it easier for law firms and citizens to sue polluters listed as potentially responsible for toxic waste sites. It also provided stipends of \$75,000 per site for community groups to hire experts and **file** informed opinions regarding site clean-ups. By 1985, Superfund was spending \$600 million a year on clean-ups -- about twice the amount of money raised by CERCLA's industry **taxes**.

The new influx of cash did not result in more clean-ups. Most projects were bogged down in the EPA's required course of remedial investigations, feasibility studies and cost effectiveness **inquiries**. But more and more Superfund money was going to private contractors -- engineering and consulting firms that worked on the various studies required before any clean-up could begin. For example, CH2M HILL finished \$140 million worth of studies of NPL sites in the western United States by **mid-1986**, and got another contract for \$120 million **in** studies that expired in 1990. Bigger companies started to show interest in becoming Superfund contractors, too. Engineering firms like Bechtel, the \$9 billion international construction **firm**, awakened to **Superfund's** great business potential.

An examination of the Reagan-Bush record on Superfund shows little clean-up and the failure to enforce the law and collect damages from corporate polluters. During the Reagan administration, only 16 of 799 Superfund sites were cleaned up and only \$40 million of an estimated *\$700 million* of potentially collectible toxic waste clean-up funds from responsible parties were recovered, according to a 1988 GAO report.

Bush promised to do better as president. In an environmental speech on August 31, 1988, during his successful presidential campaign, he vowed to "attack the toxic waste menace with every ounce of energy I have, and with every enforcement tool at my disposal.

"Superfund has the **money**," Bush stated. "But we can use it faster and more efficiently. We can make greater use of the **EPA's** emergency authority to step in and clean up **immediately**. We can cut the red tape that

slows down a program that, frankly, was **written** by lawyers and it seems for **lawyers**."

Bush said that voluntary **Superfund** clean-ups should be encouraged. "For those who don't **cooperate**, EPA should use its authority to sue them for treble damages. Our guiding principle should be simple: Those who are responsible for the dumping should be responsible for the clean-up.

"When America moves into the '90s, I want to insure that '**zero tolerance**' is applied not only to those who poison our children's minds with drugs, but to those who poison our water with toxic **chemicals**."

"Deep Lobbying"

The Superfund law expires next year. The EPA and the industries it regulates have been preparing for the battle since 1987, less than a year after the first **reauthorization**.

In 1987 some waste industry leaders recruited the EPA **administrator**, an ex-administrator and a future administrator, plus other past, present and future EPA officials, to help win pro-industry changes in the clean-up **law**. The idea was to shift financial responsibility for clean-ups from the identified polluters to the taxpayers. Backing the idea was a newly formed Coalition on Superfund, made up of major hazardous waste polluters and environmental groups to analyze the effectiveness of Superfund legislation and recommend amendments.

Journalist and author William Greider details the plan in his book *Who Will Tell The People*: "The Superfund Coalition illustrates a sophisticated form of political planning that might be called deep lobbying. It is another dimension of mock democracy — a system that has all the trappings of free and open political discourse but is shaped and guided at a very deep level by the resources of the most powerful interests. The Superfund Coalition is more representative because it demonstrates the strategic skills of the corporate interests and the depth of their sophistication and patience as well as the depth of their **wallets**."

The Superfund Coalition set out to win public support for its proposed changes when Superfund came up for reauthorization.

Among those participating in the Coalition were:

- * William **Ruckelshaus**, former EPA administrator, now chief executive officer of Browning-Ferris Industries, the nation's second largest waste management firm. In 1987, he was operating his own consulting **firm** specializing in environmental issues.
- * F. Henry **Habicht II**, who was working for the Ruckelshaus consulting firm and was assigned to manage the coalition. Habicht became EPA deputy **administrator**, described by many as the day-to-day manager of the agency.
- * William Reilly, EPA administrator under Bush, who was then heading the Conservation Foundation. Unlike other environmental groups which denounced the coalition as an industry plot, Reilly's group jumped on board.

* Lee M. **Thomas**, then the EPA administrator who became a **Superfund** contractor, was receptive to the coalition.

"An informal alliance was being formed by two important players, government and **business**, to massage a subject several years before it would become a visible political **debate**," Greider says. "There was nothing illegitimate about **this**." After **all**, the Superfund Coalition on the face of it was supposed to be engaging only in productive research about Superfund.

"**But**," explains Greider, "the process that defines the scope of the public problem is often where the terms of the solution are predetermined. That is the purpose of deep lobbying - to draw boundaries around the public **argument**."

This tack was far more sophisticated than the tactics by Gorsuch and **Lavelle** just a few years before. And as best can be seen, it was more successful.

"The political alignments first established by the Superfund Coalition proved to be quite productive for the corporate **sponsors**," Greider states, noting the top-level EPA positions later occupied by Superfund Coalition members.

Later, in another spin of the revolving door, former EPA administrator Thomas and his consulting **firm** were awarded a research contract by the Superfund Coalition to analyze Superfund regulations. Thus, writes Greider, "Three administrators past and present, as well as important environmental groups, were recruited to hold hands with corporate America in the high-minded task of making Superfund a better **law**."

Closing the circle, **Ruckelshaus** was Bush's environmental adviser during the 1988 campaign and was able to strongly recommend and see installed, both Reilly, a protege, and Habicht, a former colleague, at the EPA. William **Sanjour**, an EPA official and **whistleblower**, commented: "Thus the two top executives of the EPA were placed by the head of a company that is a major polluter, heavily regulated by the agency, responsible for many Superfund sites and a contractor for **EPA-funded** Superfund **clean-ups**."

By the fall of **1991**, the firms behind the creation of the Superfund Coalition, such as Dow, Monsanto and General Electric, were beginning to reap the results of the seeds planted four years earlier.

"Various authorities were being quoted on how flawed and wasteful the Superfund law **was**. And some of these experts worked for the very same companies lobbying to escape their financial **obligations**," to pay for the toxic waste clean-up they had created, Greider **writes**.

The deepest of "deep lobbying" involved Vice President J. **Danforth** Quayle and his secretive Council on Competitiveness. The Quayle Council held no public meetings, published no agendas, rejected requests for information filed under the Freedom of Information Act and stiff-armed congressional inquiries.

Quayle followed in the footsteps of his boss. As vice president, George Bush chaired the Task Force on Regulatory Relief, an autonomous executive branch panel created by Reagan to, in **Bush's** words, "lighten the regulatory burden borne by Americans across the **country**." The Bush task force met in secret, developed

"hit lists" of environmental clean-up programs and became, in effect, a hidden court of last resort for corporate polluters.

The task **force**, like the **Quayle** Council, acted in private with no oversight, and no minutes were made available. Thus, little is known about Bush's secret **panel**.

What is known is that Bush, shortly after becoming chairman, asked corporate America to submit lists of regulations they wanted repealed. The invitation was well received, and industry lobbyists began submitting "hit **lists**." The task force began identifying regulations to be suspended or revised, according to task force documents and a 1983 article in *Rolling Stone* by Greider.

On March **25**, 1981, Bush suspended **EPA's pre-treatment** regulations - the rules that force companies to remove toxic chemicals such as lead, mercury, chromium and cadmium from the wastewater they dump into municipal sewer systems. Drafting the rules had taken several years of research and they had withstood court challenges from industry groups. Bush said the task force needed to "**review**" them.

Many of these pre-treatment rules were not reinstated until a federal court intervened. In the meantime - more than two years, in the case of one regulation — millions of pounds of toxic chemicals were poured untreated into the environment. It was estimated that each year 56 million pounds of toxic metals and 190 million pounds of toxic inorganics were dumped into sewers across the country, according to testimony by the National Resources Defense Council at a 1982 Senate subcommittee hearing on environmental pollution.

. **Even** after the court-ordered reinstatement, there was little enforcement. A 1983 GAO report found that 82 percent of the **country's** major producers of toxic wastes were exceeding the legal limits for dumping toxic chemicals into sewers, according to "America's Toxic Protection **Gap**," a report by Environmental Safety of Washington, D.C.

Bush's counsel, C. Boyden Gray, who also advised the task force, used the work of the Task Force on Regulatory Relief to help out a former client, the Chemical Manufacturers Association, according to **Greider's** *Rolling Stone* article.

After Bush became president, his **administration's** main weapon against environmental regulations was the Quayle Council, which did little to hide its pro-industry, anti-regulation bent. Critics repeatedly charged that it secretly and unlawfully meddled in the federal government's **rulemaking** process. "The Quayle Council works almost entirely in secret," wrote *Rachel's Hazardous Waste News*, a newsletter published by the Environmental Research Foundation, on September 18, 1991. "It is not possible even to learn who works for the council or who attends its meetings. Freedom of Information Act requests . . . such as the **name**, background and education of council staff members — have been denied on the basis of executive privilege. The deliberations of the council are not public, its budget is not public and the council ordinarily publishes no rationale for any action it takes. The rules by which the council operates are not available **anywhere**."

The newsletter concluded: "The council is clearly a secret government within our **government**.... It gets the president's dirty work done quietly, forcefully and without any of those pesky trimmings of **democracy**."

Michael M. **Uhlmann**, an attorney who turned to the council for help in one Superfund case, says it isn't fair to say that the work of the council -- which kept no minutes — "occurs in the dark by conspiratorial forces you can't get at."

But Rep. Henry **Waxman (D-CA)**, chairman of the House Energy and Commerce subcommittee on health and the environment, angrily denounced the Quayle Council's behind-the-scenes influence over EPA proposals. Waxman wondered how long top EPA officials could live with having their decisions systematically undermined by White House aides whose primary allegiance, he said, was to business groups.

Two Quayle Council controversies revolved around Allan B. Hubbard, an Indiana lawyer, investor and entrepreneur who was Quayle's assistant for domestic policy and executive director of the council. Hubbard, **43**, a graduate of Harvard law and business schools, managed the presidential campaign of former Delaware governor Pierre S. (Pete) **DuPont IV** in 1987 and the following summer was deputy convention manager for Bush. In 1990 he served as campaign vice chairman for Sen. Dan Coats (**R-IN**), who had been appointed in 1989 to fill Quayle's Senate seat. While he worked for Quayle, Hubbard also owned a specialty chemicals company in Indiana and \$18,000 to \$65,000 worth of stock in three Indiana banks, according to his financial disclosure reports.

In 1991, the Quayle Council compelled the EPA to ease Superfund liability rules on bank loans to owners of polluted sites, according to documents from the EPA and the council. At issue was an existing Superfund regulation that makes a lending bank liable for a clean-up if the owner defaults on the loan. Hubbard played a major role in persuading the EPA and Treasury Department to change the regulation, allowing some banks to lend money to the landowners without sharing liability for a clean-up, according to documents obtained by the House Committee on Government Operations.

Environmental groups opposed easing the lender liability rule, arguing that companies would be less likely to clean up polluted sites if the bankers who lent them money could ignore the state of the site in making the loan. If a lending bank had some risk, the environmentalists contended, it might require a firm to take responsibility for a **site's** environmental condition, just as a bank would require a borrower to have **fire** insurance.

Bankers lobbied heavily for the change, fearing situations in which a bank that had lent a few hundred thousand dollars would become liable for a multi-million dollar Superfund clean-up.

The rule change was proposed in 1990, but negotiations dragged on because of disagreements among the EPA, Treasury Department and Office of Management and Budget (OMB) - that is, until Hubbard entered the picture. Hubbard, who became Quayle's deputy chief of staff in 1990, joined the debate in 1991 on behalf of the Competitiveness Council. EPA officials say **Hubbard's** intervention led to the rule change, which went into effect in 1992.

Looking at **Hubbard's** actions and his bank stock holdings, Rep. John Conyers (**D-MI**), chairman of the Government Operations Committee, said, "There is a very real question of whether a felony violation occurred."

Conyers's committee asked the vice **president's** office to turn over documents about **Hubbard's** role in the bank liability rule **change**. The White House never responded.

A Quayle aide, quoted anonymously in the *New York Times*, said the conflict-of-interest issue was "purely technical" because **Hubbard** had intended to get a waiver absolving him of any conflict in such matters.

"Such a waiver, which he did obtain later from the vice president, describes potential conflicts and declares them to be **insubstantial**," the *Times* reported on June 18, 1992. "In theory, the waiver protects an official from conflict-of-interest charges, but it is not clear how a court would treat it. It is common practice among businessmen who become high officials in government to seek such waivers.

"However, Mr. Hubbard did not receive the waiver until mid-June 1991 -- after the negotiations over the EPA [**Superfund**] rule," the newspaper reported. "Thus the waiver would give no protection from prosecution in that **case**."

"There is a potential conflict there," said director Thomas **Zorn** of the Office of Government Ethics, an independent federal agency that oversees governmental ethics rules.

In July of 1992, the Democratic-controlled House of Representatives voted to deny funding to **Quayle's** council. "What this [council] is about is special deals for special friends of the administration, worked out in secret in an unaccountable **fashion**," said Rep. David **Skaggs** (D-CO).

Republicans charged the Democrats were playing partisan politics. Americans are "sick and tired of rules, red tape and government **bureaucracy**," said Rep. Frank Wolf (R-VA). "No one should tell the president or vice president how they can set up this meeting whereby Cabinet officials can resolve their differences on regulatory **matters**."

The Quayle Council earlier in 1992 had joined with the White House and OMB to divert and dilute proposed tough regulations to protect the nation's groundwater from Superfund and RCRA hazardous waste.

Quayle Council administrator Hubbard was directly involved in the effort to weaken the proposed groundwater protection policy, which included a series of closed-door meetings with officials from the EPA and White **House**. Also under scrutiny were proposed EPA rules that would prohibit the disposal of Superfund wastes at leaking RCRA facilities and improve groundwater monitoring requirements at hazardous waste facilities.

House Energy and Commerce Chairman Dingell, who also heads the panel's subcommittee on oversight and investigations, demanded that the Quayle Council release documents revealing its part in the review process. The council refused. The stage was set for a major conflict pitting Dingell against the Quayle Council; OMB, which reviews the **rulemaking** process; and the White House itself.

Dingell demanded 15 documents that would reveal the part played by the Council in the Superfund and hazardous waste rulemaking **process**. Dingell argued that the administration had no authority to determine which documents are relevant to a subcommittee **inquiry**.

Quayle's office claimed executive privilege and refused to hand over the documents, asserting that the council is part of the executive office and that making the papers public would impinge on the president's power to "control and supervise executive policy **making**." One observer noted that the last such debate over executive privilege had involved Anne **Burford** -- and ended in **Burford's** resignation.

The Quayle Council's secret maneuvering on the **EPA's** groundwater protection rules, including several **Superfund** regulations, was "part of a pattern" that began in 1991 when the council quietly helped to stall the **EPA's** proposed municipal solid waste landfill **regulations**, a congressional staffer told *Superfund Report*, an industry newsletter, in January. "A fairly large portion" of groundwater rules were held up, the staffer said.

The Superfund provisions struck down by OMB were the Off-Site Response Action Rule, designed to prevent waste from Superfund sites from being improperly disposed of and creating future contamination **problems**, and the Designating Hazardous Substance Rule, which would have included new chemicals to be considered hazardous under Superfund, and attached liability to release of those chemicals. OMB ruled that the two proposed regulations placed an undue economic burden on industry and were not cost-effective.

Said **Dingell**: "The subcommittee has documented a wide divergence of views within the administration on groundwater protection policies, which has led to long delays and even stalemate in the formulation of many new RCRA and Superfund regulations and **policies**."

But in this case, Dingell said, White House officials, OMB representatives, Competitiveness Council staff and the White House Counsel's Office "have engaged in an intensive effort to undermine EPA's longstanding policy of emphasizing prevention rather than clean-up of groundwater **contamination**." Dingell charged that those officials "have also attempted to contravene to [the] statutory mandates and to circumvent procedural safeguards in the **rulemaking process**."

In 1992, the Quayle Council, White House and OMB united to derail proposed tough regulations that would have protected the nation's groundwater from Superfund and RCRA hazardous waste. The proposed regulations were fiercely opposed by oil companies and others who pumped thousands of dollars into Republican party coffers.

In recent years, industries have demanded, sometimes in lawsuits, that local governments share the multi-million dollar Superfund clean-up costs because the greater load consists of municipal trash. Local governments said that was unfair, since their trash wasn't toxic. Indeed, studies showed that less than one percent of typical municipal trash was hazardous.

The EPA in March 1992 proposed a Draft Superfund Municipal Settlement Strategy, which would have limited local governments' share of Superfund clean-up costs to 4 percent. The proposal was leaked. The business community went ballistic and turned to the White House and the Quayle Council for relief.

Starting on April 8, 1992, Clayton **Yeutter**, then President Bush's adviser on domestic affairs, met with industry representatives. He also met with advocates of local governments. That same month, corporations opposed to the proposal contributed nearly \$100,000 to the National Republican Senatorial Committee, according to records compiled by the National Library on Money and Politics.

In all, 15 of the 29 corporations opposed to the **Superfund** Municipal Settlement Strategy contributed \$1.2 million to the Republican Party or state affiliates during the 1990-1992 election cycle, the library's documents show. The contributions were "soft money" -- huge amounts given through a loophole in federal election law, which is meant to prohibit donations of more than \$2,000 per person or \$10,000 per political action **committee**. Much of this soft money came directly from the corporations themselves, even though corporations have been barred from making direct contributions to presidential candidates for almost a **century**.

And in April of 1992, when **Yeutter** was being lobbied to kill the EPA proposal, \$100,000 was given by the industries to the National Republican Senatorial **Committee's** non-federal account — only one of several avenues of soft money contributions that could have been made. In addition, Atlantic Richfield Company (**ARCO**), a leader in the industry coalition against the Superfund strategy, and its CEO, **Lodwick** Cook, gave **\$862,360** to the GOP over the two-year period. President and CEO Robert **Wyoff** gave at least \$100,000. **RJR** Nabisco, a plaintiff in a third-party lawsuit against municipalities involved with the Helen Kramer Superfund site in New **Jersey**, donated \$808,930. Executives of both companies were members of "Team 100," an elite group of business magnates and wealthy donors who gave at least \$100,000 each to help Bush and Quayle win the White House in 1988.

And in California, which was not only a crucial state for Bush's re-election campaign but also site of the largest clean-up battle **between** municipalities and corporations, more corporate campaign money surfaced. Chevron Oil and 63 other corporations sued 24 municipalities over the clean-up bill for a 200-acre toxic waste dump in Monterey Park. Remediation could cost as much as \$850 million, and the corporations contended the municipalities should pay 90 percent.

Of the 64 corporations, Chevron sent the most hazardous waste to the site, according to American Communities for **Clean-Up Equity**, a Washington lobby group representing the **municipalities**.

Chevron gave **\$50,000** to the California Republican Party — more than 10 percent of the party's total receipts between mid-March and mid-May 1992, state records show.

On May 18, 1992, the *New York Times* reported that the EPA proposal was "**quashed**." On June 17, it was reported that Yeutter had sent the proposal back to the EPA for a "comprehensive **evaluation**."

President Bill Clinton immediately put the Competitiveness Council out of business. His vice **president**, **Al Gore**, made the announcement on January 22, **1993**, two days after the Democrats were sworn into office.

"Today, we are sending a clear message to the special interests who used the Council on Competitiveness as a back-door to avoid the law," Gore said. "That back door is closed. No longer will our laws be ignored or undermined. No longer will decisions that should be made in public be made in private. In this administration everyone will play by the rules and public decisions will be public **information**."

SPINNING THE DOOR

In **Superfund's** first 12 years, not only has its mission been stymied by recalcitrant caretakers, but it has been undermined by a decade of "revolving door" government officials.

They left their public positions for well-paying jobs in the private sector, helping waste companies win lucrative government contracts or showing firms how to maneuver through the environmental regulations they had written and administered.

In perhaps the most flagrant case, a lawyer involved in implementing a key provision of Superfund went on to help polluters around the law.

When Stephen Ramsey worked for the Justice Department as an assistant attorney general for environmental enforcement, he helped develop the Superfund liability regulations. When he left to work for Sidley & Austin, a top Chicago law **firm**, Ramsey in 1986 authored a how-to memo for corporate lawyers on frustrating EPA attempts to collect payments from corporate polluters -- the lawyers' clients.

An EPA official was so concerned that he warned the **agency's** legal staff to beware of Ramsey's **tactics**. Says William Greider in *Who Will Tell The People*: "His Superfund memo was widely circulated among the law firms that defend corporations against Superfund claims because it spelled out the step-by-step tactics for hanging up the liability process in the tangle of court **challenges**."

Ramsey gave specific advice to his colleagues on dealing with government adversaries:

- * "Bear in mind that district courts, unlike courts of appeals, are generally unfamiliar with record review. This suggests opportunities to expand the **record**."
- * "Use [the] Freedom of Information Act, broadly and often, and challenge withholding of relevant documents. . . . There is an added appearance of arbitrariness and procedural **sloppiness** if the government **refuses**."
- * "Take full advantage of every opportunity to comment; force the government to comment; document when they do not, to lay foundation for later **challenge**."

Greider writes: "**EPA's** chief of enforcement was sufficiently alarmed by Ramsey's memorandum that he issued an in-house warning to EPA legal and technical staff, urging them to '**be** prepared to handle challenges suggested by **it**.'"

Later, Ramsey went to General Electric as vice president for corporate environmental programs. GE is the nation's biggest Superfund polluter, listed as the responsible polluter at 47 Superfund sites.

"I'll be ensuring that GE at a corporate and business level is doing everything they can to comply with existing laws and government regulations and to go beyond that," Ramsey said.

A better-known traveler through the revolving door is former two-time EPA administrator William Ruckelshaus, who wound up with a **million-dollar-a-year** salary as the chief executive officer at Browning-Ferris Industries.

At the time **Ruckelshaus** joined the **BFI** Board of Directors in **1987**, the company was in hot water with various regulators around the nation. For example, in April 1987 the EPA filed a **\$70-million** lawsuit against BFI, alleging thousands of violations of environmental contamination regulations at a company landfill in Louisiana.

When the Louisiana action was **filed**, Ruckelshaus was president of his own environmental consulting firm, William **D.** Ruckelshaus Associates.

On June 4, **1987**, Ruckelshaus was elected a director of BFI.

On August 12, 1988, the EPA settled the **\$70-million** case for **\$1.1** million -- a settlement sharply criticized by environmental activists as a giveaway.

In September 1988, Ruckelshaus was elected chairman of the board and chief executive officer of Browning-Ferris Industries. "At first I thought [the] decision was a stroke of **genius**," former BFI Southwest Region Vice President James H. Matty told the *Wall Street Journal*. Ruckelshaus would fix the regulatory problems, "and we knew how to **operate**."

Regarding the parallel timing of the Louisiana EPA action and **Ruckelshaus'** relationship with BFI, company spokesman Philip **Angell** told the Center "He [Ruckelshaus] had absolutely nothing to do with those proceedings -- with Louisiana, the Department of Justice, or **EPA**."

Angell said Ruckelshaus was brought to BFI to "move the company forward in a changing regulatory **environment**." With increased public awareness, scrutiny and "increased regulatory **involvement** . . . you *have* to be in global environmental **compliance**." Not only was it **Ruckelshaus'** aim to put the widely criticized BFI in compliance, Angell said, Ruckelshaus and the rest of BFI management eventually decided to sell off the company's entire hazardous waste business. As to the larger issue of the former EPA Administrator's interaction with his old agency, spokesman Angell said, "Did he give guidance to BFI about how to deal with regulators, based on all his experience? You bet. Did Ruckelshaus participate in specific negotiations with **EPA**? **No**."

In October 1991 Ruckelshaus told a group of environmental journalists that he had never heard of BFI - one of the nation's largest waste management firms -- during his tenure at EPA.

Superfund and the political climate surrounding it have made environmental clean-ups big business. In October **1983**, Ruckelshaus gave a speech to the National Solid Wastes Management Association in which he encouraged "entrepreneurial **spirit**" in forming new clean-up firms and vowed that his EPA would "avoid interfering with the free market system by **overinvolving** the federal government," according to NSWMA documents. The EPA administrator told the waste management association members: "Only through your leadership does this country have a chance of being successful **in** dealing with hazardous **wastes**."

The growth in the environmental industry created a demand for revolving door hires from the EPA and other government agencies.

Waste Management Inc. of Oak Brook, Illinois, is the largest hazardous waste company in America. **WMI** grew from \$167 million in revenues to 1967 to \$1.3 billion in 1985, expanding 10 to 20 percent annually in the early '80s. The company grew by acquiring smaller waste companies and trash hauling firms, and also by hiring some of the most impressive resumes in the waste removal business: EPA employees, Justice and Defense department officials, even former Senate majority leader and White House chief of staff Howard Baker, a Tennessee Republican.

Other environmental clean-up companies were launched, many of them headed by former government officials. Clean Sites Inc. was formed in May 1984 as a nonprofit consortium of chemical manufacturers, environmentalists and former regulators to "complement, augment [and] support the government's own enforcement and clean-up **effort**," said Russell Train, the company's chairman and a former EPA administrator. Train was also chairman of the World Wildlife Fund.

Another group that helped found Clean Sites was the Conservation Foundation, at that time headed by William Reilly, who later became EPA administrator for President Bush. Reilly had also headed the World Wildlife Fund when it merged with the Conservation Foundation in 1988. Other board members included Louis Fernandez, chairman of the Monsanto Company, and the Chemical Manufacturers Association. Clean Sites planned to spend \$30 million between 1984 and 1987 to clean up about 60 waste sites on the **Superfund** list.

Some of these new hazardous waste companies were seeing sales increases of 20 to 30 percent every year. The shares of six waste removal companies tracked by Kidder, Peabody and Co. shot up 199 percent in 1985, compared to a 26 percent rise for Standard and Poor's 500 index. Arthur D. Little, Inc., a Superfund consultant in Cambridge, Massachusetts, expanded its hazardous waste consulting business by hiring 33 new employees, expanding from a group of six in 1985. By 1986, thousands of additional waste sites were found, the National Priority list had over 700 waste sites, and the \$1.6-billion Superfund — due to expire that year -- was actually underfunded. By this time, cost estimates for cleaning up every toxic dump started at \$10 billion. The Office of Technology Assessment estimated that clean-ups would last 50 years and cost about \$300 billion.

It should be noted that the problem of the revolving door is not limited to the EPA or Superfund. There is increasing concern over the use of the revolving door by congressional staffers who switch from helping to write federal statutes to working for regulated **companies**, unburdened by a legal waiting period as that imposed on EPA officials and **staffers**. This eyebrow-raising pattern is certainly worthy of its own probe.

This report, however, focuses on EPA officials who were in charge of implementing Superfund and its companion hazardous waste disposal program, RCRA. Besides **Ruckelshaus**, the Center found an almost endless procession of these decision-makers through the revolving door:

- * Former Ruckelshaus Associates vice president Henry Habicht served in the Bush administration as the EPA's deputy administrator. Habicht also worked for Ruckelshaus at the Justice Department and served as an adviser on environmental issues to then Vice President Bush during the 1988 presidential campaign.
- * Brian Mallor, an EPA enforcement attorney who helped write hazardous waste management regulations, became an attorney representing Chemical Waste Management, a subsidiary of

Waste Management Inc.

- * Walt Barber, acting administrator of EPA, became vice president of Chemical Waste Management.
- * **Marcia Williams**, director of the EPA Office of Solid **Waste**, which writes regulations governing the hazardous waste management **industry**, became the Washington representative for Browning-Ferris Industries, headed by **Ruckelshaus**, and then left to head Williams and **Vanino**, a Los Angeles-based environmental consulting **firm**.
- * James Sanderson simultaneously served as a policy advisor to embattled EPA Administrator Anne **Burford** and represented Chemical Waste Management as an **attorney**.
- * Jack **Schramm**, EPA's regional administrator in **Philadelphia**, became director of government affairs in the Washington office of Waste Management Inc. and then moved to become vice president of RCG Hagler **Bailly**, a Virginia-based energy and environment consulting firm.
- * Joan Bernstein, EPA general counsel, became vice president of Chemical Waste Management.
- * Jack **Ravan**, EPA regional administrator in Atlanta, left the agency to become president of one of the largest hazardous waste management firms in the nation, Rollins Environmental Services. While EPA regional administrator, Ravan reportedly tried to revoke North Carolina's authority to regulate hazardous waste because the state's regulations for commercial hazardous waste facilities were stricter than those of the EPA. In May 1991, Rollins was found to have been illegally accepting radioactive wastes at its Louisiana facility.
- * **Alvin Aim**, deputy administrator under Ruckelshaus, helped a private contractor obtain lucrative EPA contracts shortly after leaving the agency.
- * Douglas Costle, President Carter's EPA administrator, became chairman of Metcalf & Eddy, a major hazardous waste consulting firm and a Superfund contractor, and in the process became a multi-millionaire.
- * EPA Administrator Lee M. Thomas became CEO of Law Environmental, a hazardous waste consulting firm and Superfund contractor.
- * Thomas Adams, former head of the EPA's Office of Enforcement and Compliance Monitoring, is a lawyer with **Dechert, Price and Rhoads** in **Washington, D.C.** He allegedly failed to sever involvement with an EPA enforcement action against Marine Shale Processors Inc., a Louisiana firm which in 1988 pled guilty to charges of illegally disposing of hazardous waste. The EPA inspector general's office said there was not enough evidence to proceed with a case.

But another crucial if less publicized hardship for Superfund has been the exodus of many young, idealistic lower-level EPA employees. Frustrated by the policies of the Reagan and Bush administrations, after

short stints they left their relatively low-paying government jobs, where they wrote and implemented environmental regulations, and took better-paying jobs as advocates for the other side -- the regulated.

Left to nurture **Superfund** were **new**, inexperienced workers who would find themselves across the table from their more knowledgeable and savvy predecessors.

Since **Superfund**'s enactment, 80 percent of former EPA officials profiled in this study who worked with toxic waste clean-ups have gone to firms holding Superfund clean-up contracts or have consulted with or given legal advice to companies about dealing with Superfund.

In 1987, the turnover rate among Superfund employees reached 7 percent, two points higher than the rest of the federal government, according to the GAO. The 7 percent marked a significant jump in annual employee turnover from the 2.9 percent rate registered in 1985. A 1988 congressional study found "no likely letup" in Superfund staff turnover.

The exodus has a continuing and debilitating effect on Superfund.

Testifying before Congress in July 1992, EPA Inspector General John Martin said: "Our audits have found that inexperienced EPA project managers sometimes defer to the contractor, especially on highly technical matters. In these situations, the contractor rather than the EPA ends up managing the contract, which, of course, is **improper**."

Martin added: "To improve contract monitoring, project officers need enough technical knowledge and experience to know whether and how well contractors are performing assigned work. This is a difficult area because much of **EPA's** work is very technical and the turnover rate of project officers in certain programs is high."

EPA employees complain about former officials who return to rifle through agency files. "People are afraid to report that their former branch chief is back, going through files. People say it happens all the time," says an official with the inspector general's office.

"People are **frustrated**," said Morris "Bud" Ward, executive director of the Environmental Health Center in Washington, D.C. "Those to be credited are the people who shunned the opportunity to go through the revolving door."

CONTRACTOR TERRORISM

The largest group of **Superfund** contracts, 44 in all, are held by 23 prime contractors. These contracts, worth a total of \$6 billion, retain the contractors for 10-year periods to conduct clean-up studies, engineer clean-up concepts and oversee remediation.

In 1991 *Government Executive Magazine* stated that almost half of the contract dollars were committed to just six prime contractors:

- CH2M HILL	Denver, CO based	\$829 million
- Ebasco	New York, NY based	\$504 million
- NUS Corp.	Gaithersburg , MD based	\$492 million
- CDM	Cambridge, MA	\$409 million
- Roy F. Weston Inc.	Westchester, PA	\$388 million
- Ecology and Environment	Lancaster, NY	\$364 million

In 1992, five top contractors received \$2.8 billion in contracts:

- Computer Sciences Corp.	El Segundo , CA	\$684 million
- Black & Decker ,	McClean , VA	\$647 million
- ICF Inc.	Fairfax, VA	\$529 million
- Roy F. Weston Co.	Westchester, PA	\$500 million
- Ecology & Environment Inc.	Lancaster, NY	\$450 million

Because top contractors employ former EPA professionals, studies have repeatedly expressed concern over a phenomenon that some insiders call "contractor **terrorism**." The EPA has failed so dramatically to close gaping holes in **Superfund**, these insiders contend, the agency has become dependent on its contractors. That dependence forces the agency to accept shoddy work and exorbitant costs just to get a project finished. In further evidence of the **dependence**, studies fault the EPA for continuing to grant contractors unlimited liability coverage — to be paid for by government funds.

As Inspector General Martin told the GAO in 1991: "Superfund is particularly sensitive to fraud, waste and **abuse**."

While the problems are always acknowledged by EPA officials, no one ever explains why they are allowed to persist.

J. Dexter Peach, EPA assistant comptroller general for resources, community and economic development, told Congress in July 1992 about years of unheeded warnings from his office. Without saying so **directly**, Peach complained that the EPA fully understood the **problem**, yet failed to take adequate corrective action.

Said Peach: "In 1989 we reported that EPA had indemnified contractors too liberally, putting Superfund assets at excessive risk. The Superfund law authorized EPA to indemnify contractors, that is, to pay for any

damages that their negligent work at **Superfund** caused. This indemnification was to be granted only up to a limit to be specified by EPA and only to contractors who could not obtain private insurance at a reasonable cost. We found, however, that EPA had not established an indemnification limit, nor required contractors to apply for insurance before being **indemnified**."

Peach also discussed contractor conflict-of-interest warnings: "In 1989 we also reported that Superfund was vulnerable to contractor conflicts of interest because the same contractors who helped EPA to choose clean-up remedies also could work for the parties responsible for paying for those remedies. Yet we found that EPA had not taken several important steps to safeguard against potential conflicts of interest. For example, EPA did not clearly instruct contractors and EPA personnel on what activities constituted conflicts nor check contractors' compliance with conflict-of-interest **rules**."

Two years later, more of the same:

"... Last October [1991] we reported that EPA had not fully addressed numerous GAO recommendations to reduce the Superfund program's vulnerability to fraud, waste and abuse -- despite several years of our reporting on these deficiencies. Specifically, we reported that controls over contractor costs, such as critical reviews of contractor cost proposals and **invoices**, were often not being used.

"In addition, **Superfund's** exposure to indemnification losses were unlimited because regulations to limit coverage had yet to be issued. Moreover, Superfund remained vulnerable to contractor's conflicts of interest because EPA contracting officials still needed better guidance on what constitutes a conflict, and field checks of contractors' compliance with conflict-of-interest rules had not yet been **performed**."

Also: "Potential contractor conflicts of interest can arise in the Superfund program because many of the contractors that help EPA select and implement clean-up remedies also can work for the parties responsible for paying for clean-ups. Contractors' work for these parties could impair contractors' objectivity when performing work for EPA. Also, contractors could have access to sensitive EPA enforcement information advantageous to these same parties.

"Our October 1991 report showed that little had been **done**."

Peach said: "The persistence of these problems is largely the result of EPA's lack of sustained attention to Superfund contract **management**." He blamed the delegation of management from EPA headquarters to regional offices, and the focus of the agency on "the speed and quality of **clean-ups**."

Peach warned: "**Superfund's** authorization through 1994 will not come close to paying for EPA's projected \$40 billion share of clean-up costs for the currently listed sites. In this context, efficient use of Superfund resources, including contracting resources, is critical to the program's ultimate success.

"**Unless** the [corrective] effort is sustained and substantive changes occur, scarce Superfund resources will remain highly vulnerable to fraud, waste and **abuse**."

Clearly, many of the basic problems concern lack of oversight of contractors, consultants and lawyers,

many of whom once worked for the agency, know the system, and exploit it as hired guns for the regulated industries.

The systemic problems always seem to favor the outside consultants who were once inside. Ironically, some of those people were appointed to the EPA by an administration looking to halt the program but now make their living from **Superfund**.

"Such mutual cordiality pervades the relationship between EPA regulators and the **corporations**," said former EPA press officer Jim Sibbison. "It is bound to continue too, as long as the law allows **Ruckelshaus**, **Costle** and others to take big jobs at the agency and exploit their experience for private gain when they leave. They have an inherent conflict of **interest**."

Ruckelshaus, of course, has a different **view**. Not only does he see nothing wrong with his move to **BFI**, he told a gathering of environmental **journalists** that "we have had a tradition in this country which seems to be endorsed increasingly by the American people of movement back and forth between government and the private **sector**."

Of the billions of dollars now available for outside consulting work, Sibbison said: "That is a considerable amount of cash to place in the eager hands of Superfund contractors, consultants and their friends at the **agency**."

THE REIGN OF THE CONTRACTOR

To industry observers, it became clear in the 1980s that Superfund was making business blossom for hazardous waste clean-up firms like Waste Management Inc. and Browning-Ferris Industries. These two enterprises had boomed after years of buying up thousands of the small, local waste collection companies which had for decades been the backbone of America's waste management industry. **WMI** and **BFI** had the technology and most of the waste sites, including the few toxic waste landfills still operating.

Waste Management now owns most of the major U.S. hazardous waste landfills, including the country's largest in **Emmelle**, Alabama. "The key is who controls the processing facilities and the land **disposal**," Jeffrey Klein, a vice president at **Kidder**, Peabody told *Fortune* in 1986.

Waste Management has embarked on a **\$400-million** program to clean up waste sites and create more landfills. By 1988, its earnings were increasing by 25 percent every year.

During the 1986 Superfund **reauthorization** battle between Congress and the White House, EPA employee morale sank almost to the depths reached during the last two years of Gorsuch's tenure. Many **lower-level** employees, including crucial Superfund regional site managers, who had frontline responsibility for cleaning up individual sites, simply left.

Many went to private industry, attracted by higher salaries and the hope of a more stable working environment. This resulted in a brain drain of talented employees, just when the EPA needed experienced workers to carry out the new provisions of SARA, Sam Nott, a consultant with Environmental Research and Technology in Dallas, told the industry newsletter *Chemical and Engineering News* in 1986.

Many EPA employees in all grades, as well as recent college graduates trained in environmental sciences and **engineering**, went to work for engineering and consulting firms with large Superfund contracts. These firms needed people to do the studies for some of CERCLA's 29,000 hazardous waste sites identified by 1988. While there were 799 sites on the National Priority List as of March 13, 1989, only 29 had been cleaned up.

"The number of experienced officials out there covers only about 10 percent of the major positions that need to be filled," said Fred Troise, vice president at **Geraghty** and Miller, a Plainview, New York, environmental consulting firm.

By 1988, an average Superfund site clean-up cost about \$6 million and would be expected to take 25 years. This meant lots of permanent careers in toxic waste disposal. Graduates with no work experience and masters' degrees in geology, hydrology, chemical or civil engineering could snatch jobs with firms like Geraghty and Miller or Roy F. Weston, another contractor, with salaries starting as high as \$35,000. The EPA, on the other hand, could only pay \$25,000 to \$28,000 starting.

Law school graduates could fetch even more, up to \$70,000 starting, as law firms got more involved in environmental litigation, which was made even more lucrative by the SARA provisions that encouraged third-party lawsuits. By 1989, eight of the 10 largest law firms in Washington, D.C., had environmental

departments. **Beveridge** and Diamond, which **Ruckelshaus** helped to launch in the 1970s, specialized in environmental law. According to **attorneys** at the **firm**, Beveridge and Diamond was adding five to nine lawyers a year in 1988 and 1989.

EPA officials complained about the brain drain. They described an unfair **David-and-Goliath** battle between inexperienced **Superfund** managers and well qualified highly paid specialists in the private sector.

"You expect a certain level of expertise [among Superfund managers] and you find it's not **there**," an EPA scientist told the Office of Technology Assessment.

A Superfund contractor agreed, saying that young employees are "dedicated, enthusiastic and energetic, but they feel burdened by their intense site responsibilities and are aware of the wide gap between their levels of skills and knowledge and the requirements of the **job**."

The knowledge gap creates a problem. "Many remedial project managers believe potentially responsible parties [firms which could have caused the contamination] often seek the least expensive, rather than the best clean-up techniques and are willing to expend considerable amounts of money in attempts to establish justifications for the less expensive clean-up procedures," said a 1992 EPA study on contractors.

"One of my **PRPs** has a contract with the best geologist in the state . . . so **I'm** going against that **person**," lamented one Superfund site manager. "I don't have the resources to come back against some of their comments and **concerns**."

Nevertheless, "Superfund could not exist without contractors," stated a report by the Office of Technology Assessment in January 1989. In fact, contractors reaped between \$1.2 billion and \$1.4 billion in 1989, compared with less than \$200 million in 1982. By comparison, funds for the EPA's internal staff totaled about \$100 million in 1989, according to the OTA analyses of EPA budgets.

While citing the advantages of farming out the **specialized** engineering work to private contractors, the OTA report warned of potential conflicts of interest presented by the now accepted structure of the Superfund program.

"Developing policies and regulations and providing management and oversight seem the least appropriate activities for contracting out, but contractors do a lot of work in these areas for Superfund that seem to go far beyond supportive information and analysis," the report stated.

IT'S NO BETTER IN THE FIELD

The brunt of the **Superfund** clean-up and enforcement work is borne by the **EPA's** 10 regional **offices**, **in** Boston, New York City, Philadelphia, Atlanta, Chicago, Dallas, Denver, Kansas City, San Francisco and Seattle. Turnover in these offices has been high, as contractors raid the offices for talented but low-paid staffers.

Regional offices have also weathered their share of scandal. Denver Regional Administrator Steven Durham came under criticism in the early '80s for failing to implement Superfund projects and overriding staff recommendations. He was forced out on April 25, 1983, **in** the EPA scandal. He later went to work for Waste Management Inc.

One of the more reputable regional offices, Region V in Chicago, gained notoriety during the **Burford** years when Regional Director **Valdus Adamkus** was directed by EPA Deputy Administrator John Hernandez to make significant changes in a report on Great Lakes pollution — changes requested by Michigan-based Dow Chemical Co.

Conflict-of-interest problems stemming from the revolving door have hit the Chicago office, according to a July 31, 1990 inspector general's "Report on Region 5 Implementation of the Ethics in Government Act of 1978," obtained by the Center. The inspector general found that ethics officials in Region V were unable to investigate conflict-of-interest allegations because employees were not submitting information on stock holdings, spousal employment and other issues as required under the 1978 Ethics **in** Government Act. Only about 60 of the 99 Region V employees required to submit the data did so, the **IG** found.

The IG also discovered that the husband of a high-level regional EPA official was working for an environmental consultant, but the official had never reported this fact until she was asked for it during the course of the IG probe.

"As a supervisor, this employee has access to restricted **information**," the report stated. "In this situation, there is not only a potential for the EPA employee to give information to the spouse, but also for the spouse to exert influence over the EPA employee's decisions regarding matters such as contractor or remedy **selection**."

EPA employees are required to recuse themselves from contracts and clean-up discussions involving any firm which employs a spouse or blood relative or in which they have a financial interest. Region V had three recusals on file for fiscal year 1988 and 1989. The employee married to the consultant had no recusal form on file, the IG **said**. After the inspector general's investigation, she filed the form.

An internal EPA investigation released July 7, 1992, found rampant corruption involving \$21 million in contracts at the **Duluth**, Minnesota, EPA research labs. In one particularly egregious example, an EPA laboratory director sought and won a \$1 million non-competitive EPA contract for a company he owned on the side. EPA regulations prohibit non-competitive contract awards to current employees or former employees within one year of leaving the agency.

The employee's company, American Scientific International Inc. or **AScI**, offered jobs to spouses of other EPA employees contingent on getting the contract. The **Duluth** director created new titles for the contract workers, a violation of EPA regulations. Among the duties given to these workers, called "physical **scientists**," were snow removal, furniture moving, fixing **lawnmowers**, and "cleaning **glassware**."

"The work performed under EPA's work assignments clearly did not match the job descriptions in the **contract**," according to the EPA audit.

"AScI monthly reports to the Duluth project officers and Cincinnati contracting officials leave no question that **AScI's** activities were outside the terms of the **contract**."

At the time of the award, the wife of the lab director served as AScI's registered agent. Immediately after the EPA awarded AScI the contract, the director's wife was hired as the firm's only in-house attorney.

According to the EPA audit, "AScI was almost entirely dependent on EPA for its existence. EPA contracts provided for over 90 percent of the AScI corporate revenues and since AScI was also his spouse's employer, the Duluth director's actions resulted in or created the reasonable appearance of giving preferential treatment to AScI. In addition, EPA could not be assured that the contracts were awarded in the best interests of the **government**."

CONCLUSION: TOO LITTLE TOO LATE

William Greider argues the revolving door syndrome involves issues far larger than any **individual's** career advancement. He contends the practice has become ingrained in American corporate society as an economic necessity, both to do battle with government regulators and to gain government contracts.

"The revolving door is not about personal opportunism, but about the **organizational** reality in American **politics**," Greider writes. "A company naturally wishes to hire the best people to do its political work, since its bottom line depends directly on the political outcomes -- not just now and then, but continuously, every day, every **year**."

Major corporations, he argues, are "thoroughly engaged in the politics of governing -- more intimately and extensively than any individual citizen would ever feel the need to participate, more aggressively than even hyperactive political activists could imagine. The company's practical politics is a function of economic necessity, not the ideology or civic sensibilities of its **managers**."

In **Superfund**, the revolving door is part of a contract relationship between government and private consultants in which billions of dollars are at stake. "Superfund was damaged by it (revolving door) - it was never able to get off to a running **start**," says Curtis Moore, an environmental writer and a staffer on the Senate Environment and Public Works Subcommittee which helped draft CERCLA in 1979. "The damage these people are doing is the growing acceptance of the lie that Superfund is a lousy law.

The EPA in 1992 tried to regain control of its contract management. "If the public thinks we can't effectively manage our **funds**," said EPA Chief Financial Officer Christian Holmes, "they may in turn ask questions about how we protect the **environment**."

The reforms include:

- * Moving away from big, long-term agreements with contractors who are hard to manage and toward smaller contracts with several companies, making the agency less reliant on individual firms.
- * Changing regulations to make it easier to disqualify and suspend contractors who perform poorly, in addition to those who violate the law.
- * Designating new senior officials with more authority to ensure that contracts are well managed.
- * Making sure EPA employees — and not contractors -- are handling such sensitive oversight work as reviews of contractor invoices.

Several lawmakers remained skeptical of the announcement. **Pryor** said: "It is going to take more than an agency memo to stop these **practices**." Dingell noted that it took EPA leadership three and a half years "to realize that its **multibillion-dollar** contracting program was in a **shambles**."

And EPA hazardous waste expert Hugh Kaufman declares that Superfund has become a wasteful public

works project that perpetuates a bad policy of trying to clean up all the toxic sites to an unrealistic **standard**. while the contractors and waste management industries reap **millions**. Meanwhile Kaufman warns, the **attention** being given to **Superfund** is distracting the nation from scrutinizing how we are disposing of the hazardous waste being created today.

Nonetheless, as Superfund comes due for **reauthorization**, there has yet to be an honest discussion of how to correct its flaws while ensuring that harmful toxic waste sites are dealt with properly and **efficiently**.

Superfund's history is a story of political manipulation, revolving-door hiring, contractor dominance and government ineffectiveness. The program's advocates fear that an open discussion of its faults will only enable detractors to undermine its basic purpose: to make polluters pay for their pollution.

Conversely, **Superfund's** detractors are loath to admit that the program has been manipulated or that their true goal is to shift the burden of responsibility from industry onto the American taxpayer.

As a consequence, the revolving door continues to spin, millions of dollars are wasted and thousands of contaminated sites remain health risks.

Top Officials Leaving EPA

1980-1993

THOMAS L. ADAMS, JR.

Tom Adams was assistant administrator for enforcement and compliance monitoring from 1983 until 1989, when he left the EPA to join the law firm of **Dechert**, Price and Rhoads.

After graduating from the University of Virginia in 1963, Adams served as a Navy officer in the Atlantic and Mediterranean fleets. He left the Navy in 1967 for the **Vanderbilt** University School of Law, from which he graduated in 1970. Following law school, Adams worked as an appellate attorney for the Justice Department's Land and Natural Resources Division. He argued cases on condemnation, Native American land claims and other environmental issues for Justice until 1972.

Adams then served for two years as minority counsel for the Senate Commerce subcommittee on environment and consumer affairs. From 1975 to 1977, he served as assistant general counsel for the Federal Trade Commission, supervising the drafting of legislative proposals and providing legislative advice to commissioners and staff on consumer and antitrust laws.

From 1977 until 1983, Adams was assistant director for government relations for Republic Steel. He was deputy general counsel for the EPA from 1983 to 1986, in charge of supervising the agency's 10 regional offices. In 1986, Reagan appointed Adams to be assistant administrator for enforcement and compliance monitoring, where he was principal adviser to Administrator Lee Thomas on all EPA enforcement issues, including Superfund.

At the same time, Adams served as chairman of the National Environmental Enforcement Council, which is comprised of state attorney generals, U.S. attorneys, and state and local environmental officials.

Adams left the EPA in 1989 to become a partner at Dechert, Price and Rhoads, where he handles environmental cases, among other issues. He cited financial concerns as his reason for leaving the EPA.

In 1988, Adams came under investigation by the EPA inspector general for a potential conflict of interest with regard to an enforcement case against Louisiana-based Marine Shale Processors Inc. Adams allegedly refused to recuse himself from the case despite the fact that his wife maintained a financial relationship with Marine Shale Processors, according to EPA and congressional **investigators**.

Adams attributed the situation to a misunderstanding between himself and Sen. Max Baucus (D-MT). According to Adams, he criticized a Senate staffer for leaking confidential information on a Texas Eastern Pipeline case. **Baucus**, in **turn**, questioned his friendship with Rob **Odle**, who at the time had an interest in Marine Shale Processors. Adams claimed to have "backed away from the situation after a **while**."

The EPA inspector general's office said there was not enough evidence to proceed with a case. According to Adams, a letter of review cleared him of any obvious or apparent wrongdoing.

Adams in an interview with the Center made every effort to emphasize that he is not fond of the Superfund program. Calling Superfund a "**pyrrhic** victory," Adams said it has too many holes to be effective.

"I do not like **Superfund**," Adams said. "I think the concept is **wrong**. It's like having three police forces in one **city**." Adams aligns himself with the point of view that Superfund should be funded by public donations from a central fund, and that enforcement needs to be in "one **shop**."

Adams says his practice at **Dechert, Price and Rhoads** avoids Superfund, insisting that he only maintains "a couple of [Superfund] **cases**." His reasons for disliking Superfund work are a lack of creativity, significant liability, and the fact that such cases boil down to the question of who is going to pay.

When questioned about the flow of EPA employees to the hazardous waste industry, Adams notes certain advantages. A former EPA employee "knows the limits and flaws of **Superfund**," he said. "So when they hand you some figure, you can say, '**Hey**, this is **bullshit**.'"

ALVIN ALM

Alvin Alm served as EPA deputy administrator from 1983 to 1985. He later became vice president of Science Application International Corp. (**SAIC**), a major EPA contractor that pled guilty to charges of fraud in 1991 as a result of an investigation by the EPA.

Born in 1937, **Alm** obtained a BA from the University of Denver and a master's in public administration from Syracuse University. Like his boss at the EPA, William Ruckelshaus, **Alm** did two tours of duty at the **agency**. He served as assistant administrator of planning and management from 1973-77. **Alm** spent 1977-1979 at the Department of Energy, originally on the energy policy and planning staff, Executive Office of the President, and later became the first assistant secretary of energy for policy and evaluation. After a four-year hiatus as director of Harvard University's Energy Security Program, **Alm** returned with Ruckelshaus following the **Burford-Lavelle** scandal. The Senate Environment and Public Works Committee confirmed his appointment as deputy administrator in 1983.

Alm and Ruckelshaus left the EPA within weeks of each other at the end of 1984 and the beginning of 1985. **Alm** signed on with Thermo Analytical Corp. of **Waltham**, Massachusetts, in 1985 and became board chairman and CEO in 1987.

In 1987, he became president of Alliance Technologies Corp. in Bedford, Massachusetts, and "turned a bankrupt company around by getting EPA contracts for them," said a former Office of Technology Assessment worker.

"Alvin **Alm** is probably your best example of someone profiting from the revolving **door**," the former official said in an interview with the Center. "He was the ultimate inside guy."

Alm tells a different version of his work at Alliance **Technology**. In an interview with the Center, **Alm** said Alliance had lost two major EPA enforcement contracts before he arrived, due to "an ethical lapse by the two top **folks**." **Alm** attributes the retrieval of these contracts to the company's "strong work ethic" after he came on board.

During his tenure at Alliance from 1987-89, **Alm** was made senior vice president at TRC Companies,

Inc., Alliance's parent company in East **Hartford**, Connecticut.

In 1989 **Alm** became director and senior vice president of **SAIC**, in McLean, Virginia. He is **respon** for all aspects of **SAIC's** environmental business, according to his **resume**. SAIC, a consultant with the federal government on environmental, health, energy and military issues, has annual revenues of \$1.5 **billio** employs about 15,000 workers.

Since **Alm** began his tenure as senior vice president of **SAIC**, the company has been rocked by **sca**. As a result of an EPA inspector general's investigation, SAIC pleaded guilty in 1991 to charges of making statements and false claims for payment to the government.

SAIC had been contracted as part of the **EPA's** Contract Laboratory Program (CLP) to perform analyses on samples taken from **Superfund** toxic waste sites. According to the EPA inspector general, in order to avoid penalties for breach of contract, SAIC "**backdat[ed]** sample test **results**... and manipulated the sample analysis equipment test data to fraudulently reflect the accuracy of analysis **equipment**." SAIC agreed to pay a total of \$1.3 million in criminal and civil damages.

In an interview with the Center, **Alm** said SAIC has no Superfund contracts and only one enforceable contract that deals with Superfund. **Alm** said in the interview that a flow of EPA employees to the private sector can be healthy, because it results in a transfer of technological understanding to the private sector. **V** he warns that too much movement can result in a dearth of expertise in government, he believes government salaries are becoming more competitive, reducing that danger.

Alm is a member of the executive committee of the EPA Science Advisory Board, a body of independent experts that advises the EPA administrator on various scientific engineering issues.

A. JAMES BARNES

James **Barnes**, a long-time protege of two-time EPA Administrator William **Ruckelshaus**, was deputy administrator under Lee Thomas from 1985 to 1988. He later became a special counsel on environmental policy and regulatory issues for the Washington, D.C., law firm founded by Ruckelshaus.

Born in Napoleon, **Ohio**, on August 30, **1942**, he graduated with honors from Michigan State University in 1964. He graduated *cum laude* from Harvard Law School in 1967. Until 1969, Barnes was an assistant professor at the Indiana University Graduate School of Business.

Ruckelshaus, then assistant attorney general, employed Barnes as his special assistant from 1969 to 1970. In 1970, Barnes joined the newly formed EPA as a special assistant to Ruckelshaus, who was then administrator.

Barnes and Ruckelshaus went back to Justice in 1973. Barnes was again **Ruckelshaus's** assistant during the "Saturday Night Massacre," when President Nixon ordered Ruckelshaus to **fire** the Watergate special prosecutor and Ruckelshaus refused and resigned.

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In 1974, Barnes was the campaign manager for the successful re-election of Gov. William G. **Milliken** of Michigan. In 1975, he became an adjunct professor at Georgetown University's School of Business Administration, teaching business law and "social responsibilities of **businesses**," he says. He also became a lawyer with Ruckelshaus's firm, **Ruckelshaus, Beveridge** and Fairbanks, currently known as **Beveridge** and Diamond. He became a partner in 1977, a position he held until **1981**. His practice mainly dealt with environmental, occupational safety and health law and commercial law.

Barnes left both jobs in 1981 to rejoin the government, this time as general counsel to the Department of **Agriculture**. He stayed there until **1983**.

The team of Barnes and Ruckelshaus was again reunited when Barnes was named EPA general counsel during his mentor's second stint as administrator. Barnes had been on assignment at the EPA starting in May 1983, and formally took the general counsel post in August. He served there until early **1985**.

He was named deputy administrator in 1985, working with administrator Lee Thomas until 1988.

In August 1988, he left the EPA to become dean of Indiana University's School of Public and Environmental Affairs. The school has 140 faculty members, five campuses, and offers bachelor's, master's and doctorate degrees, as well as an executive education program run out of the Indianapolis campus.

He also became special counsel to his old law firm, Beveridge and Diamond, **specializing** in environmental policy, regulatory and legislative issues. He also serves on the Center for Public Resources Environmental Panel, a position he has held since September 1989.

Barnes is on the board of directors of the Law Companies Environmental Group, an environmental consulting company formerly headed by Lee Thomas.

Barnes told the Center, "It is one thing to advise on how to interact with the EPA as a source of information. It can be difficult if people try to influence EPA policy" after leaving the EPA to go into the private sector. He says that he has not been involved in **Superfund** cases since leaving EPA.

ECKHARDT C. BECK

Eckhardt (Chris) Beck served as assistant administrator for water and waste management under Douglas Costle, from 1979 until 1981. Upon leaving the agency, Beck, **Costle** and several other EPA **officials** founded an environmental testing **firm** near the EPA Region II research lab in Edison, New Jersey. The new company obtained EPA and Superfund contracts worth millions of dollars.

Beck was born in 1944 in **Rockville** Center, New York. He graduated from Emerson College in Boston, Massachusetts, with a degree in business and industrial **communications**. He obtained a master's in public administration from New York University in 1972. He also took classes at Yale University's Graduate School of Epidemiology and Public Health.

Before getting his master's, Beck in 1969 served as an air pollution control officer for the city of

Stamford, Connecticut. He was then named as deputy commissioner of the Connecticut Environmental Protection Agency, in charge of air pollution control, state-run recycling facilities and air pollution enforcement. He also served as chief advisor on energy policy to the governor of Connecticut. The Connecticut EPA was headed by **Costle**, who was named EPA administrator in 1977.

Beck was deputy assistant administrator for water planning and standards for the federal EPA in its Washington headquarters until he was named Region II administrator in 1977. Region II covers New York, New Jersey, the Virgin Islands and Puerto Rico. Beck became **Costle's** special assistant for water and waste programs a year later, and was nominated as assistant administrator in 1979.

Beck and Costle left the EPA in 1981 when Ronald Reagan took office. They helped to found Environmental Testing and Certification Corp. in September 1981. Beck later became chairman of ETC, serving from July 1986 to July 1987. During that time, the **firm** changed its name to Environmental Treatment and Technologies Corp.

ETC, by 1986 a successful environmental testing lab **firm**, that year was bought by O&H Materials, an Ohio-based waste remediation **firm**.

O&H, now OHM, is one of the **EPA's** top private contractors, with tens of millions of dollars in **Superfund** work. In August 1991, OHM sold Environmental Testing and Technologies (formerly ETC) to Applied Bioscience International Inc. in East Millstone, New Jersey.

Meanwhile, Beck left ETT in October 1987 to become chairman and chief executive officer of Air & Water Technologies of **Branchburg**, New Jersey. AWT, through its operating units - Metcalf & Eddy, Research **Cottrell**, and Residuals Management — provides "a broad range of environmental services and technologies in the areas of water resource management, air pollution control, and waste by-product disposal and reuse," according to company **literature**.

Metcalf & Eddy is a "world leader in providing environmental treatment and services to industry, municipalities and the federal government, specializing in the fields of water, wastewater, solid waste, and hazardous **waste**," the company says. On September 1, 1992, Metcalf & Eddy was awarded a \$25 million federal contract to clean up hazardous **waste**, including above- and below-ground tanks and contaminated soils, at Air Force bases slated to be shut down under the base closure program. Many of those bases are expected to wind up as Superfund sites.

Metcalf & Eddy grew to \$350 million in sales by the end of 1988. The firm's crowning achievement that year was securing a contract to clean up Boston Harbor, the bane of Massachusetts Gov. Michael Dukakis's unsuccessful presidential campaign. In July 1988, Beck's firm was selected as the primary environmental contractor for the \$4 billion harbor project.

Beck was paid \$439,642 in 1989 for being chairman and president of Metcalf and Eddy. In addition, he was reimbursed \$6,000 a month through the end of March 1989 for travel and living expenses. Under an employment agreement, Beck was guaranteed an annual salary of at least \$150,000 as chairman and \$175,000 as chief executive officer until 1994. According to a May 1990 proxy statement from Metcalf & Eddy, Beck

also owned 83.4 percent of the **company's** common stock, amounting to 12 million shares. Costle owned 10,750 shares, the statement said.

Beck arranged a leveraged buyout of Research **Cottrell** in 1987 by borrowing \$280 million from investors Allen and Company, First Chicago Investment Corp. and Drexel **Burnham** Lambert. Executives of all those companies now serve with Beck on the board of Research **Cottrell/AWT**, and its subsidiary, Metcalf & Eddy.

Regarding the clean-up of hazardous waste sites, Beck told **ENR**, an engineering trade journal, in July 1988: "Either the private world is going to step in and help solve this problem or the next president is going to decide that he wants another huge public works program. I don't think you're going to see **that**."

BARBARA D. BLUM

Barbara Blum served as deputy administrator of the EPA under Douglas Costle between 1977 and 1981.

Blum was born in **Hutchinson**, Kansas, on July 6, 1939. She received a liberal arts degree from Florida State University in 1958 and earned a master's in social work one year later, also from Florida State.

From 1960 to 1962, Blum was on the faculty of the **pediatric** psychiatry clinic of the University of Kansas Medical Center. She went on to the Suffolk County Mental Health Clinic in **Huntington**, Long Island, where she was acting administrator until 1964. That year she founded the Mid-Suffolk (County) Center for Psychotherapy in Hauppauge, New York. She was a partner and center administrator there until 1966.

She then became vice president with Restaurant Associates of Georgia **Inc.**, a firm she founded with her husband, Donald W. Blum. Restaurant Associates was a management and purchasing company for a chain of **restaurants**, and also sold restaurant equipment.

From 1972 until 1977, Blum was the chief lobbyist in the Georgia General Assembly and in Washington for a group called SAVE (Save America's Vital Environment). She was **SAVE's** president from 1973 until 1976. SAVE concentrated on wilderness and protection issues, which included creating the Chattahoochee National Recreation Area outside Atlanta.

Blum was also a trustee of the Georgia Conservancy and a member of the Federal Reserve Board's Consumer Advisory Council. She was appointed by the Atlanta Chamber of Commerce to be a member of Leadership Atlanta from 1974 to 1976, and served on the Fulton County (Georgia) Planning Commission from 1974 to 1976.

Blum was awarded the Sol Finestone Award in 1977 and in 1975 by the National Wildlife Federation. She was also named "environmentalist of the year" by the Georgia Wildlife Federation in 1974.

In 1976, Blum served as deputy director of the **Carter-Mondale** campaign, and as deputy director of the Carter transition team after his election. Blum was nominated to be deputy EPA director in 1977, a position she held until Ronald Reagan's inauguration in 1981.

Immediately after leaving the EPA, Blum worked as a volunteer lobbyist for environmental groups, including the National Wildlife Federation.

Blum soon became president of the Women's National Bank in Washington, **D.C.**, now the Abigail Adams National Bank. As of **12/30/91**, the institution listed assets of about \$69 million and listed salaries and **benfits** at **\$1,483,000**. In 1988, Blum was named the "outstanding business woman of the year" by the National Association of Women Business Owners.

ANNE GORSUCH BURFORD

Anne Gorsuch **Burford** was Ronald Reagan's first administrator, serving from May 1, 1981 to 1983 - a total of 22 months. She was forced to resign on March 9, 1983 in disgrace, with the threat of contempt of Congress charges looming over her head, as a result of the **Superfund** management scandal.

Born in Casper, Wyoming on April 21, 1942, she grew up in Denver, Colorado, the daughter of a prominent Colorado surgeon. In grade school and high school, she studied for four summers in Mexico City. She graduated from the University of Colorado in 1961. According to her memoirs, she completed her undergraduate degree in only two years, including summer school.

"I graduated from law school [also University of Colorado] at the age of 20, passed the bar at 21, served in two **D.A.**'s offices, was elected twice from a heavily Democratic district, and was the head of every conservative cause for the last four years," she told Edwin Meese **III**, President Reagan's counsel, when he interviewed her for the EPA post in 1981.

She was admitted to the Colorado bar in 1964, the same year she married Denver attorney David Gorsuch. Also in 1964, she was awarded a Fulbright Scholarship and spent nine months in Jaipur, India.

In 1966-67, Gorsuch worked as an assistant trust administrator at the First National Bank of Denver. From **1968-71**, she was an assistant district attorney in Jefferson County, and from **1971** to 1973 was deputy district attorney in Denver. From **1975** to **1981**, Gorsuch was corporation counsel for Mountain Bell Telephone Co.

Gorsuch was elected to the Colorado State House for the first of two two-year terms in 1977. "I had considered myself simply a good Republican, not a potential candidate," she wrote. "In fact my parents, especially my father, didn't exactly look at politics as a noble profession. In his view, while politics may not have been as *declass*e as being a go-go dancer (which I once wanted to be until he made his viewpoint known), it was one of those certain things one just **doesn't** do. Working for the government was another one of his no-no's."

The GOP needed a sacrificial lamb in an East Denver district where Democrats held a **2-to-1** margin in registered voters. But Gorsuch had a Jewish-sounding name in a heavily Jewish district. Republican infighting prompted her to launch her own campaign, and she won handily.

Along the way, she said she learned about dirty politics. Her opponent got the Colorado attorney

general, a Democrat, to write a letter on official state stationery that made it appear she had a conflict of interest running for state office while working as a corporate attorney for Mountain Bell.

As a freshman legislator, she was assigned to three committees, unlike most who are assigned to only two. She served as vice chairman of the judiciary committee in her first year. She also served on the appropriations and finance committees. She was voted outstanding freshman legislator of the 1977-78 term.

According to fellow legislator Ken Kramer, Gorsuch was the prime sponsor of 21 bills passed by the Colorado **legislature**. "She was the author of the Colorado presumptive sentencing law, which rewrote the provisions of the Colorado State Criminal Code," Kramer said in **Gorsuch's** memoirs. "Another of her successful bills repealed over 70 sections of redundant, obsolete or duplicative Colorado **statutes**."

Gorsuch also became instrumental in environmental legislation. In 1980, she was the prime sponsor of the Air Pollution Inspection and Maintenance Act. "In carrying this bill, even though only in her second term, Anne was able to build a coalition that held the basic bill against more than a score of amendments and opponents and which met the EPA requirements while eliminating the least effective and most costly features suggested by EPA," recalled Kramer, who later became a congressman. "In her efforts, Anne was able to do something which had not been done before, nor since. She was able to pass an environmental bill with support from both the state-rights advocates and the **environmentalists**."

In 1977, she and her Republican conservative colleagues in the House "were clearly four years ahead of the mood in the country that would produce the Reagan victory in 1980," she wrote. "We went right to work, that term and especially the next, to carry out a conservative **agenda**."

The liberal press, she said, tagged her and the other new conservatives the "House **crazies**." A legislator who was one of Gorsuch's allies was Robert **Burford**, a political veteran and rancher from Grand Junction, in western Colorado, 20 years her senior. Robert Burford later became the Speaker of the Colorado House.

One of Anne Gorsuch's most famous pieces of legislation was a bill requiring the state to implement mandatory auto emissions testing requirements. While environmentalists praised her for helping pass stringent automobile emissions controls, they were critical of her decisions to kill toxic waste bills.

Gorsuch and Burford were allied with lawyer James Watt, who founded the Mountain States Legal Foundation, a group that intended to scale back government regulation of the environment. One of the Mountain States Legal Foundation's primary benefactors was Joseph Coors, head of the Adolph Coors brewery in Golden, Colorado, and a leading contributor to Ronald Reagan's presidential campaigns. In fact, one of the chief lobbyists against the toxic waste proposal Gorsuch killed in the Colorado House in 1980 was **Thorton** Field, who then worked for the Adolph Coors Co. Field was named by Burford in 1981 as her special assistant for toxic waste, and he later moved to the EPA's enforcement division.

Gorsuch decided not to run for a third term; she said she had accomplished what she sought to and she disliked the publicity. Also, she was about to divorce David Gorsuch. She decided to get out of politics. Then her hero, Ronald Reagan, decided to run for president. Anne Gorsuch worked for Reagan in Colorado and signed up as a surrogate speaker for him.

After the 1980 Reagan landslide, Gorsuch submitted her name to the Republican National Committee's special search group for women upon the advice of an old political colleague. She said she first was interested in the EPA deputy administrator's job, but soon became convinced she had the qualifications to head the agency. She lobbied hard.

She was nominated by fellow **Coloradan** and conservative James Watt, Reagan's new secretary of the Interior. Environmentalists opposed her, pointing to her role as a state legislator in killing a proposal to have the state take a role in controlling toxic waste.

Gorsuch's nomination signified a reversal from the Reagan transition team's original intention for the EPA. In his campaign, Reagan had targeted environmental regulations as strangling American industries and attacked the EPA as too tough on issues such as air and water pollution. This was a popular message during a period of what President Carter called "**national malaise**," when inflation was in the double digits and interest rates hovered around 20 percent.

But **Reagan's** appointment of the conservative Watt to head the Interior Department sent environmentalists and pro-environment lawmakers howling. The White House began looking for a moderate EPA administrator who would not incur the same wrath.

Names tossed around early in 1981 included **Rep.** James Martin (R-NC), Ohio state environmental chief James **McAvoy** and John **Hernandez**, a New Mexico State University engineering professor. Hernandez was later named deputy administrator under Gorsuch.

Gorsuch was sworn in as administrator on May 20, 1981. She immediately became engaged in **controversy**. Before she was confirmed by the Senate, she set up her offices not at EPA headquarters, above a shopping mall in Washington, **D.C.**, but at Watt's Interior Department. Gorsuch said Watt offered her the office. At the same time, Robert **Burford** was named head of Interior's Bureau of Land Management.

The controversies surrounding Gorsuch began to mount. Enforcement actions against environmental lawbreakers began to dwindle during her tenure.

Gorsuch centralized all enforcement by not letting any regional or other staff lawyers decide on their own actions: Everything had to come through EPA headquarters. Critics accused Gorsuch of quashing investigations; Gorsuch responded she was trying to streamline a bloated EPA management and eliminate confusion in **Superfund** enforcement.

The result was that in 1979, 255 cases were referred to the Justice Department. By 1982, that number had dwindled down to 97.

According to author William Greider, Gorsuch began suspending and deferring key sections of the Resource Conservation and Recovery **Act's** new hazardous waste rules. "Even when federal courts ordered EPA to reinstate the regulations, enforcement was so anemic and compliance so spotty that even some businesses complained," Greider stated.

Gorsuch also proposed slashing EPA's budget. In 1980, the EPA's total budget was \$1.36 billion. Gorsuch proposed \$975 million for FY 1983. She planned to cut the EPA staff by 23 percent and the budget by 30 percent in three years.

Gorsuch critic William Drayton, an ex-EPA employee who founded the group Save EPA, said her proposals exceeded the budget cuts being pushed by Reagan. "It's **true** that she was doing the president's job at EPA," he said to *People*. "But the paranoia, corruption and nastiness were all her **contribution**."

In her memoir, Gorsuch wrote: "I did not push for Superfund cuts. Since Superfund was paid for by industry, it didn't add to the federal budget **deficit**."

Gorsuch laid the blame for slow Superfund cleanups on Rita Lavelle and on White House agencies, including the Office of Management and Budget, headed at the time by David Stockman. Stockman, when he was a House member from Michigan, was one of **Superfund's** fiercest opponents. Gorsuch said the OMB tried to stop spending on Superfund at every turn, and she accused OMB officials of trying to run the environmental agency. In 1981, the OMB demanded budget cuts roughly double what Gorsuch had asked for. "Fewer regulators will necessarily result in fewer regulations and less harassment of the **regulated**," an OMB report stated.

In fact, in the five months before Gorsuch was sworn in, Stockman and other OMB aides froze Carter-era environmental laws and relaxed other standards, acting at the behest of the Task Force for Regulatory Relief, headed by Vice President George Bush. By the time they were finished in the spring of 1981, the task force succeeded in establishing an "anti-environmental aura that was certain to become a handicap" for any appointee, said the late Superfund director William Hedeman in **Gorsuch's** book.

But Gorsuch herself got mired in conduct questions over Superfund and other environmental programs. The most notorious charge was that she manipulated Superfund money slated for the emergency clean-up of the Stringfellow Acid Pits toxic waste site in California. The charge was that Gorsuch intended to delay the \$6.1 million grant until after the November 1982 election in a bid to undercut the U.S. Senate campaign of outgoing Gov. Jerry Brown, a Democrat.

In fact, Superfund money originally scheduled for Stringfellow in July 1982 was delayed until September, then again until December - after the election. Brown lost in a race that was not close.

In an interview with the Center for Public Integrity, Brown said he knew of the allegations against Gorsuch, but had no personal knowledge that she in fact delayed the money to harm his campaign.

According to the *Washington Monthly*, the Justice Department investigated the allegation on the basis of a memorandum sent to Justice by Deputy White House Counsel Richard Hauser. The memo told of a remark Gorsuch was said to have made at a luncheon on board the presidential yacht *Sequoia*, in a cabin filled with the Reagan administration's top environmental officials — including A. Alan Hill, chairman of the Council on Environmental Quality.

Hill reported that he heard Gorsuch talk about a toxic cleanup in California and say, "I'll be damned

if I let Brown take credit for **that**." Hill's story was corroborated by another Council on Environmental Quality member, William Ernst Minor, the *Washington Monthly* reported. The Justice Department exonerated Gorsuch, determining that Alan Hill was "unable to provide evidence to support that opinion or that Mrs. **Burford** actually held back any EPA money from the state of California to avoid helping Gov. **Brown**."

"In other **words**," said the *Washington Monthly*, "Hill had not himself acted out the role of investigator, so his recollection was **worthless**." The Justice Department concluded that because "no competent evidence was discovered that Mrs. Burford engaged in the prohibited conduct, the investigation of this matter was **closed**."

The magazine concluded: "If there was something strange about effectively calling two presidential appointees incompetent witnesses, it did not deter the Justice **Department**." In *Are You Tough Enough?*, Gorsuch cited the Justice Department report to prove her innocence, offering the *Sequoia* lunch as evidence and adding several administrative reasons why she delayed the Stringfellow grant. She said the majority of the earmarked funds were merely reimbursement for work already performed, and that there was no threat to public health.

"She is right insofar as 57 percent of the money was **reimbursement**," reported *Washington Monthly*. "The other 43 percent — or \$2.6 million — would have permitted a significant amount of additional work on the 22-acre Stringfellow site — work that could have defused the imminent danger to the drinking water of 500,000 **people**."

Burford offered three other administrative reasons for the delay from July to December: "an unresolved **audit**,"; "the briefing papers were . . . inadequate and in . . . **disarray**,"; "and no effort had been made to identify responsible **parties**."

The *Washington Monthly* wrote, "While all three might have been true in July when Burford was first scheduled to announce the grant, none was true in September when the grant was again under review. The audits were corrected, the briefing papers ordered, and letters went out on August 25, 1982, to 176 parties who might be subject to legal **action**."

The Justice Department report also illustrated how Burford and her **Superfund** director, Rita **Lavelle**, implemented a policy to delay Superfund projects so money would be left over when Superfund came up for congressional **reauthorization**. "That way, the administration could convince Congress that toxic waste dumps represented no problem and a Son of Superfund would not be necessary," the *Washington Monthly* stated.

The Stringfellow incident was far from the only problem with Superfund experienced by Gorsuch.

Under her reign, the EPA favored negotiated settlements with corporate polluters of Superfund sites, raising the ire of EPA staffers, environmentalists and members of Congress, who accused her of making sweetheart deals with industry and undermining the **EPA's** own enforcement efforts.

Her downfall began when several House committees began investigating accusations that Superfund was not being run in accordance with the law. In October 1983, Rep. John Dingell (**D-MI**), chairman of the

powerful House Energy and Commerce Committee, and Rep. Elliott **Levitas** (D-GA), chairman of the subcommittee on investigations and oversight, ordered hearings on the **Stringfellow** controversy, and ordered Gorsuch to hand over thousands of pages of EPA documents.

Gorsuch refused to honor congressional subpoenas, saying the White House directed her to invoke executive privilege. President Reagan extended executive privilege over the EPA documents on November 30, 1982.

Hostilities broke out between Congress and the EPA.

On December 16, 1982, in the final days of the 97th **Congress**, the House voted 259-105 to hold Gorsuch in contempt of Congress. She became the first Cabinet-level presidential appointee ever issued a contempt citation.

But Gorsuch did not yield. She continued to withhold the documents despite the contempt charge and threat of prosecution. The crisis became more complex when the actual number of documents in question kept changing during a flurry of correspondence between Congress and the executive branch. Heightening congressional anger was the fact that private companies who were subjects of **Superfund** enforcement actions had access to the papers that Congress could not see. It was not clear who had made the decision to withhold them and who at the EPA knew what was in them.

Gorsuch became the focus of intense media scrutiny. "The focus of attention was [Gorsuch] whose **thorniness** had in the past earned her such sobriquets as the 'Ice Queen' and the 'Dragon Lady,'" *Washington Monthly* reported. "At the height of the crisis, reporters practically invaded **Burford's** home in what one commentator aptly called 'a feeding frenzy of publicity.'"

Mounting public furor forced President Reagan to declare in January 1983 that "I can no longer insist on executive privilege if there is a suspicion in the minds of the American people that it is being used to cover up **wrongdoing**." But the White House issued a correction of Reagan's statement the next day, and the documents continued to be withheld.

The issue continued to dominate the headlines. On February 7, Gorsuch fired Superfund director Rita **Lavelle** after a damaging internal memo was leaked to the *New York Times*.

Lavelle, EPA assistant administrator for solid waste and emergency response, was implicated with Gorsuch in the scandal. Lavelle challenged the dismissal, appealing to the White House, to no avail. But **Lavelle's** departure did not satisfy critics.

Some members of Congress believed Gorsuch must have known about **Lavelle's** activities. "Lavelle was operating the EPA's most important program in Washington — she **wasn't** operating in El Salvador," said Levitas.

On March 7, 1983, against the backdrop of six congressional committees investigating her, ~~the~~ 40-year-old Gorsuch married Robert **Burford**, 60, and celebrated with 400 guests at a champagne reception at

Georgetown's Four Seasons **Hotel**. Watt was best man at the civil ceremony. Freda Poundstone, a conservative lobbyist, was matron of honor.

Two days later Anne **Gorsuch Burford** resigned from office. The Superfund documents were released the same **day**. At a March 11 press **conference**, President Reagan criticized people who were attacking Burford, saying they were interested in partisan attacks and not the environment or justice. "And, **frankly**," Reagan said, "I wonder how they manage to look at themselves in the **morning**."

Levitas, quoted in **Burford's** book, later concluded that she was a victim of manipulation by the White House and Justice Department. "Eventually, it was obvious to me that this woman was being set up, that the Justice Department was looking for a fight [on the executive privilege for Superfund documents issue] and they decided to do this one and they proceeded to do a terrible job, and she was just caught in the **middle**," Levitas said. "I would quarrel with Gorsuch on her policies in running EPA, but she was doing exactly what Ronald Reagan wanted her to do from the beginning to **end**." However, Levitas added, that does not absolve her from responsibility.

In her memoir, Burford wrote that no one in the White House directly asked her to resign; they had someone else do it. On a speaking engagement in Denver, around March 5, she was summoned to the home of beer baron Joseph Coors, an intimate of Reagan's. It was an unusual request, she recalled.

"Joe asked me to join him in his study. It was the first and only time I'd ever been in that room. With no preamble Joe Coors said, sort of blurting it out, '**They** want you to **resign**.'" Gorsuch said she responded, "They? Who are **they**?" And Coors answered, "People very close to the **President**." Asked Gorsuch: "But why are you doing their dirty work for them?" Coors said, "I never could refuse Ronnie **anything**."

Gorsuch said she and Coors quickly negotiated. She made three demands: "I want the people, the people I hired, taken care of — no wholesale firings; I want my legal bills paid; and I want a **reappointment** to a decent post in this term of this **administration**." Coors agreed, she reported.

Reagan announced her resignation, saying he was "greatly disappointed that some persons have unjustly attacked her and made unfair judgments based upon allegation and innuendo alone. The unfortunate actions have so interfered with her sound management of the agency that Anne has unselfishly concluded that she should step down to best serve the interest of the agency and the country. I am proud of her and glad she has agreed to continue to serve this administration in a position which will soon be **announced**."

Also in March, Attorney General William French Smith dropped his investigation of Burford for contempt of Congress, blaming members of Congress for not cooperating with Justice Department officials.

In 1984, Reagan appointed Burford as chairwoman of the National Advisory Committee on Oceans and Atmosphere, a Commerce Department advisory committee that he originally had planned to abolish. The job was part-time. The committee met three days every month to address issues of marine transportation, ocean minerals and forecasting floods, and marine fishing and trade zones.

"The crux of the appointment was personal professional rehabilitation, pure and simple, a public

that I still had friends in this **administration**," **Burford** said. But the *Washington Post* reported that she told an audience in Colorado she considered the appointment a "**nothingburger**."

Environmentalists and members of Congress were furious at the appointment. Several lawmakers vowed to reopen their investigations of the EPA, which had stopped when Burford resigned. Burford asked Reagan to withdraw her name because of the controversy. She resigned from the committee in August 1984, but immediately was given a new task by Republican conservatives -- attacking Democrats on television.

Burford appeared in an ad attacking Democratic vice presidential nominee **Geraldine Ferraro**. The ad, paid for by the National Conservative Political Action Committee (NCPAC), featured Burford saying "a real scandal" haunted nominee Ferraro over the refusal of her husband John Zaccaro, to disclose his income tax forms. "**C'mon**, Ms. Ferraro, what are you trying to **hide**?" Burford asked in the **ad**.

Burford portrayed herself as the victim of a witch hunt perpetuated by the Washington media, and asked the "liberal press" to look more closely at Zaccaro. NCPAC raised \$12 million to promote the **1984** Reagan-Bush ticket but, as an independent **PAC**, had no formal contact with the Reagan-Bush campaign team. Burford was also **asked** by NCPAC director John T. (Terry) **Dolan** to head a **Ferraro-Zaccaro** truth squad, in which she and her employees would follow Ferraro on the campaign trail, disseminating information about the **nominee's** finances, **all** paid for by **NCPAC**.

By the spring of 1985, Gorsuch felt her demands had not been met by the Reagan administration. "My people were all fired, almost immediately accompanied by the full flush of press and congressional allegations of wrongdoing, plus one or more inspector general's investigations to contend with," she said. "Others were fired a bit later, and few were allowed to die lingering deaths in do-nothing **jobs**."

On the second point, Gorsuch complained that she owed \$231,896.25 in legal fees to defend herself against congressional contempt charges, among others. In January **1986**, the government agreed to reimburse her about \$200,000. As far as another job in the Reagan administration, attempts to **find** one created further controversy.

In January 1988, Burford was asked to represent, in court, one of the polluters of Times Beach, Missouri, a **Superfund** case she handled in 1983.

Hunton and Williams, a Richmond, Virginia, law firm, offered to pay Burford for discussing the case with them. Hunton and Williams represented Syntex Agribusiness **Inc.**, in a suit in St. Louis, Missouri, Circuit Court filed by eight former Times Beach residents. The suit charged that Syntex was in charge of several companies that dumped **dioxin-laden** wastes at the site until the early '70s.

Burford asked the EPA ethics officer if she would be able to discuss the EPA's decision in 1983 to buy the Times Beach residents' contaminated houses. The EPA approved her request, since she had been out of the EPA for more than the statutory two years.

Burford's book sharply criticizes Reagan's environmental policies. "Certain facts just cannot be **ignored**," she wrote. "For one thing, the president has never made a major environmental address, one in which he

he devoted the full text of a major speech, or remarks at an important event, to the environment. Frankly, after **five** years of silence, even I have to question his **commitment**."

The *Denver Post* reported **Burford** began a job as a lawyer-consultant with a Washington law firm in August 1988.

After Bush became president in 1989, Robert Burford left the Bureau of Land Management and the **Burfords** moved back to Denver. Robert Burford was still a consultant with the BLM Denver regional office, however, and lobbies for the minerals division of Burlington Resources, which also owns the Burlington Northern Railroad. Anne Burford was a lobbyist in Denver. The Burfords were active in Republican party politics in Colorado, according to reporters and political figures there.

But on Valentine's Day, February 14, **1991**, Robert Burford served Anne with divorce papers. In May 1992, Anne Burford went to court on charges she broke Denver building codes by failing to make timely repairs on a 106-year-old apartment building she had purchased with her ex-husband two years earlier. She acted as her own attorney at the jury trial and won an acquittal after emotional pleas in which she described the financial devastation of the **1991 divorce**, according to the *Houston Chronicle* and *Washington Post*.

DOUGLAS M. COSTLE

Douglas Costle served as EPA administrator under President Jimmy Carter from 1977 to **1981**, and was the first EPA head to regulate the **Superfund** program. After leaving the **agency**, he cofounded an environmental testing **firm** located next door to the EPA's Region II research offices in New Jersey, and secured EPA and Superfund contracts, worth millions of **dollars**.

Costle was born in Long Beach, California, on July 27, 1939. He received his bachelor's degree from Harvard University in 1961 and a law degree from the University of Chicago in 1964. He began his career as a federal employee, first as a Justice Department lawyer in the civil rights division in Washington, D.C. and then with the Department of Commerce, as an attorney with the Economic Development Administration from 1965 to 1967.

He then went to San Francisco, working in the corporate litigation department of **Kelso**, Cotton Seligman and Ray, and then as a senior associate at Marshall, Kaplan, **Gans** and **Kahn**, from 1968 to 1969. Marshall, Kaplan specializes in consulting work for federal and state agencies.

In 1970, Costle served as a consultant to the White House Council on Environmental Quality. While at the White House, he served on the staff of the commission that recommended establishing the EPA, and worked closely with William Ruckelshaus during his term as administrator, according to Costle's statement to the Senate Environmental and Public Works Committee in 1977.

Costle was deputy commissioner of the Connecticut Environmental Protection Agency in 1972, and commissioner from 1973 to 1975. From 1975 to 1976, he served as assistant director for natural resources and commerce of the **Congressional** Budget Office. After Carter was elected in 1976, he was a member of the transition team and was sworn in as EPA administrator in **1977**.

Costle said he remembers a time in his career when toxic waste was a dimly understood concept. As he took over the EPA in the '70s, "I began to understand this subtle set of **problems**," he said. "Love Canal and the Valley of the Drums discovery in Kentucky slammed toxic waste issues into public [and government] **consciousness**."

These sites, said Costle, "skirted the environmental agenda on the whole area of **toxics...with** a heavy focus in their grossest forms," such as the burning **Cuyahoga River in Cleveland**, Ohio, or oil spills, which were the major environmental concern of government officials in the late '60s and '70s.

After Reagan defeated Carter, Costle needed a new job. He had good prospects for starting a new business, he said, even though he had never before worked in the private sector. In the spring of 1981, he taught at Harvard's Kennedy School of Government and School of Public Health.

At about this time, **Superfund** created a market for environmental testing laboratories. Costle, former assistant administrator **Eckhardt** (Chris) Beck and other former Carter EPA officials, such as Henry **Beal** and Swep Davis, founded Environmental Testing and Certification **Corp.**, based in Edison, New Jersey -- next door to the **EPA's** Region n office and research labs.

Terry **Loucks**, a former Rockwell International executive, was named president and chief executive officer of the new **firm**. Environmental Testing and Certification (ETC) performed chemical and waste analyses for companies and government agencies, a step which hadn't previously been taken by either industry or government, Costle told the *New York Times* shortly after the company was founded.

The former EPA officials initially sold about 20 million shares of stock in the company, while acquiring a large number for **themselves**. During its first three years, ETC lost money. But as government and industrial customers were signed up, net profits grew to \$3.5 million. Within a few years, Beck owned 100,000 shares worth \$2.5 million; Davis, 120,000 shares worth \$3 million; Beal, 105,000 shares worth \$2.6 million.

The founders tried to avoid a corporate takeover, though Costle admits they still had ties to venture capitalists who had put up the money needed to start the lab. Costle and his directors say they kept government contracts down to 20 percent of their **business**.

That didn't last long, as O&H Materials, based in **Findlay**, Ohio, bought Environmental Testing and Certification **Corp.** in 1986. Government contracts grew to half of the company's total business, in order to pay for O&H's takeover and keep shareholders from selling their stakes in the company. O&H, in fact, received a \$100 million EPA contract in 1984 with another Ohio clean-up **firm** to provide "clean-up personnel, equipment and materials needed to conduct Superfund emergency activities. Each contractor is responsible for maintaining ... standby network of clean-up resources and on-scene deployment in accordance with the EPA's on-scene coordinator's **instructions**," according to an internal EPA publication announcing the award. The company was responsible for sites in New England, New York, New Jersey, Pennsylvania, Puerto Rico, Delaware, the District of Columbia, Virginia, West Virginia and Maryland. The EPA's Region II lab, down the street from Costle's **firm**, is responsible for clean-ups in New York, New Jersey and Puerto Rico.

Costle resigned his directorship from the **firm**, now called Environmental Treatment and Technologies,

in 1988. **O&H**, now known as OHM, at that time had assets of more than \$45 million. The following year OHM got a contract with the Army Corps of Engineers for waste clean-ups worth \$50 million over **five years**. The firm now provides waste clean-ups for the government as well as Lockheed, General Electric and du Pont. When an Ashland Oil holding tank ruptured **in** 1988, releasing 700,000 of diesel fuel into the **Monongahela** River near Pittsburgh, OHM cleaned up the mess.

Costle remained a director of Clean Sites **Inc.**, in Alexandria, Virginia. He also was chairman of Metcalf & Eddy Inc., a Boston-based environmental consultant and contractor, from July 1988 until September 1989. The hazardous waste consulting firm is a **Superfund** contractor. Costle is now a director, as is former Vice President Walter F. **Mondale**.

Costle also maintained a law practice with the Hartford, Connecticut, law firm Updike, Kelly and Spellacy, where Peter Kelly was a partner. Kelly was also a director of Black, **Manafort**, Stone and Kelly, the Alexandria, Virginia, public relations firm that worked on President Bush's campaign **in** 1988. Updike, Kelly and Spellacy's clients include the state of Connecticut, Greater Portland (Maine) Regional Waste Systems, **Westinghouse Electric Co.**, Johnson Controls **Inc.**, Minnesota Mining and **Manufacturing, Ingersoll-Rand**, New Haven Terminal **Inc.**, Browning-Ferris Industries and major banks and insurance companies in Connecticut.

In 1991, after four years **in** the position, Costle retired as dean of the Vermont Law School. He is now a director of Air and Water Technologies **Corp.**, a company headed by Chris Beck, that deals with pollution control and equipment manufacturing.

In an interview with the Center, Costle said that he had no involvement with Superfund while at the EPA because it passed Congress in 1980 after Reagan had been elected.

Costle acknowledges that the impact of officials who now work for the hazardous waste industry after having worked for the Superfund project does have its conflicts. "But that doesn't mean that you can't be helpful in solving **problems**."

"The change was encouraged because the [hazardous waste] industry had to **change**." Costle said he once was offered a position with a waste company but declined the offer, instead giving the company the names of other people who he thought would be interested.

Costle does maintain that the transition from the EPA to the waste industry has to be "watched very **carefully**."

"There needs to be a **cooling-off** period where you are not involved in things done in the **government**," he said.

THOMAS W. DEVINE

Thomas **Devine** joined the EPA in 1972, and in 1986 was named director of the Office of Program Management and Technology, the technical office in the Office of Solid Waste and Emergency response, then headed by Winston Porter. Devine was in charge of reviewing new regulations on **hazardous** waste, including Superfund. He also reviewed new and existing technology for hazardous waste clean-ups. In 1988 he left the EPA for a consulting firm, **RMT Inc.**, most recently serving as **RMT's** corporate vice president for regulatory affairs.

Devine earned an undergraduate degree in civil engineering, *cum laude*, from Northeastern University, Boston, Massachusetts, in 1964. After graduation, he worked for the International Joint Commission, for the consulting **firm** of Camp, Dresser and McKee, and the Massachusetts state government until 1968.

During these years, Devine worked on applying regulations of the Clean Water Act and Clean Air Act on industry, including wastewater evaluation and management, Clean Air Act permits and environmental **planning**.

From 1968 until 1971, Devine worked for the Federal Water Pollution Control Administration (**FWPCA**) as chief of the industrial waste section in Boston. Devine was also working on his master's degree in civil engineering at Northeastern University. He got his degree in 1972.

Devine stayed in Boston and became chief of the EPA's Region I Technical Operations section, in the enforcement branch. He held that position until 1974, when he became chief of the Air Branch of the EPA's Air and Hazardous Waste Division in Boston.

In 1978, he was named director of the Air and Waste Management Division at the regional office in Atlanta. There he handled regulatory work on air pollution, the Resource Conservation and Recovery Act, radiation, pesticides and toxics for eight southeastern states. He also was in charge of enforcing Superfund when it was passed in 1980. In 1984, he was named to head the Atlanta EPA office's Waste Management Division, after the Air and Waste Management office was split into two. He stayed there until 1986, when he went to Washington.

In 1988, Devine left the EPA and began working at a private consulting firm, RMT Inc., in South Carolina. He is now a registered professional engineer, and serves as RMT's corporate vice president for regulatory affairs, assisting corporate clients on environmental regulations, technical assistance and technology. The regulations taking up most of his time in this position include Superfund, RCRA and air pollution laws, he said.

Devine, like Porter and many other senior EPA officials interviewed by the Center, lamented the agency's high turnover. "Individuals who are trained and developed in 16 months to **three** years are often snatched up right away, which leads to inefficiency. There was a fairly high percentage of turnovers, especially in the early years of **Superfund**," he said.

GARY N. DIETRICH

One of the most controversial of the revolving-door EPA officials, Gary Dietrich, rose to become director of the Office of Solid Waste. He left the agency to become vice president of a major environmental consulting firm which obtained millions of dollars in EPA and **Superfund** contracts and came under sharp criticism from a congressional committee and EPA **whistleblowers**.

Dietrich, an engineer by training, worked for the U.S. Public Health Service's water program from 1957 until 1959. After two years working on the water systems in Dallas and Los Angeles, Dietrich signed on to work with the Department of the **Interior's** water **programs**. At that time, he also worked with the Federal Water Quality Administration.

In the late 1960s, support was growing to create a federal agency in charge of overseeing the environment. Dietrich was named to a task force charged with creating the EPA.

From 1970 until 1973, Dietrich worked on budget management and then served in the EPA's Water Pollution Control Office. In 1978 he joined the Office of Solid Waste, where he stayed until 1982.

Dietrich said his years in the Solid Waste Office, where he handled the new Superfund program as well as other issues, were stormy ones. Anne Gorsuch and other Reagan administration officials made for "an interesting transition in environmental policy. Their point of view was firmly anti-regulation, which wasn't in line philosophically with the EPA's **agenda**," Dietrich said in an interview with the Center.

Cavalier attitudes toward environmental regulations were a stumbling block, but "I didn't get excited. I didn't agree with everything they wanted to do, and I would tell them so. But if they insisted," Dietrich says, he carried out their wishes.

Leaving the EPA was the last thing on Dietrich's mind in the spring of 1982, he claimed at the time. In an article published in the *Washington Post* on April 12, 1982, Dietrich is quoted as saying, "My full intention is to stay on with the agency until **retirement**."

The article continues, "There are those who remember when Gary N. Dietrich, during the Carter Administration, would earnestly explain why the government should discourage dumping hazardous waste in landfills. Yet when the new regime at the EPA needed someone to explain why such dumping wasn't necessarily a bad idea, it turned to **Dietrich**."

Dietrich maintains that he didn't flip-flop; he was just being patient. Eventually, "Gorsuch and the rest would gradually determine they were in error" in their attempts to roll back Superfund and hazardous waste rules, he said. "I found I was unsuspending regulations that I'd been ordered to suspend a year **before**."

His patience was rewarded in another way, too. One week after the profile in the *Washington Post*, Clement Associates, an Arlington, Virginia, environmental consulting **firm**, offered him a position as chief operating officer and senior vice president. Clement had lost half its staff when a senior official recruited to another **firm** he had just founded. Dietrich was hired to turn Clement around.

Clement's fortunes improved markedly. It became a major Superfund contractor and eventually was bought by **ICF Inc.**, a large contractor for Superfund as well as other federal **programs**. **ICF**, based in Fairfax, Virginia, is in turn owned by American Capital and Research **Corp.**, also in Fairfax. ICF has been among the top five EPA contractors in 1989, 1990 and 1991, according to a study by *Government Executive* magazine.

Dietrich profited. He was promoted to vice president at ICF. From a salary of about \$60,000 a year, "Gary Dietrich became one of the wealthiest former EPA officials, and did the best for himself of the ones who were not **lawyers**," said a former official at the Office of Technology Assessment.

Dietrich put it differently, "I knew private sector work was something I wanted to do before I **retired**."

ICF had half of its contracts with industries, and the other **half** with the EPA, Food and Drug Administration and Veterans **Administration**. Since it was bought by ICF, Clement now concentrates exclusively on health issues.

ICF came under particular criticism from an investigation conducted by Sen. David Pryor (D-AR) who was probing contractors' Superfund projects. Pryor concluded that the waste industry constitutes a "shadow government": contractors helping the EPA draft regulations and rules for enforcement, and writing reports to Congress under the EPA's name. He also cited the practices of contractors and consultants briefing top EPA officials about the progress of Superfund projects, and holding training sessions for agency employees on how to write and award contracts. When a consultant was in need of a contract, it was not considered inappropriate to hire an EPA employee familiar with the issue, Pryor found.

Said Dietrich in 1989: "Obviously, we do hire EPA people and for a while they do have knowledge of EPA's needs for contracting services. I don't know whether that's **bad**."

Congressional investigators disputed that conclusion, arguing that in effect EPA personnel are selling privileged information when they are hired into the private sector and allow their new employers to use their information to win Superfund contracts.

Pryor said ICF had other conflicts of interest during Dietrich's tenure. He noted **ICF's** brochure soliciting new customers, which announced that ICF understands "the framework of regulatory requirements and public involvement in which our clients **operate**." In other words, Pryor charged, the brochure claimed that ICF employs former EPA officials who helped write Superfund rules and can help guide clients through the loopholes. Asked Pryor: "Is it any wonder that ICF Inc. calls itself the fastest growing firm in the industry?"

ICF's directors have included Elizabeth Anderson, who headed the EPA health assessment risk program from 1975 until **1985**; former Rep. Tony Coelho (D-CA); financier and takeover expert Samuel **Belzberg**; and Frederic V. **Malek**, president of Northwest Airlines and a top official of George Bush's 1988 and 1992 presidential campaigns.

Dietrich retired from ICF in March 1990, and now lives in Long Beach, California. He still does some environmental work, however. "I'm helping some friends" create an insurance company, he says. The firm would sell policies to back up property transactions that would need to be assessed for pollution and possible

listing on the **Superfund** National Priority List.

THOMAS P. GALLAGHER

Thomas Gallagher was director of the National Enforcement Investigations **Center**, the **EPA's** second highest position for a career civil servant, from **1970** until **1989**. He is now a senior consultant for a New York engineering firm, guiding clients through government regulations.

He received his bachelor of science in civil engineering in 1959, from Manhattan College in New York. That year, Gallagher was hired as an assistant engineer with the New York Interstate Sanitation Commission. From 1961 until 1962, he was an assistant engineer for the New York City Health Department. He received a master's degree in sanitary engineering from New York University in 1962.

After finishing at NYU, Gallagher began working on another master's degree, this one in public health from the University of Michigan. He received it in **1963**.

Gallagher then moved to Cincinnati, Ohio, with the U.S. Public Health Service. As a sanitary engineer with the technical advisory and investigations section, he dealt with stream pollution and hazardous waste studies for use in federal enforcement actions.

In 1966, he went to Athens, Georgia, to the Federal Water Quality Administration. As chief of engineering services for southeastern water laboratories. Gallagher remained there as a supervisor of regional staff and budget until 1970, when he took the job he would keep until 1989: director of the EPA's National Enforcement and Investigations Center.

The Center, located in Denver, provides support and data for the collection and analysis of all civil cases, including Superfund enforcement cases.

Gallagher personally recruited, supervised and managed a staff of engineers, attorneys, scientists, computer and information systems specialists and technicians in Denver as well as field officials in the EPA's 10 regional offices. He was in charge of supervising private contractors who provided information systems support and legal support in civil cases against polluters. Gallagher also advised enforcement officials in the Defense and Justice Departments, and served as an adviser to senior environmental officials for the governments of The Netherlands and West Germany.

Gallagher was awarded the EPA's Silver Medal for superior service in 1976, and in 1981 was awarded the Presidential Meritorious Executive Award for Senior Executive Service.

A registered professional engineer in Ohio, Georgia and Colorado, Gallagher now works as a senior consultant for **Lawler, Matusky and Skelly** Engineers in Pearl River, New York. He helps clients meet EPA regulations on Superfund as well as other environmental laws. He said he helps negotiate corporate clients through the "complex, sometimes contradictory maze of government **regulation**."

WILLIAM N. HEDEMAN, JR.

William Hedeman was director of the Office of Remedial Action, which was directly responsible for implementing **Superfund**. He served at the EPA from 1979 until 1986, when he became a partner at the law **firm** that evolved from the **firm** founded by William Ruckelshaus, EPA's two-time administrator.

Hedeman was born in 1942 in Cincinnati, Ohio, and grew up in Towson, Maryland, just north of Baltimore. In 1964, he graduated from Gettysburg College with a bachelor's degree **in** political science. In 1968, he received his law degree from the University of Maryland School of Law in Baltimore.

From 1966 to **1968**, he served as a probation officer in Baltimore. After graduating from law school, he became an assistant district counsel for the Army Corps of Engineers District **in** Baltimore, providing legal advice on contracts, real estate sales and purchases, tort claims, and enforcement of water permit requirements. He left the job in 1971, and in 1972 received an **LLM** degree, with honors, in environmental law from George Washington University National Law Center in Washington, D.C. His studies were concentrated in water resources, wetlands, and coastal zone management.

Hedeman moved on to the headquarters of the Corps of Engineers in 1972, when he became assistant general counsel for regulatory and environmental programs. He advised the chief of engineers on coastal development and marine protection.

In 1979, Hedeman joined the EPA. He took over as director of the Office of Federal Activities, where he supervised permits, wetlands protection, was the liaison to other executive branch agencies, and oversaw compliance with protection acts and executive orders by the Departments of Energy, Transportation, Defense, Interior, Agriculture, and Housing and Urban Development. Other agencies he contacted were the National Oceanic and Atmospheric Administration, Corps of Engineers and White House Council on Environmental **Quality**. He also managed \$6 million in contract funds.

The change from Carter to Reagan was "the most psychologically devastating period of my **life**," Hedeman told the *Washington Post* in **1988**. Hedeman, a career government employee, had been named to the newly created Senior Executive Service, which meant that after the Reagan administration had settled in for 120 days, he could be transferred anywhere in the government. "I had done nothing but work for the federal **government**," he said. "We had no nest egg. We had roots here. I didn't want my life screwed around **with**."

Incoming Administrator Anne Gorsuch wanted to name Hedeman to head the new Superfund program. But the White House personnel office insisted on naming Rita Lavelle instead, Gorsuch says in her book, *Are You Tough Enough?* After Gorsuch arrived in 1981, she appointed Hedeman director of the Office of Emergency and Remedial Action, which managed Superfund and other emergency response actions taken by EPA regional officials. He stayed in that position until Superfund was reauthorized by Congress in 1986.

Gorsuch credited Hedeman with developing the testing procedures to rate toxic waste sites for placement in the Superfund program.

"It is estimated that there are between 15,000 and 20,000 hazardous waste sites in this country **today**,"

Gorsuch wrote in 1986. "The Toxic Substance Control Act called for an almost immediate ranking, based on priorities, of at least the 400 worst sites, and it fell to Bill **Hedeman** to establish the decision-making mechanisms. He devised what is now called the Mitre Hazard Ranking system, a system that has withstood the toughest kind of criticism from all sides and all points of view.

"The central question was, '**How** do you judge most **hazardous**?' " she explained. "The matrix Hedeman came up with rests on rather simple criteria: What is the degree of exposure to human population? How does that exposure pose the greatest danger? Obviously pollution in the drinking water is the greatest danger; air pollution is relatively limited, but once something dangerous gets in the drinking water, it's gone. So Mr. Hedeman had his work cut out for **him**. But when **he'd** finished, no one could fault **him**."

When William Ruckelshaus replaced Gorsuch and fired or **transferred** many of her appointments, Hedeman was one of the few to survive. He continued to run the **Superfund** program, "because he was a civil servant and because he was so clearly the best man for the **job**," wrote Gorsuch.

Hedeman actually emerged as something of a hero in the Superfund program. Under his management, according to the EPA public affairs office, the Superfund budget rose from \$180.7 million in 1982 to **\$483.1** million in **1985**, he said. By **1985**, the National Priority list had grown to **541**. Hedeman had estimated that the list would grow to 2,000 by 1988, disputing a 1985 OTA assessment that estimated 10,000 sites.

From October 1985 until January 1986, Hedeman was deputy assistant administrator for **water**, responsible for managing programs enforcing the Clean Water Act, including a multi-billion dollar grant program to build publicly-owned wastewater treatment plants. He left government in 1986.

In February **1985**, while still director of the Superfund program, Hedeman reflected on what happened to the EPA in **Reagan's** first term.

"First of all," he said, in Gorsuch's book, "large amounts of people actively associated with the environmental movement had come into the EPA during the Carter administration, and because of their political appointments and the fact that they did not share the view of the Reagan administration, **their** departure was almost sudden after the election.

"**Secondly**," he continued, "I think a large number of the staff within the agency associated with those people began to forecast nothing but doom. Thirdly, when Anne arrived, she was preceded by a barrage of press accounts of her performance in Colorado, dubbing her the '**Wicked Witch of the West**.' She certainly did not gain the positive entree of the news media that every other administrator of the agency that I had seen had gotten when she came. So before she had an opportunity to present herself and her direction, she had been prejudged by a large number of people. Fourthly, she was in the process at that time of preparing the president's budget for the following fiscal year, and that did call for significant cuts. In addition, people who worked for her did eliminate or significantly reduce the number of **offices**."

Hedeman added that he felt one of Gorsuch's key problems was not being able to choose her own people. "I felt that all of the people who had been selected had come on board, they had filled the key political positions, but there was a lack of cohesiveness unlike anything I had ever seen in government, and, essentially,

a trial period in which each individual was attempting to establish their own notoriety, and their own recognition within the **agency**, perhaps at the expense of their **peers**," he said.

Some of the people Gorsuch selected "were very eager to get about the business of protecting the environment and carrying out the programs in a way that was not disruptive. **Others**, I think, had no business ever even being considered for government services and were a disgrace to the federal government, clearly were operating off their own personal agenda rather than any **administrator's** or **administration's** agenda, but what they perceived as the administration's agenda, had relatively little ethics or integrity, and are a disgrace to any group that they become associated **with**."

Hedeman was named a partner of **Beveridge** and Diamond in Washington, **D.C.**, in January 1986. **Beveridge** and Diamond is descended from the **firm** cofounded by William **Ruckelshaus**. According to the **firm**, his role as partner "brought him in touch with some cases" involving **Superfund**.

Hedeman also taught water resources and control toxic and hazardous substances law at the National Law Center at George Washington University from 1973 to 1987.

In August 1986, Hedeman was appointed to the board of directors of **ICF** Technology, the controversial Virginia-based government contractor and consultant, which held more than \$52 million in Superfund contracts as of 1991.

Hedeman became a member of the Center for Public Resources, a nonprofit corporation headquartered in New York City. CPR has several panels of corporate lawyers who work between companies and plaintiffs to settle expensive lawsuits out of court. Hedeman served on the CPR environmental panel, which has also included former EPA official James Barnes, Bechtel vice president Roger **Strelow**, General Electric vice president Stephen Ramsey (a former assistant attorney general overseeing environmental enforcement), and other lawyers at blue-chip firms like **Vinson** and **Elkins**, **Beveridge** and **Diamond**, **Covington** and **Burling**, **O'Melveny** and **Myers**, and **Kirkland** and **Ellis**. Members of these panels set their own legal fees for settling cases.

CPR's settling methods include "informal processes like mediation to more formal procedures resembling those in court. Alternative dispute resolutions [like CPR's] are private, voluntary and **confidential**," CPR literature says. The environmental panel handles toxic torts, insurance coverage, and "Superfund cost allocations and other environmental **issues**."

Also serving on CPR's "Panels of Distinguished Neutrals," as CPR's literature describes them, are former Cabinet secretary Elliot Richardson, former secretary of state William Rogers, former CIGNA chairman Ralph S. **Saul**, former du Pont and Business **Rountable** chairman Irving S. **Shapiro**, former American Bar Association President Chesterfield H. Smith, former Sen. William Spong, Jr. (D-VA) and former secretary of state Cyrus Vance.

Companies that participate in the program include Adolph Coors, Atlantic Richfield, Boeing, Browning-Ferris Industries, Caterpillar, Chevron, Chrysler, du Pont, FRC, Ford Motors, **GAF**, General **Motors**, W.R. Grace, General Electric, Manville, Monsanto, Rockwell International, Union Carbide and TRW.

Becoming a member of the CPR legal program is not cheap. "Sustaining memberships" require \$4,000 to \$25,000 a year to get help in disputes. "Contributing members" pay \$1,500 a year for CPR publications, videotapes and a monthly newsletter.

Hedeman died last year. He could not be interviewed for this report due to a long illness.

JOHN HERNANDEZ

John W. Hernandez, Jr. was a **frontrunner** for the job of EPA administrator in January **1981**, but when Anne Gorsuch won the post, he accepted the deputy administrator position. He eventually became the head of EPA - named Acting Administrator for about a week - before he was forced out in March **1983**, amid questions of ethics and charges that he made decisions that favored industry.

Before coming to the EPA, Hernandez was a civil engineering professor at New Mexico State University, where he was known as a water pollution expert.

John **Whitlock** Hernandez was born on August 17, 1929 in Albuquerque, New Mexico to a liberal Republican family. His grandfather, **Benigno** C. Hernandez, had been a Congressman. The town of Hernandez, New Mexico is named after the congressman, John Hernandez said.

In the **1930's** the Hernandez family moved to **Texas**, and John grew up in Laredo. At 16, after getting a job on a road construction crew, he decided to become an engineer.

He graduated from the University of New Mexico in 1951 with a degree in civil engineering. He was commissioned in the Navy civil engineering corps, serving three years on active duty and 27 years in the reserves before retiring in 1990 as a reserve captain. After active duty, he worked on water pollution issues in the New Mexico Game Department state engineer's office. In 1958 he received a master's degree in sanitary engineering from Purdue. In 1965, he received a doctorate from Harvard in environmental engineering, specializing in wastewater treatment.

Hernandez served on several state and U.S. Public Health Service commissions on water quality through the 1960s and '70s. He became dean of the engineering school at New Mexico State University and developed a friendship with Sen. Pete Domenici (R-NM). "I had known him some time, and I would have students take him around campus, on **tours**," Hernandez said. Hernandez served on the state committee to re-elect President Gerald Ford in 1976 but sat out the 1980 race between Reagan and Carter. In 1970, President Nixon commended him for "exceptional service" in pollution control work.

In an interview with the Center, Hernandez said he first crossed paths with the EPA when he wrote summaries of the new federal environmental regulations "in English, for use in New **Mexico**." He said he became interested in working for the EPA when he heard Reagan's inauguration speech. "At the time I was on the National Science Foundation Advisory Committee reading grant proposals," he recalled. "It was Domenici, who was then on the Environment and Public Works Committee, who asked me if I wanted to come to Washington, to become head of the EPA. I was not a **Reaganite**. My family had always been liberal **Republicans**."

Hernandez asserts that **Domenici** called Vice **President** George Bush around February 1981, and Hernandez was flown to Washington for interviews with Bush and Chief of Staff James Baker. "Domenici told me it was a 99.99% chance I'd be named **administrator**," he said.

When reached for comment, **Domenici's** office confirmed that the Senator had approached Hernandez about the position and that he considered Hernandez a "highly-skilled and well-qualified" candidate for the job. The office denies, however, that Domenici made any assurances to Hernandez.

Hernandez said, "The White House asked me if I had any skeletons. I told them I worked for Gerald Ford's campaign, had been on the board of Planned Parenthood and the New Mexico ACLU board." Hernandez was passed over, for [Anne Gorsuch] **Burford**, but Gorsuch then asked him to be deputy administrator.

Gorsuch wrote in her memoirs that she took the job as EPA administrator with the understanding that Hernandez would serve as her deputy.

The choice of Hernandez did not sit well with the Republican conservative wing, she said. "John was not one of us politically or **philosophically**," she wrote. "So it was by no means clear — and certainly not to me -- that I had anything resembling the inside track for the job. That the conservatives were initially happy with me and displeased with Dr. Hernandez now strikes me as an irony, since from the beginning to the bitter end I received almost no help from any of the high profile **conservatives**."

Hernandez interviewed for the EPA administrator post shortly before Gorsuch. "My meeting was with Glenn **Schleede**, the number three man at OMB, and Fred **Khedouri**, OMB's budget director for **EPA**," he said in an interview for Gorsuch's memoirs. "I went into that interview very cautiously because I knew that these people wanted to make a lot of major cuts at EPA. So I was quite reluctant to say anything that I didn't believe in, in way of philosophy or approach. I was absolutely terrified of becoming the head of EPA and all that mess it was in, so it was in the forefront of my mind all during that meeting that anything I said to those guys I would have to live with if I became the administrator. And finally, at one point, Fred Khedouri leaned over in his chair, and kind of quiet like, but dead serious, asked '**Would** you be willing to bring EPA to its **knees**?' But he had said it and I just **demurred**."

When Burford was forced to resign on March 9, 1983, Hernandez was made Acting Administrator, and lobbied hard for Reagan to name him permanently. Hernandez tried to lobby White House and EPA officials to be named administrator after Burford. He stated in Gorsuch's memoirs, "I asked Anne just as she was just leaving what were the ground rules? She said she didn't know. So I went to Craig Fuller in the White House and told him I'd hold things down here until they decided what to do."

"EPA officials said Hernandez has tried to signal the White House that he can improve the agency's tarnished image with the public and Congress," according to the *Washington Post* on March 17, 1983. "He instructed subordinates to prepare supplemental budgets seeking extra money from Congress for environmental protection, a sharp contrast from the deep budget cuts Burford had supported during the past two **years**."

Hernandez, in one of his first official moves as Acting Administrator, demoted EPA official Louis

J.Cordia, who kept "hit lists" detailing the political and philosophical leanings of EPA officials.

It was too late. Congressional criticism of Hernandez's conduct caused White House officials to consider him "damaged goods." Hernandez's plunging chances with the White House disappointed **Domenici's office**, the *Washington Post* reported. "He's the highest ranking Hispanic in the administration, and it would have shown that the Reagan Administration had the courage to put someone from a minority group into such a visible **position**," the aide said.

However **Hernandez'** testimony before a congressional subcommittee that he decided in 1981 to veto an **EPA-supervised** cleanup of lead contamination in a low income Dallas neighborhood - even though the responsible companies were willing to clean it - was the last straw for the White House.

Instead of the cleanup, residents were given blood tests and instructions by the EPA to "plant grass" to control the lead dust and to "keep their homes **clean**."

In response to questioning by Rep. Elliott **Levitas** (D-GA.) on the lead contamination case, Hernandez said he did not consider it an "emergency," even though studies found concentrations of lead as much as 60 times the acceptable danger level.

And there were other allegations:

- * In 1981, Hernandez let Dow Chemical Co. make changes in an EPA draft report, according to Valdis **Adamkus**, then regional administrator for the EPA Chicago office, which was writing the report. Adamkus had ordered his staff to examine **dioxin** and **uran** contamination of the Great Lakes. **Dioxins** and **furans** were byproducts of certain pesticides, including some manufactured by Dow Chemical. Hernandez "personally intervened at EPA to allow **Dow**...to alter a draft report and suppress references to **Dow's** responsibility for dangerous levels of dioxin contamination in and around its **plant**," said Rep. James Scheuer (D-NY), chairman of the subcommittee on Natural Resources, Agriculture Research and the Environment, which was investigating Hernandez.
- * Hernandez used EPA funds to play in a tennis tournament in San Francisco, California, in November 1981, while still deputy administrator. The EPA inspector general found he had also used a government car to travel to the tournament, at the annual convention of the National Association of Water Companies. According to the **IG's** report, all the other players in the tournament were utility company executives. Hernandez made one speech at the convention.

On March 25, Hernandez resigned with two other senior EPA **officials**, including general counsel Robert Perry, Assistant Administrator John A. **Todhunter**.

President Reagan insisted that Hernandez was not fired. "Mr. Hernandez has been wanting to resign, and I think understandably so, because of all the . . . investigations on the part of congressional committees, and so **forth**," Reagan told high school students during an interview on **C-SPAN**.

Several days before, however, Hernandez wrote a letter to Reagan praising the nomination of William

Ruckelshaus as Administrator and asking to stay on at the agency.

"Mr. President, speaking for myself, the greatest honor of my life has been to serve in your **administration**," he wrote. "That honor can only be enriched by the opportunity to continue to serve you under **Bill Ruckelshaus** and I will give him my full **support**."

Reagan insisted the new wave of "resignations" didn't look bad for his administration and that the White House did not engineer the **changes**. "Some of these feel there was far more chance of success, of the agency continuing to function, that they can contribute by **leaving**," he said.

Thus, Lee **Verstandig**, a former assistant secretary of transportation, became the EPA's third administrator in 16 days. Lee M. Thomas, a future Administrator, moved into **Hernandez's** old spot as acting deputy administrator while continuing to run the hazardous waste cleanup program.

Reagan nominated William Ruckelshaus to be administrator on March 21, 1983. Hernandez became the 13th high-level EPA official to resign since Lavelle was fired less than two months earlier.

Hernandez found a part-time job with the Energy Department in late March, as a \$245-a-day consultant with the Office of Policy and Planning. The contract lasted 90 days, and Hernandez grossed \$22,000.

Hernandez moved back to New **Mexico**, returning to the civil engineering department at New Mexico State University in Las Cruces. He consults with agencies and industry on hazardous waste issues and clean-up standards, and planned to produce a video conference on risk assessment for hazardous waste.

"I'm pretty good at it," he said, "but I'm not making big **bucks**."

TERRELL HUNT

Terrell Hunt was head of criminal enforcement and special litigation for the EPA Office of Enforcement and Compliance Monitoring from 1972 until 1986 and director of EPA's Enforcement Policy Office from 1986 until 1990. He later joined the Houston, Texas office of Bracewell and Patterson, a law firm representing corporations on environmental litigation.

He graduated from **Brigham Young University** in **Provo**, Utah in 1970, graduating *cum laude* with a degree in economics. Before coming to the EPA, Hunt worked as a research assistant with the Office of Emergency **Preparedness**, a White House agency which was the predecessor to the Federal Emergency Management **Agency**.

In July 1972, Hunt became a management intern with the EPA, rotating through four different offices in EPA headquarters. In 1973, he joined the Pesticides and Toxic Substances division of the EPA, where he remained in various enforcement positions until 1983. He earned his law degree from Georgetown University in 1976.

In 1979 he became chief of the enforcement program's policy and strategy branch, and was named a

special assistant to Deputy Administrator **Alvin Alm** in 1983. From 1984 to 1986, Hunt acted as director of criminal enforcement and special litigation for the new Office of Enforcement and Compliance Monitoring. **Superfund** enforcement actions were part of his duties. His work involved "tactical decisions to get potential responsible parties in Superfund litigation to clean up," he said.

From 1986 until 1990, Hunt served as director of the EPA's Enforcement Policy Office, where he established enforcement policy governing all of the EPA's enforcement litigation. From October 1988 to October 1989, Hunt additionally served as the EPA's enforcement counsel for air enforcement, and **in** that **capacity**, served as EPA's top EPA enforcement **attorney**, managing enforcement litigation under the Clean Air Act.

One of Hunt's biggest frustrations was the high number of lawyers leaving the EPA for the private sector. "There was incredible **turnover**," he says. "In the San Francisco office, 40 percent of the attorneys had been there less than two years. It's hard to run a program when people on the other side of the table know what you're **doing**."

Hunt is now an attorney with Houston, **Texas's** main office of Bracewell and Patterson, a **firm** with a strong environmental practice representing corporations. "I had to decide if I wanted to stay [at the **EPA**]," he says. "Then a recruiter contacted me. I decided this was a group of people I could learn **from**." Hunt has dealt with some Superfund litigation as manager of the firm's environmental practice group.

MERNA HURD

Merna Hurd spent **five** and a half years with the EPA. From 1981 until 1982 she was associate assistant administrator for water and waste management, a position that handled Superfund as well as other water pollution issues. She later went to work for two environmental companies doing Superfund work.

Hurd graduated from the University of Nebraska in 1964 with a bachelor's degree in civil engineering. In 1969, she received a master's degree in sanitary engineering, also from Nebraska.

After going to the New Castle County, Delaware water and sewer management office in 1969, she became director from 1971 to 1977, supervising the interconnection between the private and public water supply, and regulating hazardous waste disposal.

In 1977, Hurd went to the EPA as division director of water planning until 1979, when she became division director of water planning for two years.

Hurd left the EPA in June 1982 to become vice president for engineering and hazardous waste at Clement Associates Inc., an Arlington, Virginia, environmental consulting firm, now part of **ICF**.

Hurd joined another EPA veteran, former Office of Solid Waste director Gary Dietrich, who became chief operating officer at Clement at the same time Hurd joined the company. At that time, Clement Associates was financially troubled; a senior partner had just started his own firm and taken half of Clement's staff (and many of their clients) with him.

Hurd went on to become an account executive and senior vice president of former administrator Douglas **Costle's firm**, Environmental Testing and Certification **Corp.**, from 1983 to 1987.

In 1987, she became senior vice president for marketing at the **Wakefield**, Massachusetts office of Metcalf & **Eddy**, which had recently received a multi-million dollar nationwide contract to clean up hazardous waste at old Air Force bases.

Hurd currently serves as New England President for Air and Water Technologies, which, through its operating units -- Metcalf & Eddy, Research **Cottrell**, and Residuals Management - provides "a broad range of environmental services and technologies in the areas of water resource management, air pollution control, and waste by-product disposal and **reuse**," according to company **literature**. **Hurd** has dealt with **Superfund**-related matters at AWT.

RITA M. **LAVELLE**

Rita **Lavelle** was in charge of developing and supervising the Superfund program as the head of **EPA's** Hazardous Waste Division in 1981. She was fired by Administrator Anne Gorsuch Burford 15 months later after being charged with criminally tampering with the Superfund program, and subsequently was convicted and jailed for four **months**.

Lavelle was born September 8, 1947, in Portsmouth, Virginia. She was the eldest of eight children born to a urologist and a **homemaker**. She went to the College of Holy Names in Oakland, California, receiving a full scholarship, and she received several academic honors, including the **Westinghouse** National Science Search Fellow and a National Science Foundation-Biophysics award. She graduated in 1969 with a BA in biology and mathematics and a minor in chemistry. She received an MBA in finance, strategic planning and marketing from Pepperdine University in 1980.

In 1969 Lavelle, then 22, was a campaign worker for California gubernatorial candidate Ronald Reagan. After Reagan's victory, his counsellor, Edwin Meese, helped Lavelle get a job in Sacramento. Indeed, Meese held the Bible at her swearing-in. As a publications assistant in the governor's office, Lavelle says she researched, wrote and edited press releases, speeches, veto messages, executive orders and legislative packages for presentation to statewide media. She also produced the state and national daily news summaries for Reagan and his staff. In 1971 she was promoted to director of consumer information for the California Department of Consumer Affairs.

Lavelle's resume says she developed and oversaw all media functions, directed a staff of 35 and a public affairs budget of \$2.3 million. In May 1974, Lavelle left Reagan's administration to become director of marketing at Intercontinental and Continental Chemicals of **Sacramento**. She personally supervised marketing and advertising of such chemicals as chlorine.

In May 1976, Lavelle became director of corporate communications for Cordova Chemical Company, manufacturers of pesticides and other chemicals and **pharmaceuticals**, and Aerojet Liquid Rocket **Company**, manufacturers of liquid and solid propellant rocket engine systems and Pharmaceuticals and agricultural products. She also assisted with setting up safety and environmental training programs, including chemical

storage, handling and disposal **procedures**.

As corporate communications director, **Lavelle** obtained more than 67 start-up and operational permits for two chemical plants and seven rocket fuel operations. She also participated in several classified military operations including air pollution permits for shuttle landings and MX missile launches from Edwards Air Force Base.

In 1979, the state of California charged Cordova Chemical Company and Aerojet with the illegal dumping of poisonous waste. In 1981, the EPA named Aerojet's liquid fuel plant in **Rancho Cardova**, California, one of the worst **Superfund** sites in the country.

In November 1981, at the age of 34, Lavelle was appointed by President Reagan to head the **nation's** federal toxic waste clean-up program. She was not the first choice of EPA Administrator Anne Gorsuch, who was forced to yield to pressure from the White House. "I had wanted to hire William **Hedeman** as head of **Superfund**," Gorsuch wrote in her book.

Lavelle was forced upon Gorsuch by the White House, the former administrator wrote in her memoirs. **Lavelle's** first interview at the EPA was a disaster, but she was given another chance, nonetheless.

"There was a rumor, and it made it into print more than once, that Rita Lavelle came to Washington originally to lobby for her employer, Aerojet-General, in regard to Superfund, and that while she was here she discovered that the job of Superfund director was vacant and made up her mind to get it," Gorsuch wrote. "Later she said she didn't even know her former employer had any Superfund sites but one of the articles that quoted her was used to trip her **up**."

Lavelle was being pushed for the job despite her lack of management experience and the technical background necessary for Superfund work. According to **Gorsuch's** book, in one meeting with White House personnel officer Joe Ryan, Gorsuch's chief of staff John Daniel recalled Ryan suddenly saying about Lavelle: "This is your **candidate**."

"I never did learn why he said **that**," Gorsuch **wrote**. That is, until three years later when Ryan admitted why. "Yes, I said that and I'll tell you why I said it. I said it because one day at a meeting in the White House personnel office, my boss handed me a resume and said, '**This** is your **candidate**.' It was the resume of Rita **Lavelle**." Ryan's boss was John **Herrington**, later Reagan's Secretary of Energy.

"To this day it isn't clear who sent her **back**," Gorsuch wrote. "She had claimed a great friendship with Meese (who swore her in) and she knew [Michael] Deaver's secretary very well. She being such an unknown quantity and Superfund being a brand new program that the Congress was most anxious to see succeed, she had little trouble getting approved by the **Senate**."

Upon **Lavelle's** arrival at the EPA, Gorsuch introduced her this way: "Rita Lavelle brings over 12 years of professional experience in state government and private industry to the agency. She has demonstrated expertise in getting results, as shown by her record with the executive branch of government in California with a **mid-sized** chemical firm and with a large diversified international **corporation**."

Critics began accusing **Lavelle** and **Gorsuch** of siding with industry on toxic waste clean-up decisions and deliberately delaying or expediting, depending on the case, **Superfund** cleanups in an effort to help Republican candidates.

In her 18-month **tenure**, Lavelle made enemies within and without the EPA, Gorsuch said, especially angering regional administrators by refusing to release Superfund monies for emergency cleanups of hazardous waste. One of the most notorious incidents was the "**candy bar**" letter, which Lavelle wrote **in** November 1982 in response to concerns about soil contamination and children's health. A member of Congress from Arkansas was seeking Superfund money to clean a site heavily contaminated with PCBs.

The late William **Hedeman**, Superfund director for several years under Reagan, called **Lavelle's** letter replying to the lawmaker the most glaring example of her perception that man and toxic waste could live **coequally** and that risk was largely exaggerated. He wrote in **Lavelle's** memoirs: "**Lavelle's** response ... was that for the risk to be of concern, a pica child [a child that eats dirt] would have to eat the equivalent of three candy bars a day worth of **dirt**," Hedeman said.

He added: "Now aside from the poor analogy, she demonstrated an **insensitivity** to the concerns of the public in the vicinities of these sites who felt that their public health problems and the effects on their children and others were being adversely affected by these **sites**."

Rep. **Dingell** called a hearing on the letter and the Arkansas project.

According to Hedeman, "I found myself sitting next to her [**Lavelle**], having to bail her out on questions for which she had no comprehension of either the most fundamental aspects of the problem or program, including the difference between a remedial action and a removal action. It was an **embarrassment**."

Gorsuch also accused Lavelle of not following guidelines for getting polluters to pay for clean-ups, and of enraging EPA regional administrators by slashing Superfund monies available for emergency clean-ups.

"At first I thought she was simply reflecting the kind of conservative frugality that the president (and I) **espoused**," Gorsuch wrote. "But as the months wore on I heard some of the complaints in detail, and it began to sound as if Rita were following a different drummer. Well before I could prove it, I had a nagging suspicion that Rita was inclined to take industry's side far too **quickly**."

For example, Lavelle downplayed a request for emergency clean-up funds **by** Region IX Administrator **Sonia Crowe** to deal with a toxic site on a mountainside in California.

"I was scheduled to go to California for my regular reporting session with **Sonia**," Gorsuch wrote, "and Rita told me that Sonia had been very upset about her refusal to allow her to exceed the spending limit '**by a lot**' for what Rita described as a rather insignificant **spill**." "I told Rita that I agreed with her. When I arrived in California I got a much different story. Sonia Crowe said, '**Anne**, I'm very, very concerned. There was a significant spill on this mountain, and it's right above a drinking water **supply**.' If that gets into the drinking **water**, we will have a major **problem**.'" "

Soon, Gorsuch began wondering if **Lavelle** was bypassing the EPA administrator and taking orders directly from the White House.

"I've come to believe that she was keeping someone informed and receiving direction from the White House," Gorsuch said in her memoirs. "The problem is **in** determining exactly where, for evidence exists to indicate at least two '**bosses**' other than my agency - private industry and the White **House**."

In terms of private **industry**, Gorsuch noted that Lavelle had testified under oath before both the House and Senate that she had recused herself from any dealings with the **Stringfellow Superfund** site, where her former employer, Aerojet General, had been identified as one of the responsible polluters for dumping toxic waste. But congressional investigators proved that Lavelle continued to deal with Stringfellow for weeks after the date she testified to.

In the fall of 1982, several House committees began investigating those charges. In October, the investigations stopped short when the EPA refused to release documents Congress wanted, according to the *Washington Monthly*. The EPA said the information was "enforcement **sensitive**." Congress appealed, to no avail. Reagan claimed on November 30, 1982, that the documents were covered by executive privilege, extended the right of **executive** privilege over the documents on November 30, 1982, setting up a potential constitutional crisis between the legislative and executive branches.

Lavelle's alleged manipulation of Superfund cleanups included:

- * Days before the 1982 congressional elections, the EPA announced it would award Superfund money to clean up a waste site near the town of Seymour, Indiana. Sen. Richard Lugar (**R-IN**), running for re-election, announced the grant. Lavelle watched the election returns on television, and said "she felt she had helped put Lugar over the **top**," according to press reports.
- * In September 1982, Lavelle told White House Deputy Chief of Staff Michael Deaver that Reagan should award \$5.2 million from the Superfund to clean up several toxic waste sites in New **Jersey**. According to **Gorsuch's** memoirs, she even cited ways for the grant announcement to garner the best media coverage and "support the candidacies of New Jersey candidates, including Millicent **Fenwick**," a Republican congresswoman who was running against Democrat Frank **Lautenberg** for an open Senate seat. On September 23, **Burford** and New Jersey Governor Thomas Kean, a Republican, announced the toxic waste cleanup grants. But Fenwick lost.
- * Lavelle was accused of helping delay the cleanup of the Stringfellow Acid Pits, in Riverside, California, one of the worst toxic waste sites in the nation. One polluter at the Stringfellow site was Aerojet-General, Lavelle's former employer. In the spring of 1982, EPA General Counsel Robert Perry asked Lavelle to recuse herself from any decisions that dealt with the **Stringfellow** site. Lavelle refused to disqualify herself until June 1982.
- * Lavelle became embroiled in what was to be her last controversy over the Seymour, **Indiana**, site when she collided again with Perry. Lavelle had convinced 24 large companies to pay \$7.⁷

million to clean up the site, with the help of Superfund grants. Perry argued that the companies should have been taken to court, because the agency had no enforcement powers over voluntary agreements with polluters. **Lavelle**, in an unsigned memo that made its way to the *New York Times* in the fall of 1982, accused Perry of "systematically alienating the primary constituents of this administration, the business **community**."

After the memo was leaked, Gorsuch asked Lavelle to resign. Lavelle refused, and tried to find allies at the White House who would help her keep her job. She found none, and in fact Gorsuch appealed to the White House, which fired Lavelle on February 7, 1983.

When the withheld Superfund papers finally came to light, several months later, they provided evidence that Superfund money had indeed been granted or held up for political **purposes**. For example, if a Republican incumbent was seeking re-election, clean-up money would speedily be made available. If a Democrat would stand to gain by the start of a Superfund action, it was suddenly delayed until after an election. At Lavelle's firing, White House Counsel Ed Meese told reporters that he hardly knew Lavelle.

As for the political intrigue involving Lavelle, the House Commerce subcommittee on oversight and investigations **reported**: "The subcommittee's investigation has determined that Rita M. Lavelle's contacts with White House officials were far more extensive than either they or Ms. Lavelle have acknowledged to date. However, the subcommittee presently is unable to draw conclusions about the substance of the conversations between Ms. Lavelle and various White House officials. The subcommittee's efforts to explore the full nature and extent of these communications have been hampered significantly by a lack of cooperation from Ms. Lavelle and the White House."

Testimony before Rep. **Levitas's** subcommittee, among others, showed that Lavelle had "numerous" conversations with White House Secretary to the Cabinet Craig Fuller. Lavelle would have had little or no professional reasons to call the White House -- she reported to Gorsuch.

According to **Levitas**, records showed that Lavelle called the White House 150 **times**, mostly to Craig Fuller. EPA Chief of Staff John Daniel said he had much more reason to call the White House, and he didn't make half that many phone **calls**. Gorsuch said she made no more than 50 calls to the White House, and she was the administrator.

But Lavelle's 150 calls were likely only the tip of the iceberg. Dingell told Gorsuch that Lavelle absconded with records and documents that could have revealed more. ". . . I can tell you that as Rita Lavelle was leaving the agency, she walked out with boxes of records and papers," he said, in Gorsuch's book. "And we do have testimony that she did hold a number of meetings not only with Craig Fuller and others at the White House, but she did also hold meetings with top personnel at the Department of Justice.

Dingell continued: "She was apparently a very busy lady and used the telephone extensively, and traveled extensively around Washington to discuss with people what was going to be done, not only on the production of paper and documents, but also on a number of matters and policy decisions relative to timing and where the Superfund grants would be made. She walked out according to testimony with a goodly number of boxes and documents and we'd love to get them. I'm afraid they have now gone to a more permanent and

unavailable **depository**."

Documents indicating criminal wrongdoing by **Lavelle**, including perjury before Congress, were sent to the Justice Department. At her trial, John **Andreason**, counsel to Aerojet-General, her former employer, and an old friend, provided testimony particularly damaging to her defense. A jury found Lavelle guilty of perjury. She was sent to federal prison in **Pleasanton**, California, for four months.

Levitas, before whose subcommittee Lavelle perjured herself, said: "She wasn't the only liar who testified before our committee. She was the only one **prosecuted**."

According to a congressional source quoted by *Time* magazine in **1983**, "there was a clear '**trail** of bread crumbs' leading from the EPA to the White House, suggesting that the EPA was being used to assist Republican election **campaigns**."

Time added, "In the course of examining witnesses that related to contacts with the White House the prosecution declined to pursue the line of **questioning**."

Dingell and **Levitas** also blasted the Justice Department's investigation in 1986. "Specific allegations which were brought to the attention of the Department of Justice were nowhere **addressed**," Dingell told the *New York Times*. Levitas said the Justice Department probe "smacked of a **whitewash**."

Gorsuch said Lavelle may have gotten off easy, but further investigation was derailed by missing files, including **Lavelle's Superfund** election tracking **documents**.

In a recent interview with the Center for Public Integrity, Lavelle said the truth has yet to emerge over the White House's role in directing the political manipulation of the Superfund program under the Reagan-Bush government.

"The Justice attorneys were instructed not to pursue leads that led to the White **House**," she said.

The inside story of how Lavelle got fired did not get much **publicity**. But one publication called it "one of the great unknown stories of bureaucratic **subversion**."

According to the *Washington Monthly*, it was early February 1983 when a *New York Times* reporter called an EPA official to confirm some information. "The reporter quoted from a memorandum asserting that EPA General Counsel Robert Perry was '**systematically** alienating the primary constituent of this administration, the business **community**,'" according to the *Washington Monthly* report. The EPA official then reported the leak of the memo to the *New York Times* to Gorsuch.

Lavelle immediately came under suspicion as the leaker. Lavelle and Perry did not get along. According to Gorsuch's book *Are You Tough Enough?*, published in 1986, Lavelle denied any connection to the leaked memo, which seemingly was written to gain White House support against Perry.

However, after intense questioning, Lavelle admitted that one of her aides had written the memo for

her. But it turned out **Lavelle** didn't leak the memo. EPA whistleblower Hugh Kaufman has since taken credit for that.

Kaufman was fighting to save his job after telling the television program *60 Minutes* and testifying before Congress that the Reagan administration was deliberately delaying **Superfund** toxic waste clean-ups for political purposes. As a result, the EPA's top management tried to oust him from his mid-manager position in the hazardous waste division.

"As many as 15 agency employees, including Rita Lavelle and Anne **Burford**, were involved in a surveillance effort to uncover anything Kaufman had done that could be grounds for firing him," the *Washington Monthly* reported. "He and his wife were tailed and photographed. When he leaked the memo, Kaufman was preparing to go to court against his superiors. He got the memo from one of his spies within EPA, who had it printed off the computer disk of **Lavelle's** aide." Said Kaufman: "I had a lot of people working in the agency for me because Burford and Lavelle had **antagonized** everyone in the place. They were trying to destroy the agency and one of their tactics was to get me. I wanted to force them to fight with each other and at the same time help the American people see what a bunch of venal **SOB's** they **were**."

David **Burnham**, an award-winning investigative reporter and author then with the *New York Times*, credits Kaufman's courage for exposing Lavelle's and the EPA's malfeasance. "You can attribute the uncovering of EPA's inactivity [on toxic waste] and Rita Lavelle's misconduct to Hugh Kaufman as much as anyone **else**," Burnham told the *Washington Monthly*.

After being fired from her **\$67,000-a-year** job, Lavelle was left "shattered and alone" according to a *People* magazine headline. "What bothers her most is that people are afraid to be associated with her because of her **notoriety**," a friend told the magazine.

"No longer able to afford her **\$900-a-month** high-rise apartment, Lavelle has been moving from friend's house to friend's house carrying her things in paper **bags**," the magazine reported. While about 20 other people were fired in the "**Sewergate**" EPA scandal, Lavelle and Gorsuch remained the most **notorious**.

On August 4, 1983, Lavelle was indicted on charges of knowingly making a false statement to Gorsuch about the Stringfellow site and her involvement in the case; obstruction of a congressional committee investigation; and perjury before a Senate Environment and Public Works Committee hearing on the "election tracking" of Superfund grants and a hearing of the House Public Works and Transportation **subcommittee**. All the charges were triggered by her failure to recuse herself in the Stringfellow Superfund case.

On December 1, 1983, after a two-week trial and seven hours of deliberations, a federal jury in Washington, D.C., convicted Lavelle of four felony charges. Lavelle was sentenced to six months in prison, plus **five** years probation and community service, and fined \$10,000. Her appeal was denied and she went to jail in April, 1985.

Upon sentencing, Federal Judge **Norma** Holloway Johnson rejected Lavelle's bid to avoid prison. Johnson told Lavelle that "you indeed violated the public trust, that your perjury actually offends and strikes at the very core of the trust that had been conferred on **you**...[and] that you still cannot apparently admit to

yourself the injury you caused the federal government — it is not just a matter of the injury you caused yourself, but the injury that you caused to all of us as **citizens**...."

Lavelle had taken the law boards in late 1983, but as her father noted, "There's little point to law schools since as a convicted felon, she could not be licensed in most states. She can't go into industry or government," he said. "She could get a job as a waitress in a casino, I guess. She might open a business or go on the **lecture circuit**."

In January 1986, Lavelle started NuTECH Enterprises Inc. in **Oceanside**, California. According to her eight-page resume, the company provides industries, real estate developers and lending **institutions** with services and products capable of mitigating environmental hazards, and helps them "obtain special permits, variances and compliance with all state and federal regulatory **requirements**." The firm also offers "environmental litigation strategies for bankers, developers and **businesses**."

GENE A. LUCERO

Gene Lucero headed the EPA Office of Waste Programs Enforcement from 1982 to 1988, when he left for a private law firm.

He was born *in* San Diego, California, on December 10, 1947, and obtained a bachelor's degree from Stanford University in 1970. He earned a law degree in 1972 from **Boalt Hall** School of Law at the University of California, Berkeley.

Lucero was assistant attorney general for the state of Colorado from 1975 until 1978. From 1978 until 1980, he was deputy director in the Office of Compliance for the Peace Corps. He was deputy regional administrator for the EPA regional office in Denver from 1980 until 1982, working for Gorsuch appointee Stephen Durham, who later went to work for Chemical Waste Management Inc.

In 1982, Lucero was named deputy director of the Office of Emergency and Remedial Response, the Superfund management office. Also in 1982, he became director of the Office of Waste Programs Enforcement, a position he held until leaving the EPA in 1988.

For several years, Lucero volunteered his services at the Metropolitan Denver Legal Aid Society, a non-profit governmental organization.

Just before leaving the agency, Lucero criticized the EPA's method of collecting money from responsible polluters as inefficient and wasteful. He charged that the agency should have waited to collect money before starting new clean-up projects. He wrote in an Environmental Law Institute bulletin: "If it is assumed that the agency will fund all the starts [of Superfund clean-ups] **itself**, and that the average cost is \$30 million for each action, then by October 1989 the agency would need \$5.25 billion for these actions alone," and \$6 billion more for 200 planned clean-ups by 1991. The EPA assumed that the average clean-up costs only \$21 million.

On July 1, 1988, took a job with the D.C. law firm of Sidley and Austin, concentrating on

environmental law. He transferred to Sidley and Austin's Los Angeles site in December of 1990 and headed its environmental practice until December of 1992, when he went to **L.A.'s Latham & Watkins** to handle environmental law. Sidley & Austin has other prominent former government officials on its roster, including Angus **McBeth**, a former deputy assistant attorney general for environmental affairs in the Justice Department who later represented Chemical Waste Management. Lucero says that while working in the private sector, he has consulted or advised on **Superfund** matters.

"In the government you're representing the public interests but you know other interests have to be thought about," Lucero told *Newsweek* in 1989. "[In changing jobs] all you're doing is moving around the **table**." Lucero cited the different management cultures of the public and the private sector, as a hindrance to government-private sector relations. He told the Center that "there are a lot of things you *believe* you understand, [that] you don't really get a feel for as you do when you're on the other **side**."

DOUGLAS MACMILLAN

Douglas MacMillan served as a director of the **EPA's** newly formed Hazardous Waste Enforcement Task Force from 1979 to 1982. He later went to work as counsel for a national waste disposal company which manages Superfund clean-ups.

MacMillan received a bachelor's degree in journalism from the University of Washington in 1962. He worked for the United States Information Agency foreign service until July 1965. In September of that year, he worked in the Office of Economic **Opportunity** and the Office of Education, where he stayed until January 1972. While working in the Office of Economic **Opportunity**, MacMillan received a law degree from Georgetown University Law Center in 1970.

In 1972, he became staff director of the EPA Federal Regional Counsel office. From 1973 until September 1975, he was director of the EPA's Planning and Management Division. He also entered the school of government at Harvard University, and received a master's in public administration in 1976.

From September 1975 until November 1978, MacMillan worked at EPA headquarters in Washington, as director of the Management and Organization Division.

His congressional fellowship, which put him on the staff of a House Commerce Committee subcommittee, ran from November 1978 to August 1979.

MacMillan returned to the EPA as a director of the newly formed Hazardous Waste Enforcement Task Force, where he served until February 1982. After Superfund was passed, one of the task force's jobs was to make sure that EPA field officers were properly enforcing waste clean-up standards under Superfund.

In the first year or so of the task force, the EPA had only 61 hazardous waste violations in which it could take legal action to force a polluter to clean up the site. By the time MacMillan left the EPA in 1982, the EPA had amassed hundreds of toxic waste enforcement cases as a result of Superfund. In December 1980, MacMillan received the EPA's gold medal for exceptional service.

MacMillan left the agency in February 1982. He says he was one of many EPA employees who left in the early 1980s to escape the plunging morale. President Reagan and Administrator Gorsuch drastically cut the EPA budget, including **Superfund** enforcement. The new administration, he said, seemed almost eager to see toxic waste regulation immobilized. More and more experienced EPA employees remedial contractors who are "less engineers and more people who actually manage the [Superfund] clean-up, more **respirator-wearers** than blueprint **readers**." He heads the Remedial Contractors Institute and the Institute for Chemical Waste Management, and used to head the Waste Combustion Equipment Institute until May of 1992.

MacMillan, **in** an interview with the Center, said that he has had little involvement with the Superfund program **since** leaving the EPA. "I work with things that are primarily interested in conservation, only insofar as it effects clean-up contractors of the Superfund **sites**." He said that he "tries to make sure that the liabilities attached are **reasonable**."

MacMillan said he feels that the revolving door is "not necessarily a bad **thing**," explaining: "That type of expertise to companies is useful for doing things right. But it can be abused, for instance, if an ex-official got a lot of contracts for company A and then goes to work for company A."

He added: "People who worked at EPA seem **to** have a unduly close association [with other **industries**]. Otherwise EPA would have a very tough time hiring an experienced staff. . . I feel that this outweighs the conflict-of-interest **question**."

RICHARD H. MAYS

Richard Mays was named acting assistant administrator for enforcement and compliance monitoring in 1986, overseeing all EPA judicial enforcement cases and policy development, including Superfund, before leaving a year later to become a consultant to **ICF Inc.**, a major EPA and Superfund contractor.

Born on August 11, 1937, in El Dorado, Arkansas, Mays obtained a bachelor's degree in philosophy and English literature from the University of Oklahoma in 1959. He returned to his home state and received an LLB from the University of Arkansas in 1961.

Mays then entered private practice, working on a wide range of cases which included environmental law. He served on the Arkansas Bar Association's board of governors, from 1967 to 1968 was president of the Young Lawyers' Association of the Arkansas Bar Association, and was a delegate and vice president of the Arkansas Constitutional Convention in 1969-70.

Mays first came in contact with **Superfund-type** law when, as a state prosecutor, he won a hazardous waste case against **Vertac Inc.** **Vertac** now has a Superfund site in a neighborhood of Jacksonville, Arkansas. Mays was afterwards offered a job with the Arkansas Pollution Control and Ecology Department.

Mays joined the Arkansas EPA in January 1980, and in January of 1981, began his tenure at the EPA's federal level as staff attorney. He was on the Hazardous Waste Enforcement Task Force until 1982. In 1983, he was named as senior enforcement counsel, filling in for resigning staffers following **Gorsuch's** tenure. He held that post until 1987, and in 1986 was also named acting assistant administrator for enforcement and

compliance monitoring, overseeing **Superfund**, toxic waste and other enforcement **cases**.

Mays left the EPA in June 1987 and became a consultant for **ICF Inc.** Mays said his main task while at **ICF Inc.** was to act as a liaison for technical advice between **ICF** and law firms dealing with environmental issues. He avoided lobbying, and says his salary was about equal to his EPA pay of \$70,000 a year. He left **ICF** after 15 **months**.

Mays took a job with the Washington law **firm** of **Pettit** and Martin, where he became partner in **1989**, heading the environmental law section. He left the firm on December 31, 1991, and went to the Washington, D.C. based **firm** of Marks and Murasi, where, as a partner, he specializes in environmental law.

Mays feels that the revolving door phenomenon is "not as big of a problem in the environmental field" as in, for example, the area of trade and people going to work for foreign governments. He felt that it would be "very disabling to people to go into the government if they['d] be disqualified from contacting their former agency for five years. What would happen is we'd get academicians going back into academics after service and people from state agencies going back into state agencies after service. It would discourage using knowledge gained at the agency -- knowledge of a field -- not just of particular cases, but of a particular field."

JEFFREY MILLER

Jeffrey Miller was director of the EPA's Hazardous Waste Task Force and then acting assistant administrator for enforcement. Later, as an attorney in private practice, he represented Chemical Waste Management, a subsidiary of the **nation's** largest waste hauling firm, Waste Management Inc.

Miller was bom in Muncie, Indiana, on August 15, **1941**. He received a political science degree from Princeton University in **1963** and graduated from Harvard Law School in **1967**. He stayed at Harvard for a year as a research fellow and passed the Massachusetts bar in **1968**.

Miller then joined the Boston law firm of **Bingham**, Dana and Gould and worked as an associate until 1971. His work focused on corporate law, including real estate litigation. He also worked with the Boston Legal Assistance project and helped set up a consumer protection program.

In 1971 he joined the EPA office in Boston as chief of enforcement for the New England region. He was promoted to director of the enforcement division in 1973. In 1975 Miller moved to the EPA's Washington, D.C., headquarters as deputy assistant administrator for water enforcement.

While at the EPA Miller was a strong advocate of Superfund legislation. Laws regulating toxic waste "did not address existing Love Canals," he wrote in an internal EPA magazine in June 1980. "That is the reason we need **legislation** to set up a Superfund, to give money to immediately clean up hazardous waste sites."

He was named to head the National Hazardous Waste Enforcement Task Force in 1978 to study the toxic waste problem. In 1979 he worked with deputy administrator Barbara Blum to help provide technical, scientific and legal support to the agency's regional offices on hazardous waste site clean-ups.

Also in 1979, Miller was promoted to acting assistant administrator for enforcement by President Carter. In 1980 he received Senate confirmation in the post. He was responsible for administrative and judicial enforcement of all environmental regulatory statutes administered by EPA.

Miller left the EPA in 1981, disillusioned by the new administration's approach to environmental enforcement. "There wasn't and isn't very much enforcement going on," he told the Center. In 1980, Miller told *EPA Journal* that mediation between enforcement officials and responsible polluters was not a good idea. "Enforcement attorneys under Gorsuch report to managers whose main job is to get along with, not antagonize, industry and local **officials**," he said.

Miller was hired by the Washington, D.C., law **firm** of Bergson, **Borkland**, **Margolis** and **Adler**. He worked there as a partner until 1986, practicing environmental law. He was named to the board of directors of the Environmental Law Institute in 1984, and became treasurer in 1987, a position he held until 1990. He also serves as vice chairman of the American Bar Association's Water Quality Committee, a post he has held since 1984. In 1983, he joined the editorial advisor board of the *Environmental Law Reporter*, a journal for lawyers specializing in environmental issues.

From 1986 to 1987 he was a partner in the Washington, D.C., law firm **Verner, Lipfert, Bernhard McPherson and Hand**, practicing environmental **law**. He was named to the board of directors of Envirosafe **Inc.** an environmental contractor and consulting **firm** in 1987, a position he still holds.

In 1987, Miller accepted the two jobs he currently holds: counsel on environmental issues at Perkins Coie in Washington, D.C., whose clients include Chemical Waste Management, according to EPA critic William Sanjour. He also teaches law at Pace University Law School in White Plains, New York. He lives in Croton-on-Hudson, New York.

In a recent interview with the Center for Public Integrity, Miller said he continues to follow events at the EPA closely. Since the early 1980s, he said, he has relayed information about the agency to Congress and investigators of the **Superfund** program. He also said he has represented a number of clients involved in **Superfund clean-ups**. He said he is writing a book about Superfund.

Miller said that having former EPA officials work for the hazardous waste industry is a good thing. "The Superfund program is a difficult one to understand," he said. "It is therefore good when you're able to educate clients more easily to do what the law requires. It brings about more rapid **compliance**."

But Miller noted, "Some lawyers obviously like to encourage clients to fight. This benefits lawyers. It doesn't benefit clients in the long **run**."

STEFFEN PLEHN

Steffen Plehn joined the EPA in 1975 as executive assistant to Administrator Russell Train. He later became deputy assistant administrator for solid waste. He left the agency in 1982 and joined CH2M HILL, one of EPA's biggest contractors, with multi-million dollar Superfund contracts. He has served as that firm's director of solid and hazardous waste policy.

Plehn graduated from Harvard in 1959 with a degree in government. In 1961, he earned a master's degree in public administration from Harvard.

After serving as assistant to the Administrator, **Plehn's** principal duties at the EPA primarily dealt with regulating new production of hazardous waste under **RCRA**. In an interview with the Center, Plehn called his relationship to Superfund "peripheral" during his entire tenure at the agency. "We dealt primarily with the Resource Conservation and Recovery **Act**," he said. "I was basically just there at the same time the **[Superfund]** program was being **designed**."

After leaving the EPA in 1982, Plehn went to Fred C. Hart **Associates**, a New York consulting firm with an office in Washington, D.C. **There**, he conducted a study on Superfund in the **mid-1980s**. He left Han Associates in 1985.

CH2M HILL, one of the top six Superfund contractors in the nation, hired Plehn in 1985. He has remained there, in the firm's branch office in **Herndon**, Virginia.

CH2M HILL is a Denver-based engineering and environmental consulting firm that is heavily involved in Superfund and other EPA contracts. Plehn conducts "business development activities" at CH2M HILL. He told the Center he has sought EPA contracts, but not relating to the Superfund program. He also serves as director of solid and hazardous waste policy for its hazardous waste division. In addition to preventing pollution from contaminating **groundwater** and soil, the division also contracts for Superfund clean-ups, according to company literature.

Plehn, however, claims to have little contact with Superfund, and in fact was reluctant to field questions on grounds that he has been removed from the Superfund program for so long that he doubted he could answer questions about it.

CH2M HILL was cited in a 1991 GAO investigation done for the House Energy and Commerce Committee, which targeted cases in which EPA auditors had overlooked potential waste and fraud by contractors which employ former EPA officials. The investigation found that the EPA internal auditor never questioned unexplained changes on 96 percent of the time sheets submitted for Superfund work at CH2M HILL's **Corvallis**, Oregon, site. Plehn said he was unfamiliar with the case, and there is no evidence that Plehn was involved in this matter.

In 1992, the company became the subject of a Congressional investigation into wasteful Superfund contracting practices. The House subcommittee on oversight and investigations discovered that CH2M HILL was "**mischarging** the government millions of dollars for such items as reindeer suits, tickets to various professional sporting events around the country, magicians, a **rent-a-clown** for a picnic, over \$15,000 for an office bash at His Lordship, and a ten thousand dollar catered lobbying cruise on the Potomac **river**."

As a contractor, CH2M HILL, like other companies, identifies toxic waste sites, performs the necessary risk assessment and field investigations and designs clean-up procedures. CH2M HILL has also contracted with the California Department of Transportation, Tonolli Canada Ltd. (operators of one of the **world's** largest lead

and heavy metal smelters), Alaska Pipeline Co. and other government agencies. The EPA has contracted with CH2M HILL for 10 years under Superfund, first to assist in selecting toxic waste sites for the **Superfund** list. In 1982, the firm got \$89 million to manage remedial sites in 29 western states. In 1988, the EPA awarded contracts to CH2M HILL to handle Superfund projects nationwide.

CH2M HILL'S income grew from \$231.5 million in 1985 to \$561 million in 1992, and it now has a staff of more than 5,600 employees.

Speaking about the revolving-door issue as it affects the EPA, **Plehn** commented that it "probably doesn't make the government's job an **easier**," because the agency loses qualified employees after spending time and money training them. He was quick to point out that this phenomenon was not restricted to the EPA, but was prevalent "within the IRS, and in **Justice...just** about everywhere in **government**." He also agreed with the notion that the revolving door can increase the effectiveness of EPA programs because it enables the private sector to become more knowledgeable of the intricacies of the process.

J. WINSTON PORTER

J. Winston Porter was assistant administrator for solid waste and emergency response from 1985 until 1989, when he became a consultant to the environmental engineering **firm** he started 15 years before.

He was born on November 14, 1937, in Houston, Texas. He got a bachelor's degree in chemical engineering from the University of Texas in Austin in 1960, and received a Ph.D. in chemical engineering from the University of California, Berkeley, in 1965.

Immediately after graduate school, Porter was chairman of the chemistry department at the University of Petroleum and Minerals in **Dhahran**, Saudi Arabia. In 1966 he began working for Bechtel, the San Francisco-based construction and engineering giant. He moved back to San Francisco, where he was a senior engineer and then a supervisor in the scientific development section of Bechtel. He became manager of environmental services in San Francisco in 1972, and vice president and manager of the firm's international division in 1974, specializing in Middle Eastern projects. From 1975 until 1976, he was vice president and manager of services for Saudi Arabian Bechtel in Al-Khobar, Saudi Arabia. One of his projects was creating the master city plan for the \$20 billion Jubail Industrial City.

Porter became president of his own consulting firm, J. Winston Porter and Associates, in 1976. The firm, based in **Leesburg**, Virginia, near Washington, specializes in engineering and environmental consulting services for companies and government agencies.

Porter was nominated to be EPA assistant administrator for solid waste and emergency response in 1985, and took the position that August. In that position, he was the national program manager for Superfund and RCRA, the country's toxic pollution clean-up guidelines.

Porter was faced with a growing backlog of Superfund clean-up cases, and intense criticism from the public and Congress for not moving quickly enough. During **reauthorization** hearings in 1985 and 1986, Superfund was cut back for 18 **months**, projects for clean-ups were put on hold, and the EPA started planning

layoffs in the regional offices and Washington. "I really believe in **deadlines**," Porter said in an interview. He said the problem with **Superfund** was not laziness or lack of money, but culture in the EPA. "There was a lack of the right kind of people. EPA is not a construction company like **Bechtel**," he said. The **culture** was dictated from the upper echelons by lawyers, he said, **adding**, "We also didn't have enough experienced **people**." Intense congressional scrutiny and "more bureaucracy [were] weighing on the [EPA's] **shoulders**," he said.

Another problem was "far too many **contractors**," Porter said. "We needed a consortium put **together**." Burnout among lower-level EPA staff held back many clean-up studies and, therefore, clean-ups. "I'd like to see turnover at higher **levels**," Porter said. For lower level technical employees, "there was no mobility above them," he said. "Making senior people move would give people more **experience**."

Porter has called his tenure a pretty successful one. By the time he left in March 1989, "clean-ups handled by [polluters] increased from 20 percent to 50 percent in the past three years. Almost 700 settlements and \$2 billion in cost recovery have been **achieved**," he wrote in the *Environmental Business Journal* in May 1989. In 1988 the EPA successfully staged 300 "emergency removals," cleaning toxic waste sites that were imminently dangerous and had to be cleaned up quickly, and the total number of emergency removals since 1981 was 1,800, he wrote.

Porter left the EPA after George Bush was inaugurated and returned to his **Leesburg** consulting firm.

COURTNEY PRICE

Courtney Price was the EPA assistant administrator for enforcement and compliance monitoring from 1983 until 1986, **provideing** oversight for all the agency's enforcement. She later became an environmental lawyer in **Washington, D.C.**, performing environmental audits used for corporate acquisitions and real estate sales, a specialty closely linked to Superfund.

Price was born in Mississippi in 1942. She entered the University of Alabama in 1960, and completed her bachelor's degree in history three years later. In 1975 she received her law degree from the University of Southern California.

Her law career began as an associate lawyer at Haight, Brown and Bonesteel in Los Angeles. She was assigned civil litigation duties, including discovery motions, negotiation and trial work, she says. She left Haight, Brown in 1978 to become an associate at Jaffe, Clemens and Fridkis, also in Los Angeles. She was there for less than one year, where she mainly practiced divorce law.

Price entered the government in July **1979** as a staff attorney for the Department of Energy's General Counsel. She specialized in civil suits, including cases before the Federal Energy Regulatory Commission.

In June 1981 Price was named deputy chief counsel for the National Highway Traffic Safety Administration (NHTSA), in the Transportation Department. From January 1982 to March 1983, she was associate administrator for **rulemaking** at NHTSA, managing 70 employees and a \$5 million budget, and spearheading the Reagan **administration's** attempts to roll back regulation of energy and highway **use**. Price also negotiated against trade barriers with foreign governments.

In March 1983, Price was named acting EPA general counsel and acting assistant administrator for legal and enforcement counsel, replacing Robert Perry, who was forced to resign with **Burford**. As general counsel, she directed 67 lawyers who provided legal services for the EPA, including giving legal opinions, representing the agency and its officials in lawsuits, and giving legal advice when changing agency programs. She also supervised 50 EPA attorneys enforcing all environmental statutes, including **Superfund**.

In the spring of **1983**, the EPA was changing many programs. Price became assistant administrator for enforcement and compliance monitoring, in charge of all agency enforcement programs. She took the post on May 20, **1983**, was formally nominated by President Reagan in September and was confirmed by the Senate in October. She supervised 285 enforcement employees and a budget of \$21 million. Enforcement cases began rising from the near-zero levels in **1981** and 1982. During **1985**, the EPA initiated more enforcement actions, including Superfund litigation, than it previously had filed since 1970.

Price also headed the new National Enforcement Investigations Center in Denver. The office had 120 employees who provided technical and scientific expertise to Superfund and other environmental enforcement investigations, as well as technical assistance to 35 investigators in the 10 regional offices.

She left the EPA in February 1986, saying she had spent enough time in government. She joined the Washington firm of Rivkin, Radler, Dunne and Bayh, where former Sen. Birch Bayh (D-IN) is a partner. She was there for two years.

Price in April 1988 joined Anderson, Kill, Olick and Oshinsky, where she practiced "all areas of **environmental** and health law," she said. She specialized in environmental audits used for corporate acquisitions and real estate sales (which fall under Superfund provisions for waste clean-up and liability), performed environmental management audits for corporations, and represented companies before the EPA, Occupational Safety and Health Administration and Food and Drug Administration.

In December of 1990, Price joined Kelly, Dry and Warren, practicing the broad spectrum of environmental law. She said in an interview that she has not represented any clients involving Superfund since leaving the EPA. "I don't want to constitute any sort of **conflict**," she said.

But she said that the Superfund revolving door can be a good thing. "Basically, it is helpful for those people [in the toxic waste industry] to have some idea of how government **works**," she said. "It is better to have more of an understanding of the other **side**."

WILLIAM REILLY

William Kane Reilly was the first professional environmentalist to be named EPA administrator. Reilly was named by President George Bush, a Republican, and assumed the post in February, 1989, after sailing through a January confirmation hearing by the Senate Environment and Public Works Committee. Reilly was replaced in January 1993 by newly-elected Democratic President Bill Clinton's nominee, Carol Browner, head of Florida's Department of Environmental Protection.

Reilly was born on January 26, 1940, in **Decatur**, Illinois. He graduated from high school in Fall River,

Massachusetts, in 1958, and received a bachelor of arts degree in history from Yale University in 1962. He graduated from Harvard Law School in 1965.

From June to December 1965, **Reilly** worked at Ross, Hardies, O'Keefe, Babcock, McDougald and Parsons, a law firm in Chicago. In January 1966, he entered the Army. He was a military intelligence officer and served **in counterintelligence** units until 1968, when he was discharged as a captain.

After the Army, Reilly enrolled in Columbia University for a master's degree in urban **planning**, which he received in 1971. In 1968 Reilly became associate director of Urban America **Inc.**, and the National Urban Coalition, where he helped write a report for the Public, Land Law Review Commission, on "Probable Future Urban Demands Upon the Public **Lands**."

In 1970, Reilly was hired as a senior staff member of President Nixon's newly created Council on Environmental Quality, a presidential advisory group. His responsibilities included writing decision papers and proposed legislation on land use, public lands, urban growth policy and historic preservation. He worked at the CEQ until 1972.

For the next year Reilly served as executive director of the Task Force on Land Use and Urban Growth. In 1973 he became president of the Conservation Foundation. The Foundation is considered one of the more conservative and academically oriented environmental groups by environmentalists, congressional staffers and agency officials.

The Conservation Foundation under Reilly pioneered dispute resolution programs and studies on groundwater quality, toxic substances control, urban conservation and **energy**. It makes policy recommendations but, unlike activist groups, does not lobby. In 1976, Reilly launched an innovative program advocating direct cooperation between business leaders and conservationists to solve issues on which they were polarized. The program, called Business and the Environment, was "designed to bring conservation groups and industry leaders to the negotiating table to forge consensus on key **issues**," according to the *Los Angeles Times*. "The notion was new and somewhat suspect to environmentalists, but Reilly **persisted**, and the concept eventually took **hold**."

The program evolved into major forums like the National Wetlands Policy Forum chaired by former New Jersey Gov. Thomas Kean and the National Groundwater Policy Forum, headed by former **Arizona Gov.** Bruce Babbitt, now secretary of the Interior Department.

In 1985, Reilly presided over the merger of the Conservation Foundation with the World Wildlife Fund. The WWF was considered a more activist conservation group, for example monitoring illegal trade in wild animals and plants.

Under **Reilly's** watch, the WWF began an innovative "debt for nature" program that helped developing countries with their debt if they set aside land for purposes of conservation or protection of endangered animals and plants.

In his 15 years as president of the Conservation Foundation and later the WWF, Reilly "won an

international reputation as a pragmatist, and a problem solver, pushing for consensus on tough environmental issues such as toxic waste and water **supply**, and negotiating settlements with corporations and industry **groups**," the *Los Angeles Times* said last year. "Handsome and personally charming, he can easily disarm even the most apprehensive **skeptic**."

Bush tapped Reilly to head the EPA in December 1988, to the applause of many in both the environmental and business fields. "It is one of the most astute choices Bush could have **made**," said Geraldine Cox, vice president of the Chemical Manufacturers Association. "It signals a real desire to get environmentalists and industry working **together**."

Michael McCloskey, chairman of the Sierra Club, praised Reilly as a bright, articulate person who has "kept his organizations in the fold of bona fide environmental groups, while maintaining good relations with elements of **industry**."

But some environmentalists questioned whether Reilly was tough enough to survive a post that requires difficult policy choices under intense pressure from both sides. Bill Walsh, a lobbyist for U.S. **PIRG**, noted Reilly's reputation was made as a conciliator. The EPA really needed a "strict enforcement figure," Walsh said. "We hope he will adjust comfortably to that **role**."

Upon his selection, Reilly noted that he is the first major conservation **organization** leader to be directly appointed as head of the EPA. "I think that fact in itself suggests how the President-elect views the work ahead for **us**," Reilly said.

Bush said that Reilly understands "not only the overwhelming domestic imperative to take steps to protect our environment but the need for international cooperation that I spoke about in the **campaign**."

During Reilly's first two months in office, it looked like the soft-spoken lawyer was going to deliver for environmentalists who had been shut out during the Reagan years. Reilly called for a ban on ozone-depleting chemicals and blocked construction of a dam in Twin Forks, **Colorado**, previously approved by Reagan. The administration also sent a team of senior officials to report on the Alaskan oil **spill**. Pundits were saying that Reilly had the President's ear.

But questions also arose about Reilly's connection to an industry-sponsored attempt to defend the Superfund law while he was head of the Conservation Foundation. The industry-backed Coalition on **Superfund** took special aim at the Superfund laws, strict joint and several liability provisions, which can hold companies responsible for paying for the full clean-up of a toxic waste site no matter how small their contribution to the contamination was. Many companies believe the concept is unfair and have worked to eliminate it.

Toward that end, several major corporations, chemical manufacturers, the hazardous waste industry and the insurance industry and environmentalists formed the Coalition on Superfund to launch a **multimillion** "study" of the environmental cleanup program and suggest ways to improve it.

Reilly's EPA predecessor, William Ruckelshaus, was hired to head the study. Ruckelshaus hired three environmental research groups to conduct the study: the Law Environment **Institute**, headed by former **EPA**

administrator Lee Thomas; Resources for the Future; and the Conservation Foundation, headed by Reilly.

According to *The Nation*, the Conservation Foundation was responsible for the overview plan and was paid \$20,000. "Curiously enough, while the scoping papers were in the works, the EPA decided to do its own \$2.5 million study of **Superfund** and commissioned a planning document from **Reilly's Conservation Foundation**," the magazine reported. "Environmentalists and congressional staff members who began looking into the parallel efforts found that the line between the industry study and the EPA project was hard to distinguish. For example, they found in both cases that the CF suggested the effects of Superfund on industry's '**profitability**' should be rethought. And they were astonished when CF vice president J. Clarence Davies asked if anyone would mind if his group took money from industry to supplement its EPA payment in the government's **study**."

Environmentalists began to wonder about the link between the **Ruckelshaus-led** study and the EPA's own, and why the Conservation Foundation was involved with both **studies**. *The Nation* reported that Ruckelshaus and EPA and Conservation Foundation officials said that in May 1987 EPA administrator Thomas called Reilly, then the foundation president, about the EPA Superfund study.

"Ruckelshaus said Reilly then called him asking 'if there was any way to coordinate it with what we're doing.' Ruckelshaus offered his help to Thomas, who was once his subordinate at the EPA. 'I encouraged our coalition to support the **EPA**,'" Ruckelshaus told *The Nation*.

But Thomas, as EPA administrator, apparently knew about the Coalition's intention to weaken the law, *The Nation* said. A 1987 internal memo of the Coalition on Superfund said: "Ruckelshaus mentioned a conversation he had with Lee Thomas wherein Mr. Thomas expressed interest in the group we are establishing to '**get rid of joint and several liability**.'"

Opposition from four major environmental groups, objections from Congress and *The Nation's* **story**, helped quash the parallel studies. "The shared concern among those protesting the study was that the agency shouldn't be questioning the law itself, but should focus only on why it wasn't being implemented," the magazine said. But it also raised questions about Reilly.

"Environmentalists are left with two **fears**," the magazine said. "One is that Reilly may be more status quo than new blood at the EPA. His foundation was a popular EPA contractor under both Ruckelshaus and Thomas, and stood to make over \$1 million from the aborted study. Ruckelshaus is also on the board of the Conservation Foundation, and was one of Bush's two major environmental advisers during the presidential campaign. In a sense Reilly was practically an heir apparent.

"More troubling to some, though, is that Reilly could work for industry, then do much the same work for the EPA, intertwine funding from the two and apparently think he could step away **clean**." According to author William Greider, Ruckelshaus directed one of his employees, F. Henry Habicht II, to supervise the Superfund Coalition project. Habicht was formerly with Ruckelshaus in the Justice Department, working as an assistant attorney general for environmental enforcement, and later became EPA deputy administrator under Reilly. "**Reilly's** second-in-command, and by many accounts, the man who managed the agency day by **day**," Greider wrote. "Lee Thomas retired to private life in Atlanta where his consulting firm was awarded a research

contract on **Superfund** questions from ---guess who--- the Superfund Coalition."

The clever way industry signed on past and future EPA administrators to alter Superfund rules in their favor was dubbed by Greider as "deep **lobbying**." "Their craftsmanship was to be admired as a nifty feat of **triangulation**," he writes. "Three EPA administrators, past and present, as well as important environmental groups were recruited to hold hands with corporate America in the high-minded task of making Superfund into a better law. By the fall of 1991, the polluters were beginning to get the kind of headlines they had hoped for when they created the Superfund Coalition four years earlier. Various authorities were being quoted on how flawed and wasteful the Superfund law was. And some of these experts worked for the very same companies lobbying to escape their financial **obligations**."

Reilly's connection to industry and polluters was also criticized by grassroots environmental groups. When the head of Waste Management, the nation's largest hazardous waste carter, tried to lobby Reilly's EPA to prevent states from passing legislation on hazardous waste disposal, a breakfast meeting was arranged between the two via a mutual friend, the president of the National Wildlife Federation, according to newspaper reports. Grassroots environmentalists called the closed doors breakfast of Reilly, Dean **Buntrock** from Waste Management and Jay Hair, president of the Wildlife Federation, "**Reillygate**." Reilly was charged but cleared of violating EPA rules by holding the private session. The controversy escaped national press coverage.

At the meeting, industry lobbyists complained about grassroots activists pushing for tougher hazardous waste restrictions on the state level, and asked the EPA to extend its influence against the movement. "Reilly **obliged**," Greider noted. Greider also wrote that the Conservation Foundation received cash contributions from several major corporations, and Superfund polluters, such as General Electric, Union **Carbide**, Exxon, Waste Management, Chevron and Weyerhaeuser (where **Ruckelshaus** was formerly chairman) during the year before Reilly was named EPA administrator.

With environmentalists criticizing Reilly from one side, it wasn't long before his own administration began undercutting him. Reilly's influence in the Oval Office diminished when conservatives started to complain about the growing regulatory burden. His two chief adversaries were: Vice President Dan Quayle, who was in charge of the **President's Council on Competitiveness**, and Chief of Staff John **H. Sununu**. Perhaps Reilly's greatest embarrassment occurred on June 4, 1992, when White House officials leaked an internal memo Reilly had sent to President Bush proposing revisions in the U.S. position on the Earth Summit's **treaty** on biological diversity. The memo was leaked before Reilly was even told that Bush had rejected his recommendations. "By Friday (June 5), there were rumors that Reilly, humiliated one time too many, **might** be about to **resign**," reported the *Los Angeles Times*.

"It soon became apparent that while Reilly seemed a moderate to those outside the administration, to Bush's key advisers he was dangerously close to becoming the house **zealot**," the newspaper reported. Before the Earth Summit flap, Reilly had lost a series of battles with the White House and Quayle including proposals to protect the nation's wetlands, toughen the administration's position on global warming, block industry from increasing toxic air pollution, and restrict the sale of timber in Oregon in areas where the endangered Northern spotted owl lived.

Meanwhile, Reilly was having his own problems with Superfund, which had begun grabbing national

headlines through congressional committee hearings and General Accounting Office reports testifying to the program's waste, corruption and **overreliance** on contractors -- many of whom were former EPA staffers and officials.

Reilly announced an ambitious program to **reexamine** hundreds of millions of dollars in Superfund contracts in October 1991. He ordered the audit after finding that too much Superfund money was going to pay for contractor Christmas parties and business cards. "We didn't find any gold-plated toilets and we don't think they're out there," he said. "But potted plants, Christmas parties and things of that sort **don't** belong in this program." He ordered each of the 45 contracts under a major Superfund program **reexamined** and some terminated. The contracts under scrutiny involved \$265 million in expenditures over the previous four years -- only a small portion of the overall money spent for toxic waste cleanup under Superfund. The 45 contracts with 23 contracting companies has a potential value of \$6.6 billion over the next 10 years, the EPA pointed out.

That order initiated the second major examination of Superfund in a year. In June, 1990 Reilly ordered a special EPA task force to examine the contracting procedures at Superfund after the *Washington Post* reported that as much as a third of the contractors' spending went for overhead, including office decorations, unused office space and business cards, and not for the clean-up of toxic waste sites. The EPA task force confirmed the newspaper probe, but did not name individual **contractors**. The investigation found that one contractor spent \$1,600 on a Christmas party for 23 workers, while another billed the EPA \$150 a month for potted office plants. In some instances, travel charges exceeded allowable rates. One contractor rented an apartment full time to be used by a visiting employee.

"The task force found no fraud and it found no expenditures that were not allowable under federal contracting guidelines," Reilly said at a news conference.

At that time he also announced an ambitious timetable to increase the number of cleanups at Superfund sites. Only 63 sites had been cleaned up or completed, out of the 1,245 sites on the National list. Reilly said he wanted to double that number within a year, and triple it within two years -- which would mean 650 sites cleaned up by 2000.

"These are very ambitious targets," he said on October 1, 1991. But he acknowledged even if they were met, the EPA would not really be keeping up with the number of sites to be added to the program. An additional 900 hazardous waste sites, many on federal land, are expected to be added to the Superfund list over the next nine years, he noted. "Sites will be going on [the cleanup list] faster than they're coming off. That's a reality of the complexities of the job."

Only a few weeks after **Reilly's** announcement, congressional investigators issued a scathing report about contractor waste, fraud and abuse, and the agency's apparent inability to do anything about it. "The Environmental Protection Agency has ignored repeated recommendations for eliminating **waste**, fraud and abuse by contractors hired to clean up the nation's most polluted **site**," reported Associated Press about the General Accounting Office report.

The GAO report found limited follow-through on suggestions it had made since 1988 to hold down

Superfund contractor costs. "Only when press reports of excessive program management costs appeared, did EPA set up a high-level task force to examine issues of Superfund contractor **costs**," the study said.

The GAO cited several problems in **EPA's** contract management. The agency has not yet required its regional offices to prepare cost estimates of clean-up studies. Investigators visiting the Boston, Chicago, New York and Philadelphia offices found regional staffs had developed independent cost estimates for only four of 30 clean-up studies reviewed. In three of the cases, the agency estimates meant significant savings.

The contractor for the U.S. Radium site in Woodside, Queens, proposed a \$3 million budget; the EPA found the work could be done for \$1.6 million. At the **Higgins** farm site in Franklin Township, New Jersey, an independent government estimate reduced the study budget nearly \$640,000 to under \$1.2 million.

"Because the EPA does not prepare independent government estimates of clean-up costs, it cannot assess the reasonableness of costs proposed by its Superfund **contractors**," the lawmakers wrote.

The two principal agencies charged with auditing Superfund contractors' costs have such a backlog that EPA cannot assess the validity of charges. EPA continues to grant unlimited indemnification to almost all of its Superfund contractors even though GAO warned two years ago that the provision is excessive.

In response to GAO's 1989 report on the contractor conflicts of interest, EPA has made only "limited attempts to improve guidance and increase contractor **oversight**," the GAO said.

"This is not way for the EPA to manage and oversee a program which involves billions of taxpayer dollars," said a letter in response to the report signed by Rep. John Dingell (**D-Mich.**), Sen. Frank Lautenberg (**D-NJ**), and Sen. David Pryor (**D-Ark.**). All three head subcommittees with jurisdiction over Superfund, and Lautenberg was recently named chairman to a special subcommittee that will handle the Superfund **reauthorization**.

The trio noted that under Reilly's direction, "the EPA finally has begun to address these longstanding deficiencies in the Superfund **program**." But they added that "the ongoing attention of top management will finally be necessary to move EPA beyond simple **acknowledgment**." They asked Reilly for a detailed implementation plan by November 6.

In July 1992 Reilly appeared before the House Commerce subcommittee on oversight and investigations to again discuss outside contractors. "The concerns raised in recent months by EPA's inspector general and by our own internal reviews of our contract management are fundamental — so fundamental that they demand a basic change in the way EPA goes about performing its **mission**," he testified. He announced plans to increase the number of investigators in the inspector general's office and establish a standing committee to determine the underlying causes of contract waste and corruption.

Reilly said several Superfund reforms have been implemented, including:

- Mandatory independent government estimates exceeding \$25,000.
- Tighter procedures for awarding fees, prohibiting award fees to contractors rated as minimally

satisfactory.

- Creation of a council consisting of senior regional and headquarters managers.
- Completion of a long-term contracting strategy.

Reilly noted that **Superfund** forced the agency to hire more contractors to meet the skyrocketing demands for quick clean-up. "With the advent of the Superfund in the early 1980's and the development of government-wide policies favoring the contracting — out of functions, **EPA's** contract program more than doubled in **size** even while the **agency's** own work force increased by only 25 **percent**," he said. "As of today, we have over 7,000 contractor reviews as compared to about 17,000 federal employees. Unfortunately, faced with statutory **deadlining** and many other responsibilities, the agency culture came to use these contractors almost as a means to an **end**."

Reilly told the committee it was fair to ask why EPA leadership did not respond with "complete and sufficient action when the earliest warning signs were appearing" of waste and abuse. "In asking ourselves this question, we identified some of the most significant specific reasons why EPA has a contract management problem in the first **place**," he said. "When you move into a house, you turn on the faucet to see if the hot water works. If hot water comes out, you don't worry any more about it. . . If the hot water starts getting lukewarm or cold, you've learned a lesson — you should have checked on that hot water heater earlier. Similarly, when political leaders of an agency first come into office, their tendency is often to focus on the major substantive policy issues that the agency faces, and not as much on the nuts and bolts of running the organization internally. This is not offered as an excuse or justification, but only as an **observation**."

The same month that Reilly testified before **Dingell's** subcommittee, his problems with the White House came to a head. Reilly wrote a scathing criticism of the Bush administration, accusing his boss of being slow to react to crucial environmental issues, late in assembling an Earth Summit delegation, and unwilling to devote sufficient resources to the world gathering.

The criticism was made in a memo that Reilly circulated to 12,000 EPA workers and was obtained by the Associated **Press**, which ran a story about it on July 31, 1992. The memo culminated a year of frustration for **Reilly**, who argued without much success that the White House policy to halt environmental regulations and weaken existing statutes would be harmful to Bush's re-election plans.

In a letter to the Center for Public Integrity, Gordon Binder, an assistant to Reilly, pointed out Reilly's achievements while at EPA, specifically relating to the Superfund program. He said that when Reilly took office about 40 sites had been cleaned up, "whereas when he left office over 150 sites had been cleaned." During Reilly's years, his spokesman said that EPA collected 75 percent of the responsible party settlements - • over \$5 billion of the \$7 billion collected since the program began. Binder said that Reilly's "enforcement first" policy "got the parties to the table and is directly responsible for the big increase in private cleanup commitments." Further, he said that over 200 sites are now using bioremediation as an "innovative cleanup technology because of Reilly's emphasis." During Reilly's tenure, according to Binder, EPA conducted over 2000 emergency removal actions to "deal quickly and effectively with imminent threats to human health or the **environment**." Binder said it was Reilly who "gave the Inspector General at EPA the extra resources to launch into Superfund contract abuses and pursue his leads since audits had been running several years behind schedule."

After leaving EPA last January, **Reilly** returned to the World Wildlife Fund.

WILLIAM D. RUCKELSHAUS

William D. Ruckelshaus was the first EPA Administrator, nominated by President Richard M. Nixon. Nixon had approved a proposal one week after the first Earth Day on April 22, 1970 to create a government institution where federal environmental activity would be unified.

Ruckelshaus served from the first day of EPA's existence, Dec. 4, 1970 until April 30, 1973.

Amid the scandals plaguing the agency 10 years later, President Reagan nominated William Ruckelshaus as EPA administrator in May 1983 to fill the vacancy left by Anne Gorsuch³⁴ by **Burford**. In choosing Ruckelshaus, Reagan was also trying to fill the vast credibility gap left by revelations of inside deals, allegations of political manipulation of **Superfund**, expensive lunches with representatives of industries regulated by the EPA and Byzantine infighting in EPA headquarters.

Ruckelshaus had excellent credentials. Not only had he been Administrator of the EPA when it was founded in 1970, he became celebrated for his integrity when, as deputy attorney general under Elliot Richardson, he refused to fire Watergate Special Prosecutor Archibald Cox.

Ruckelshaus was born on July 24, 1932. He comes from a family of lawyers and distinguished politically-active ancestry from Indianapolis. His grandfather was a staunch supporter of the Republican Party and became state chairman in 1900. His father, John K. Ruckelshaus, served five times as chairman of the Platform Committee at GOP conventions.

He attended parochial schools until 16, and finished high school in Portsmouth Rhode Island at the Benedictine Portsmouth **Abbey**. Following graduation he entered the Army in 1953 and served two years, rising to drill sergeant.

He graduated *cum laude* with an **A.B.** from Princeton University in 1957 and in 1960 obtained his law degree (LLB) from Harvard Law School.

After passing the Indiana bar exam, he began his law career in the family law firm of Ruckelshaus, **Bobbitt** and O'Connor in 1960 in Indianapolis, and was associated with the firm for eight years. At the same time, he was appointed deputy attorney general of Indiana assigned to the Indiana Board of Health. As counsel to the Indiana Stream Pollution Control Board, Ruckelshaus obtained court orders to block municipalities and industry from polluting Indiana's water supply.

He also helped draft the 1961 Indiana Air Pollution Control Act, the state's first attempt to curb the problem, according to EPA historian Michael **Gorn's** profile of Ruckelshaus.

From 1963 to 1965 Ruckelshaus served as chief counsel of the Office of Attorney General of Indiana. He launched an unsuccessful bid for the Republican Party nomination for a congressional seat in 1964. For the next year he served as Minority Attorney for the State Senate.

In 1967 Ruckelshaus was elected to the Indiana House of Representatives, and in his first term gained the post of Republican majority leader. He unsuccessfully challenged Democratic U.S. Sen. Birch Bayh for his Senate seat in 1968.

Newly-elected President Nixon brought Ruckelshaus to Washington as an assistant attorney general, in charge of the Justice Department's Civil Division.

According to EPA's new agency historian, Michael Gorn, rumors circulated in Washington in the spring of 1970 that the President's Executive Council on Reorganization - which was reviewing all aspects of Executive Branch structure for the new administration - was going to recommend the unification of federal environmental activity into a single governmental institution.

"One week after the first Earth Day on April 22, 1970, the council urged Mr. Nixon to form an Environmental Protection Agency (EPA)," according to Gorn's biography of Ruckelshaus.

"The President approved the suggestion and initiated the planning process in the White House. While the first by-product, known as Reorganization Plan Number 3, underwent Congressional scrutiny during summer 1970, many names vied as candidates for EPA Administrator. William Ruckelshaus was mentioned often and his boss, Attorney General John Mitchell, broached the matter with him. About one month after Ruckelshaus confirmed his willingness to serve, Mitchell nominated him to the President, who accepted him for the position."

"In two and a half years, he laid the foundation for EPA, hiring its leaders, defining its mission, deciding priorities, and selecting an organizational structure," the EPA historian writes.

But the growing Watergate scandal caused Ruckelshaus to leave the new agency and return to the Justice Department. When Nixon's cabinet was decimated by the resignations of White House Chief of staff H.R. Haldeman and Domestic Affairs Advisor John Ehrlichman, Ruckelshaus was eyed for filling one of those spots. Instead, he became acting FBI director.

"Soon, however, newly-appointed Attorney General Elliott Richardson invited him to be his deputy at the Justice Department," according to the historian. "He accepted, but this assignment also proved short-lived.

"When the President demanded that Richardson fire Special Watergate Prosecutor Archibald Cox, the Attorney General chose to resign," the bio based on an interview with Ruckelshaus states." William Ruckelshaus was then ordered to remove Cox, but joined Richardson in quitting the Administration. Acting Attorney General Robert Bork finally dismissed Cox, who together with Richardson and Ruckelshaus became known as the victims of the October 1973 "Saturday Night Massacre."

Ruckelshaus and two other former EPA aides founded a law firm that specialized in environmental law. The firm - then called Ruckelshaus, Beveridge, Fairbanks & Diamond, now known as Beveridge and Diamond - still specializes in environmental law and represents large corporate clients before the EPA.

A former partner of Ruckelshaus told the *Washington Post* in 1983, "This whole revolving door thing

was beginning to build [by 1976]. It was a hot issue because of Ruckelshaus and the position he had taken during Watergate. He finally decided he couldn't be a lawyer in Washington **anymore**."

In 1976, Ruckelshaus joined the Weyerhaeuser Company, the giant lumber company headquartered in Tacoma, Washington, as senior vice president for law and corporate affairs. He was responsible for policy-setting and coordinating the company's key external relationships and its legal service functions, at a reported annual salary of \$350,000. Ruckelshaus stayed as vice president of Weyerhaeuser until he was nominated for the EPA top slot again in 1983 by President Reagan.

Weyerhaeuser got into hot water with the EPA in the 1970s, and was sued several times by the **agency**. EPA records show 277 citations for air and water pollution violations committed between 1977 and 1982. In 1979 the EPA filed a \$750,000 suit alleging water pollution violations by the firm's paper mill in **Longview**, Washington; the case was settled out of court for \$135,000.

When he was nominated to again head the EPA in 1983, Ruckelshaus was a member of the board of directors of the American Paper **Institute**, the paper **industry's** lobbying and trade association. He was also on the boards of Peabody International, a manufacturer of waste handling equipment; Pacific Gas Transmission **Co.**, a natural gas subsidiary of the utility giant Pacific Gas and Electric; and Cummins Engine **Co.**, an Indiana manufacturer of diesel engines for trucks and industrial uses.

At his confirmation hearing, Ruckelshaus told the Senate Environment and Public Works Committee that he would run the EPA "in a fishbowl. There will be no hit lists, no big-P political decisions and no sweetheart **deals**." The Senate, reeling from the scandals of the **Burford-Lavelle era**, easily confirmed his nomination 97 to 0. When Ruckelshaus addressed EPA employees at the agency headquarters, he got a standing ovation.

Ruckelshaus used his "Mr. Clean" image to bolster the agency's spirit, badly wounded by the fighting between **Burford, Lavelle**, the White House and Congress. Ruckelshaus brought in his own management team, and re-established the **Agency's** credibility and relationship with Congress.

His brief tenure was not without controversy. In 1983, a federal judge held Ruckelshaus in contempt of court, calling him a "**scofflaw**" and threatening to jail the EPA administrator for deliberately ignoring a court order to enforce agency standards governing the emission of 20 toxic radionuclides.

Ruckelshaus had earlier told the House Energy and Commerce Committee that he would put the radionuclides on the agency's enforcement list, but later he merely announced his intent to take action. Ruckelshaus was held in contempt of court for refusing to observe a court-ordered deadline.

Ruckelshaus resigned in December 1984, claiming, "The EPA is back on **track**." He joined the law firm of Perkins Coie in Washington, D.C., and Seattle, Washington, as a consultant from 1985 until 1988.

Over the next few years, he became a board member of several companies, including:

* Combustion Engineering, a Stamford, Connecticut, firm involved in waste clean-up, incineration and

waste-to-energy projects nationwide.

- * Cummins Engine **Co.**, for the second time.
- * **Enseco Inc.**, a waste management firm.
- * Monsanto **Inc.**, the giant chemical and pesticide manufacturer.
- * Nordstrom Inc., the Seattle-based department store chain.
- * Texas Commerce **Bankshares**, Houston, Texas.
- * Weyerhaeuser **Inc.**, based in Tacoma, Washington.

Ruckelshaus also became a trustee of the Conservation Foundation, headed by future EPA administrator, William Reilly.

He founded Ruckelshaus and Associates, an environmental **consulting** firm in Seattle. Partners included Judith Ayres, former EPA Regional Director in San Francisco; and Henry Habicht, a Ruckelshaus associate, formerly Assistant Attorney General for **natural** resources and subsequently EPA Deputy Administrator.

Ruckelshaus was a member of the Trilateral Commission, the President's Commission on Environmental Quality and the Recycling Advisory Council. He was the U.S. Representative to the United Nations Commission on Environment and Development.

In 1987 Ruckelshaus helped develop the Coalition on Superfund, an industry-backed panel that **would** examine Superfund regulations and offer recommendations when the program came up for **reauthorization**. Companies such as Monsanto, General Electric and du Pont were behind the coalition.

Author William Greider wrote: "The Superfund **Coalition...demonstrates** the strategic skills of the corporate interests and the depth of their sophistication and patience as well as the depth of their **wallets**."

Ruckelshaus's consulting firm signed on, and Habicht was put in **charge**. One of the few environmental groups that agreed to participate in what critics called a thinly veiled attempt to gut Superfund was the Conservation Foundation, whose director was William Reilly.

The Coalition was to be funded by industry, but after sharp criticism, Ruckelshaus decided that would look suspect, so the Conservation Foundation was given a contract to assist the coalition's study. EPA Administrator Lee Thomas approved the agreement and agreed to contribute \$2.5 million from the EPA - that is, taxpayer dollars.

A 1987 internal memo of the Coalition on Superfund, reported by Viveca Novak of *Common Cause* Magazine, showed that the EPA was well aware of the coalition's true intentions. The memo noted, "Ruckelshaus mentioned a conversation he had with Lee Thomas wherein Mr. Thomas expressed interest in

the group we are establishing to 'get rid of joint and several liability,'" the legal clause that forces responsible polluters to pay for the clean-up.

Once Thomas approved EPA funding for the Conservation Foundation's examination of Superfund, "the taxpayers were now picking up the tab for research the polluters had originally envisioned as their political **counterattack**," according to Greider.

"The larger point is that an informal alliance was being formed by two important players — government and business -- to massage a subject several years before it would become a visible political **debate**," he states. "There was nothing illegal about this. After all, it was only research. But the process that defines the scope of the public problem is often where the terms of the solution are **predetermined**."

Deep connections formed among the players in the Superfund Coalition and the EPA. Reilly left the Conservation Foundation and -- with the help of a recommendation from Ruckelshaus, by now at Browning-Ferris -- was named EPA Administrator by President George Bush. **Habicht** became EPA Deputy Administrator. Departing EPA Administrator Lee Thomas went into the private sector, where his consulting firm obtained a contract from the Superfund Coalition to study the program's regulations.

"By the fall of 1991, the polluters were beginning to get the kind of headlines they had hoped when they created the Superfund Coalition four years **earlier**," Greider wrote. "Various authorities were being quoted on how flawed and wasteful the Superfund law was. And some of these experts worked for the very same companies lobbying to escape their financial **obligations**."

In response to a question last October, Ruckelshaus acknowledged that he had read Greider's book, but he dismissed the author's characterizations about him. "I **don't** know where he is coming **from**," Ruckelshaus said. "Greider sees the world differently [than I **do**.] I spent a lot of time with him and I'm disappointed in what was **produced**."

In a letter to the Center for Public Integrity, Ruckelshaus said, "The Coalition was established not to advocate any position, but to sponsor research on the implementation of Superfund. The research topics and methodology were publicly shared with all interested parties simultaneously. The research results were made public to members and non-members of the Coalition **alike**."

In June 1987, Ruckelshaus became a director of Browning-Ferris Industries, a Houston-based solid waste and hazardous waste disposal company. **BFI** is the second largest waste disposal firm in the United States. His appointment came "about a month after EPA filed a \$70 million lawsuit against the **firm** alleging thousands of violations of pollution standards at a BFI landfill in **Louisiana**," noted *Industry Week*. In August 1988, BFI and the EPA agreed to a controversial \$1.1 million settlement. The next month, Ruckelshaus was named president and chief executive officer of BFI, at a salary reportedly exceeding \$1 million annually.

Company spokesman Philip Angell told the Center that Ruckelshaus "had absolutely nothing to do with those proceedings -- with Louisiana, the Department of Justice of **EPA**."

Regarding the former EPA **Administrator's** salary, **Angell** said that Ruckelshaus actually only accepts \$800,000 a year. **Ruckelshaus'** predecessor, Harry Phillips Sr., in comparison earned \$552,500 in 1987, according to **BFI** proxy statements. Ruckelshaus and Associates also acted as a consultant for **BFI**, for the sum of \$100,000 in 1988. *Industry Week* reported criticism of Ruckelshaus for "**taking** the revolving door out of a federal environmental agency and into a \$1 million plus a year private **job.**"

Ruckelshaus did a substantial amount of business with BFI before joining the firm. In 1987 his law firm, Perkins Coie, provided BFI with \$76,900 worth of legal services, and Ruckelshaus and Associates was paid \$30,000, according to a 1988 BFI proxy statement. "Such services . . . have been provided upon terms negotiated on an arm's length basis substantially similar to the terms the company would have affected with unrelated **parties,**" the proxy statement notes.

He joined BFI during a torrent of bad publicity for the firm: millions of dollars in pollution violations and \$15 million in criminal price-fixing charges since 1984, according to *Industry Week*. BFI was ordered to pay \$6 million to a Vermont trash hauler that it allegedly tried to run out of business.

Ruckelshaus' reputation from the Saturday Night Massacre incident was supposed to cleanse **BFI's** soiled public image. He was also supposed to seek renewals for BFI **hazardous** waste permits in Ohio, New York and Louisiana.

"That was a very large factor in the decision" to hire Ruckelshaus, said Michael J. **Verrochi**, a BFI vice president in charge of the Northeast region and a former board director. Interviewed by the *Wall Street Journal*, Verrochi said, "We felt that [the hazardous waste] industry was going to play a large part in the future of **BFI.**"

Ruckelshaus has made numerous personal appeals to several state environmental agencies on behalf of BFI's attempts to maintain hazardous waste **dumps**. Many have been unsuccessful.

One California lawyer describes **Ruckelshaus'** appearance before the state water board as "an attempt to buy the **permit.**" Arthur G. **Kidman**, an attorney for the water district in the San Gabriel Valley which opposed BFI's proposed permit, told *The Wall Street Journal* in May of 1991, "When the going got tough, they trotted him in **there.**"

Ruckelshaus offered the state water board \$20.5 million to help clean up polluted groundwater in the area. Ruckelshaus refutes **Kidman's** characterization, saying the pitch was in line with BFI's program to help communities in which it does business.

In 1988, the **Ruckelshaus-led** BFI management team indicated that paying fines was part of the cost of doing business. "In the normal course of doing business, all companies in the waste disposal industry will be faced with government enforcement proceedings and possible resulting fines and other sanctions," BFI said in statements filed with the Securities and Exchange Commission. "Management of the company does not believe that such amounts, individually or in the aggregate, are likely to be materially adverse to the company's **business.**"

Serving with Ruckelshaus on BFI's board is Robert Teeter, who was named in 1989. Teeter was a senior policy adviser to President George Bush, and acted as campaign chairman of the **Bush-Quayle** 1992

campaign. Teeter is now president of Coldwater **Corp.**, a polling and political consulting **firm**.

"I found my time in public service very rewarding and would never suggest that I'd never do that again," Ruckelshaus told *Industry Week*. "But I don't find joining the private sector -- trying to provide a service of managing waste the way **BFI** does -- to be in any way a violation of standards of morality or ethics or whatever else anybody might call **it**."

At a 1991 convention of environmental journalists in Boulder, Colorado, **Ruckelshaus**, to the astonishment of many in the audience, said he had never heard of BFI before he went to work for the **firm**.

Ruckelshaus was responding to this question:

"Recently there has been a controversy about the so-called revolving door between the highest levels of the EPA and industry which is regulated by EPA -- people going back and forth. You, yourself, Mr. Ruckelshaus, working for Browning Ferris Industries, the company which undoubtedly you regulated to some degree while you were at EPA. Have you seen this revolving door affecting **policymaking** in the highest levels?"

"You mean do I go in and tell them what to do and they **respond**," Ruckelshaus said, laughing. "It son of works just the opposite in **fact**."

The questioner pressed him: "When you're working with the EPA and you realize that you may want a corporate job a few years down the line that may well affect the kind of decisions that you make while you're at the EPA, and vice versa if you're coming from a corporate job into the EPA, that may affect your decisions. How do you respond to that?"

Said Ruckelshaus: "**Well**.. I suppose the simple response in terms of when I was at EPA, did I anticipate having this job four years later and therefore in some way favor this industry. To be absolutely honest with you I never heard of Browning Ferris Industries when I was at EPA. I didn't know it existed.

"But even if I had, it seems to me that when you're in a job of that kind your responsibility is to represent the public interest. And if you're not willing to discharge that responsibility with everything at your command, including your own ethical **standards**, then you shouldn't take the job in the first place. I didn't need that job (returning to the EPA) at the time. I was working happily in the northwestern part of the country, at Weyerhaeuser, and was asked to come back. As I came back I sold every share of stock I had in any company that we were going to regulate. To the extent that I had been involved in companies like Weyerhaeuser or others, I recused myself of involvement in any decision affecting them while I was there. I did not go back to that company after I left the agency.

"We have had a tradition in this country which seems to be endorsed increasingly by the American people of movement back and forth between government and the private sector.

"We will **find** on the ballot this November (1991) a term limitation on the state of Washington that will restrict congressmen and senators from their running again after 1994. It will among others, cause the Speaker

of the House to step down, a tragedy in my view.

"But that tradition it seems to me has pluses and minuses, and certainly to the extent that the public believes that people who move in and out of government are doing so in order to advance their own economic interest as opposed to representing the public interest when they are in the government, that's not a good thing for the society.

"However if we are going to attract and hold people in government it seems to me we need to do some things at the career level, not at the elected level -- the elected level that doesn't seem what the public wants - - but at the career level we've got to provide for them ways of advancing, ways of being able to earn an income that will permit them to educate **their** children and do other things that people who are not in government can do, and I think **that's** something worth addressing.

"And it is undoubtedly true that there are some in government who will shave their decisions in order to make themselves more attractive to some industry when they leave. Some even take bribes in government. But on that basis should we therefore say that once you're in government **in** this country you ought to stay in government for the rest of your life and not leave? And those in the private sector should never move out of the private sector into government. I personally believe that would be a terrible mistake.

"One of the things **that** I would like to see a lot more of **in** industry are people with direct experience **in** government who understand in a much more profound way than they now do what it's like to be in the government of the United States, whether its at the federal level, state or local **level**. They would have a much greater appreciation of the responsibilities of **government**."

Ruckelshaus read from a mission statement that **BFI** had adopted since he came there which says it is trying to be the best waste company **in** the country.

The last sentence says: "We will carry out our mission efficiently, safely and in an environmentally responsible manner with respect for the role of government in protecting the public **interest**."

Said Ruckelshaus: "**To** the best of my knowledge that's the only company **I'm** aware of that has that sentence **in** its mission statement. And I think increasingly because it's there, our people understand what the role of government is and how they need to respond to the people in government in the carrying out of their daily **duties**."

As the keynote speaker at that convention Ruckelshaus gave his view on the future of national environmental policy:

"If the public policy about the environment is to serve some objective standard of the public interest, the public has to be sufficiently informed as to where their interests lie to make the right kind of demands on politicians -- at least that is true in any representative society, representative **democracy**.

"If acid rain is more important than global wanning, and I don't know whether it is or not, or if lead is more important than alar, and I think it is, then the public has to know this or our national resources, either

in the form of money or regulatory policy attention, may be grossly **misdirected**."

"If every toxic substance that is discovered is treated as equally **threatening**, or every massive emission: phenomenon equally devastating to the planet, then potentially it will be impossible to sort out the roar of demands and fashion public policies that make sense for the very public that is causing the roar in the first place."

In 1990 **BFI**, under **Ruckelshaus**' leadership, sold its hazardous waste division as unprofitable. Some industry observers reported in May 1991 that **BFI's** management was in disarray since Ruckelshaus became CEO, with debt up and profits down.

Ruckelshaus recently said his years with the EPA have been the most fulfilling in his career.

"I've had an awful lot of jobs in my lifetime, and in moving from one to another have had the opportunity to think about what makes them **worthwhile**," he told Michael **Gorn**, the **EPA's** first-ever agency historian. "I've concluded there are four important criteria: interest, excitement, challenge and fulfillment. I've never worked anywhere where I could find all four to quite the same extent as at **EPA**..."

"At EPA, you work for a cause that is beyond self-interest and larger than the goals people **normally** pursue. You're not there for the money, you're there for something beyond **yourself**."

JAMES N. SMITH

Jim Smith may be considered a midwife for Superfund: His assignment overseeing the program ended shortly after it was born in late 1980. Smith says he was one of many EPA executives abandoned by Reagan appointees. Like other EPA executives, his connections with Superfund continued long after he left the agency, in the form of a successful lobbying practice.

For a short time in 1980, Smith was the acting assistant administrator for water and waste management. He was in charge of "national programs for water pollution control, safe drinking water, hazardous waste management and the implementation of the Superfund **program**," he said.

Smith was born in Missoula, Montana, on July 20, 1937. He received a bachelor's degree and a master's in political science from the University of Montana. His first Washington job was as a legislative assistant in the Senate in 1960 and 1961.

From 1961 until 1966, Smith worked as a resource planning staff assistant in the office of Interior Secretary Stewart **Udall**, who at that time was in charge of all natural resources management, including what passed for waste management issues. In 1966, Smith graduated from the Defense Management Systems Course at the Naval Post-Graduate School in Monterey, California.

Smith then became executive director of a presidential advisory committee on environmental and outdoor recreational programs. The **committee**, chaired by **Laurance S. Rockefeller**, "developed policy recommendations for President Lyndon Johnson and members of his **Cabinet**," according to Smith. He remained there until 1969.

Smith left government as the Nixon administration took over. He found a job as a senior associate for the Conservation Foundation in Washington, D.C. Smith's work mainly involved educational programs and community outreach projects. He attended the Aspen Institute of Humanistic Studies as a fellow in 1971.

In 1973, Nelson Rockefeller tapped Smith to be deputy program director for the National Commission on Water Quality to review the 1972 Clean Water Act. The commission concentrated on solving water pollution problems, which had just caught the attention of the media and the Environmental Protection Agency. Smith worked at the commission until 1976, with a staff of 70 and a budget of \$17.5 million for the project.

From 1976 until 1977, Smith was a consultant for "private foundations, the U.S. Senate, the Library of Congress, the EPA and the President's Council of Environmental Quality," he said.

In 1977, he was hired by the EPA. Working under Douglas Costle, Smith became a top adviser to the assistant administrator for water and waste management. From policy studies to strategies for dealing with Congress, Smith engineered many of the agency's responses to the growing number of complex environmental problems cropping up in the late 1970s, including Love Canal and other toxic waste hazards and water pollution.

Reagan's election and subsequent appointment of Anne Gorsuch as EPA chief spelled trouble for Smith, a career employee who was also a Democrat. Smith decided that 1981 would be a good year to leave the EPA, and "Gorsuch thought so, too," he said in an interview with the Center. "I'd been there long enough." Smith quit in August. He went to a lobbying firm, Billings Associates. As a partner, Smith helped run Billings until December 1985.

In January 1986, Smith took the job he holds today, as vice president of another Washington lobbying firm, Chambers Associates. The job is similar to what he did for Billings, including lobbying for private firms and state and local governments. His specialties, he said, are environmental regulations, public financing of projects and infrastructure development, which includes waste treatment plants, sewers and drinking water supplies. At Chambers Associates, he serves as executive director of the council of Infrastructure Financing Authorities.

LEE THOMAS

Lee Thomas was named EPA administrator in 1985. He left after Bush's inauguration in January 1989 to become chairman and chief executive officer of Law Companies Environmental Group, which provides "diverse and comprehensive environmental engineering and earth science consulting services to industrial and commercial clients, and governmental agencies throughout the U.S. and abroad," according to Thomas's resume. Among other things, the company represents clients involved in Superfund projects.

Born June 13, 1944, in Ridgeway, South Carolina, Thomas received a psychology degree from the University of the South in Sewanee, Tennessee, in 1967, and a master's degree in education from the University of South Carolina in 1970.

From 1968 until 1970, Thomas was a probation officer for Richland County, South Carolina, and from

1970 until 1971 he was a research analyst and resource development specialist for the South Carolina Department of Corrections. From 1971 to **1973**, Thomas was director of the comprehensive offender rehabilitation program for the office of the governor of South Carolina.

From **1973** until **1977**, he served as executive director of Criminal Justice Programs for the governor of South Carolina. Thomas then became a private consultant on criminal justice management issues, but returned to government as director of South Carolina's division of public safety programs from 1979 until **1981**.

Thomas entered federal service in **1981**, when he was appointed by Reagan to be an associate director of the Federal Emergency Management Agency, in charge of state and local programs and support.

On March 25, 1983, he was named acting deputy administrator for the EPA, replacing Rita **Lavelle**. Thomas says he was one of several individuals brought in to restore "management **stability**." Incoming Administrator William Ruckelshaus put Thomas directly in charge of Superfund and **hazardous** waste laws.

One of the first jobs Ruckelshaus handed him was the **dioxin** clean-up at Times Beach, Missouri, in 1982. In one of her last actions as EPA administrator, **Burford** allocated \$33 million to buy out all the houses in the town, in preparation for a massive clean-up.

Thomas was named EPA administrator, succeeding Ruckelshaus, on November 29, 1984. He was confirmed by the Senate in **1985**.

Thomas was known in the agency for his 80-hour workweeks, and for knowing nearly all the details of the Superfund clean-up program. He was a strong proponent of Superfund, and from 1984 until 1986 was instrumental in writing the Superfund Amendments and Reauthorization Act (**SARA**). One of his many letters to Congress urging passage of the legislation warned that failure would destroy the federal government's attempts to clean up toxic waste and would disrupt his agency, perhaps **fatally**.

But the EPA once again ran into trouble with the White House. Reagan threatened to veto the Superfund **reauthorization** because he opposed taxes on corporate earnings.

Environmentalists weighed in against Thomas. "He is not openly hostile to the agency's mission as Anne Burford was, so people give him a lot of **slack**," Richard Ayres, a lawyer of the Natural Resources Defense Council, told the *New York Times* in 1986. "But the agency is dead in the water. There are no initiatives under Thomas." Instead, the EPA of the late 1980s grappled with conflicting priorities and an ever more complex job of combating pollution from a growing number of sources, including manufacturing companies, small businesses, underground storage tanks, wood-burning furnaces and stoves, and international production of chemicals.

In 1988, Thomas approved a \$2.5 million contract for a private study of the Superfund legislation. The contractor was the Conservation Foundation, then headed by William Reilly, later EPA administrator.

Thomas moved to the private sector when Bush was inaugurated, after more than 20 years of government service. He began looking for a position where he would still work in environmental issues, and

found one as chairman and chief executive officer of Law Companies Environmental **Inc.**, an environmental engineering and consulting company in **Kennesaw**, Georgia.

"I'm working on the very problems that I worked on at EPA," Thomas told *Occupational Hazards* magazine in June 1989. "That's one of the fascinations and rewards of this job. Law Environmental has the technical capability to help companies meet the environmental protection standards and policies developed at EPA."

Law Companies Environmental is a subsidiary of the Law Companies Group, named after Thomas Law, who founded Law Engineering in 1947. The Law Companies are consulting businesses specializing in environmental issues, materials engineering, and asbestos inspection. They now employ about 2,300 people and have about **\$163** million in contracts.

Law Companies **Environmental's** clients are mainly chemical, petroleum and manufacturing firms. Ten to 15 percent of the firm's work involves contracts with the Defense Department, Army Corps of Engineers and other government agencies. The **firm** is also involved in **Superfund** projects, representing clients under clean-up orders from the EPA, Thomas said. A Law Environmental subsidiary, **Ensite Inc.**, contracts clients for cleaning up Superfund sites.

According to Thomas, his work at Law Companies Environmental did not bring him in touch with Superfund in a "significant **capacity**." Rather, he has maintained contact with the Superfund program by his membership on the board of Clean Sites, a private organization that, according to Thomas, attempts to facilitate waste clean-up. According to a spokeswoman for Clean Sites, the organization works in close conjunction with the EPA.

When asked about the effect of the revolving door on Superfund, Thomas says, "I am a proponent of that experience going both **ways**." He believes there should be a greater effort on the part of government and the private sector to develop experience on both sides and that government should recruit from the private sector.

In 1993, Thomas became senior vice president of environmental and government affairs of Georgia Pacific Corporation.