

Rachel's Environment & Health News

#157 - Part Two Of Two Parts: Reilly Plans Investigation Of Himself

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EPA chief William Reilly is the object of a criminal investigation because he reversed an important national environmental policy, apparently with no more basis than the urging of four representatives of Waste Management, Inc. (WMI), who lobbied him at a private breakfast March 16, 1989 (see RHWN #151 and #156). A preliminary investigation exonerated Reilly of all charges. Now however, there is strong evidence that several people, perhaps including Reilly himself, lied to investigators, which is a felony. Furthermore, it is now clear that Reilly himself helped plan the investigation of his own alleged wrongdoings, and that the investigation was carried out not by independent investigators but by people who report to Reilly--a direct violation of EPA guidelines on investigations. Clearly, it is time for a special prosecutor to conduct a credible inquiry.

It all began when two EPA officials, Hugh Kaufman and Bill Sanjour, lodged a formal complaint against Reilly with the EPA's Inspector General, John Martin, on May 17, 1989. An investigation ensued. However, the investigation began in a most unorthodox way: Inspector General Martin met with Reilly May 19 and together they planned how the investigation should proceed. Furthermore, between May 19 (when Martin and Reilly planned how to investigate Reilly), and the time when the formal investigation was opened, 39 days lapsed. Why the delay? Were the principal suspects given time to get their stories straight during this period? It would appear so, because when investigative interviews began, all the principals told the same story and it was a story contradicted both by physical evidence and by an interview Reilly had given to newspaper reporters before he knew he was under suspicion.

The official stories abound with inconsistencies. The most serious is that three officials of Waste Management say they did not favor Reilly reopening a public hearing on North Carolina (NC) in preparation for taking away that state's RCRA [Resource Conservation and Recovery Act] waste-facility permitting privileges. Let's look at the physical evidence, then look at what WMI officials told investigators:

At breakfast, James Range, who is WMI's vice president for governmental affairs, handed Reilly a WMI "briefing paper" entitled STATE INITIATIVES TO INHIBIT DEVELOPMENT OF HAZARDOUS WASTE DISPOSAL CAPACITY AND TO RESTRICT INTERSTATE SHIPMENT OF HAZARDOUS WASTE.

The WMI briefing paper describes a "troubling trend heading for a full-tilt stampede" in which states are imposing "two types of restrictions on wastes: disallowing facility development and resisting interstate waste transport."

The WMI briefing paper says "the first visible domino fell" when North Carolina passed a law that prevented construction of a GSX waste processing plant on the Lumber River in 1987 (see RHWN #156.) The next domino was South Carolina's move to restrict interstate shipment of waste. The WMI briefing paper goes on to say that Waste Management's facility at Emelle, Alabama--the only commercial chemical dump in Alabama--is now directly threatened because the Alabama state legislature will "probably approve" measures preventing import of wastes into Alabama. The WMI briefing paper says "proponents of these measures [in the Alabama legislature] are citing EPA's apparent acquiescence in the North Carolina and South Carolina situations...." The WMI briefing paper concludes, "There is only one solution here: EPA must break its silence immediately. If EPA emphatically restates its opposition to these State actions and indicates that RCRA program withdrawal is the logical result, then cooler heads in the state legislatures will have something to rely upon...."

So there you have it in black and white: The WMI position at breakfast March 16 was to urge Reilly to reverse EPA policy so EPA would threaten once again to take away NC's RCRA authority. (See RHWN #151.) The alternative position, which was EPA's

official position at the time of the breakfast meeting, was to allow North Carolina (and other states) to pass laws restricting development of waste processing capacity but to use the Superfund [CERCLA] "capacity planning" provisions to require states to develop sufficient capacity to handle their own wastes. The waste hauling industry fears use of CERCLA in this way because states can meet the CERCLA requirements by reducing waste production as an alternative to building new waste facilities, if they choose to. If states reduce wastes to meet CERCLA requirements, the waste industry will be hurt badly. WMI alone has billions at stake.

Twenty-one days after the breakfast meeting, on April 6, William Reilly decided to give WMI precisely what they had asked for at breakfast and on April 19 Reilly announced EPA would reverse its policy and resume the public hearing on North Carolina's loss of its RCRA privileges as punishment for its self-protective state law. The CERCLA approach was being abandoned. Reilly was doing precisely what Waste Management's briefing paper had urged him to do.

When asked April 20 by a newspaper reporter (Jon Healey) about this major reversal of policy, Reilly readily admitted he was lobbied to do it by Dean Buntrock at the breakfast meeting. "Jay Hair [director of National Wildlife Federation] hosted the breakfast at which I was lobbied to do the very thing that we are doing," Reilly told Healey. In fact, Reilly volunteered that information to Healey. A later interview with Healey reveals that it was Reilly who brought up the subject of the breakfast meeting; Healey had known nothing about it. Reilly volunteered the information that he had been lobbied and it was he who selected the term "lobbied" to describe what occurred at the breakfast meeting; until Reilly spoke, Healey had not had a clue. Reilly offered the name of Dean Buntrock as the person who had lobbied him; Healey says he did not even know who Dean Buntrock was at the time. Healey has full notes from the Reilly interview. But Healey was never interviewed as part of the official EPA investigation.

When the official investigation finally got under way, Reilly's story had changed completely. First he told the investigator he "could not recall" being lobbied at breakfast about North Carolina by Dean Buntrock. Then he said that what he had told Healey was "wrong" because at breakfast that day Dean Buntrock had not favored attacking North Carolina's RCRA privileges as a way of handling the problem of state's shutting off interstate waste shipments. He told the investigator Dean Buntrock favored the CERCLA approach (the approach that would spell serious trouble for the waste industry). We have seen the black and white evidence showing that WMI's position at breakfast was to urge Reilly to attack North Carolina's RCRA privileges, not to take the CERCLA approach. It seems clear that in Reilly's revised story he is calling black white. Perhaps doing so in Washington is normal, but doing so in the course of a federal investigation is a felony.

After the two EPA officials, Kaufman and Sanjour, asked for an investigation on May 17, Inspector General Martin assigned investigator James Johnson to the case. Johnson interviewed many of the parties involved.

From Johnson's official reports, it is clear that, like Reilly, WMI officials made many statements to Johnson that flatly contradicted the WMI position in the "briefing paper" they gave Reilly at breakfast that day.

Item from Johnson's report on his interview with Dean Buntrock: "[Buntrock] had no recollection of any discussion of North Carolina. He related that his company has no business interests in North Carolina and it would not be a matter that he or his staff would want to discuss."

Item from Johnson's report on his interview with Jim Range, WMI's vice president for governmental affairs (i.e., their chief lobbyist): "WMI did not want the [North Carolina] hearing reopened...."

Item from Johnson's report on his interview with Jim Banks, WMI's No. 2 Washington lobbyist and author of the briefing paper: "Banks felt the decision to hold the [RCRA] hearing in North Carolina was the incorrect action...."

Given the contents of the briefing paper, and the freely-given published statements by Reilly himself that he was "lobbied" to reopen the hearing on North Carolina's law, it is difficult to avoid the conclusion that Reilly and the three WMI officials all lied to the EPA investigator, which is a felony. Further evidence of WMI's actual position on this issue is contained in a letter from C.W. Kitto, General Manager of Waste Management's Chem Waste subsidiary in Sulphur, Louisiana, to EPA's Region 4 administrator, dated May 11 (less than a month after Region 4 announced it was reopening the North Carolina case): "We applaud your recent decision to proceed with the hearing to examine the consistency of North Carolina's legislation with RCRA and to withdraw that state's [RCRA] program authorization if warranted."

In this report, we have merely scratched the surface of the inconsistencies revealed by Johnson's investigation. In fact a different EPA investigator named J. Richard Wagner has reviewed all available documents and has written a 21-page criticism of the Johnson investigation and has submitted it to Congressman John Dingell. It is a devastating critique.

Why did Johnson's investigation of this breakfast scandal not uncover and examine the discrepancies we have pointed out here and the many others pointed out by Richard Wagner? Basically, we believe, because the investigation was controlled by William Reilly's office from the start. The official memo to Johnson dated May 19, 1989, appointing him the investigating officer, says on page 1 that the investigative plan was "based on staff discussions with OA and IG." OA is the "Office of the Administrator" William Reilly. So there can be no doubt that Reilly himself helped direct the course of the investigation of his own alleged wrongdoings, those of his friend Jay Hair and those of Hair's unseemly associates at WMI. The EPA's own guidelines say that an independent agency should conduct such investigations. All the investigators in this case report to Mr. Reilly, so no independent inquiry has yet occurred.

Mr. Reilly himself made many inconsistent statements to the investigators who interviewed him twice, and these inconsistencies were never investigated or clarified. For example, he claimed not to even know that anyone from Waste Management would be at the breakfast; did he not see the hand-written note (see RHWN #156) from "Jay" to "Bill" asking him to meet for breakfast with "Dean Buntrock, Chairman/CEO, Waste Management, Inc."?

Reilly told investigators he believed his breakfast with Jay Hair was "social in nature, not professional" yet Reilly's staff prepared him with a 126-page briefing file. Does Reilly usually have thick briefing packages prepared for social meetings?

And what about Jay Hair's statements: "[Reilly] was not informed of the specific issues Hair wanted to discuss," says investigator Johnson's report. Did Hair forget the WASHINGTON POST article he attached to, and referred to in, his hand-written invitation to Reilly? (See RHWN #156.) And what about this from Johnson's report: "Hair does not feel any lobbying occurred," which contradicts Reilly's own characterization of the breakfast. In plain terms, it smells of coverup.

When will these matters be investigated impartially? We are sick to death of crooks in Washington, including those who call themselves environmentalists. The American people deserve an independent inquiry by a special prosecutor.

Hats off to Citizen's Clearinghouse for Hazardous Wastes (CCHW) in Arlington, VA, who has supplied us with over 100 pages of

official records in these matters.

--Peter Montague

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Descriptor terms: william reilly; epa; investigations; wmi; nc; cercla; rcra; coverups; malfeasance; misfeasance; inspector general; policies; enforcement; sc; al; nc; cercla; dean buntrock; jay hair; nwf; international waste trade;