

Rachel's Environment & Health News

#151 - EPA Chief William Reilly Accused Of Ethical Lapses And Criminal Conspiracy

October 16, 1989

Subordinates of William Reilly, head of U.S. Environmental Protection Agency (EPA), have formally requested that EPA's Inspector General investigate ethical misconduct, lying, and possible criminal violations by the EPA chief. Here's the background:

In late 1987 EPA initiated action to punish the State of North Carolina for a law NC legislators had passed requiring commercial waste processors to restrict their discharges into rivers. Specifically, North Carolina passed a law saying discharges into a river could not exceed 1/1000 of the total natural flow of water in the river.

This law was passed to protect drinking water, but also at least partly to discourage construction of a waste treatment plant that GSX Chemical Services was trying to build near Maxton, NC, on the Lumber River. Ronald Reagan's EPA viewed this as a "state's rights" (local control) precedent that could endanger the entire waste industry, and on November 17, 1987, EPA began formal action to force NC to revoke its law, or to lose the privilege of licensing waste facilities under the federal Resource Conservation and Recovery Act (RCRA). Since the RCRA statute specifically says states are allowed to establish standards stricter than those in the federal law, the legal basis for EPA's attack on NC was shaky from the start. EPA would almost certainly lose if the matter went to court.

EPA's attack on NC got a good deal of press and by March, 1988, EPA had backed off and decided to "study" the matter further. By June, 1988, an EPA task force recommended that EPA reverse itself and, instead, use a different law to try to force NC to allow the waste industry to grow as needed; the task force recommended the use of the "capacity assurance" (see RHW #142) sections of the Superfund law (also known as CERCLA) instead of threatening to take away the state's RCRA licensing privileges. The "capacity assurance" sections of Superfund allow the EPA to cut off Superfund money to states that fail to certify by October 17, 1989, that they have sufficient waste processing capacity within their state to handle wastes generated within their state.

In June, 1988, Lee Thomas (then head of EPA) agreed with his task force, that the RCRA action against NC should be abandoned and that such matters should be pursued via CERCLA "capacity planning." However, Thomas said the EPA's role in "capacity planning" wasn't yet sufficiently clear, so he set up a second task force to define the matter. That task force spent \$1.2 million on consultants and in December, 1988, issued the same conclusion that had been reached in June, 1988. So on Dec. 23, 1988, Lee Thomas issued a memo establishing EPA policy: CERCLA, not RCRA, will be EPA's official vehicle for forcing states to allow growth of the waste processing industry. North Carolina's right to issue RCRA permits would not be challenged.

This EPA policy never sat well with the waste hauling industry. A state can meet the "capacity planning" requirements of CERCLA in either of two ways: (a) license sufficient waste processing capacity; or (b) REQUIRE INDUSTRY TO PRODUCE LESS WASTE, SO PRESENT CAPACITY SUFFICES. This second alternative gives the waste industry the heebie jeebies. Less waste would mean smaller profits--or no profits--for waste processors. They definitely want EPA forcing states to license new waste processors--in short, the waste haulers strongly prefer the RCRA approach over the CERCLA approach.

Along comes a new administration in January, 1989; by February we have a new chief of EPA who comes into office carrying some heavy baggage in the form of friendships among the nation's environmentalists who regularly consort with leaders of the waste processing industry.

Reilly had only been in office a month when one of his friends, Jay Hair, director of the National Wildlife Federation (NWF) convinced Reilly to have breakfast with Dean Buntrock, president of Waste

Management, the nation's largest and least law-abiding waste hauler, and the nation's largest polluter (see RHW #115). Buntrock is on the board of directors of NWF; Waste Management is a big donor to NWF and it has also been a major donor to the Conservation Foundation, whose presidency Reilly left to come to EPA. Green for the greens.

March 16 the breakfast occurred and--to Reilly's surprise--Hair and Buntrock showed up trailing three other heavies from Waste Management: Walt Barber, Phil Rooney, and Jim Range. They came bearing "position papers," which Reilly received.

A month later, on April 19, without any public discussion or explanatory memos, William Reilly arbitrarily reversed the North Carolina policy that Lee Thomas had established Dec. 23, 1988. The proceeding to punish North Carolina, to take away their RCRA licensing privileges, will be re-opened. On April 21, 1989, EPA Region 6 Administrator Greer Tidwell publishes a notice in the FEDERAL REGISTER and poof!--there goes the carefully-crafted policy that Lee Thomas took six months (not to mention millions of dollars) putting together. William Reilly has handed Waste Management and their pals in the waste hauling industry a major plum.

Well, thanks to a free press, this all hits the fan in Washington. The press grabs the story and five environmental organizations come forward to say publicly that Mr. Reilly should cease this "assault on [NC's] hazardous waste program." They say this is "a grave misjudgment that will have significant political and resource ramifications for the [EPA]." (Basically, they mean that EPA doesn't have any staff to do the job itself if EPA takes away NC's RCRA permitting authority.) The environmentalists said Reilly had reversed "one of the few correct environmental decisions made by the Reagan administration." One of the five complaining environmentalists is Jay Hair of NWF.

Reilly is stung. Here's his breakfast arranger blasting him for the things they arranged at breakfast! Reilly tells Jon Healey, a reporter for the WINSTON-SALEM (NC) JOURNAL, he's surprised that Jay Hair is complaining about his policy flip-flop. "Jay Hair hosted the breakfast at which I was lobbied to do the very thing that we are doing," Reilly told Healey, who printed it in his paper April 21 (pgs. 11 and 16). Reilly specifically told Healey that it was Dean Buntrock who lobbied him. "Jay heard all this and, I thought, agreed with what we were doing," Reilly said. "That's news to me that he's got a problem with it," Reilly told Healey.

May 17, 1989, William Sanjour and Hugh Kaufman, EPA employees not known for timidity, sent a formal memo to the EPA's Inspector General, John Martin, asking him to investigate possible violations of EPA ethics codes by Reilly and Tidwell.

Significantly, Martin did not initiate an investigation immediately. Instead, he and two subordinates meet with William Reilly for nearly an hour on May 19 to discuss the charges; Martin then waited 41 days before opening a formal investigation on June 27. Martin then assigned one James Johnson to investigate. Johnson turned in a 5-page memo Aug. 23, 1989 saying, in summary, no one lobbied Reilly at breakfast that day in March; everyone he talked to denied any lobbying that day.

As a result of this superficial investigation, on September 28, 1989, Sanjour and Kaufman sent a second memo to Martin, asking that he excuse himself from the investigation because it looks as if his May 19 meeting with Reilly occurred for the purpose of "damage control" which would be a criminal violation. Further it looks as if all four principals in the matter (Reilly, Hair, Buntrock, Range, and perhaps others) who were interviewed by Johnson lied to cover up a wrongdoing and probably conspired to do so--a serious criminal violation. Significantly, Johnson did not interview reporter Healey who says he has verbatim notes from his interview with Reilly, which he will bring forward if subpoenaed. We'll keep you posted.

We have 26 pages of documentation for this story, including every memo mentioned. We will mail you the entire package for \$13.00.

--Peter Montague

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Descriptor terms: epa; william reilly; nc; gsx; rcra; cercla; lee thomas; waste disposal industry; jay hair; dean buntrock; nwf; wmi; william sanjour; hugh kaufman;