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October 4, 1983

MEMORANDUM FOR JAMES A. BAKER, III
CHIEF OF STAFF AND
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT: Candidacy Requirements

This will respond to your request for our views as to the Federal election law requirements applicable to the President upon the establishment of a re-election committee.

If the President authorizes the establishment of a re-election committee he becomes a "candidate" for purposes of Federal election laws when that committee exceeds \$5000 in either contributions or expenditures. 2 U.S.C. § 431(2). (As a practical matter this means the President will be a "candidate" on Day 1 of the establishment of an "authorized" re-election committee.) Within 15 days after becoming a "candidate" the President must designate (either through filing a Statement of Candidacy Form or a letter with the FEC) a political committee to serve as his principal campaign committee. 2 U.S.C. § 432(e) and 11 C.F.R. § 101.1(a). Within 10 days of this designation, the campaign committee must file with the FEC a statement of organization as a "principal campaign committee". 2 U.S.C. § 433(a). */

It should be noted that even though the President does not have to file anything with the FEC until 15 days after the establishment of his authorized re-election committee, we understand that the bank loans necessary for the immediate financing of the re-election committee will not be forthcoming unless the bank has received a copy of a signed statement of authorization from the President to the re-election committee. Hence, the President should execute some statement of authorization to the re-election committee on Day 1, but that statement need not be made public until 15 days later when it is filed with the FEC.

*/ Under Federal election laws a "political committee" must register with the FEC within 10 days of receiving contributions or making expenditures in excess of \$1000. 2 U.S.C. § 433, 11 C.F.R. § 102.1(d). Since the re-election committee will exist as a "political committee" before it is designated as a "principal campaign committee" it should register with the FEC within 10 days of its existence.

If the President does not authorize the establishment of a re-election committee, he would have at least 30 days after the committee had registered as a "political committee" with the FEC to respond to any "disavowal requests" from the FEC with respect to such committee. Since an unauthorized re-election committee would be required to register as a "political committee" with the FEC within 10 days of receiving contributions or making expenditures in excess of \$1000, the President could receive a "disavowal request" from the FEC anytime after the first 10 days of existence of an unauthorized re-election committee.

THE WHITE HOUSE

WASHINGTON

September 28, 1983

MEMORANDUM FOR DAVID R. GERGEN
ASSISTANT TO THE PRESIDENT
FOR COMMUNICATIONS

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Headliner/Byliner News Service Request

This will respond to your request as to whether it is appropriate for the President to respond to the question, "What do you believe will be the key issues of the 1984 campaign, and what positive points do you think your party should emphasize?", that has been posed to you by the Headliner/Byliner News Service. In its request to you, the Headliner/Byliner News Service stated that its copy deadline is October 1 and its distribution date to editors is October 13, 1983.

As you know, the President has not become a candidate for re-election nor has he publicly stated an intention to seek re-election. Although, arguably, the President could respond to the Headliner/Byliner News Service question as the leader of the Republican Party, it is obvious that this request is designed to provide a story on the President's decision to seek re-election to the clients of the service on the date that has been suggested as the formation day of his re-election committee. In my opinion, we should not provide responses to questions such as this until after the President has legally become a candidate for re-election, or until he has publicly stated his intention to seek re-election, whichever occurs earlier. Furthermore, you may wish to consider whether responses to such questions prior to the President's official "announcement" of his candidacy would undercut any speech he may make in connection with that announcement.

For these reasons, I recommend that you advise the Headliner/Byliner News Service that the President will not respond to its question at this time.

cc: James A. Baker, III
Edward J. Rollins

THE WHITE HOUSE
WASHINGTON

September 28, 1983

TO: JIM BAKER
FROM: FRED FIELDING



The attached is forwarded for your information. Portions relating to you specifically are highlighted and contained on the following pages:

- ° A-7
 - ° A-8 and A-9
 - ° C-1
 - ° H-1 and H-2
 - ° M-1
 - ° N-1
 - ° P-2
 - ° P-4
 - ° Page 7 of the typed "Working Chronology"
-



U.S. Department of Justice
Office of the Deputy Attorney General

September 27, 1983

TO: Richard A. Hauser
Deputy Counsel to the President

FROM: Timothy J. Finn ¹⁹⁷
Associate Deputy Attorney General

Attached are notes from John Daniel and other materials distributed at the hearing on EPA matters before Dingell's subcommittee this morning. As you will see, many of Daniel's notes relate to discussions involving White House staff.

Attachments

NOTES OF JOHN DANIEL
CONSISTING OF A-P PARTS

- A. Chronology entitled "Events Leading to Levitas Agreement" (11 pages)
- B. Chronology entitled "Events After Levitas Agreement" (6 pages)
- C. Undated notes beginning "go back to my chronology" (1 page)
- D. Notes of 12/21/82 conversation with the Administrator (1 page)
- E. Notes of 12/27/82 telephone conversation with Gerry Yamada (2 pages)
- F. Memorandum entitled "Meeting Regarding February 1 hearing on Contempt Citation" (2 pages)
- G. Notes of 1/4/83 conversation with Roger Allen Moore of Ropes and Gray law firm (1 page)
- H. Notes of 2/18/83 call between the Administrator and James Baker (2 pages)
- I. Notes of 2/23/83 talk with Roger Moore (1 page)
- J. Notes of conference call between Administrator, Craig Fuller and John Daniel (7 pages)
- K. Notes of 2/28/83 telephone conversation between Administrator, Richard Hauser and John Daniel (2 pages)
- L. Notes of 3/1/83, at 11:15 a.m., telephone conversation with Craig Fuller (1 page)
- M. Notes of 3/2/83, at 12:15 p.m., telephone conversation with Craig Fuller (2 pages)
- N. Notes of 3/2/83, at 1:35 p.m., telephone conversation with Craig Fuller (2 pages)
- O. Notes of 3/1/83, at 4:10 p.m., telephone conversation with Craig Fuller (2 pages)
- P. Notes of 3/3/83 meeting between Administrator, Assistant Attorney General Schmults and others (7 pages)

EVENTS LEADING TO LEONTAS AGREEMENT

Tuesday - Feb 1 - Judge Lewis holds hearing on U.S. v. House Law suit.
DoJ does not argue points raised by Administrators and
deficiency of subpoena or Administrator's lack of
authority by reason of withdrawal of CEECHA delegation
resulting from President's order.

Wed - Feb 2 - Anne visits Ed Meade to discuss travel situation.
~~Following~~ join discussion. AMG states non-concurrence
in DoJ oral arguments of preceding day; she notes that
DoJ more interested in arguing the Constitutional clause
than winning the case.

Thurs - Feb 3 - Judge Lewis dismisses the lawsuit.

ME Rathle and Dickins call Perry - DoJ not going to take
immediate appeal; DoJ going to try new, creative
approach to compromising; AG told them to negotiate;
if it doesn't get settled, then DoJ to appeal.

Perry told them they should not negotiate on the
document without first settling what House will
do to remove contempt citation and resolution.

Fri - Feb 4 - (Lila Lavelle asked to resign).

Sat - Feb 5 -

Sun - Feb 6 -

Mon - Feb 7 - (President removes Lavelle).

Tues - Feb 8 - Dickson called Perry and asked that Yamada come to DOJ to an "options" discussion. Perry asked to be a party to negotiating team. Dickson advises that it will be handled by Schmultz and Fielding because "this is the President's case".

Yamada went to DOJ to meet with Mary Walker, Ann Galis and others to discuss "options" that DOJ had developed. Walker there only 10 minutes, Galis conducts meeting.

Five options presented: ① turn over everything (which DAS would not accept); ② provide summaries of the documents; ③ provide documents under Committee Executive Session rules with confidentiality agreements; ④ return to court and ask for its supervision of review; ⑤ redacting or editing the documents before showing to Congress.

Yamada told them he didn't think much of the options, for Levitas would laugh at the ones DAS was willing to offer. Galis was to brief Dinkins and Dinkins to brief AG. Yamada pushed to have the U.S. Attorney to decide whether to prosecute AMG, arguing that the decision should be easy, basing the conclusion upon the defects in subpoena. This would have effect of declaring issue moot. Then we could await new action of 98th Congress, or ② go back to Levitas and negotiate. Galis said she would present these views to Dinkins.

Wed. Feb 9 - Washington Post reported that an offer to settle was made by DAS to Levitas. Yamada called Walker to complain that we had not been informed or involved and we had not given concurrence. Yamada stressed our continuing concern that AMG and her reputation be protected.

That evening, the President held a scheduled news conference during which he was questioned about EPA. He noted that negotiations were ongoing but said in effect: If there's any suggestion of wrongdoing we will not withhold documents from Congress.

Thurs - Feb 10 - At Dirksen request, Perry ~~went~~^{went} to DOJ to see her. She went over the five options. While she let him read them, she would not provide copy. After he took notes, she asked that he destroy the notes (which he did).

Perry insisted that contempt matter be taken care of first and at a minimum Levitas should obtain a resolution of whole House saying ANIG had complied with the subpoena and asking the U.S. Atty to return the referral to the House.

Friday - Feb 11 - DOJ was to go to House to negotiate but was cancelled (per newspaper accounts) because of snow.

Saturday - Feb 12 - DOJ (Fielding, Schmultz and Dirksen) negotiated on Hill with Levitas, Brand and Prohman. At no time during the day or weekend was Perry or EPA advised of what was discussed.

Sunday - Feb 13 -

Monday - Feb 14 -

Tuesday - Feb 15 - McHeath called Perry to apologize for Newsweek quotes about Anne. McHeath said he would not participate in negotiations, this would be up to Olson and Dinkins. (From our knowledge Olson never participated, rather it was left to Fielding, Schmultz and Dinkins).

Fielding Office
Fielding McHeath

In the evening Schmultz and Dinkins came to EPA to see AMG, John Daniel, and Perry. They described the "redaction" procedure which would permit the Committee to ^{have} redacted (edited) copies of the documents. AMG objected because no privilege was being preserved yet there would be the appearance that something was being hidden; large agency resources would be required to follow the process;

When we questioned Schmultz if new instructions would be issued by President, he said no. When we pointed out that the proposed agreements were inconsistent with the President's instructions, he testily replied that we were only "trying to make it difficult."

Perry asked twice for copies of proposals they were exchanged but this was denied. Schmultz mistakenly left copies of DOJ and House proposals which we review. They were worlds apart and both proposals were unacceptable.

Wed - Feb 16 -

Thursday - Feb 17 - AMG and JED met with Meese and Fielding and Deaver to discuss the negotiations. AMG stated her objections to the direction negotiations were going. She stressed that we should give up all the documents now, that the political problems created by the appearance of hiding something were too great. She stated that we had seen the drafts of DOJ and House last evening and found both unacceptable. She insisted that we be able to discuss with the President. A few testy words were exchanged and Meese made clear he didn't want this argued out before the President and that Fielding as White Counsel would determine the legal issues of the privilege matter.

AMG and JED met with the President (together with Baker, Meese, (Deaver for part), Fielding, and Fuller. AMG made pitch to President that this is no longer a legal or Constitutional issue, but a political one and that his interests were not well served by the appearance that we had something to hide. She agreed with his press conference statements on the 8th that where there are allegations of appearances of

8/

Wangdonky, then no document should be with Bell. He appeared to agree with A.M.G., but the Fielding stated that the agreement was going to be needed today and that we should await that to see if the documents should be released. The President decided that we should wait to see what agreement was needed today before doing something else.

(No agreement was needed on Thursday).

Friday - Feb-18 - In late afternoon, Steve Reifer (off of General Council) received call from Sam Galin saying that an agreement was needed and was to be signed. No details were given.

A.M.G. received call from Baker. She tells Baker that President not getting the full picture; "he's being poorly served"; "my judgment is that these bad advisors will continue for a year. The only way to stop them is to turn the documents over"; "I've got to live with the results", but "I can't live with either of the agreements they've got"; "He wants me to do a job, under either agreement that job won't be done well. The Soviets will continue"; "with you

9
promise me that the President will be told that it
will go on and on? " ; "I'll do what you ask me
to " .

→ See insert "A"

Late Friday evening while preparing to go to the CPAC
dinner, Dick Dorman called AMG to advise that
an agreement had been signed and was being announced
by Schmults and Levitas. A copy of the agreement
was delivered to AMG at the CPAC dinner.

Sat - Feb 19 - Perry learns of the agreement through newspaper. Later
in day Dorman called to advise of signing and
went over points of agreement.

JED got copy of agreement from AMG.

Sunday - Feb 20 - Wedding day.

JED gave copy of agreement to Roger All More at reception.

A-9

10/

Insert "A"

During afternoon, Dirksen (while at Justice Building) talked to Perry to say she was leaving the negotiations to go to Texas, but she would not tell Perry what was happening.

11/
On March 5, 1983, I questioned Perry about information he had received from Dinkins during the negotiations. He stated that on several occasions Dinkins discussed the five options, but she (~~was~~ anyone else at DoS) "never called to say what they were negotiating, what stage it was in, or to ask whether we agreed to anything." Everytime he would inquire about the details, he was told that it was "being handled by the White House - this ~~is~~ the President's case".

1/
EVENTS AFTER LEVITAS AGREEMENT

Mon - Feb 21 - AMG to Times Beach, Missouri

Tues - Feb 22 - AMG to Arizona

Wed - Feb 23 - AMG in California

Thurs - Feb 24 - AMG in California

AMG and JED speak to Fuller. AMG says she wants to meet with the President. Among other things AMG tells Fuller "This whole scandal will continue until documents turned over and I don't think the President is well served." "I didn't think things would improve with the Levitas agreement". "I think we ought to turn these God Damned documents over or we're going to bring this President to his knees."

Craig responded: "Personally, my heart goes out to you. And I don't like asking you to lie. I'll join with you on the documents question."

Later that evening AMG returned to Washington.

Friday - Feb 25 - AMG and JED met with the President (and Vice President Bush, Sen. Paul Laxalt, and Fuller.

AMG again stressed that stories wait go away until we turn over the documents. Nothing is left ~~in the~~ of executive privilege in the Lorton Agreement.

The President is not being well served by continuing to withhold the documents.

The President inquired as to what Bill (Smith) said about this. AMG responded that she had never had a chance to speak to him. The President then instructed Fuller to get Anne a meeting with the AG. Laxalt separately told the President that Anne was right.

Later that afternoon, Fuller called to say a meeting with Smith was scheduled for that evening.

AMG and JED went to AG's office where he was joined by Schmeltz, Dinkins, Houser, Fuller and another attorney. AG was unsympathetic to AMG's position and said that asserting executive privilege had nothing to do with her problem.

Later that night AMG went to Colorado.

Sat - Feb 26

Sun - Feb 27

Monday - Feb 28 - AMG and JED talked to Dick Hauer regarding instructions to be give employees subpoenaed to appear before Dingell. Hauer stated that pursuant to instructions from himself, Schmaltz and Deikins none of the redacted documents given to Levitas should be given to Dingell: "Let him get them from Levitas". Hauer didn't want to start a "new" procedure with Dingell. AMG said she was going to tell her people that any document given to Levitas should be given to Dingell unless instructed otherwise. Dick said he ~~felt~~ "feels uncomfortable".

Later Hauer called back to say he'd talk to Fielding and any document given to Levitas in redacted form could be given to Dingell. He also said: "We don't want anything going to Dingell that hasn't gone through the 'process'."

Tues - March 1 - Fuller called JED re quote in Washington Post.

Late that night it's reported that Chairman Rodino instructed his staff to begin impeachment proceedings against the AG for "obstructing a lawful Congressional investigation".

During day Dingell wrote to the President saying Lavelle perjured himself and that President should release documents.

~~Wed - March 2~~

At House Appropriations Hearings A.M.G. says misman surrounding EPA will not change unless all documents are produced for Congress.

~~Wed - March 2~~

Fuller called JED to discuss White House response to Dingell letter. Fuller to meet with Fielding to discuss the letter.

Wed. March 2 -

Fuller called JED to say WH would respond to Dingell letter along lines of providing ~~info~~ access. He thought we would be able to support it. He said they see a distinction between complete access and some process.

Craig Fuller called again to say that Speaker in his press briefing that day was going to say: Congress can have complete access to documents in conjunction with oversight of EPA. Congress is not to be denied access to any document. This, of course, extends the Livitar agreement to all committees of Congress.

Fuller noted that Speaker would down play the "process".

For AMG, I stated our non-concurrence. I said that we should respond that all documents would be turned over to Congress.

Fuller said White House position is that they'll get the documents, have possession of redacted documents and can see them all. He said he couldn't see how Dingell could object.

LED responded by asking why Dingell hadn't already accepted earlier offer? Fuller wanted Anne to "stick with this" through today; they can't go any further for now.

There - March 3 - AMG, JED, Perry, Yamada and Macbittle were visited by Schmeltz and Denton.

Schmeltz advised AMG that the Department of Justice was withdrawing from the Executive Privilege matter and would not be providing counsel to her or the President on privilege. Therefore, DOJ would not represent AMG in her appearance on Hill to answer subpoenas.

Schmeltz said that to his knowledge AMG was not under investigation.

Schmeltz said that DOJ's role had changed from representing the agency to now investigating it and that it would have to wall itself off from EPA.

AMG reminded them that they had earlier told her they could represent her even while she was under criminal contempt and now they say they can't.

~~Let~~

Go back to my Chronology -

Masi + Friedberg agreed Anne could announce any agreement.

When Schmeltz + Dinkels came over Anne told them she was to be allowed to announce.

When Dorman called on Friday, Anne asked him if he realized she was to announce. - He said no.

AAC to Balser (in his office)

I know you'll just think I'm a bitchy female
but I think we've got to turn over these
documents.

Tuesday
12/21/82
AM

Anne - UNEP Job - find nominee -
Milbauer -
Cahill -
Coleman Nee -
Jean Benish -

My job - give her further nominees
- advise the 2 Pauls, but they don't
have to interview out of loyalty

she talked to

- Rex Lee - Jim Watt had called him -
they are special friends.

she is

1 - Superachiever

2 - substantial compliance

A) actual stuff - 6 days to respond; 787,000 documents available;
B) believe, refused.

C) Congress legitimate over federal legislation + this didn't expire until 1985,
meanwhile everything has expired. ∴ simply a fishing expedition.

D) 787,000 documents conclusively available sufficient for Congress to review
program.

E) No. of oversight hearings, spurious assertion of jurisdiction of Comm.

3 - what was acted on by Subcommittee, not acted on by Comm, was not
acted on by the House. (I'm the originator of this argumentation).

4 - Danmeyer argumentation since resolution didn't cite a "willful" failure, it's
w/o merit.

Advise them had better assert ^{credible} every defense available, if they don't
Anne will bring an ethics action against the lot of them.

Henry Hamada -

382-4140

12/27/82

11-8²⁰ and w/DOS

Marshall, Tom Swanson,

Ken Wise - Stg atty to Paul -
(didn't meet w/Paul).

Wet thru changes

some agreed to

others they'll look into + report back

big issue - Anne's P. whole

need Anne to show signing -

plus there are 4th only she can raise.

this assumes capture USA doesn't include AMCs or Col.

EPH protest - everything else there is in her official

capacity, nothing else done is in her private

capacity - EPH is a persuasive - DOS adamant

Wise looked thru a revised 2nd draft, 3rd draft

to be given to them Tues.

DOS went to file w/ed - w/Anne, ^{as part of} but only with her

consensus.

There are no liability on her part since they want
prosecute her,

any lawsuit we
would be at
risk to at
the personal
level is Congress.
and that would
be a big thing.
anyway, Henry
Wise this is just
- to prove the
issue is alive.

We've tried to get them to raise some 2) constitutionality

of 5194, arguing that since she's acting under

direction of Pres, How can't we direct US atty
to prosecute,

M. Smith wanted us to read out revised 2nd draft to Anne,

Henry would then as indication of their position to
change little in 2nd draft).

Henry feels they would slip by one day the filing of complaint.

Henry wants to send a pro + con analysis of their litigation
Up to now DOS hasn't been willing to do this.

They haven't told us where they are headed.

They also haven't shared w/us any of their research.

Henry thinks they view our requests as annoyances.

Henry will ask again for a copy of Sam Quid Norton + Brief,
again today they didn't give it to us.

Marshall, Tom + Henry agree there's no more to do now until
we get the next draft of the complaint.

January 31, 1983

CONFIDENTIAL - SUBJECT TO PRIVELEGE-ATTORNEY-CLIENT CONVERSATION
OFFICE OF
THE ADMINISTRATOR

MEMORANDUM TO THE FILES

SUBJECT: Meeting regarding February 1 Hearing on Contempt
Citation

In attendance at today's meeting were Anne Gorsuch, Robert Perry, Michael Brown, John Daniel, Paul McGrath, and Carol Dinkin.

Mr. McGrath summarized the arguments he planned to make on February 1 to the Court in response to the House of Representatives motion to dismiss the Government's complaint. Mrs. Gorsuch stated her disagreement with the Department of Justice's refusal to argue in its pleadings and oral argument the matter of: (1) the deficiency of the Committee's subpoena and the Administrator's substantial compliance with the subpoena; and (2) the President's instructions to the Administrator having the effect of withdrawing the delegation of authority to her under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Superfund).

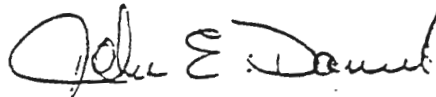
Mr. McGrath stated that with regard to the first matter he (in consultation with White House Counsel and Justice Department attorneys) made the decision not to pursue that line of argument because he felt that it was not a strong argument and that it would detract from other points being argued by the Department. As to the second matter, he stated that an institutional policy decision was made by White House Counsel, the Attorney General, the Deputy Attorney General, and himself (in consultation with Solicitor General Rex Lee) not to argue the delegation question because it would mean that if the government won then all subpoena in the future would be served on the President rather than on the President's appointees.

The Administrator made clear that she disagreed with each of these decisions and that she thought that the attorneys representing her in this matter should have asserted every possible defense to the House of Representative's action and that the failure to do so constitutes an ethical violation of the Department's responsibility to properly and completely represent the plaintiff's interests. Mr. McGrath demurred but without further explanation.

* * * * *

In another matter discussed at the meeting, Mr. McGrath and Miss Dinkins agreed with Mr. Perry that in the matter of the most recent Dingell investigation involving allegations of ethical misconduct by an unnamed EPA official, that Robert M. Perry as the Agency's ethics officer will investigate the matter completely and thereafter report to the Administrator on the findings. They agreed that no referral to the Justice Department need to be made at this time.

The Administrator instructed Mr. Perry to communicate with both Chairman Dingell and Chairman Scheuer that we have no evidence of any wrongdoing by any Agency official in either of the matters alleged by them and that if either of them have any evidence of wrongdoing than they have a responsibility as officers of the court to refer their information to proper officials who can pursue the matter through investigation or otherwise.



John E. Daniel
Chief of Staff

Logan Allen Moore 5 PM 1/4/83

Talked to Fred Fielders

his concern is the extent that
Annis position was a fund
it could be a personal defense
and ones could complain that
env. prot. funds are being used
for personal defense.

Fred said he's personally &
completely satisfied w/ statement
that Bob said "they've
completed the door we asked them to do",
which the Pres. can say as well.
Fred understands the response would
leave the door is open to re-
engage counsel.
Situation "under control?"

617-4329
(Home)



The Administrator
Washington, D.C. 20460

Jim Balsen - 2/18/83 11⁰⁰ AM.

Anne - "If he calls me I want do it."

- "My understanding of what happened yesterday."

- "I'm not laying down an ultimatum."

- "He's not getting the full picture."

- "I'll do whatever you tell me to do."

- "He's being poorly served."

- "I would like to speak to him."

- "You're telling me the President says no?"

- "No, no, I'll take your word."

- "He hired me to do a job and I can't do that job."

- "My judgment that these bad stories will continue for a year. The only way to stop them is to turn them (documents) over."

- "I'm not demanding anything; I'd just like to talk to him."

- "I've got to live w/ the results."

- "I can't live w/ either of the agreements they've got."

- "He wants me to do a job. Under either agreement that job won't be done well. The stonys will continue."

- "My judgment is not impaired. I'll do what you ask me to."

- "Will you promise me that the Pres will be told it will go on and on?"

11:10 AM

Logan Moore - 617/423-6100 2/23/83

1) ~~Logan~~ Marshal Moriarty & Perry discussed:

2) ⁶ think as a formal matter, L & G should end relationship
as of Jan 10, date of Judge's opinion

⑥ \$18,000 - order of magnitude or more less than what

⑦

2) wait terminate Logan efforts in Anne's behalf.
will do on friends & volunteers

3) He'll be available to attend w/Anne a meeting w/ Paul Hsault.

4) He offered to approach Ed Schmutz to convince them to let
EPA turn over all the documents.
He will put in call tomorrow morning..

Discussion w/ Gary + Anne 2/24/83 $\approx$ 10:30

A - Meet w/ President?

A - want precise time

A - don't guess, tell me.

C - between 2+3

C - its 2, for 30 minutes

C - Commission idea is on hold
not commenting otherwise.

C - SW area - Lee Thomas is set - want to give him time & see reaction
Legislation - Lee Ventardig is set to come over to assist - time comm. is open.

Adm - Al Zuck is acting - wants to retire in Summer.

IG - Charles Dempsey is acting - will get things started but ^{retire} HOD

ORD - Riordan

C - ^{individual} individuals designated as "acting", will send nomination forward in few weeks, these people will be candidates for the permanent positions.
prepared to go with this at noon.

C - Are we in agreement

A - Object to anyone in "acting" position
can't renew the bidding

A - What about Lee Thorne ?

C - We're open on him. Don't know how Congress will react to him.

A - What about Verstanley ?

C - He's leaving DOT. - Asked to commit to 60 days

A - I've objected to that + continue

A - Al Zuck - first heard his name this morning.
If he's retiring, can't see what good he could do.
Told you that Bradburn is willing to come over
permanently.

A - Re Charles Dempsey, heard his name for first
time this morning. Always said I'd work
w/whomever WH asked me to. But don't know
him. Also, would be here only temporarily.

A - I love you dearly. But this can't do F&A or
do any good - i.e. temporary
Looks like strike free, adds to misadventure
that something's wrong.

C - WH saying every which way, WH helping
to strengthen agency
Can't let another day go by w/o getting strong
managers over there.
We're up against the wall in needing to make
this announcement today.

C - Some advantage to having flexibility to making other choices over next 60 days.

C - Went over this w/ Pres last night & again this morning.

A - At fr Admin - I have commitment for Broadbent.

C - I view of some that he's not strong enough.
Want give sense that he's capable.
After Zuck there, maybe we can consider Broadbent.

Zuck has good credentials.

We'll sit down w/ Broadbent.

We can't go to Pres right now and ask him to appoint Broadbent.

A - Does Pres say this is all wasteful?

C - Yes.

We're holding off people who're saying
more ought to be done. Some wanted to call it a
"mgt strike force"

They know, they'll report to Anne, the Admin.

A - I don't question you, but still think this is a mistake.

I'm having a real problem with this
These are people I've never met.

a - This wait go away until we

c - you've got a group here agreeing we've got to be forthcoming w/ documents. Doesn't mean attys will step out of way each time. But will keep w/in reasonable bounds.

a - reasonable bounds of "exec privilege" have been exceeded

a - make whatever announcements you want to make.

c - w/ support for our Order?

a - How can I? How a good conscience can I?
advised against sending anyone on temporary basis

c - Best thing for you + her is to say this is to support your most group over there.
Otherwise will appear "shaky".

a - I've tried to put a good face on this whole mess against my better judgment.
May be better to cancel my appearances + let you make your announcements.

c - Will help in getting story out.
Anything you want us to say or do.

a - you're not doing anything I want you to say or do.

A - what is party line, what are you going to say.

C - we've been working w/ EPA Adm.

whole tone of this is that this is a Pres. Announcement.

Articles being taken to assist Adm + EPA in the
rest of agency.

These people are going over there to report to Anne.

A - This whole scandal will continue [until documents turned
over] and I don't think Pres well served.

C - we'll have reading later today

A - Didn't we think that things would improve w/ the Revitor
agreement.

C - yes, for a time.

Stalling in place is taking ^{it} is not the thing to do.

A - That's what I've been doing w/ respect to the documents

Horton, Novich came from you all

C - On document question, you've got allies here and
we continue going after

a- I've never lied and I don't like it.

I think we ought to turn these G.D. documents over or we're going to bring this Pres to his knees.

c- Personally, my heart goes out to you. And I don't like asking you to [lie].

a- I don't like to lie and

I love this Pres + he's being misadvised, etc not going to go away. Eroding confidence. He's being poorly served. Given the Dems an issue they'll ride forever.

c- I'll join w/you on the documents question.

a- we've done a good job w/o much help.
E.g. repeal SDWA. Thanks OMB.

Politically this is disastrous

I'll go do everything I'm supposed to do today.
will take no more balls.
I'll see the Pres. tomorrow.

c- Change meet w/Pres to 3³⁰ or 3⁴⁵

Anne only - later:

Working w/Pres to strengthen inst at EPA.

Resignat accepted from very loyal people

~~He~~ stepped aside because alleged role against ^{didn't want public} ~~don't want public~~

Pres + Anne anxious to reinvent public trust in
a program critical to Am people.

Dick Hansen - 12:40 pm - Monday 2/28/83.

A = Anne ; D = Dick ;

A - Employees supposed to Dingell, told to produce notes.
There were released in ~~that~~ redacted form to Levita.
Per instructions by Dick, Schmultz, Carl, etc
But ^{these} documents (redacted) shouldn't be given to Dingell.

D - that's correct

A - I'm not going to instruct employees, unless you so instruct me.

D - We can't give them to Dingell unless we work out an agreement

A - Are you so instructing me?

A - I feel strongly that whatever we give to one Congressman we must give to another

D - We wouldn't mind if Levita gives them to Dingell.

A - We're talking about my employees

D - What if Dingell wants unredacted form.

A - We'd tell him to agree to the Levita process.

D - I don't want to start a new procedure with Dingell.

- - -
A - I'm going to tell my people that any document given to Levitas should be given to Dingell, unless I'm instructed otherwise.

D - I feel uncomfortable

A - Well, give me some direction.

D - I checked Fred; if this document was given to Levitas, we can give the same redacted document to Dingell.

We don't want anything going to Dingell that hasn't gone thru the process.

1/

Craig Fuller - 11/15 + 3/1/83

When asked re David Linder - to do total regt at EPA?,
he said ~~not~~ no!

Would you rule out Linder^{role} at EPA-?

he said nothing ruled out -

they took that and added to others' comments.

2 pts - ^① not part of effort to search for new Adm. (+ know of no effort)
^② other speculation is very unfortunate

— Craig Fuller —

3/2/83

1/
~ 12:15 PM

Review bidding:

Baker, Fielding, Speaker, Craig
conferred on EPA

1) Haven't seen "hit list" -

they haven't reviewed transition
material.

Pres: "People in scientific should include
a broad range of views."

They did locate Chamber of Com-
lert - sent from Ben Ganes
to Anne in 1981. -
~~in~~ (Not acknowledging this).

2) Response to Dingell letter -
along lines of providing
access -

Craig thinks we'll be able
to support. - but says
there's distinction between
complete access +
some process

3) Re Commission - not
at this time - DOJ
investigating matter - Gurner
working at EPA.

Craig Walker: 2:1:35 PM 3/2/83

Speake to say at Press Conf. shortly

Pres was briefed by Balcerre re EPA

Pres directed

1) Craig have complete access, ^{to do} in control w/ oversight EPA, Craig not to be denied access to any documents. This, of course, extends beyond agreement to all Committees of Congress

2) ^{add to} DOJ meet w/ Desjell to seek any & all info re allegation of misstatement
He affirm direction to move forward investigating allegations at EPA.

note: downplaying process

He suggested our lawyers get together

I stated non-concurrence.

Craig - our position is they'll get the documents - have possession of redacted documents & can see all others.

GED - pointed out problems & perceptions.

Craig - can't see how Desjell can object.

GED - why didn't he accept earlier offer?

Craig - wants Anne to stick w/ him thru today.
they can't go any further for now.

DeVestein is backgrounding the Hill -

1/

Santa Barber, Co.

55-
2006

Craig Fuller

3/1/83 4¹⁰ P.M.

Discussed Dingell letter -

WH Counsel reviewing
WH not responding until
reviewed.

Dingell's letter called
for release of all documents

asked if Anne references
the Blue Ribbon Commission -

A WH concern - a commission +
sunshine law could create same
circus.

2/
Don't want to deviate from where
WH is now:

In response to question:

at present WH not about
to announce a Commission.

Craig + Fred together

@ Santa Barbara -

would like to talk to us
re Ditzell letter.

Ed Schultz, Carol Duthers, Pat Perry, Henry Gamoda, Lee Moskowitz
 AMB & JED 3/3/83 $\approx$ 7:00 PM.

Ed - make some adjustments on a result of our referral
 Feel what we, DOS, has to do is to
 Give primacy to investigative role & wall off legal & not for

aside - Fielder & falling to Levitas re the resolution.

Rest of Dept can't participate in WH Counsel negotiation
 w/ Hill Comm.

Can't investigate & ask comm's for info & jostle
 w/ comm's w/ documents.

Carol can't be privy to meetings on the investigations.
 That may present problem of who from DAS goes up
 with Adam & Perry to hearings. - Suggested
 Tim Ryan or some other adam dept lawyer

Can't fulfill that role anymore, would muddy

A - Are you telling me I'm not entitled to DAS
 rep before Hill Comm while fulfilling my role
 in answering subpoena?

Ed - yes

A - That's not what I was told when we got into
 this.

Ed - We'll have to talk to Fielding + Hansen

Ann - Am I under investigation?

Ed - No, not to my knowledge.

Ann - Then I should get representation
You can wall off another part of DoJ.

Bob - You can w/draw the Pres' order.

Ed - We can't do that.

Ann - you got me into this saying you could represent me
while under criminal contempt, now you say you can't

Ed - Our role has changed.

Ann - Put in writing, by noon tomorrow (Friday).

Ed - it's now in the hands of WH Counsel + Jim Baker
of the Congress.

Bob - Have you discussed this w/Pres.

Ed - No

Bob - I think you have moral obligation to reconnect
to Pres - to w/draw the order to Pres

Anne - This is bizarre, before you're saying that
a adm official acting under order of the Pres.
is not entitled to DOJ counsel.

Ed - I've told you we're not investigating you now.
But no guarantee for ever more.

Anne - Wall off more of the Dept.

Ed - you can't wall off ~~it~~ the AG or me.

Ed - The choice is someone else, but not DOJ

Perry - If there's a declination from DOJ, it will be
mighty awkward to have Adm represented by
private counsel.

Ed - We can't represent Agency + investigate it too.

Anne - It's going to look just terrible.

Ed - Enforcement sensitive documents will no longer
be reviewed by Ted Olson.

Perry - That changes the procedure!

Ed - Reason for wall limiting to L+NN is that it represents the Agency.

Anne - There won't be anymore esp sensitive since there won't be Olson sign off.

Henry - Is existing order still valid or is another one required.

Anne - I've been told repeatedly that existing Order still applies and that DAS was going to work it out w/ ~~Fielding~~ Drizell et al.

Ed - WH is assuming all responsibility for negotiating w/ Drizell

Henry - Under parent order, Pass reviewed index. Since he hasn't reviewed later documents, is his order still applicable?

Ed - Just ask WH; Baker or Fielding can ask

Bob Burford
came in here.

Bob Burford - You turkeys got her into this.

Ed objected

Anne - Let's close discussion. I want your direction in writing.

Ed - Our role has changed in last 10 days.
 DOD is now assuming posture of an enforcement agency.
 Question is whether other adm lawyers or outside counsel is to be used.

Henry - Please describe wall completely..

Anne - That means that Bob Perry and I want his private counsel to represent us to go before Congress to assert Exec. Privilege as directed by the Pres.

Anne - It will read like Snow + Bob Perry did something bad.

Ed - Fred asked Derigell to review documents like Luntan

Anne - Derigell want accepting that

Ed - you're probably right,

Anne -

Lee - you don't understand the politics of this.
 Revitao has asked Rodino to prepare impeachment of Pres + AG, but not the Adm.

There's strong political perception that DAs are hanging Anne out to dry. It's on Hll and not partisan.

Ed - we (DOS) are no longer involved in advising (even Pres) on exec privilege and whether documents are released or not.

Perry - AG has ^{obligation} to recommend to Pres. ~~to advise the Pres~~ that order should be lifted, DOS got us into this and now should recommend withdrawing.

Ed - I'll talk to the AG about it on Friday.

Perry - what's wrong w/ the special prosecutor.

Ed - Because Pres. asked DOS to do it.

James - Myra chose to wall off the branch that was our lawyer. That's dispicable (spelling?).

Ed - I ^{probably} don't recommend to ~~the~~ AG that the Pres. Order be withdrawn.

If Reagan capitulates to Cong., they'll just pick up an agency at this time. That's up to Feltman and others.

Perry - During civil litigation, when Adam wanted changes in the complaint, DOS rejected these saying institutional reasons prevented this. What will be DOS's role in any ensuing litigation, such as more civil litigation after the Derigall subpoena/contempt.

WORKING CHRONOLOGY FOR USE AT
SEPTEMBER 27, 1983 HEARING
RELATING TO THE WITHHOLDING OF EPA
DOCUMENTS AND CLAIMS OF
EXECUTIVE PRIVILEGE

DIRECTORY OF INDIVIDUALS
REFERENCED IN CHRONOLOGY

Department of Justice Officials
(As of March 1983)

Office of the Deputy Attorney General

EDWARD C. SCHMULTS - Deputy Attorney General

Office of Legal Counsel

THEODORE B. OLSON - Assistant Attorney General
LARRY L. SIMMS - Deputy Assistant Attorney General
LAUREL PYKE MALSON - Attorney

Office of Legislative Affairs

ROBERT A. McCONNELL - Assistant Attorney General

Civil Division

J. PAUL McGRATH - Assistant Attorney General

Land and Natural Resources

CAROL E. DINKINS - Assistant Attorney General
MARY WALKER - Deputy Assistant Attorney General
JAMES M. SPEARS - Special Assistant to the Assistant
Attorney General
STEPHEN D. RAMSEY - Chief, Environmental Enforcement Section

Environmental Protection Agency Officials
(As of March 1983)

Office of the Administrator

ANNE M. BURFORD - Administrator
JOHN E. DANIEL - Chief of Staff

Office of the Associate Administrator for Legal
and Enforcement Counsel

ROBERT M. PERRY - Associate Administrator
MICHAEL A. BROWN - Enforcement Counsel
RICHARD H. MAYS - Special Assistant to Enforcement Counsel
and Deputy General Counsel
GERALD H. YAMADA - Acting Deputy General Counsel

White House Officials
(As of March 1983)

Presidential Senior Staff

EDWIN MEESE III - Counsellor to the President
CRAIG FULLER - Assistant to the President for Cabinet Affairs
JAMES BAKER - Chief of Staff
MICHAEL K. DEEVER - Deputy Chief of Staff

Counsel to the President

FRED F. FIELDING - Counsel to the President
RICHARD A. HAUSER - Deputy Counsel to the President
SHERRIE M. COOKSEY - Assistant Counsel to the President

EVENTS

- Thursday, September 2, 1982 -- Meeting regarding the Seymour, Indiana hazardous waste site held in the conference room of the Assistant Attorney General for Lands and Natural Resources. Three DOJ officials, including a Deputy Assistant Attorney General, and eight EPA officials attend.
- Friday, September 17, 1982 -- Letter from Chairman Dingell to the EPA Administrator requesting documents relating to three hazardous waste sites.
- Wednesday, September 29, 1982 -- Meeting at DOJ between Dinkins, Simms, Ramsey, and Pyke-Malson of DOJ and Perry, Yamada, and Mays of EPA to discuss document requests received from the Dingell and Levitas Subcommittees.
- Friday, October 1, 1982 -- Meeting at DOJ between EPA and DOJ officials to discuss Congressional document requests.
- Letter from Robert Perry to Chairman Dingell in response to the September 17 letter transmitting some documents and withholding other "enforcement-sensitive information." The letter states that EPA officials would be willing to discuss release and confidential treatment of this information.
- Tuesday, October 5, 1982 -- Telephone call between EPA and DOJ officials regarding DOJ participation in the document review process.
- Wednesday, October 6, 1982 -- Meeting at EPA attended by three DOJ officials and four EPA officials regarding strategy in responding to document requests.
- Friday, October 8, 1982 -- Telephone conversations between EPA General Counsel and Subcommittee Chief Counsel regarding withheld documents.
- Letter from EPA General Counsel to Chairman Dingell stating that EPA had furnished withheld documents to DOJ per DOJ instructions.

Thursday, October 14, 1982

- EPA and DOJ officials make available some of the withheld documents for Subcommittee staff review at EPA's offices. cursory review was cut short when tentative agreement to deliver the documents to the Subcommittee was reached. Agreement provided for delivery of documents under confidentiality procedures including storage in the Subcommittee's safe, access limited to Members and designated staff, and maintenance of a sign-in sheet.

Tuesday, October 19, 1982

- Letter from DOJ to Chairman Dingell advising that purpose of the October 14 meeting was to permit Subcommittee staff "to verify the enforcement-sensitive nature" of the withheld documents. Advises that documents will be withheld.

Thursday, October 21, 1982

- Subcommittee subpoena duces tecum directs EPA Administrator to deliver the withheld documents on October 26, 1982.

Friday, October 22, 1982

- Meeting at DOJ attended by Olson, Dinkins, Ramsey, Simms and five others from DOJ; Hauser and Cooksey from the White House; Yamada, Mays and Brown of EPA. Subpoena and the claim of executive privilege were discussed.

Monday, October 25, 1982

- Olson sends memorandum to the President urging him to instruct the EPA Administrator to assert executive privilege and refuse to furnish withheld documents in response to the Subcommittee subpoena.

Tuesday, October 26, 1982

- In a press statement announcing postponement of the EPA Administrator's appearance in response to subpoena, Chairman Dingell states, in part: "the Subcommittee's inquiry involves specific allegations of misconduct and unethical behavior by an agency official."

Friday, October 29, 1982

- Letter to the Editor, printed in The Washington Post from Olson states: "Mr. Dingell's staff has never once hinted that these documents contain any evidence of misconduct or unethical behavior. Thus, these documents are not relevant to the new and completely unsubstantiated charge by Mr. Dingell"

Monday, November 22, 1982

- Levitas Subcommittee subpoena duces tecum is served on EPA Administrator.

Wednesday, November 24, 1982

- EPA provides Dingell Subcommittee with first itemized list of withheld documents subject to October 21 subpoena.

Sunday, November 28, 1982

- Meeting at EPA to prepare the Administrator for her December 1 appearance before the Levitas Subcommittee in response to subpoena. Representatives from EPA, DOJ, and the White House attend including Daniel, Perry and Yamada; Olson and Simms; and Hauser. Olson said Attorney General would recommend that the President assert executive privilege. The Administrator objected stating she wanted to turn over the documents.

Tuesday, November 30, 1982

- President Reagan sends memo to the EPA Administrator asserting executive privilege and directing her to refuse to deliver withheld documents.

Attorney General Smith letter to Chairman Dingell, sent at the direction of the President, sets out the basis for the President's claim of executive privilege. The letter states that the President's claim would "not be employed to shield documents which contain evidence of criminal or unethical conduct by agency officials from proper review. However, no claims have been advanced that this is the case with the files at issue here."

Thursday, December 2, 1982

- EPA Administrator appears before

Levitas Subcommittee and asserts privilege on behalf of the President. Olson accompanies her as her counsel.

Friday, December 3, 1982

- Chairman Dingell states in opening statement of Perry hearing:

"The Subcommittee's investigation also involves specific allegations of misconduct and unethical behavior by Agency officials. The Subcommittee staff believes it is highly likely that information relevant to the allegations of misconduct and unethical behavior by Federal employees is contained in the withheld documents."

Friday, December 10, 1982

- Perry letter to Chairman Dingell describes documents being withheld from the Subcommittee and lists all EPA and DOJ employees involved in discussions leading to the withholding of the documents. Letter also lists Olson, Simms, Walker, Ramsey, and Pyke-Malson of DOJ as having reviewed the documents in determining their enforcement sensitive nature.

Sunday, December 12, 1982

- Meeting in Administrator's office to prepare for her appearance before Subcommittee on December 14 in response to subpoena. Olson (at least) is present. Olson states that DOJ will back the Administrator "all the way" on executive privilege.

Tuesday, December 14, 1982

- Subcommittee receives letter from Perry, dated December 13, transmitting certain previously withheld documents "in the spirit of the Attorney General's statement to you ... that the Executive Branch responsibility for law enforcement materials would not be used to shield a document which contains evidence of criminal or unethical conduct by Agency officials from proper review."

Administrator appears before

Subcommittee with Olson as her counsel. Chairman Dingell in his opening statement states:

"The Subcommittee's investigation also involves specific allegations of misconduct and unethical behavior by certain Agency officials. The Subcommittee staff believes that information relevant to the allegations of misconduct and unethical behavior is contained in the withheld documents."

The Administrator asserts executive privilege on behalf of the President, and the Subcommittee adopts a resolution finding the Administrator in contempt.

- Wednesday, December 15, 1982 -- Perry transmits letter to Chairman Dingell with enclosure describing the documents identified at that time as withheld under the claim of executive privilege. Olson, Dinkins, Ramsey, and Walker of DOJ and Hauser of White House certify that they reviewed the documents and they meet the criteria set forth in the President's memorandum and the Attorney General's letter of November 30, 1982.
- Thursday, December 16, 1982 -- Meetings at EPA between DOJ officials and EPA Administrator and her senior staff to discuss draft complaint in U. S. v. House of Representatives.
- House of Representatives votes to hold EPA Administrator in contempt of Congress for failing to honor the subpoena of the Levitas Subcommittee of the House Public Works Committee.
- DOJ files lawsuit, U. S. v. House of Representatives seeking to enjoin action in furtherance of prosecution of EPA Administrator for contempt.
- Monday, December 27, 1982 -- Meeting between DOJ, EPA, and EPA outside counsel to discuss amendments to the complaint in U. S. v. House of Representatives.

Wednesday, December 29, 1982 -- Yamada letter to McGrath states:

"We are extremely disturbed and distressed to learn that, within but a few hours of your conversation with Mrs. Gorsuch and others, the Department of Justice decided to file later this evening the Amended Complaint ... We hope that you will reconsider filing the Amended Complaint tonight so that you will be able to consider the submission we will make tomorrow morning."

DOJ files Amended Complaint in U. S. v. House of Representatives.

Thursday, January 6, 1983 -- Perry letter to McGrath citing problems with DOJ's positions on various claims and defenses in the lawsuit.

Friday, January 14, 1983 -- Letter to EPA Administrator from Chairman Dingell seeking documents on five hazardous waste sites, including three that were subject to subpoena during the previous Congress.

Tuesday, January 25, 1983 -- Letter to EPA Administrator from Chairman Dingell requests staff interviews with twenty-five EPA employees regarding the Stringfellow site.

Wednesday, February 2, 1983 -- Interviews are scheduled to begin. Letter from Perry to Chairman Dingell imposes three unacceptable conditions "before any interviews are conducted."

Thursday, February 3, 1983 -- U. S. District Judge Smith dismisses U. S. v. House of Representatives.

Friday, February 4, 1983 -- Rita Lavelle is asked to resign by the Administrator.

Monday, February 7, 1983 -- President Reagan fires Rita Lavelle.

Tuesday, February 8, 1983 -- Letter from Chairman Dingell to EPA Administrator regarding interviews. It advises her that one of the agency's conditions on permitting

interviews violates Federal law and that the Subcommittee will "pursue more formal means and authorities to obtain the information vital to our inquiry."

- Wednesday, February 9, 1983 -- In a news conference, the President states that if there is any suggestion of wrongdoing, documents will not be withheld from Congress.
- Thursday, February 10, 1983 -- Subcommittee subpoena duces tecum directs EPA Administrator to deliver documents related to five hazardous waste sites to the Subcommittee on March 10, 1983.
- Tuesday, February 15, 1983 -- Deputy Attorney General Schmults briefs the EPA Administrator on the progress of negotiations with the Levitas Subcommittee.
- Thursday, February 17, 1983 -- Administrator and her chief of staff meet with Meese, Deaver and Fielding prior to meeting with President Reagan. She argues that continued withholding of documents has become a political liability.
- Administrator and her chief of staff meet with President Reagan, Fielding, Baker, Meese, Deaver, and Fuller. She argues for release of the withheld documents to the Congress.
- Friday, February 18, 1983 -- Perry telephones Assistant Attorney General Dinkins following a conversation with Yamada regarding the contents of certain documents withheld under a claim of executive privilege.
- The Memorandum of Agreement with Chairman Levitas is signed.
- Saturday, February 19, 1983 -- Perry telephones Fielding to discuss his concerns over the nature of certain withheld Stringfellow documents.
- Sunday, February 20, 1983 -- Perry, Yamada, and Mays review withheld documents at EPA. Perry later telephones Fielding and takes

the documents to Fielding's home.

Monday, February 21, 1983

- Perry tells Mays that his meeting the prior day with Fielding was "inconclusive."

Tuesday, February 22, 1983

- Subcommittee begins to take the sworn testimony of EPA employees in executive session pursuant to subpoena of January 25, 1983.

DOJ officials request access to the files of the lead EPA attorney assigned to the Seymour hazardous waste site.

Thursday, February 24, 1983

- Telephone conversation between Administrator, her chief of staff, and Craig Fuller. The Administrator requests another meeting with the President and states that the "reasonable bounds of executive privilege have been exceeded."

Friday, February 25, 1983

- 2:00 p.m. -- The Administrator directs the referral to Justice Department of notes of EPA attorneys relevant to allegations of the political manipulation of the Seymour and Stringfellow sites. The documents are hand carried to DOJ by Perry and Yamada and presented at a meeting with DOJ officials including Schmults, Dinkins, Ramsey, and Walker.

3:30 p.m. -- The Administrator and her chief of staff meet with President Reagan, Vice President Bush, Senator Laxalt, and Fuller to urge release of the documents.

6:00 p.m. -- The Administrator and chief of staff meet at DOJ with Attorney General Smith, Schmults, Olson, Simms, and Dinkins of DOJ and Hauser and Fuller of the White House.

Monday, February 28, 1983

- The Subcommittee continues to hear the testimony of subpoenaed EPA employees in executive session.

Tuesday, March 1, 1983

- Chairman Dingell transmits letter to

President Reagan, with copy to the Attorney General, citing "specific information of criminal conduct and other wrongdoing developed during our Stringfellow investigation..."

Thursday, March 3, 1983

- Meeting at EPA between the Administrator, chief of staff and other EPA officials and Schmults and Dinkins. Withdrawal of DOJ representation of EPA Administrator was discussed.

Friday, March 4, 1983

- Deputy Attorney General Schmults transmits letter to the Administrator formally withdrawing DOJ representation.

Wednesday, March 9, 1983

- EPA Administrator resigns.

An agreement is reached between Chairman Dingell, Ranking Minority Member Broyhill, and the White House providing for delivery of all withheld documents to the Subcommittee.

JOHN D. DINGELL, MICH., CHAIRMAN

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CHIEF COUNSEL/STAFF DIRECTOR

U.S. House of Representatives
Subcommittee on Oversight and Investigations
of the
Committee on Energy and Commerce
Washington, D.C. 20515

OPENING STATEMENT

OF THE

HONORABLE JOHN D. DINGELL

CHAIRMAN

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

TUESDAY, SEPTEMBER 27, 1983

TODAY, THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS WILL CONTINUE ITS INQUIRIES INTO THE WITHHOLDING OF SUPERFUND FILES AND THE ROLE OF THE OFFICE OF MANAGEMENT AND BUDGET IN AGENCY RULEMAKING. WE WILL RECEIVE TESTIMONY FROM FOUR FORMER AND PRESENT EMPLOYEES OF THE ENVIRONMENTAL PROTECTION AGENCY (EPA): MR. JOHN E. DANIEL, CHIEF OF STAFF UNDER EPA ADMINISTRATOR ANNE M. BURFORD; MR. GERALD H. YAMADA, DEPUTY GENERAL COUNSEL; MR. RICHARD H. MAYS, SENIOR ENFORCEMENT COUNSEL; AND MR. KIRK K. SNIFF, ASSOCIATE ENFORCEMENT COUNSEL FOR THE WASTE ENFORCEMENT DIVISION.

ON NOVEMBER 30, 1982, PRESIDENT REAGAN ASSERTED SWEEPING AND UNJUSTIFIED CLAIMS OF EXECUTIVE PRIVILEGE TO BAR CONGRESSIONAL REVIEW OF KEY EPA DOCUMENTS CONCERNING THE IMPLEMENTATION OF THE SUPERFUND ACT. THE ADMINISTRATION'S ASSERTION OF EXECUTIVE PRIVILEGE CONCERNING THESE SUPERFUND FILES CULMINATED IN THE FIRST CONTEMPT CITATION AGAINST THE HEAD OF AN EXECUTIVE AGENCY BY THE HOUSE OF REPRESENTATIVES.

THE DECISION TO WITHHOLD EPA FILES FROM THE CONGRESS PLACED MAJOR ROADBLOCKS IN THIS SUBCOMMITTEE'S EFFORT TO OVERSEE THE IMPLEMENTATION AND ENFORCEMENT OF OUR HAZARDOUS WASTE LAWS. THE ASSERTION OF THE CLAIM OF PRIVILEGE ALSO DELAYED SIGNIFICANTLY THIS SUBCOMMITTEE'S INVESTIGATION INTO CHARGES OF MISCONDUCT AND UNETHICAL BEHAVIOR BY EPA

-- OVER --

OFFICIALS. WE HAVE ESTABLISHED THAT DOCUMENTS WHICH WERE WITHHELD FROM THIS SUBCOMMITTEE FOR OVER FIVE MONTHS INCLUDED REFERENCE TO POLITICAL MANIPULATION IN THE ADMINISTRATION OF THE \$1.6 BILLION SUPERFUND.

ALTHOUGH THE WHITE HOUSE AND THIS SUBCOMMITTEE ULTIMATELY REACHED AN AGREEMENT ON MARCH 10, 1983 PROVIDING FOR THE RELEASE OF THE WITHHELD DOCUMENTS, IT IS IMPORTANT TO PROBE THE EVENTS SURROUNDING THE ASSERTION OF THE CLAIM OF PRIVILEGE BECAUSE OF THEIR HISTORICAL SIGNIFICANCE. THEREFORE, WE WILL RECEIVE TESTIMONY ABOUT THE ROLE OF JUSTICE DEPARTMENT, EPA, AND WHITE HOUSE OFFICIALS:

- IN REVIEWING THE WITHHELD DOCUMENTS;
- IN OFFERING ADVICE CONCERNING THE CLAIM OF EXECUTIVE PRIVILEGE; AND
- IN PROVIDING LEGAL REPRESENTATION TO THE EPA ADMINISTRATOR FOLLOWING HER CONTEMPT CITATION.

BASED ON OUR INVESTIGATION TO DATE, WE HAVE LEARNED THAT THE EPA ADMINISTRATOR CONSISTENTLY URGED THAT THE DISPUTED DOCUMENTS SHOULD BE RELEASED TO THE CONGRESS. HOWEVER, JUSTICE DEPARTMENT OFFICIALS PREVAILED ON THE PRESIDENT TO ASSERT THE CLAIM OF EXECUTIVE PRIVILEGE. BY DOING SO, THESE OFFICIALS PRECIPITATED AN UNNECESSARY CONSTITUTIONAL CONFRONTATION BY OVERRIDING THE VIEWS OF THE VERY AGENCY WHOSE DOCUMENTS WERE AT ISSUE.

AT TODAY'S HEARING, THE SUBCOMMITTEE ALSO WILL CONTINUE OUR REVIEW OF THE ROLE OF THE OFFICE OF MANAGEMENT AND BUDGET IN THE REGULATORY PROCESS. THE CLAIMED AUTHORITY OF THE OFFICE OF MANAGEMENT AND BUDGET IN THIS AREA IS DERIVED FROM PRESIDENT REAGAN'S "REGULATORY RELIEF" PROGRAM AND EXECUTIVE ORDER 12291. THE CHAIR HAS EXPRESSED THE VIEW IN THE PAST THAT THE EXECUTIVE ORDER ESTABLISHES THE OFFICE OF MANAGEMENT AND BUDGET AS A CENTRAL COORDINATING AGENCY WITH POWERS TO DISPLACE THE DISCRETIONARY AUTHORITY CONGRESS HAS GIVEN TO AGENCY DECISIONMAKERS.

I HAVE ALSO EXPRESSED CONCERN THAT OMB ACTS AS A CONDUIT FOR PROMOTING THE VIEWS OF INDUSTRY AFFECTED BY PROPOSED REGULATIONS THROUGH SECRET, UNDISCLOSED AND UNREVIEWABLE CONTACTS. MOREOVER, WE HAVE RECEIVED INFORMATION THAT THE OFFICE OF MANAGEMENT AND BUDGET HAS ATTEMPTED TO INFLUENCE AGENCY RULEMAKING ON PHILOSOPHICAL OR POLITICAL GROUNDS WITHOUT REGARD FOR THE COST AND, MORE IMPORTANTLY, THE BENEFITS OF REGULATIONS.

TODAY, WE WILL SEEK TO EXAMINE, THROUGH FORMER ADMINISTRATOR BURFORD'S CHIEF OF STAFF, THE APPLICATION OF THESE CHARGES TO THE OFFICE OF MANAGEMENT AND BUDGET'S REVIEW OF REGULATIONS PROPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY AND EPA'S RESPONSE TO THAT PROCESS.