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From “Mr. Clean” to the “Ice Queen”: The First Four EPA Administrators

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Abstract

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Throughout the 1960s, national support for the protection of the environment began to grow stronger, culminating in the first celebration of Earth Day on April 22, 1970. American citizens were not the only ones showing support for environmental protection at this time; the federal government began to take a heightened interest in increasing their role in environmental protection.

Congress voted in favor of Richard Nixon’s Reorganization Plan No. 3 on December 3, 1969. The plan was only one part of many different federal efforts to address the increase in environmental sentiment. This Reorganization Plan created the Environmental Protection Agency, which was designed to coordinate federal efforts for stronger environmental protection. One role that the president played in the EPA, was appointing the administrator of the agency. This thesis examines the tenures of the first four administrators of the EPA: William Ruckelshaus, Russell Train, Douglas Costle, and Anne Gorsuch.

The thesis examines the actions and ideologies of each of these administrators, in conjunction with national events of the 1970s and early 1980s. The 1970s, although a decade of environmental fervor, was a decade also defined by energy crises, environmental disasters, and economic downturn. Each of the EPA administrators approached the difficulties that their tenure faced in different ways. In particular, Ruckelshaus, Train, and Costle, approached their management of the agency in a practical and understanding manner, whereas Gorsuch approached her time as administrator as an ideologue who was unwilling to waver in her beliefs on federal environmental protection.

Using public opinion surveys, newspaper articles, memoirs, and congressional reports and hearings, this thesis outlines and compares the methods of each of these administrators. The project places the actions of the administrators in a context of national environmental sentiment, presidential influence, and national events, in order to educate the reader about the complexity that surrounded the first fourteen years of managing the EPA, and how each administrator took on the task.

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Introduction

The Environmental Protection Agency was founded in 1971. This thesis is the study of the EPA's first fourteen years and its first four administrators. It looks at the way in which public opinion on the environment and the economic circumstances and energy shortage of the country impacted the decisions that each of these administrators made. The project is the study of the circumstances surrounding the first fourteen years of the EPA, and how each of its administrators approached the management of the agency in a way that related to their ideologies, loyalties, and the national context of their tenure. Three of the four, William Ruckelshaus (R), Russell Train ®, and Douglas Costle (D), treated the agency as a bureaucratic tool to address the nation's growing environmental problem at the federal level. They approached the management of the agency in very similar ways, even though they came from different parties. The fourth, Anne Gorsuch (R), approached the job as a small government ideologue, committed to Reagan's small government program.

To start, though, context: Public opinion on the environment exhibited historically unrivaled strength towards the end of the decade, as indicated by the amount of effort that the general public put into organizing and participating in Earth Day and other demonstrations. The most visible event of the 60s' "Environmental Revolution," and the one that best demonstrates widespread concern, was the first celebration of Earth Day on April 22, 1970. It was around this time that President Richard Nixon, although having exhibited no previous concern for the environment, supported environmental protection measures such as the National Environmental Policy Act, and the creation of the EPA.

Chapter one of the project picks up in 1970, in that current state of national environmental excitement. The first part examines the political atmosphere leading up to and

influencing the creation of the EPA, and the tenure of William Ruckelshaus, who was its first administrator. In addition to describing the political way in which Nixon approached the creation of a Federal environmental program, the chapter examines the role that Ruckelshaus played in balancing the needs of the environment with the interests of industry. Taking the position during a time of tumultuous change in environmental policy, he had a difficult task ahead of him. With no previous figure to base his management of the agency on, Ruckelshaus molded his approach to running the agency off on his previous law and leadership experiences. The chapter explores how Ruckelshaus developed a balanced and fair approach in a time during which he faced pressure from many different sides of the environmental protection issue. Ruckelshaus was the first of the three administrators who managed the agency in a strictly bureaucratic way. In particular, this chapter delves into Ruckelshaus' implementation and enforcement of the Clean Air Act.

Chapter two takes us further into the 1970s, into the tenures of Russell Train and Douglas Costle. The first part of the chapter delves into the difficult situation that the EPA faced towards the beginning of Train's time as administrator; it looks at how the oil crisis of 1973 impacted American opinions on environmental protection, and how Train managed pressure from both the Nixon and Ford administrations to address the nation's energy problem. The second part of the chapter looks at the latter part of the 1970s, when Costle became administrator. While Costle was EPA administrator during Carter's "environmentally friendly" administration, pressures to address the nation's dwindling energy supply, and backlash from industry against environmental legislation, still remained. This chapter of the thesis examines how both Costle and Train, like Ruckelshaus before them, approached the EPA's management in a practical and understanding way, which first and foremost embodied the EPA's goal of federal environmental protection.

Chapter three studies the administration of Anne Gorsuch, and her attempts to reconcile her goal to fulfill Reagan's deregulation ideologies with addressing the nation's need for a strong federal hand in environmental protection. Gorsuch, like President Reagan, believed first and foremost in what they called a "new federalism." Their approach to federalism had the power of regulation and enforcement taken from the federal government, and restored to the states. In addition to staunchly standing by the president's idea of "new federalism," Gorsuch also promulgated his administration's program of economic stringency and regulatory reform. Gorsuch came to the EPA soon after Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act, in order to address the nation's hazardous waste problem. Balancing the president's ideals with the nation's need for proactive and assertive enforcement proved to be very difficult. Gorsuch's tenure as administrator was filled with scandal and disapproval, and ended with her resignation. The thesis concludes with the reinstatement of William Ruckelshaus, the restoration of strong federal regulation of the environment, and the slow recovery of the EPA.

A few themes run throughout the course of this thesis. To start, the project traces the ways in which the EPA's approach to the concept of federalism changed under each of its first four administrators. Federalism is an approach to governmental control and regulation which gives the federal government large amounts of power over state and local governments. The first three EPA administrators showed their dedication to this type of government, whereas the last showed her opposition to it. Additionally, the paper continually revisits the use of public opinion polls in order to show how sufficiently the decisions made by each of the four administrators reflected American support for the environment. Finally, the thesis places both of these factors in the economic and energy-supply circumstances of the United States throughout the 1970s and

early 1980s. The interplay of these three factors create a complex picture of the accomplishments of and decisions made by the EPA's first four administrators.

Chapter 1: The EPA's First Years

Although public sentiment for environmental protection had been growing more positive throughout the latter years of the 1960s, both Nixon and his opponent, Hubert Humphrey, essentially ignored the issue in campaigning for the 1968 election. Neither opposed the issue, but rather delegated it to secondary status as they focused primarily on issues such as the growing Civil Rights movement, and the popular unrest resulting from U.S. involvement in the Vietnam War.¹ The candidates' neglect of the environment's primary status as a national issue soon appeared to be mistaken; Nixon's first term as President witnessed the rise of public environmental sentiment, and its political response. Although it was clear that Nixon's administration made a concerted effort to address the growing concern with the appropriate response, some of its efforts succeeded, and others prompted heightened concern and harsh criticism. Overall, the political actions that Nixon took, and the federal appointments that he made, reflected the significance of the environmental issue at the start of the 1970s.

In the 1960s, public opinion surveys on the environment were still few and far between, but organizations such as the Opinion Research Corporation (ORC) and the National Wildlife Federation provided information on how support for both federal and personal support of the environment had increased throughout the latter half of the decade. In a question asked in 1965, the ORC approached citizens about increasing the cost that every family would have to pay in order to mitigate pollution. The question asked the sample pool if they would be willing to spend

¹ Flippen, *Nixon and the Environment*, 19.

an additional \$100 per year in taxes to have air pollution greatly reduced, and if not \$100, then what amount? While a very small portion of the polled population, about 21%, said that they would indeed be willing to increase annual taxes by \$100, the vast majority, 70%, claimed that they would rather pay nothing. When the ORC asked the same question about addressing water pollution, the poll yielded similar results; 23% of the sample population agreed to an \$100 increase in annual taxes, but 63% declared that they would pay nothing in order to address pollution. These results did not indicate particularly strong private support for environmental protection, but provide a baseline to which we can compare the support for environmental protection that would grow in the years to come.

In 1969, the National Wildlife Federation Survey asked a similar question about civilian willingness to personally support funding for the protection of the environment. This survey asked what amount every person surveyed would be willing to contribute to the effort. While the ORC surveys and the 1969 survey cannot be perfectly compared, they indicate a change in public sentiment from the time of the former to that of the latter. The 1969 survey results indicated a willingness amongst 51% of the population to pay a small amount of additional taxes, 18% to pay a moderate amount of additional taxes, and 4% to pay a large amount of additional taxes. The portion of the population unwilling to contribute any financial support to the cause fell to 9%. But starting in 1965, and in the five years following that, support for protection of the environment had become clear as the attention to the issue paid by polls grew, and the results of those polls reflected an increased anti-pollution and pro-environment sentiment growing throughout the latter half of the 1960s. Another poll featured in *Public Opinion Quarterly* exemplifies the growing trend toward environmental sentiment very clearly. Covering the time span from 1965 to 1970, this poll captured the increase in concern for pollution over those five

years. The question asked, “Compared with other parts of the country, do you think the problem of air/water pollution is very serious?” The data shows that in 1975, only 28% of a sample size of 2,128 thought the problem was serious. By 1966 that concerned group had grown to 48% of the sample size, and by 1970 had grown to 69%.

Nixon’s Approach to the Environment

Nixon took office in 1969, and through a series of political actions demonstrated the government’s response to that concern. Although Nixon’s environmental politics overall demonstrated the government’s interest in responding to public support for environmental protection, the concerns expressed by his critics over the course of the early 1970s indicated that not every move his administration made towards more aggressive environmental policy appeased every concerned party. In particular, Nixon and his environmental appointees faced their harshest criticism from both pro-environment members in Congress, and industry.

Over the course of 1969, as the public grew more interested in and demanding of government involvement in environmental protection, Nixon began the slow process of reforming old environmental programs and legislation, and creating a new innovative and efficient infrastructure. The Nixon administration’s legislation and infrastructure would be filled with more effective federal environmental regulation and the most appropriate personnel to oversee its implementation and enforcement.

Increased federal involvement in the environmental issue came after a Harris Poll conducted in 1967 had addressed the desires of citizens to increase federal involvement in pollution control. The poll asked each respondent if he or she thought that programs to curb pollution control should be expanded, maintained, or cut? 50% of respondents replied that

federal pollution control should be expanded, 31% maintained that the programs should be kept as is, and less than 20% were either in favor of cuts to the pollution program or not sure of their opinion.² In order to address the concerns demonstrated by the poll, Nixon and his administration began the process of restructuring the federal response to environmental protection.

The first step of many was to create the President's Council on Executive Organization, more commonly known as the Ash Council after its chair, Roy Ash. The administration charged this council with the responsibility of restructuring the entire executive branch, which included environmental policy and programs. Ash's council, beginning its study on November 20th, 1969, had come up with preliminary conclusions for the country's improved environmental program by December 23rd of the same year.

In its statement, the council tentatively proposed a plan to consolidate environmental quality programs into one agency, and in April of 1970 submitted its recommendations for the creation of an "Environmental Protection Administration." Included in their reasoning on both occasions was an emphasis on the environmental crisis, and the agreement that immediate action was necessary. Both documents from the Ash Council agreed that the environmental crisis had continued to worsen, that the best approach towards a reformed environmental policy would be a consolidation of agencies, and that this matter should take top priority for the administration.³ The most telling aspect of these recommendations is that the first priority in each was consideration of not only what would be the most efficient way to reorganize the government, but what was best for the *environment*. Nowhere in these initial reports would one find a mention

² Louis Harris & Associates. Harris Survey, Mar, 1967. USHARRIS.040367.R2A. Louis Harris & Associates. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Jan-29-2017.

³ Memorandum, President's Advisory Council on Executive Reorganization to the President, 28 April 1970, Folder PACEO: Environmental Programs (Jan. - March 1970): Box 23; White House Central Files: Staff Member and Office Files: President's Advisory Council on Executive Reorganization (Ash Council); Richard Nixon Presidential Library and Museum, Yorba Linda, CA.

of budget, or how much the restructuring would cost. And while these considerations came later, the fact remains that Nixon's Ash Council placed environmental quality above all other considerations.

Throughout the negotiations and studies that went on in order to find the best restructuring of the federal approach to environmental policy, Nixon continued to demonstrate his political expediency in environmental issues. Although when he took the oath of office he did not yet have a concrete environmental plan of action to present to the American people and Congress, he could still indicate that his administration's sincerity by seizing well-publicized opportunities to link his name with environmental protection. His first opportunity appeared with the passage of the National Environmental Protection Act, which Nixon signed into effect on January 1, 1970. NEPA was written mostly by Senator Henry Jackson (D. WA) and Representative John Dingell (D. MI).⁴ NEPA created a Council of Environmental Quality within the executive branch, whose primary responsibility was to advise the President on environmental issues, and additionally made it mandatory for all federal agencies to account for the environmental impact of any and all actions, in the form of an Environmental Impact Statement.⁵ In signing the act at the start of 1970, Nixon declared that over the past year he had become more and more convinced about the necessity for the 1970s to become an "environmental decade;" "It is literally now or never," he concluded.⁶

Although the pro-environment Democrats in the Senate and House were pleased with the president's support for steps towards increased government involvement in addressing

⁴ John Whitaker, *Striking a Balance*, (Washington: American Institute for Public Policy Research, 1976), 49.

⁵ E. W. Kenworthy, "The Nation: 'It's Now or Never' Says Nixon About Pollution," *New York Times*, January 4, 1970.
<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/118757787?accountid=10747>.

⁶ Ibid.

environmental issues, at the start of 1970 they still expressed concerns about the sincerity of Nixon's promises. Senators Edmund Muskie (D. ME) and Jackson each released statements that questioned the President's dedication to the environment, citing issues such as a history of his frugality in dedicating funds to the movement, (referring specifically to the fact that Nixon's budget had requested \$586 million less for waste treatment than Congress had allocated), and also their belief that creating his own White House Council on Environmental Policy was mere "window dressing."⁷

Another ploy that Nixon and his advisors utilized to give the appearance of the administration's commitment to the environment, was that of public speeches; in the president's State of the Union address, and again in his environmental statement to Congress on February 10th, 1970. The most telling aspect of the planning that went into Nixon's first State of the Union address, is the attention that he and his staff paid to environmental issues.

A December 1969 memo from John Whitaker, an important environmental aide, included a copy of a recent Gallup Poll which detailed willingness of taxpayers to pay for pollution clean-up. The memo was sent to Ray Price, President Nixon's speechwriter. Whitaker explicitly stated the need for Price to use the poll in writing both the President's State-of-the-Union address, and an environmental address in the months to come.⁸ The State of the Union of January 1970 did address the environment, per Whitaker's request; "The great question of the seventies is," Nixon prompted, "shall we surrender to our surroundings, or shall we make our peace with nature and begin to make reparations for the damage we have done to our air, to our land, and to our

⁷ E.W. Kenworthy, "Challenge By Democrats," *New York Times*, January 2, 1970.
<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/118937411?accountid=10747>.

⁸ Memorandum, John Whitaker to Chris DeMuth and Ray Price, 1 December, 1969, Folder Presidential Environmental Message/State [of the] Union [1969-70] [3 of 4, correspondence, October 1969--April 1970, II], Box 12, White House Central Files: Staff Member and Office Files: John Whitaker and Richard Fairbanks, Richard Nixon Presidential Library, Yorba Linda, California.

water?”⁹ As the first President to include remarks on the environment in a State of the Union address, Nixon indicated not only the importance of the issue to the nation, but also his administration’s commitment to its resolution.

The Environmental Protection Agency and William Ruckelshaus

Following the series of political moves that the Nixon administration made to show its support for environmental protection, was arguably Nixon’s greatest contribution to the history of environmental protection. On December 2, 1970, a reconstruction plan submitted by Nixon, and approved by Congress, formally created the nation’s EPA. A reaction of the federal government to the environmental concerns that had grown steadily throughout the 1960s, this plan provided for the creation of a federal agency which had the power and responsibility to dictate regulations, enforce them, and also educate both the public and industry on the ways that humans were recklessly abusing the nation’s environment. The plan named this agency the Environmental Protection Agency (EPA).¹⁰ The reconstruction plan which created the EPA addressed American desires for a stronger federal hand in environmental protection; reactions from government conservationists, pro-environment factions on Capitol Hill, and civilian environmentalists were strong. Russell Train, at this time the Chairman of the Council on Environmental Quality, remarked that the reorganization would launch, “a bold and very comprehensive attack on the problems of the environment.” Even Senator Muskie, the conservationist Democrat who had scorned Nixon’s early environmental efforts commented optimistically, “This reorganization is not the final answer...but it is the beginning.”¹¹

⁹ Richard Nixon, Speech, “State of the Union,” January 22, 1970. <https://millercenter.org/the-presidency/presidential-speeches/january-22-1970-state-union-address>.

¹⁰ House Committee on Government Operations, *Reorganization Plans Nos. 3 and 4 of 1970, Message of the President*, 91st Cong., 2nd sess., 1970, H. Doc. 366, serial 12896-2, 1-6.

¹¹ James M. Naughton "Nixon Proposes 2 New Agencies on Environment," *New York Times*, July 10, 1970.

The agency would be headed by William Ruckelshaus. Serving as the administrator of a new agency would have its challenges, Ruckelshaus having no predecessor after whom he could model his management style. Ruckelshaus emerged as a fair, but also forceful administrator, focused on providing an evenhanded approach to the implementation of environmental laws at the beginning of the 1970s. He did not let those who shirked pollution abatement duties get away with gross air and water pollution, and also showed a willingness to compromise when either polluters came to him with petitions and proposed compromises, or when he realized that the standards he was promulgating would have a severely negative impact on the economic state of the nation. His actions earned him both great popularity and great opposition. The diversity of the decisions that he made throughout his time as administrator indicated the complexity of environmental protection in the 1970s.

Ruckelshaus' resume, scrutinized carefully by both the Executive and Legislative branches during the confirmation process, indicated a man who cared about the environment and had built a career protecting it. Additional experiences that he possessed in the management realm also made him an attractive choice to construct and lead the developing agency. The then 38-year-old Ruckelshaus, a graduate from Princeton University and Harvard Law, had made a career in government starting as Deputy Attorney General for the State of Indiana. The majority of his environmental experience had come during his tenure as Deputy Attorney General when he was assigned specifically to the Indiana State Board of Health. During this assignment, he had represented the Indiana Stream Pollution Control Board in a program that aimed to end water pollution. His efforts resulted in many administrative and court orders levied against corporations, individuals, and municipalities to put an end to water pollution in Indiana. His

actions in this division also led him to help draft the Indiana Air Pollution Control Act, which was passed in 1963.¹²

In addition to describing the efforts that he made to help the environment during as time as Deputy Attorney General of Indiana, the resume examined by both the Executive and Legislative branches in their decisions highlighted Ruckelshaus' proficiency in leadership. As Deputy Attorney General of Indiana, he had overseen sixty-three other attorneys in the work that they were doing for the state, and later in his career as Assistant Attorney General of the United States, a position in which he had overseen the work of two-hundred different attorneys.¹³ This resume, and his experiences alone were exceptional in that they showed a man who had a skill set well suited for running the newly formed Environmental Protection Agency.

Ruckelshaus' testimony before Congress served to solidify his claims of expertise in management and positive record in environmental protection. When asked about his vision for the agency, he mentioned the importance of enforcement, in particular emphasizing how the agency should strive for a balance of firm and fair administration. He said that he would be sure to make federal enforcement evenhanded, but that the enforcement of the new air pollution laws recently set by Congress would be firm, and forceful. He additionally mentioned the important role that the agency would need to play in supporting state governments, which had, under Congress' most recent Clean Air legislation, been delegated the brunt of pollution abatement responsibilities.¹⁴

¹² Resume, William Doyle Ruckelshaus, Folder EPA--Administrative [1970], Box 65, White House Central Files: Staff Member and Office Files: John Whitaker and Richard Fairbanks, Richard Nixon Presidential Library, Yorba Linda, California.

¹³ Ibid.

¹⁴ Senate Committee on Public Works, *Nomination of William D. Ruckelshaus*, 91st Cong., 2nd sess., 1970, 6.

The EPA nominee's comments on the infantile agency's responsibilities referred to the Clean Air Act that Congress had recently passed, an act which responded to a clear desire for more stringent air pollution standards. Congress had utilized its legislative power to pass amendments to the Clean Air Act in 1970; these amendments demanded that the EPA exercise a more authoritarian enforcement role in environmental protection, in particular in enforcing stringent automobile exhaust qualifications that the act also required. Previous air quality legislation, particularly the 1967 Air Quality Act, had provided some aid to air quality protection and pollution abatement, but the shortcomings of that legislation included a failure to appoint the federal government as the controlling enforcement power.¹⁵ Additionally, the act allowed for the EPA to set nationwide standards for pollution, while also being responsible for their enforcement.¹⁶ The 1967 Act had previously given that power to individual states and local governments, but this allocation of power proved ineffective.¹⁷ In a Harris Survey conducted in February of 1970, a few months before the Clean Air Act Amendments were finalized, 31% of respondents declared that they thought their state government had done an "only fair" job in helping to control air pollution, and 32% responded that they thought their state government had done a "poor" job. Only 1% of respondents rated the state's air pollution prevention as "excellent," and only 19% declared that the state had done a "pretty good" job.¹⁸ The 1970 Clean Air Act, although keeping enforcement power in the states, would require the federal EPA to provide strong support and guidance.

¹⁵ Paul G. Rogers, EPA History: The Clean Air Act of 1970, *EPA Journal*, January/February 1990.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Louis Harris & Associates. Harris Survey, Feb, 1970. USHARRIS.70FEB.R15D. Louis Harris & Associates. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Feb-7-2017.

The Clean Air Act Amendments of 1970 gave the newly formed EPA a great deal of regulation and enforcement power over what citizens certainly saw as an important issue. Ruckelshaus' supportive position on the idea of strong federal involvement in standard setting and pollution control indicated that he was a suitable man to step into the position. In a 1970 *Chicago Tribune* article, he discussed the failure of the old Clean Air Act, explaining that the 1967 Act's failure stemmed from the responsibility that it gave to the states. He continued: "I became convinced that national standards are almost a necessity... Once the states feel like they have strong federal backing, they will become more aggressive."¹⁹ Ruckelshaus, as administrator, had the responsibility of determining how the federal government would approach its strengthened authority over environmental protection, in addition to setting revised standards.

Part of the job of creating strong federal backing for the state's implementation of environmental protection was setting air pollution standards. As the first administrator of the EPA, one of Ruckelshaus' duties was to set national standards for pollutants and industries, under which the states would exercise their powers to address pollution. The initial standards that Ruckelshaus set in 1971 demonstrated the strict side of his administrative methods. In April of 1971, he announced standards for six major pollutants that he admitted could only be met by "drastic" alterations in industrial practices and major changes in the commuting habits of urban dwellers. The standards would need to be met by 1975, set limits on the amount of sulphur oxides, particulates, carbon monoxide, hydrocarbons, nitrogen oxides, and photochemical oxidants that every state could have present in its air. In his announcement of the tough

¹⁹ Sehlstedt, Albert, Jr., "States Get Federal Clean Air Reminder: Environment Agency Has Power to Impose Regulations," *The Sun* (Maryland), February 21, 1971. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/541184647?accountid=10747>.

standards, Ruckelshaus elaborated that the effort to meet them would have to include input not only from the states themselves, but also from auto manufacturers and other industries.²⁰

In December of that year, Ruckelshaus continued his “tough on pollution” approach to setting national standards, and announced the Federal air pollution performance standards for new and modified plants in five categories: fossil-fueled steam generating plants, sulphuric and nitric acid manufacturing plants, Portland cement plants, and large incinerators. Industry’s reaction to the stringent standards for new plants was unsurprising; they balked in the face of even more regulations, maintaining that the tough standards would only increase capital expenditures and maintenance costs, and result in greater economic burden on the consumer. The electric power industry in particular opposed the EPA’s standards, contending that the technology necessary to make the standards a reality would introduce higher risk and elevated cost to the industry. Ruckelshaus disputed these claims with evidence that the economic burden on the consumer would only be increased by 9% at most, and that the technology necessary to implement the new standards was available at a reasonable cost.²¹

Additionally, one of the main stipulations of the 1970 Clean Air Act was for states to create and submit State Implementation Plans (SIP), outlining their action plan for meeting the national ambient air quality standards set. Within a few months of the passage of the act, Ruckelshaus had begun issuing persistent reminders to state governments, and assuring them that they would receive help from the EPA in the form of blueprints to assist with the writing of the

²⁰ E.W. Kenworthy, “Air Quality Rules For 6 Pollutants Given For Nation,” *New York Times*, May 1, 1971.

<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/119327059?accountid=10747>.

²¹ E. W. Kenworthy, "Strict Limits Set on Air Pollution in Five Industries," *New York Times*, December 22, 1971.

<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/119215908?accountid=10747>.

plans. It was his duty, he stated at a news conference, to issue clean air rules for areas that fail to write “sufficiently stringent standards.”²²

Ruckelshaus continued to approve state plans throughout 1972, and by October 28th, seventeen out of the fifty-five jurisdictions, the majority of which were states, had approved plans ready to implement.²³ Unfortunately, these improved plans now faced a roadblock that had first appeared at the end of May. The Sierra Club had sued Ruckelshaus for approving state plans that promulgated regulations that were contrary to the Clean Air Act. In particular, the Sierra Club was referring to the lack of a “significant deterioration” clause. The District Court of the District of Columbia ruling in *Sierra Club vs. Ruckelshaus* dictated that Ruckelshaus could not approve state plans that did not include a “significant deterioration” clause.²⁴ Although only a preliminary injunction, meaning that the declaration would have to stand up to an appeal process before the Court could enforce it, the decision made by Judge John H. Pratt, declared that any state plan submitted to the EPA for approval would not receive approval if it permitted, “significant deterioration,” of any portion of air that was “better” than the strictest federal guidelines.²⁵

Once sustained at the U.S. Court of Appeals in November, this ruling represented a success for environmentalists and pro-environment members of the government. However, Ruckelshaus was not completely on board with the decision; he had to keep the interests of every party, not only environmentalists, in mind as he approached this situation. In the aftermath of the

²² Victor Cohn Washington, “EPA Clears Most Clean Air Proposals,” *Washington Post*, June 1, 1971. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/148157809?accountid=10747>.

²³ “17 Implementation Plans are Approved,” *EPA Bulletin* (November 1971): 2.

²⁴ *Sierra Club v. Ruckelshaus*, 344 F. Supp. 253, (U.S. Dist. 1972).

²⁵ E.W. Kenworthy, “Air Standards: Should They Make Things Worse?” *New York Times*, June 4, 1972. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/119384037?accountid=10747>.

November environmental victory, the EPA asked for a review of the ruling by the Supreme Court.²⁶ Behind the EPA's request for review and its unwillingness to accept the new, stringent requirements dictated by the court, was the belief that the addition of the significant deterioration clause would hamper further economic development in any clean-air areas, even if the national standards remained unviolated.²⁷

On the tough side of his management style, came prosecution of polluters. Given his history prosecuting water polluters in Indiana in the early 1960s, it was no surprise that Ruckelshaus approached those corporations and polluters who did not abide by the ambient standards that the Clean Air Act required the EPA to set within ninety days of its passage. Even before he was officially named administrator of the EPA, Ruckelshaus described the role that he foresaw the administrator of the agency as having. "As far as I view the mission of this agency and my mission as its proposed administrator," Ruckelshaus answered the Chairman of the Committee of Public Works' inquiry, "it is to be as forceful as the laws that Congress has provided, and to present a firm support of enforcement behind the states."²⁸ In an oral interview given more than twenty years after the start of his first term as EPA administrator, Ruckelshaus reminisced about the relationship that he had shared with industry in the early 1970s. Ruckelshaus remarked, "Those who opposed us were treated in kind,"²⁹ referring to the firmness with which he handled companies who disobeyed the standards set under the Clean Air Act.

²⁶ Lawrence, John F., "Between Reality and Environmentalists: Clean Air Enforcers Caught in a Dilemma," *Los Angeles Times*, November 27, 1971.
<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/157193956?accountid=10747>.

²⁷"17 Implementation Plans are Approved," *EPA Bulletin* (November 1971): 2.

²⁸ Senate Committee on Public Works, *Nomination of William D. Ruckelshaus*, 6.

²⁹ William Ruckelshaus, interview by Michael Gorn, January 1993, transcript EPA Oral History Collection, National Service Center for Environmental Documents.
<https://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=40000BTR.txt>

One particular case that stands out, in part because of the publicity that it received, was that of Ford Motors refusing to comply with automobile requirements. According to Section 206 of the Clean Air Act Amendments, the provisions of which became slightly controversial when it came to the restrictions that they placed on motor vehicles, Ford Motors had shipped its 1972 model before it was certified. This section declared that the EPA had the responsibility of testing new prototypes and issuing a certification that they met the EPA's emission standards before they could be shipped out. If a manufacturer sold or shipped any non-certified vehicle, it would be liable and would potentially face an injunction by the court.³⁰ Ford claimed that they shipped the vehicles before they were certified because of the EPA's failure to, "Promulgate a new test procedure sufficiently in advance of certification." A federal court ruled the case in favor of the EPA, and required Ford to halt the production of their 1972 cars, and also fined it \$10,000.³¹

Ruckelshaus additionally showed his dedication to the Clean Air Act not only in direct lawsuits against corporations who ignored its provisions, but also in demonstrating his firm stance on the guidelines that the EPA outlined as a result of the 1970 amendments. The insight that the media shed on this event shows the intentionality of Ruckelshaus' efforts in May 1971 to deny requests by five automobile manufacturers for an extension of the 1975 standard deadlines. Under the provisions of the Clean Air Act, it was not unreasonable for these corporations to request such an extension, but the power of its approval fell on the administrator.³² Ruckelshaus initially denied the requests from the car manufacturers, claiming that the companies did not provide enough evidence to substantiate their attempts at achieving the 1975 emissions

³⁰ U.S. Environmental Protection Agency, *The First Two Years: A Review of EPA's Enforcement Program*, by John R. Quarles (Washington D.C., 1973): 23.

³¹ Mintz, Morton, "EPA Asks Action By Justice Department on Ford Testing," *Boston Globe*, September 21, 1972.

<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/506372864?accountid=10747>.

³² *Ibid.*

standards.³³ “On the record before me,” he testified in court, “I do not believe that it is in the public interest to grant these applications, where compliance with 1975 standards by application of present technology can probably be achieved, and where ample additional time is available to manufacturers to apply existing technology to 1975 vehicles.”

In between his first decision in 1972, when he denied the requests of the Big 4, to his change of heart in 1973, Ruckelshaus faced pressure not only from the auto companies and Federal Courts, but also from the oil industry and consumers to reconsider his decision. Auto manufacturers, supported by the oil industry, whose vested interest in the case stemmed from the costs of refining oil that would accompany more stringent fuel standards, had initiated a full blown attack on Ruckelshaus’ decision. They used television advertisements and newspaper articles to appeal to the “automobile-wedded” citizenry, whom Ruckelshaus’ decision would affect in the form of higher automobile price tags.³⁴ Environmentalists launched a counterattack with their own newspaper and television advertisements, imploring Ruckelshaus to, “hang tough,” against the pleas for a year’s delay.

A year later, under a court order, and also increasing pressure from industry and concerned citizens, he revisited and revised his decision, declaring that a suspension would actually be in the public’s best interest, and stated his concern that without a suspension, manufacturers would not have enough time to produce safe, satisfactory vehicles that satisfied the stringent standards.³⁵ While he did concede, Ruckelshaus did not give in to all of industry’s

³³ E.W. Kenworthy, “New Hearings Set on Car Emissions,” *New York Times*, February 11, 1973. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/119683843?accountid=10747>.

³⁴ Kenworthy, E. W. “A Breathing Space-For the Big Four,” *New York Times*, April 15, 1973. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/119640025?accountid=10747>.

³⁵ E.W. Kenworthy, “Auto Makers Win a Delay of Year on Exhaust Curbs,” *New York Times*, April 12, 1973.

demands. He approved the requested year-long delay, but Ruckelshaus also stuck the manufacturers with interim standards, at which they immediately recoiled. The compromise required all 1975 model cars sold within California to have catalytic mufflers (an addition that would eliminate the majority of carbon monoxide and hydrocarbon emissions by oxidizing them,)³⁶ and for the rest of the country required 1975 models to reach an 83% reduction in hydrocarbon and carbon monoxide emissions.³⁷

The stance that Ruckelshaus took on the 1975 automobile standards case received backlash from both sides of the issue, in addition to support from unexpected allies. Industrial interests, like the city of Detroit (which historically has relied upon the auto industry to stimulate their economy,) and manufacturers such as Chrysler, Ford, and General Motors, all maintained that, “The interim national standards are extremely severe, and may be beyond our present non-catalytic capability.” A representative of American Motors also commented that Ruckelshaus’ decision was “regrettable.”³⁸ Environmental interests, on the other hand, also did not approve of Ruckelshaus’ attempts at a compromise. Ralph Nader, a consumer advocate for green industry, expressed his disappointment with the agency’s decision: “Once again,” he said, “the concessionaires within the Nixon administration have sold out the environment to industry polluters.”³⁹

<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/119628678?accountid=10747>.

³⁶ “Converters Will Reduce Emissions,” *Los Angeles Times*, May 28, 1971.

<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/156718702?accountid=10747>.

³⁷ Nick Thimmesch, “Ruckelshaus's Clean-Air Decision Was Tough-Minded, Wise,” *The Sun (Maryland)*, April 17, 1973.

<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/541315630?accountid=10747>.

³⁸ Kenworthy, “Auto Makers Win a Delay of Year on Exhaust Curbs.”

³⁹ Thimmesch, “Ruckelshaus’ Clean-Air Decision.”

The most telling indication of the importance of this case comes from a quote by Senator Muskie, who one would expect to be opposed to Ruckelshaus' "middle of the road" decision. Muskie approved of the administrator's decision, contending that the decision was, "most nearly consistent with the act's objectives, considering the inadequate response of the industry to the act's challenge."⁴⁰ Muskie's acquiescence to Ruckelshaus' decision, shows that even the author and primary supporter of 1970s environmental policy saw that a compromise was necessary in this situation. Ruckelshaus' testimony before Muskie's Subcommittee on Air and Water Pollution, of the Committee on Public Works, detailed the complexity of the situation, and demonstrated the calculated and evenhanded approach that he had taken in solving the problem.

Ruckelshaus conceded to industry's side of the issue, in particular, expressing an understanding of the lack of complete availability of necessary technology to effectively meet the EPA's original 1975 standards. He cited Chrysler's opinion, which contended that even if the technology were available, production problems would be more than likely to occur, and that the converters would be more likely than not to fail under consumer use. Later, though, he related findings of Ford and General Motors that indicated a more optimistic view on attainment of catalytic converter technology; they testified that a limited introduction of catalytic converters would be possible in 1975 models.

Ruckelshaus' consideration of these testimonies led him to make his decision. In the hearing, he cited three options that he could have taken in addressing the problem. He could have completely denied the manufacturers' delay requests, he could have changed the emission standards, or he could have compromised between the first two options. In his own words, the third option entailed, "I can require use of catalysts on a substantial portion of 1975 vehicles,

⁴⁰ Kenworthy, "A Breathing Space for the Big Four."

thereby attempting to minimize initial production problems and their potential impact on the public, while requiring each manufacturer to gain production experience preliminary to use of catalysts on all conventional engines during the 1976 model year.”⁴¹ Ruckelshaus’ decision to choose the third option showed his willingness to compromise. His action here was an example of his dedication to balance between the environment and other national interests.

Nixon, although as a few of his advisors and cabinet members mentioned not an environmentalist himself, was president throughout a time of most turbulent change in the nation’s environmental policy. While both the public and the environment stood to benefit greatly from his administration’s actions, it was not the president’s personal opinions that made them happen. Rather, he delegated his environmental tasks carefully, and the actions of his close advisors, speech writers, and federal appointees created the political response. Nixon harnessed the growing environmental sentiment of the late 1960s and created the EPA, which was the first concerted federal effort at environmental protection.

Nixon is not the only one to be praised for his work in environmental protection in this era. Ruckelshaus, as this chapter as depicted, contributed a great deal of time, thought, and action, to the EPA’s first few years. Ruckelshaus, in balancing “tough on pollution” enforcement with pragmatism in the face of opposition, showed that an effective leader of the EPA does not have to be pro-environment, all the time. Ruckelshaus kicked off the agency’s infantile years with a bureaucratic management style, which embodied fairness and sensibility, and accommodated both the need for increased environmental protection and the needs of the opposition to that cause.

⁴¹ Subcommittee on Air and Water Pollution, *Decision of the Administrator Regarding Suspension of the 1975 Auto Emission Standards Part One*, 93rd Cong., 1st sess., 1973, 60.

Chapter 2: Environmental Protection During the Energy Crisis

In 1973, Russell Train, who had been serving as the Chairman of the Council on Environmental Quality for three years, took center stage as administrator of the EPA. Train came to the EPA while President Nixon remained in office; he arrived when Ruckelshaus moved to become head of the FBI during the Watergate Scandal. In his confirmation hearing before the Senate, he demonstrated his dedication to, and plans for, the EPA. “Under my administration,” he said, “EPA will continue a strong, vigorous, and fair enforcement policy.”⁴² He went on to describe the priorities that he would have as EPA administrator, which included defense and enforcement of the Clean Air Act. The agency’s work and accomplishments under his management showed that Train succeeded in maintaining a balance between the responsibility that the agency had to both the economic qualms energy worries of the country, and also to protecting the environment.

Train had begun his work in federal environmental policy years before his appointment as EPA administrator. His government career had started when in 1968, Nixon appointed Walter Hickel to the position of Secretary of the Interior. While Nixon had viewed Hickel as an obvious choice, seeing as his Alaskan gubernatorial history gave him experience with natural resources, environmentalists and other government officials questioned his pro development past. As governor, he had publicly displayed himself as an ardent supporter of oil extraction in Alaska’s North Slope, and also had investments in oil stock.⁴³ In order to appease conservationists and pro-environment members of Congress, Nixon had also appointed Train to the position of Undersecretary of the Interior. Train had served as an avid proponent of conservation, previously having served as founder and Vice President of the World Wildlife Fund, as founder of the

⁴² Senate Committee on Public Works, *Nomination of Russell E. Train*, 93rd Cong., 1st sess., 1973, 3.

⁴³ Flippen, *Nixon and the Environment*, 23.

African Wildlife Conservation Fund, and as President of the Conservation Fund. Train took the position after the Santa Barbara Crisis had abruptly alerted the administration to the need for greater environmental activism.⁴⁴ This crisis had occurred in early February of 1969; an oil well about six miles off the coast of Santa Barbara had started leaking, and the spill made its way inshore, brutally affecting residents of the area and wildlife alike.⁴⁵ The incident alerted citizens to the detrimental effects that careless use of the environment could have on their lives. Train addressed this concern with a dedication to conservation, nature, and wildlife which he brought with him to his tenure at the White House.

Months later, the Department of the Interior had accomplished many environmental victories and gained positive publicity, many of which news sources attributed to Train. While it was true that Hickel had been making an effort to appease conservationists, it was Train who took on handling all of the environmental issues, a task that made Train's position a "far larger role for an Undersecretary than at any time in the past eight years."⁴⁶ One particular project that Train took on, was that of opposition to a new jetport which had been scheduled to be built in The Everglades National Park in 1969. Under increasing concern that the jetport would potentially have detrimental environmental impacts, coming mostly from conservationists in Florida who feared the destruction of one of the only places of natural solitude their state had left, Train ordered a study to be conducted on the project. The study, conducted by Dr. Luna Leopold of the National Geological Survey, ended up proving that a "full-fledged commercial

⁴⁴ Flippen, *Nixon and the Environment*, 28.

⁴⁵ "Tons of Oil Hit California Coast" *Boston Globe*, February 6, 1969.
<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/366750346?accountid=10747>.

⁴⁶ Burt Schorr, "Surprising Secretary," *Wall Street Journal*, June 18, 1969.
<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/133400647?accountid=10747>.

airport would destroy the hydrology of the park.”⁴⁷ The situation was difficult, though, because it was not only jetport (sponsored by Dade County Port Authority) versus conservationist; both the Department of Transportation, and the Department of the Interior had a hand in the situation. The negotiations posed some challenges, and had to include representatives from all interested parties. Although no media reports mention explicitly that Train served as the representative from the Department of the Interior, a single sentence at the end of one *New York Times* article leads the observer to believe that even if he did not serve as the head of the inter-agency negotiations, he was certainly an important member. “There has not been a meeting of the group... since the completion of the Leopold Study. One is planned in the next 10 days, when Undersecretary Train returns from Alaska.”⁴⁸⁴⁹ This paragraph informed the *New York Times* reader that the negotiations, and therefore fate of the Everglades, was contingent upon the inclusion of Train in the inter-agency meeting. His contributions to the resolution of this particular issue indicated his importance to the Department of the Interior, and his dedication to environmental government service.

The Energy Crisis

The early 1970s was certainly a difficult time period for Nixon. Not only did he have to deal with the Watergate scandal, but also had to respond to public concern that had been brewing over the alleged energy crisis. In the spring and summer months of 1973, support for the

⁴⁷ Homer Bigart, “Naturalists Shudder as Officials Hail Everglades Jetport,” *New York Times*, August 11, 1969.

<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/118508884?accountid=10747>.

⁴⁸ *Ibid.*

⁴⁹ In addition to indicating the importance of Train’s presence at the Miami Jetport negotiations, this passage additionally mentions another issue that was taking up much of his time at the moment; that of the Alaska pipeline. Train, staunchly opposed to the Pipeline, had been engaged in a struggle with Secretary Hickel, who supported it. The mention of Train’s busy schedule, and his involvement in both cases indicates the important role that he played in promoting conservationism within the department.

environment began to wane as an approaching shortage of domestic energy, and an increased reliance on foreign oil supplies, became very apparent. Public opinion surveys demonstrated the changing sentiment on the issue of energy versus the environment throughout 1973 and 1974 with one question: Are you more on the side of adequate energy, or more on the side of protecting the environment? The Roper Center asked this question on multiple occasions, the first being in September of 1973, before the Yom Kippur war brought the issue to a boiling point. The responses to this survey placed energy and environmental protection in equal standing, with 37% of respondents declaring support for adequate energy, and 37% standing by environmental protection.⁵⁰

After the Yom Kippur War, in which the United States, under the direction of Secretary of State Henry Kissinger, supported Israel against attacks by Egypt and Syria, Arab countries used oil as their weapon for retaliation; on October 17th, the Organization of Petroleum Exporting Countries (OPEC), imposed a total oil embargo on the United States. The embargo lasted five months, and by the time it ended, had cost the United States about 500,000 jobs and a \$10 billion to \$20 billion loss in its GNP.⁵¹

When the Roper Center asked citizens again after this crisis how they felt about adequate energy versus environmental protection, the situation appeared as divided as ever; In January of 1974, the same survey question yielded a similarly divisive results, but now featured an increase in support for adequate energy supplies; 47% of respondents declared that they would be more in favor of ensuring that the nation had an adequate energy supply, while 34% were on the side of

⁵⁰ Roper Organization. Roper Report 73-9, Sep, 1973. USROPER.73-9.R20. Roper Organization. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Mar-22-2017.

⁵¹ Ian Bickerton and Carla Klausner, *A History of the Arab Israeli Conflict*, 6th ed., (Boston: Prentice Hall, 2010), 150.

protecting the environment.⁵² Another survey asked participants what the government should do about such a predicament. This question, asked in January of 1974, listed a number of suggestions for addressing the problem, one of which was, “Relax pollution standards so that fuels which don't meet these standards like coal, high sulfur oil, etc., can be used,” and then inquired as to whether or not the respondent would support this action. 54% of respondents declared that they would support this action by the government, and 32% of respondents declared that they would not.⁵³ Whichever way that the government decided to act on this issue, it would have been appeasing one side of the public, and disappointing the other; it just so happens that in this situation, they would appease more than disappoint if they had decided to promote and pursue “pro-energy” policies.

Russell Train: Defender of the Environment

It was around this time that Train became administrator of the EPA. Nixon, at this time, seeing the potential for political gain with growing public support for pro-energy policies, began to promote them. Although this move risked backlash from environmental agencies and the environmental movement as a whole, it proved to appeal to a greater portion of the American people than the alternative, pro-environment policies would have. In January of 1974, Nixon presented his plan to approach the energy crisis in a speech to Congress. In reference to his proposed Special Energy Act, Nixon declared “The principal purposes of this legislation are to grant the executive branch authority...to modify certain Clean Air Act requirements.”⁵⁴ The

⁵² Roper Organization. Roper Report 74-2, Jan, 1974. USROPER.74-2.R06. Roper Organization. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Mar-22-2017.

⁵³ Roper Organization. Roper Report 74-1, Dec, 1973. USROPER.74-1.R19N. Roper Organization. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Mar-22-2017.

⁵⁴ “Excerpts From the President’s Message to Congress on Energy,” *New York Times*, January 24, 1974. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/424041417?accountid=10747>.

ability to modify Clean Air Act requirements, would have given the administration the power to ease environmental standards that industry had been facing, and that they claimed had been making energy production difficult in a time of need.

Revisions to the Clean Air Act was also included in the president's recommendations: "a set of amendments to your environmental legislation that would provide the flexibility necessary to acquire and use our fuel resources most efficiently in times of shortage."⁵⁵ Referring to the Clean Air Act, amendments of which would be opposed by the EPA and other pro-environment members of Congress, Nixon's proposal to amend the Clean Air Act indicated his political decision to increase the nation's energy supply at the possible expense of the environment. Nixon, along with the Federal Energy Office, and the Office of Management and Budget, put together a package of thirteen amendments to the Clean Air Act. The amendments included stipulations for a two-year extension of automobile emissions standards deadline, for authorization of tall smokestacks as a way of meeting ambient air standards (the tall smokestacks would disperse the pollution, rather than controlling it), for the EPA to take into account economic and social effects of pollution control, and for the exemption of all energy-related activities from being held accountable for Environmental Impact Statements mandated by the National Environmental Policy Act.⁵⁶ Train expressed his anger at these proposals.

The press publicized Train's position on the amendments with a number of headline articles which detailed the controversy between the White House and the EPA. In a special to the *New York Times* entitled, "White House Challenged By Environmental Chief," the writer reported that Train had "held his ground firmly against several of the amendments desired by the Office of Management and Budget, the Federal Energy Office, and the White House Domestic

⁵⁵ Ibid.

⁵⁶ Russell Train, *Politics, Pollution, and Pandas: An Environmental Memoir*, (Washington: Island Press, 2003).

Council.” Train remarked, “I want it known that I am strongly opposed to these proposals, and I am going to fight against them to the last wire, because I don’t think they are necessary and I do think they would do substantial harm.”⁵⁷ Train’s statement of defiance indicated that he remained convinced that environmental support was strong, and that he did not trust industry’s assessment of the problem.

Train held his ground against not only the White House, but also members of Congress who opposed him. Another event that demonstrated the opposition and the support that Train faced from within Congress occurred shortly afterwards. At the end of March 1974, Senator William Scott (R. VA) burst out at Train at the White House breakfast table, telling him that, in light of his position on the Clean Air Act Amendments, he might as well quit. “Anyone who will not support the administration on this ought to quit, and I mean you!”⁵⁸ William Simon, Nixon’s Secretary of the Treasury, who also staunchly opposed the EPA’s opposition to the White House’s Clean Air Act Amendments, supported Scott’s position. Simon, who was the recently appointed head of the Federal Energy Administration, had told a Senate committee in May of 1973, that there would only be one cure for U.S. fuel shortages: “power to create a barrel of oil or gasoline.”⁵⁹

Simon, who as the head of the FEA was known as the “Energy Czar,” furthered his pro-energy viewpoint in the Clean Air Act Amendment controversy of early 1974. Simon testified to a House subcommittee on the EPA’s proposed restrictive approach to relaxing environmental

⁵⁷ E.W. Kenworthy, “White House Challenged By Environmental Chief,” *New York Times*, March 11, 1974.

<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/120095062?accountid=10747>.

⁵⁸ Rowland Evans, and Robert Novak, “Russell Remains on Track,” *Washington Post*, March 31, 1974.

<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/146187097?accountid=10747>.

⁵⁹ “Nixon’s Decisive New Energy Czar,” *Time* 102, no. 24 (December 10, 1973): 59.

standards in order to promote coal use. Train on the other hand proposed that industry would be permitted to switch to coal only if they fitted scrubbers, which would bring a coal burning plants into compliance with Clean Air Act Standards. Simon rebutted the EPA's proposal by saying that such a costly addition to the utilities conversion to coal would not encourage the expanded production, and use, of it. Simon stated his support for the Clean Air Act Amendments that the administration had proposed in March, which would have allowed the EPA to permit long-term variances for utilities using coal.⁶⁰ Train managed to maintain his loyalty to the agency's original mission by taking an assertively negative stance on the White House's approach to energy policy following the oil crisis.

The public statements that Train made opposing the administration's stance on the Clean Air Act Amendments demonstrated his pro-environment opinion on the matter, but his hearing before Congress on the administration's proposed bill took a much more diplomatic approach. Train testified that he supported some of the amendments, but not all. The amendments that eventually made it to Congress were a compromise between the EPA and the White House and its budget and energy offices. Train's acquiescence showed that, while he would go to great lengths to uphold his and his agency's conservationist values, he understood that difficult times and complex situations sometimes warrant compromise.

Of the stipulations of S. 3287, the administration's suggestions for revision of the Clean Air Act presented to Congress in March of 1974, and H.R. 14368, its companion bill, Train supported ones such as an extension of auto emissions standards by two years, support for companies that wished to convert their industrial operations from relying on oil to relying on coal, and also one-year exemptions for those companies that wished to bypass the Environmental

⁶⁰ "Simon Wants EPA to Soften Policy on Converting to Coal," *Los Angeles Times*, April 10 1974. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/157321203?accountid=10747>.

Impact Statements (EIS) required by the 1969 NEPA. Train mentioned in the transmittal letter that these amendments had been analyzed and discussed intensively throughout the Executive Branch, and that he therefore supported their enactment. He continued, though, that there were other amendments included in the administration's final presentation to Congress that he did not agree with, in particular, the proposals that pertained to "intermittent control systems," and "significant deterioration."⁶¹ Although Train had "stoutly opposed," these two additional clauses, he allowed the administration to include them, not in acquiescence to their inclusion in the final bill, but rather in order to defend his position on them in front of Congress.⁶²

While the administration's proposal, in a very political move by Nixon, reflected public fears about energy shortage and independence, it was at this point that Train perhaps made a conscious decision to disregard the White House's approach to alleviating the energy crisis. In one December 1973 *New York Times* article, the writer quoted Train warning the public that an, "environmental sellout," in order to address the energy crisis would not only be a futile attempt to ease the crisis, but would also create a danger to public health.⁶³

Although Train did face opposition from both the White House, and pro-energy members of Congress, he was not lacking for support from others. For example, when Train brought the administration's final proposal to Congress, Senator Edmund Muskie, who had been one of the pro-environment authors of the 1970 Clean Air Amendments, remarked that he was relieved by the proposals that Train and the White House had compromised to create; Muskie said that, "the

⁶¹ Environment and Natural Resources Policy Division, *Legislative History of the Energy Supply and Environmental Coordination Act of 1974, Vol 1*, 94th Cong., 2nd sess., Statement of Honorable Russell E. Train (Washington, DC, 529-531).

⁶² E. W. Kenworthy, "Nixon Men Compromise on Amending Clean Air Act," *New York Times*, March 23, 1974, <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/120163207?accountid=10747>

⁶³ "Head of EPA Warns on a 'Sellout': Addresses Group," *New York Times*, December 19, 1973.

proposals do not do the damage to the law that some in the administration would have proposed,” and that it was Train who deserved the credit for blocking some of the less-environmentally friendly stipulations.⁶⁴

Nixon resigned on August 8, 1974. Taking his place was Gerald Ford, who arrived in a time of growing economic anxiety. Therefore, Ford’s approach to environmental protection laws and policies was one that took economic impact into account. When Ford took office in 1974, he stumbled into a situation in which support for energy and the economy, and support for the environment, were split; environmental protection was as complicated as ever.

Public opinion surveys from the end of the Nixon era, and the beginning of Ford’s term, demonstrated the divided nature of opinions on the environment. To start, fear for the state of the economy was quite high; In a December 1974 Harris Survey, 80% of respondents declared that they thought the country was in a recession.⁶⁵ While the public clearly demonstrated a fear for the state of the economy, though, they also indicated that they did not wish for an environmental trade-off to fix it; in a November 1974 Harris Survey, which had asked respondents if they would support an easing of Clean Air Act restrictions if that meant alleviation of the recession, 46% of respondents had opposed the measure. 39% of respondents had favored the measure, and 15% had answered “unsure.”⁶⁶ In addition, fear about the energy crisis that had begun earlier in the decade still occupied many citizens’ attention. A Roper survey conducted in December 1974 asked its respondents if they were more on the side of adequate energy or environmental protection, and, as in 1973, the responses indicated that American citizens had differing opinions

⁶⁴ Kenworthy, “Nixon Men Compromise on Amending the Clean Air Act.”

⁶⁵ Louis Harris & Associates. Harris Survey, Dec, 1974. USHARRIS.010275.R1. Louis Harris & Associates. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Feb-21-2017.

⁶⁶ Louis Harris & Associates. Harris Survey, Nov, 1974. USHARRIS.122374.R1P. Louis Harris & Associates. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Feb-21-2017.

on what to do about the connection between the energy crisis and the environment; 41% of respondents answered that they supported adequate energy, and 39% stated that they were more on the side of environmental protection.⁶⁷ In 1974, the “right” course of action to take in addressing the energy and economic crises was difficult for the White House and the EPA to discern. The incoherence of the American citizens’ responses to the above surveys indicated very clearly the difficult situation that the president stepped into. In an ideal world, American politicians would have been able to completely balance the needs of the two issues. However, Ford and Train did the best they could, with the complex situation they had.

One issue in particular that presented a complex trade-off between energy supply and the environment in the mid-1970s was that of strip-mining for coal. Strip-mining is a method of extracting coal from the ground by removing the soil, rock, or land overlying the deposit, in order to more easily access the desired mineral. Because the energy crisis had the nation feeling anxious about domestic energy resources, both the Nixon and Ford administrations had begun to compose legislation that would allow for easier access to coal. Strip, or surface-mining, had been growing as one of the nation’s top methods of accessing coal. However, surface-mining has many dire effects on the environment. Nixon had supported the movement against the environmental effects of surface mining with his proposed 1971, “Mined Area Protection Act,” which would have created federal guidelines for states to regulate unseemly environmental effects of strip mining. Train, who at the time still held his position as an environmental advisor in the Council of Environmental Quality, remembers that he had supported this measure, but that interest from the White House had gradually faded, and the legislation had never materialized.⁶⁸

⁶⁷ Roper Organization. Roper Report 74-9, Sep, 1974. USROPER.74-9.R24. Roper Organization. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Feb-21-2017.

⁶⁸ Train, *Politics, Pollution, and Pandas*, 194.

The strip-mining issue re-emerged in the final days of the Nixon presidency, and continued into the Ford Presidency in the form of the Surface Mining Control and Reclamation Act, a bill sponsored by Morris Udall, (D. AZ). Train publicly supported this bill, in what a July 1974 issue of the *New York Times*, called “a complete break with the administration.” Udall and his supporters had designed this bill to impose strict reclamation requirements on coal mine operators. Train publicly stated his support for this legislation, reporting that the 600 million tons of coal that the United States produced per year should have always been “under very strong federal control.”⁶⁹

The bill, called H.R. 25 in Congress, passed the House and Senate in Spring of 1975, and then went to the White House for either approval, or veto. The first few pages of the bill, which detailed Congress’ findings, described the environmental need for a bill on surface-mining. The findings and purpose section of the bill outlined the disturbances that surface mining had on the environment, and also explained the overall purpose of the bill as to, “assure that coal mining operations are so conducted as to protect the environment.”⁷⁰ Overall, the bill focused on the alleviation of environmental impacts of surface-mining. The report created by the Committee on Interior and Insular Affairs that accompanied this bill outlined a plethora of research and background information that had gone into their decision:

“As discussed below, the legislation is timely both in terms of adequate environmental protection - which has been too long overdue - and in view of the certain expansion of the Nation’s coal industry. The rules which will govern the extraction of coal by surface methods

⁶⁹ Ibid.

⁷⁰ House Committee on Interior and Insular Affairs, *Surface Mining Control and Reclamation Act of 1975*, 94th Cong., 1st sess., 1975, H. Rep. 45, 2.

need to be established so that industry can proceed to grow and develop in an orderly and environmentally acceptable fashion.”⁷¹

Train described the process that this bill went through once it arrived at the White House, in particular how the Department of the Interior and the administration’s treatment of it differed greatly from Train’s and the EPA’s. To start, Ford’s White House did not come out publically against the legislation, but rather did so privately. Train disclosed that Congressman John Anderson (R. IL) of the House Rules Committee told him that White House staff had lobbied him to help kill the strip mining bill when it was working its way through the House.⁷² In a meeting that Train attended with the president and other cabinet members, the issue that the administration held with the bill became clear; member, after member, of the cabinet stood and cited their economic and energy supply concerns about the new bill. At this meeting, the Director of the Domestic Council came forward with an estimate that the bill would result in the loss of 40-160 million tons of coal production, and about 40,000 jobs.⁷³ This statement exemplified the economic concerns that the administration had with the bill.

Train’s support of the bill, and the administration's opposition, demonstrated a tug-of-war that paralleled that which was happening throughout the nation. In May of 1975, in the midst of all of this discussion, public opinion on the strip-mining issue was similarly divided. In an ORC Public Opinion Index Survey, respondents were asked the question, “Do you think it is more important now to have strip mining regulations to protect the environment or to keep the price of electricity lower?” 43% of respondents answered that they thought it more important to impose regulations on strip mining, and 41% voted that they thought it more important to keep the price

⁷¹ Ibid., 51.

⁷² Train, *Politics, Pollution, Pandas*, 196.

⁷³ Ibid., 197.

of electricity lower.⁷⁴ Once again, it had become clear that the question of environmental sacrifice for an increase in energy supplies and a decrease in energy costs, was still one over which Americans were divided.

Ford vetoed the Surface Mining Control and Reclamation Bill. Press reported on the decision in May 1975, shedding light on the clear division between Train's point of view, and the administration's. A *Washington Post* article described the two sides of the debate, one fought by Train, and the other fought by Frank Zarb, the head of Ford's Federal Energy Administration. The article described how Train had adamantly lobbied for the President's approval of the bill, and reported how Zarb had "vigorously disputed" Train's claims that Congress had done nothing to cater to the needs of the coal industry and the employment needs of the miners. Zarb also maintained that the President had to veto the bill, in order to provide support for the coal industry.⁷⁵ Another public opinion poll conducted in July 1975 asked respondents if they supported, or opposed Ford's veto of the bill. In another example of how divided the country was over energy versus the environment, 34% favored the veto, 30% opposed the veto, and 36% answered that they were unsure.⁷⁶ The dispute surrounding the strip mining bill only goes to show that the energy crisis complicated questions of environmental protection during Train's tenure at the EPA.

⁷⁴ Opinion Research Corporation. ORC Public Opinion Index, May, 1975. USORC.75AUG2.R7. Opinion Research Corporation. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Feb-21-2017

⁷⁵ Rowland Evans, and Robert Novak, "Strip Mining, Energy, and Politics," *Washington Post*, May 29, 1975.
<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/146326246?accountid=10747>

⁷⁶ Louis Harris & Associates. Harris Survey, Jul, 1975. USHARRIS.072875.R2D. Louis Harris & Associates. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Mar-23-2017.

As the 1976 election approached, pitting Ford against Governor Jimmy Carter of Georgia, the environment did not take the lead in issues that would make or break a candidate. An August 1976 article in the *New York Times* put the situation quite eloquently: “Although...environmental quality remains an important concern of citizens, it is regarded as essentially a “switcher” issue - not a primary determinant, but a subject capable of polarizing otherwise undecided votes.”⁷⁷ Overall, conservationists applauded Carter on his environmental record, and scorned Ford for his. The League of Conservation Voters highlighted the fact that a Carter victory in November of 1976 would mean a positive change for environmental protection efforts, and went on to say how, under Ford, the environment had been getting “very short shrift.” While Ford should have received some praise for the few environmental efforts he led, “His administration has usually chased after energy at any price.”⁷⁸ Although Ford had made his choice to promote adequate energy supply at the price of the environment, the hit that his popularity took in the eyes of conservations indicated the complexity of the situation.

Train, who did not continue his tenure as EPA administrator under Carter, reminisced about Ford’s environmental vulnerability in the 1976 election. After Carter had won the election, Train remembers, he and Ford convened for one final budget appeal meeting. Train’s comments on the meeting indicated Ford’s reaction to the overwhelming support that Carter received from the environmental community in the election. According to Train, Ford did not seem interested in or devoted to environmental issues. Train imagined that his disenchantment stemmed from the fact that almost the entire environmental community had supported Carter. “He seemed tired and depressed - “down” is the word. He was responsive, courteous, and paid attention to the

⁷⁷ Gladwin Hill, "Conservationists Give Carter High Marks and Ford, Low Ones," *New York Times*, August 22, 1976.
<http://search.proquest.com.proxy.library.emory.edu/news/docview/122587733/EFB36623D2614D58PQ/1?accountid=10747>

⁷⁸ Ibid.

issues, but one sensed that his heart was not in it.”⁷⁹ This description demonstrates the diminishing interest that the White House had held in environmental issues under Ford, and also shows the excitement for the issues that Carter would bring with his new administration.

Douglas Costle: King of Compromise

In 1977, the energy crisis still loomed as intimidatingly as before; an especially cold winter made the issue a top priority in the first few weeks of Carter’s presidency. Only two weeks after he took office, he delivered a “Message on Energy to the American People,” highlighting first and foremost the need for conservation of energy. Under previous Presidents Nixon and Ford, the energy crisis plan had entailed increasing energy sources through coal mining and other methods, not conservation. In his speech, Carter also emphasized developing methods of coal mining and oil extraction that did not damage the environment, as well as the development of renewable energy technologies such as solar energy and responsible atomic energy.⁸⁰

Carter’s emphasis on conservation and protection of the environment reflected what the majority of the population thought about the energy versus environment question in the late 1970s. Earlier in the decade, public opinion surveys had indicated that American citizens supported energy production at the cost of environmental protection; the tables had clearly turned now to indicate a general opposition to energy development at the cost of environmental quality. A survey in November 1976 asked respondents if they favored or opposed increasing strip-mining for coal, even if it meant damaging the environment. 71% of respondents opposed the proposition, and only 17% favored, indicating a clear majority in favor of environmental

⁷⁹ Train, *Politics, Pollution, and Pandas*, 228.

⁸⁰ Jimmy Carter, Speech, “Report to the American People on Energy,” February 2, 1977. <https://millercenter.org/the-presidency/presidential-speeches/february-2-1977-report-american-people-energy>.

protection.⁸¹ A similar survey conducted near the end of 1976, asked respondents if they would favor or oppose slowing down the clean-up of air and water pollution in order to alleviate the energy crisis. This resulted similarly to the previous survey in that 71% opposed this particular proposition, while only 20% supported it.⁸² Finally, when asked the very telling “adequate energy versus environmental protection” question, October 1976 respondents answered as follows; 44% favored environmental protection, and 33% favored adequate energy.⁸³

President Carter’s pick for EPA administrator also reflected the peoples’ interest in environmental issues; like Presidents Nixon and Ford before him, he chose a candidate who had demonstrated a career in environmental protection. Douglas Costle, a Democrat, succeeded Train as EPA administrator after a long career in government environment services. He had served on Nixon’s President’s Advisory Council on Executive Organization (Ash Council) which had originally pitched the idea for the EPA to Nixon. He then had moved on to a career at Connecticut’s EPA, heading there to establish, and eventually run, the department.⁸⁴ Upon finding out who his successor would be, Train commented, “He was a fine choice, and I would be glad to say so publicly.”⁸⁵

Costle’s track record in government and environmental service made him a suitable choice to run Carter’s EPA. To start, like Train and Ruckelshaus, his childhood had been filled with experiences which developed his appreciation and love for the the environment. Having

⁸¹ Cambridge Reports/Research International. Cambridge Reports/National Omnibus Survey, Jul, 1976. USCAMREP.76JUL.R062. Cambridge Reports/Research International. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Feb-23-2017.

⁸² Ebasco Services Inc.. Nuclear Power Development, Jul, 1976. USHARRIS.762628.R04I. Louis Harris & Associates. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Feb-23-2017.

⁸³ Roper Organization. Roper Report 76-9, Oct, 1976. USROPER.76-9.R15. Roper Organization. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Mar-23-2017.

⁸⁴ Douglas Costle Interview, August 1996, “EPA History – Originals” folder, Doug Costle’s Subject Files, Jimmy Carter Library.

⁸⁵ Train, *Politics, Pollution, and Pandas*, 238.

grown up in the Pacific Northwest, he had gained an appreciation for pristine air and water. “I remember clean air and water,” he said, “You could fish in almost every stream around the Seattle area.” Being on the Ash Council, Costle had lent his own hand to shaping the nation’s environmental policy. The time he had spent running Connecticut’s EPA also taught him a number of lessons about working in this particular sector of public service. He had amassed an understanding of how federal programs (such as the EPA) could be successful on the ground. “It’s very exciting actually,” he exclaimed, “to build an operation where you were never more than an hour away from any problem...Washington deals at an abstract level. In the states, you get down in the trenches.”⁸⁶ Having understood both the concept at the federal level and the execution of the agency’s mission at the state level, Costle brought hands on experience and an understanding of the importance of compromise to the position of administrator of the EPA.

As soon as he took the position, Costle jumped in to assisting Carter in facilitating cooperation between environmental protection and the concern over the nation’s energy crisis. The nation had resumed its worrying about United States access to energy, and implored Carter to create a plan which would address its growing fears of energy depletion. In April 1977, Carter released an energy program which, in part, allowed for a sixty-six percent increase in coal production by 1985, in addition to requiring many industries and utilities to use coal in lieu of other fuels. The program also called for an expansion of nuclear energy capacity. James R. Schlesinger, Carter’s “energy czar,” talked about the construction of more than 230 nuclear reactors by the late 1990s. At the time that the energy plan was released, only sixty-five were in

⁸⁶ Ibid.

operation. Carter's energy plan acknowledged the dire energy situation, and aimed to address it by increasing the nation's energy supply.⁸⁷

Carter's proposal to increase coal production and use incited outrage from several environmentalists, who maintained that there was no way that conversion to coal would not violate pollution and health standards in urban areas. Senator Edmund Muskie (D. ME,) was particularly opposed to Carter's plan for coal conversion, and questioned Costle intensely in the program's hearing before the Senate Environment and Public Works Committee. In the hearing, Muskie made his point by citing the specific effects that conversion to coal would have on pollution levels. According to him, a small industrial broiler that converted from gas to coal would emit 3,000 times more sulfur oxides (which can damage respiratory health).

Costle, dedicated to Carter's plan, countered Muskie with assurances that the Carter administration was working to minimize the environmental trade-off of coal conversion. Costle stated that the administration's energy plan, while certainly increasing air pollution levels by itself, would be accompanied by environmental legislation that was currently pending in Congress; Carter's environmental program, a 37-page plan that had just been submitted to Congress, called for stricter enforcement of existing air pollution law, among other changes.⁸⁸ The committee called upon Costle to defend the administration's stance on energy. Costle did acknowledge the difficult situation that Carter's program put them all in; "it's not going to be an

⁸⁷ J.P. Smith, "Carter's Energy Policy: A Melding of Pessimism, Optimism," *Washington Post*, April 21, 1977.
<http://search.proquest.com.proxy.library.emory.edu/news/docview/146781822/230FE13F5C7346B7PQ/1?accountid=10747>.

⁸⁸ Margot Hornblower, "Carter Backs Stiff Curbs on Air, Water Pollution," *Washington Post*, May 22, 1977.
<http://search.proquest.com.proxy.library.emory.edu/news/docview/146722930/A9216E3670474C78PQ/1?accountid=10747>.

easy transition,” he said, and, “They’re (industry) going to be between a rock and a hard place,” but also offered solace the committee’s concerned members.

Costle’s testimony maintained that the air pollution from an expected 200 million tons a year resulting from coal conversion would be abated by legislation that would require all new coal-burning plants to use the best pollution control machinery. This legislation, Costle said, would reduce sulfur and dirt particles by 50 per cent, and would likely result in only a 1% average increase in consumers’ electricity bill.⁸⁹ Like Train before him, Costle made an effort to support compromise on the energy-environment trade-off. He took the energy program that Carter had proposed, and insured that its congressional opponents understood that the administration did not mean to shirk on their duties of environmental protection, but rather aimed to find a balance between the environment and the needs of the energy crisis.

The energy crisis was not the only obstacle in the way of perfect environmental protection; the needs of Industry also proved problematic. Later in 1977, Congress amended the Clean Air Act. The amended act gave more responsibility to the EPA in both enforcing emissions standards as well as working with state governments to balance the alleviation of air pollution with industrial growth. Of the many provisions that the amendments provided for, the one that Costle maintained was one of the most significant: the “offset policy.” This policy had been unofficially created in 1976, but was officially written into the 1977 Clean Air Act Amendments. The policy made it possible for the construction of new potential sources of pollution, so long as the area maintained a positive net air quality.⁹⁰

⁸⁹ Margot Hornblower, “EPA: Coal Use Need Not Boost Pollution,” *Washington Post*, 25 May, 1977. <http://search.proquest.com.proxy.library.emory.edu/news/docview/146723874/C3FDD64EF21B4BDFPQ/5?accountid=10747>.

⁹⁰ “Clean Air,” *EPA Journal*, (October 1978): 2.

The 1977 changes to the Clean Air Act permitted construction of new sources in areas in violation of the primary air quality standards, in addition to requiring that state governments worked closely with industry to regulate and enforce air quality standards on any new stationary sources that emerged. In the original 1970 Act, the State Implementation Plan (SIP) stipulation required every state to submit within three years, to the administrator of EPA, a plan for implementation and enforcement of air quality standards and requirements. The revisions under the 1977 rule however, called for cooperation between states and industry in the construction of new sources that would fall in alignment with the SIPs.

Costle's comments on this change were published in the EPA Journal in 1977. "It is simply good business to apply some ingenuity to help the states deal with the growth planning process,"⁹¹ he said, while maintaining their duty to the Clean Air Act to uphold air quality standards. Costle's commentary continued with an explanation of the importance of building relationships between different levels of government and industry interests, and explained the role that the EPA would be playing in this particular aspect of the 1977 amendments. He assured that the states would have complete access to their EPA regional administrators, who would assist them in their efforts to cooperate with industry in this process of allowing growth, while also ensuring environmental protection.

In addition to supporting the Clean Air Act Amendments of 1977, he was also willing to listen to and address certain woes of industry. In 1977, for example, he remarked that "industry and EPA are always portrayed as antagonists...but we needn't always be adversaries."⁹² He demonstrated leniency towards industry, particularly towards motor companies. In 1979 he

⁹¹ "Clean Air," *EPA Journal*.

⁹² Newspaper article, Richard Bevilacqua, "EPA Chief Sites Industry Growth, Cooperation," *Boston Herald*, 10 June, 1977, "Accomplishments, 11/14/80" Folder, Box 27, Douglas Costle Subject Files, Jimmy Carter Library.

allowed six major auto companies some leeway in emissions standards on a small fraction of their models, claiming in a statement that was then cited in a number of news articles that, “The effect upon air quality for these waivers that were granted will be negligible because they apply to no more than a fifth of the total number of cars expected to be sold...in the two year period.”⁹³ Although the six auto companies that received this emissions standards relief had originally petitioned for more, Costle’s acquiescence to even a small amount of leeway demonstrated his understanding of the importance of cooperation between the EPA and industry.

Costle’s “balancing act” got even more difficult towards the end of the decade. In 1979, the administration began to feel pressure from Industry and pro-energy members of Congress to relax standards for air pollution from coal. In September of 1978, the EPA had proposed legislation that would have required coal-burning industries to remove 90% of sulfur from their emissions (using scrubbers.) After the backlash from coal and utility companies, the Energy Department, and a coalition of senators from coal-producing states, the EPA backed off, and compromised to a 70-90% decrease in sulfur in emissions. Environmentalists soon fired shots at this decision, maintaining that Costle broke under industry’s pressure.

Although Costle’s environmental reputation may have been hurt by the 1978 decision, he showed his dedication to environmental causes in his opposition to Carter’s huge, \$10 million proposal to get electric utilities to burn coal instead of oil; Costle wanted strict pollution standards attached to this proposal. Although we had seen Costle supporting Carter’s 1977 energy plan, here he drew the line. He claimed that without strict pollution controls, particularly in regard to controlling sulfur dioxide emissions that the switch to coal-burning would increase, the bill would contribute to the already dire acid rain problem in the Northeast and Canada.

⁹³ Newspaper article, *The Record*, New Jersey, 26 Aug, 1977, “Accomplishments, 11/14/80” Folder, Box 27, Douglas Costle Subject Files, Jimmy Carter Library.

Carter defeated Costle's pleas for environmental protection in this case, but the latter's actions indicated that he would be a staunch supporter of environmental protection whenever the situation warranted it. "Doug Costle, to his credit, really did go to the mat for this one," said Robert Rauch, an official of the Environmental Defense Fund.⁹⁴

As Carter's energy plan of 1977 had stipulated, coal was not the only energy source that was being revamped in the late 1970s. The production of nuclear power plants had been rising since the early 70s, one of which was on Three Mile Island. Three Mile Island is located in the Susquehanna River of Pennsylvania. In the 1970s, two nuclear power units were constructed on the island. These power units utilized nuclear fission within pressurized water reactors to produce heat, which would convert water into steam, and in turn powered turbines that produced heat needed to convert water to steam. Coolant (cold water) is imperative to this process, for without a coolant, the core of the reactor would overheat and melt its container, thereby exposing radioactive contaminants.⁹⁵ This problem reared its head on March 28, 1979. As the nuclear power unit was undergoing routine maintenance, workers accidentally shut down the pump system, which brought cool water into the reactor to prevent it from overheating. As the reactor continued to heat up, pressure continued to build until finally, in the early morning hours, a safety valve opened to release about a million pounds of steam into the surrounding countryside.⁹⁶ The release of this steam meant that there was even less water in the system that could be used to cool the reactor, and the core eventually reached 4,000 degrees Fahrenheit. Essentially, the heating of the reactor to this level meant that the fuel elements that had been produced in the process of nuclear fission would begin to melt, releasing radiation not only into the unit, but into the air surrounding it.

⁹⁴ Jaroslovsky, "Douglas Costle's Balancing Act."

⁹⁵ Robert Emmet Hernan, *This Borrowed Earth*, (New York: Palgrave Macmillan, 2010), 82.

⁹⁶ Ibid.

Authorities, in particular, the Nuclear Regulatory Commission, did not know what the severity of the problem was in the days, and even months, that followed. There was a great deal of confusion surrounding what had actually happened and how dire the effects were. Until late March, Costle and the EPA were not even allowed to get near the site to determine the levels of radiation that the accident had produced. According to EPA officials, their offers of help had been turned down by Pennsylvania state officials, and they had no jurisdiction to overturn that.⁹⁷ Finally, in April, the White House chose the EPA to serve as radiation monitor at Three Mile Island. This decision came after over two weeks of citizens in the surrounding areas questioned how much radiation they had been exposed to as a result of the accident, and what the health effects would be.⁹⁸

The most important aspect of this crisis is not the role that the EPA played in tackling radiation monitoring or clean-up. Rather, it was the impact that the accident had on the view that the American people held of nuclear energy. Specifically, after it became apparent that nuclear energy could have dire effects on human health, support for the burning of coal as energy began to rise. A *New York Times* poll in April 1979 asked its respondents whether, in light of the recent crisis, would rather continue to create nuclear energy, or switch to burning coal. Only 25% of respondents indicated that they would rather continue to support nuclear energy, whereas 68% answered that they would rather turn to coal for the nation's energy supply.⁹⁹ This insight is important in that it shows how much support for environmental protection fluctuated in the

⁹⁷ Walter Pincus, "Monitoring of Radiation Has Been Haphazard," *Washington Post*, March 31, 1979. <http://search.proquest.com.proxy.library.emory.edu/news/docview/147052170/8C07C8FEADEA4CE1PQ/13?accountid=10747>.

⁹⁸ Walter Pincus, "EPA Named Head Monitor on Radiation," *Washington Post*, April 14, 1979. <http://search.proquest.com.proxy.library.emory.edu/news/docview/147005288/8C07C8FEADEA4CE1PQ/5?accountid=10747>.

⁹⁹ CBS News/New York Times. CBS News/New York Times Poll, Apr, 1979. USCBSNYT.040979.R07C. CBS News/New York Times. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Mar-26-2017.

1970s, and also how difficult it was to balance environmental interests with economic desires and energy needs.

In June 1980, Congress passed Carter's \$10-million-dollar bill created to support the conversion of oil-using industries to coal. The EPA had lost against the Department of Energy in its quest to add ceiling on pollution levels to the bill, but did win a stipulation that required \$600 million be allotted for coal-washing and pollution-cleaning equipment. The concern here, expressed by Costle, was that this was the beginning of the gutting of the Clean Air Act by Congress. Although the issue of acid rain and the health effects of coal-burning pollutants was an important one at the end of the 1970s, a number of other environmental issues began to shape the EPA's duties into the early years of the 1980s.

Another environmental issue that became more important to the public at the end of the 1970s, was that of hazardous waste, and its potential detrimental effects on public health. A particular event brought the issue to the attention of both the public and the government: the disaster at Love Canal. In short, the Love Canal tragedy erupted (almost literally) in 1978. The Canal itself was not a complete one. William Love had begun construction on Love Canal in the 1910s, hoping that the canal would be able to generate energy to support the industrial interests of Niagara Falls, New York. The project failed, and in the 1920s chemical companies turned the half-dug ditch into a dumpsite for chemical and municipal waste. After over thirty years of dumping their waste in the half-finished canal, Hooker Chemical Company covered the ditch with soil, and sold the land to Niagara Falls for one dollar. Over the following ten years, the city built a community, made up of homes and even a school, over the waste site.¹⁰⁰ In 1978, after a deluge of heavy rains, the chemicals that had been dumped there began to creep up through the soil.

¹⁰⁰ Eckhardt Beck, "The Love Canal Tragedy," *EPA Journal* (January 1979).

The public health issues that this event caused insured that it was subjected to very high scrutiny. According to one eyewitness, “Corroding waste-disposal dumps could be seen breaking up through the grounds of backyards...one entire swimming pool had popped up on its foundation, afloat now on a sea of chemicals...and then there were the birth defects.”¹⁰¹ In the years that followed, the severity of the effects on the health and wellbeing of the citizens who had been subjected to the toxic waste for their entire lives began to indicate the tremendous importance of the hazardous waste issue.

Costle’s reaction to the event indicated its importance, and he described the steps that the EPA had been taking to address the issue in the *EPA Journal*. He began by acknowledging that hazardous waste was an issue of utmost importance to the nation. Costle promised his readers that the EPA would do anything they could to fulfill their duties under the Resource Conservation and Recovery Act, enacted in 1976, which required them to create a national waste management system. He added, “Many - including those responsible for the program at EPA - have been distressed at our failure to meet the deadline specified in the Act,” and declared that the EPA was working to expand its technical understanding of how it could best address the problem of hazardous waste. In the last sentence of this article, Costle made a final comment that indicated the importance of the issue to the public; “As EPA tackles the problems of old and new hazardous waste...the scrutiny of the public, will assure that we do it well.”¹⁰² In the years that followed, American citizens and Congress remembered this promise and brought those who did not follow through on it to justice.

Between the 1973 energy crisis and environmental and public health crises like Love Canal and Three Mile Island, walking the tightrope between the nation’s energy needs and the

¹⁰¹ Douglas Costle, “Taming Chemical Wastes,” *EPA Journal* (February 1979): 2.

¹⁰² *Ibid.*

needs of the environment was a difficult task for both Train and Costle. Neither of them could always appease both sides of the issue, and at times, each of them received their fair share of backlash as they attempted to find the balance between addressing the nation's energy anxieties and environmental protection. As new environmental crises and worries such as hazardous waste began to appear, the American people and Congress realized that they needed a strong hand to implement programs which would aim to abate the dire effects of hazardous waste. Ruckelshaus, Train, and Costle had approached their jobs with the intention of giving this steadfast implementation to the American people. With the start of the 1980s though, came a new President, with a new ideology, and a new, very different, EPA administrator.

Chapter Three: Hazardous Waste, Anne Gorsuch, and a Conflict of Philosophies

In recent years, scholars have begun to discuss President Reagan's "legacy," and, while the definitive legacy of a president, or any person, will always be disputed, the majority of scholars are in agreement about one aspect of Reagan's. As one scholar put it in a recent edition of *Presidential Studies Quarterly*, "Reagan was what George Will has called a 'conviction politician'... He effectively communicated, and adhered to core principles."¹⁰³ Essentially, Reagan was unyielding and unwavering in his adherence to his principles. For the purposes of this thesis, those strong beliefs included economic recovery, budgetary cuts, and use of executive privilege, which not only impacted his actions, but also the actions of his federal appointees. The tenure of the EPA administrator under Ronald Reagan, Anne Gorsuch, was marred by scandal and mistrust by environmentalists. Throughout it all, Gorsuch never faltered in her loyalty to Reagan or his convictions, a stance that resulted in her political failure as head of the EPA.

¹⁰³Hugh Heclo, "The Mixed Legacies of Ronald Reagan," *Presidential Studies Quarterly* 38, no.4, (December 2008): 555-574.

In his Inaugural Address, Reagan promised the country that his economic recovery program would ensure the future success of the nation; “We must act today in order to preserve tomorrow,” he said.¹⁰⁴ While it was clear that the government had to do something about the “economic affliction of great proportions...the longest and one of the worst sustained inflation in our national history,” and a portion of the country did agree with the president’s plan of attack, he still did face opposition from the other portion. The president’s economic plan included measures that would initiate stringent budget controls in federal government; “It is not an exaggeration that federal spending is out of control,” a Department of the Treasury aide wrote. “The simple truth is that if the United States is going to overcome the economic crisis before us, large reductions in dozens of popular government programs will be taken.”¹⁰⁵

The emphasis that the President and his administration placed on rebuilding the economy meant that his administration and federal offices would allow and support both budgetary cuts and a decrease in federal involvement in regulation. At the beginning of the 1980s, public opinion surveys illustrated the continuation of a sharp divide in support of the economy over the environment. Although favorable sentiment for environmentally friendly energy had been growing throughout the late 1970s, in the form of nuclear energy, the disaster at Three Mile Island stifled such pro-environment excitement. In a 1981 *Washington Post* Poll, the statement, “Some important regulations aimed at protecting the environment should be dropped so we can improve the economy,” fetched results that indicated a complete consensus on the issue. 40% of

¹⁰⁴ Reagan, Ronald, Inaugural Address, “Inaugural Address,” January 20, 1981.
<https://millercenter.org/the-presidency/presidential-speeches/january-20-1981-first-inaugural-address>

¹⁰⁵ Ibid.

respondents indicated that they disagreed with the statement, while 56% of respondents said that they agreed with the need to diminish environmental regulations in favor of the economy.¹⁰⁶

The Nomination of Anne Gorsuch

Reagan's nominee for EPA administrator was Anne Gorsuch. Reagan's predecessors had each nominated an administrator who, the very least, possessed a history of experience in the environmental field. Ruckelshaus had led a career in prosecuting water polluters in Indiana, Train had shown his leadership in the environmental field as president of the World Wildlife Fund, and Costle had demonstrated his adeptness at administration of environmental programs as head of Connecticut's EPA. Reagan's pick for administrator did not follow this precedent. Gorsuch brought with her a controversial background; her prowess as a successful environmental lawyer was undisputed, but many feared that she would not demonstrate the sympathy toward the environment that an administrator of the EPA should.

Gorsuch faced a number of other critics, primarily environmentalists, who expressed concern about her pro-industry ties. Gorsuch had been a corporate lawyer for Mountain Bell Telephone Corporation since 1975.¹⁰⁷ For example, Reed Kelley, the legislative representative for the Colorado Open Space Council, declared that, "She's hardworking and conscientious, but she's not particularly sympathetic to environmental concerns."¹⁰⁸ Edward Flattau, a staff writer for the *Chicago Tribune* declared, "Anne Gorsuch has no expertise in the area for which she will be responsible." It was therefore no surprise that environmental groups had been voicing their

¹⁰⁶ ABC News/Washington Post. ABC News/Washington Post Poll, Feb, 1981. USABCWP.29.R15B. ABC News/Washington Post. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Mar-23-2017.

¹⁰⁷ Joanne Omang, "Denver Lawyer Reagan's Choice to Head EPA," *Washington Post*, February 21, 1981. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/147471143?accountid=10747>.

¹⁰⁸ Ibid.

dismay at her nomination. “Environmental groups are even more concerned because Gorsuch displayed insensitivity on the rare occasions when she did have an opportunity to influence ecological matters in Colorado.” Daan Luecke, a staff scientist for the Environmental Defense Fund in Denver, continued, “I haven’t heard of any instance where she has come out in favor of preserving the state’s environmental interests.”¹⁰⁹ At Gorsuch’s senate hearing, witnesses from other environmental groups, such as the Sierra Club, Friends of the Earth, and the Environmental Policy Center, had all agreed that Gorsuch’s environmental record was “far from solid.”^{110 111}

The majority of her advocates were conservative members of Congress from Colorado, her home state, and other Western states. While her opponents had attacked her inexperience in dealing with environmental issues, her supporters praised her legal and government expertise, her intelligence, and views on regulation and enforcement. Her most supportive ally was Senator Alan Simpson (R. WY). Simpson remarked at Gorsuch’s hearing, “Mrs. Gorsuch is a highly qualified individual...Her wealth of experience in local and State government have made her very well aware of the importance of the complexity of environmental issues.” The senator continued to discuss another attribute that Gorsuch would bring to the position, her reassessment of what he called, “paternal environmentalism.”¹¹² A reassessment of paternal environmentalism referred to what Gorsuch would describe in her own testimony as, “a new federalism in which the decisions

¹⁰⁹ Joseph Seldner, “Nominee for EPA Praised, Assailed,” *Boston Globe (1960-1985)*, 28 February, 1981. <http://search.proquest.com.proxy.library.emory.edu/news/docview/1011811906/D45F05AF38784828PQ/4?accountid=10747>.

¹¹⁰ Joanne Omang, “EPA Nominee Attempts To Reassure Her Critics,” *Boston Globe (1960-1985)*, 2 May, 1981. <http://search.proquest.com.proxy.library.emory.edu/news/docview/1011914809/fulltextPDF/5C8514749034136PQ/28?accountid=10747>.

¹¹¹ Edward Flattau, “Political Appointee May Soil EPA,” *Chicago Tribune (1963-Current file)*, 11 March, 1981. <http://search.proquest.com.proxy.library.emory.edu/news/docview/172269553/fulltextPDF/95562B95F3B4763PQ/5?accountid=10747>.

¹¹² Senate Committee on Environment and Public Works, *Nominations of Anne M. Gorsuch and John W. Hernandez, Jr.*, 97th Cong., 1st sess., 1981, 9-15.

and the power to implement those decisions will be shifted from the banks of the Potomac back to the level of government which is closest and most accountable to the people it serves.”¹¹³

Other Senators, such as William Armstrong (R. Colorado) echoed Simpson’s praise with remarks on Gorsuch’s vast knowledge of the “pitfalls of overzealous regulation.” Gorsuch’s supporters had faith in her ability to reconcile Reagan’s stringent economic policy and goals of regulatory reform with the EPA’s duties.

Therefore, Gorsuch’s tenure at the EPA was defined by budgetary cuts and regulatory reform. Gorsuch went into the agency determined to make it her own; her vision of efficiency and conformation to Reagan’s economic policy shaped the changes that she made to the agency in the first year of her tenure. She started early on to reorganize the agency in a way that aligned with her values. In June of 1981, she announced a plan for reorganization. The reorganization impacted many aspects of the agency’s functioning, but most importantly affected its enforcement capability. Gorsuch’s plan eliminated the Office of Enforcement, and divided all enforcement activities between the divisions responsible for each environmental program.¹¹⁴ Enforcement activities would be delegated to the six program offices: air, noise and radiation; solid waste and emergency responses; pesticides and toxic substances; research and development, and administration. This change made the assistant administrators the overseers of all enforcement, a change which environmentalists proclaimed would make the EPA like, “a toothless tiger.” Gorsuch countered such remarks with her reasoning: “putting operating enforcement offices into the environmental program areas will foster more efficient operation

¹¹³ Ibid., 27.

¹¹⁴ Joanne Omang, “EPA Enforcement Split Up In Agency Reorganization,” *Washington Post*, June 13, 1981. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/147279852?accountid=10747>.

with responsibility for success in these areas clearly in the hands of the individual assistant administrators."

Gorsuch's reorganization plan also called for an increase in state participation in enforcement; she wanted to make the federal government, and the states, "equal partners in enforcement." She maintained that the states were just as competent, if not more competent, in enforcing environmental laws. Her plan to shift enforcement from the federal government, back to the States, represented her dedication to what she had referred to in her confirmation hearing as Reagan's "new federalism," which emphasized less overbearing regulation, and more freedom of State and Local governments to self-regulate. This aspect of Gorsuch's reorganization plan also came under much scrutiny from environmentalists. William Butler, the president of the Audubon Society, postured that such changes to enforcement duties would only result in "laxer" enforcement: "The combination of scarce resources, insufficient expertise, local politics and industry economic blackmail may well mean a significant reduction in enforcement of these critical environmental laws and, at a minimum, will lead to balkanized enforcement efforts," Butler explained.¹¹⁵

Additionally, Gorsuch's revamping of the EPA called for stringent regulatory reform, which became clear in the agency's proposals to streamline the Clean Air Act in September 1981. The administration wanted changes, Gorsuch said, changes which included more flexible standards for motor vehicles and the elimination of "significant deterioration" clauses that Costle had worked so tirelessly for. Additionally, the administration's revision of the bill emphasized "cost-benefit" analysis. In other words, Clean Air Act enforcement would be contingent on how

¹¹⁵ Philip Shabecoff, "Environment Agency Chief Announced Reorganization," *New York Times*, June 13, 1981. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/424122233?accountid=10747>.

cost-efficient it was. As in the case of the reorganization of the agency, this regulatory reform caused major backlash, especially from Congress. Representative James Florio (D. NJ) issued a statement in the aftermath, which said, “This draft legislation is a blueprint for the destruction of the Clean Air Act.”¹¹⁶

In addition to spending her first year as administrator defending her reorganization of the agency, Gorsuch faced a great deal of opposition defending the agency’s budget proposals for 1982 and 1983. In the fall of 1981, after the budget for 1982 had already been approved at a potential 24% cut from what was allotted in Carter’s proposed budget, information about a 1983 budget had been leaked from within the Agency. The leaked document indicated that the 1983 budget proposal would add another 20% cut to the 24% 1982 cut, for the 1983 fiscal year.¹¹⁷ This document caused uproars of concern about the future of the EPA. Environmentalists and former EPA employees were among those concerned about the shocking numbers. William Drayton, who had been the Assistant Administrator and chief budget officer at the EPA under Carter, commented, “If these cuts go forward, there is no hope, for example, to control toxics before the end of the decade - none.”¹¹⁸ Gorsuch’s response to claims like Drayton’s, from the mouth of her chief spokesman Byron Nelson, was to maintain that the Fall 1981 released budget plan was “strictly preliminary,” and that any cuts by Gorsuch and the agency were made to address what she perceived as the voters’ desires, and Reagan’s plan to balance the federal

¹¹⁶ Philip Shabecoff, “Plans To Weaken Clean Air Act Charged to EPA,” *New York Times*, September 4, 1981.

<http://search.proquest.com.proxy.library.emory.edu/news/docview/121730202/2A3CFF3541145E9PQ/1?accountid=10747>.

¹¹⁷ Randolph, Eleanor. "EPA Chief Defends further Budget Cuts," *Los Angeles Times*, October 16, 1981. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/152880195?accountid=10747>.

¹¹⁸ Randolph, Eleanor. "Proposed EPA Cuts Stir Fears on Environment," *Los Angeles Times*, October 1, 1981. <https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/152952894?accountid=10747>.

budget by 1984. Moreover, he said, Gorsuch and her staff believed that the EPA “could handle it.”¹¹⁹

Senator Robert Stafford (R. VT), who chaired the Senate Committee on Environment and Public Works, expressed the dismay that he and other environmentally concerned Democrats and Republicans in Congress felt at the budget proposal. “I would be very unhappy,” he said, “I don’t believe you can make that much of a reduction without hampering the function of the agency.”¹²⁰ Senator Stafford’s committee called on Gorsuch in October 1981 for a hearing on the extreme proposed budget cuts. In the hearing, Gorsuch faced a combination of intense questioning from certain committee members, while receiving commendation from others. Overall, though, the important aspect of the hearing was Gorsuch’s statement, which, while it neither affirmed nor denied the validity of the budget proposal, emphasized her belief that when it came to the EPA’s management, “less was more.”¹²¹

CERCLA and the Fall of Gorsuch

Gorsuch faced opposition in her streamlined approach to running the agency especially in the EPA’s efforts against hazardous waste. Love Canal, and Costle’s reaction to that disaster, had been just the beginning of a period in which fear of hazardous waste only increased. Before Gorsuch became administrator of the agency, two specific polling questions had indicated that citizens would be more willing to support an increase in federal spending if it meant addressing the dire health consequences associated with the effects of hazardous waste. In 1980, one Harris survey had asked respondents, “How serious a problem do you think the dumping of toxic chemicals is in the country today--very serious, only somewhat serious, or hardly serious at all?”

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Senate Committee on Environment and Public Works, *Environmental Protection Agency Oversight*, 97th Cong., 1st sess., 1981.

76% of those who responded indicated that they thought the problem was very serious, compared to 20% of those who indicated that the problem was only somewhat serious, compared with 2% who responded that the problem was not serious at all.¹²² Another survey had asked respondents, “Would you favor or oppose...the federal government investigating places like Love Canal, where chemical waste has been dumped, even though this might lead to well over \$10 billion in suits against the federal government and the chemical companies?” The response to this question had again indicated overwhelming support for federal involvement in hazardous waste sites, with 83% of respondents indicating their support for federal involvement, and 12% indicating their opposition.¹²³

In December of 1980, in response to escalating concern over hazardous waste, Congress had passed the Comprehensive Environmental Response, Compensation, and Liability Act. CERCLA would allow the EPA and state environmental agencies the power to contain and clean up hazardous waste sites, using money from the \$1.6 “Superfund” that the act had created.¹²⁴ Representative James Florio (D. NJ) had designed the Superfund legislation in order to encourage companies responsible for the pollution to clean it up on their own; if they were to avoid the clean-up costs, or were simply not able to pay, the government would loan them “Superfund” funds in order to cover whatever the cost was.¹²⁵ Florio’s original intention for the

¹²² ABC News/Louis Harris and Associates. ABC News/Harris Survey, Jun, 1980.

USABCHS.070780.R1. ABC News/Louis Harris and Associates. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Mar-3-2017.

¹²³ ABC News/Louis Harris and Associates. ABC News/Harris Survey, Jun, 1980.

USABCHS.070780.R3D. ABC News/Louis Harris and Associates. Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, iPOLL, accessed Mar-3-2017.

¹²⁴ Edward C. Burks, “How The Hazardous Waste Superfund Will Work,” *New York Times*, 21 December, 1980.

<http://search.proquest.com.proxy.library.emory.edu/news/docview/121440606/fulltextPDF/60192977131A487APQ/1?accountid=10747>.

¹²⁵ “Superfund, Solving the Problem Without Regulation,” *EPA Journal*, (September 1980): 10.

bill was for it to be enforced by the EPA, which would represent the federal government in the allocation of funds.

One responsibility that CERCLA delegated to the EPA, was that of establishing a National Contingency Plan, a plan which CERCLA defined as a, “national hazardous substance response plan which shall establish procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants.”¹²⁶ The first draft of the NCP had been started before Gorsuch arrived at the agency; once Gorsuch received the draft, she declared that it was too long, and too rigid. Gorsuch took it upon herself to recreate the NCP.¹²⁷

Overall, the plan that the EPA gave to the Federal Register to print presented key methods and action steps that would need to be taken in order to address hazardous waste issues. On the day after the NCP was published in the Federal Register, both backlash against it, and the administration’s support of it, materialized. Environmental Defense Fund Attorney Khristine Hall explained the EDF’s defense in a statement to the New York Times on the day after the Federal Register published the revised NCP. She remarked that the plan, “doesn't really address the issue of the goal of cleaning up these sites,” and added, “Instead of providing goals, it provides methods. The criteria are so loose we are afraid they will not be enough to protect public health and the environment.”¹²⁸ Likewise, Representative Florio declared that the plan was, “a blueprint for further inaction and delay.” Representative John LaFalce (D. NY), whose

¹²⁶ *Comprehensive Environmental Response, Compensation, and Liability Act of 1980*, Public Law 510, 96th Cong., (December 11, 1980), 13.

¹²⁷ Anne Gorsuch, *Are You Tough Enough*, (New York: McGraw-Hill, 1986), 103.

¹²⁸ Philip Shabecoff, “U.S. Plan Offered for Cleaning Up Toxic Dump Sites,” *New York Times*, March 13, 1982.

<http://search.proquest.com.proxy.library.emory.edu/news/docview/424304827/10D6272C7A1A4C7DPQ/1?accountid=10747>.

district contained the Love Canal site, said, "As far as I know," he continued, "this plan is a weak and inadequate answer to the nation's problem of hazardous waste."¹²⁹

Gorsuch's administration defended the plan, saying that it fully represented the administration's commitment to, "safe and effective toxic waste management." Gorsuch additionally remarked in a later press conference that the plan, "exemplifies regulatory reform in the Reagan Administration. Its provisions are concise, its language nontechnical and its requirements flexible." Superfund Director Hedeman likewise defended Gorsuch's NCP, explaining that the plan outlined a course of action to remedy hazardous waste dumps, which would be not only cost-effective and economically sound, but also protective of the environment.¹³⁰ Gorsuch's goal as EPA administrator was not to disregard pollution or hazardous waste completely, nor was it to address it at the expense of Reagan's economic goals. It was to balance both the need for action on hazardous waste, with the regulatory and budgetary reform that Reagan's administration spearheaded. Her NCP, although not popular in conservationist circles, showed this dedication to Reagan's ideology.

The agency continued to receive criticism as the year went on. The criticism heightened as even more hazardous waste problems began to surface. The reactions to the dioxin situation in Times Beach, Missouri and the outrage at the PCB situation in Arkansas, indicated the severity of the situation. Citizens and government alike had been growing increasingly suspicious of the EPA's dedication to Superfund implementation, and had heightened the expression of their dismay at the EPA's attention to the quickly worsening problem of hazardous waste.

The Environmental Defense Fund was one particular group that brought charges and accusations against the agency in the latter months of 1982. In November, the group called

¹²⁹ Ibid.

¹³⁰ Ibid.

attention to the EPA's refusal to provide Superfund money for the cleanup of PCBs (polychlorinated biphenyls) at a site in Arkansas. PCBs are an organic chemical made of carbon, hydrogen, and chlorine atoms, and have useful properties such as non-flammability, high boiling point, and electrical insulating properties.¹³¹ According to a memo written by Congressman Dingell, who we had witnessed taking an active stance on environmental issues previously, Assistant Administrator of Solid Waste Disposal Rita Lavelle had denied a recommendation from a regional group that had requested emergency action.¹³² The EDF cited not only the refusal to act on the site, but also Lavelle's reasoning: that exposure to the toxic chemicals would be very unlikely. "In order for a child to consume an acute lethal dose of PCBs," Lavelle had written in a letter to House Representative John Paul Hammerschmidt (R. AK) "the child would have to eat about 150-grams of the oil laden dirt, or the equivalent of three candy-bars."¹³³ The specific health effects of PCBs were not completely known in the early 1980s, but doctors from the Federal Center for Environmental Health had responded to Lavelle's statement by citing that they did pose "a significant health threat."¹³⁴ Lavelle's oversight indicated to environmentalists the EPA's lacking dedication to hazardous waste abatement.

The EDF additionally attacked the Agency for its concerning approach to the problem of dioxin contamination in Times Beach, Missouri. The problem traced back to the 1960s disposal methods of the Northeastern Pharmaceutical and Chemical Company, Inc., who had contracted out for disposal of their "still bottoms," the liquid residues that remained at the end of their

¹³¹ Environmental Protection Agency, "Polychlorinated Biphenyls (PCBs)," Environmental Protection Agency, <https://www.epa.gov/pcbs/learn-about-polychlorinated-biphenyls-pcbs> (accessed March 17, 2017).

¹³² Philip Shabecoff, "Agency Stand on Dioxins and PCB's Is Challenged," *New York Times*, November 20, 1982.

<http://search.proquest.com.proxy.library.emory.edu/news/docview/424474099/6FBDB70D26CC403EPQ/1?accountid=10747>.

¹³³ R. Pollie, "EPA In Superfund Squabbles," *Science News* 122, no. 20, (November 1982): 310.

¹³⁴ Shabecoff, "Agency Stand on Dioxins and PCB's is Challenged."

production of hexachlorophene, an antibacterial agent. The EDF got ahold of and published a report on the EPA's planned response to the hazardous situation, in particular, the fact that they would only authorize cleanup of sites where the dioxin levels exceeded 100 parts per billion (ppb), whereas the CDC argued for cleanups in places where the dioxin level was 1 ppb.¹³⁵ An EDF attorney attacked this possibility by saying that it was, "beyond the range than anyone could sensibly think of...EPA documents show that the reason that this option is being looked at is cost alone."¹³⁶ The EPA's approach to the Times Beach situation was another one of the instances in which it shirked its Superfund implementation duties.

Towards the end of 1982, the EPA's hazardous waste actions, or lack thereof, erupted in congressional controversy. On September 17, 1982, Congressman Dingell (D. MI), the Chair of the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, took the next step in evaluating the effectiveness of the EPA's implementation and administration of CERCLA; he, as chair of the subcommittee, requested from Gorsuch the delivery of key CERCLA documents in order to address the growing concern about lagging administration of the program.

In Dingell's original letter to Gorsuch, he requested that the EPA provide his subcommittee with certain documents and information, so that they could fulfill their oversight duties and have a better idea of what exactly the agency's Superfund enforcement entailed. Included in the requested documents were records of enforcement for every site on the hazardous waste priorities list.¹³⁷ While Gorsuch did comply with a number of the requests that the subcommittee made, she initially declined to release any enforcement information, explaining

¹³⁵ Robert Emmet Hernan, *This Borrowed Earth: Lessons From the 15 Worst Environmental Disasters Around the World*, (New York: Palgrave Macmillan, 2010), 95-98.

¹³⁶ Pollie, "EPA in Superfund Squabbles."

¹³⁷ House Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, *EPA Withholding of Superfund Files*, 97th Cong., 2nd sess., 1982, 268-270.

the EPA's concern that releasing such information could have a negative effect on ongoing enforcement activities. When Gorsuch did not relinquish the documents by the October 14th deadline, Dingell argued that Congress had clear Constitutional and Statutory right to all of the requested documents. In the subsequent weeks, Gorsuch and her staff handed over portions of the total requested documents, but, working with the Department of Justice, decided that 35 documents would continue to be withheld, as they were "enforcement-sensitive."

Congress subpoenaed Gorsuch on October 14, 1982, commanded her to appear before Dingell's subcommittee, and required that she bring the requested documents to her appearance.¹³⁸ On November 30th, Reagan sent a memo to Gorsuch commanding her to continue the withholding of demanded CERCLA files from Dingell's subcommittee.¹³⁹ For the purposes of this thesis, the reasoning behind Reagan's decision, or the effects of it on the constitutional mandate of separation of power, do not matter.¹⁴⁰ What does matter, is Gorsuch's loyalty, and defense of the president's order and authority, in this situation. In her testimony to Congress, Gorsuch maintained that the reasons behind her refusal to comply with the demands of the subpoena rested not in her own personal opinions, but in "the 'executive branch's responsibility for carrying out the laws which you [Congress] have enacted."¹⁴¹ When Congressman Dingell questioned her further on her reasoning and declared his opinion (which held her in contempt of the subcommittee), and even when he warned about the potential criminal penalties of her refusal, she remained firm in her position. "Mr. Chairman," Gorsuch said, "let me say that I do

¹³⁸ Ibid., 297.

¹³⁹ Ibid., 219.

¹⁴⁰ Reagan invoked the power of executive privilege.

¹⁴¹ Ibid., 154.

refuse on the basis of instructions of the President... This is not done in spite of the opinion of the Chair, it is done regardless of the opinion of the Chair.”¹⁴²

Gorsuch’s loyalty to the President’s ideology, methodology, and authority, had been demonstrated before in her management of the EPA and in the way that she worked to balance budget cuts and regulatory reform, with the protection of the environment. Although her loyalty won her Reagan’s support, it lost any support that she had within Congress. As 1983 began, the Superfund scandals at EPA only heightened, as Gorsuch’s credibility deteriorated further.

The situation at Times Beach erupted in early 1983, resulting in the evacuation of Times Beach Residents. The EPA had begun taking samples in December of 1982, and soon after, the CDC advised that the residents of Times Beach who had not already left because of a flooding crisis should not return; the levels of dioxin that the EPA found were not safe to live in.¹⁴³ Even Gorsuch acknowledged the severity of the situation. In early February of 1983, Gorsuch decided to buy the entire town out. While some of the residents lauded the fact that the EPA had finally taken action, others scorned the decision as a publicity stunt. One Times Beach resident, named Laine Jumper, declared that, while he was “relieved at the prospect of federal help, but embittered by the fact that the government knew about the dioxin problem for a decade, and the EPA had known for six weeks that the contamination was dangerous.”¹⁴⁴ As Jumper’s quote indicates, Gorsuch’s action was praised, but might have arrived too late.

Overall, the confusion and political scandals that plagued the EPA throughout the first few months of 1983 culminated in a situation that Gorsuch could not recover from. In early

¹⁴² Ibid., 156.

¹⁴³ Hernan, *This Borrowed Earth*, 98.

¹⁴⁴ Dale Russakoff, “U.S. Offers to Buy Poisoned Homes of Times Beach,” *Washington Post*, February 23, 1983.

<http://search.proquest.com.proxy.library.emory.edu/news/docview/138085639/abstract/F36BC0D04DB54607PQ/1?accountid=10747>.

March, pressure for Gorsuch to resign began to build within Congress. Soon enough, both Republicans and Democrats were calling for her removal. Reagan, on the other hand, would not see her go. At this point, the highest ranking official to demand her resignation was Representative Robert Michel (R. Illinois) who was the House minority leader. He admitted that Gorsuch was not likely to survive the political crisis that she had been through. In addition, it was around this time that the Department of Justice decided that they would not defend Gorsuch in her contempt of Congress case; they could not, seeing as they had recently begun investigations against her implementation of Superfund.

Although Gorsuch (now Burford, as she had remarried just weeks before), never displayed any sign of weakness in the weeks leading up to her resignation, eventually decided that remaining in her position was not worth the imminent political scandal. On March 9th, she decided to resign, to, “terminate the controversy and confusion that has crippled my agency...” The act of Gorsuch’s resignation was perhaps an attempt at expiation for what environmentalists and pro-environment members of Congress saw as the wrong way to govern environmental protection. But, her departure did not have that intended cleansing effect. As one close friend and government official commented the day after the resignation, “the basic antagonism is not Anne Burford. It’s a confrontation between two philosophies of government, one represented by Ronald Reagan, and the other represented by the media in Washington.”¹⁴⁵ Gorsuch’s loyalty to Reagan’s philosophy of government led to a controversy that pitted her what the government official had identified that other philosophy of government. Gorsuch approached the management of the EPA in a way that never had been done before. Ruckelshaus,

¹⁴⁵ David Hoffman and Cass Peterson, “Burford Quits as EPA Administrator,” *Washington Post*, 10 March, 1983.
<http://search.proquest.com.proxy.library.emory.edu/docview/138077059/AB4FBA8BFF22480FPQ/1?accountid=10747>.

Train, and Costle all ran the agency as a bureaucracy, in the belief that they were chosen by the president to make decisions based on what they thought was fair, just, and best for both the environment and the American people. Gorsuch ran the agency as a servant and loyalist to Reagan's philosophies, and above anything else, an ideologue.

The EPA was in shambles after the departure of Anne Gorsuch. Even after having half a dozen congressional committees launch investigations against the agency under Anne Gorsuch, and after her resignation, the controversies only heightened. John Hernandez, who Reagan appointed to lead the agency while he found a permanent replacement, was the former EPA deputy administrator under Burford. Only a week after he took the interim post, Congress brought allegations against him that he once gave Dow Chemical Co. an advance look at an EPA report on dioxin, which was a deadly byproduct of Dow pesticides.¹⁴⁶ About a week after Burford's departure, allegations were also brought against John Todhunter, the Assistant Administrator for Pesticides and Toxic Waste, for ordering his staff to make reports on two chemicals, dioxin and formaldehyde, seem less dangerous.¹⁴⁷ Other issues came to light that further tainted the image of Burford's EPA. It came out in March of 1983 that Thornton Whit Field, the special assistant for hazardous wastes to EPA Administrator Burford, had helped to draft a regulation in February of 1982 that let Adolph Coors Co. put 1,500 barrels of toxic waste into the Lowry landfill.¹⁴⁸

Finally, the White House admitted that they had received reports in 1982 about a toxic waste

¹⁴⁶ Maureen Santini, "Reagan Picks Ruckelshaus," *Boston Globe*, March 21, 1983.

<https://login.proxy.library.emory.edu/login?url=http://search.proquest.com/docview/294177537?accountid=10747>.

¹⁴⁷ "EPA Aides: Boss Told Us to Alter Data," *Chicago Tribune*, March 20, 1983.

<http://search.proquest.com.proxy.library.emory.edu/news/docview/175847889/E93044845E564E00PQ/13?accountid=10747>.

¹⁴⁸ "Former Coors Attorney Had Role in Writing EPA Rule Favoring Coors," *Philadelphia Inquirer*, March 20, 1983.

<http://search.proquest.com.proxy.library.emory.edu/news/docview/1814346389/8469FF3DE4984F84PQ/3?accountid=10747>.

dump in Stringfellow, California, where clean-up was allegedly stalled for political reasons. Although the White House denied any involvement in that decision, the reports that surfaced only exacerbated the EPA's credibility issues.¹⁴⁹

It was in light of these controversies that Reagan had to appoint a new administrator; the question that he was faced with was: to appoint someone with a strong background in the environmental field, who would appease environmentalists? Or to appoint someone who knew the bureaucratic ins-and-outs of the agency? Reagan found a compromise between the two, and asked Ruckelshaus to return to the position that he had helped create. Reagan, who had opposed the resignation of Burford, exuberantly announced Ruckelshaus' nomination, "No one could bring more impressive credentials . . . He is the right man for the right job at the right time . . ." Reagan additionally praised Ruckelshaus for the characteristic that this thesis highlighted about him; according to the president he was, "tough, fair, and highly competent."¹⁵⁰

The White House overall picked a candidate who would re-instill the nation's confidence in the highlight-investigated EPA. Ruckelshaus, who realized what he had gotten himself into, mapped out his plan of action to rescue and revamp the agency: "I guess my immediate task is to stabilize the EPA and re- instill in the people there the dedication to their tasks, to their jobs that they have had from the outset of that agency and to get on with this enormously complicated job of cleaning up our air and water and of protecting our citizens from toxic substances." This plan of action highlighted action steps to address the issues that Gorsuch had faced in her management of the agency, and that had brought criticism and suspicion against her. Ruckelshaus brought with him the promise for dedication to the environment, and emphasis on

¹⁴⁹ "EPA Aides: Boss Told Us to Alter Data."

¹⁵⁰ Santini, "Reagan Picks Ruckelshaus."

the “enormously complicated job,” of cleaning air, water, and protecting against toxic substances.¹⁵¹

Conclusion

Looking back at the language that the Ash Council and President Nixon had used in the Reorganization plan which created the EPA, we see that this goal that Ruckelshaus emphasized in his 1983 plan of action, that of cleaning air, water, protecting against toxic substances, was what the EPA was meant to be for from the outset. “As concern with the condition of our physical environment has intensified,” Nixon had said to Congress, “it has become increasingly clear that we need to know more about the total environment--land, water, and air. It also has become increasingly clear that only by reorganizing our Federal efforts can we develop that knowledge, and effectively ensure the protection, development and enhancement of the total environment itself.”¹⁵²

Although this was the original goal of the agency, if there is anything that this thesis has shown, is that pure dedication to the environment is certainly not something that the executive branch and the EPA emphasized at every point throughout the agency’s first thirteen years. Ruckelshaus had set tough rules against air pollution and enforced them to the best of his ability in the face of industry complaints, but also was not afraid to be fair and sensible in balancing the needs of industry and the economic interests of the nation’s citizens in his environmental decisions. The job of the EPA administrator became a little more difficult when the energy crisis of 1973 rocked the nation’s confidence in its energy supply, and, unfortunately, weakening

¹⁵¹ Ibid.

¹⁵² House Committee on Government Operations, *Reorganization Plans Nos. 3 and 4 of 1970, Message of the President*, 91st Cong., 2nd sess., 1970, H. Doc. 366, serial 12896-2, 1-6.

environmental protection laws seemed like the obvious choice. Train did his best as administrator at this time, to marry the economic and energy concerns that dominated Nixon's and Ford's approaches to environmental policy, while also maintaining his dedication to the environment. Support for environmental protection grew as Carter became president, but fell as renewed economic and energy safety and supply concerns gripped the country. Costle, like Train and Ruckelshaus before him, did his best to balance the energy and economic needs of the country with the needs of the environment. Finally, as the 1980s rolled around, a complete change in ideology brought with it the slow crumbling of the credibility of the EPA. In conjunction with tragedies such as Three Mile Island, Love Canal, and Times Beach, Anne Gorsuch took on the EPA administrator post. While her predecessors had worked hard to preserve the balance of economic, industrial, and energy supply interests with the protection of the agency, Gorsuch focused on preserving her loyalty and dedication to Reagan's programs of economic reform and deregulation. As a result, controversy and suspicion surrounded the EPA, only to be remedied by Gorsuch's resignation, and the reinstatement of Ruckelshaus.

Although it is clear that each of these administrators' put industrial, energy, and economic needs before those of the environment at certain points of their tenures, the main difference between the first three, and the last, is their approach to the agency's management. The goal of this thesis was not to blame any one of these administrators for their management of the EPA, but was rather to provide insight to the complexity of the agency in its first decade, and to delve into the complexities of each of the administrator's visions of how the agency was supposed to work. The thesis examined how the administrators' personal views on bureaucratic responsibility and the role of federal government impacted their ability to address both steady support for environmental protection and economic anxieties. As sentiment for and against the

environment rose and fell, and presidents with differing ideologies came and went, the administrators faced tough choices about how to address environmental protection. In the end, it came down to who or what they were dedicated to, and how far they were willing to go to protect their values, and the environment.

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