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## Environment

**ENVIRONMENT**  
**NEWS SERVICE**

# EPA Draws Cheers, Jeers This Week in Washington

By **Brian Hansen**

**WASHINGTON, DC**, October 3, 2000 (ENS) - The activities of the U.S. Environmental Protection Agency (EPA) drew both warm praise and sharp criticism today in Washington, as Administrator Carol Browner and Assistant Administrator Tim Fields appeared before two very different audiences.

Browner, speaking to a lunchtime crowd of enthusiastic supporters at the National Press Club, outlined the EPA's record of protecting public health and the environment.

According to Browner, the EPA has made huge strides under the leadership of the Clinton/Gore administration, especially in terms of strengthening the Clean Air Act and Clean Water. It is vitally important, she said, to elect leaders in November who will work to modernize the nation's outdated environmental laws.

**EPA Administrator Carol Browner (Photo courtesy EPA)**

"Times have changed," said Browner, who noted that some major environmental policies have not been updated for decades. "We need modern, flexible laws that allow us to keep pace with innovations and scientific discoveries."

But even as Browner was trumpeting the EPA's accomplishments before the paying audience in downtown Washington, a Congressional panel on Capitol Hill was furiously grilling Fields about allegations that the agency has tried to stifle the



activities of its own National Hazardous Waste Ombudsman, Robert Martin.

"My concern is to ensure that the Ombudsman's office is allowed to continue to provide assistance to local communities in holding EPA accountable," said Congressman Michael Bilirakis, a Florida Republican. "While EPA officials have publicly and privately assured me of their full support for the Ombudsman's efforts, their actions suggest a different attitude."

The office of the EPA's National Hazardous Waste Ombudsman was established by Congress in 1984 as an independent and autonomous vehicle to investigate complaints leveled against the EPA. Though the office continues to operate with the nominal blessing of the EPA, it has not has statutory standing since its Congressional authorization expired in 1989.

Legislation is pending in both houses of Congress that would reauthorize the statutory authority of the Ombudsman's office. But the short and simple bills have unleashed a torrent of debate over the proper role of the EPA Ombudsman.

Browner, Fields and other high ranking EPA officials maintain that they fully support the Ombudsman's office, saying that its function is a "very important one for the (EPA) and the public." However, the EPA has spoken out against legislation to reauthorize the office, arguing that it would vest the Ombudsman with the type of unchecked independence that might prompt "inappropriate opportunities for litigation."

But growing number of disgruntled citizens and elected officials maintain that a powerful and completely independent Ombudsman is exactly what is needed to keep tabs on the EPA. According to these critics, the EPA routinely ignores citizen concerns and complaints about the hazardous waste clean up plans that the agency implements in their communities. And worse, the EPA has actively sided with the very same corporate polluters they are supposed to be regulating, these critics charge.



**Congresswoman Dianna DeGette (Photo courtesy Office of the Congresswoman)**

Congresswoman Dianna DeGette, a Democrat from Colorado, presented a new twist on that allegation Tuesday. DeGette said she was troubled over the EPA's relationship with the Shattuck Chemical Company, which is one of the principally responsible parties at an EPA hazardous waste site in Denver, Colorado.

The Shattuck site, highly contaminated with radioactive soils left over from decades of radium processing, was added to the EPA's National Priorities List of Superfund sites in 1983. Although Denver residents for years pleaded to have the wastes removed from their neighborhood, the EPA in 1992 issued an order that allowed Shattuck to

"stabilize" the radioactive soils on site by mixing them with fly ash and concrete. A chain link fence was erected around the resulting monolith of radioactive debris, which stood 17 feet high in places.

In early 1999, at the request of DeGette and other elected officials, the EPA ombudsman's office launched an investigation into the Shattuck case. With the intervention of Martin and chief investigator Hugh Kaufman, the EPA was forced to admit that it knew that the radioactive waste might eventually leak from the concrete and fly ash monolith, placing public health and the environment at risk.

The revelation forced the EPA to reverse its decision. In June, the agency announced that the radioactive amalgamation would be broken up and shipped out of the Denver neighborhood.

Degette, though, is not convinced that the whole truth has been unearthed in the Shattuck case. The Colorado Democrat said she was troubled by the U.S. Department of Energy's (DOE's) acknowledgement last week that Shattuck was one of several hundred companies contracted to process nuclear materials for the federal government.

**Shattuck's 100,000 cubic yards of low level radioactive waste from the former uranium processing mill.**



The Energy Department's revelation raises troubling questions about the EPA's original plan to entomb the waste in the Denver neighborhood, DeGette said.

"Questions continue about what the EPA knew about the waste and when they knew it," DeGette said.

Congresswoman DeGette then put the matter of the DOE revelation to Martin, the ombudsman, who was asked to testify before the House panel.

Martin said that when he began his investigation, Shattuck officials took him on a guided tour of the site. However, the company did not disclose that it had had been under contract to process radioactive materials for the DOE, he said.

Still, Martin said he suspected that there was something more than what Shattuck officials were letting on.

"I had suspicions that the waste at the site was other than it was described," he told the House panel.

DeGette then turned to Fields, who heads the EPA's Office of Solid Waste and Emergency Response, demanding to know what the EPA knew about the Shattuck waste, and when the agency knew it.

Fields is responsible for the national oversight and management of the Superfund, Brownfields Redevelopment, Hazardous and Solid Waste Management, Underground Storage Tank, Chemical Emergency Preparedness and Prevention, Technology Innovation, Oil Spill Cleanup, and Federal Facilities Site Remediation programs.

"I assure you that there is an ongoing investigation regarding the radwaste at Shattuck," Fields said.

That explanation was not good enough for other members of the House panel, who said that the Shattuck case illustrates how the EPA has tried to curtail the investigatory powers and independence of the EPA Ombudsman.

The EPA's infringement on the independence of the Ombudsman's office even extended to the testimony that Martin presented on Tuesday, several members of Congress charged.

Those members were quick to pick up on Martin's remark that he was "speaking extemporaneously," and that he did not have a prepared statement to enter in to the Congressional Record.

Martin, when asked why he did not have a written statement to submit, said, "I understood it was being prepared by the agency."

That was very problematic for Congressman John Shimkus, a Republican from Illinois. For Shimkus, the answer was further proof of the EPA's efforts to control Martin's activities.

"I find it hard to believe that you could be independent if you can't even provide your own written statement," Shimkus said to Martin.

Fields attempted to interject an explanation at that point, but Shimkus stifled the EPA official with an icy stare.

"I've got a lot of questions for you later, Mr. Fields," Shimkus said.

Martin, after being pressed, finally said, "I do feel I should be able to provide my own statement to the committee."

More questions were raised about how Martin came to receive the House

panel's invitation to testify at the hearing on Tuesday. The panel addressed its sealed invitation to Martin, but the EPA Ombudsman said that the document was open when he received it.

Once again, that small detail was very significant for the members of the panel.

"Do other people routinely open your mail?" asked Congressman Steve Largent, an Oklahoma Republican.

Other members of the panel focused on the amount of funding that the EPA extends to the Ombudsman's Office. According to Fields, the office's budget of approximately \$500,000 is sufficient to accomplish its work.

But with 14 active investigations and requests for many more, that budget is far too low, said Congresswoman Helen Chenoweth Hage, a Republican from Idaho.

"I don't think \$500,000 is much of a commitment," she said.

**Congresswoman Helen Chenoweth Hage (Photo courtesy Office of the Congresswoman)**



At Chenoweth Hage's request, Martin has convened an investigation of the EPA's plan to create a massive 1,500 square mile Superfund site in northern Idaho.

But Martin's intervention into that case has prompted a reaction from the U.S. Department of Justice, which earlier this summer asked the EPA to keep Martin on a short leash.

"There is a clear risk that the Ombudsman's process could undercut the judicial process and harm the United States' interests in the ongoing case," Assistant Attorney General Lois Schiffer wrote in a letter to Fields on July 27.

Schiffer had asked Fields to suspend the public hearing that Martin and Kaufman had planned to conduct in Idaho in August. Martin and chief investigator Kaufman held the hearing anyway. It lasted 15 hours.

"As a result of their work, we are finally forcing the EPA to answer these questions [about the Idaho site]," Chenoweth Hage said on Tuesday. I strongly encourage the committee to support an independent ombudsman process, and keep these numerous governmental abuses of the people at bay."

EPA Administrator Browner told ENS today that she was not familiar with the Congressional testimony that has been given recently on the subject of the EPA Hazardous Waste Ombudsman.

It is doubtful that legislation reauthorizing the Ombudsman's office will be brought to the floor of Congress for a vote before this session closes to allow elected officials to campaign for the November 7 election.

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