

**Menu**[Home](#)[Action](#)[Feedback](#)[Search](#)[Site Map](#)**Help**

▶ The hearing you have selected is listed to the left at the top.

# Committee Action

## ▼ **October 3, 2000: Subcommittee on Finance & Hazardous Materials**

### ▼ [The Role of the EPA Ombudsman in Addressing Concerns of Local Communities](#)

.. [Statement by The Honorable Michael Bilirakis](#)

.. [Statement by The Honorable Michael G. Oxley](#)

.. [Statement by The Honorable Tom Bliley](#)

.. [Panel 1, Tentative Witness 1: Mr. Robert Martin](#), U.S. Environmental Protection Agency

.. [Panel 1, Testified Witness 2: Mr. Tim Fields](#), U.S. Environmental Protection Agency

.. [Panel 2, Testified Witness 1: Mr. Bret Bowers](#), Community Leaders for EPA Accountability

Now!

.. [Panel 2, Testified Witness 2: Ms. Mary Mosley](#),

.. [Panel 2, Testified Witness 3: Ms. Kimberly Boggiatto](#),

## ▼ **September 21, 2000: Subcommittee on Telecommunications Trade & Consumer Protection**

### ▼ [The recent Firestone tire recall action, focusing on the action as it pertains to relevant Ford vehicles.](#)

.. [Testified Witness: Dr. Sue Bailey](#), U.S. Department of Transportation

.. [Testified Witness: Mr. Dan Saurer](#), Bridgestone/Firestone, Inc.

.. [Testified Witness: The Honorable Rodney E. Slater](#), Department of Transportation

.. [Panel 1, Tentative Witness 2: Mr. John Lampe](#), Bridgestone/Firestone, Inc.

.. [Panel 1, Testified Witness 3: Ms. Helen O. Petrauskas](#), Ford Motor Company

.. [Panel 1, Testified Witness 5: Mr. Thomas D. Baughman](#), Truck Consumer Business Group  
Ford Motor Company

## ▼ **October 12, 2000: Subcommittee on Health & Environment**

### ▼ [The Global Need for Access to Safe Drinking Water](#)

.. [Statement by The Honorable Tom Bliley](#)

.. [Panel 1, Testified Witness 1: Mr. Hal Weiner](#), Screenscope, Inc.

.. [Panel 1, Testified Witness 2: Mr. Gerald Jones](#), American Red Cross

.. [Panel 1, Testified Witness 3: Dr. Anwarul Huq](#), University of Maryland Biotechnology Institute

.. [Panel 1, Testified Witness 4: Mr. Peter Lochery](#), CARE

.. [Panel 1, Testified Witness 5: Ms. Adrianna Quentero](#), Natural Resources Defense Council

.. [Panel 1, Testified Witness 6: Ms. Payal Sampat](#), World Watch Insitute

## ▼ **June 22, 2000: Subcommittee on Oversight & Investigations**

### ▼ [DOE's Fixed-Price Cleanup Contracts: Why are Costs Still Out of Control?](#)

.. [Statement by The Honorable Fred Upton](#)

▶ **105th Congress Action (1997 & 1998)**

| [Action](#) | [Schedule](#) | [News](#) | [Contacts](#) | [Members](#) |  
| [Subcommittees](#) | [Publications](#) | [Commerce-Democrats](#) | [Search](#) |

***The Committee on Commerce***  
***2125 Rayburn House Office Building***  
***Washington, DC 20515***  
***(202) 225-2927***  
***[Feedback](#)***



**Menu**

[Home](#)

[Action](#)

[Feedback](#)

[Search](#)

[Site Map](#)

# The Role of the EPA Ombudsman in Addressing Concerns of Local Communities

## Joint Hearing of The Subcommittee on Finance & Hazardous Materials and The Subcommittee on Health & Environment October 3, 2000

Time	Location	Status	Serial #
10:00 AM	2123 Rayburn House Office Building	Scheduled	

### Hearing Audio Webcast

#### Audio Archive Available

Click [here](#) for the audio archive of this hearing.

Requires  
[Real Player](#)

[Feedback](#)

### Witness List, Prepared Witness Testimony and Member Statements

Click [here](#) for prepared Member statements and witness testimony.

### Hearing Transcript

The printed hearing record or "transcript" will be made available here 30 to 90 days after the conclusion of the hearing.

### Related Documents and Issues

[Environment](#)

[EPA](#)

[Hazardous Materials](#)

---

| [Action](#) | [Schedule](#) | [News](#) | [Contacts](#) | [Members](#) |  
| [Subcommittees](#) | [Publications](#) | [Commerce-Democrats](#) | [Search](#) |

---

**The Committee on Commerce**  
**2125 Rayburn House Office Building**  
**Washington, DC 20515**  
**(202) 225-2927**  
**[Feedback](#)**



**Menu**

[Home](#)

[Action](#)

[Feedback](#)

[Search](#)

[Site Map](#)

**Also See**

[Hearing Witness List  
& Member  
Statements](#)

## Oversight Hearing

### [The Role of the EPA Ombudsman in Addressing Concerns of Local Communities](#)

Subcommittee on Finance & Hazardous Materials

October 3, 2000

---

## Prepared Statement of The Honorable Michael Bilirakis

---

;  
Subcommittee on Health & Environment  
October 3, 2000

---

## Prepared Statement of The Honorable Michael Bilirakis

---

I want to welcome our witnesses and audience to today's hearing concerning the role of the U.S. Environmental Protection Agency's National Hazardous Waste and Superfund Ombudsman in addressing the concerns of local communities.

Today, we will seek to address several basic questions. First, we are interested in understanding the Office of the Ombudsman's interaction with the general public, as well as the relationship between this office and other offices within EPA. We are interested in hearing the services which the Office of the Ombudsman provides and whether the Office is allowed sufficient independence. We are also interested in Assistant Administrator Fields' view of the Office of the Ombudsman and what EPA considers to be the permissible functions of the Office.

One of EPA's stated goals is to ensure that "all parts of society - communities, individuals, business, state and local government and tribal governments - have access to accurate information sufficient to effectively participate in managing human health and environmental risks." Unfortunately, many citizens around the country would contend that EPA has failed in its relationship with local communities.

Chairman Oxley and I requested this joint hearing after becoming acquainted with several instances in which communities were unhappy with the EPA's responsiveness to their needs, particularly with regard to Superfund sites. In many cases, the EPA Ombudsman has become involved and opened up avenues of communication for the public's concerns to be taken into consideration.

I have received letters from people all over the United States expressing their support for the EPA Ombudsman, and I ask unanimous consent to enter these into the record.

I have also experienced the work of the Ombudsman firsthand at the Stauffer

Superfund Site in Tarpon Springs, Florida. At this site, it became increasingly clear over several years that many of my constituents were "shut out" of the cleanup process. They felt that their concerns were not heard by EPA officials in charge of the site.

Therefore, at my request, the EPA Ombudsman is conducting an independent review of the Stauffer cleanup plan. To date, public meetings with the ombudsman have successfully highlighted the need for additional scientific studies and increased local residents' confidence in the Superfund process.

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

Over the past several months, EPA and Justice Department officials have nearly derailed the Ombudsman's investigation of the Stauffer site and other cases. Shortly before a scheduled public meeting in June of this year, EPA national officials indicated to the Ombudsman that insufficient funds were available for him to continue his investigation at the Stauffer site. Only after Chairman Oxley, Chairman Tauzin and I intervened did the Agency make a commitment to provide the necessary resources.

At the June meeting in Tarpon Springs, Florida, EPA Region IV representatives made a brief presentation regarding the Stauffer site. After only 10 minutes, they abruptly walked out in the middle of a question. Naturally, my constituents and I were outraged by this display of contempt - dare I say arrogance - on the part of EPA representatives.

While I am certainly concerned about the Stauffer site and the well-being of my constituents, my experiences also led me to question whether Stauffer is an isolated case - or symptomatic of local concerns across the country. That is the key point of this hearing. Are Stauffer and the other sites where the Ombudsman has been involved isolated cases - or do they represent just the tip of an iceberg? Are we dealing with the true exceptional case - or is this business as usual at EPA?

At this point, I would like to extend a very warm welcome to one of my constituents, Mary Mosley, a Tarpon Springs resident and former city commissioner. Mrs. Mosley will testify in more detail about the EPA and the Ombudsman's involvement in the Stauffer case. We look forward to hearing your statement, Mary, as well as statements of the other citizen witnesses, Mr. Bret Bowers from Coeur d'Alene, Idaho and Ms. Kimberly Boggiatto from Denver, Colorado. I want to thank you all for your time and effort in traveling to testify here today.

I also want to welcome Mr. Timothy Fields, Assistant Administrator of EPA's Office of Solid Waste and Emergency Response. Mr. Fields is no stranger to this Committee, and I look forward to hearing the Administration's views on the role of the Office of the Ombudsman and its relationship with EPA.

However, I deeply regret that Ombudsman Martin is not presenting either written or oral testimony to our Subcommittees today. I appreciate that he is available to respond to questions, but that is not a sufficient substitute. Given that the subject matter of this hearing is the role of the Ombudsman, given that a joint written invitation letter was submitted to Mr. Martin for his testimony, and given our experiences with conflict between the Ombudsman office and EPA personnel at certain Superfund sites - I am concerned by this situation, and I believe this matter warrants closer review both during and after today's hearing.

This hearing document was last edited by the Committee on Commerce on 10/04/2000 10:53:36 AM EDT

---

[Action](#) | [Schedule](#) | [News](#) | [Contacts](#) | [Members](#) |  
| [Subcommittees](#) | [Publications](#) | [Commerce-Democrats](#) | [Search](#) |

---

***The Committee on Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515  
(202) 225-2927  
[Feedback](#)***



## Menu

[Home](#)

[Action](#)

[Feedback](#)

[Search](#)

[Site Map](#)

## Also See

[Hearing Witness List  
& Member  
Statements](#)

## Oversight Hearing

### [The Role of the EPA Ombudsman in Addressing Concerns of Local Communities](#)

Subcommittee on Finance & Hazardous Materials

October 3, 2000

---

## Prepared Statement of The Honorable Michael G. Oxley

---

;

Subcommittee on Health & Environment

October 3, 2000

---

## Prepared Statement of The Honorable Michael G. Oxley

---

I am pleased to be holding this joint Subcommittee hearing today with my colleague, Mike Bilirakis, Chairman of the Health and Environment Subcommittee, on "The Role of the EPA Ombudsman in Addressing Concerns of Local Communities."

This is a hearing that goes to the heart of the public's faith in government. People who live near Superfund sites have turned to the government for explanations and help. The responsiveness of EPA to these citizens has been a concern of mine for a long time. With the goal of promoting faster, safer cleanups, I have introduced Superfund reform bills that would increase local participation in the remedy selection process and that would make community involvement a more integral part of EPA's cleanup criteria.

The Ombudsman's office within EPA plays an important role. It serves as a citizen watchdog and as a backstop to ensure that the best decisions are being made for their community. Trust in the process is heightened when people know they have an "independent voice" to closely examine an agency decision. Mistrust often leads to controversy and cleanup delays.

Therefore, I was very disturbed when Mr. Bilirakis told me that EPA appears to be impeding the helpful work that the Ombudsman's office has been doing in his district. We had a telephone conversation with Administrator Browner on that subject, and yet that conversation did not prevent the inexcusable conduct of regional EPA personnel who subsequently walked out of a public meeting in my colleague's district. Since then, I have learned of a Department of Justice letter that threatens to disrupt the Ombudsman's investigative work at the Coeur d'Alene site in Idaho.

These situations speak directly to the independence of the Ombudsman and to the credibility of the agency. No one -- not elected officials, not appointed agency bureaucrats -- should be afraid to have their decisions subjected to public scrutiny. I look forward to hearing firsthand from the citizens who have been

dealing with EPA and the Ombudsman regarding Superfund sites in their communities and I will be looking for EPA assurances that the Ombudsman's office has the resources and independence to play a constructive role in communities with Superfund sites.

I welcome our witnesses and look forward to their testimony.

This hearing document was last edited by the Committee on Commerce on 10/04/2000 10:55:06 AM EDT

---

| [Action](#) | [Schedule](#) | [News](#) | [Contacts](#) | [Members](#) |  
| [Subcommittees](#) | [Publications](#) | [Commerce-Democrats](#) | [Search](#) |

---

***The Committee on Commerce***  
***2125 Rayburn House Office Building***  
***Washington, DC 20515***  
***(202) 225-2927***  
***[Feedback](#)***



**Menu**

[Home](#)

[Action](#)

[Feedback](#)

[Search](#)

[Site Map](#)

**Also See**

[Hearing Witness List  
& Member  
Statements](#)

## Oversight Hearing

### [The Role of the EPA Ombudsman in Addressing Concerns of Local Communities](#)

Subcommittee on Finance & Hazardous Materials

October 3, 2000

---

## Prepared Statement of The Honorable Tom Bliley

---

;

Subcommittee on Health & Environment

October 3, 2000

---

## Prepared Statement of The Honorable Tom Bliley

---

Mr. Chairman, I want to thank you for holding this Subcommittee hearing today about the role of the EPA Ombudsman in helping local citizens get answers from EPA about Superfund sites in their communities.

As I have said many times over the past eight years, the Superfund law and the Superfund program administered by EPA remain badly broken. As a result, many Superfund cleanups take too long to complete and cost too much. Even worse, as we have heard from scores of witnesses, one of the biggest problems with Superfund has to do with all the lawyers. For years the program has been inefficient because of the wasted time and resources as a result of waves of litigation, lawyer fees, excessive administrative costs and outrageous overhead.

Often the people that stand to suffer the most are citizens who live in communities across the country that are located near Superfund sites. Today, I am pleased that we will hear from some of these residents concerning their experiences with the Superfund program, with EPA, and with the Superfund Ombudsman.

The Ombudsman was created by law to ensure that affected citizens would have a "lifeline" within EPA. To be effective, the Ombudsman must be there to help at times when citizens have difficulty getting their voices heard within the maze of federal bureaucracy. And the Ombudsman must be able to help bring forward legitimate concerns when the government creates bureaucratic obstacles that hinder adequate public participation and ultimately delay cleanups.

I look forward to today's hearing to assess the effectiveness of the Superfund Ombudsman over the years, and identify areas in which improvements are needed. I welcome each of the witnesses, especially the citizens who have traveled a great distance to be here today, and look forward to their testimony.

This hearing document was last edited by the Committee on Commerce on 10/04/2000 10:57:15 AM EDT

---

| [Action](#) | [Schedule](#) | [News](#) | [Contacts](#) | [Members](#) |  
| [Subcommittees](#) | [Publications](#) | [Commerce-Democrats](#) | [Search](#) |

---

***The Committee on Commerce***  
***2125 Rayburn House Office Building***  
***Washington, DC 20515***  
***(202) 225-2927***  
***[Feedback](#)***



**Menu**

[Home](#)

[Action](#)

[Feedback](#)

[Search](#)

[Site Map](#)

**Also See**

[Hearing Witness List  
& Member  
Statements](#)

[Environment](#)

[EPA](#)

[Hazardous Materials](#)

## Oversight Hearing

### [The Role of the EPA Ombudsman in Addressing Concerns of Local Communities](#)

Joint Hearing of the Subcommittee on Finance & Hazardous Materials and the Subcommittee on Health & Environment

---

## Prepared Statement of Mr. Robert Martin

Ombudsman

U.S. Environmental Protection Agency

410 M Street, S.W.

Washington, DC 20460

Panel 1, Witness 1

---

This witness did not submit any prepared remarks.

This hearing document was last edited by the Committee on Commerce on 10/04/2000 10:58:04 AM EDT

---

| [Action](#) | [Schedule](#) | [News](#) | [Contacts](#) | [Members](#) |  
| [Subcommittees](#) | [Publications](#) | [Commerce-Democrats](#) | [Search](#) |

---

**The Committee on Commerce**  
**2125 Rayburn House Office Building**  
**Washington, DC 20515**  
**(202) 225-2927**  
**[Feedback](#)**



**Menu**

[Home](#)

[Action](#)

[Feedback](#)

[Search](#)

[Site Map](#)

**Also See**

[Hearing Witness List  
& Member  
Statements](#)

[Environment](#)

[EPA](#)

[Hazardous Materials](#)

## Oversight Hearing

### [The Role of the EPA Ombudsman in Addressing Concerns of Local Communities](#)

Joint Hearing of the Subcommittee on Finance & Hazardous Materials and the Subcommittee on Health & Environment

---

## Prepared Statement of Mr. Tim Fields

Assistant Administrator Office of Solid Waste and Emergency Response  
U.S. Environmental Protection Agency  
401 M Street, SW  
Washington, DC 20460  
Panel 1, Witness 2

---

Good morning, I am Timothy Fields, Jr., Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER) at the Environmental Protection Agency (EPA). I am accompanied this morning by Mr. Robert J. Martin, the OSWER National Ombudsman. Mr. Martin and I want to thank the Committee for the opportunity to appear before you today to discuss the national EPA Ombudsman program

### **HISTORICAL BACKGROUND OF THE OMBUDSMAN**

The hazardous and solid waste management laws passed by Congress created some of the most complex programs administered by EPA and the States. Recognizing this, Congress established a National Ombudsman function in 1984 as part of amendments to the Resource Conservation and Recovery Act (RCRA). Establishing an Ombudsman provided the public with someone to contact with questions and concerns about the RCRA program. When the statutory authority for the National Ombudsman program expired in 1989, EPA's OSWER retained the function as a matter of policy. In 1991, OSWER broadened the National Ombudsman's scope of activity to include other programs administered by OSWER, particularly the Superfund program. The National Ombudsman is located in the EPA Headquarters office in Washington, D.C. and reports directly to the Principal Deputy Assistant Administrator for Solid Waste and Emergency Response.

The Ombudsman is authorized to provide information and investigate complaints and grievances related to OSWER's administration of the hazardous substance and hazardous and solid waste programs implemented under the following authorities:

- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund;
- Resource Conservation and Recovery Act (RCRA), including UST;
- Emergency Planning and Community Right-To-Know Act (EPCRA) or Superfund Amendments and Reauthorization Act, Title III;

- Oil Pollution Act; and
- Clean Air Act, Section 112(r).

In 1995, a Regional Ombudsman position was created in each EPA Regional office as part of the Agency's Superfund Administrative Reforms effort. On June 4, 1996, Administrator Browner formally announced the appointments of the Regional Ombudsmen. The Regional Ombudsmen program, at a minimum, operates in support of the Superfund program. Depending on the Region, however, the Regional Ombudsman may also provide support to other programs, including RCRA, Underground Storage Tanks (UST), and chemical emergency prevention and preparedness.

We fully support the National Ombudsman program under the jurisdiction of the Assistant Administrator for OSWER. We believe that the Ombudsman function is a very important one for the Agency and the public. That is why when the statutory authorization for the Hazardous Waste Ombudsman function expired, EPA chose administratively to maintain the Ombudsman function and broaden the scope of the function.

### **PURPOSE AND STATUS OF DRAFT GUIDANCE**

Soon after Congress established the Ombudsman program, the Agency issued the Hazardous Waste Ombudsman Handbook to help the newly created National and Regional Ombudsmen administer, and the public understand what to expect from, the Ombudsman program. During the initial years of the Ombudsman program, most of the assistance sought by the public was for help understanding the complicated RCRA program. The Ombudsmen spent most of their time responding to general questions and directing requests to the appropriate sources. The handbook reflected this role.

Over the years, the public gained a better understanding of EPA's hazardous waste programs. Requests for answers to basic questions became requests for resolution of complaints. The Ombudsman function has evolved to reflect the changing needs of its clients. The existing guidance no longer reflects the evolution of the Ombudsman function. In the Fall of 1999, the Assistant Administrator of OSWER established an internal EPA workgroup to look at updating the Hazardous Waste Ombudsman Handbook. The workgroup, chaired by Michael Shapiro, Principal Deputy Assistant Administrator for OSWER, includes several Regional Ombudsmen, the National Ombudsman, representatives from the Office of General Counsel, the Office of Inspector General, the Office of Enforcement and Compliance Assurance and several senior Regional Managers. In preparing the updated guidance, the workgroup met with representatives of the U.S. Ombudsman Association and evaluated and considered guidance documents from this organization as well as other organizations with Ombudsman programs and the American Bar Association's draft Standards for the Establishment and Operation of Ombudsman Offices. The workgroup has attempted to draft guidance which reflects key aspects of various

external models in a manner that works for a civil service position within the Federal structure. We believe the draft guidance will provide for effective and fair implementation of OSWER's Ombudsman program.

The updated guidance will explain to the public the role of the National Hazardous Waste and Superfund Ombudsman and Regional Superfund Ombudsmen today, their scope of activity, and the guidelines under which they coordinate and carry out their responsibilities. The main objective in issuing this guidance is to improve the effectiveness of the program by giving the Ombudsmen, and those who may contact them, a clear and consistent set of operating expectations and policies.

The guidance is currently undergoing internal Agency review. The Agency expects this review to be completed in the next several weeks. EPA will then publish a notice in the Federal Register announcing the availability of the draft document and requesting public comment. I am anticipating a public comment period of 60 days. The Agency also plans to make the draft guidance available on EPA's internet website.

I will now share with you the Agency experience with the operation and role of the National and Regional Ombudsmen.

### **THE ROLE OF THE OMBUDSMAN**

The Ombudsman is the Agency official designated to receive inquiries and complaints about the administration of an OSWER program. It is important to note, however, that the role of the Ombudsman is not that of decision-maker nor of a substantive expert for the Agency. The Ombudsman's role is primarily to focus on the Agency's procedures and how citizens and other interested parties have been treated under those procedures.

The Ombudsman is not an advocate for a community or any person or institution. Rather, the Ombudsman encourages and promotes changes he/she believes will serve both the individual and the public interest. The Ombudsman seeks to reform and improve management practices, policies, or administration of such policies that he/she believes are inefficient or unfair and that may have given or may give rise to a complaint.

Generally, the National Ombudsman handles cases of national significance and/or cases of actual or perceived conflict of interest on the part of the Regional Ombudsman. The Regional Ombudsmen handle the more routine requests for assistance and conduct more informal inquiries to investigate complaints. Nevertheless, the Ombudsmen may be called upon to serve in a number of capacities: 1) providing information and facilitating informal contact with EPA staff, 2) conducting informal fact finding inquiries and developing options to deal with difficult problems, 3) helping to mediate disputes, and 4) making

recommendations to Agency senior management regarding procedural and policy changes that will improve the program. The goal of the Ombudsman is to respond to requests in an appropriate and objective manner as promptly, informally and privately as possible.

### **Providing Information**

Many members of the public and regulated community either do not know how to get information about the solid and hazardous waste programs in OSWER or feel frustrated in their attempts to cope with the complexities of these programs. The Ombudsman may be asked to help a citizen understand how EPA operates, what the appropriate laws, rules, or policies are, or how a citizen may directly handle a complaint. The Ombudsman may answer general questions about any of the programs administered by OSWER, or may direct the person to the appropriate EPA staff to answer the questions. The Ombudsman may also facilitate the communication between a requester and EPA staff. In doing so, the Ombudsman assists members of the public to gain access to information about the solid and hazardous waste program that will help them participate more fully in established Agency processes.

### **Conducting Inquiries**

The Ombudsman may look into a requestor's concerns with respect to any program or requirement under the solid and hazardous waste programs implemented by OSWER. The purpose of such an inquiry will be to ascertain the facts of the case and the perspectives of all the involved parties. Since the Ombudsman has no direct decision-making authority, if he/she finds that a policy or procedure has not been properly followed or someone has not been treated fairly, he/she may make recommendations to the appropriate Agency officials. In such cases, the Ombudsman will generally issue a report explaining the findings and supporting the recommendations made. The officials who administer activities being criticized will be given a chance to review the report prior to its release and attach comments to it.

### **Mediating Disputes**

Many of the issues brought to the attention of the Ombudsman may be resolved through facilitated communication or informal mediation, with the Ombudsman serving in the capacity of a neutral third party. It is almost always in the best interests of those who ask the Ombudsman for assistance and the Agency if a mutually agreeable solution can be found. If the circumstances seem favorable, the Ombudsman will work with the parties and help them move toward agreement. The role of the Ombudsman is not to advocate for a particular outcome, but to try to increase understanding and to assist in the search for appropriate ways to reach closure.

Unlike formal mediation, the Ombudsman always retains the discretion to limit the issues which will be considered (in formal mediation the issues to be discussed are left to the parties to decide). Also, unlike formal mediation, the Ombudsman is as concerned about identifying and encouraging needed institutional reforms as in solving a specific problem.

### **Encouraging Institutional Reform**

The Ombudsman is in a unique position to improve the management and implementation of the OSWER-related programs. On a regular basis, he/she hears issues, concerns and criticisms of the programs from a wide variety of sources. From this, he/she may identify policies and procedures which are causing problems as well as opportunities for making program operations more efficient or effective. Alerting senior EPA managers to what may be an unwise policy or practice, or unfair administration of a policy is as important as the resolution of the specific problem. By making well documented recommendations to EPA program managers, the Ombudsman can point the way to positive institutional change that should prevent or reduce future similar problems from arising in the future.

### **INDEPENDENCE OF THE OMBUDSMEN**

No matter what capacity an Ombudsman is serving in at any given time, the Agency has worked to ensure the Ombudsmen's ability to operate independently. As you are probably aware, one of the main principles an Ombudsman operates under is the ability to operate independently in determining what cases to work on, how an inquiry should proceed and what are the findings of a inquiry.

From the time the National Ombudsman was established by Congress, this function has been a federal government employee reporting to a senior Agency official. Because the Ombudsman is a federal employee, the National Ombudsman cannot be completely independent in the normal course of relations between supervisors and their employees. But, OSWER recognizes the importance of an Ombudsman being and appearing to be independent from the organization he/she is investigating. For example, OSWER has given the National Ombudsman his independence to the maximum extent possible. The Assistant Administrator (AA) for OSWER does not monitor the Ombudsman's workload. The AA does not select which cases the Ombudsman will take, nor directs the Ombudsman how to investigate a complaint. The AA does not interfere with or attempt to influence the Ombudsman as he formulates his findings and recommendations.

The National Ombudsman reports to Deputy Assistant Administrator (DAA) Michael Shapiro. As his supervisor, DAA Shapiro is the approving official on all procurements requested by the National Ombudsman. Generally, for ongoing investigations, funding is approved on an as-needed basis. Where significant resources are requested, DAA Shapiro may become more involved in a case so

he is able to determine that the resources requested are available and that the procurement is the effective mechanism to accomplish the Ombudsman's objective.

### **FUNDING FOR THE OMBUDSMAN PROGRAM**

The EPA has provided adequate resources (funding, person-years, etc.) for the Ombudsman function since it was created. In all cases when the need has arisen, additional funds have been provided to the Ombudsman function. That includes the assignment of staff to support this function and the assistance of the ten Regional Ombudsman as needed. In addition, the Ombudsman, depending on the site and issues under review, has accessed the technical expertise of the EPA's Environmental Response Team to supplement his investigative efforts.

Over the years, funding for the National Ombudsman function has steadily increased despite the fact the Superfund program budget has been reduced. In fact, funding has gone from roughly \$117 thousand in fiscal year 1993 to over \$519 thousand in fiscal year 2000. The Regional Ombudsman function is funded at roughly \$1 million a year, under the ten Regional budgets.

### **ACCOMPLISHMENTS OF THE PROGRAM**

The National and Regional Ombudsmen receive many calls for assistance each year - ranging from routine questions about hazardous waste laws to specific complaints about unfair practices conducted at a site or facility. The Agency has frequently adopted recommendations put forth by the Ombudsman program. Before I close, I would like to share with you an example which demonstrates the success of the Ombudsman program.

In 1999, local residents asked the National Ombudsman to look into the EPA Superfund program activity associated with the Shattuck Chemical Site in Denver, Colorado. Community members did not feel the remedy adequately protected public health and the environment. As part of his investigation, the National Ombudsman held three hearings to hear the concerns of community members. He also interviewed government officials, local residents, and EPA staff and reviewed the administrative record of the site. In October 1999, the National Ombudsman issued his draft recommendations. Subsequently, EPA selected an alternative remedy for the Shattuck Chemical Site.

Is the program operating successfully? I believe so. Generally, as a result of the Ombudsman's involvement, a better decision is reached, communities are satisfied with the outcome and public health and the environment are protected. The Agency will continue to support the Ombudsman function and make resources available so that it may continue to assist communities across the nation.

This hearing document was last edited by the Committee on Commerce on 10/04/2000 10:40:56 AM EDT

---

| [Action](#) | [Schedule](#) | [News](#) | [Contacts](#) | [Members](#) |  
| [Subcommittees](#) | [Publications](#) | [Commerce-Democrats](#) | [Search](#) |

---

***The Committee on Commerce***  
***2125 Rayburn House Office Building***  
***Washington, DC 20515***  
***(202) 225-2927***  
***[Feedback](#)***



## Menu

[Home](#)

[Action](#)

[Feedback](#)

[Search](#)

[Site Map](#)

## Also See

[Hearing Witness List  
& Member  
Statements](#)

[Environment](#)

[EPA](#)

[Hazardous Materials](#)

## Oversight Hearing

### [The Role of the EPA Ombudsman in Addressing Concerns of Local Communities](#)

Joint Hearing of the Subcommittee on Finance & Hazardous Materials and the Subcommittee on Health & Environment

---

## Prepared Statement of Ms. Mary Mosley

134 North Spring Boulevard  
Tarpon Springs, FL 34689  
Panel 2, Witness 2

---

I would like to thank the distinguished members of the Subcommittee on Health & Environment and the Subcommittee on Finance & Hazardous Materials for the opportunity to speak regarding the role of the Ombudsman's Office.

I have been involved with the Stauffer Superfund Site in Tarpon Springs, Florida for nearly twenty five years. During that time, I learned that the Environmental Protection Agency (EPA) Region 04 is an agency out of control and conducts their duties as though their allegiance is to the polluter rather than to the Superfund communities they are mandated to protect. The needs of our community have not been met and fortunately for us, Congress- man Mike Bilirakis and Robert Martin, EPA Ombudsman have been holding hearings since last December asking questions that the EPA has not wanted to answer.

The EPA has withheld information from our community and is very polished at mis- representing the truth. At one hearing, in response to Congressman Bilirakis' polite request to remain more than ten minutes to answer the community's questions, EPA adamantly refused and flaunted out of the meeting. The community was outraged that the EPA would treat an elected official acting on our behalf in such a manner.

The EPA chose a monolith as a remedy for our Superfund Site which would cover twenty five to thirty five acres without having first conducted sufficient testing to determine if the Superfund Site could even support a mound of such magnitude. The Site which contains wastes such as asbestos, arsenic, radium 226 and more, already has sinkholes, is surrounded by sinkholes, and is coincidentally located directly above two aquifers - one of which serves as a main drinking water source for a large portion of the state. Should the proposed monolith fail, it would be disastrous to important water supplies.

Robert Martin and his chief investigator Hugh Kaufman exposed the flaws of the monolith at Shattuck in Denver, Colorado. After the investigation by the Ombudman's Office, the EPA reversed itself and admitted that the only way to ensure the public health and welfare was for Shattuck's wastes to be hauled to a

repository.

The elected officials of Tarpon Springs also feel that the removal of wastes is the only safe solution for our community, but the wastes at our Superfund Site is so toxic that it would have to be treated before a nuclear dump would accept it.

In conclusion, the EPA has worked for six years with insufficient investigations which they now admit to having "data gaps." The EPA has neglected, to date, to adequately define the magnitude and extent of groundwater contamination originating from the Site. Having a poor record of scientific approach, the EPA continues to decrease the number of Contaminants of Concern for the Site. There are other problems too numerous to mention in the brief time allotted today.

To counter the failure of the EPA to responsibly administer the Superfund Act, the Ombudsman's Office must be well funded and independent of any attempts that might be made to silence the voice of truth. The Ombudsman's Office is one of the best examples of good and honest government. Please give them the support needed to continue doing their job well.

Thank you.

This hearing document was last edited by the Committee on Commerce on 10/04/2000 10:48:45 AM EDT

---

| [Action](#) | [Schedule](#) | [News](#) | [Contacts](#) | [Members](#) |  
| [Subcommittees](#) | [Publications](#) | [Commerce-Democrats](#) | [Search](#) |

---

***The Committee on Commerce***  
***2125 Rayburn House Office Building***  
***Washington, DC 20515***  
***(202) 225-2927***  
***[Feedback](#)***



**Menu**

[Home](#)

[Action](#)

[Feedback](#)

[Search](#)

[Site Map](#)

**Also See**

[Hearing Witness List  
& Member  
Statements](#)

[Environment](#)

[EPA](#)

[Hazardous Materials](#)

## Oversight Hearing

### [The Role of the EPA Ombudsman in Addressing Concerns of Local Communities](#)

Joint Hearing of the Subcommittee on Finance & Hazardous Materials and the Subcommittee on Health & Environment

---

## Prepared Statement of Mr. Bret Bowers

Executive Director

Community Leaders for EPA Accountability Now!

P.O. Box 850 1621 North 3rd

Coeur D Alene, ID 83814

Panel 2, Witness 1

---

GOOD MORNING, MY NAME IS BRET BOWERS. IT'S

BEEN NEARLY 30-YEARS SINCE I LIVED IN

WASHINGTON D.C. I'VE RETURNED, AS A

PROUD, 3<sup>RD</sup>-GENERATION AIR FORCE VETERAN, A

HUSBAND AND A FATHER... WHO LOVES MY FAMILY AND THESE GREAT UNITED STATES.

HOWEVER, THE CIRCUMSTANCES THAT HAVE BROUGHT ME HERE ARE VERY DISTURBING. I AM HERE ON HEALF OF C.L.E.A.N., COMMUNITY LEADERS FOR EPA ACCOUNTABILITY NOW BASED IN COEUR D'ALENE, IDAHO.

I'M HERE TO TELL OUR STORY... TO TELL YOU WHAT EPA HAS DONE IN OUR COMMUNITY AND HOW THEY'VE FAILED TO TAKE ACTION ON OUR CONCERNS.

EVEN MORE, I WANT TO EXPLAIN HOW IMPORTANT IS HAS BEEN TO HAVE THE OMBUDSMAN TO WHOM WE CAN APPEAL TO... WHEN NO ONE ELSE IN THE EPA WILL LISTEN.

CLEAN WAS CREATED IN 1998... IN RESPONSE TO THE EPA'S INTENTION OF DECLARING LAKE COEUR D'ALENE AND OUR ENTIRE REGION A SUPERFUND SITE. IT DOES NOT SIT WELL... KNOWING THAT NATIONAL GEOGRAPHIC MAGAZINE HAS NAMED OUR LAKE ONE OF THE FIVE MOST BEAUTIFUL LAKES IN THE WORLD. TODAY, THE IDAHO DEPARMENT OF ENVIRONMENTAL QUALITY CALLS LAKE COEUR D'ALENE... A WORLD CLASS LAKE.

C.L.E.A.N. ORGANIZED... WITH SUPPORT OF COMMUNITY AND BUSINESS LEADERS, THE CHAMBER OF COMMERCE, REALTORS, CITIZENS AND ELECTED OFFICIALS - INCLUDING, COUNTY COMMISSIONERS, CITY COUNCILMEN, MAYORS, AND STATE LEGISLATORS.

WE COMMITTED OURSELVES TO UNDERSTAND THE EPA'S PROCESS... RECOGNIZING THE HISTORY THAT ALREADY EXISTS WITH SUPERFUND IN NEIGHBORING SHOSHONE COUNTY... HOME OF THE BUNKER HILL SUPERFUND SITE AND UPSTREAM OF LAKE COEUR D'ALENE.

THE PROBLEM THAT HAS BROUGHT US TO THIS POINT... TOOK 100-YEARS TO CREATE... 14-HOURS TO EXPLAIN DURING OUR RECENT OMBUDSMAN HEARING... AND A PROBLEM I MUST DESCRIBE IN 5-MINUTES.

EPA AND DEPT. OF JUSTICE ACTIONS THREATEN NOT ONLY OUR ECONOMIC STABILITY, BUT ALSO OUR ENVIRONMENT... AND THE WAY OTHERS AROUND THE COUNTRY AND THE WORLD LOOK AT OUR REGION.

THE EPA WOULD LIKE THE OMBUDSMAN AND ALL OF US TO BELIEVE THE BUNKER HILL SITE WAS NEVER LIMITED TO THE 21-SQ.MILE BOUNDARY THEY HELPED ESTABLISH ON THE NATIONAL PRIORITIES LIST IN 1983.

AFTER 17-YEARS AT THE SITE, \$200-MILLION DOLLARS HAVE BEEN SPENT. THE EPA NOW WANTS TO START COMPLETELY OVER, AND EXPAND THE 21-SQ-MILE "BOX" INTO A 1500-SQ.MILE REGION... CREATING THE NATION'S LARGEST SUPERFUND SITE. JUST WHEN MANY THOUGHT THE END WAS NEAR, THE EPA IS CHANGING THE RULES.

THEREFORE, ANY LEGISLATION TO REAUTHORIZE THE OMBUDSMAN IS GOOD NEWS TO US. BUT... WE NEED MORE THAN AN INTERNAL EPA INVESTIGATION. WE WELCOME THE FEDERAL GOVERNMENT'S HELP... NOT ITS HEAVY HAND.

UNTIL THE OMBUDSMAN HEARING, OUR LOCAL ELECTED LEADERS BELIEVE THE ONLY WAY THEY HAD THEIR CONCERNS HEARD, WAS TO PAY FOR THE OPPORTUNITY... THROUGH "FRIENDS OF THE COURT" BRIEFS IN LITIGATION AT THE U.S. DISTRICT AND APPELLATE COURT LEVELS.

WE RECOGNIZE THE NEED FOR CLEAN-UP. SO DO THE MINES... THEY'VE OFFERED \$250-MILLION TO SETTLE THE LAWSUIT AND BEGIN CLEAN-UP.

MANY OF US ARE WORKING IN COOPERATION WITH THE STATE OF IDAHO TO FINALIZE A PLAN THAT PRIORITIZES CLEAN-UP... AND

DEVELOPS LEGISLATION FOR FEDERAL FUNDING THAT YOU WILL HAVE THE OPPORTUNITY TO VOTE ON NEXT YEAR.

BUT QUESTIONS HAVE BEEN RAISED DEALING WITH NOT JUST THE ENVIRONMENT, BUT HUMAN HEALTH ALSO.

HOW CAN THE EPA DISCOUNT THE SITE SPECIFIC EVIDENCE SHOWING CHILDREN LIVING IN THE BUNKER HILL SITE HAVE A MUCH LOWER ACCUMULATION OF BLOOD-LEAD THAN EPA'S NATIONAL DEFAULT MODELS SHOW?

WHY WON'T THE EPA CONSIDER LEAD-BASED PAINT AS A POTENTIAL SOURCE OF EXPOSURE WHEN THE MAJORITY OF HOMES IN THE SILVER VALLEY, WERE BUILT BEFORE THE 1970'S?

TODAY, INSIDE THE BUNKER HILL SUPERFUND "BOX"... 94% OF THE CHILDREN ARE WITHIN THE EPA'S REMEDIAL ACTION GOAL. ON AVERAGE, COMMUNITIES INSIDE THE SUPERFUND SITE HAVE BEEN UNDER THE CENTERS FOR DISEASE CONTROL'S STANDARD SINCE 1990.

ON THE ENVIRONMENTAL SIDE TODAY... THE

DISCHARGE FROM THE OPERATING MINES ACCOUNTS

FOR LESS THAN ONE-PERCENT OF THE METALS

LOADING IN THE RIVER SYSTEM. BUT, AFTER \$200-

MILLION DOLLARS HAVE BEEN SPENT IN THE BOX... WE NOW KNOW THE EPA'S CENTRAL IMPOUNDMENT AREA HAS BECOME THE LARGEST SOURCE OF METALS INTO THE SOUTH FORK OF THE RIVER.

WHY SHOULD EPA BE ALLOWED TO MANDATE A WATER QUALITY STANDARD STATE AND INDUSTRY MUST MEET, BUT THE EPA CANNOT ACHIEVE ITSELF... AT THE BUNKER HILL SITE?

OUTSIDE THE BOX... SCIENCE TELLS US

THE LARGEST LOADER OF LEAD INTO OUR

WATERSHED.... IS THE RESULT OF EROSION FROM THE

RIVER BANKS. SO WHY DID EPA STALL AND THEN REDUCE IN SIZE A STABILIZATION PROJECT TO THE POINT... THERE MAY NOT BE ANY TANGIBLE RESULTS?

WE ARE CONCERNED BECAUSE THE THREAT OF

BASIN-WIDE SUPERFUND COULD HAVE DEVESTATING ECONOMIC RIPPLES THROUGHOUT THE INLAND NORTHWEST.

HERE ARE THE FACTS FOR SHOSHONE COUNTY... WHERE HARD WORKING FAMILIES WANT TO TURN AROUND THE STIGMA SUPERFUND HAS HAD ON THEM.

WHAT USED TO BE THE WORLD'S LARGEST LEAD, SILVER AND ZINC MINING DISTRICT WITH 90 OPERATING MINES... IS NOW DOWN TO JUST THREE IN FULL-TIME PRODUCTION. 7500-MINERS ARE DOWN TO 800. IN FACT, IT'S THE ONLY COUNTY IN IDAHO WITH A POPULATION DECREASE, ONE OF ONLY FOUR NATIONWIDE.

SHOSHONE COUNTY HAS HAD THE STATE'S HIGHEST UNEMPLOYMENT RATE AND HIGHEST CHILD-

POVERTY RATE. AND IT HAS SEEN ITS ASSESSED VALUE DROP FROM \$1.3-BILLION TO LESS THAN \$500-MILLION DOLLARS.

THOSE FACTS HAVE CAUGHT THE ATTENTION OF ALL OF US... TRYING TO OVERCOME THE ONSLAUGHT OF ENVIRONMENTAL REGULATIONS THAT HAVE ALL BUT SHUT DOWN OUR REGION'S NATURAL RESOURCE INDUSTRIES.

EPA BELIEVES THEY CAN EXPAND THE SITE... EVEN THOUGH LAKE COEUR D'ALENE MEETS FEDERAL DRINKING WATER STANDARDS. EPA HAS STUDIED AND FOUND OUR BEACHES ARE SAFE. WE CAN SWIM AND PLAY IN THE LAKE ALL WE WANT... AND THE CENTERS FOR DISEASE CONTROL'S A-T-S-D-R HAS DETERMINED OUR FISH IN THE LAKE AND THE RIVER ARE SAFE TO EAT.

SO WHY DO FEDERAL PLANS FOR CLEAN-UP CALL

FOR DREDGING OUR RIVER AND THE LAKE... WITH A \$3.8-BILLION DOLLAR PRICE-TAG THAT WILL BANKRUPT BUSINESSES AND COMMUNITIES AND RUIN WATER QUALITY FOR DECADES TO COME?

WHY SHOULD THE EPA BE ALLOWED TO

CHARACTERIZE OUR BEAUTIFUL REGION IN A

NEGATIVE LIGHT AS THEY HAVE DONE IN NATIONAL PUBLICATIONS?

THE OMBUDSMAN INVESTIGATION PUT A SPOTLIGHT ON EPA'S POSITION ON SITE BOUNDARIES. EPA'S VIEW GIVES THEM AN OPEN-ENDED TIMELINE AT FURTHER EXPENSE TO OUR COMMUNITIES, OUR PRIVATE PROPERTY RIGHTS AND OUR ENVIRONMENT.

AND SO IT ALL BOILS DOWN TO TRUST. HOW CAN WE TRUST THE EPA... WHEN IN 1991, REGION-10 ADMINISTRATOR DANA RASMUSSEN WROTE TO CONGRESSMAN LAROCCO WITH, "LET ME STATE UNEQUIVOCALLY, IT IS NOT EPA'S INTENTION TO EXPAND THE BOUNDARIES OF THE SITE. WE RECOGNIZE THAT THERE ARE MANY OTHER

REGULATORY TOOLS BESIDES SUPERFUND

LEGISLATION TO AFFECT ENVIRONMENTAL

IMPROVEMENTS." YET, NOW WE'RE FACING MAJOR EXPANSION?

HOW CAN WE TRUST THE DEPARTMENT OF

JUSTICE WHEN THEY ARE THE DRIVING FORCE BEHIND THE LAWSUIT, AND TRIED TO PREVENT THE OMBUDSMAN FROM TAKING PART IN OUR RECENT HEARING?

IN CLOSING, WE SHOULDN'T BE FORCED TO

SPEND THE NEXT 30-YEARS PAYING OFF A DEBT OUR

FEDERAL GOVERNMENT HELPED CREATE... BY

SENDING TROOPS TO HELP MINE METALS DURING THE WORLD WARS.

I ASK YOU TO ENSURE THE NATIONAL EPA OMBUDSMAN'S OFFICE IS REAUTHORIZED. AND, THAT YOU PASS NEW LEGISLATION THAT SEEKS TO SECURE FEDERAL FUNDING FOR BASIN CLEAN-UP, PREVENT FURTHER DELAYS IN REMEDIATION AND RESTORE CITIZEN'S FAITH IN GOVERNMENT.

AFTER ALL, HAD THE OMBUDSMAN NOT BEEN CALLED IN, OR IF CLEAN HADN'T FORMED... DO YOU THINK ANY OF THE CONCERNS AND QUESTIONS RAISED TODAY WOULD HAVE BEEN BROUGHT TO YOUR ATTENTION?

This hearing document was last edited by the Committee on Commerce on 10/04/2000 10:43:44 AM EDT

---

| [Action](#) | [Schedule](#) | [News](#) | [Contacts](#) | [Members](#) |  
| [Subcommittees](#) | [Publications](#) | [Commerce-Democrats](#) | [Search](#) |

---

***The Committee on Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515  
(202) 225-2927  
[Feedback](#)***



## Menu

[Home](#)

[Action](#)

[Feedback](#)

[Search](#)

[Site Map](#)

## Also See

[Hearing Witness List  
& Member  
Statements](#)

[Environment](#)

[EPA](#)

[Hazardous Materials](#)

## Oversight Hearing

### [The Role of the EPA Ombudsman in Addressing Concerns of Local Communities](#)

Joint Hearing of the Subcommittee on Finance & Hazardous Materials and the Subcommittee on Health & Environment

---

## Prepared Statement of Ms. Kimberly Boggiatto

1552 South Washington Street  
Denver, CO 80210  
Panel 2, Witness 3

---

Good morning Mr. Chairmen and members of the subcommittees. I am extremely honored by your invitation to testify before you today with respect to the role of the Environmental Protection Agency (EPA) National Ombudsman in addressing concerns of local communities. My name is Kimberly Boggiatto and I am representing Clean-It! Clean-It! stands for Citizens loving our environment and neighborhood - Invincible together! We are a local citizens' group that formed to advocate for the removal of the radioactive and toxic waste from the Shattuck Superfund site in south Denver.

The Shattuck site is contaminated by radioactive and toxic wastes from decades of radium processing. The contamination found at the Shattuck site is not unique in Denver; there were approximately ten other superfund sites with similar contamination. What makes Shattuck unique is that it is the only one of these sites where the EPA decided that the appropriate remedy was onsite disposal. EPA decided for all of the other sites that removal of the radioactive soils to a licensed, low-level radioactive waste disposal facility was the only remedy that both satisfied existing laws and regulations and was protective of human health and the environment. In fact, EPA originally determined that the wastes should be removed from the Shattuck site as well. However, after closing the public comment period in which strong support for removal was expressed, EPA issued a decision that ordered the radioactive soil disposed of on site. The Ombudsman's investigation was critical in discovering the "behind closed doors" meetings that EPA Region VII held with the owner of the site which appear to have factored into EPA's final decision to bury radioactive waste only a block from residences, within the densely populated City of Denver.

In early 1999, the National Ombudsman, Bob Martin, and Investigator Hugh Kaufman, came to Denver to listen to the citizens' concerns regarding Shattuck. Mr. Martin and Mr. Kaufman were the first EPA officials who actually listened to the concerns of our community. They treated the citizens with respect and dignity, in contrast to the numerous EPA Region VIII officials and staff over the previous decade. Also in the spring of 1999, EPA Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER), Timothy Fields,

began to look into EPA Region VIII's management of the Shattuck site. Assistant Administrator Fields initiated a mediated stakeholder process that lasted roughly six months and included a technical review of the existing remedy. I believe that the Ombudsman's investigation swayed EPA Headquarters to focus attention and resources on Shattuck.

The Ombudsman's investigation was essential in exposing improperly withheld documents as well as concerns about the kinds of waste that might be disposed of at the Shattuck site. In short, the Ombudsman's investigation of EPA Region VIII's mismanagement of Shattuck was instrumental in the recent decision that the Shattuck wastes must be removed from the site. The citizens knew that if an honest review were conducted, the wastes would have to be removed. Bob Martin and his staff were the only EPA officials truly willing to look at the abuse of power by and gross incompetence of EPA Region VIII officials and staff. I believe that this abuse of power and incompetence not only extends up to Regional Administrator Bill Yellowtail, but also emanates from him.

My experience working with the Ombudsman's Office has brought to my attention some changes that would improve the operation of the Office. The improvements essentially fall into two categories: resources and independence.

It was clear from my experience that the Ombudsman's Office would be well served by additional investigators. Additional staff would allow for more thorough reviews and investigations as well as the ability to accept more cases. The Office also needs a larger budget not only to fund the additional staff, but also to hire experts and pay for independent laboratory analyses as appropriate.

Perhaps even more important is the issue of independence. It is imperative that the Ombudsman has the final decision as to which cases are investigated and how the Office's budget is allocated. It is my impression that EPA too often attempts to exert influence over the cases that are accepted for review and the extent to which a case is investigated by constraining the activities that will be funded. Imagine if EPA could determine the subcommittees' budgets so as to dictate which oversight hearings could be held or which bills could be considered. Such a situation would clearly hinder your ability to oversee the EPA and result in an enormous disservice to the citizens of this nation.

Just this kind of disservice results when the Ombudsman's budget is manipulated so as to impede his investigations. The Ombudsman and his staff are uniquely prepared to review and investigate EPA's actions because of their extensive knowledge of the applicable statutes and regulations as well as their broad technical and scientific knowledge. Because the Ombudsman's Office accepts cases at the request of elected officials, it functions to support and enhance your ability to scrutinize the actions and decisions of the EPA.

Fortunately, there are guidelines that describe the proper role and operation of the Ombudsman. The American Bar Association has established guidelines that

appear to be well suited to the EPA National Ombudsman. These guidelines would provide for the independence and integrity necessary for a constructive Ombudsman's Office. Also, in 1990 recommendations regarding the role of Ombudsmen within federal agencies were published in the Federal Register. These guidelines also appear to uphold the independence and integrity of the Ombudsman. Given that independent and appropriate guidelines already exist, EPA should not attempt to create its own set of guidelines for the operation of the Ombudsman's Office. Internal guidelines would inevitably diminish independence and compromise the integrity of the Ombudsman when just the opposite result is needed.

The argument for a strong EPA Ombudsman comes down to simple human nature: The best incentive for being honest, is knowing you would be caught if you weren't. This tenet conveys the vital role that the Ombudsman's Office plays within EPA. In order to continue in that role, the Ombudsman's Office needs support from Congress both in terms of a secure source of funding and a clear statutory mandate of independence.

Thank you again for the opportunity to testify before you today. I am happy to answer any questions that you may have.

This hearing document was last edited by the Committee on Commerce on 10/04/2000 10:50:11 AM EDT

---

| [Action](#) | [Schedule](#) | [News](#) | [Contacts](#) | [Members](#) |  
| [Subcommittees](#) | [Publications](#) | [Commerce-Democrats](#) | [Search](#) |

---

***The Committee on Commerce***  
***2125 Rayburn House Office Building***  
***Washington, DC 20515***  
***(202) 225-2927***  
***[Feedback](#)***

