

US EPA ARCHIVE DOCUMENT

TIM FIELDS

Former EPA Assistant Administrator for
the Office of Solid Waste and
Emergency Response



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EPA Interviewer: For the record, this is an interview with Tim Fields, Vice President with Tetra Tech, where he is in charge of the Washington, D.C. operations. We are conducting this interview on August 11, 2005, for an oral history project in conjunction with the 25th anniversary of Superfund. Welcome, Tim.

Fields: Good to be here.

EPA Interviewer: Good. Thank you. Tim, tell us about your position at Tetra Tech, and what you currently do there with a particular focus on Superfund.

Fields: I have been with Tetra Tech for three years. I am in charge of the D.C. operations, which means that I am in charge of their work essentially with environmental assessment and remediation support. I am the EPA market lead for the company, which means I oversee the work associated with emergency response, site assessment activities, and long-term remediation at Superfund NPL sites. We're a prime contractor for EPA in Regions 3, 4, 5, and 7 on the START [Superfund Technical Assessment and Response Team], or emergency response and site assessment programs. We're also a prime contractor for EPA Regions 1, 2, 3, and 4 on the RAC [Response Action Contractor], or remedial action programs, which involve conducting support of remedial investigations, feasibility studies, and design work at major Superfund NPL sites.

EPA Interviewer: I know you have been active in Superfund program issues for a long time. Let's go back to the date of enactment, December 11, 1980, and give us some idea of any Superfund-related activities that you were involved with at that time.

Fields: At that time, I was in the Office of Solid Waste, or the RCRA [Resource Conservation and Recovery Act] program, and my job at that time was to look at developing hazardous waste management regulations for treatment, storage, and disposal of hazardous waste. We were focused, obviously, on those facilities that were active and had major hazardous waste problems. But at that time, I knew about this program called Superfund that was just developing at that time. And we had a hazardous waste task force in our office focused on helping to develop legislative proposals that might be in a Superfund statute. So during that time, I was aware of Superfund evolving. My role was to help develop regulatory requirements for those facilities that were active and to help prevent future Superfund sites from occurring by having effective waste management procedures in place.

EPA Interviewer: So you weren't just dealing with so-called interim status sites, or you may have been, but you also were looking toward permitted site or sites that would ultimately have permits.

Fields: Sites that would ultimately have permits. We actually developed interim status requirements, but we also developed requirements for the permanent permitting of these treatment and disposal facilities as well.

EPA Interviewer: At that time, did you have any connection with any of the litigation activities that were starting to arise? In other words, there were task forces at a variety of offices—the enforcement office, the Department of Justice had some, these were offices that were in effect prior to Superfund's actual passage, and they were trying to bring injunctive cases into court.

Fields: I was not involved in those task forces. My role was to help build the case for why a Superfund law was necessary and why a program to deal with the abandoned sites that were not going to be covered by RCRA was needed. Part of my job was to help document damage cases of improper hazardous waste management from facilities—to help justify, explain, why there was a need for a program for those facilities that were no longer operating and were not going to be covered by the regulations we were trying to create around 3004 RCRA and 3005 permit programs. I was involved in helping develop the rationale for why there was a need for a program like Superfund to deal with those abandoned facilities that no existing statutes were able to address at that time.

EPA Interviewer: Tim, I understand you shared an office with a very well known person at EPA, who spent a lot of time trying to document these abandoned hazardous waste sites. Did you have any connection with that activity as well? I am referring to Hugh Kauffman.

Fields: Sure. I was involved. As a matter of fact, we did share an office, and I was involved in the activities that he was involved with—to help develop damage cases for hazardous waste management facilities. Not a well known fact, but I used to work for Hugh.

EPA Interviewer: Oh, you worked for Hugh.

Fields: Hugh was my Section Chief at one time during the middle 1970s. I was involved in working with him to develop damage cases from, around improper management of hazardous waste facilities. We worked together for about three years. From probably 1977 to almost 1980, I did work with Hugh on the program to look at damage cases associated with improper management of facilities.

EPA Interviewer: And you were in the Office of Solid Waste or in the Office of Water during that time?

Fields: Office of Solid Waste. The Assistant Administrator was during that time, Chris Beck, I believe, and we at that time were part of the Office of Water.

EPA Interviewer: Ah.

Fields: The Office of Water at that time—I think it was called the Office of Water and Hazardous Materials ¹. We were a separate, stand-alone office called the Office of Solid Waste. We dealt with all the requirements of 1976's Resource Conservation and Recovery Act, which included the development of the Subtitle C regulatory requirements for hazardous waste facilities. And that was my primary focus.

EPA Interviewer: That probably explains why so many of the people who were early on part of the Superfund activities came from the water office.

Fields: Yes. That was a phenomenon at Headquarters and also in the regions. You'll find that many of that even now—many of the people who later became Superfund Division Directors in the 10 regions—were people who formerly were Directors of the Water Program in those regions as well. Yes, there was a lot of transfer of personnel in Headquarters and the regions from the water program to the Superfund program as the Superfund program began to evolve after December 11, 1980.

EPA Interviewer: And as I understand it, even the language in Superfund about joint and several liability was really an idea lifted from the water...

Fields: Yes, yes.

EPA Interviewer: ...water statute, and it wasn't articulated in Superfund and apparently everybody understood that's where we would end up.

Fields: Right. That's correct.

EPA Interviewer: Now I am going to talk about the early days, and go back to sort of two perceptions that people had. One is that EPA was giving some parties sweetheart deals. On the other hand, many private parties really felt the sting of Superfund as being unfair. I was just wondering what brush you had with any of that during the early days of Superfund.

Fields: Well, I got into Superfund officially about three-and-a-half years into the implementation of the Superfund statute. I began working at the Superfund program in fall of 1983. I missed some of that initial turmoil in the program when a lot of allegations of sweetheart deals were occurring and a lot of issues of improper management of the program were occurring. I came to the Superfund program at a time when Lee Thomas had come over from FEMA to become the Assistant Administrator for Solid Waste and Emergency Response in charge of the Superfund program, and at that time the Superfund program was beginning to try to right its course, if you will—find its way. It's true, also, on the parallel track, that still some responsible parties felt that the liability requirements of the Superfund program were draconian, and they felt that some modification was necessary. But I missed... I was at EPA, obviously, but for the first three-and-a-half years of the Superfund—where a lot of the real trouble occurred in the early days—I was not part of the program at that time.

¹ It was officially titled the Office of Water and Waste Management.

EPA Interviewer: And even during that early time, aside from sweetheart deals, draconian measures... The enforcement office and the program office were combined, then separated, then combined, so I'm taking it that you missed all that as well.

Fields: Well, when I joined the Superfund program, the enforcement office was a component of the overall Superfund program. That is, within the [Office of] Solid Waste and Emergency Response, which was created at that time, we had an enforcement component and we had a program component. Those two offices worked together closely and shared a lot of knowledge and information. They worked together as partners to a great degree. Later on, it was decided that the enforcement component of all the EPA programs, not just Superfund, should be taken out of the program areas and moved over to a new newly created Office of Enforcement and Compliance Assurance. I was in Superfund during that time as well, and that, in my view, made it more difficult to be able to operate as a team. But still I think even though we later became parts of two separate Assistant Administrator-ships, if you will, I believe there still was a lot of coordination and communication that occurred within the Superfund program and within the enforcement office to make sure that Superfund program was implemented in a coordinated fashion.

EPA Interviewer: If you had to—again, thinking back to the early days of Superfund—if you had to identify the biggest mistake that we made as an Agency when we had this brand new law, would you be able to narrow it down to one thing, or one area?

Fields: Well, I think in hindsight it was a mistake to create something called a National Priorities List [NPL]. I really feel that it would have been better to not have an NPL. It focused attention on that list and that list alone as being the way to address Superfund remediation. There are many other elements in Superfund that are tools to effectively address contaminated property assessment and cleanup. I think that the NPL and the presence of the site on the NPL, or the need to delete sites from the NPL, or the need to achieve construction complete goals for sites on the NPL. The NPL had created, in my view, a real albatross around a lot of Superfund site activity. I regret often times that we had such a thing as the NPL—an official federal list. I think we could have very easily, on the alternative, had sites of federal interest—identified priorities similar to what they do in the RCRA Corrective Action program in terms of priority sites—that need to be addressed. Those sites should not get the same degree of attention, do not create the same degree of heart burn and paranoia out there as the Superfund list, because the Superfund had this National Priorities List. I think it was a mistake on the part of Congress to require the creation of this list, and so I regret that that was done.

EPA Interviewer: And it's interesting that when you think about it, that the original list had, I think, 115 sites on it...

Fields: That's correct, and later grew to 400 and now....

EPA Interviewer: And today it's probably what, 1,500, and sometimes sites get deleted and sometimes they don't, but you're probably right about the albatross.

Fields: I think we could have very easily done without that list. And I think it would have allowed the program to be implemented in a more effective, reasonable way than having that list that everybody focuses on.

EPA Interviewer: Do you think it created a false sense within the communities that these were all there was, and EPA or somebody would get those 115 cleaned up and that would be the end of it?

Fields: Well, I think it's two issues. One is it created an expectation that once you get on the list, that your site is going to get cleaned up right away, and that your problems are going to be done away with. Secondly, I think that after the list was created we never really reassessed whether that site was a site of federal interest. Once something goes on the list, it kind of stays there unless it's deleted or, down the road, many of those sites get on the list. Some got on there for the wrong reasons, and I really believe that not having the list would have been the better course of action, if I were to look back over the last 25 years.

EPA Interviewer: And do you think the fact that states could nominate these sites for the list maybe helped some of the wrong sites get on the early list?

Fields: I think that was a contributing factor. I am not trying to say that states were any different than the EPA officials. I do believe that some sites got on the list that should not have been put on the list. Those were emanating from state sources; some of them were emanating from EPA sources.

EPA Interviewer: I believe it. So on the opposite side, what would you say is the best thing that the Superfund program delivered? If there is one best thing.

Fields: Well, from my perspective—keeping in mind that I worked in the program side most of my 30 years at EPA, and the last 25 years working in Superfund, and almost 20 years while I was at EPA—I think the best thing has nothing to do with the National Priorities List. The best thing that, I believe, was there, as a protection for citizens, was the emergency response and the removal program. That program was in place doing 300-plus emergency response actions a year with real significant immediate threats to public health and the environment; dealing with the fires and explosions, and train derailments, factory contamination that was occurring; dealing with complex contamination on the land both on National Priorities List sites, as well as other sites. 300 times a year, we could count on federal responders backing up state and local responders to deal with immediate threats to ensure that alternate water supplies were provided, that air monitoring was going on, that groundwater monitoring was being conducted, that the American people were being made safe from immediate threats to their public health and the environment. So I think that was a major benefit of the Superfund law. A lot of environmental protections would not have occurred absent that authority to take immediate federal action to deal with those threats, and so I think that is, definitely in my view, one of the best things that has resulted from the Superfund program.

EPA Interviewer: Now, I'm sort of skipping over a lot of the '80s, but if we skip forward to the '90s when EPA got heavily invested in Superfund administrative reforms. I am not quite sure where you were at that time, but I am sure you were active in the reforms. Someone suggested to me that there was a motto that came out of Region 10; something like "Change

or Extinction,” that apparently you liked. I think that this was someone trying to explain sort of your approach during administrative reforms. So maybe you’d like to talk a little bit about the administrative reforms.

Fields: Yeah. In the early 1990s through the mid-1990s, I was in charge of a program office called the Superfund Revitalization Office. As the name implies, the focus of that office and the mandate of that office from the Administrator was that I focus on how we can make reforms to the Superfund program that would result in significant change to speed up the program, save time, address immediate threats, deal with liability issues; a whole panoply of reforms that needed to be made to make the program work better. So in terms of the Superfund Revitalization Office, my role was to look at the Superfund program in a way that had not been looked at before—at that time, 13 years into the program, 1993—and look at what might we do to make this program operate more effectively and address some of those stakeholder concerns about how the program was not working. So, in 1993, we developed a set of administrative reforms to the Superfund program—changes that could be made under existing statute, and put together a reform action agenda. That agenda addressed how to speed up cleanup, how to provide liability relief for *de minimis* and *de micromis* parties. It addressed how to increase the pace of construction completions. It addressed how we might implement remedy reforms to reduce costs by putting in place new technologies and new approaches to deal with remedy selection at Superfund sites. So that was the first set. And then we came up with a second set of major reforms in early 1995, and then later in 1995 we came up with a third set of Superfund administrative reforms. Those reforms were all designed to make the program work better, allow cleanup to be done more quickly, and lastly ensure that public health and the environment was protected as these cleanups were being conducted. I think the reforms were beneficial. I think the results included the fact that during that time, based on those reforms that occurred from 1993 to 1995, we were able to increase the pace of cleanup during the late 1990s for four years in a row. We averaged more than 85 construction completions a year. We were able to remove a lot of the smaller parties that were improperly caught in the Superfund liability net from the Superfund system. We were able....

EPA Interviewer: Meaning these *de minimis* parties....

Fields: These *de minimis* parties, right. We were able to remove some of the impediments to getting cleanup done by implementing presumptive remedies or standardized approaches to how cleanup might be done. We were able to put in place more reasonable assumptions about future anticipated land use being a major consideration in making decisions about remediation. Let’s not clean up a site to a build a school when all you’re going to do is put a paved parking lot on top of that property. So I think the reforms that were implemented during that time were very successful, and I was glad to be among a whole group of people within EPA, within other federal agencies, who were part of the team that put those requirements together.

EPA Interviewer: And I always assumed those reforms really went hand in hand with the many efforts that were made to reauthorize Superfund.

Fields: Yes. Yes.

EPA Interviewer: But it's never been clear to me exactly how they fit together. That is, the administrative reforms and the efforts to come up with the new Superfund reauthorized bill.

Fields: Well, during the time—the 1990s—while we were working hard to implement the three rounds of Superfund administrative reforms, on a parallel track there was a Superfund Reauthorization Task Force chaired by the Deputy Administrator of EPA.

EPA Interviewer: Who was...?

Fields: At that time—initially it was Bob Sussman, later it was Fred Hansen. But the reforms that were being championed by the Deputy Administrator on behalf of the Administrator, Carol Browner, at that time... those legislative reforms were being informed by the administrative reforms we were putting in place. There's a two-fold strategy. First of all, put administrative reforms in place to make the program better under current statute, and then examine those administrative reforms so that we can make the program inform what types of legislative proposals are necessary to make the statute better in the long term based upon those reforms, but also based upon other stakeholder concerns that went beyond the administrative reforms. Keep in mind the administrative reforms were based upon only work that could be done within the existing statute. So, I was managing the Superfund administrative reforms and overseeing the implementation of that agenda in my role initially as head of the Superfund Revitalization Office, later as the Deputy Assistant Administrator for OSWER, and later as the Assistant Administrator for OSWER. On a parallel track, there was an effort underway to develop a legislative agenda as well. That was the way it worked. The administrative reforms provided input to the legislative agenda that was being developed during that time.

EPA Interviewer: And we'll talk about the Brownfields amendments a little bit later because, oddly, some of the administrative reforms of the early '90s finally did see the light of day...

Fields: Yes.

EPA Interviewer: ...in the early 2000s. Let's switch tracks just for a minute. I'm told that you were very active in some big decisions to relocate people at Superfund sites. Three names were suggested. One in Florida called Escambia...

Fields: Yep, that's correct.

EPA Interviewer: ...one in New Jersey, known as Grant Street Mercury, and one in Denver, known as Shattuck site. I thought maybe you would like to talk about any of those, or all of those, and tell us what your role was in those decisions to relocate those people.

Fields: Those were all tough decisions but very important decisions regarding the residents who lived around those Superfund sites. Each of those situations was different, but keep in mind the context. At the time that we were considering these three sites, in terms about whether or not people who lived around those sites had to be relocated, the Superfund program had only—in that time, almost 20-year history of the Superfund program—relocated about 16 communities who lived around Superfund—permanent relocations of residents who lived around Superfund sites. When we looked at Escambia, we were faced with a situation where we had a low-income, minority population. They were living next to contaminated

dioxin soil in their neighborhood. We had gone in to take an emergency action, a removal action. The removal action in some respects made things worse, because we took the contaminated soil and piled it up in an area near the community. The material was eroding and beginning to blow. That was not one of our finer moments regarding emergency response. However, I think in the end, the Agency was able to do the right thing with respect to that community. We were able to make a decision that, because of the threat posed by dioxin, both to residents in a nearby housing development as well as residential home owners who lived next to the Escambia Superfund site, the appropriate thing to do was the relocate those more than 400 residents who lived near that property. We did make a decision to relocate the residents who lived near that property. My role was to be the Headquarters official who worked with the Regional Administrator in that situation, and we made a decision collectively that the right thing to do was to relocate those residents. We got cooperation from the Housing and Urban Development Department, who later agreed that they would later provide support to the relocation effort as well. It was a tough decision, but it was the right thing to do.

The mercury situation in Hoboken, NJ...

EPA Interviewer: I guess that's a totally different kind of community for one thing...

Fields: Yes, yes. It's... These were, you know...

EPA Interviewer: Artists.

Fields: Very well-off artists who had purchased lofts—these huge apartment dwellings. They were valued at \$300,000 to \$500,000 a piece. They found out after they had purchased these lofts and spent a lot of money renovating them and creating, they thought, a permanent residence for themselves, that mercury contamination was all through the floors of these structures. We, again, through our efforts to look at reuse of property—we thought that this former facility owned by General Electric could have been a permanent home for these residents. We found out later that it would become a major Superfund activity. We found out that we would later have to tell those residents they would have to be moved out, and that we would have to go in there and do major Superfund assessment and remediation of the property, and obviously, again, that was a very tough decision. A lot of these residents, the people who were living here had put their life's sweat and tears and financial resources into these very expensive dwellings. But now they were being told they could no longer live there, and we were going to have to do a major Superfund site action there.

EPA Interviewer: Did we ultimately tear those dwellings down?

Fields: We did remove the contamination and take those dwellings down all together. Yeah.

EPA Interviewer: And then the third one that I am talking about, Shattuck, in Denver?

Fields: Yeah, Shattuck. The Shattuck Superfund site in Denver was a major radiation contamination site that existed in one portion of Denver. We had done prior removal actions at the Shattuck Superfund site. Prior to my getting involved at Headquarters, where we had

taken the radioactive contaminated soil and taken it off site to other facilities for proper disposal. It was one area we had made a prior regulatory decision that the radioactive contaminated soil could remain in place near residential dwellings in a portion of Denver. And we were going to cap it over and leave it there as a permanent facility. When this issue became an issue that raised national attention in the media and the Congress and came to the attention of the EPA Administrator, I was asked to lead an effort to go and reexamine whether or not that was the right decision. So, I spent about a year and a half working with members of the Superfund office in Headquarters, working with the regional office in Denver, working with outside stakeholders, two community groups working in this area in Denver, with private firms who were involved with the actual contamination of this site that caused this to be a Superfund site to begin with. And the city and county of Denver who had representatives, and I can't forget also the state. The State of Colorado was on this task force. So we met about once a month. I spent usually two days a month in Denver for about a year and a half. And we ultimately concluded that this site did not have adequate long-term integrity, that institutional controls were not going to be able to be sustained to meet the requirements in the Superfund Record of Decision [ROD], that this remedy was already beginning to show signs of wear and tear, and that we needed to revisit that decision. We agreed to put together a new Record of Decision for the site. The ultimate decision I made was that this contamination needed to be removed from Denver and taken to a proper off-site disposal facility.

EPA Interviewer: On the enforcement side, little bells are starting to ring inside my head, and I am wondering what EPA does in a situation like that where we've already spent or perhaps had others spend money to do a remedy that starts to show wear and tear and then we have to revisit the whole issue, issue a new ROD, go in and pick it up. I mean, did the Fund bear the burden of most of this and it's not cost recoverable?

Fields: It ultimately turned out to be a shared responsibility. Under the initial decision, the responsible party had already spent a lot of money to implement the initial remedy. In going back and revisiting this decision, we obviously were not concerned about who was going to pay for it. We were concerned about what's the right decision. Once we made what we thought was the right decision regarding the Shattuck Superfund site, we then began to look at the issue of who pays for it. And so it was agreed, and we negotiated an agreement such that all parties to the dialogue—to the task force—were contributors to the payment for the new revised remedy to remove this contamination and take it to an offsite facility. And therefore, contributions were made by the State of Colorado—they contributed—by the city and county of Denver. EPA paid some out of the Superfund, and the responsible party agreed to pay several millions of dollars more as well. But it was a shared contribution by all those involved parties. Obviously, except for the two community groups who did not pay for the new remedy. But Federal Government, state government, local government all working together with the responsible party, contributed to the cost of the new remedy, and that new remedy began to be implemented.

EPA Interviewer: And presumably the community groups were satisfied in the end?

Fields: Yes, both community groups. The citizens who lived in proximity to this Superfund site in Denver were all pleased with the resulting change to the remedy.

EPA Interviewer: Tim, I know you have been involved in environmental justice issues at EPA, and probably also at Tetra Tech. I guess the first thing I am going to ask you to do, if it's fair, is to tell me what "environmental justice" is, if you have a definition.

Fields: In my view, environmental justice means that we will ensure, as a nation, that disproportionately impacted individuals, primarily those in low income and people of color communities, will receive the same degree of environmental protection as the larger population that's around facilities that are regulated by the Environmental Protection Agency. Whether it be people who live around a hazardous waste facility, or a power plant, or a waste water treatment facility, that we will ensure that all citizens are given the same level of environmental protection and, therefore, environmental justice. That is, that they will all be protected to the same degree by their government in terms of how the statutes and regulations are implemented in this country.

EPA Interviewer: Which office were you in, here at EPA, when you first started dealing with environmental justice issues?

Fields: I was in the Office of Solid Waste and Emergency Response. At that time, I was the Deputy Assistant Administrator for Solid Waste and Emergency Response. I worked for Elliot Laws, who was the Assistant Administrator, and I was tasked in 1993 before the executive order came out, February 11, 1994, to chair a task force of Headquarters officials across all the environmental cleanup and waste management programs, but also the 10 regional offices. The Superfund and RCRA people in those regions put together what turned out to be a 65-person task force because of everyone involved. We developed a set of recommendations on how to address environmental justice concerns by stakeholders in Superfund, the RCRA program, the Underground Storage Tank program, the Emergency Preparedness and Prevention, the Federal Facilities program. The emergency preparedness and prevention issue really was a major priority at that time for communities concerned about chemical threats from facilities in their proximity. So the bottom line is we developed a set of recommendations—more than 100 recommendations—across those programs and implemented them in Headquarters and the regions. I am very proud of the fact that set of recommendations—particularly [those] that applied to Superfund sites—was endorsed by the National Environmental Justice Advisory Council as a set of recommendations that were very reflective of what stakeholders wanted to be done to make Superfund site assessment, remediation, and response dealt with in a more effective way. It was the only environmental justice plan that was eventually endorsed by NEJAC. I am very proud of the fact that we at EPA put together a very credible plan on how to deal with environmental justice issues in programs like Superfund.

EPA Interviewer: And I am assuming that even today at Tetra Tech, perhaps you do some things that have environmental justice implications.

Fields: Yes. During my tenure at Tetra Tech, I have been involved to address concerns around environmental justice in a community in Spartanburg, South Carolina. This is a primarily African-American community located near two Superfund sites and two brownfields sites. I am working with the city and county of Spartanburg, a chemical company called Rhodia, a community group called ReGenesis, and EPA Region 4 in Atlanta. I am facilitating a dialogue among those parties to address issues around environmental justice,

environmental protection, job creation, and community revitalization. We are looking at how we can take the former two Superfund sites, for example, and turn them into productive use. We are looking at creating a new access road into the community, and that access road will actually be built on top of one of the Superfund sites once the Superfund site is construction completed. So that is a real good example of how we have been able to work together with an adversely affected community and get them involved working with private sector, with Federal Government, with state government, with local government, and achieve a win-win for everybody.

EPA Interviewer: Now are these sites where there is enforcement also concurrently ongoing against responsible parties?

Fields: Enforcement is ongoing. Consent decrees were arrived at. The two major Superfund sites were the IMC Superfund site and Arkwright Dump Superfund site. The Superfund enforcement program has been involved at both sites. The negotiated agreements were reached with the responsible parties on how to address contamination at those sites. Those agreements are now being implemented. The one site has a Record of Decision already completed. The second site, the IMC site, has just completed the RI/FS, and we should be making a remedy decision within the next year. So, in both of those situations the affected communities, who definitely had concerns about environmental justice in their community, are now feeling that the government has been responsive, their concerns are being addressed, and they will be able to have a healthy and safe community that is not only protective of their health but also where community revitalization can occur.

EPA Interviewer: If you had to pick the most significant issue you dealt with during your tenure at EPA—and I know it's a long tenure so it may be hard to pick a top significant issue so I won't limit you to one—but if you had to pick the most significant issue you think you dealt with, would you be able to do that?

Fields: If I had to pick one, it would be very difficult. I've already discussed two of the most significant, so I would mention obviously the emergency response removal program in terms of its significance to public health and the environment. That was a tremendous program to benefit public health and the environment, so that's obviously high on my list of major contributors to the success of the Superfund program. The second that I mentioned earlier was the focus on the administrative reforms to Superfund. That again was a major highlight of my career at EPA, and I believe a major contributor to the success of the Superfund program as we know it today. So, the third major issue in terms of a highlight for me—in terms of the evolution of the Superfund program—has got to be the 1995 Brownfields Action Agenda, where for the first time we recognized officially that there were many contaminated properties out there beyond Superfund even that still needed to be addressed, and that we needed to put in place at the federal level a program to address that contamination, get those properties assessed, get those properties cleaned up, and finally get those properties into appropriate reuse whether it be ecological, recreational, or commercial reuses of those properties. So I think that the success we've had over the last decade, since 1995 up to now, 2005, at getting a real ethic of not only being concerned about public health and the environment, but also being concerned about how to take these former wastelands and putting them into some productive use was a tremendous highlight for me, and I think a lasting legacy for the Superfund program as well.

Later, after the Brownfields Action Agenda of 1995, a few years later, we announced a Superfund Revitalization Agenda. That redevelopment focus in Superfund evolved from what we had done a few years earlier on Brownfields. And so now I think we are seeing that remedial project managers, enforcement staff, regional counsel staff, the folks in the field, are really beginning to adopt a real ethic that the reuse of the Superfund sites is also a major priority and that after the cleanup, the enforcement and other actions are taken, there is still an opportunity to achieve a beneficial reuse at that site, and that ought to be considered while those other activities are going on.

EPA Interviewer: It was very strange to think about the revitalization in the early life of Superfund. It just strikes me that there must have been a huge amount of resistance at the Agency when the first efforts at looking at revitalization were announced and people like you were sitting in small conference rooms trying to figure out how to light a fire, how to change the culture in effect. How do you think you did that?

Fields: Well, I think that success breeds greater responsiveness. That is, the remedial project managers at that time in the mid-1990s as they were seeing this focus on reuse, there was a lot of skepticism. Their feeling was, "Look, our job is to protect public health and the environment. That's our job. We are to implement these remedies, put in place a ROD, but we don't want to go any further. Let's forget about this reuse stuff." It took some real pushing, some cajoling, some urging, but also the success that the Superfund program staff began to see was occurring around Brownfields. They were beginning to see that not only could you clean up these lesser contaminated properties called brownfields and address the threat they were posing, but you could also find beneficial ways in which to turn them into shopping centers, and hospitals, and metropolitan transportation centers.

EPA Interviewer: And ball fields, and places to fly model airplanes.

Fields: Exactly. A lot of recreational uses. Wetlands. There were ecological reuses. There were a lot of benefits that they were seeing. The more that the Superfund staff saw what was happening at the local level in terms of what was happening with brownfields sites, they said, "Hey, OK, maybe this can work." We really began to push on it. We identified pilots in the Superfund program in each of the 10 regions. Some remedial project managers really began to embrace this concept, began to apply it at their respective Superfund sites. As we had more success through the pilots—the pilots were initially 10, then there were 20, then there were 70—the focus began to grow and grow. To their credit, even though there was initial resistance in the mid-1990s as we moved into this century, I think that there has been a growing acceptance now by most project managers in the field that this is also part of their job. This is also an important priority. This is also a way in which they can achieve major benefit to the affected communities that they are trying to serve.

EPA Interviewer: But I think it was a very slow, a very hard battle to get this moving.

Fields: Yes. It took a major push. I think things are moving in the right direction now. I think a lot of people recognize this is a part of what they do. Even on-scene coordinators now, not just the long-term cleanups at NPL sites, but I have found in the last decade that even on-scene coordinators who have traditionally been concerned with taking immediate stop-gap action to address emergencies are now also recognizing that those removal sites, even those

not on the NPL, after that removal action is taken they also can work with local government, work with state government, work with private developers, and also turn those properties into beneficial reuse as well.

EPA Interviewer: When I saw the removal program evolve into a lot of planned removals in some regions. And it was always less clear to me on the enforcement side exactly how that was working. That is, how removal funds that have traditionally been spent to address emergencies were now being spent to address planned removals, obviously not emergencies... Again, those things were done when the Fund still had a lot of funds. Now we don't have a lot of funds, and I don't know whether planned removals are still part of what's helping getting these lesser sites back into some sort of useful mode, or whether we are now looking to more volunteer actions on the part of people who acquire them. The law has changed now.

Fields: Right. Right. I think it is a little bit of those. State Voluntary Cleanup Programs [VCPs] have evolved. There are more than 40 of those programs around the country now. Many of those programs are addressing sites that may have in the past have been Superfund sites on the NPL. As state program officials have gotten more experience, more capability, more capacity over the last 25 years, they are able to take on a greater part of the load. They are able to do more than what they could do back in 1980. As a result, they are taking on now some sites that traditionally had been sites that the Federal Government would have taken the lead on through these VCP programs that states started administering. I think that is going to help the Federal Government by some of the load being shared by state and local environmental officials at these sites that were formerly NPL sites.

Secondly, the removal program, I believe, can continue to play a major role because of the greater flexibility that exists within the removal portion of the statute as compared to the remedial portion of the statute. I think that even though the primary focus of the removal program, and, I believe, the primary priority should be the screaming emergency and the real time critical threat to public health and the environment. I do believe that the removal program statute and the flexibility thereof does provide some opportunities to address some contamination and help facilitate some reuse, because some sites just can't be addressed that way because they aren't on the NPL. You can't use remedial authority and therefore, I think, the use of planned removal, non-time critical removal authority still has some opportunities to help effectuate cleanup and reuse in a way that the traditional remedial process would not. I think you should utilize or permit flexibilities under the removal portion of the statute, but also rely on the evolving and growing capability that exists within state Voluntary Cleanup Programs to address some of these properties as well.

EPA Interviewer: Now, as you know, the Brownfields Amendments managed to adopt some of the things that EPA was proposing as administrative reforms way back when. In some cases, it's pretty much what we thought. There are some things in the Brownfields Amendments that may be not exactly what we thought. How much do you do today that has any connection to the Brownfields Amendments, specifically to the liability relief that's been provided through them?

Fields: I think the liability relief was critically important. You are right. During the 1990s the Superfund program officials in Headquarters and regions were looking at ways to amend

the statute on a parallel track with the administrative reforms that were being implemented at that time. We looked at liability relief for prospective purchasers.

EPA Interviewer: The bona fide prospective purchasers.

Fields: Innocent land owners, contiguous land owners. All those were addressed in administrative reforms, but also we put together legislative proposals to address those issues more explicitly in terms of statutory change. I was very pleased to see that many of those legislative proposals that were being talked about and discussed many years in the 1990s made their way into the Brownfields Revitalization Act of 2002. It has been tremendously beneficial to us on the outside as a private party. As a consulting firm who represents many developers, people who are involved in contaminated property cleanup and reuse, those liability relief provisions are tremendously helpful. It provides a willingness on the part of many of our clients to get involved in those private property transactions now, because they see there is a strong signal from the federal level in environmental statute that people are going to be encouraging prospective purchasers. They are going to be encouraging us to get involved in cleaning up and working with developers and other parties to redevelop those properties. I think those liability provisions have been tremendously important in sending a strong signal to the regulated community that the Federal Government wants you to get involved in an appropriate way to address the contamination that exists there, and the Federal Government is not going to come after you. Administrative reform was not enough. We did three administrative reforms back in the mid-1990s, but I think that the legislative changes that are now in place give us a much stronger mandate and a much stronger ability to address these properties with appropriate liability relief than we could have done through administrative reforms alone.

EPA Interviewer: When you can provide a new defense to liability as a bona fide prospective purchaser and a party can actually have knowledge of contamination and go ahead and acquire, there had to be more satisfaction on the part of the private developer who now says, "I don't have to go to EPA for a settlement anymore. I can do this myself."

Fields: Right. It's the law of the land. It's a lot different to have these provisions in statutory language as compared to an EPA policy. It's a much stronger mandate. I think we hear from our clients—20 percent of the business is from the private sector; we represent a lot of petrochemical firms, waste management firms, and others—and it is very clear to us that the statutory changes that were put in place in 2002 are making a tremendous difference and are causing people to be more willing to take risks now than they would have been back in the 1990s.

EPA Interviewer: And speaking of petrochemical industry, it makes me want to go back just a minute to the way Superfund was originally funded with the tax. The fact that the tax is now expired, of course, puts Superfund in a different place. What do you think about the way the Superfund was originally funded through this tax? Do you think that was the right way to have gone, and are we now in trouble because the tax has expired, or was it unfair from the beginning?

Fields: Well. I think that the concept was fair. Maybe there could have been some tweaks around the edges regarding the administration of that tax, but I think the concept of those

responsible for contamination bearing the primary brunt of the cost of cleanup is a fair principle—the whole enforcement first program that was implemented back in the late 1980s. That whole program was based upon the idea that those who are the major contributors of contamination should be the ones who pay for that contamination. The concept by which the taxes were first implemented I think was a fair concept. Maybe some people were penalized more than they should have been. Maybe some people didn't contribute as much as they should have.

Overall, I agree with the concept. Right now the tax has not been available for almost a decade, since back in the mid-nineties. We are now reaching a point that funding of the Superfund program is a major issue. I think we are going to have to look at reshaping what the focus of the Superfund program should be, what should be the scope of this law, what should be the major set of priorities that this program will address in the future. We obviously have discovered in the debate about mega-sites that the Superfund program cannot be the program that cleans up all contaminated rivers in this country. The Superfund program cannot be the program that cleans up all major mining contamination in this country. There is just not enough resources to get it done. I think we are going to have to redefine what the scope of the Superfund program should be and what it is not, and make clear that, "This is what the Superfund program is going to be addressing in the future. This is what it is not going to be able to address."

The Superfund program is going to have to look very carefully, look at the utilization of other authorities and programs and resources to address the problems that are currently on its plate. It needs to look at the Surface Mining and Reclamation Act in terms of how it can help on mining sites. It needs to look at the state voluntary cleanup programs in terms of what issues they can address that maybe the Superfund program should not be addressing. State Superfund programs and laws need to be looked at. We need to look at other federal agencies and whether or not they can make a greater contribution toward the cost and pace of cleanup at many of those sites.

I think that one of the problems we may have had in the past is that EPA was taking on too much of the load. We need to make sure that we are working hard to find what EPA's future role should be in this program, and what we are going to assume should be the role of others to make a contribution toward Superfund cleanup of these sites, so that the Superfund program resources are going toward the most high-priority sites that should be of federal interest. It should be trying to, if at all possible, defer the other sites to other parties. Everybody has resources out there, and we should not make the assumption that only Superfund should be the program that addresses all contaminated property problems in this country. That's not the case. We need to look to these other programs, resources, and authorities to address a bigger part of this problem than they have addressed in the past.

EPA Interviewer: Tim, we were talking about the tax. I want to elicit further thoughts on EPA's focus on the "polluter pays." I have some reaction that the tax and the "polluter pays" really don't have any connection at all. You have been alluding to the enforcement first approach that the Agency has taken in the past, and maybe that is a fair way to look at it, instead of saying, "the polluter pays" to look at enforcement first. At any rate, maybe you have some thoughts on the enforcement first approach.

Fields: Yes. I strongly endorse and support the enforcement first approach. I believe that those who contributed to contamination in a major way ought to be given the first opportunity to clean up that contamination that they contributed to. EPA ought to try to negotiate with those parties. They should try to reach agreement, and if they can't, they should take appropriate enforcement action to try to effectuate those parties responsible for contamination to step up to the plate. Those parties should deal with the problem. If they don't, we'll use the Fund to the extent that we have money. We'll use other program resources to take appropriate action if the responsible parties do not step forward or do not respond in an affirmative way. I know that during the last part of my tenure at EPA—over the last period of the 1990s—about 70 percent of the cleanups were being done by responsible parties. I believe that the enforcement first policy had a lot to do with that. Responsible parties were stepping up to the plate and taking appropriate response action at many of these sites because they knew that enforcement action would be taken if they did not. EPA would take Fund action if they did not. Therefore, they would rather step forward if they wanted to save some money and save some resources because they were going to have to pay either first, or later. *[Laughing]* I really believe that enforcement first was a very effective policy. It was the right thing to do. There have been tremendous benefits to public health and the environment as a result of the enforcement first policy.

EPA Interviewer: Do you foresee a future time—as we know hazardous waste sites today which I know are different than we saw 25 years ago—when there won't be a need for Superfund any more? Do you foresee this because there won't be hazardous waste sites as you and I know them today?

Fields: I think it's a situation of how you define Superfund. I think we will reach a point in time when we don't need to be placing sites on a National Priorities List, or addressing sites through a long protracted process as we do it now. I think we will reach a point in time when that is the case. I think we will reach a point in time where we don't need to list sites; we don't need long-term remediation as we know it to be paid for resources administered by EPA. I think that point in time will come. We can begin to phase down that portion of the program called Superfund. There are other parts of Superfund that will need to be in place for quite a while into the future. In particular, the removal component and the enforcement component. I really believe there will continue to be threats that are beyond the capability for the local governments to address. For some local counties, fire departments, and communities, there are some problems that are too complex, too critical, and the resource burden is too great and therefore the Federal Government, as they do now hundreds of times a year, will have to step in and help and assist state and local governments address those emergencies and those threats.

Secondly, I believe that we will continue to need enforcement authority as a major component of the program called Superfund for some time into the future. Some people will not do the right thing absent enforcement being there as a driver to make sure they do take appropriate action. I believe that the enforcement authority in Superfund should be retained. The liability revisions ought to be retained. I think that is the only way we are going to get some people to effectively step up to the plate and take appropriate assessment and response action at many of these sites. Maybe down the road some parts of Superfund can begin to be phased out, but I think we really need to be careful about phasing out the

emergency response component or the enforcement component, because I think they will have some great value for many years into the future.

EPA Interviewer: As someone who has spent a career in environmental issues, do you think after Love Canal legislation like the Superfund was inevitable?

Fields: I think it was. We have to keep in mind that in 1976, we had the Toxic Substance Control Act. In 1976, we had the Resource Conservation and Recovery Act. 1977 we had the Federal Insecticide, Fungicide, and Rodenticide Act. We had these environmental statutes that were coming along to address various chemical or waste threats. They were focused mainly on active problems that were going on at that time. We did not have a statute that dealt with those past sins—the problems that we took 30, 40, 50 years to create as we worked through the Industrial Revolution—and there was a real hole in environmental statutes, if you will, because there was no environmental statute that dealt with all those sins of the past—the contamination problems that happened many years ago and the improper management of waste as we knew it at that time. We knew in the late 1970s, 1980s and '90s that what was going on at these Superfund sites was not the way we wanted to protect the environment in this country. We needed a statute to deal with those sins of the past and address those threats, as well as be available to deal with significant emergency actions that the local governments could not deal with.

EPA Interviewer: So, it was the law and the money. After all, that is a statute that gave the feds the funding to go out and clean up rather than to go to court and seek an injunction that might take two years.

Fields: You are absolutely right. It's not just the authority; the funding is definitely a part of it. The resource capacity was not there. One of the major reasons for the statute called Superfund was because it was clear that local government did not have the resources, state government did not have the resources. There was nothing at the federal level that could address these problems that took many decades to create. Therefore, you needed to have this resource base that was present in Superfund to provide some resource capacity at the federal, state, and local levels to supplement what you could get private parties to do voluntarily or through enforcement action in order to address the major contamination that was not being addressed by any other environmental statute.

EPA Interviewer: Any final comments you want to make?

Fields: I'll make a few comments. I think Superfund, as I look back over the last 25 years, has been a tremendously successful program. It is a very controversial program even now. I think as you look back on what has been achieved through Superfund and the expenditure of the money, I think we can point to a lot of tremendous successes that the Superfund program has spawned. The Superfund program has created an effective emergency infrastructure in this country to deal with near-term immediate threats to public health and the environment, to protect our citizens where needed, and make sure that they have appropriate restoration of their environment, and that those threats are mitigated quickly. The Superfund program has also been able to implement effective long-term remedial action at hundreds of Superfund sites around the country to address near-term and long-term threats posed to citizens to effectuate construction completions and deletions of many sites when those cleanups are

done. That is a tremendous benefit that we would not have had if not for the program called Superfund.

Thirdly, I think that the Superfund program has been the real driver, particularly the liability provisions, in effectuating the new focus that has occurred as we move into 2000 and beyond, which is the focus on reuse. That would not have occurred absent the liability concerns in the Superfund statute. Therefore, I think that the Superfund program gets most of the credit for the evolution of the Brownfields program and the focus on reuse of contaminated property.

In summary, I believe the Superfund program has been tremendously successful. It has resulted in tremendous benefits to our citizens and we ought to be proud of that.

A fourth element that I would add would be the enforcement first program. I think that has been tremendously successful at getting the private parties to be contributors to Superfund remediation as well. That has resulted in many hundreds of sites being addressed by those who contributed to contamination at those sites. It has saved many billions of dollars of taxpayer dollars by those parties contributing to the cleanup that they may have caused to begin with. As I look back on Superfund, there are elements of Superfund that can be improved and people are working hard to do that. There are elements of Superfund that maybe could have worked better than they worked. My overall assessment of looking back on 25 years of the Superfund program is that it has been a tremendously successful program. The staff working on this program are some of the most talented people in all of EPA. The Superfund program will continue to play a major role in environmental protection for some time in the future.

EPA Interviewer: Thank you, Tim.