

US EPA ARCHIVE DOCUMENT

CURTIS MOORE

Congressional Aide

Interview Date: August 22, 2005

Location: McLean, VA

EPA Interviewer: Today is August 22, 2005. We're interviewing Curtis Moore from Senate staff about CERCLA [Comprehensive Environmental Response, Compensation, and Liability Act], who helped create and write CERCLA and then worked on the reauthorization in '86. We're at Mr. Moore's house in McLean, Virginia.

First of all, thank you for agreeing to participate in this. We really do appreciate it. We're wondering if you could start off with some of your educational and professional background before you came to the Hill.

Moore: I have a Bachelor's degree in journalism from the University of North Carolina in 1966, but I transferred there from North Carolina State University where I was a zoology/premed major. I was in the Marine Corps from '66 to '70, and then in 1970, I enrolled at Georgetown Law School, and while going to school, I also worked for Senator William V. Roth, Jr., of Delaware.

When I graduated in '73, my wife and I moved to Bainbridge Island in the State of Washington, where I had a country law practice, did wills and divorces and incorporations and things of that sort. Came back to Washington in 1976, went to work for Roth again, co-managed his 1976 campaign, and by 1977, I was sick to death of being on personal staff, so I decided that I either wanted to work on marine issues for the Commerce Committee, or environmental issues for the Environment and Public Works Committee. The Staff Director at that time was Bailey Guard and I just harassed Bailey on a regular basis. The Roth office was up one floor from the committee office, and I would go down there several times a week, and finally, I think it was February of '78, Bailey offered me a job. Senator Stafford, who was the senior Republican—the ranking minority member was the term of art—talked to Roth to make sure that Roth had no objections to my leaving his staff, which is what happens in the Senate. You can't leave a Senator's staff without his permission to go to work for another Senator. He said it was okay.

I went to work for the committee, and the first bill Bailey put on my desk was something called Superfund. As I recall S. 2400, I am not certain of that, and I was green at the time, and in those days Superfund didn't typically refer to chemicals. The concept of Superfund was the brainchild of a Vice President at Exxon. After the Santa Barbara blowout in the late 1960s and some other major oil spills, states began enacting their own oil spill liability laws and oil spill cleanup funds, and I think there were a total of maybe 32 of those, as I recall, and Exxon got tired of—didn't want to pay 32 different fees and be subject to 32 different liability regimes—so this guy at Exxon concocted the idea of one very large superfund to cover oil spills. On the House side, the jurisdiction over such matters was

divided among several committees, but in the Senate side the jurisdiction, due to the 1976 reorganization of the committees, lay with the Senate Environment Committee, although when spills were in saltwater, we usually had a pretty big “pissing match” with the Commerce Committee whose Chairman, [Senator] Warren Magnuson, insisted that if it was saltwater, the Commerce Committee had jurisdiction, and that actually led to one of the results that we’ll probably get to later.

In any event, when the House took up Superfund legislation, it focused only on oil. On the Senate side, because the Environment Committee had in 1970 and in 1976 drafted amendments to the Clean Water Act, especially Section 311 of the Clean Water Act, and it covered spills in the navigable waters, not only of oil, but of hazardous chemicals, and the law, the stationary portion of the law, also covered discharges in the waters of toxic chemicals, so it was logical for our committee to look at any kind of discharge legislation and look at it in the context of not just oil but also hazardous chemicals. So S. 2400 was drafted principally by the Muskie staff. Phil Cummings was the committee counsel at the full committee level. Legislation originated in the Muskie subcommittee. There was a very common misapprehension in those days that [Senator] Ed Muskie was the Chair of the Senate Committee, and in fact he wasn’t. He was the Chair of the subcommittee, but he had much more notoriety—probably due principally to the fact that he had run for President and Vice President—than [Senator] Jennings Randolph, but he was indisputably the guy who did environmental legislation. And he, Muskie, was a true genius. I’ve never met a person who intuitively understood laws and the politics of laws better than Ed Muskie. Had just an absolutely superb grasp, but he also had a temperament.

In any event, this legislation was put on my desk, and Bailey—I don’t know whether Bailey said it was an oil spill bill or not—but I read it—and probably still have around here somewhere my memo to the members of the subcommittee, who included [Senators] Malcolm Wallop and John Chaffee and I forget who the third Member of the... Oh, it would have been Stafford, of course, in which I said, “This is much, much more than an oil spill cleanup law. This is a proposal that would establish, essentially, producer responsibility.” It would cover much more than oil or for that matter even more than just pollutants under 311. It would establish a liability regime, and I don’t know whether they read the memo or not. If they did, I don’t think that they—Stafford probably did. I doubt that Chaffee and particularly Wallop understood the import of it. I remember we had our first markup on the legislation, which I attended, at least, in the committee room. Not the hearing room, but the room in the back where staff and members meet, of the Budget Committee, and Ed Muskie was there. I don’t remember any other Senator being there, and the staff—the way these things work was members would typically sit at the dais or something like a dais, and the staff would sit at a table in front of them—and at that table on that day, as I recall, were Phil Cummings; Karl Braithwaite, who was the Legislative Director, who was the Staff Director of the subcommittee; Jim Range, who worked for [Senator] Howard Baker; and myself. This was a staff draft as I recall, and this was a mechanism that we used in those days to basically float ideas in a way that they couldn’t be associated with a particular Member, so the Member would not take a political pasting and it could all be blamed on the staff. Muskie asked of the staff members, “This is a perpetual product responsibility bill.”

And I remember Carl and Phil and Jim saying, “No, no, it wasn’t,” and I was sitting there saying “Yes, that’s absolutely right. What we’re doing here is imposing on people

responsibility for the problems that they create with their products or their wastes.” Even at that time, the proposal was... Although everybody always focused on the wastes, that is, dumps and you know, Love Canal and Valley of the Drums and Smith Farm and all the rest of these things.

The focus of the law is not on waste, or at least not only on waste. It's on toxic chemicals or hazardous substances, whichever term you prefer, and it did not make any difference whether those substances got into the environment by virtue of leaking out of a 55-gallon drum or coming out of a smokestack or from two brown paper bags that went bump in the night. If it got out into the environment, you were going to...and you were responsible. And by responsible I don't mean responsible in the typical legal sense, that is, if you were the person who had owned that substance or operated the facility that released that substance, then you were going to be liable, regardless of negligence, no-fault liability for the damages that they caused, and for the cost of cleanup. And this was, even in that early stage, this was a very conscious decision. These days a lot of people have forgotten that. For example, in Michigan a chemical—I've now forgotten the details—but a cattle feed additive at a manufacturing site, cattle feed bags labeled as cattle feed additives were mistakenly filled with polybrominated biphenyls, shipped to a few dairy farms, and put in the feed. The milk from those dairy farms was picked up, and as it was and is the custom, that milk goes to a central processing plant, and the milk from Farm A and Farm B and Farm C and Farm D are all poured together, and then it's processed and packaged. And the result was that about half of the people in the State of Michigan ended up drinking milk that was contaminated with polybrominated biphenyls. And when some fairly large studies were done, they found that these people had reduced resistance to colds and flu and that sort of thing.

And we'd had just quite a number of instances like that, and it went way, way, way beyond just waste, but waste was what captured the attention of the public and captured the attention of the press. So that was the—that's what created the political momentum for this. But if you ever read our law, our proposal rather, it covered all releases of all hazardous substances, and we provided for cleanup, we provided for liability.

Now ultimately, in order to get these things enacted, we had to strip some of these provisions out of the bill, but the original bill compensated victims. I mean, remember, we'd had in Japan, we'd had Minamata disease where mercury-laden wastes had been discharged in the Minamata Bay, and they had just terrible mercury poisoning. We'd had in Japan itai-itai disease, or cadmium poisoning. In the southwestern United States, we'd had families who mistakenly ate corn that had been treated with mercury to preserve it for seed, and the entire family ended up essentially being vegetables. They were blind, crippled, and it was just...

We found one facility, a refinery in New Jersey—and I'll wager that this still the case—we found a refinery in New Jersey that was emitting 16 million pounds a year in air, water and other discharges of toluene, zylene, benzene—and benzene is a known human carcinogen. There was just no care, no thought whatsoever given to any of these things. And at one of—not one of our hearings, but at a Health and Human Services Committee, I've now forgotten what the name of it was in those days—Dr. David Rall was testifying before the committee and [Senator Edward] Kennedy was the Chair at that time and Stafford was the senior Republican, although he chose to be the Ranking Republican on the Environment Committee. He was the senior Republican there, and Stafford asked David Rall, who was

head of the National Institute of Environmental Health Sciences, what kind of body burdens people in the room carried of toxic chemicals. And Rall replied that we all—all of us—every person in the room had PCBs [polychlorinated biphenyls], PBBs [polybrominated biphenyls] and aldrin and dieldrin and organochlorines and the various dioxins at very low levels in our bodies because of the widespread release of these substances into the environment. So the thrust of the law was to cover all releases of all hazardous substances.

And at one point I can remember a lobbyist saying that if he stood in his house and he took a leak out his back window, that would be covered by Superfund and the response is, “You’re absolutely correct. If that does some damage, it’s covered by Superfund.” The rationale was that there were too many of these substances, too many people making and handling and transporting all of these substances for a government to deal with. It was simply physically impossible for any government, every government to do these things and that there had to be—there had to be some onus on the part of the people who made and trafficked in these substances to understand what they were doing, because they knew better. It’s the people in Detroit who know how to make cars, not people in Washington, and if mercury in light switches in a car is a problem, it’s the people in Detroit who know how to fix that in some fashion. And it was the people at Dow Chemical who would know how to come up with some defoliant other than Agent Orange, and so on.

So the idea was to impose responsibility, not a regulatory regime. This was: you can do anything you want. No bureaucrat is going to look over your shoulder. Do whatever you want to with your substance, however you want to, whenever you want to do it. But when you screw up, the burden of your conduct is not going to fall on the public. It’s going to fall on you. We’re going to monetize it, and you’re going to have to pay for it, and if the cleanup costs 300 times what it would have cost to avoid that injury, then you’ll know not to do that a second time. And companies would argue—I’m just rattling on here—companies would argue, “Oh, well, that’s not fair,” and I think there is an element of truth to that. But it wasn’t a question of whether it was fair to the company. It was a question of what is more fair? Is it more fair to impose the cost of that activity on the person who creates the risk, or shift that burden to a person who has no relationship whatsoever? He’s just an innocent bystander. He just went to his kitchen tap, he turned on the faucet, and he drank a glass of water. He went into the shower and took a shower, or he drank a quart of milk, or he went outside and he breathed. Who more properly should bear that burden? Is it the innocent victim, society as a whole, or the person whose conduct created that risk? And our view was, and the law reflects this, that the fairest thing is to impose that burden on the person who creates the risk. And I think we can go over some of the details that happened legislatively in a moment, but I did then, and I do now, still believe that that was the heart and soul of Superfund. Not drums, dumps, and that sort of thing, and that’s the portion of the law that has been absolutely successful. I don’t think there is any question whatsoever.

At the time we started working on this law, there was—if there was one hazardous substance response team in the United States, I’m unaware of it and I actually—it was part of my job on the staff to inventory some of these things. We had shellfish closures everywhere throughout the United States due to contamination by toxic chemicals, but nobody knew where those closures were. There was no central place where you could get a list of those closures. FDA would close places, but it didn’t maintain a list of places that got closed. The chemical response consisted of—somebody on a train or on a truck would carry a bill of

lading and it would say if there's an accident, call this number, which would be something called Chemtrek, run by what at the time was called the Manufacturing Chemists Association [MCA]. And Chemtrek consisted of a Rolodex about four feet in diameter in which they would look up a chemical and say, "This is what you should do with it." We had some people...

I mean, what always drove me on this were the human tragedies. I mean, there was a family in Tennessee, there was a train derailment and chlorine—at that time tank cars did not have double heads to prevent releases—so it was a derailment. Chlorine got out. Chlorine is heavier than air, so the chlorine settled in the valley. There's a highway that ran through this valley. A family drove into this valley. The chlorine had displaced all the oxygen so the engines stopped running and these people died in the most excruciatingly painful way. The chlorine went into their lungs and turned into hydrochloric acid and these people were just... I mean, that's just beastly. No company should be allowed to get away with that.

What really started an awful lot of this was: Occidental Chemical attempted to take over Mead Paper. Mead Paper hired some smart lawyers, and they dug into Occidental's history, and one of the things they found was that Occidental had purchased Hooker Chemical and that in the 1940s Hooker Chemical had run Love Canal, that there were releases from Love Canal and there was potential liability on the part of Hooker Chemical, and hence Occidental Chemical, for those releases. And they forced a disclosure of that to shareholders, and then that attracted attention to Love Canal, which then ignited this whole... It then spread to other places.

Another thing they found during the course of all of this was a memo. Occidental Chemical made a substance called dibromochloropropane [DBCP]. They just dumped [it] on the ground and let it get into ground water. They didn't care, just like the people who made MTBE [methyl tertiary butyl ether] didn't care that tanks were leaking. Now, if we had, if Superfund applied to gasoline or gasoline additives, those guys would, for damn well to a certainty have cared whether MTBE went into leaking underground storage tanks or not because they would have been liable. And now what's going on? The Congress of the United States is trying to relieve them of liability.

In any event, Occidental Chemical made MTBE. MTBE sterilizes males in higher doses. Occidental did a calculation of the workers, how many workers would be sterilized by exposure to DBCP. Of those workers exposed and sterilized, how many would realize that their sterility was caused by exposure to DBCP? Of that number, how many would consult a lawyer? How many would sue; how many would prevail? What would the settlement be; what would the monetary cost to Occidental be? And they put that on one side of the scale. And on the other side they said what are the profits to Occidental from making dibromochloropropane? The profits exceeded the projected costs of the sterilization of the workers, and so they went ahead with the manufacture of the dibromochloropropane. And there is no question whatsoever that every corporation in the United States engaged in that kind of analysis. They really didn't—and they still do not—care one whit what the consequences are unless those consequences are monetized and exceed the projected profit from engaging in whatever the activity was.

In effect what we did in Superfund was, we created a cost benefit analysis. Now, I would never say that that should be the sole way to make decisions, in part because industry

can. These people are incredibly smart and tenacious and patient and resilient, and you can see that right now they've effectively brought the cleanup portion of the program to a complete standstill. They have not, however, brought the liability to complete standstill, so that portion of it still is working. But to the extent that the cost of cleanup being many times greater than the cost of avoiding a release and to the extent that the cleanups, the Fund, caused those costs to be channeled back to the companies and their insurers and that served as a disincentive. That's been eliminated by the Bush and for that matter the Clinton Administrations. This is not a question of—this in 1980 and in 1985 and 1986—this was never a question at that time. I believe it is today. It was never a question of Republican versus Democrat. It was a philosophical question, or, more accurately, it was a question depending upon whether the Senator or Member of Congress had been bought by industry, because that's really what it is.

EPA Interviewer: Let's take a step back to... You covered a lot of different environmental laws. Let's go back to the creation—where you're sitting in that room—and you have the original purpose of the law. What were some of the next steps? What are some of the things you remember in trying to get that bill to become law?

Moore: Well, S. 2400 foundered in '78, I think it was. Maybe it's '79. It must have been '79. No, it would have been '78. Whatever year it was, it foundered because we went to—the House had produced an oil spill bill. We had produced a toxic chemical bill. We went to conference with the House side. I remember a minority guy, Rudy something, almost screaming at us that, why were we fooling around with chemicals when the problem was oil, and that was it. We just ended up quitting. Couldn't get anything done that year.

So the next year, we came back, and you said Phil and I, but in the early period a guy who played a big role in this was Karl Braithwaite, who was the Staff Director of the subcommittee. I think Phil and I ended up playing increasingly more substantial roles, but Karl was the guy who really managed the process. So we came back next year, and this time we also had some problems with Commerce Committee jurisdiction. And this was always a complication, because even if we believed that the Commerce Committee didn't have jurisdiction, the Commerce Committee believed it did, so the simple way to resolve that was we just introduced the legislation that didn't have any oil spill coverage in it, with the idea that at the end of the process we would staple an oil spill bill to the chemical Superfund, and for reasons we can go into later, that didn't happen. But we introduced S. 1480.

There were two subcommittees of jurisdiction at the time. One was the Resource Protection Subcommittee chaired by [Senator] John Culver, with [Senator] John Chafee as the Ranking Minority Member and the other was the Environmental Pollution Subcommittee with Muskie as the Chair and Stafford as the Ranking Member. Culver, or more specifically, his staff, had approached Muskie and asked if Culver could take the lead on Superfund legislation because Culver was up for reelection in 1980 and he wanted the benefit of the law. That turned out to be a serious mistake on his part, because ultimately what happened was the Chemical Manufacturers Association [CMA], which was the name for MCA [which] had changed its name. They had 50 of their lobbyists or people in Washington phone-banking against Culver and they gave more money. The chemical industry gave more money to Culver's opponent, Chuck Grassley, than they did to any candidate for election that year except Russell Long from Louisiana.

But in any event....So we then had two subcommittees working on this legislation jointly with the idea that John Culver would take the lead. And I've now forgotten the name of John Culver's staff guy. The strength of the Environment Committee was always that we were always substantive. This was not politics to us. I can remember a guy at EPA, Dick Morgenstern, once [when] we were talking about lead—as in leaded gasoline—and he said something and I objected to it and I said, "That's not so. The reason we got lead out of gasoline wasn't to protect human health. It was to protect General Motors, Ford, and the other companies' investment in catalytic converters. It was only after the lead began being eliminated that we saw the decline in blood-lead levels."

After I finished, he said, "You really understand this stuff, don't you?" He was clearly sort of nonplussed that people working on this stuff would actually understand the substance, but we all did. I think, whether we said it or not, we were all of the view that knowledge is power, and therefore the best way to beat your adversary was to know more than your adversary did. And so we did.

And we did all of our own drafting. Phil did our drafting, and Phil's drafting was like a piece of art that should hang in the Louvre or something. You could not just read something that Phil drafted. You had to read it and reread it, reread it and reread it, and you had to diagram it, much the way when I was in school we were we taught to diagram sentences with the verb and the object, and the adjective and the adverb, and after you did that, you might, you might understand what Phil was writing. There still remained at least a one in 10 chance that you missed it, and he could create a lot of mischief that way, and with Phil you never knew.

One time I found a piece of paper in the Xerox machine that Phil had left there. I forget now what it was, but it had something to do with [Senator] Lloyd Bentsen and I looked at it, saw what it was, and—I don't know whether I gave it to Phil or I put it back in the machine or what. I was talking about this later with Leon Billings, who was really the staff guy who wrote the Clean Air and Clean Water Acts, who worked for Muskie, and he said, "And you never knew whether Phil intended for you to see that or not, did you?" So Phil drafted S. 1480, as I recall, that was the number, and no, first we had the staff papers— I've got all of that stuff still around here somewhere. [*Phone rings*] Excuse me while I answer that.

[*Recording stopped and then started.*]

That is an unfortunate tendency on the part of bureaucrats.

EPA Interviewer: This is in reference to....

Moore: You said that you mentioned [prior to recording] that there had been a meeting at EPA, and the industry people had said, "Well it isn't fair," and somebody at EPA had responded, "Well, it is not intended to be fair." And that's not so. It absolutely was intended to be fair. What was unfair was why should one of these companies have the right to poison people? I mean they have no right. I mean, I think about the people from Woburn, Massachusetts. For God's sakes! I mean it would—these kids—children died. Children were killed, and there will never be any doubt whatsoever in my mind that it's because the water they drank and the water they showered in had been poisoned by W. R. Grace.

When I went to work for Bob Stafford, we had a guy on Stafford's personal staff named Vic Maerki, who was just a fantastic guy, and he said to me once, "The great tragedy of the Hill is that young people come here and within about six months they've learned to be reasonable, and he said there's nothing reasonable about killing children." I was blessed in that I worked for this United States Senator. I was told not once, not twice, but many, many times, "You do not worry about politics in this office. You worry about what's right and what's wrong. You tell us what is the right thing to do and don't worry about anything else," and that's what I always did. I never allowed politics to enter into it, and what we did was to attempt to balance the system. We weren't making the system unfair; we were making the system fairer.

But there is a tendency—people don't want to talk about this stuff. I mean, you don't—I don't know, maybe it's because they want to appear reasonable, and I just long ago gave up wanting to appear reasonable. I got into this racket because I cared about these issues and I cared about people who were injured, and I'm not going to pull any punches. If somebody over there is a liar, I'm going to call him a liar. If he's killing people, I'm going to say, "You're killing people." And I'm not going to be reasonable about it, because it ain't reasonable to kill little kids.

And you sit in a hearing room—I can remember [Senator] Kennedy again brought these—no, Kennedy helped us identify and recruit the people from Woburn, Massachusetts, to come to our hearing, because that's what we did. We introduced, we surfaced the staff draft, and then we started hearings on all of these things, and among the people we brought in were people from Woburn. And as I recall there were five of them, and we had to pay their way down. And that's another way the system is slanted against people, because if you want to hear from just an ordinary individual, a human being, they can't afford to pay their airfare and expenses in Washington, DC. But my God, Dupont has got all the money in the world. They can bring down a squadron, a flotilla of people. So we had to pay the airfare for these folks, and I had some difficulty overcoming objections to our paying the airfare and remember one occasion. I just said, "Look, I'll pay for it out of my own pocket." This was something else.

So in any event, we started having hearings and this was, a key in all of this was, industry kept saying, "It's not fair, it's not fair, it's not fair. You know this was stuff we did in the 1940s when we didn't know any better." What? Then why should the burden of your conduct, your mistakes, your ignorance, fall on the likes of Lois Gibbs and all those people at Love Canal?

You know, I went to Love Canal. I went up there with a fellow named Paul P. Fadilli, who is now out in California, and I had my first Genesee Cream Ale and it was great. And we went out to Love Canal and visited with Lois, and she joked that it's great—dandelions wouldn't grow in her yard because of the leaching. You know, I didn't ever want to get into an argument over whether those people had suffered physical injury or not because, really, I didn't need to get there. I saw that they were living in houses in which they personally were convinced that they were being poisoned. Their children were being poisoned. They had mortgages on those houses. They couldn't sell those houses, but they had to pay the mortgages. They were trapped in property that was worthless. I mean it was worse than worthless. I mean just trapped into a nightmare of a life. Well, I'm sorry, you've got no right to

do that to people. Just because you're a corporation and you didn't know, that doesn't mean you have a right. So that was kind of the drumbeat that set in.

We started—in addition to having hearings—we started meeting on a regular basis with the chemical industry to try to work things out. We had a long table in our conference room—I would guess it was about 15 feet long—and we would sit on one side (“we” being the committee and the personal staff)—and the chemical industry (CMA and its lawyers and some of the major companies) would sit on the other side. And I don't remember all of the people that were there. There was a guy named Tim Burns, I remember, Ed Frost, who was general counsel for CMA at the time, a guy whose name will probably pop into my head in 15 or 20 minutes, and we would attempt to resolve issues. But they were...the differences were irreconcilable. I mean, because they just wanted business as usual. But I could go through some of the things we had in the bill—but at this point what—this was one of the things you do in legislating. And most people on the Hill never understand this—you should not substitute yourself for the process. You start with a piece of legislation that is what you would want if you were king of the world and you could just pass it, right? You don't start by trying to look reasonable by making concessions. I mean, most people on the Hill believe that you start with something, make concessions to the other side, and the other side will agree that you are reasonable, and they'll say, “Okay. That's pretty good. You've conceded all of the stuff; now let's just pass it into law.” But that's not what happens. If you make those concessions and you sit down with the other side—and there is always another side, or lots of other sides—they'll say, “Great! I've got my half. Now let's talk about yours.” So you should always start with what you would ideally like to see become law, and so we did.

We started with a proposal that covered all releases. It didn't make any difference whether you had a permit or you didn't have a permit, you were covered. It covered all substances that were hazardous, and hazardous was defined by an extremely broad definition. It provided for restoration of natural resources. It provided for compensation of victims, and it had a unique—and I still to this day believe that we would resolve a lot of our problems if we had a system like this—we created a liability regime in which, for purposes of the Superfund, if you alleged that you had been injured by a release, you could show that the substance that you alleged caused the injury causes damage of that sort. Let's take dibromochloropropane; we'll go back to that. You can show DBCP causes sterility. You can show that you were exposed to DBCP. You can show that you were exposed to DBCP long enough to be sterilized by it. You can show that you are, in fact, sterile—then the burden shifts to the defendant to prove that his release of dibromochloropropane did not cause your injury. [This] drove the industry nuts. They absolutely hated it. They just went crazy.

I spent a fair amount of time studying the Japanese victim compensation law. Few people are aware of the fact that Japan has a victim compensation regime. It actually has several of them. It has one for Minamata disease, one for itai-itai disease, but the largest of these, interestingly, is for air pollution victims, the Yokkaichi air pollution victims. What happened was [that] air pollution in Japan was terrible in the 1960s. Victims of air pollution in this industrial area of Japan filed a class action suit against about a dozen polluters. And there's an irony here that Japanese law is essentially what U.S. law was in 1945 and 1946. Japan has in many ways continued to adhere to the principles of those laws, while U.S. courts have turned their backs on those principles. So that I don't think that a Yokkaichi-type case could prevail in the United States, but in Japan, it did. So they won, and the judge found

as a matter of law that the pollution had caused injuries to these victims, and he held the polluters strictly, jointly, and severally liable. If any of that sounds familiar to you, it's Superfund.

What then happened in Japan was the industry, scared to death, went running to the Japanese Diet or the Congress, asked the Congress to enact a victim compensation regime. They agreed to a tax on sulphur dioxide emissions to pay compensation to these victims, and so they created the scheme that had nearly 100,000 victims at its peak. And interestingly, that tax on sulphur dioxide—if anybody ever says taxes don't work—that tax on sulphur dioxide led to the lowest sulphur emissions in the world from industrial facilities and the lowest sulphur fuel in the world, in Japan. Part of that was due to the tax, but also part of it was due to there was a tremendous stigma attached to these companies because of the injury they had done. These kinds of people exercise a huge amount of moral suasion, but they should, because these people, as part of the culture over there, these people are shunned by other Japanese. The fact that they're ill makes them...they're not respectable members of society.

In any event, so we created something very much like the Japanese system under Superfund. But rather than setting up a fund to pay victims—you could get money from the Fund, victims could—but it was intended that the judicial system would be the primary course of enforcing this. This was consistent with Stafford's philosophy and my philosophy, which was that laws work much better when you don't rely on a bureaucracy, because government, it's very difficult to fine-tune government. Government can't work with great precision, sort of needle-like precision. The best way to do something is to adjust the rules that govern the relationships between parties, and so if you change those rules, then you have a self-implementing system. You don't need a governmental bureaucracy and all of the stuff that sticks to the sides of the tube, all of the money that sticks to it. You get an efficient, cost-effective system. Everybody knows what the rules are, and everybody knows how to play by the rules. So that was Stafford's vision of Superfund and my vision of Superfund. Then we started having hearings. We had hearings in Charles City, Iowa, for Culver. We went out to California and had hearings there on natural resources that John Chaffee chaired because California had a natural resource evaluation system in which, literally, if you had a spill, they figured out a rainbow trout was worth this much money and a mussel was worth that much money and you just...

EPA Interviewer: So you went to all the hearings?

Moore: Yes. We just held these hearings in various places. I forget where else we had hearings. We had a lot of hearings here in Washington, and that's just the typical part of the process, but while we had a lot of momentum because of Love Canal and the associated kinds of things. During this period, you'd see this subject covered on television shows, like "Quincy," which was a program about a medical examiner, and you knew that you were in the mainstream when you started seeing that stuff. We had regular coverage in the *New York Times* and in the *Washington Post* (although the *Post* always was and still is really "iffy" on environmental issues, they'll go for a period of years without having a specific reporter assigned to cover the environment.)

In any event, we had the hearings and it was really all sort of make-work. Our problem was [that] we could get out of subcommittee. We had the votes to get out of subcommittee, and we had the votes, probably to get out of full committee, but we were going to play hell doing anything on the floor.

Well, the other thing that happened at this period was John Culver started feeling a lot of political heat in Iowa and he started getting scared. Instead of liking this law, he started getting scared of it because the chemical industry was just beating him to death. And I actually never understood. I can remember a couple of meetings I had with him, in which I said, "Senator, I don't know why you are letting these people beat you up. Why don't you go back to Iowa and say, 'Here are people who make a profit off of poisoning folks, and they are trying to poison you against me. Now if you want to vote to poison people, then you vote for Chuck Grassley and you vote for the people who are supporting Chuck Grassley.'" And he said, "Yeah, yeah, you're right. You're right."

One of the great advantages I had in all of this stuff, at least at that time when we had a system that still operated at least partially on the basis of what was good for the public, was [that] I had excellent political instincts, which is something you tend to find in reporters, or former reporters, in my case. I didn't say I had worked for the *Raleigh News Observer* and the *Associated Press*. I worked for the *Raleigh News Observer* while I was going to school at Chapel Hill and actually won a number of awards for my reporting and then I worked for *Associated Press* covering the North Carolina General Assembly. And then I worked for the *Associated Press* in Louisville, Kentucky. That was the year I spent after I dropped out of North Carolina State. And then I went back to Chapel Hill because that was the fastest way I could get a degree. In those days we had a draft, so you could only stay in—you're going to get drafted. In fact, I did end up getting drafted and ended up enlisting in the Marine Corps to be an officer rather than placing my fate in the hands of faceless Army bureaucracy.

In any event, Culver started getting really scared of this, and there were five specific provisions in Superfund that created the greatest indigestion. One was—and I am not going to remember all five of them—federal permits was one, victim compensation was another, and three others. And Culver said that he was going to eliminate those five provisions. This was in a meeting in the back room, and I looked around and the only people who were going to resist Culver would be Stafford and Muskie. They were the only two who spoke up. Stafford said, "Well, John, you know that's your prerogative, but I think I'll have to have a roll call vote on this." You know, in a sense Culver was right, but this is again what I talk about when I say, "Let the system do its work," because when a piece of legislation goes through, the system will turn it into a product that the system can support. If you start out trying to predict what the system is going to produce, then you end up with a greatly attenuated version of what you will get if you start out with what you really want. And what Culver was trying to do was predict the outcome of the system, and he was right. In fact, in every one of those five areas, we had to do something in each of those areas as the price of getting the legislation up on the floor. But had we eliminated those at the point where we were having subcommittee markups, we would have had to give up something else as the price to get it on the floor. So anyway, Stafford said, "John, I'm going to have to have a roll call vote on this," and that was it. Culver never offered them.

[Senator] Pete Domenici was going to offer an amendment to strike the victim compensation stuff, but completely by coincidence. Although Domenici would never believe this, we had about nine months earlier asked... One of the things that went on—was this question of whether people were, in fact, adequately compensated when they were injured by toxic chemicals. So we had asked the Library of Congress to undertake an analysis of some specific cases of injuries, examine the compensation that was received, and make a judgment as to whether that compensation was adequate. The library entered into a \$50,000 contract with the Environmental Law Institute.

Anyway, they looked at five specific cases, and they went to the files and they pulled out how much individuals got in compensation, what were their injuries, and the conclusion was that people or the environment had not been adequately compensated. Wholly by coincidence, we had copies of the report printed and they were all delivered to us that morning. So in the back of the hearing room when Domenici is preparing to offer his amendment to strike victim compensation, we've got a thousand copies of the victim compensation study, and Stafford announces this. And Domenici was apoplectic. And by then, [Senator] Alan Simpson had joined the committee. Industry had also at this point tried to get me fired, because the Republicans had taken over the Congress in the 1980 elections—taken over the Senate, I'm sorry—in the elections. We got it out of the two subcommittees, we go to the full committee, we got it out of the full committee. The bad guys...

EPA Interviewer: You got what out of committee?

Moore: We got S.1480 came out of subcommittee, came out of full committee, and then Senators can do what's called "place a hold" on legislation. It's an informal process in which a Senator just says to his cloakroom, "I don't want that coming up," and the reason a Senator can do that is because in the House there is a rule that no amendment can be offered to legislation unless it's relevant. There is no relevancy rule in the Senate. So any Senator can offer any amendment to any piece of legislation and the result is, in order to control the process, so that you're not tied up forever—you could offer an amendment dealing with Mars on a food stamp bill. So legislation is brought before the Senate by what's called unanimous consent, and you enter into unanimous consent agreements in which you enter into unanimous consent "X" amount of time for the bill and "Y" amount of time for these amendments, and "Z" amount of time for these other amendments, etc.

So it's a unanimous consent agreement, which means that any single Senator can object and thus prevent the legislation from being considered. And that's the basis for the hold; because what he is saying is, "I'm going to object if you attempt to bring it up, so don't bother. Let's be gentlemen about this and don't try to bring it up, sneak it up on the floor." That's why the Senate used to, at least, work reasonably well, because you really, you had to trust other people, and we had an old saying about who you could go to the well with. That was whether you could trust somebody or not. There were some people that you couldn't go to the well with them. Other people you could go to the well. In any event...so we got it out of committee, and by this time we were subject to a series of rolling holds. Well, I'm sorry, the next thing that happened was that it had to go to the Finance Committee, because there was a fee in it.

Now we insisted—we took the position that the fee was not a tax, it was a fee. And because it wasn't a tax, the Finance Committee didn't have any jurisdiction. But Russell Long, who was the Chair of the Finance Committee says, "That's BS." Now Louisiana, in case you haven't noticed, has a huge number of chemical plants, a very rich industry in Louisiana. Well, Long was just basically sitting on the bill, bottling it up in committee, in Finance. So I don't know where my buddies Leslie Dach and Blake Early got them, but they found a bunch of shrimp fishermen who alleged, with a basis in fact, that chemical poisoning was destroying the shrimping industry, and Russell Long was helping destroy the shrimping industry by keeping this bill bottled up in committee. And that was on the front page of *The Times Picayune*. And two days later this bill came out of committee. So it came out of committee. Then we're okay. We're ready to go to the floor, and the intention was to marry the chemical Superfund with an oil spill Superfund. And all this time we've been meeting with Commerce Committee staff to work out the difficulties of the oil spill. And in fact, I think it's a good idea we ended up not getting it married—getting the two of them married.

In any event, we're trying to get to the floor and we just got a series of holds holding up the bill. Well, then we come to the elections of 1980. I misspoke myself earlier. We come to the elections (and I was thinking of Alan Simpson in '85 and '86) and of course Republicans win every Senate seat virtually that they could. Culver goes down and so do a bunch of other guys. Culver comes back and he doesn't [care] about Superfund any more—doesn't want to even talk about it. But we're in a lame duck session. This is the last chance for the Democrats to do anything, but Stafford is now going to be the Committee Chairman and everybody knows it. And he and [Senator] Jennings Randolph have a wonderful relationship. Jennings Randolph was one of the most thoroughly decent human beings I've ever met in my life. Stafford comes back—just the first day or two back in session—and I'm sitting outside his office waiting to see him and he comes in and beckons me into his office. And I sit down and he sits behind his desk and he says, "Curtis, I just had cocktails with a United States Senator-elect who believes that adultery should be a capital crime. I think we had better get whatever we can on Superfund while we can." So we just threw open the doors, and we produced a series of Stafford-Randolph compromises.

We had a compromise in which we got rid of this, we got rid of that, we got rid of this, and we started making core statements about, oh, these tremendous concessions we've made, and then the next followed. And I don't know whether Stafford approached [Senator] Howard Baker or Howard Baker approached Stafford, but the Republicans did not want to have Superfund on their agenda for next year. I mean that was very clear. They wanted to get it out of the way, because this is the sort of thing that could really be a pain, as Reagan learned. Right? So Howard Baker sets up in his office a meeting, whether it was Stafford approached Baker or Baker approached Stafford or what, I don't know. If I ever knew, I have forgotten. But Baker arranges for a meeting in his office. I should back up and say, this follows a series of meetings that Stafford and Randolph have held two-on-one with Bentsen, Domenici, I forget who else. I think the guy who was from Missouri who was our United Nations ambassador for a while, [Senator] Danforth.

Anyway, they have a series of meetings in their private offices. Senators, once they get fairly senior, get assigned offices in the Capitol, and it's wholly on the basis of seniority, and once you got it, that's the office you get, and so you may be a very senior Member of the Senate and have this crummy little office, or you could be relatively junior compared to a lot

of other guys and have this magnificent office. But Jennings Randolph has a nice office and so the meetings were held in Jennings' suite. So Bentsen will come in and they say to Bentsen, "Lloyd, what does it take to get you to accept this bill?" And Lloyd Bentsen says, "You got to get rid of liability for federally permitted releases." Swoosh! There [it] goes. Oh, we covered oil so we had to get it out. Even though we didn't have oil spills, we had oil [which] was obviously a hazardous substance and certainly some of the constituents of oil and gasoline were hazardous substances.

So we had to accept the petroleum exclusion, and Domenici said we had to get rid of victim compensation, and so the five things that Culver was going to eliminate got pulled out of the bill. But what we got by pulling those... See, when they got pulled out of the bill, we then [could say], "Now with this gone, Lloyd, are you going to support the bill?" And the answer was, "Yes." We bought something with it. And that's what's important to do. Don't give it away, for crying out loud! That's not your job. So we got Bentsen, we got Domenici, we got Danforth, and so on. Then, you know Monsanto was headquartered in St. Louis. Right? So we had gotten rid of the big five. We'd made a lot of other concessions, and Howard Baker convenes a meeting that includes...

EPA Interviewer: That was going to be a Chief of Staff for Reagan? Correct? Howard Baker?

Moore: Yeah, later after he leaves the Senate, he becomes Reagan's Chief of Staff. Yeah, but he's about to be the [Senate] Majority Leader. So Howard Baker brings together a meeting and we've got [Senators] Jessie Helms, Hal Heflin, and I forget who else, you know, another one or two. And on our side we've got [Senators] Bob Stafford, Mark Hatfield, and probably John Chafee. Again, I don't really remember. And I'm in the room, [and] Jim Range who's Baker's guy, is in the room. I don't remember who else was in the room, but it was not a big meeting. It was a small meeting, and at this point the Fund was still pretty good sized, surprisingly. It's \$4.5 billion, which they said was immense, but the waste site at Hanford is going to cost probably \$50 billion by the time it's finished. So Stafford just looks at Helms and says, "Jesse, what will it take for you to let this bill get on the floor?" And Jesse says, "\$1.5 billion," or \$1.2. I forget what it was. And Stafford says, "Make it \$1.6." He just sort of looks at me, and he says, "Make it \$1.6 and you've got a deal, Jesse." So Jesse says, "Okay," and then we had a deal.

We went immediately to the floor. I mean we walked right out onto the floor. At least that's my recollection. And called for a roll call vote. It passed. And as the vote was being counted, [Senator] Bob Morgan, the "Senator from the Southern Railroad," comes walking in and he says, "I object." It was too late. It was over. I mean, it lasted for literally 11 minutes, as I recall. So then we've got the bill past the Senate. But we are in a lame duck session. We don't have the time. We've lost. I mean it's already unraveled on the Senate side. Right? I mean it was that brief.

EPA Interviewer: The discussion and the debate and the...

Moore: Oh, people put a whole bunch of statements in the record and stuff like that. But I mean this period of agreement was literally just like 15 minutes or something like that, and it fell apart. I mean, if we had tried to bring it up again, we'd had to deal with Bob Morgan and

the Southern Railroad. We'd have to deal with... Oh, fertilizer, that was another thing. We had to exempt fertilizer and we just made a straight quid pro quo with the fertilizer guys. Vic Maerki and I met with them and we said, "This is a straight quid pro quo. Stafford will sponsor an amendment exempting fertilizer from this bill, but you have to send us a letter saying that you support Superfund." They said, "Okay." So we got the fertilizer exemption. So, and there were a lot of things like that we did that I have long since forgotten. I could go through my files and find—I've still got [them].

These days they've got an archivist on the staff of every Senator—and I expect in every committee—but that was not the case in those days. When you left, and I did it many a time myself when I moved into somebody else's office. When you moved out of your office, and you went someplace else, you just called the Senate mail room and had them send up a mail cart. The big cart like, you know, about four feet long and about three feet wide and about three feet deep. We just pulled stuff off the bookcases and out of the file folders and threw them away. I wasn't going to see that happen to my stuff, so when I left the committee in 1989, I went in on a Saturday, a weekend, and I brought home two truckloads of my files. They're still in my basement.

EPA Interviewer: Your wife must love that...

Moore: That's my basement. That's my office. The pit, we call it. *[Laughing]*

EPA Interviewer: So you have 15 minutes of agreement on the Senate side. Now you have...

Moore: That was all we needed on the Senate side.

EPA Interviewer: Right.

Moore: So now we passed the bill in the Senate. What do you do then? The usual routine is the Senate passes a bill, or the House. That bill goes over to the other chamber. The other body works its will on it. It may send that bill back to you and you exchange bills. That's one way of doing it. Or one body will send the legislation to the other body. The other body amends it and then you appoint conferees for a conference committee, or committee of conference. So you get X number of people from the House and X number of people from the Senate and they start meeting.

The first meeting is usually held at EF-100, which is the one room in the Capitol that is neither a Senate room nor a House room. It's in the exact center of the Capitol, and at one end is a Senate telephone and a Senate clock for floor proceedings in the Senate, and at the other half is House, and at the end of it is a House telephone and a House clock. And so typically you'll meet there and then you'll choose a Conference Chairman and all that other stuff. There wasn't time to do any of that stuff. So Stafford and Randolph wrote a letter to [Representative] Jim Florio and some other folks and said, "You know, God, we're on hands and knees. We beg you to take, pass this bill exactly as it passed the Senate. We'll never be able to get it through again." And there was a huge uproar in the House, as much as anything else because of institutional objections. This is just not the way two co-equal bodies treat one

another. We deserve to have our crack at this legislation. This went on a couple of weeks, and Stafford called a bunch of people and that kind of thing.

And Stafford was a former Member of the House and, as such, he has floor privileges in the House. I have never seen this before, and I've never heard of it since. On the day the House was taking this up, Stafford went over to the House floor, and he worked the well of the House for six hours. All he did was just go up to one House Member after another, after another, after another and say—and he worked them. And we went back to his office. He came after that was over and they were voting. We went back to his office and he said, "We're not going to make it, Curtis." But we did, surprisingly.

Well, the other thing that happened was Jimmy Carter got on the phone and he personally called over 100 Members of the House. This was Jimmy Carter's great environmental victory. This was the one thing he got. The poor guy. You know, he started early on with an energy bill to create a Department of Energy and establish an energy policy, and he got his Department of Energy, but he never got his energy policy. We would be so much better off today if the reverse had happened. But that's what the Congress does. The Congress wants to prove it can do something by reorganizing government rather than actually doing something.

You asked [prior to the start of the interview] specifically about ATSDR [Agency for Toxic Substances and Disease Registry]. What happened was the night before the meeting with Domenici, when we knew Domenici was going to ask to eliminate—no, it wasn't the night before—it's sometime just shortly before that meeting with Domenici. We knew we were going to lose victim compensation... My personal view [is] that the *sine qua non* of environmental legislation is health. We wouldn't be in this business... We're not in this business to save trees or rainbow trout or lousewarts or spotted owls. I mean some people are, but not the vast majority. We're in this business because air pollution kills people, because toxic chemicals sterilize people and so on. So my concern was how do I keep health in this bill, and the only way—see I'm just as guilty of it as anybody else—the only way I could figure to do that was to create an agency. What I wanted to call it was the Cancer Agency, like they did in New Jersey, but I knew that would never work. What I had in mind—and HHS [Department of Health and Human Services] would never do this even though I explained it a hundred times—was I had in mind something like NHANES—do you know what NHANES is?

EPA Interviewer: I don't remember.

Moore: The National Health and Nutrition Evaluation Survey, or Examination Survey. Basically NHANES was a huge survey—I mean tens of thousands of people—and they collect medical data and they collect exposure data, and so you can establish a link between. It's big enough. You know, most epidemiological studies just can't get big enough to pick up subtle [items]. The smallest cancer increase that's ever been detected by an epi study is 30 percent. I mean, you have to have really large increases, or you've got to have huge numbers of people, and NHANES is such a survey, but I wasn't well versed in the jargon of the health literature. My wife, who did at the time work at HHS, was at one time the Medicaid czar—czarina—and I asked her about it, and she said something about disease registries. So I'm at 1:30 in the morning, I am sitting in my basement office, which was in really a pit, I mean really a pit—[it] was bare cinderblock—and I had an old IBM typewriter and I'm trying to think,

“Okay. What can I do?” So I wrote, “I hereby create an agency for toxic substances and disease registry.” So I had this language and as Domenici asked for victim compensation to be eliminated, I don’t recall exactly how we did it—whether Stafford did it—but as he asked for it to be eliminated, we slid ATSDR onto the table. So we lost victim compensation, but we got a health component. Some kind of a health nexus.

Now they’ve never done what we wanted. They have had plenty of money. They could have done this easily—but if they would just do an adipose tissue survey of 50,000 or 100,000 Americans and then take health histories from 50,000 or 100,000 Americans, we’d know right away what PCBs do to people. Part of the problem that we’ve got now is that we’ve got so much of the stuff in our bodies that we can’t—we can no longer figure out what they do. I had not a friend, but an acquaintance—a guy named Clair Patterson at CalTech who’s really the guy who’s responsible for our, in the health sense, for ultimately getting rid of leaded gasoline. He was on an NAS [National Academy of Sciences]-lead subcommittee in the late sixties or early seventies, which was going to be—was yet another NAS rollover for the Ethyl Corporation—except Patterson was on it, and he wrote a dissent to that committee report that was just brilliant. I mean this guy went back to prehistoric times on the history of lead and entering the system and so on, and anybody who’s familiar with lead knows the name Clair Patterson. Patterson tried, but never could get the money to raise generation after generation of mice that were lead-free, then test them with lead to see what effects it would have. The idea was that ATSDR would conduct that kind of research, but there was an institutional resistance to doing any of this stuff. To make sure that we got—that this was lodged at a policy level—we said that the Director had to report directly to the Surgeon General because the Surgeon General is a statutory office, and one of the... [Representative] Henry Waxman almost killed Superfund, because the people at HHS didn’t want ATSDR, and Henry finally backed down when he saw that he could be responsible for killing the entire program over something like this.

And then after it was created, the Reagan Administration refused to ask for money. We made it available anyway and would periodically call them in and chew them out. One of the problems of the bureaucracies is they have no sense of vision, and vision is what really drives the legislative process. It’s not minutia and dotting “i’s” and crossing “t’s.” It’s a sense of vision and the possible, and that kind of thing, and I think by their very nature people who are willing to do work for a governmental entity eight hours a day, five days a week for their entire lives are not the kind of people who have that sort of vision. They just, they tend to micromanage stuff.

So in any event, that’s how ATSDR got into the bill, got into the legislation, and it never—it has never done what it should have done, which is... I mean, they were supposed to parachute in health-based SWAT teams where there was a need. ATSDR was to be the link to this massive contamination of the environment we have. It was to tell us what PCEs and PCBs and mercury and all the rest of the stuff is doing, and instead they just sit down there in Atlanta and spend the money, so... But you can’t win them all.

EPA Interviewer: So we passed CERCLA. It’s now into law and we had the Reagan Administration. What do you remember from some of the implementation? Superfund had a rough start there with the implementation.

Moore: Yeah, well, the problem was Mike [Cook] had been in the NPDS [National Pollutant Discharge Elimination System]—the water system. So he created a Superfund. He refused to—bureaucrats always refuse to listen to the Hill staff because they think we don't know what the hell we're doing. Instead of creating a system that was predicated on liability and predicated on responding fully to each and every incident and paying attention to humans, he created... We had allowed [Senator] Gordon Humphrey of New Hampshire to offer an amendment that said that every state had to have at least one site on the National Priority List.

We had a guy on our staff who was detailed to us named Andy Mank, who I think is still around EPA—You should probably look for him, because it was Andy who did all of the fee stuff for us—He calculated what, for purposes of the petroleum fee, for example, what percentages of the sites, not Superfund sites, but at what percentage of these incidents [where] we found petroleum-derived toxic chemicals and at what percentage did we have lead? And that was our defense for the way we allocated the fee. It was that these were proportional to the individual substances' contribution to the harm. Well, what Mike did was he took the National Priorities...

EPA Interviewer: So I understand the timeline, correctly... Mike was the Office Director for only about a year after the program was implemented.

Moore: Yeah, but that was the critical period. You know, the... I wouldn't have said it was even a year, but what he brought to it was a bricks and mortar approach. Remember the Clean Water Act, a huge part of the Clean Water Act, and in those days, it was that the Federal Government paid 90 percent—it has now been sharply reduced to 50 percent, which is the reason our rivers are getting polluted again—we paid 90 percent of the cost of constructing a sewage treatment system, also called the National Pollutant Discharge Elimination System. That came over from the House. We always said things like clean water and clean air, and they said stuff like pollutant elimination and crap like that.

So Mike with his NPDES mindset starts implementing the law as a bricks-and-mortar law. Well, it wasn't a bricks-and-mortar law. It was an adjusting-the-rules-of-behavior law, and we could never change that. And I am not sure that even if we hadn't had Mike there, you know, if I had been in charge of implementing the law, for example, it would have been possible, but I think it would have. Because, in fact, the Reagan Administration was not all that well organized early on, and environmental stuff was really not at the top of its list at all. It was way, way, way down on the list. It was much more interested in taxes and cutting funding and stuff like that. You probably could have put in place a really good liability regime, and it would have gone right by them, and by the time you did it—by the time they figured out what had happened to them—it would have been too late. And if they tried, what ultimately did happen to them would have happened. That is, they would have had the backlash.

But in any event, Mike ran the program and then [Assistant Administrator] Rita Lavelle came in, and I met with Rita once and I don't whistle as much now as I used to. I used to whistle all the time. It was my way of relaxing myself, and I was a little bit more laid back in those days. And I, after our meeting with her was over, I realized Billy Corcoran—who was on John Chafee's staff—looks at me and said, "Curtis, I can't believe you did that."

I said, "What do you mean?" "You whistled, 'Rita the Meter Maid!'" I was completely oblivious to that.

So, anyway, Rita comes in and [EPA Administrator] Ann Gorsuch comes in and Joe Cannon and Jeff Daniel. I forgot now whether it was Joe or Jeff, but he was Ann Gorsuch's right hand man.

EPA Interviewer: So how do you think it affected the program in the beginning? Did you realize there were a lot of different controversies going on? Did you see much of how it got implemented or did it get a lot better once Ruckelshaus and Thomas came in after that?

Moore: No, first they started with the bricks-and-mortar mindset that Mike established, and once that happened, it was impossible to undo it. So all of the attention focused on the National Priorities List [NPL] and how you got things on the National Priorities List and Records of Decision and all this other stuff. Interestingly, at the business lobbyist level, all of the attention focused on the funding aspects of the law. And, of course, there was litigation and they wanted to fight strict, joint, and several liability and stuff like that, but all the bad guys were focusing on constricting the amount of money that was spent, and therefore the amount of money that would be raised. And the state and local governments focused on developing all these regulations for how you develop the NPL and how sites got on the list and where they ended up on the list. It very quickly became a typical sort of bureaucratic governmental structure. And it was irretrievably so by the time Rita Lavelle came in, and Rita made it even worse because she'd cut these backroom deals with her business friends to help them out. I expect it probably went beyond Aerojet, although we'll never know. And by the way, it really pissed me off that the press always gave John Dingell, "John Dingell will ask a question and she lied." It was Bob Stafford who asked that question the first time where she committed perjury. I know!

EPA Interviewer: You were there. So we move along and get to '86 when we'll have to start getting ready...

Moore: No, we started before '86. We started a little bit in '84 and then in '85 and '86, and that was just an incredibly tedious process.

EPA Interviewer: To reauthorize the legislation?

Moore: Yes. And I managed that process at the staff level on the Senate side. And my entire goal was to not have one nick—not the scintilla—of anything on liability. Every time somebody wanted to go to liability—whether it was cleanup contractor liability or another kind of liability, or that kind of liability—and that's what everybody wanted to go after. I would always deflect it somehow and turn it into something else so that, for example, what happened instead of giving cleanup contractors releases from liability, we said that EPA could indemnify them if they wanted to. Now by this time [Assistant Administrator] Lee Thomas was running the program with Linda Fisher at his side. And really the biggest single issue during this period was—I should have backed up.

Back when we were doing the original thing in May of 1980, Ed Muskie became Secretary of State for Jimmy Carter, so we were left without Ed Muskie. Culver was just less

and less and less interested in the thing. Muskie was succeeded as Chair of the subcommittee by [Senator] Mike Gravel of Alaska, who if your memory goes back that far, was the guy who at a subcommittee hearing of the Public Works Committee, as it was then called, read into the record, while he was crying, the Pentagon Papers. Gravel was a strange, strange man. Gravel lost in 1980 as well. And so we had... We could still rely on the Muskie staff for help, but we didn't have any help from Democrats at that point. We had Florio on the House side, and we could occasionally drum up, you know, somebody on the Senate side, but basically the burden fell to Bob Stafford and Jennings Randolph. Jennings was not—Stafford was the guy who really did his homework. I was amazed one day when we were getting ready to go to the floor on something—something big. I say it was something big because the report on it, the committee report, was about an inch thick, and I walked in and there was Stafford reading a committee report and underlining things. You know, he really did his homework, as did Ed Muskie.

In any event, and I just wanted to say that we had lost Muskie—so by this time, Lee Thomas was a much more capable guy than either Rita, when she ran the program, or Ann Gorsuch, when he became the Administrator. When [William D.] Ruckelshaus was nominated¹—Ruckelshaus was a very formidable guy. It's almost all entirely attributable to the Saturday Night Massacre, when he, Archibald Cox, and Elliott Richardson left Justice and I've never figured it out, but Archibald Cox and...you know who I'm trying to say...

EPA Interviewer: Probably, but I'm not going to put words in your mouth.

Moore: Republican from Massachusetts who was the Attorney General and who had also been the Secretary of HHS and so on. It will come back to me in a minute. Anyway, they refused to resign. They said that if Nixon wanted them to go, he was going to have to fire them, but they were not going to resign. Ruckelshaus resigned and Elliott Richardson was fired. And I always wished I could have had a conversation with Elliott Richardson to ask him what he thought was critical about refusing to resign.

And I was in charge of handling Ruckelshaus' confirmation. I was the junkyard dog on the committee, you have to understand, and I had a reputation—and justified reputation—because I didn't take anything from people. Paul Billings—Leon Billings was my predecessor both in spirit and in terms of role within the committee. And Leon's son Paul now works for the American Lung Association. And Paul told me a story a few years ago standing in line for a committee hearing to start. This was several years ago. And there was a young guy and an old guy and they were both industry lobbyists, and the old guy was clearly breaking the young guy in, and he's telling him some of the history of the committee. And old guy says, "There was a guy on the staff here years ago named Leon Billings who was a real SOB, and when Muskie became Secretary of State he left and we thought we were in good shape and then along came Curtis Moore [who was no better]." [Laughing]

EPA Interviewer: So you were proud of that.

¹ Mr. Ruckelshaus was EPA's first (1970 to 1973) and fifth (1983 to 1985) Administrator.

Moore: Yeah, I was, because, in fact, I wasn't. I didn't abuse people. I was just—I was incredibly blunt with people. I would just say, "That's a lie," and the thing that offended the most was I was perfectly happy to go to lunch with them, but I insisted on paying for my own lunch. I would never allow them to buy me lunch, and they hated that. They just hated that. It was something they didn't like. So, in any event, the point I was starting to make was because I was the junkyard dog, I was given the assignment when Gorsuch... We engaged in what was called "intensive oversight"—that was my phrase—of EPA. And we got boxes and boxes and boxes of stuff from the Agency, and we went through the Agency with a fine-tooth comb. We put every member of our committee and personal staff to work on it. And we went after every program. I mean it was our chance to just yank the Reagan Administration as hard as we possibly could for purposes of getting it the hell out of there, out of our stuff, you know, which worked.

You know, the only person who survived was Joe Cannon, and Joe survived only because we made a call to the White House and said, "This guy is the only one in the bunch that's worth anything." So they kept Joe. They made him the AA [Assistant Administrator] for Air. And when he was testifying in West Virginia and Henry Waxman was doing a tattoo on him—this was after Bhopal and the MIC [methylisocyanate] spills—and Joe was saying that we couldn't possibly have a release of MIC in the United States. Things were too good. Then the siren started going off at the Union Carbide Plant because of the release of MIC.

So I got Ruckelshaus and we—Ruckelshaus at his confirmation hearing—Stafford said in his very low-key way, "We'd like to have copies of all your memos, copies of your correspondence," because Ruckelshaus had worked closely with the American Paper Institute [API] as it was then called and Ruckelshaus said "Yes." And I called up API and I said, "I want every piece of paper on which Bill Ruckelshaus' name appears in any fashion whatsoever. And I want the same thing from Weyerhaeuser." Five boxes were delivered to me here on a Saturday afternoon, and we went through them with a fine-tooth comb, everything we could. And he had said a lot of stuff about the health-based standards for the Clean Air Act and stuff like that. So then we had a hearing and said, "Okay, Mr. Administrator, you said this. Are you really going to do that?"

And so on. So what we were doing was firing a gun across his bow so that he knew we were watching every step he took, and when Lee was confirmed, we did the same thing—that we were going to watch every step you took. Because Lee had a good reputation—but make no mistake about it—he was our adversary. He was not philosophically in tune with Bob Stafford and the philosophical majority of the committee.

EPA Interviewer: In regards to Superfund?

Moore: Anything! Not just Superfund. We used to have knock-down, drag-out fights over, for example, the MCLs [maximum contaminant levels] under the Safe Drinking Water Act. MCLs are cost-based standards, and they are therefore not protective of human health. And that was the same attitude that Lee brought to Superfund. And that was a big issue for us, but it turned out to be, "How clean is clean?" was the phrase they used. We made the mistake—we meaning Stafford—there was only so much that Stafford could do. He was stretched very thin. We had a huge number of issues. I've still got the side-by-side downstairs. The side-by-side comparing the Senate and House bills is that thick. We had—at the time it was the

largest conference—once we passed our bill and the House passed its bill and so on—we had over 100 conferees from the House and one-third of the Senate as conferees. It was the largest conference committee ever appointed up to that point.

EPA Interviewer: And this was for?

Moore: For Superfund. And what the House did was, in an attempt to wear us down, they divided themselves up on issues, and so we had to basically, we basically created subcommittees of the conference committee, so we had a subcommittee on cleanup standards. We had a subcommittee on this, and a subcommittee on that. And we picked—Stafford hand-picked people. So that [Senator] Lautenberg, for example, was the lead on Community Right-to-Know. Oh, that was wonderful. Phil and I, I don't know, I'm sure Phil will remember this. We were in the office on the day after Bhopal, and my office is here and Phil's office is here, and I'm walking this way. Phil's walking this way and we look at each other, and I don't know which of us said it or whether we both said it, but one of us or both of us said, "Oh, my God, what a tragedy. Oh, my God, what an opportunity." Because we knew that we could use Bhopal and turn it into some accountability, because the thing we had—what we had discovered that we didn't really know in 1980 was how serious the problem of federally permitted releases was. There was an immense amount of toxic chemicals being released in the environment pursuant to permits. So that's how we came up with Community Right-to-Know and the Toxic Release Inventory.

I had visited—I always liked to go to other countries and see how they do things differently and I had visited Vienna and the Austrian—the guy who ran the dry cleaning program in Austria was a bookkeeper or an accountant, I forget which, and he said the way they handled releases of perc [perchloroethylene] was very simple. If you bought five pounds of perc that meant you were releasing five pounds of perc. Right? So we said we're going to set up a mass balance system in which—that's what the industry came to call it, a mass balance system—in which industry had to account. If you bought a million pounds of a feedstock, you had to account for all of that one million pounds: X amount went out in product; Y amount went out in air; Z amount and so on. And again, we knew we were never really going to get all of this, but it's the same old thing. You start with what you want. And Lautenberg was great.

Lautenberg was one of the most thoroughly decent human beings. I went to a field hearing with him once, and after the hearing was over he visited with some people, and the father was dying from asbestos exposure, and Lautenberg, you know, you could see Senators meet with human beings. And Lautenberg really empathized with these people; he understood them as human beings. And that was what always came through in Lautenberg. I admired, still do admire Frank Lautenberg a tremendous amount.

But in any event, we assigned each person responsibilities, and we gave to George Mitchell, because he was intellectually the smartest guy on the committee, far and away, "How clean is clean?" And the one thing that Muskie and Stafford had never been willing to do was to preempt under any circumstances. I mean it's a small-state mentality. It is supposed to be the cardinal principle of federalism, right, but you ought to see how fast Republicans are willing to embrace preemption. So Stafford put Mitchell in charge of that, and that was the most important issue to Lee Thomas: "How clean is clean?" because his view

was, well, we got to—the same old crap about you spend a few dollars to get 90 percent, and then you have to spend millions to get the last 10 percent or one percent or something like that. Our view was and still is, my view still is, at least, “Look, buddy, it’s not your money. It’s their money. They created the problem, they pay to clean it up, and they need to pay to clean it up and put it back the way God or Mother Nature made it, not the way that you as a human being want it to be.”

And Stafford said to Mitchell, “No preemption,” because obviously, if you have a federal cleanup standard—this is always the problem with preemption—if you have a federal cleanup standard and you’re cleaning up, say, in Vermont, having a federal cleanup standard is not going to work unless the Federal Government can preempt the Vermont standard. Because what happens is: if the feds will only go this far, Vermont can come in and say, well, that’s fine if you want to do it, but we want it this clean. So Lee wanted to preempt states, and we said, “Absolutely not. Under no circumstances. There will not be a reauthorization of this law if there is any preemption in it.” And we had to do the same thing—the same thing happened in...happened later in, I’ll get to that in a minute.

In any event, we trusted Mitchell, and that was the last time we trusted Mitchell because what Mitchell negotiated with Lee Thomas was something that was preemption, cleanup standards that were preemptive. Stafford said, “I’ve never welched on a deal before, but I’m welching on this one. You didn’t have my proxy to go that far. I’m taking over negotiations.” So Stafford took it over and then we just fought with Lee Thomas, and he never did get his way, but we did.

Another thing, big issue at this time, was contractor liability, and a Congressman named Friendly or Friendship or something like it—was “friend” something or the other—had really, this was the big deal for him. He’d gotten a gazillion bucks from the cleanup contractors, and we had settled everything. I mean the conference committee had reached an agreement on all of the issues, and again—God this was awful—I went for days without seeing my kids, because I would leave in the morning before they were awake and come home at night [after] they were asleep. I needed a root canal, and for three months I was taking 12 aspirin a day because I didn’t have time. I couldn’t take the time to get a root canal. So we finished all of this stuff, and I’m in Stafford’s office and John Dingell calls and he says, “Bob, (this Congressman whatever his name was) insists on contractor liability and I’m going have to go along with him. I don’t think we’re going to, this is going to tear everything apart.” And Stafford said, “Well, I guess I’ll see you next year, John.” And he meant it. He absolutely meant it. So I mean this was a much more detailed, substance-intensive process than it had been in 1980. I mean we worked on it for over two years, and we knew it was going to be, the extent that, the most important piece of environmental legislation for Stafford at the time was acid rain, and we just set acid rain to one side for two years to do nothing but work on Superfund. That’s how important it was to us, and the process was just grueling. I’d never worked so hard for so long in my life as I did during that period.

EPA Interviewer: What were the biggest issues? “How clean is clean?” Just for the record—Mr. Moore has brought up some of his files, a side-by-side comparison, and his notes, and things like that.

Moore: Well, these are Bob Stafford's notes, which I should send up to Vermont. Actually, these are from 1980, and I don't know if you are interested in any of this.

EPA Interviewer: Oh, sure.

Moore: You can't have it.

EPA Interviewer: No, I understand that.

Moore: Letters against, questions and answers. Now here's a...from 1980—here's a summary of toxics problems and it's very—and it's simple to the point of being simplistic. 1,300 wells, oil fields, closed. Is it caused by inactive waste sites? 80 percent no; 20 percent yes. Navigable rivers? No. Great Lakes closed to fishing? No. 90 percent emission population? No. PCBs? No. To make the point that "wastes" in the ordinary meaning of that term was the problem. So...

EPA Interviewer: You developed all of these.

Moore: No, I doubt that I developed. I would have done this one for sure. This I would have done. This I would have done. This I would have done.

EPA Interviewer: Questions and answers and charts.

Moore: Yeah, yeah, maybe I did do this. You know, it's been so long. I don't remember.

EPA Interviewer: Right.

Moore: I don't remember, but anyway this is a good book and I tell you what I'll do. I'll have this stuff copied for you.

EPA Interviewer: Thank you. I'll appreciate that.

Moore: Is this thing back on?

EPA Interviewer: It is back on.

Moore: This is one of the...this is just a binder from '86. Is it '86? Yeah. But it has a...it's got this environment and energy study, conference summary of the conference report, which is a nice summary. And here is the table of contents. That tells you what the issues were.

EPA Interviewer: Oh, my goodness! It's for the '86 reauthorization.

Moore: Yeah, so we... [*The following is in reference to some issues during the reauthorization process.*] Well, how big should the Fund [Trust Fund] be? Because remember, we had started at \$4.5 [billion] or something like that in '80, and we cut it back to \$1.6 [billion] or whatever. And then, what are some of the others? Cleanup standards. How clean is clean? Schedules, that is: how quickly did they have to clean these things up? Settlements. Under what circumstances could the government settle with responsible parties,

and how far-reaching could those settlements be? Because we didn't want those settlements to be binding on human beings or states unless they were parties to it. Leaking underground tanks. Should we repeal the petroleum exemption rather than setting up a separate fund? Same guy who had talked me into getting rid of MCLs talked me into this. Right-to-Know in emergency planning. Public participation. We created the grant program so that the public could get Technical Assistance Grants. Yeah. Research and then we were having problems with federal facilities because federal facilities didn't want to be treated like everybody else. They wanted to be exempt, of course. Federal Government always wants to be exempt.

I forgot what the judicial provisions are—that was a grab bag, most of which were technical in nature that the Agency and Justice wanted. Contribution. Contractor liability. Natural resource damages. We, for all practical purposes, lost natural resources damages, which is a shame, because that's where an immense amount of the damage is, is with natural resources. But, you know, you could see... If you were to go through the Administration's position on these issues, which was Lee Thomas', which Lee Thomas formulated, you'd see that the Agency was in... He was on the wrong side on all of these things. You know, he didn't want natural resource damages. He wanted a small Fund. He wanted weak cleanup standards. He didn't want any schedules at all. They wanted to have settlements that would bind everybody. He wanted a separate tank program. That way we would end up getting stuck with leaking underground storage tanks, because the AA [Assistant Administrator] for Water made a big deal about how much ground water was polluted by tanks, and what we should have done was just said, "You own the tank, you're liable. You own the tank or you provide the gasoline that goes in the tank, then you're responsible for cleaning up the leaks."

Because what they were doing was the tank would reach a certain age, say 25 years of age, and Exxon would just lease it to the station owner, or sell it to the station owner, so that they transferred their liability, right? He didn't want any public participation. Didn't want federal, actually he might have been on our side with federal facilities—I am not sure—wanted exemption from liability for contractors, and so on. So you know, there has not been, in my judgment, ever, a good Administrator for the Superfund program. It's never, ever, been implemented the way it ought to have been implemented. I'll make a copy of this summary for you.

EPA Interviewer: I would appreciate that.

Moore: Anyway, so this was just a question of an immense....A huge part of the legislative process that most people don't understand is just having the energy. The guy with the toughest ass wins. The guy who could sit there the longest is the guy who wins. And Stafford, bless his soul—Stafford exercised every day, and as his hips got worse he did more of that exercise by swimming, and we'd always say he was at the aquatic subcommittee. So he was in really good shape, and Stafford would just sit there for eight hours, 10 hours even, with his bad hips from football and skiing earlier in his life, and he was just able to wear them all down. He was remarkable.

We created these subcommittees, as I said. Stafford, and while we would have, say, Lautenberg in charge of a subcommittee, and we got to a point where something critical needed to be done. And it was the House strategy to create these subcommittees, because they were going to wear us down, because we'd have one Member [of Congress] or at most

two Members on a subcommittee, and they could bring in six or eight. And the way the House—we don't need to go into a lecture about how the House differs from the Senate in terms of the way it works—so you had this situation where Frank Lautenberg would have to stand up to the House side. So when we reached a critical point in this process, Stafford would come in and he'd sit there for an hour or two hours, and he'd guide the process. And then we'd get up from that meeting and we'd walk over to another building to another meeting on maybe cleanup standards, and he'd sit there and so...

You know, while Frank Lautenberg could specialize in Community Right-to-Know and Toxic Release Inventory, Stafford had to know something about TRI, Community Right-to-Know, cleanup standards, funding, contractor liability, et cetera, et cetera. Somebody really should talk to Bob Stafford, because the legislative process is so complicated and there's so many people involved in it that it's difficult to ever say that one person is responsible, but there can be no question whatsoever that without Bob Stafford, there would not have been a Superfund law in 1980, nor would we have seen one in 1985 to '86. Or, if we had, if we did see one in '85 to '86, it would have been dramatically different. It wouldn't be nearly the program... I mean we would not have Community Right-to-Know, we would not have TRI, which I consider to be... I look back on some of this stuff I did, and I'm really proud of some of this stuff. But for me, I mean I didn't come up with strict, joint, and several liability. That came from Section 311 of the Clean Water Act, but I was the engine who kept it in the 1980 law and protected it in 1986. Wouldn't be Community Right-to-Know, there wouldn't be toxic release inventory, just a lot of things.

EPA Interviewer: Are you the one who came up with the idea of Technical Assistance Grants?

Moore: No, that was Rena Steinzor who came up with that. Generally speaking, the way the legislative [process] works is the Senate minds its business, and the House minds its business, and you don't talk except when you get to conference committee. But I've always been more interested in the legislative result than abiding by somebody else's ideas. The idea of what the rules ought to be or ought not to be... So I worked very closely with Rena Steinzor, and she desperately needed cleanup deadlines, I'm not sure why, but she really, really needed those.

After that I was frankly, I was just sick to death of Superfund, because I had been doing it for essentially six years, seven years. I mean, it was the first thing I did, and starting in 1985, I persuaded Durenberger to hold the first ever Senate hearing on global warming, and that was tough, I'll tell you. Carl Sagan was coming in to testify, and 20 minutes before this hearing is going on, Durenberger said, "I'm not going to do this hearing. I'm not going to be made a laughing stock of the country on this cockamamie stuff." We had to drag him into the hearing. It was...see the things you never know.

EPA Interviewer: That's right. So after '86 passed, just to summarize, I wanted to find out if your original concerns were addressed in CERCLA, or some of the other concerns.

Moore: We still never made this health nexus, which is the... And without making the health nexus, the system just doesn't work the way it ought to work, you know. Only the government is going to be able to do that, because you've got to have the resources. Not

just the money, but the ability to marshal people to undertake this kind of work, and it is just not done. And the major reason it's not done is because the people who fool around with this stuff don't want it done. I mean they don't want this stuff to become... If the history of leaded gasoline shows you anything it's that. Did you know that leaded gasoline was pulled off the market in the 1920s? And that DuPont had a veto over all of the health studies that were conducted afterwards?

EPA Interviewer: The one thing that is often a controversy, but we haven't really discussed much was the Trust Fund. The establishment of it and whether or not it's run out, whether we still have it. Why was the Trust Fund originally developed? And where do you think the status of it is now?

Moore: Well, I didn't want a Trust Fund, but I was the only member of the staff who was in that position. My view was that the Trust Fund attenuated the liability provisions, and that if the money wasn't there, then the government should just go after—I mean you could always identify a party, then you go after that party, and that party in the position of identifying other parties, implicating them. But I was in the minority on that, a minority of one. And I certainly understood where other people were on that, but I was deeply concerned that once you... I'm an old-fashioned Republican. Republicans these days wouldn't consider me to be a Republican. But I believe in these end results. I just don't like using a bureaucracy as the means of getting there, because I don't think it is an effective tool. And I think Superfund is a good illustration of that—of the efficacy of sort of non-governmental kinds of ways of doing things. Non-command and control.

Now don't get me wrong. I believe in command and control, but I don't believe it's the only way to go about doing things. Command and control means that the Congress does it, like the tailpipe standards. Not that the Congress delegates the authority to the Administrator to do it, because then you put an Administrator in a completely untenable position. The Administrator has responsibility for pesticides and air and water and Superfund. And the Administrator has a limited amount of political capital that he or she can spend, so on Day One makes a really tough decision on pesticides—there goes a chunk of political capital. Day Two, makes a tough decision about diesel trucks—there goes some more. Day Three, makes a decision about the level of funding for sewage treatment plants—there goes some more. And pretty soon, after making about a dozen tough decisions, the Administrator has spent all of the political capital, and is therefore not in a position... Now Congress, on the other hand, actually generates capital for itself when it makes those decisions, so it should be the Congress making those decisions. At least, that was always my view—that the Congress just wimps out. Now that's not to say that I think the Congress should make weak decisions. On the contrary, I think Congress should make strong... Ed Muskie once said, "It's not the job of the Congress to make economic or technological judgments. It is the job of the Congress to determine what is required to protect the public health and to do it." And it's a great statement of what the legislative process is supposed to be about. So I think we've never gotten the health stuff and I have to fault myself for that, because I did a crappy job of drafting. I don't know if I had done a good job of drafting if I would have been able to get it out of the Reagan Administration in any event.

I might have been able to just beat the holy crap out of HHS, but we weren't in a position... We didn't have any jurisdiction over HHS. And every time I tried to grab them by

the stacking swivel, they'd get away. So I don't know whether we could have done anything, but I think that's the great failing of the law. In terms of the Fund, well, see, that's the other part of it. Can you point to a specific area where a cleanup is not occurring and say that some people are being injured as a result? No, you can't, because we don't have that scientific basis for the stuff. I mean I struggled very, very hard in both 1979 and '80, and in '85 and '86 to identify individuals who were indisputably victims of toxic chemicals, and [it's] very difficult to do. As you know in the Woburn case, even that didn't come out right. I mean, it ended up being a settlement. But I think if they'd litigated it they probably could have won. But my God! What are five, six, a handful of families going to do against W. R. Grace? And even in the case of Libby, Montana, do we have clear evidence that we've got some... So I just really think that this health nexus is, and that's why I continue to do stuff like that health and clean air newsletter.

We are getting some stuff in the context of individual... It's very clear now that ozone smog actually causes asthma, and in my judgment, ozone is probably the likely cause of the global asthma epidemic, because levels of ozone have been going up. While it might be down in a specific street corner at a specific time of day, ozone levels as a whole have been increasing and are continuing to increase. We see levels of ozone at mid-ocean that are within 20 parts per billion of the toxicity threshold that we know about. And probably the toxicity threshold that we know about is too high. I mean that it's lower than what we know about. Ozone is continuing to increase with no...and it's a dose-response function, so that you can track the asthma development in kids who exercise. So if you assume a dose-response relationship as we go lower, the asthma is still occurring. It's just that we're not picking it up. It becomes part of the "background." And if you were to go to Google and just run a search for Olympians with asthma, and then see where those people were raised, you'd find that the Olympians with asthma were raised in areas with high ozone pollution. I just arbitrarily chose six of them, and look where they were raised. One of them was raised here in Northern Virginia and has asthma, Southern California, Houston.

So we're getting some of this stuff in the context of conventional air pollutants, and we're getting it because the health-based standards drive research. Health-based standards require you to make a judgment as to the relationship between health and the level of the pollutant, but we don't have anything comparable to that. Indeed, in the 1990 amendments, we lost the health basis for toxic air pollutants and adopted instead one that's based on economics. So...and I can't help but believe that a number... It would not surprise me one iota to find out that something out there is causing autism. Not a whit! Matter of fact, I think it's likely that something we can't identify right now, so I would, but you know even Democrats these days—John Kerry would never, Clinton and Gore wouldn't follow this stuff, anyway.

EPA Interviewer: Let me ask you two more questions, probably. We have been here quite a while. What do you think is the greatest accomplishment of Superfund?

Moore: Oh, the liability regime has completely changed...it's revolutionized the behavior of industries with respect to releases of toxic chemicals. The attitude they have now with regard to releases is just 180 degrees out from what it was in the late 1970s and early 1980s. No question whatsoever. It's been an unalloyed success. But as the Bush Administration continues its retrenchment on these sorts of things, we will begin to see an erosion of that.

And we're not seeing, like I just saw, not every day, but every couple of days, you see something like this. [Refers to a newspaper article.] This is Ontario, not the United States, but this is apropos of both things we're just talking about. "Chippewa Indians living in Ontario near several petrochemical polymer and chemical industrial plants have seen the number of male births in their community fall sharply since 1994, according to a study published online Wednesday in the journal *Environmental Health Inspectors*."

EPA Interviewer: This was from one of the newspapers you were reading?

Moore: Yeah, the *Post*.

EPA Interviewer: Yes.

Moore: But you see something like that regularly. Those kinds of subtle but extremely important changes have occurred, and so...

EPA Interviewer: Where do you think Superfund's going to go in the next 25 years?

Moore: I think Superfund is a goner. Pretty soon, they'll figure out a way to neutralize the liability provisions in some fashion. I don't know how, but Superfund will fall victim to the great sickness, which is corporations now control every aspect of decision-making in Washington and most state capitals, and many local governments as well. And that's the real reason I read this stuff, read the paper every day. It's not to find this stuff as I concluded long ago that just about the time we were doing this stuff, they started putting it together. That, unless there were some way to fix the political system, there's no sense in trying to work on things like this because you couldn't get anywhere.

EPA Interviewer: Just to wrap up. We've covered a lot in these last few hours. Is there anything else you'd like to say about Superfund or anything I might have not known to ask you?

Moore: Not that I can think of, except to say once again, somebody really ought to talk to Stafford. He will have a view on some of these things that people like me can never bring to the table, because Stafford knows the conversations he had with Pete Domenici and Lloyd Bentsen and folks like that. Howard Baker. He and Howard Baker were good friends and that's where these decisions are ultimately made. We're just, you know...however much influence people like Phil Cummings and I may be perceived to exercise, we're only ever exercising derivative authority, and we're only as good as the people we work for, and in my case, every scintilla of credit that I've ever gotten for any of the stuff belongs to Stafford. And that's the Lord's own truth.

EPA Interviewer: Thank you very much for your time.

Moore: Oh, you're welcome.