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TESTIMONY OF ANNE M. BURFORD
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
OF THE HOUSE ENERGY AND COMMERCE COMMITTEE
SEPTEMBER 28, 1983

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today and contribute to your oversight of the Superfund program and other concerns of the Environmental Protection Agency. Accompanying me this morning is my attorney, Mr. Douglas P. Bennett.

I am grateful to have this opportunity to answer your questions, present the facts as I know and remember them and assist in developing an accurate record.

It is important that your subcommittee has committed substantial resources to this investigation. Completely baseless and unfounded allegations and innuendoes have been repeated and circulated for a long time. Your inquiry has gathered the knowledge of those who actually participated in decisions. I am confident that your results will be fully disclosed and fairly presented. It will then be possible to set the public record straight.

It was a privilege for me to serve President Reagan as Administrator of EPA. Throughout my tenure at EPA, and now, I believe that the idealism which created the agency can be realized only if it is harnessed to practical, common-sense guiding principles, such as the need to set rational priorities

and the need to follow cost-effective implementation strategies.

As Administrator, I attempted to guide my policies and actions by reference to four principles:

- To improve the quality of the basic science underlying the agency's regulatory decisions
- To further the Administration's regulatory reform objectives
- To delegate, consistent with the agency's federal responsibilities, program implementation to the states
- To achieve better environmental results at a lower cost.

Your Subcommittee, Mr. Chairman, has focused on one of EPA's mandates where the need to combine idealism and common-sense is particularly compelling. This is the Comprehensive Environmental, Response, Compensation, and Liability Act, popularly known as Superfund. This is the most recent of the major environmental statutes. It was passed in 1980 during the lame-duck session of the 96th Congress, to provide a mechanism for cleaning up hazardous waste sites across the nation. I was the first Administrator of EPA to implement that ambitious and complex mandate. I found it to be one of the most difficult challenges facing the agency during my tenure.

Much criticism has been leveled at the agency's handling of that challenge. Not all of this criticism is undeserved. Indeed, I myself may be responsible for some of the "criticism" because in February 1983 I initiated a comprehensive management review of the office that administers Superfund, the Office of Solid Waste and Emergency Response. That report was originally intended to lay the groundwork for reforms I expected to adopt or recommend to the Administration and Congress in the program. Indeed, the report, which was released in May 1983, has served this function for Mr. Ruckelshaus.

I must note, however, as the report does, that while the start-up of the Superfund program may not always have been smooth, very substantial progress was made. For example, as the report notes, by December 1982, EPA had published its draft National Priority List of 418 hazardous waste sites, selected from thousands of candidate sites. The agency had by that time moved on over half of those (269) through enforcement actions, remedial or removal responses, voluntary actions, and with clean-up plans. By the end of the first quarter of Fiscal Year 1983, the program had obligated \$227.3 million for removal and remedial activities, out of the total of approximately \$1.6 billion expected to be available.

There is a big job ahead--bigger than most people originally realized--but the administrative framework is in place, and action is well underway. I think that the team now in charge of Superfund, which includes both some new talent and some who played significant roles when I was in office, consists of some of the most dedicated and capable public servants I know. If anyone can do the job, they can.

I have appeared here primarily to answer your questions, not to make a speech. But I would appreciate your permitting me to share certain reflections on the Superfund program during my tenure which I believe are relevant to the Subcommittee's inquiry.

In looking back on the history of Superfund during 1981, 1982, and early 1983, two basic, recurrent themes, guided the administration of the program. One was to get the most dollars into the ground to solve the problem. The second principle was to minimize the proportion of those dollars that came from the Superfund itself. It was clear from the outset that Federal resources alone would not get the job done. A major thrust of my administration was to avoid over-dependence on the Federal government, by creating incentives for state governments and private industry to contribute at meaningful levels.

Implementing these concepts had to be done in a remarkably compressed time-frame:

- In December 1980, the Superfund law was enacted. It conferred administrative authority on the President and left it up to the Executive Branch to determine where and how responsibilities should be delegated.
- One month later the new Administration took office.
- In May 1981 I assumed the position of Administrator of EPA.
- In August 1981 the Executive Order was made final prescribing the terms on which Superfund administrative responsibility was delegated to EPA and other departments and agencies within the Executive Branch.
- In 1981 I executed a reorganization plan that elevated responsibility for dealing with solid waste from a sub-unit under the supervision of the Assistant Administrator for Water to a separate Assistant Administrator. This new position had authority over both Superfund and the complementary statute, the Resource Conservation and Recovery Act, designed to establish methods for treating hazardous wastes in the future.

- Early in my tenure in 1981 I ordered a management review to determine what steps needed to be taken to implement Superfund. This study was, incidentally, supervised by the same agency executive who supervised the more recent 1983 study noted earlier in my testimony.
- On December 28, 1981, I completed the delegation of the operational authority to run the Superfund program to the new Assistant Administrator for Solid Waste and Emergency Response.

This decision to delegate was appropriate for administrative reasons. It was also designed to assure that individual decisions about sites, grants and remedies would be made on technical and scientific grounds at lower levels, where misperceptions about inappropriate influences would be minimized. Thereafter, I made Superfund decisions only when major issues of policy were raised.

To strengthen the program's objective selection of sites for the National Priority List, a numerical Hazard Ranking System was developed under a contract with the Mitre Corporation. After public comment had been received, the ranking system was adopted.

One policy issue put before me by the Superfund staff, which I understand, has been of interest to the Subcommittee, is the question of the treatment of mining wastes under Superfund. This question was brought to me in a staff-generated decision memorandum dated June 4, 1982, from William Hedeman, Director of the Office of Emergency Response. The memorandum pointed out that two mining waste sites had been placed on the agency's Interim Priority List and that a third, Mountain View Mobile Home Estates in Globe, Arizona, might be designated as Arizona's top site and thereby automatically get on the list. However, the memo noted that the Superfund statute left it unclear whether the government could collect from private parties the cost of cleaning up mining waste sites.

The Superfund law provides that mining wastes are not to be treated as "hazardous substances" subject to full Superfund coverage unless there is a substantial and imminent danger to the public health and welfare. Moreover, the Congress specifically deferred a decision on the mining waste issue until six months after completion of an EPA study due in October of this year. Mr. Hedeman recommended, and I agreed with the recommendation, that the agency nevertheless continue to keep mining waste sites on the Interim Priority List when

they qualify through the Hazard Ranking System. He also recommended, and I also concurred, that the agency proceed with caution, and first attempt to remedy mining waste problems by using applicable statutory authorities other than Superfund, but invoke Superfund if the job was not getting accomplished.

I wish to stress that this was not a decision to exclude mining waste sites in general, or any site in particular from Superfund. It was, however, a cautious, incremental decision consistent with Congressional direction that struck a sensible balance and kept the agency's options open. When Mr. Hedeman informed me in January 1983 that enforcement remedies under other statutes were not working at the Globe site in Arizona and advised me for the first time that there was a substantial and imminent danger to health, I instructed him to use whatever authority was necessary to initiate measures to protect people at the site and to clean it up.

Attempts have been made to construe my position on the mining waste issue as a case of bowing to the supposed influence of the mining industry. I find this charge puzzling. The law is unclear and the mining industry has a legitimate argument in support of its position. But the fact is that the Agency did not accept the mining industry's position--that mining sites be totally excluded from Superfund. My policy

decision in June 1982 concerning mining waste sites under Superfund adopted a carefully considered staff recommendation. It was based on no information other than that contained in the staff's memorandum.

Certainly, I could not responsibly have done what some current observers seem to imply they would have preferred. I could not have exceeded statutory authority and attempted on my own to proclaim mining wastes fully subject to Superfund coverage.

The importance of responsibly managing Superfund resources to cover as many sites as possible was made abundantly clear in early August 1982 at an internal budget briefing. At that time Mr. Hedeman presented a simple spread-sheet, a copy of which is attached to this testimony as Exhibit 1. The spread sheet spelled out three possible scenarios for application of the approximately \$1.6 billion expected to be available to the Superfund trust to clean up the 400+ sites required to be placed on the National Priorities List. Under the most optimistic scenario, the fund was projected to cover clean-up costs for only 170 of the 400 sites. Under the most pessimistic--but quite possibly the most realistic--scenario, the fund would only cover 85-100 sites.

Very candidly, Mr. Hedeman's demonstration concerned me greatly. One result was that, soon after this August budget briefing, I directed that no sites which were in any way government-owned be funded until we had reached a decision on an agency-wide basis on the criteria to be used in determining the cost-sharing responsibilities of the Federal and State governments. The issue was important. Government-owned sites were eligible for no more than 50% federal funding while privately owned sites could receive 90% federal funding. A study of this issue was completed under Mr. Hedeman's direction, and I approved its recommendations in early December 1982.

My concern for prudent, conservative management of Superfund was and is no secret. It has been suggested that under my administration Superfund resources were slashed. I would like to discuss that misconception with the help of a chart attached as Exhibit 2. As that chart indicates, the Office of Management and Budget consistently reduced agency budget requests for Superfund from FY '81 through FY '83. Moreover, in FY '83-- the only fiscal year for which I had total responsibility for the agency's budget--both OMB and the Congress made cuts in the agency's budget requests. OMB pared our \$275 million Superfund request to \$225 million; the

President at my strong urging raised that figure to \$230 million, but Congress finally appropriated only \$200 million to EPA.

Clearly, I took a cautious position on management of these Superfund resources in the early days of the program. It would have been premature to go to the Office of Management and Budget or to the Congress, and insist on dramatically increased appropriations for Superfund, even if I had wished to do so. There was time enough to evaluate the initial experience under Superfund. In fact, the Superfund report that I commissioned in February of this year recommended that, "By December 31, 1983, OSWER and OPRM (Office of Policy and Resource Management) should complete a joint study of the "Son of Superfund" question." The report goes on to state: "Among other things, this study should address whether and what kind of successor program to Superfund should be in place by September 1985, when taxing authority under the current program expires." That is the right thing to do now, but I believe it was too early to undertake in the summer of 1982.

In government, one has to expect criticism of one's policies and decisions--even harsh criticism, unfair criticism. That comes with the territory. We all know that. I confess I have had more difficulty getting accustomed to unfounded

attacks on my personal integrity. I want to address this issue briefly in my prepared remarks, and I invite questions from the Subcommittee to the extent that the members want further clarification.

To my knowledge there is but one specific allegation that has been pursued with any seriousness and that would call my integrity into question, if it were true. That allegation is that I cancelled a Superfund grant that would have been made for the Stringfellow site in Southern California, because I thought the grant would help California's former Governor Brown win election to the United States Senate. I know this allegation is completely untrue. The Department of Justice recently came to the same conclusion.

Here is what I decided about Stringfellow and why I decided it.

Ordinarily, I would not have had any contact with a decision to make an individual grant like the Stringfellow grant, since I had delegated such authority to the Assistant Administrator in charge of Superfund at the end of 1981. However, the people responsible for arranging a trip to California in late July 1982 apparently determined that it would be good for me to make an announcement, while there, that the agency planned to make a \$6 million grant to clean up the

Stringfellow site. Accordingly, they scheduled a press conference for me to make this announcement on Tuesday, July 27.

The first time I had occasion to learn anything of substance about the Stringfellow grant application was two days before the scheduled press conference, while reviewing my briefing materials in flight. Unfortunately, the briefing materials were severely inadequate. They gave no indication of who in the agency had approved the decision to announce the grant or what stage of processing the grant proposal had completed. On reviewing the materials, I reached four conclusions:

1. Although the materials stated that the facility was owned by the State, they also indicated that the State planned to pay only 10% of the clean-up cost, with Superfund paying for 90%. The materials did not indicate why, under the law, the split should not be 50/50, since the statute requires states to shoulder no less than half the cost of cleaning up a state-owned site. More important to me, the question of what criteria should govern in determining whether particular sites should be classed as 90/10 sites or 50/50 sites was, at the time, an unresolved issue in the agency. I was troubled about whether it made sense to make such a large grant in what

appeared to be a legally controversial case before we had an agency-wide policy on this issue.

2. The materials did not indicate whether there had been any enforcement effort initiated against the private parties responsible for the waste at the Stringfellow site. This was completely inconsistent with the procedures in place before I had delegated Superfund authority in December 1981. Decision packages containing recommendations to authorize expenditures of Superfund monies were required to show that the enforcement process (reasonable efforts to identify and notify responsible parties) had begun, in order to meet what I understood to be legal prerequisites for securing reimbursement from responsible parties through court actions.

3. The materials indicated additional reimbursement issues relating to the fact that the state had already spent over \$3 million of the \$6.1 million proposed to be expended from Superfund. A deviation from the agency's regulations was necessary to permit such reimbursement in principle, and an audit was necessary to determine precisely which expenditures were reimburseable. There was no indication of why these issues were not resolved and how they were to be resolved.

4. The materials indicated that there was no imminent threat to public health or welfare posed by the site which would justify making the grant immediately.

The inside cover page of the materials contains notations in my handwriting reflecting two of these concerns, which I must have written while on the plane.

Upon arrival in Los Angeles, I asked Sonia Crow, then the Regional Administrator of EPA's Region IX, about the issues troubling me. I do not recall the discussion in detail, but I do remember that it was clear that the recommendation to make the announcement had been made without attention to the policy questions raised by the proposed grant. I also remember Sonia saying something to the effect that, if you are not comfortable with making the announcement at this time, don't do it. I agreed, and decided to cancel the press conference.

That evening I called my chief of staff, John Daniel, in Washington, to discuss with him the unanswered questions that prompted my cancellation of the press conference. I then told John to instruct the Assistant Administrator responsible for Superfund that in the future, any Superfund grant decisions of a precedent setting nature should not be made without the concurrence of all affected divisions of the agency. John sent Rita Lavelle, Assistant Administrator in charge of Superfund, a memorandum conveying this instruction on August 2.

Subsequently, the Stringfellow decision was included among several others on which individual actions were postponed until resolution of the cost sharing issue. I made this decision on the basis of a decision memorandum sent to me by Mr. Hedeman on December 1, 1982. At that time, I determined that the Stringfellow site should be funded on a 90% federal, 10% state basis.

Because of various delays in enforcement and negotiation with the private parties responsible for the toxic wastes disposed of at the site, it was some time before the grant could actually be made. I understand that this finally occurred about one month ago.

That is all there was to the Stringfellow decision. That is how it happened and why it happened. And that is why the Justice Department investigation disclosed no evidence indicating that I held back EPA money to avoid helping Governor Brown. There was no evidence because it was not true. I know that the Subcommittee's staff investigators have made a similarly thorough inquiry and I trust that they have reached the same conclusion.

It is still difficult for me to understand how perfectly reasonable actions such as this could become distorted and then be blown up into the firestorm that brought EPA virtually to a

complete halt earlier this year. I believe that public anxiety was intensified by the controversy over access to EPA documents. Both the Executive Branch and the Congress legitimately saw basic issues about their institutional roles at stake in that dispute. But the Administration's posture may have given many people in the public and the press the misimpression that it had something to hide.

However that may be, I am pleased now that EPA is able to do its work once again.

I invite the Subcommittee's questions. I will answer all of them to the best of my knowledge and recollection.

AUGUST 1982

THREE SCENARIOS HAVE BEEN RUN

Three scenarios were developed to test a series of planning options. Estimated costs, budgeted costs and average costs form the basis for the three planning assumptions. The outcomes range from a capability to fund 170 sites to a depletion of the fund prior to completion of the 170 sites.

	Budget Cost	Action Memos & SRMS	Estimated Costs	Average Costs	# Sites Funded	Dollars Est. Fund Expended*
Scenario I	127 Sites	43 Sites	-	-	170 Sites	\$899.2 M
Scenario II	123 Sites	-	47 Sites	-	Approx. 170 Sites	1,050.2 M
Scenario III	-	-	47 Sites	123 Sites	Approx. 85-100 Sites	1,507.7 M

* Assumes 170 sites are completed. Remedial budget through 1990 is \$1,043.9 million.

EXHIBIT 2

**ENVIRONMENTAL PROTECTION AGENCY BUDGET
CHRONOLOGY OF THE FY 1983 BUDGET**

	<u>FY 1983</u> <u>\$ in millions</u> <u>Superfund</u>
FY 1982 BASE.....	\$190
OMB Allowance Letter to Costle (1-19-81).....	\$373
OMB Allowance Letter to Barber (3-19-81).....	\$324
OMB Verbal Allowance to Gorsuch (summer '81).....	\$275
Gorsuch Request of OMB (9-15-81).....	\$275
OMB Targets** (9-24-81).....	\$225
OMB Personnel Ceilings (10-2-81).....	N.A.
OMB Passback (11-81).....	\$225
Gorsuch Appeal to President (11-81).....	\$275
Presidents Budget (2-82)....	\$230
Final Congressional (9-82)..	\$210 (\$200)

March 4, 1983

MEMORANDUM FOR JOHN C. KEENEY
DEPUTY ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

FROM: RICHARD A. HAUSER *RAH*
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: EPA Investigation

The following information came to our attention late yesterday afternoon. It is forwarded for whatever action you deem appropriate in connection with Justice's consideration of allegations relating to the Stringfellow Acid Pits.

Ernie Minor, a Member of the Council on Environmental Quality, has advised that on August 4, 1982, he participated in a luncheon on board the Sequoia in which EPA Administrator Burford, Secretary Watt, (then) Under Secretary of the Interior Hodel, EPA Staff Director John Daniel, CEQ Chairman Allan Hill were attendees. (Minor states that former Secretary Edwards and Deputy Secretary Ken Davis also were present for part of this luncheon.)

Minor advises that to his best recollection Burford stated, during that luncheon, that no money would be released for a Stringfellow (California) clean-up until after the elections. Minor advises that CEQ Chairman Hill recollects Burford stating, "I'll be damned if I am going to let Brown take credit for that [Stringfellow clean-up]."

For your information, I orally advised Ted Olson of this information last night.

DOCUMENT FOUND IN
MRS. BURFORD'S EPA
FILES LABELED DECEMBER, 1982

CABINET COUNCIL ON NATURAL RESOURCES AND ENVIRONMENT

Secretary of the Interior, Chairman Pro Tempore

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Attorney General

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Secretary of Transportation

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Don Hodel

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H. Hill

Chairman, Council of Economic Advisers

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The Vice President

Counsellor to the President

Chief of Staff

Assistant to the President for Policy Development

Danny Boggs, Executive Secretary (6250)

The attachment summarizes the OMB passback in relation to the FY 1984 request and the 1983 enacted levels. The following is a major impact analysis of the OMB action.

	Workyears		
	<u>PFTE</u>	<u>OPFTE</u>	<u>TOTAL FTE</u>
FY 1983 Enacted	9,125	1,800	10,925
FY 1984 Request	8,852	1,836	10,688
FY 1984 OMB PB	8,297	1,696	9,994
Change between OMB & 1983	-828 (-9%)	- 104	-932
<u>Change between OMB & Request</u>	<u>-555 (-6%)</u>	<u>- 140</u>	<u>-694</u>

	Budget Authority (\$M)			
	<u>Operating Programs</u>	<u>Superfund</u>	<u>Con. Grants</u>	<u>Total</u>
FY 1983 Enacted	1,040	210	2,430	3,680
FY 1984 Request	974	310	2,000	3,284
FY 1984 OMB PB	869	310	2,400	3,579
Change between OMB & 1983	-171 (-16%)			
<u>Change between OMB & Request</u>	<u>-105 (-11%)</u>	<u>—</u>	<u>+ 400</u>	<u>+ 295</u>

ENVIRONMENTAL PROTECTION AGENCY
TALKING POINTS - FY 1984 BUDGET PASSBACK APPEAL

I. FACTS

- OMB reduced the operating programs by \$105M; this is a reduction of 11% from the EPA request of \$970M and a reduction of 16% from the just-enacted 1983 levels of \$1,040M.
- OMB reduced permanent personnel by 555, to 8,297 a reduction of 6% from the EPA request of 8,852 and 9% from the 1983 levels of 9,125.
- OMB increased the construction grant request by \$400M to \$2.4B and provided the requested level (at target) in superfund of \$310M.
- The major components of the reductions were:

	Permanent Workyears	\$ in M
Total Reduction.....	(-555)	(\$-105)
A. Research and Development.....	-203	\$- 47
B. State Grants.....	—	\$- 25
C. Drinking Water Program.....	-129	\$- 6
(Additional research and state grant cuts included above.....)	(- 94)	(\$- 17)
D. Hazardous Waste.....	- 74	\$- 17
E. Superfund.....	- 44	—

II. Argument Against OMB Reductions

- A. Research and Development..... -203 \$- 47
 (Req: \$222M; 1,298 PFT; OMB: \$175M; 1,095 PFT)
 - a. The EPA request of \$222M already represents a 39% reduction in ORD funding from the FY 1981 level of \$362M. EPA's request also represents a 24% cut in permanent positions since this Administration began.
 - b. The OMB passback strikes at the heart of our scientific program by reducing EPA's request by 21% which will result in a 52% reduction from 1981. It makes a mockery of our goals of improved science for our regulatory actions.
 - c. OMB reduced several aspects of our technology program which we have been redirecting away from control technology to process engineering which is a more appropriate Federal role. However, OMB did eliminate some final investment for curbing NO_x and SO_x emissions that have significant savings potential for industry

(LIMB). We intended to end that work in FY 1985. Ending that work now will also have negative implications on our approach to Acid Rain.

- d. OMB reduced EPA's health effects research which is ultimately the heart of our science base. OMB eliminated all such research for the drinking water program and the responsibilities we have for identification and impact of contaminants in drinking water will be impossible to undertake.
- e. Finally, OMB eliminated entirely the exploratory research program. This program is the only effort EPA has to focus on long-term environmental problems. Other Agencies cannot and do not undertake research that directly assists our long term needs. Such an action will erode the Agency's credibility and raise serious questions about our much publicized commitment to improve the quality of science at EPA.

B. State Grants..... — \$- 25M
(Req: \$186M; OMB: \$161M)

- a. EPA is committed to the phase out of Federal support for the state implementation of delegated environmental programs. Last years budget proposals included a 20% reduction in overall state grant funding. Some parts of the reductions held, such as in air and drinking water. However, the Hill refused to make any overall reductions in the state grant totals. EPA's proposals for FY 1984 would reduce grants by 20% from the 1983 appropriated levels.
- b. OMB would reduce state grants by 30%. The primary area of difference would be in the water quality 106 grants which help fund the operation of state water quality and permitting programs. EPA's proposal would cut this grant program by \$17M to \$37M or a cut of 32% from the just enacted 1983 levels. OMB would cut that grant by 46% from EPA's which would represent a cut of 63% from 1983. OMB's reliance on alternative grant funding, additional management efficiencies, and fee mechanisms beyond EPA's own assumptions are simply too extreme in a single year.

C. Drinking Water Program..... -223 \$- 23M
(Req: \$69M; 466PFT; OMB: \$46M; 243PFT)

- a. EPA is currently developing a groundwater policy that will make unnecessary additional legislation being pushed on the Hill. OMB eliminated all health effects research much of which is critical to understanding groundwater issues and would effectively pull the rug out from EPA's efforts.

b. EPA in the last three years has moved aggressively out of the public water supply program. Delegations to the states have proceeded dramatically and the EPA proposal for FY 1984 represented a decrease of 37% since 1981 in personnel devoted to this program. Decreases will continue in the future. OMB's decrease of 79% (a 67% decrease from my request) is simply unsupportable.

D. Hazardous Waste.....	- 74	\$- 17M
(Req: \$118M; 645 PFT; OMB: \$101M; 572 PFT)		
E. Superfund.....	- 44	—
(Req: \$310M; 619PFT; OMB: \$310M; 576PFT)		

- a. This Administration will be judged to a great extent on the successful implementation of these two programs. OMB has chosen to cut both below EPA's request at absolutely critical junctures. It simply makes no sense for a relatively small and short term investment.
- b. RCRA reauthorization is pending on the Hill and the legislation is onerous. At this juncture, nothing could be more inflammatory (or make less sense) than cutting the permitting resources by 15% from my request, to a point below my current levels, for FY 1984 which will be a critical year for either success or failure of our delegation policy. If OMB's action is sustained, it will simply be another reason used by the proponents of the legislation to force it down the Administration's throat.
- c. We are trying to avoid "son of superfund." We believe we have an effective strategy to focus our efforts on the critical sites identified on the priority lists. Again, at this juncture, we simply do not need to have the wrong messages sent. OMB cut EPA's request by 7%, and although the level would still be higher than 1983, those personnel are critical to ensure an effective implementation of a very complex program in the most active and complex year of the program - 1984.

III. GENERAL COMMENTS

- A. Since this Administration took office, we have constantly reduced EPA's resources. In the operating programs, EPA's proposals would result in reductions of 30% (over \$400 million per year) from the FY 1981 appropriated levels.

- B. Personnel resources have also been reduced dramatically and in a manner that has permitted this Administration to improve and enhance our environmental policies. From actuals, we will have reduced EPA personnel by over 25%. Some programs have been reduced by substantially more.
- C. So the issue is not resources — it is policies. The record shows we have promoted and been successful in making budget reductions.
- The recommendations of OMB, if translated into Presidential policies, would have extremely negative impact for relatively little savings.
 - OMB provided additional resources not requested for construction grants. If we split the difference in that add-on we could afford the entire operating plan request.

OPENING STATEMENT OF THE HONORABLE JAMES T. BROYHILL
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
September 28, 1983

IN CONNECTION WITH THE APPEARANCE OF ANNE BURFORD

THANK YOU, MR. CHAIRMAN. I WISH TO PERSONALLY WELCOME MRS. BURFORD AND EXPRESS MY ADMIRATION FOR HER AND FOR HER CONDUCT BOTH DURING AND FOLLOWING THE DIFFICULT DAYS OF LATE 1982 AND EARLY 1983.

WHEN THE HOUSE OF REPRESENTATIVES VOTED IN JULY, 1983 TO PURGE THE RESOLUTION OF CONTEMPT WHICH HAD BEEN ADOPTED IN THE WANING DAYS OF THE 97TH CONGRESS, I SPOKE ON THE FLOOR OF THE HOUSE TO HELP PUT THOSE EVENTS IN THE PROPER PERSPECTIVE.

THOSE OF US WHO WERE INVOLVED IN THE DISPUTE BETWEEN THE EXECUTIVE BRANCH AND THE CONGRESS OVER THE PRODUCTION OF DOCUMENTS WERE WELL AWARE THAT MRS. BURFORD WAS AN UNWILLING PARTICIPANT. MRS. BURFORD HAD FERVENTLY RECOMMENDED TO THE DEPARTMENT OF JUSTICE AND TO THE PRESIDENT HIMSELF THAT THE WITHHELD DOCUMENTS BE TURNED OVER. SHE ALSO RECOGNIZED THAT HER ABILITY AND CAPACITY TO PRESIDE OVER THE AFFAIRS OF THE EPA WOULD BE JEOPARDIZED BY HER ROLE AS THE STANDARD-BEARER FOR THE PRESIDENT'S POSITION ON EXECUTIVE PRIVILEGE.

THE INSTINCTS OF MRS. BURFORD, WHOM HISTORY WILL SHOW WAS A FINE AND ABLE PUBLIC SERVANT, WERE REMARKABLY PERCEPTIVE. ANY TOP EXECUTIVE BRANCH OFFICIAL, BEING SUBJECT TO POSSIBLE INDICTMENT AND CONVICTION FOR CONTEMPT OF CONGRESS, COULD NOT

MUSTER THE REQUISITE DEGREE OF GOOD WILL, TRUST AND CONFIDENCE NECESSARY TO ADMINISTER AND IMPLEMENT IMPORTANT NATIONAL PROGRAMS.

UNFORTUNATELY, THERE WERE INDIVIDUALS IN THE EXECUTIVE BRANCH WHO FAILED TO RECOGNIZE THIS FACT. THAT LEFT MRS. BURFORD IN AN UNENVIABLE AND UNTENABLE POSITION, THUS INEVITABLY BRINGING UPON HERSELF IMMENSE PUBLIC AND MEDIA PRESSURE.

MR. CHAIRMAN, THE TESTIMONY OF SOME THIRTY WITNESSES WHO, IN THE LAST SEVEN MONTHS, HAVE COME BEFORE THE SUBCOMMITTEE RECOUNTING THE FACTS SURROUNDING THE ADMINISTRATION OF THE SUPERFUND PROGRAM, HAVE SHOWN THAT MRS. BURFORD'S PROFESSIONAL CONDUCT WAS AT ALL TIMES HONORABLE AND PROPER.

THE TESTIMONY WE WILL HEAR FROM MRS. BURFORD TODAY WILL HELP THE SUBCOMMITTEE IN FILLING IN THE REMAINING GAPS IN THE LONG INVESTIGATION WHICH THE SUBCOMMITTEE HAS CONDUCTED INTO THE ADMINISTRATION OF THE SUPERFUND PROGRAM. THE REMARKS OF MRS. BURFORD WILL BE EXCEEDINGLY HELPFUL TO THE SUBCOMMITTEE NOT JUST BECAUSE OF HER FORMER VANTAGE POINT AS ADMINISTRATOR OF THE AGENCY. HER CURRENT STATUS AFFORDS HER THE OPPORTUNITY TO SPEAK OPENLY AND CANDIDLY ABOUT WHAT IMPROVEMENTS AND MANAGEMENT EFFICIENCIES MIGHT BE REQUIRED TO PERMIT THE SUPERFUND HAZARDOUS WASTE PROGRAM TO GO FORWARD IN A MANNER CONSISTENT WITH THE NEEDS AND EXPECTATIONS OF THE AMERICAN PEOPLE.