

**NLWJC - Kagan**

**DPC - Box 023 - Folder 011**

**Environment - Superfund**

Bradley M Campbell 03/12/98 01:38:38 PM

Record Type: Record

To: Kathleen A. McGinty/CEQ/EOP  
cc: See the distribution list at the bottom of this message  
Subject: Boehlert, Superfund, and a Cautionary Note

One coda to the partisan markup in the Transportation and Infrastructure subcommittee. I think it is interesting to note that Peter Veniero, the Attorney General for New Jersey who was previously Governor Whitman's chief of staff, has sent a highly detailed letter to Congressman Boehlert absolutely trashing his Superfund bill. Most of these comments mirror the concerns EPA has raised. Apart from the particulars, the letter is interesting in that it implores Boehlert to adopt a more targeted approach to legislation rather than rewriting the entire Superfund law. (Veniero was writing on behalf of the entire National Association of Attorneys General).

The letter clearly validates the Administration's objections on the policy merits, but it also provides a timely reminder of the perils of compromising too much -- there are moderate Republicans in the wings ready to join environmental and community groups in having at us if we yield to much in these negotiations. (Governor Racicot of Montana, to cite another example, has made clear that he will brook no compromise on natural resource damage issues.) I think this reinforces the wisdom of our consensus the other day concerning the perils of accepting less than a bill that is clearly acceptable.

Message Copied To:

Wesley P. Warren/CEQ/EOP  
T J. Glauthier/OMB/EOP  
WEINSTEIN\_P @ A1 @ CD @ VAXGTWY  
Elena Kagan/OPD/EOP  
Sally Katzen/OPD/EOP  
Janet Murguia/WHO/EOP  
Roger S. Ballentine/WHO/EOP  
Elliot J. Diringer/CEQ/EOP  
Lisa Guide/CEQ/EOP  
Fred DuVal/WHO/EOP  
GOMES\_R @ A1 @ CD @ VAXGTWY



● Paul J. Weinstein Jr.

01/13/98 02:36:25 PM

Record Type: Record

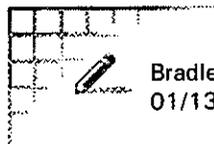
To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc:

Subject: Hill Mtg (DAILY ENTRY)

They want are help with New Democrats. Looks like Superfund isn't going anywhere with this strategy.

----- Forwarded by Paul J. Weinstein Jr./OPD/EOP on 01/13/98 02:36 PM -----



Bradley M. Campbell  
01/13/98 02:16:04 PM

Record Type: Record

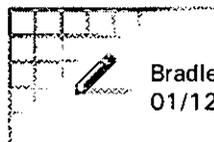
To: Paul J. Weinstein Jr./OPD/EOP

cc:

Subject: Hill Mtg (DAILY ENTRY)

here's my own summary. 90 percent of the meeting was about Superfund.

----- Forwarded by Bradley M. Campbell/CEQ/EOP on 01/13/98 02:15 PM -----



Bradley M. Campbell  
01/12/98 07:54:19 PM

Record Type: Record

To: Kathleen A. McGinty/CEQ/EOP

cc: Robert S. Kapla/CEQ/EOP, Wesley P. Warren/CEQ/EOP, Shelley N. Fidler/CEQ/EOP

Subject: Hill Mtg (DAILY ENTRY)

Katie: Janet Murguia and I met this afternoon with staff for Gephardt and ranking committee Democrats on the House side concerning the environmental agenda for the coming Congress. Superfund consumed most of the meeting, but we did cover discussion of overall message/agenda.

\* First, there is strong interest in a common Democratic message on the environment. In particular, we discussed a "Democratic Clean Communities Agenda," which would largely mirror the President's priorities while avoiding issues that threaten to divide documents. Initial ideas for the legislative agenda would include Clean water (focused on full funding for the President's initiative and possibly on the Pallone beach water quality/ right to know bill); the President's environmental crimes bill (announced at Kalamazoo and introduced this Congress by Schumer) , the Dingell

brownfields bill, (water quality and right to know), possibly a children's health bill (codifying the President's Executive order), and full funding to preserve our parks and great places. Climate is bracketed, in the sense that there may be united Dem support for climate incentives, but the treaty issue is likely to be divisive. All of these individual items are in preliminary and negotiable, the idea is to get a unifying slate of items that exemplify a message, hopefully to include the major jurisdictional committees.

\* Second, on Superfund, there seems to be a consensus among House Democrats that it is not helpful to pump up Superfund reform as a priority -- at least not unless we are placing heavy emphasis on how bad the Republican proposals on Superfund are at the same time. Instead, there is a preference for emphasizing how much site cleanups have progressed, and the need for brownfields legislation. All House Committee Democrats agree that there is a zero likelihood of an acceptable Superfund bill getting to the President in this Congress. Even if the Committees move forward with one bill or rival bills, it is a near certainty that Archer will kill it in Ways and Means rather than reinstate the Superfund taxes on the oil industry. Because of these circumstances, there is lingering resentment among House Democrats about the May 15 reauthorization deadline that was established as a condition of the advanced appropriation of funding commitments that the President made at Kalamazoo. There is also lingering and strong concern about the President's continued emphasis on the need for Superfund legislation, as evidenced in his preholiday interview with the New York Times.

With EPA's help, Committee Democrats are currently working on an alternative/substitute Superfund bill that would be consistent with the Administration's reform principles. we expect to be able to support this bill, and we hope to use it as a basis for unifying Democrats on Superfund. The Committee Dems have asked for our immediate help in getting the "new Democrat" coalition to sign onto this bill, and to help stem the efforts of some in the caucus to develop rival proposals (e.g. Barcia and Dooley introduced a bill at the end of the first session that was closer to the Republican bill than to the Administration's proposals).

We are continuing to confer with EPA and to elicit views on how to respond to this state of affairs. You should convene a deputies meeting on Superfund to unify the agencies once we've had a chance to confer further with EPA,



● Paul J. Weinstein Jr.

02/03/98 06:29:10 PM

Record Type: Record

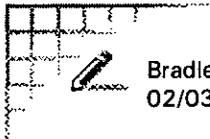
To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc:

Subject: Superfund/DAILY

fyi

----- Forwarded by Paul J. Weinstein Jr./OPD/EOP on 02/03/98 06:29 PM -----



Bradley M. Campbell  
02/03/98 06:22:33 PM

Record Type: Record

To: Robert S. Kapla/CEQ/EOP

cc: See the distribution list at the bottom of this message

Subject: Superfund/DAILY

Lott and DeLay both declared this afternoon that Superfund is dead. According to Lott, "We won't get superfund reform done this year because we don't have the support that we need to get it done." DeLay agreed, admitting "We don't have the votes." Curiously, neither blamed the Administration for the failure.

Message Copied To:

Janet Murguia/WHO/EOP  
Kathleen A. McGinty/CEQ/EOP  
Sally Katzen/OMB/EOP  
Paul J. Weinstein Jr./OPD/EOP  
T J. Glauthier/OMB/EOP

Environment  
Superfund



● Paul J. Weinstein Jr.

11/06/97 10:42:50 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP

cc: Elena Kagan/OPD/EOP, Janet Murguia/WHO/EOP

Subject: Superfund

I had dinner with EPA's Chief of Staff (Peter Robertson) Tuesday to discuss Superfund. Apparently the Republicans have rejected the Democrats latest offer in the Senate and they are preparing to markup their own bill.

Peter wants the Administration to introduce smaller Superfund legislation in January that focuses on small business relief and exemptions for municipalities., issues on which there is agreement in both parties. This will upset the Department of Defense because it does not provide them with any relief.

Environment -  
superfund



● Paul J. Weinstein Jr.

11/13/97 03:20:09 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP  
cc: Elena Kagan/OPD/EOP  
Subject: Another Superfund Update

Yes, I will get you engaged in this issue.

Senator Lautenberg last week introduced a narrow Superfund Reauthorization bill, covering only liability and community issues.

In the House, Subcommittee Chairman Boehlert postponed the mark-up of his reauthorization bill (HR 2727) until next year. Subcommittee minority and majority staff have canceled further reauthorization discussions until next year. Chairman Oxley introduced a broad-based bill on 11/10. Eighteen Democrats co-sponsored this bill.

Environment -  
superfund



● Paul J. Weinstein Jr.

11/12/97 10:12:36 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc:

Subject: Update on Superfund

Negotiations in the Senate Environment and Public Works Committee on Superfund reauthorization ended last week. Last week, Administrator Browner and Sens. Baucus and Lautenberg responded to the "global offer" presented by Committee Republicans. Senators Chafee and Smith have decided not to respond to the Democratic offer. They indicated that mark-up of a Superfund Reauthorization bill should not be expected this year.

In the House, Chairman Boehlert has indicated that the Transportation and Infrastructure Subcommittee on Water Resources and the Environment will proceed to a mark-up on this week. Subcommittee minority and majority staff are caucusing this week to discuss the differences between Rep. Boehlert's bill and Rep. Borski's position on reauthorization.

In the House Commerce Committee, Rep. Bliley has still not rescheduled a 10/30 hearing to focus on the majority's proposals on remedy and community and state role issues. However, Finance and Hazardous Materials Subcommittee Chairman Oxley has indicated that he plans to introduce Superfund reauthorization proposals in the near future. His bill is expected to be co-sponsored by a number of "blue dog" Democrats. EPA has not been given the opportunity to review his proposal.

Environment -  
superfund



Paul J. Weinstein Jr.

09/11/97 07:35:36 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc:

Subject: Superfund

I wanted to let you both know that I successfully pushed for DPC to co-chair the decision process on Superfund with CEQ and the NEC. I believe that Superfund, more so than climate change, is the only opportunity to significantly affect environmental policy in this Congress. The policy rationale for the DPC being involved is because it impacts public health and safety.

Of course, this means that one of you will need to co-chair one of the meetings at some point, I hope that is OK, but this is an important issue.

For your information, Administrator Browner is in the process of meeting with Sens. Smith, Chafee, Baucus, and Lautenberg on compromise language. The economic agencies are very nervous about this because of the experience with Browner on Ozone/PM. I believe strongly that it is in the best interest of the President to get a Superfund bill. I believe this is the Administrator's view as well as CEQ's.

Paul -  
What's happening  
with this?  
Elena



● Paul J. Weinstein Jr.

10/31/97 05:18:45 PM

Record Type: Record

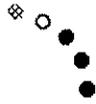
To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc:

Subject: Superfund Deputies Meeting Followup

The Deputies meeting on Superfund was not particularly eventful. The Republicans are prepared to make a final offer on the Senate, and the Democrats are readying a response. Out of some twelve areas, Administrator Browner and the Senate Republicans have only been able to reach agreement in approximately three (including sustainable communities). Agreement on liabilities is still a long way off. ]

EPA, Justice, and CEQ believe that the negotiations in the Senate are about to turn partisan. I then raised the strategic question of whether it was really in our interests for the negotiations to break down. Apparently, there is some sentiment on the Hill that Democrats would like to continue the logjam because they want to run on the environment in the '98 election. I suggested that we should be thinking of ways to strengthen Chairman Chafee's hands so that he can get his Republican right back to the table. People seemed to agree to that proposal in principle. However, Katie McGinty then suggested we sit tight for the next three weeks, till the end of the session, and then regroup among ourselves and think of ways to bring the parties back to the table. ]



Paul J. Weinstein Jr.

09/25/97 03:07:13 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP

cc: Elena Kagan/OPD/EOP

Subject: Superfund Meeting

### **Purpose of the Meeting**

At a meeting with Brad Campbell of CEQ, I requested, along with the NEC and OMB, a briefing on where the negotiations between Administrator Browner and Senators Chafee, Smith, Lautenberg, and Baucus stood. I suggested this in part because of the nervousness of some agencies over what the Administrator might agree to with the Senators, and because I concur with the Administrator that reauthorization of Superfund has the greatest potential of all of the President's environmental priorities to be enacted this term. I also believe, because of Superfund's impact on public health and community/economic development in urban areas, that DPC should help chair the review process along with CEQ and NEC.

There is general agreement that if we can get a good but not perfect Superfund bill, we should push for it since enactment is important for the President's legacy. However, it is not totally clear if we can get a good bill out of this Congress. However, without legislation, we cannot spend the \$650 million Kalamazoo money to clean up additional slots.

### **Background**

**The House** -- In the House, the Commerce Committee is not doing much. Presently, the House Democrats and Republicans are working without any Administration input, except on technical issues. Republicans on the Committee plan to have a bill, a hearing, and a markup in October. However, this seems overly ambitious and EPA does not believe there will be a vote in the House this year. The Senate had scheduled a hearing for September 4th and a markup on September 11. However, these dates were not scheduled because Chafee decided to begin direct negotiations with Administrator Browner. Browner has met four times with Senators Chafee, Smith, Baucus, and Lautenberg. So far, discussions have been stuck on liability issues. Originally, Republicans proposed a site carveout, in which every municipal landfill would be exempted from liability with the Federal government picking up the cost. This would cost the Treasury from \$300 to 400 million. However, this violates the principle of "polluter pays." EPA would be willing to cap municipal government liability and provide targeted relief for small business, but keep principle of polluter pays for private industry. The other key liability issue is that of allocation -- how much should government pay versus the

private sector.

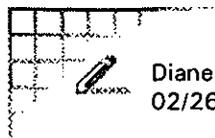
Beyond liability, other issues that need to be resolved include: remedies; cleanup standards; State role, community role, and natural resource damages.

Without reauthorization of Superfund, we do not expect resolution of the expired Superfund taxes issue. Superfund will run out of surplus funds probably by the end of 1988. ]

I recommend at the meeting that you reiterate full support for Administrator Browner so she can continue negotiations with the Hill without continual interference on the one side from Justice, and on the other from the economic agencies.. Also, I recommend that you suggest CEQ, NEC, and DPC run a deputies process together so we can insure that the other relevant agencies are kept in the loop. Finally, you should state strongly that passage of Superfund is a Presidential priority, and we should do everything we can to make it happen.

\*\*Bruce please remember you need to attend at least part of this meeting.

Env -  
Superfund



Diane C. Regas  
02/26/97 01:03:32 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP  
cc: Elena Kagan/OPD/EOP  
Subject: Superfund, urgent issues

The following very pressing issue is likely to come up in at least a general way at the 3:30 meeting.

CEQ and Leg Affairs have convened several interagency meetings on Superfund. The meetings have seemed productive, agencies are realistic about what issues they can press, and I have been very optimistic that we could come to an interagency agreement on a bill or, at a minimum, a detailed blueprint for what needs to be in and out of legislation. The blueprint would serve as the Administration template so that discussions will not be simply off of the Senate Republican bill (which is an unacceptable bill).

At the last meeting among WH leg affairs, DPC, CEQ, NEC and EPA we agreed that EPA would draft a detailed blueprint of what needs to be in a bill. EPA responded with a two-page public relations-level document.

This is the latest in a string of events that suggest to me that we need to decide whether the WH wants to push for a strong inter-agency process to hammer out Superfund or whether we are comfortable with EPA leading a process that will leave other agencies doing some freelancing. If we want a strong interagency process we will need Gene and Katie--with your blessing--to call Carol on this week's events. If we want to support an EPA-led process I have concerns about continuing an apparent White House process which doesn't deliver for agencies or for interest groups.

While NEC and CEQ will be concerned with the lack of ANY political appointee under Carol Browner with jurisdiction over Superfund, strong leadership from Carol on this issue will ensure that any deal is one that enviros and key Republicans can sign on to. The unhappy folks may be industry and our own agencies.

I recommend that you begin to lay a foundation for an EPA-led process, but that we combine a decision with some signals to agencies like DOE and DOD that they need to deal directly with EPA.