



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 27 2001

**MEMORANDUM**

TO: Christine Todd Whitman  
Administrator

FROM: Robert J. Martin RJM  
National Ombudsman

SUBJECT: Dissolution of the EPA National Ombudsman Function

Last summer, the General Accounting Office (GAO) completed a report critical of EPA's handling of the National Ombudsman Function and among other things recommended that I as National Ombudsman, be allowed to supervise personnel and financial resources related to this function and receive sufficient independence to perform such duties.

On September 28, 2001, I submitted an Executive Action Memorandum to you recommending implementation of the GAO recommendations. In that memorandum, I pointed out the fact that transferring the Ombudsman to the Office of Inspector General would give the false appearance of independence because of the very different missions of these offices.

On October 10, 2001, you received my preliminary National Ombudsman report on the Marjol Battery Site that was requested by Senators Spector and Santorum, and Congressman Sherwood. As noted in that report, the EPA Office of Inspector General (OIG) interfered with this National Ombudsman investigation. During the pendency of this investigation, Senators Spector and Santorum, Congressman Sherwood, the local government (Throop Borough), and affected citizens all communicated to you about their concern of this hindrance by the EPA Inspector General.

During your tenure, as Administrator of EPA, I have been grateful for your continued public statements of support in the press of an independent role for the National Ombudsman function. In my September 28, 2001 memorandum to you, I thanked you for this support and indicated that I stood ready to meet with you on this issue that you, "take very seriously."

I was dismayed this morning at 11:30 a.m., therefore, when OSWER Deputy Assistant Administrator Michael Shapiro informed me that you would be, as a practical matter, dissolving the National Ombudsman function at EPA.

Specifically, Mr. Shapiro told me that I would be reassigned to a not yet established office in OIG to deal with Congressional and public affairs issues. Mr. Shapiro also told me that I would not be allowed to supervise any resources and no assurances were provided that any experienced personnel that have helped me in the past, in OSWER, would be reassigned to help me in the EPA OIG.

This afternoon at 2:45 p.m., the U.S. Department of Labor (DOL), notified Mr. Hugh B. Kaufman (my former Chief Investigator), in a Closeout Conference, that the EPA officially today, refused to allow Mr. Kaufman to perform any duties in the future related to National Ombudsman work. Mr. Kaufman had filed a complaint with the Department under various environmental statutes. The DOL also told Mr. Kaufman that DOL is ruling that Mr. Kaufman's complaint is meritorious, and that EPA should remove the prohibition from his work in support of the National Ombudsman function.

Given these facts, it is my hope that Mr. Shapiro was inaccurate in communicating to me your decision related to the National Ombudsman function.

If Mr. Shapiro's statements were accurate, and it is your decision as a practical matter, to dissolve the National Ombudsman function by reassigning me to the EPA Office of Inspector General; I would be grateful, if you would notify me in writing by close of business Tuesday December 4, 2001. This is necessary in view of the short time frame required in filing any potential action to preserve my legal rights as National Ombudsman to faithfully execute my duties without hindrance.

Attachment:

November 21, 2001 Memorandum from Christine Todd Whitman to Robert J. Martin,  
RE: Recommendations to Address National Ombudsman Independence

cc: U.S. Senator Arlen Specter  
U.S. Senator Rick Santorum  
U.S. Senator Larry Craig  
U.S. Senator Mike Crapo  
U.S. Senator Wayne Allard  
U.S. Senator Ben Nighthorse Campbell  
U.S. Senator Max Baucus  
U.S. Senator James Jeffords  
U.S. Senator Barbara Boxer  
U.S. Congressman Billy Tauzin  
U.S. Congressman Mike Bilirakis  
U.S. Congressman James Gillmor  
U.S. Congressman John Shimkus  
U.S. Congressman George Nethercutt

U.S. Congressman Butch Otter  
U.S. Congressman Charlie Norwood  
U.S. Congressman Don Sherwood  
U.S. Congressman Mark Greenwood  
U.S. Congressman Mike Simpson  
U.S. Congresssman John Dingell  
U.S. Congressman Frank Pallone  
U.S. Congresswoman Dianna Degette  
U.S. Congresswoman Shelley Berkley  
U.S. Congressman James Trafficant  
U.S. Congressman Tom Sawyer  
U.S. Congressman Mark Udall  
U.S. Congressman Tom Udall  
U.S. Congresswoman Hilda Solis  
U.S. Congressman Dennis Kucinich  
U.S. Congressman Alcee Hastings  
U.S. Congressman Jim McGovern  
U.S. Congresswoman Karen Thurman  
U.S. Congressman Brad Carson  
Deputy Administrator Linda Fisher  
Assistant Administrator (OSWER) Marianne Lamont Horinko  
Principal Deputy Assistant Administrator (OSWER) Michael Shapiro  
Hugh B. Kaufman