

# Behind the Scenes at the Creation of EPA

## An interview with Chuck Elkins

---

### The Behind-the-Scenes Events Leading to the Creation of EPA in 1970

ED HANLEY: Hello, I'm Ed Hanley. Today as part of the Oral History Program of the EPA Alumni Association we'll be talking with Chuck Elkins, a man who was there at the creation of EPA. In 1970, Chuck was a young budget examiner with the old Bureau of the Budget, now part of the Office of Management and Budget, and he was responsible for most of the environmental programs, which were then scattered around several different federal departments. When President Nixon's Council on Executive Organization proposed pulling all of these programs together in one Agency, Chuck was assigned to work with the Council, known as the Ash Council after its chairman, Roy Ash, in preparing this proposal. He worked directly for the man in charge of that work, Doug Costle, who later became Administrator of EPA. Later, when the new Agency opened its doors, Chuck was there as Special Assistant to the First Administrator, Bill Ruckelshaus. Over the next 25 years, Chuck served in a series of senior posts at EPA, including Deputy Assistant Administrator, and twice as Acting Assistant Administrator for Air and Radiation.

### Chapter #1: The Public and Social Setting for the Creation of EPA

ED HANLEY: Chuck, I wonder if you could begin by setting the stage for us. Take us back to 1970, when President Nixon received the recommendation of the Ash Council to create EPA. Give us an idea, if you can, of how the public felt about the environment and the events that led up to the decision to create EPA.

CHUCK ELKINS: Well, you could say that the year 1970 was the heyday of the environmental consciousness in this country. It reached a peak in April of that year when the very first Earth Day took place. Earth Day was a teach-in all over the country, and 20 million people participated in those teach-ins all over the country, and that's remarkable when you think about the fact that there were only 200 million people living in the United States at the time. So, one out of ten people participated in that very first Earth Day, and that gives you a sense of how strong the environmental consciousness was right there at that time.

Now, one can ask, "Well, how did it ever become so strong and so quickly?" And I have to say, it's somewhat of a mystery to me, even though I was living through it. You know, one day it felt as if those of us working in the environment were working in sort of a small area, and maybe not a backwater, but certainly not the current primary things of interest to the American public. And then all of a sudden everybody is talking about the environment.

# **Behind the Scenes at the Creation of EPA:**

## **Chapter #1: The Public and Social Setting for the Creation of EPA**

### **An interview with Chuck Elkins**

---

Now, in fairness, for many, many years there was a very strong conservation movement in this country—people who were dedicated to preserving wilderness areas, habitats, and I think they were driven primarily by hunters and fishermen who valued the outdoors, didn't want to see it disappear as our country's population grew. And this conservation movement lent a lot of support to the water pollution effort in the '60s. But then, I would say in 1962, things changed significantly when Rachel Carson wrote her book entitled, "Silent Spring," because this introduced a new element into the public consciousness about pollution because she identified the fact that invisible pollutants -- in this case, pesticides -- might be having damaging and maybe even permanent effects on the environment, particularly on the survivability of species. And so this brought into the environmental movement a whole other set of people with different concerns and different demands that the government ought to be doing something.

And then many people may remember the Cuyahoga River burst into flames in 1968. It turns out that was the 13th time that river had caught fire, but this time it got headlined in the Time Magazine, and now it wasn't just the hunters and the fishermen who were upset—ordinary people didn't want rivers that were so polluted that they could catch fire.

So, Congress got into the act at that point and particularly, I think, in '68, '69, and they passed the National Environmental Policy Act, and that had two major effects. One was to create the Council on Environmental Quality, which was charged with coordinating environmental policies across the federal agencies, and, in fact, for several years they produced an excellent summary report each year about what was going on in the environment and what was important about environmental protection. And also, at the same time, that act brought about accountability on the part of federal agencies by requiring them to file environmental impact statements on all of their major federal projects.

So, the Congress got into the act by passing that, and then President Nixon, not to be outdone, crafted and gave the first Presidential Environmental Message. That was in February of 1970. He called for more stewardship of the environment and proposed some major changes to the powers of the Federal Government. So by the time we got to 1970, and April in particular, the first Earth Day, there were large numbers of people who were calling for action on the environment—not just actions by individuals and corporations, but by the government, including the Federal Government.

So, in my view 1970 was a heyday of the environmental movement. And you can say, "Well, how is that different from today, because many people are very concerned about the environment today?" But I think back then things looked a little more simple than they look today, not so fuzzy. We were dealing as you realize with things that looked pretty simple, you know, rivers catching on fire. So, it was in that context that President Nixon was presented with this proposal to create the Environmental Protection Agency, and I guess it's no surprise that he said, "Yes."

ED HANLEY: Chuck, there were already some federal and state programs to protect the environment in 1970, when the President was considering launching EPA. Tell us about these programs and what they were like, and why EPA was needed.

# **Behind the Scenes at the Creation of EPA:**

## **Chapter #1: The Public and Social Setting for the Creation of EPA**

### **An interview with Chuck Elkins**

---

CHUCK ELKINS: Well, I think a good way to get a snapshot of what those programs were like back then is to look at that Presidential Environmental Message. The way Presidential Messages were prepared back then, and I don't know how they're done today, but in those days the White House would send out a notice to the agencies and say, "Well, tell us what you want to see changed in your programs and send it in." And these would be changes, both in terms of funding and also in authority. And these would be reviewed by the Office of Management and Budget, and then by a White House committee. And the most acceptable proposals were then written into a draft message. And that's when those of us who were working on the White House committee first heard about the possibility of a new Agency, the Environmental Protection Agency, that would pull many of these programs that we were working in together. So, by looking at what the President said in that speech, one can get a good idea of what these existing programs were at the time.

ED HANLEY: Chuck, before we get to the content of the Message, can you tell us, who was on the White House Committee that prepared the Message for President Nixon?

CHUCK ELKINS: Well, in fact I have a photograph here that I can show you of the people who were involved in that committee. You'll see some familiar faces here. On the left you see Roger Strelow who worked in HEW at the time and next to him, John Quarles who worked in the Interior Department, Al Alm over to the right who worked at OMB, and then myself next to the President.

ED HANLEY: Take us down into the details of some of this. Take, for example, the Water Pollution Program. What was it like in 1970?

CHUCK ELKINS: Well, believe it or not, that program got started in the Department of Health, Education and Welfare (HEW), and then it moved to the Interior Department, and it grew considerably once it got there. But most of the responsibility for water pollution control rested with the states and not with the Federal Government. The President, in his Environmental Message, proposed that the Interior Department's grant program for municipal sewage treatment plants be expanded into a five-year, ten-billion-dollar program (billion with a "b") which in 1970 was a lot of money. It is today, too, but back then even more so. And that program was to have state matching, and to sort of show his good faith the President put up four billion in that first year. And this was to enable this sewage treatment grant program to really help the cities get much better municipal sewage treatment in place around the country.

And he also proposed that the federal control extend to all navigable waters, something that we accept today as sort of given—although it is contested, I know, in court cases—but back then it was only interstate waters, and even in interstate waters it seemed as if most of the enforcement ended up being in a lot of discussions instead of actual abatement.

He also told the Congress to authorize the development of precise effluent guidelines for industry and municipal sources, and that's to be contrasted with the fact that up to that point the Federal Government spoke primarily in general terms such as secondary treatment. And finally, just to give you another view of this water program in 1970, the President directed that the program develop comprehensive river basin plans, to have them developed by the states. And I have to say, I'm not sure that this Presidential directive from 1970 has ever really been fully achieved, even here in 2013.

# **Behind the Scenes at the Creation of EPA:**

## **Chapter #1: The Public and Social Setting for the Creation of EPA**

### **An interview with Chuck Elkins**

---

ED HANLEY: How about air pollution? Where the air pollution programs in a similar state? Can you tell us about those?

CHUCK ELKINS: Well, the Air Pollution Program, of course, was smaller. It did not have a Sewage Treatment Plant Program equivalent, and it was primarily a matter of technical assistance to states who had the primary responsibility to control what we, you know, came to call "stationary sources," you know, power plants and factories. But the Federal Government did have authority to set tailpipe standards for the automobile industry, and had done so.

The President proposed that these automobile emissions standards be toughened up, and so in 1973, '75 models, and he also recommended that the testing of whether they complied with these standards should be done on actual production models and not just on some prototype models so that we were sure we were actually getting these controls in place.

He also called for a federal program of five years to produce a virtually pollution-free automobile. I think we all know that didn't get done in five years. I suppose we might say it's with us now in 2013 with the electrical vehicles being a significant part of our automobile fleet—well, significant in terms of percentage or so—but it's way beyond in the past. And then he wanted the program authorized to set national, uniform standards rather than having the states set the standards. But, he allowed in his speech for states to set more stringent standards. And I guess the last thing he mentioned was the need to see emissions standards for toxic air pollutants. That's really the first time that that had come into focus. So you can see that the program was really a mere shadow of what we see the air program to be today.

ED HANLEY: How about other areas? Those are the two main programs, and probably in the public mind in many cases they still are, but were there other environmental programs as well? Could you tell us about those?

CHUCK ELKINS: Well, they were, of course, much, much, smaller. HEW did run a Solid Waste Program that was focused very much on municipal waste—how to build sanitary landfills and try to actually get the landfills around this country made into sanitary landfills as opposed to just dumps. But the President in his speech said, "Let's get some focus on recycling," so that's where that idea really came into play nationally for the first time. The concern about hazardous waste was not there. And, in fact, I know from later times at EPA that the focus on hazardous waste came about as a simple budget exercise within EPA when we asked ourselves, "Aren't there some health issues associated with this solid waste activity that would justify a bigger budget for this program?" And so, I think a lot of the public think that the way the Federal Government expands is the bureaucrats dream up of new ideas of things to do, and that certainly was true in this case. I would say it had a very good benefit because coming out of that came the Hazardous Waste Program. But that was certainly not in anybody's minds back in 1970.

In the pesticide area, it was a fairly developed program. It was run by the Agriculture Department. Many people criticized the department as having a conflict of interest, that it was promoting agriculture at the same time it was supposedly protecting the environment by setting standards on pesticides, deciding which ones would be marketed or not. The Food and Drug Administration set the

# **Behind the Scenes at the Creation of EPA:**

## **Chapter #1: The Public and Social Setting for the Creation of EPA**

### **An interview with Chuck Elkins**

---

standards on how much pesticides could show up in food, and the Interior Department had a small program to worry about the adverse effects of pesticides in fish and wildlife. So, it was a fairly active program, but still small in comparison to the others. In the radiation area, HEW ran a program on environmental radiation, and AEC [Atomic Energy Commission] set standards for its nuclear power plants, but that was an even smaller program at that time.

ED HANLEY: So, what did all of this add up to? Can you tell us, in 1970, about the size of this total effort in terms of money and staff?

CHUCK ELKINS: Well, as it happened, given my duties, I did prepare a budget sheet for what was going into this new Agency, and so I found that in my basement. I'll make it available to the association to put together with this interview. But that sheet shows that when EPA opened its doors, it had a budget of 1.4 billion dollars and 5,800 employees. And it is significant that the previous year it only had 800,000 dollars and 5,300 employees, so the President was increasing these programs, consistent with what he was saying. The Water Pollution Program, of course, was the biggest part of this 1.4 billion. They had 1.2 billion of it, and they had twice as many employees as the next largest program, the Air Pollution Program, which had about a thousand. The combined pesticide programs of HEW, Interior, and USDA had about 750 employees.

ED HANLEY: So, to sum up, if I may, what you've told us so far is that there was a huge push by the American public for better environmental protection that culminated in the first Earth Day in 1970. And many of the programs that are part of EPA today had counterparts that were spread across various federal agencies and states at the beginning in 1970, and they totaled about 1.4 billion and 5,800 or so employees. But compared to the size, scope and legal authority of environmental programs today, one would have to say that they were a mere shadow of what they would become once EPA was established.

# **Behind the Scenes at the Creation of EPA:**

## **Chapter #2: How EPA was Created by Reorganization Plan #3**

### **An interview with Chuck Elkins**

---

#### **Chapter #2: How EPA was Created by Reorganization Plan #3 in 1970**

ED HANLEY: Chuck, as we have discussed, you were involved from the inside in helping to create EPA in 1970, but EPA wasn't really created out of whole cloth. There were active environmental protection programs already in the Federal Government. How did President Nixon go about creating the Agency?

CHUCK ELKINS: Well, President Nixon had the authority from Congress to develop and propose reorganizations of federal agencies and departments to make the Federal Government more efficient and effective. And President Nixon took that seriously, so he organized a council, appointed Roy Ash to be the chairman of it, and therefore it soon became known as the Ash Council, to search out opportunities for reorganization. And EPA was one of their proposals. They also recommended the creation of NOAA, the National Oceanic and Atmospheric Administration, which was also approved by the President and ultimately was proposed on the same day as EPA was.

ED HANLEY: How did this reorganization authority actually work? Can you explain the mechanics a little bit.

CHUCK ELKINS: Sure. It was a grant of authority from the Congress to the President that was limited in time, and so the President had to move fairly quickly if he wanted to use it. And if the President proposed a reorganization, the Congress had 90 days to vote it up or down. They were not allowed to make any amendments, and the Congress could not accept most of the proposal and then exempt a portion of it. And so you can see why the Congress didn't want to give him an authority for his whole administration for that. It was a short time window, and I think we're lucky that he chose to do EPA during that time.

The Ash Council recommended certain of these environmental programs be pulled together and made into the Environmental Protection Agency, and this proposal was evaluated by various parts of the Administration including, particularly, the Office of Management and Budget. And then it went to the President for him to make his decision, and in this case he did decide, of course, to go forward. The Ash Council then developed the details of exactly what would be transferred and what would not. They wrote up the justification and helped the White House present the plan to the Congress. This was the part of the process, as you mentioned, where I was sent over on detail to work with Doug Costle at the Ash Council to work out the details and the justification. And yes, this is the same Doug Costle who later became the Administrator of EPA.

ED HANLEY: Yes, many of us old-timers, especially, remember Doug when he served as Administrator some years later. Tell us what it was like to work with Doug under these conditions in the reorganization effort.

CHUCK ELKINS: Well, he had been working in the environmental area. I believe he came to the Ash Council from Connecticut. And he was very effective in recruiting people from OMB and various departments and agencies to come over and serve on committees and help us figure out what we

# Behind the Scenes at the Creation of EPA:

## Chapter #2: How EPA was Created by Reorganization Plan #3

### An interview with Chuck Elkins

---

should do and make sure we didn't make a mistake as we put the parts of this new Agency together. I really enjoyed working with Doug. He and I worked well together. We sort of had two different roles. He was the "conceptualizer", the bringer of people together, and I played the role of the person who was supposed to know the details, but if I didn't I was supposed to go and find them out.

ED HANLEY: Tell us about some of the decisions that Doug and the Council had to struggle with in coming up with the final plan for EPA.

CHUCK ELKINS: Well, it may seem obvious today what programs should be part of the Environmental Protection Agency because we have now had this Agency for 43 years. But it wasn't so obvious back then. There were lots of environmental programs that we decided should not get transferred, and they were left back in their home departments. I'll just give you a couple of examples. HEW ran what was called the Community Public Health Program, which was famous for its grants to cities like Chicago for their rat control. Well, you think, "Well, rat control, that doesn't sound like the Environmental Protection Agency," but really, rats are an environmental problem, so one could, certainly HEW classified it as an environmental program. The other large program was the Occupational Health and Safety Program. This one dealt with many of the same chemicals, treatments and concerns, but we concluded, ultimately, that it would be a mistake to bring Occupational Health into EPA, that it really had a whole different set of entities and setting that would have to be regulated.

Another big, controversial area was what to do about laboratories. Some people argued that EPA could get along without any laboratories. Thank goodness they did not prevail in the argument. We brought over a lot of very strong laboratories into the Agency, but we also left some behind. The one I think that's still a very strong program that's functioning today is the National Institute of Environmental Health Sciences, which we did consider bringing, but decided to leave back in HEW.

The Radiation Program was also sort of a hard nut to crack. HEW wrote standards on things like microwave ovens, and we decided that consumer products really were not close to the heart of what we wanted this Environmental Protection Agency to be, so we left that back at HEW. And AEC had a program on the disposal of radioactive waste, and DOT had a noise control program for aircraft, and the Interior Department ran fish and wildlife service and recreation and parks, and those are definitely environmental programs, but they weren't really environmental protection programs as we decided to define it. And we made these cuts. I think, overall, we probably made sort of the right cuts as we look back on it.

ED HANLEY: It sounds like it must have been pretty complicated. Can you talk a little bit about how you would go into an office or a program and sort things out and decide which pieces, which people, would actually move to EPA, and who stayed behind?

CHUCK ELKINS: Well, the people were particularly important. I mean, you think about that. If you don't bring good people into a new Agency, you're going to spend years trying to hire new people to get up to speed. These were active programs, we wanted to have the right people come.

One of the disputes that I had with my colleagues at OMB was whether or not the Commissioned Officers [Corps] of the Public Health Service should be allowed to move over to EPA, and they were not

# **Behind the Scenes at the Creation of EPA:**

## **Chapter #2: How EPA was Created by Reorganization Plan #3**

### **An interview with Chuck Elkins**

---

big fans of the Commissioned Officer program> It's a different personnel system. These people can retire after 20 years, and they just didn't want to replicate that in EPA. But I argued that so many of the key people who were running these programs at HEW, particularly drinking water and air pollution, were commissioned officers. They were among the more senior people running them, and if we didn't bring them over, it would be disastrous for EPA. I finally was successful in that argument with my colleagues, and we brought the commissioned officers over, and I think that was one of our better decisions. Many of those people served in senior places in the Agency until their retirement, and they stuck with us for a long time and they made a real difference.

One of the tricky parts was bringing the radiation people from HEW over because we were only bringing about 50 percent of them, and so how do we decide which ones would come? It happened that the head of the program at HEW wanted to stay, and his deputy, Billy Mills, wanted to come to EPA. And so we decided to do it like a sandlot baseball team effort. We had all of the employees essentially stand in a room, as I remember, and John Villforth would choose one to stay in HEW, and Billy Mills would choose one to go to EPA. And, of course, they were conscious of who wanted to come and who didn't want to come, and so I think, in many cases, it was somewhat governed by who really wanted to move and who didn't, but they also had to make sure they took the right talents. They even divided up the lab equipment that way. I mean, the joke was that—I'm not sure it was really true—that they divided the lab equipment down the middle, and so neither Agency had lab equipment that would work, because they only had half of each piece, but I hope that wasn't true. But, in any case, that is how we divided up those people.

We were really interested in getting the first-rate people there, and in one case there was a guy, and I won't mention his name, who worked in the Secretary's Office at HEW who normally wouldn't be touched, normally, in this kind of reorganization. But I knew he was a first-rate person and he was working full time in environmental protection and so I called him up and said, "So-and-so, I've got your name on the list to come to EPA," and he was a GS-15 lawyer and he said, "Well, what am I going to be doing when I get there?" And I said, "I have no idea what you're going to do, but it's going to be fun, and I've got your name on here." And he ultimately didn't protest. He was friend, I think he decided maybe I wasn't doing him in, and he moved over and served in the Agency for years and years.

The other thing we really worked on was what the organizational structure of the Agency should be. Should we have Assistant Administrators? Should we have regional offices and how should they be structured? So, we spent a lot of time working on that.

ED HANLEY: So, from what you've told us it sounds like a number of key decisions were made in the creation of EPA that we all take for granted now, but weren't so obvious then, and have helped shape the kind of Agency EPA has since become. Having its own laboratories, allowing the Commissioned Crops officers to transfer and keep their personnel system, including some programs, excluding others, and recommending an organizational structure for the Agency as it opened its doors. Again, I guess we could say that most of these decisions turned out pretty well for the growth of EPA.



# **Behind the Scenes at the Creation of EPA:**

## **Chapter #3: Congressional Approval and the Startup of the Agency**

### **An interview with Chuck Elkins**

---

### **Chapter #3: Congressional Approval and the Startup of the Agency**

ED HANLEY: So, Chuck, what was the reaction when President Nixon proposed the creation of this new Agency? How did the public and the Congress react, and how did he convince them it was a good idea?

CHUCK ELKINS: Well, looking back on it, it really was remarkably favorable, the reaction that people had to it, partly I think because it was such a publicly popular subject right then because of Earth Day. And I have here the press release and the fact sheet that were released at the time. We did this, and I found them in my basement and I'll make them available to the Association here so people can look at them. It's interesting to see what arguments we used, which ones we thought would be persuasive. The major one was that these agencies needed to come together in order to promote coordination among the programs. I find that a bit ironic today because even today I think EPA is still now, like most agencies, in being somewhat of a stovepipe Agency. That is, that each of the programs operates fairly independently of each other. Part of that, of course, is statutory, and the way Congress has dealt with them. But still, the big theme and the way we sold this through the Congress was we needed to have better coordination among these programs, put them all together.

The other arguments were that we needed to upgrade the importance and visibility of these programs, and we needed to give the states, localities, and local communities a single focus when they wanted to deal with the government on the environment. And finally, and certainly significant in terms of how we did the reorganization, take away the job of pollution control from the Departments that have economic promotional interests, such as Agriculture, Atomic Energy Commission, and, to some extent, the Interior Department, because they were judged to have a potential conflict of interest.

ED HANLEY: I noticed in reading through the White House press release on establishing EPA, there's no mention made of strong environmental regulation. And yet, this is the same President who just a few months before had made the first Environmental Message, which you described for us, and that is very clear in calling for all sorts of strong regulation, particularly in air and water. Why this distinction, this difference?

CHUCK ELKINS: Well, you're correct. The reorganization plan was sold as a way of making the government agencies that already existed, the government programs, more efficient and responsible, and not as a way of regulating the environment more than in the past. The discussions about increasing the regulatory powers of the Federal Government in the environmental area were really taking place on a separate channel. The Environmental Message, of course, was the kickoff of that, and then there were discussions that went on with the authorizing committees of the Congress. And the result of all that, as we all know, is in the first few years of the Agency, the Clean Air Act, the Water Pollution Act, and other authorities related to toxic substances and hazardous waste were passed by the Congress. And that really changed EPA from being primarily a technical assistance Agency that sets goals and standards, and then the states and the localities have the authority and the responsibility to

# **Behind the Scenes at the Creation of EPA:**

## **Chapter #3: Congressional Approval and the Startup of the Agency**

### **An interview with Chuck Elkins**

---

meet these requirements. And that turned into, over several years after the establishment of EPA into making EPA a strong federal regulatory authority in which both the rules and the enforcement of these rules were centered in Washington, but with delegation, of course, to the states of this authority. But basically the Federal Government would set the rules and the states would implement them in that case. And that was really the opposite of what it was as we began in 1970, and that change was not forecast in the reorganization plan. It focused on the organizational issues.

To my mind, this made a lot of political sense, to keep these in two different channels. Keep in mind, as I mentioned, the Congress could vote this reorganization plan up or down. They couldn't amend it, but if we made them angry enough or concerned enough, they would vote it down. So, we did not want to introduce too much controversy into it.

The main opposition came from the nuclear community, particularly the Joint Atomic Energy Committee. And you have to keep in mind, this was in the midst of the Cold War. In some ways the Joint Atomic Energy Committee was just as secret as today the intelligence committees are in the Congress. And the nuclear establishment was a very potent force to be reckoned with.

This turned out to be a major headache for me as I worked on the Ash Council, trying to fashion a transfer of the radiation authority to the new Agency that we could get past Congress. The portion of the Reorganization Plan No. 3 dealing with radiation was particularly difficult to draft. If you look at the rest of the reorganization plan, you see that it pretty much said, "Okay, this department has this authority to implement this statute, and we're transferring that entire authority over to EPA." But the problem was, on the radiation area, the Atomic Energy Commission insisted that it did not have specific authority to set environmental standards. They were setting standards on nuclear power plants and nuclear bomb-making plants, et cetera. And it wasn't all divided up between inside and outside.

So, if you look at the reorganization plan you'll see that in fact, we had to come up with a compromise. First, we sat down with Atomic Energy Commission and agreed with them that what the President would like to do is to have EPA, the new Agency, set standards for the radiation outside of these plants. That is, what are people who live outside of these plants being exposed to. And that AEC would maintain all of their authority inside the plant.

Well, of course, this did not fully satisfy them because the way you change what comes out of the plant is by changing what goes on inside the plant. And so they saw this as a real intrusion on their authority. But they didn't have a whole lot of ability to push back, and so the question then became, "How do we possibly write this since there's no statute to refer to?" And finally, I wrote down that the functions that were being transferred were those which were carried out by a particular office within AEC that related only to those aspects of standard-setting that were on the outside of the building. When it came time for us to testify in front of the Congress, this was the one that my colleagues pushed me to the front and said, "Okay, you're in charge of explaining this." And I can't say I did it in a very convincing way, but since the Congress couldn't take

# **Behind the Scenes at the Creation of EPA:**

## **Chapter #3: Congressional Approval and the Startup of the Agency**

### **An interview with Chuck Elkins**

---

the provision out without killing the entire reorganization and there wasn't anything else that they wanted to kill, they basically did approve the reorganization plan.

Several years later, as I was working in EPA, and I happened to be a part, at that time, to be the Acting Assistant Administrator for Air and Radiation, the successor Agency to the Atomic Energy Commission, the Nuclear Regulatory Commission, went back to the White House to argue that President Nixon had made a mistake in transferring this authority, that it was technically flawed, and that the White House should make EPA give the authority back. They weren't too happy to see me at the meeting. I think they thought I had disappeared. And I reminded them that they had agreed to these provisions, that they had been party to them, and that they understood perfectly well what they were transferring and what they were not. And the outcome was that EPA kept the authority to set these standards, and I would like to think that the nuclear power industry has not suffered as a result of all those negotiations.

ED HANLEY: So, if I understand what you're telling us, Chuck, this proposal to establish an Environmental Protection Agency was generally well received, both by the public and the Congress. I guess, given the situation in more recent years, that seems a little surprising. You would have expected that industry would have seen trouble here and opposed it very strongly, but that didn't happen, apparently. Why is that?

CHUCK ELKINS: Well, it's not clear. I think maybe they decided it wasn't a fight that they wanted to take on. But as I mentioned, these programs were not as regulatory as we know them today, and most of those authorities came afterwards. And I think one of the main reasons that Congress was willing to give increased powers to the Executive Branch, and specifically to EPA, was because we created an Agency that, with Bill Ruckelshaus at the helm, and that made a lot of difference, it acquitted itself quite responsibly in those opening years, and Congress felt comfortable giving this new authority to this new Agency with some assurance that they would be carried out responsibly.

ED HANLEY: After the Congress approved the reorganization and EPA came into official existence, there must have been quite a chore ahead in setting it up, bringing together all of these people and programs and getting everybody operating as if they belong to the same team. Can you talk about that and how you got it done?

CHUCK ELKINS: Well, one of the smartest things we did was to write into the reorganization that the Agency was created 90 days before it had to actually operate. So, we had 90 days before the doors opened. I wish we had had maybe six months, but during those days and weeks we worked through what the organization structure should be like now that we had Bill Ruckelshaus on board as the new Administrator. He needed to think through who his top team was going to be, how he was going to get the ten regional offices organized. Also one of the aspects of those decisions was that there would be a very strong Policy and Budget Office. Those old-timers who may be listening to this may remember how very powerful the Policy Office was at the beginning of the Agency. And that was because Doug Costle who, as I said, you know, put this reorganization together at the Ash Council, really hoped that the President would appoint him as the Assistant Administrator for Policy. And as it turned out, that was not to happen. He was a Democrat and the White House decided not to appoint him. But we still ended up with the same Policy Office as if Doug was going to run it.

# **Behind the Scenes at the Creation of EPA:**

## **Chapter #3: Congressional Approval and the Startup of the Agency**

### **An interview with Chuck Elkins**

---

We moved over a number of people to the Agency during those early days to help us get it started, and one of the things I spent my time doing during those times was to focus on how the Administrator got

briefed on what the current state of affairs was within each of these major programs and what the current issues were. So, no one else seemed to be focused on that, and as sort of a programmatic type of person I decided, "Well, I guess I would just have to sit down and write him some briefing papers." And so I wrote him briefing papers, sitting there at my typewriter all by myself, on water, air, pesticides, solid waste and radiation, a paper on each one of them. It seems quite arrogant at this point, looking back on it, but all of those papers are available. I found them in my basement, of course, because I was proud of them. I saved them after I gave them to Bill Ruckelshaus. And all of them are available except the water pollution one, and it's funny that that's the one that's missing because the one call I got when I was sitting there writing these papers was from David Dominick, who ran the water pollution program at the Interior Department, getting ready to be transferred over to EPA, and he said, "What are you writing? I want to see this paper." And in my arrogance I said, "No, no, this is just for the Administrator. You can't see it." Who knows what I wrote in there? But no one will ever know because it got lost somehow, but these papers are interesting to read because they give even a closer snapshot of what was really going on in those programs and what Ruckelshaus was faced with as he opened up the doors.

ED HANLEY: You mentioned Bill Ruckelshaus. If you can elaborate a little bit on who he was and where he came from and how did you find out he was going to be the new Administrator? And when did all of this happen?

CHUCK ELKINS: Well, Bill was not that well known. He had come from Indiana, had in fact worked quite effectively in the environmental pollution area, bringing enforcement cases with the Department of Health. And he was an attorney for the government of Indiana. He moved over to the Justice Department in a senior political position, and so that's how he came to be known to the White House.

I remember the very first meeting that all of us had with Bill. I was given the assignment since I was going to be a meeting with him at OMB working on the Clean Air Act, which became the Clean Air Act of 1970. We were in a meeting, and I was just told, well, after the meeting, quietly grab his arm and bring him over to this other meeting in the other OMB building. So, I did so, and later somebody asked, "Is that the new Administrator? Because I saw you walking with Bill Ruckelshaus." So, it wasn't too secret, I guess, but at that point nobody else knew he had been chosen by the President.

I took him upstairs to the tenth floor. There was Howard Messner. Many of you may remember Howard Messner was a dynamic person in the opening days of the Agency. He was involved in setting EPA. He said, "Bill, come over here to the window. I want to show you where your new office is going to be. We want to make sure that you are very close to the White House. There's no telling how often the President will call you and want you to come over quickly, and you need to get there soon, so we found you an office that's quite close to the White House. It's over here in Waterside Mall." And he pointed him to the mall, which was even then being built out. And it was that fateful decision that gave us Waterside Mall for all those years. And I remember Bill joking later that he only got asked over to the White House twice when President Nixon was there, and the very first time, as he walked in the door, Nixon said, "Well, what are all those crazies over at EPA telling you to do, Bill?" So, you can see

## **Behind the Scenes at the Creation of EPA:**

### **Chapter #3: Congressional Approval and the Startup of the Agency**

#### **An interview with Chuck Elkins**

---

that we could have been in another office, probably a more favorable location. I was in favor of putting it out at Tysons Corner, because I lived down in Virginia, but even here in 2013 only now is Tysons Corner getting a Metro. At least we had the Metro at Waterside Mall.

ED HANLEY: Eventually, yes, we did. When you were preparing these papers for Bill and then subsequently briefing him and thinking about the job, how did you see his role? What did you think the Administrator of EPA would be doing, and in particular, during the startup.

CHUCK ELKINS: Well of course in the early, those 90 days, he was focused very much on organization. And we had spent a lot of time on that in the Ash Council, but obviously we didn't want to finalize it. He needed to have that authority, and he decided, for instance, to make the final decision that we would, in fact, layer the program offices -- the programs that were coming over to the Agency -- under a set of Assistant Administrators. And in some way that may have looked like a demotion for the people who were running those programs, but really, in fact, I think it wasn't. Take John Middleton, who was running the Air Pollution Program. He continued to run the program much as he had in HEW. In fact, at HEW he had reported to a more senior person who had concern for all of the environmental programs at HEW, so in one sense John didn't really get demoted, but on the other hand he didn't get promoted either. He ended up reporting to Don Mosiman who was the Assistant Administrator for Air and Water. So, those were the kinds of decisions that were made to put in Assistant Administrators, and also to choose people as Regional Administrators. And to decide that we would have ten regions and that the people who were coming into the Agency who were not located in the regional offices, most of them would need to relocate to the regional office cities except if they were in a laboratory or something. Even some of the laboratories moved.

The other thing is that as the doors opened for the Agency, Bill was very focused on showing the public that EPA meant business. And so he focused on what kind of decisions could he publicly make that would make a difference.

ED HANLEY: Can you elaborate on that? Tell us about some of those decisions. Take water pollution, for example.

CHUCK ELKINS: Well, one of the most shocking decisions he made was to travel down to the League of Cities, you know, the association of all the cities, that were meeting down in Atlanta, as I remember. And he announced to the whole auditorium that the Agency was going to sue several of those cities whose mayors were sitting right there in the audience. And the reason the Agency was going to sue them was because they had not controlled their sewage treatment the way that they should have. They, of course, the mayors were not very happy about this. They felt that they had not gotten the grant money that they thought they should get from the Federal Government to control this pollution, and therefore they hadn't built the treatment plants. But Ruckelshaus' view, which I think was legally correct and politically correct, was, "No, you need to clean up this pollution, and if you get some money from the Federal Government, that's good. But your cleaning up is not contingent on your getting the money." And he took, of course, the same strong enforcement actions against a number of key industries for the same purpose.

## **Behind the Scenes at the Creation of EPA:**

### **Chapter #3: Congressional Approval and the Startup of the Agency**

#### **An interview with Chuck Elkins**

---

Another major area he made his presence felt was on automobile tailpipe emissions. He personally got very much involved in the decision of whether or not the automobile industry could meet the very tight Congressional deadlines in the Clean Air Act of 1970. Ultimately, they did get an extension of that time, but Ruckelshaus showed them that the Agency was not going to be a weak regulator.

There was also the DDT decision that was suddenly stuck on our plate. A court decided on a petition that the Agriculture Department had received that said, "You should be making a decision about regulating DDT," and that decision came down and essentially we inherited that. And Bill spent some real time trying to structure how the Agency would go about making this decision. Some of Bill's recollections of those days are in a recording for the oral history effort of the association, in which he talks about those early days. You can hear about some of this from his own mouth.

ED HANLEY: Looking back on this, Chuck, you must feel really lucky. I mean, you were in the right place at the right time. Not only to get involved in some issues that are certainly gripping, that have gripped this nation now for how many years did you say? Forty-something?

CHUCK ELKINS: Forty-three.

ED HANLEY: Forty-three. And you got to play a role in it. That must be exciting, to think back on it.

CHUCK ELKINS: Well, I was a pretty young kid at the time, and I was just lucky to be in the right place at the right time, as you said, and got the assignment to help out. And it was fun. All of us who were working on this -- and there was a whole team working under Doug to do this, people on various committees -- all of us were trying to figure out, what does this new Agency need to have? What kind of authority does it need? What kind of resources does it need? And we were looking out over the horizon, and we couldn't see very far, of course. And we really didn't have any idea of how important EPA would turn out to be. We had our hopes that it would be important, but we didn't really know. And we were focused on what we knew at that time. Remember, this was just after the Cuyahoga River caught on fire, so we were focused on gross air and water pollution from factories and automobiles, et cetera, and trying to make sure that the standards for pesticides and radiation were made objectively without any concern for conflict of interest by other departments like Agriculture. But that was a pretty narrow view, although we tried to be forward looking, and the unknowns definitely outweighed the knowns. And we were operating on intuition, I think, more than knowledge, but you know, in retrospect I think we can be pretty proud that the team did a pretty good job of putting it together. The mistakes that we made, I guess most of them have been corrected over time. And I'm proud of the little part that I got to play in this very large and much more important, dramatic event of creating EPA.

ED HANLEY: Well, thank you, Chuck. Thank you for taking the time to share that with us, and thank you for your long service to EPA.

All of the participants in this interview have assigned their copyright for the interview to the EPA Alumni Association. For more information, please contact the Association at [History@EPAalumni.org](mailto:History@EPAalumni.org)