

EDITORIAL

Superfund Superbowl XXII

John H. Perkins

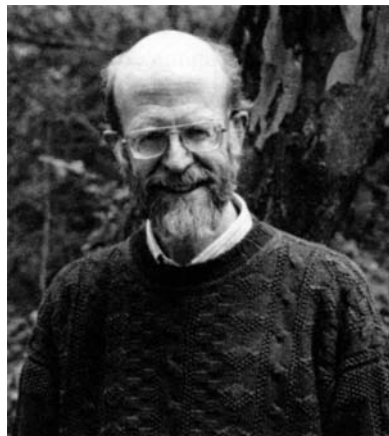
Budget time is never for the faint of heart. After all, when you've set the budget, you have made manifest what you really intend to do. Thus, the unveiling of President Bush's budget for Fiscal Year 2003 generated some serious gnashing of teeth. It should not be a surprise that a very important environmental law was, once again, at stake. The particular law in question was the Comprehensive Environmental Response, Compensation, and Liability Act, usually called CERCLA or Superfund. This law, passed in 1980, has been an object of vigorous debate for twenty-two years. President Bush has now made it clear that he, too, is happy to engage the game: Superfund Superbowl XXII.

Just what did President Bush decide to do? Well, in some ways it was pretty simple: he inserted funds in his budget to implement Superfund cleanups. This is not as contentious as what he did not do: ask Congress to reauthorize the tax on oil and selected chemical products to replenish the Superfund trust fund. In other words, the President proposes to finance Superfund cleanups from general tax revenues, instead of a special tax on products that have contaminated many Superfund sites.

Was the President's proposed course of action a wise or terrible decision? That's where the good fight begins. Carol Browner, Administrator of the Environmental Protection Agency in the Clinton administration, immediately took President Bush to task. His action, she maintained, was a gutting of the "polluter pays" principle upon which Superfund was based. Presidents Reagan, Bush senior, and Clinton, with varying degrees of enthusi-

asm, it should be added, maintained this principle up to now.

CERCLA has had two ways in which the polluter paid: (1) the polluter was identified as a responsible party and conducted the cleanup at its own expense, or (2) the USEPA cleaned the site using the Superfund trust fund. The government recovered the money from the polluter if he or she could be identified; otherwise, the government bore the cost. The taxes on the oil and chemical industries fed the trust fund.



"Polluter pays" was partially a way to keep government expenditures down by having private parties pay for cleanup. It was also a moral statement that those who had committed environmental sin must pay. Finally, "polluter pays" had an economic rationale: if products had high economic externalities, then "polluter pays" helped internalize costs.

A major battle over the taxes and the Superfund trust fund occurred in 1985, but this was resolved by the Superfund Amendments and Reauthorization Act of 1986 (SARA). When SARA lapsed, the Congress passed a series of continuing acts to keep Superfund alive. The tax revenue continued, and over \$2 billion was collected in each of years 1992–1994. In 1995, the 104th Congress let the taxes lapse, and the trust

fund has dwindled steadily ever since. Administrator Browner's outrage is that in contrast to the Clinton Administration's annual request to reinstate the tax, the Bush administration is not even going to ask. As a result, the trust fund will be exhausted in a short time.

What happens then? Either general tax revenues support the cleanups, or fewer sites are treated. The real problem, however, is that as the trust fund is exhausted, the funds for cleanup have to be argued and debated in each session of Congress, and Superfund has to compete with all other federal priorities. This is not a good sign for those interested in site cleanups.

Is this course of events good public policy? Is it the responsible, democratic, and reasonable way to go to get toxic wastes out of circulation? An argument can be made that the "polluter pays" principle was probably more attractive as a political device than as an effective way to make sure the bad guy paid. In many cases, the culprit could not be found or could not pay. In addition, a tax on oil meant that, in effect, consumers paid, because oil taxes are easily passed on in the form of higher prices.

Thus I part company with Administrator Browner, in the sense that I lament less the loss of the somewhat ineffective "polluter pays" doctrine and more the loss of a dedicated fund that could be used only for waste cleanups. I also regret the loss of taxing those products most likely to be involved, directly or indirectly, in the production of toxic wastes. Superfund was a reliable source of funding, and taxes on oil and chemicals helped internalize economic externalities.

To be sure, it might not make a difference whether President Bush requested the reinstatement of the Superfund taxes or not. Even if he wanted them, it's not clear he could convince the Congress. Nevertheless, he should have asked. As it is, he has simply

sent a signal that toxic waste cleanup is not important enough to warrant its own dedicated fund. As the nation and environmental professionals work to make the world less burdened by stray toxic materials, that's the wrong message to send.

References

Browner, C. 2002. Polluters Should Have to Pay: The White House Plans to Shift the Cleanup Burden to Taxpayers. *New York Times*, 1 March, A23(N).

Hird, J. A. 1994. *Superfund, The Political Economy of Environmental Risk*. Johns Hopkins University Press, Baltimore, 119–129.

Probst, K. N., D. Fullerton, R. E. Litan, and P. R. Portney. 1995. *Footing the Bill for Superfund Cleanups, Who Pays and How?* The Brookings Institution and Resources for the Future, Washington, DC, 1–24.

Probst, K. N., D. M. Konisky, R. Hersh, M. B. Batz, and K. D. Walker. 2001. *Superfund's Future, What Will It Cost?* Resources for the Future, Washington, DC, 1–13.

Address correspondence to John H. Perkins, The Evergreen State College, Olympia, WA 98505; (fax) 360-867-5430; (e-mail) perkinsj@evergreen.edu.

Join the Dialog

The central purpose of *Environmental Practice* is to provide a forum for the discussion and analysis of significant environmental issues. An important part of this discussion is the *Letters to the Editor* section. The editors welcome your comments and insights on articles appearing in this or other issues of the journal.