

BUSH ENVIRONMENTAL ENFORCEMENT APPOINTEE IS BAD NEWS

The Ohio Legacy of Donald Schregardus

By William Sanjour

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William Sanjour is a retired EPA whistleblower who challenged the Carter and Reagan administrations over attempts to roll back hazardous waste laws. Visit his website for more information about whistleblowers.

On July 25, the Senate environment committee held a hearing on Donald Schregardus, President Bush's nominee for the U.S. Environmental Protection Agency's enforcement division. The position would make him the top environmental cop in the country.

The Senate hearing was brief and cordial, and featured only one witness: the nominee himself. But Schregardus has been at the center of a maelstrom of outrage from environmentalists familiar with him as head of the Ohio EPA, from 1991 to 1998.

Due to what they view as Schregardus's poor performance, Ohio environmental groups began petitioning the U.S. EPA in 1997 to remove Ohio's authority to enforce federal environmental laws. Ohio activists are campaigning to block his federal nomination, and petitioned unsuccessfully to be allowed to testify before the Senate environment committee.

The most egregious charges against the nominee stem from a federal court decision in which a Labor Department administrative law judge found that Schregardus had suppressed information about school children exposed to cancer-causing chemicals in Marion, Ohio, and that he had fabricated charges against the government environmental specialist in charge of the investigation.

Marion, Ohio, is a cancer alley. In 1997, some citizens of Marion, whose children had contracted cancer, discovered that at least a dozen students at the River Valley Schools had developed a rare form of leukemia, and other children had developed Hodgkin's disease, cancer of the esophagus and breast cancer. The families of the cancer victims formed the Concerned River Valley Families. When they learned that the schools had been built on top of an old Army chemical waste dump, they contacted Ohio health and environmental officials, held public meetings and

demanding an investigation. Nevertheless the group was vilified and harassed by people in the community who were concerned about the reputation of the town and the schools.

One person who took their concerns seriously was Ohio EPA environmental specialist Paul Jayko, who had been assigned to the Marion site after the problems arose. Jayko, a reserve major with the Army's Green Berets, was trained in nuclear, biological and chemical warfare. After a preliminary investigation, he concluded that there was a "strong potential for human health risk." His report recommended that the Ohio EPA immediately conduct further environmental tests. The Ohio governor at the time, Republican George Voinovich, backed Jayko, ordering the Ohio EPA to commence an investigation of Marion and to "leave no stone unturned."

Ohio EPA inspectors began the investigation, but it soon became clear to Jayko that the data collection was being botched. Contrary to Governor Voinovich's admonition, many stones were left unturned. In the meantime, officials allowed the schools to remain open. Jayko felt a sense of urgency, fearing that more children might be affected, and he finally wrote a memo complaining about the data collection process.

The reaction from Administrator Schregardus, however, was to let Jayko know, through his supervisor, that management did not appreciate him putting his complaints on paper, making them look foolish and incompetent. In retrospect, Jayko suspects that Schregardus was looking out for the interests of the business community and developers in Marion.

Soon, the harassment started. Jayko's responsibilities were gradually removed, he was cut off from information and excluded from meetings, and he received a notice from the personnel department informing him of a possible suspension or termination. In effect, he became a pariah.

It quickly became clear why. Before the data was even collected, Donald Schregardus had been telling the press that there was no evidence linking the sites to leukemia and instructing his staff to do likewise. Jayko's supervisor obediently wrote a memo instructing his staff to seek out information which can allow us to conclude that the existing "environmental" conditions in the local community(s) "do not pose a threat to human health."

Despite being ostracized, Jayko continued to voice his concerns. This irritated Ohio EPA management until they removed him as site coordinator in June 1998, even though his authority had already dwindled to almost nothing. On July 28, 1998, Mr. Jayko filed a complaint with the U.S. Department of Labor. Two days later Schregardus suspended him without pay for 10 days for having consumed two beers while on travel, and having submitted a request for the travel reimbursement which included the two beers. Other retroactive defamations followed.

After a trial, administrative law judge Thomas F. Phalen, Jr., found that the Ohio EPA's charges against Jayko were entirely bogus. He blamed Schregardus for having deliberately sabotaged the site investigation and for trying to discredit Jayko, saying: "It is clear that OEPA held him [Jayko] in particular disfavor for reasons that may only be attributed to his vigorous prosecution of the Marion investigation: his challenges to management to do a full investigation to find out the causes of the leukemia, leaving, 'no stone unturned,' while Ohio EPA management wanted to do something graduated and far less effective. ... With regard to the [disciplinary actions against Jayko] I find that the reasons given by Ohio EPA management for the site coordinator transfer of Mr. Jayko ... were conflicting, without substance and ultimately, not credible."

The judge ordered the Ohio EPA to reinstate Jayko and to publicly post apologies clearing his name and reputation. In the final settlement Ohio had to pay \$385,000 for damages and attorneys'

fees.

Most of Jayko's concerns about data collection at Marion were eventually addressed. The site is still under investigation and no conclusions have been made public, but the school will be closed once a new one is completed in 2003. It is unlikely that any conclusions will ever be made public.

In February 2000, responding to several petitions dating back to 1997 from Ohio environmental groups, the U.S. EPA finally launched an investigation into the failure of the Ohio EPA to enforce federal environmental laws. The petitions cite numerous examples of the Ohio EPA failing to enforce federal air, water, and hazardous waste standards and granting special favors to polluting industries. Although originally scheduled to be completed by April 2000, the investigation is still going on.

The shock at learning about Schregardus' nomination was summarized by Sandy Buchanan, Executive Director of Ohio Citizen Action, who said "There's an Alice-in-Wonderland quality to the prospect of someone with his track record suddenly being in charge of enforcement for the entire country." A different shock came from Stephen Kohn, director of the National Whistleblower Center, who expressed disbelief that a known persecutor of whistleblowers would be put in charge of enforcement in an agency with the worst track record in the U.S. government for persecuting whistleblowers.

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