

In the Environmental Protection Agency Congress created a monster it can no longer control. With a shrewd politician like Carol Browner running it, the agency just thumbs its nose at the legislators.

# Carol Browner, master of mission creep

By Pranay Gupte and Bonner R. Cohen

1971-73

**An ecosystem of politics, personality and policy**

**William D. Ruckelshaus**  
First EPA administrator, he served under Presidents Richard M. Nixon and Gerald R. Ford; oversaw initial implementation of the Clean Air Act and the Clean Water Act; agency grew from 7,100 employees to 9,800; budget rose from \$1 billion to \$2.3 billion.



AP/WIDE WORLD

1973-77

**Russell E. Train**  
He cultivated close relations with Congress to the point that the agency became over-dependent on congressional goodwill; sharply cut budget to under \$700 million, then increased it to \$2.7 billion; work force ranged from 9,200 to 10,200.



EMERSON NEWS ARCHIVE

DAVID W. HAMILTON / IMAGE BANK

1977-81

**Douglas M. Costle**  
First administrator to serve under a Democrat (Jimmy Carter), he declared EPA a "public health agency"; guided EPA toward environmental activism; played key role in adoption of Superfund; budget rose to \$5.5 billion; work force 12,600.



P.K. TRICE / FIG



ARTHUR GANCE / SIGMA

1981-83

**Anne Gorsuch Burford**  
Serving under Ronald Reagan, her rocky tenure was characterized by poor relations with Congress; blamed for slow pace of Superfund cleanups; forced to resign after botched handling (including document-shredding) of evacuation of Times Beach, Mo., a small community plagued by trace elements of dioxin; budget \$3.7 billion; work force 10,800.



DENNIS BRACK / BLACK STAR

MARIE ADAMS / FIG

AS THE CENTER OF that enormous rent-seeking organization known as the federal government, Washington, D.C. has evolved its own vocabulary. There is, in bureaucratese, an innocent-sounding but insidious phrase: mission creep. Mark it well: Mission creep explains a lot about how big government grows and grows and grows.

Mission creep is to a taxpayer-supported organization what new markets are to a business organization. It involves a gradual, sometimes authorized, sometimes not, broadening of a bureaucracy's original mission. It is a way to accrete money and power beyond what Congress originally approved when it funded an agency.

Playing mission creep is an old game in Washington. But no one has ever played the game with more skill than Carol M. Browner, Bill Clinton's choice to head the Environmental Protection Agency.

From a modest beginning a quarter-century ago, the agency has grown to employ nearly 20,000 people and control an annual budget of \$7 billion. But these numbers are a poor measure of the agency's power: Because its regulations have the force of law, the agency can jail people, close factories and

override the judgments of local authorities.

In its quest for power and money, the agency has imposed many unnecessary costs on American industry, and ultimately on the American people—costs that do more to satisfy bureaucratic zeal than to clean the air or the water.

The EPA was established in 1970 by an executive order issued by President Richard M. Nixon. Rachel Carson, a patron saint of the environmental movement, had made a huge impact with her emotional tract, *Silent Spring*, a few years earlier.

The public was right to be alarmed. Industrialization has imposed hidden costs in the form of polluted air, despoiled streams, unsightly dumps and a general degradation of the landscape. Concerns about pollution could, of course, have been dealt with by existing agencies, but that is not the nature of American politics. Politicians must be seen to be doing something dramatic. Creating new agencies makes favorable waves in the media.

Nixon created a new agency. Pulled together from a hodgepodge of existing federal programs, the EPA never had a congressional charter that would have defined its regulatory activities. It was simply given the task of car-

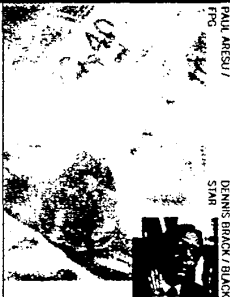
**EPA scientists, following the agency's cancer-risk guidelines, were soon ignoring the age-old admonition that the "dose makes the poison."**

**1983-85**



**William D. Ruckelshaus**  
Brought back by President Reagan to restore agency's credibility; he vigorously pursued environmental activism, including ill-fated asbestos-removal program in schools; supported United Nations initiatives that introduced "sustainable development" into the global environmental vocabulary; budget rose to \$4.1 billion, work force grew to 11,400.

**1985-89**



**Lee M. Thomas**  
He raised EPA's level of scientific credibility by squashing widespread but scientifically unproven fears of chemical "time bombs"; budget grew to \$5.2 billion; employees 12,000.

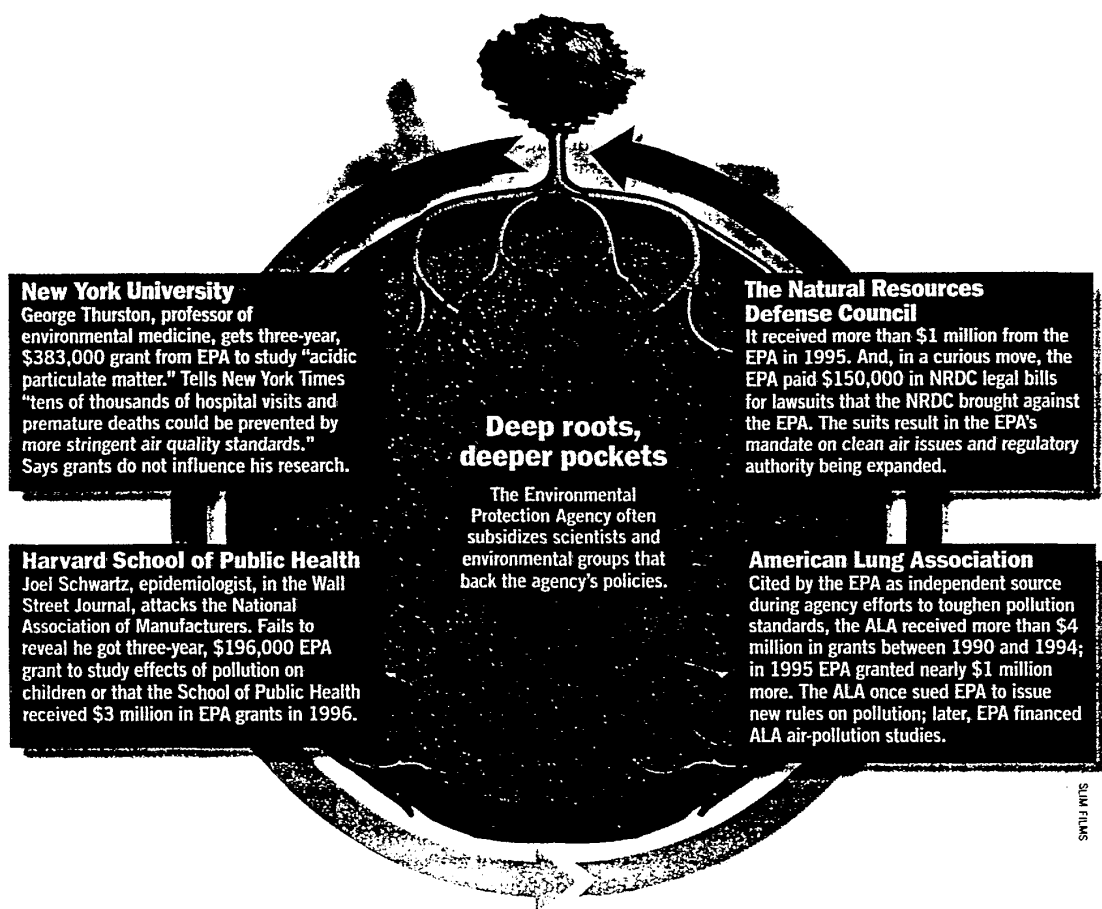
**1989-93**

**William K. Reilly**  
Faced congressional grillings over mismanagement of EPA's outside contractors; prime mover in the controversial reauthorization of the Clean Air Act in 1990; oversaw further politicization of epidemiology; persuaded President George Bush to attend the 1992 Earth Summit in Rio de Janeiro; budget reached \$6.9 billion; employees swelled to 15,000.



**1993-present**

**Carol M. Browner**  
One of President Bill Clinton's first appointees, she defeated party leaders in a nasty battle over air-quality standards; supports the need for "environmental justice" and backs emission-reporting policies that critics say will increase economic espionage; broad agenda has taken budget to more than \$7 billion and the number of employees to beyond 19,000.



rying out the provisions of what, over time, became 13 environmental statutes, each with its own peculiarities and constituencies.

Without perhaps fully comprehending the issues, Nixon made the new EPA the instrument for a tremendous power grab by the federal government. Most environmental problems—chemical spills, groundwater contamination, abandoned dump sites—are purely local in nature. But suddenly they were federal matters. In the name of a greener, cleaner Earth, Washington mightily increased its power to intervene in the daily lives of its citizens. It was a goal so worthy that few people saw the dangers inherent in it. Mission creep had begun.

In 1978 then-EPA administrator Douglas Costle cleverly shifted the focus of the agency. Henceforth the EPA would protect not just the environment but your health. "Costle became determined to convince the public that [the]

EPA was first and foremost a public health agency, not a guardian of bugs and bunnies," wrote Mark K. Landry, Marc J. Roberts and Stephen R. Thomas in their book, *The Environmental Protection Agency: Asking the Wrong Questions from Nixon to Clinton*.

People do care about forests and wildlife, but they care much more about themselves and their families. There is a strong strain of hypochondria in the American people, and nothing grabs our attention faster than an alleged threat to our health. If the alleged threat involves cancer, it is almost guaranteed to make the six o'clock news. Costle shrewdly exploited cancerphobia to expand his agency's reach and to wring money from Congress. He launched the EPA on a cancer hunt, looking for carcinogens in foods and air and water, even in the showers we take.

Carcinogens, of course, abound in nature, ordinary sunlight being one of the most

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prevalent. So it is with many man-made substances. The exposure to background levels of these carcinogens is so minimal in most cases as to pose no serious threat in the overwhelming majority of cases. Never mind: EPA scientists, following the agency's cancer-risk guidelines, were soon ignoring the age-old admonition that the "dose makes the poison." If it was man-made and carried carcinogens, the EPA would root it out. As one EPA scientist explained it to FORBES: "At EPA, we're not paid not to find risks."

Under the mantra of "one fiber can kill," the EPA in the 1980s mounted a costly and probably self-defeating nationwide effort to rip asbestos out of schools. Simply sealing the substance would have kept the fibers away from kids at a fraction of the cost. But it would not have yielded the same harvest in headlines.

Even more than her predecessors—and possessing much greater resources—Carol Browner presents herself as the great family physician. "There isn't a decision I make on any given day that's not related to the health of the American people," she tells FORBES. Browner, it's worth noting, is a lawyer with no medical training.

After all, she reminds us, she's the mom of a young boy. Attendees of Capitol Hill hearings snicker at her constant references to her son, Zachary, when she testifies on environmental issues. But she never misses a chance to repeat the message. "If we can focus on protecting the children . . . we will be protecting the population at large, which is obviously our job," she tells FORBES.

Who said that was her job? Nobody, but that's what mission creep is all about.

Last September Browner announced the release of a new EPA report setting forth a broad national agenda to protect children from environmental risks. She followed up the report with the creation earlier this year of the Office of Children's Health Protection at EPA.

There was no congressional mandate, but Congress meekly went along by failing to challenge the agency's justification of the program. Who would want to face reelection accused of being callous toward children? Especially when the EPA's kept researchers stand by ready to produce scare studies on EPA money (see box, p. 172).

Where most agency chiefs tremble at criticism from Congress, Browner has a platform from which she can counterattack. An EPA-funded newsletter was recently distributed by the National Parents Teachers Association. At the time an internal EPA memo noted: "The PTA could become a major ally for the Agency

in preventing Congress from slashing our budget." Thus does Browner's EPA use taxpayer money to fight efforts to trim the federal budget.

On Mar. 15, 1995 David Lewis, an EPA scientist attached to the agency's laboratory in Athens, Ga., was told by his supervisor that EPA employees with connections to members of Congress should use their influence to sway lawmakers against a bill proposed by Representative Clifford Stearns (R-Fla.)—if it could be done "without getting into trouble." Stearns' bill would have reduced funding for EPA. The scientist later said in a deposition: "We were being asked to do this during government business hours, and the purpose was to protect EPA funding levels." This request on the part of high-level EPA officials to lobby Congress on government time is under investigation by the House Government Reform and Oversight Committee.

Had this been a Republican administration and had the department involved been other than the EPA, one can imagine the outcry in the media.

Asked about the growing criticism of her tactics, Browner blatantly ducks the question with: "This isn't about me. It never has been about me. It's about the air being cleaner. Is the water going to be safer? It's about business going to be able to find a better solution to our environmental problems."

It's really about politics. When supportive lawmakers ask to borrow EPA experts for their staffs, the EPA hastens to comply. Requests from liberal Democrats almost always are filled, those from Republicans rarely. A request by Representative Richard Pombo (R-Calif.) for an EPA detailee was rejected on Jan. 2, 1997 on the grounds that "new procedures" were being written. Less than four weeks later (Jan. 28), a similar request from liberal Democrat Representative Charles Rangel of New York was approved, without reference to any "new procedures."

Since 1995 her office has approved all requests for employee details to four Democratic lawmakers—Senator Frank Lautenberg (D-N.J.), Senator John Kerry (D-Mass.), Senator Daniel Patrick Moynihan (D-N.Y.) and Rangel. Of the four GOP requests, three were rejected.



EPA scientist David Lewis  
**Whistleblower who prevailed.**

CHRIS BARK/ATLANTA JOURNAL-CONSTITUTION

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Browner was at her politically impressive best in this summer's debate over the EPA's tougher clean air standards. Because air quality levels have improved markedly since passage of the Clean Air Act amendments of 1990, it was widely hoped—especially in areas that badly need new jobs—that the standards would not be further tightened. The EPA's

own data showed that levels of the particulates have dropped dramatically over the past decade. Many local governments, anxious for jobs and economic development, were looking forward to being removed from the list of so-called nonattainment areas for ozone and particulate matter, or PM.

In July the EPA finalized new tighter stan-

## High costs, higher confusion

### 44 cents

According to a report released Sept. 16 by the Government Accounting Office (GAO), for every dollar EPA spent in fiscal 1996 on cleaning up hazardous waste (Superfund) sites, only 44 cents is actually spent on cleanup.

### \$210 million

Parties trapped in Superfund's vast litigation net spend \$210 million annually just to cover the cost of their attorneys.

### \$3 billion

According to EPA's own data, U.S. businesses spend \$3 billion and 115 million hours each year completing the paperwork required by the massive reporting system the agency has developed over the past quarter-century.

### \$47 billion

In pushing for new standards for particulate matter (PM) and ozone, EPA originally claimed its proposal would cost approximately \$8.5 billion, a figure the agency revised to \$47 billion after President Clinton approved the program.

### \$37 billion

EPA now also concedes that the costs of its new air quality standards may exceed any health benefits resulting from the program. While estimating that the new ozone standard will cost the regulated community \$9.6 billion, the agency acknowledges that the benefits will range from \$1.5 billion to \$8.5 billion. For particulate matter, which EPA says will cost \$37 billion to implement, the benefits range from \$19.8 billion to as high as \$110 billion.

## EPA regulations

Though it's difficult to put a price tag on it, businesses and local governments spend a tremendous amount of time just trying to figure out what EPA wants them to do. "EPA's regulations are written in Latin with Greek footnotes," says Frank Shafroth of the National League of Cities.

In attempting to comply with EPA's regulations, conflicting definitions often reign. Said one federal judge recently about the hazardous waste regulations of the Resource Conservation & Recovery Act (RCRA): "The people who wrote this ought to go to jail. They ought not to be indicted, that's not enough." For instance, even though some EPA regulations define hazardous waste as a solid waste, other agency regulations define solid waste as a subset of hazardous waste.

dards for ozone and PM. For communities that had made expensive efforts to comply with the current law, the higher standards were like a baseball player, having rounded third base and heading toward home, being told he had to circle the bases again to score.

A good many congresspeople were outraged. Browner's insistence on imposing the new standards in the face of nothing more than scanty scientific evidence unleashed howls of protest from elected officials in the affected communities.

Legally, Browner was probably in the right. In its haste to seem to be attending to the environment, Congress failed to exert control over EPA standards and regulations.

There was nonetheless quite a donnybrook, with veteran Democrat John Dingell of Michigan leading the charge against Browner. A lot of jobs were at stake in Michigan, still headquarters of the U.S. auto industry. Congress, he insisted, should be consulted. Dingell was not alone.

With lots of support from Vice President Al Gore's office, Browner went to work putting down the congressional revolt. Her testimony before Congress was, by general agreement, brilliant, though her facts were often shaky.

Until then, Bill Clinton had remained on the sidelines. But Browner maneuvered the President into a corner, where he faced the politically embarrassing choice of supporting her controversial initiatives or disavowing his outspoken EPA administrator. Clinton then got to the head of the parade by declaring his support for Browner. The game was over. Browner 1, Congress 0.

If EPA's new standards survive congressional and legal challenges, state and local governments will have to devise elaborate State Implementation Plans, or SIPs, detailing their strategies for complying with the agency's latest regulatory diktat. And in accordance with the Clean Air Act, it will be up to the EPA to approve or disapprove the SIPs. The estimated cost of compliance with the new standards for the Chicago area alone is projected to be between \$3 billion and \$7 billion.

"I wish we never had that fight with Congress," she tells FORBES. "I wish it could have been avoided. I think it came at great expense to the country. I think it was very unfortunate." Note the implication: The way it could have been avoided was for Congress to avoid challenging her.

You can admire Browner's skill and still be appalled by what she is doing. "This is by far the most politicized EPA I've seen in my three decades of working in state governments," says Russell J. Harding, director of Michigan's

Department of Environmental Quality. "It is an agency driven more by sound bites than by sound science."

Says Barry McBee, chairman of the Texas Natural Resource Conservation Commission: "EPA continues to embody an outdated attitude that Washington knows best, that only Washington has the capability to protect our environment. States are closer to the people they protect and closer to the resources and can do a better job today."

As a weapon to humble the state regulatory bodies, Carol Browner's EPA has embraced the politically correct concept of "environmental justice." This broadens EPA's mandates even beyond protection of everyone's health.

In early 1993 Browner set up the Office of Environmental Justice within EPA which, among other things, passes out taxpayer-funded grants for studying the effects of industrial pollutants on poorer, mostly black, communities. In 1994 the White House supported this initiative by ordering federal agencies to consider the health and environmental effects of their decisions on minority and low-income communities.

That's the rhetoric. The reality is that the federal agencies have a new weapon for overruling state agencies. Browner's EPA recently delayed the approval of a \$700 million polyvinyl chloride plant to be built by Japanese-owned Shintech in the predominantly black southern Louisiana town of Convent. Louisiana's Department of Environmental Quality had already given the go-ahead; the plant would have created good-paying jobs and opportunities in an area suffering from 60% unemployment and low incomes. But the EPA argued that blacks would suffer disproportionately from potentially cancer-causing emissions of the plant in an area already lined with chemical factories of all descriptions.

Louisiana Economic Development Director Kevin Reilly was enraged. "It is demeaning and despicable for these people to play the race card," he says, pointing out that poor people and blacks would have gained economically and were at little health risk. The scientific evidence bears Reilly out: A recent article in the *Journal of the Louisiana Medical Society* found that cancer incidence in the area is in most cases no higher than nationally.

But never mind the facts: This kind of decision has less to do with science than with power politics. It delivers the message: Don't mess with the EPA. "Carol Browner is the best hardball player in the Clinton Administration," says Steven J. Milloy, executive director of The Advancement of Sound Science Coalition in Washington, a longtime critic of EPA

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who acknowledges receiving funding from industry. "She has the 105th Congress completely intimidated by her debating skills and her sheer grasp of facts, however questionable. She eats their lunch."

Like many Clintonites, Browner takes her own good time about responding to congressional requests for EPA documents. When word got out that EPA was developing a series of proposals for reducing U.S. emissions of man-made greenhouse gases, the House Commerce Committee asked for a copy. The EPA ignored the request for two years.

When the proposals were leaked to the committee late last year, it was immediately clear why EPA had stiffed Congress. The document was loaded with proposals for raising taxes to pay for new EPA initiatives. Produced in the agency's Office of Policy, Planning & Evaluation and dated May 31, 1994, EPA's "Climate Change Action" recommends a new 50-cent-per-gallon gasoline tax, with an estimated cost to motorists of \$47 billion in the year 2000 alone. Seven other tax increases were recommended: a "greenhouse gas tax," a "carbon tax," a "BTU tax," an "at-the-source ad-valorem tax" on the value of the fuel at the source of extraction, an "end-use ad valorem tax" on the value of the fuel at the point of sale, a "motor fuels tax" on the retail price of gasoline and diesel, an "oil import fee." Also recommended: A new federal fee on vehicle emissions tests of \$40 per person to "shift the cost of vehicle inspection from the state to the vehicle owner."

How could they hope to get so many new taxes through a tax-shy Congress? The "Climate Change Action Plan" contains repeated references to how each of the above taxes and fees can be imposed under existing laws. Talk about taxation without representation.

It's not entirely surprising that Browner and her crew think in terms of government-by-edict. Browner's extraordinary power is in many ways a consequence of Congress' delegation of its lawmaking power to the EPA. It has let the agency micromanage environmental activities throughout the nation with little regard for either local wishes or the cost. This negligence has permitted the agency to ignore scientific data that conflict with agency orthodoxy. The EPA is in many ways becoming a state within the state.

"This is Washington at its worst—out-of-touch bureaucrats churning out red tape with reckless abandon. The EPA hasn't taken into account an ounce of reality," says Representative Fred Upton (R-Mich.), a frequent critic, referring to the new clean air rules.

If science isn't Browner's strong point,

political tactics are. Her enemies can only envy the way the EPA uses the courts. An organization such as the Natural Resources Defense Council will go into federal court and sue to force the EPA to do something. The EPA will wink and, after the courts expand its mandate, see to it that big legal fees go to the NRDC.

Mission creep, in short, takes many forms and its practitioners have many ways to plunder the public purse.

For her part, Browner often dismisses as simple male chauvinism any criticism of her hardball tactics. "I think sometimes that it's an issue of men and women," she says, coyly.

Such cute demagoguery aside, there is no doubting Browner's sincerity. She is an environmentalist zealot. She was clearly behind the decision to tighten the clean air standards to what many people regard as unreasonable levels. If not a tree-hugger she is philosophically close to Al Gore and his quasi-religious environmentalism.

After graduating from University of Florida law school, Browner (both of whose parents were college teachers) went to work for a Ralph Nader-affiliated consumer advocate group. There she met her husband, Michael Podhorzer, who still works there.

She learned politics working on Gore's Senate staff, where she rose to be his legislative director before heading back to Florida to head the state environmental commission.

After the EPA, what's next for this tough and aggressive politician? If Al Gore's presidential hopes aren't dashed by the fund-raising scandals, there's a vice presidential slot on the Democratic ticket up for grabs in 2000. A female environmentalist and mother of a young boy would do a lot to bolster Gore's otherwise soggy appeal.

In a statement to FORBES, Gore went so far as to try to claim for Browner some of the credit for the current economic prosperity. "She has helped prove," he declares, "that a healthy environment and a strong economy are inextricably linked."

If not a vice presidential run, what? Could Browner be nominated by the Clinton Administration to be the next head of the United Nations' environment program? Or would the Administration nominate her as the new U.N. Deputy Secretary General? Either position would give Browner instant international visibility, which couldn't hurt her political prospects in Washington.

One way or another, you are going to be hearing a lot more about Carol M. Browner; whenever you do, it's unlikely to be good news for business—and it may not even be good news for the environment. ■