

Law Firm of Ruckelshaus, Ex-Head of E.P.A., Mad

By DAVID BURNHAM

Special to The New York Times

WASHINGTON, Aug. 22—The law firm established by William D. Ruckelshaus, former head of the Environmental Protection Agency, got in touch with officials in that agency more than 178 times for 20 different clients in 1974 and 1975.

The law firm's informal efforts for its clients, many of which had pollution problems that had been challenged by the environmental agency, became known from an examination of Government files made available in response to a request by The New York Times under the Freedom of Information Act.

The contacts with the agency by Mr. Ruckelshaus and other members of his firm for such clients as the vinyl chloride industry, two aluminum companies, a drug concern and the Commonwealth of Puerto Rico did not appear to violate either Federal law or the ethical rules of the American Bar Association.

But the record of informal approaches — frequently by telephone, on other occasions in meetings and at dinners and sometimes by letter—provide a rare insight into an aspect of the legal profession in Washington that has faced increasingly critical questions by legal experts, public interest groups and political candidates such as Jimmy Carter, the Democratic Presidential nominee.

Questions Asked

The questions being asked are these: What changes, if any, are required in the long-established laws and rules guiding former Government officials in their relationships with the agencies they previously were associated with? Do the companies that hire the law firms filled with former Government officials obtain an unfair advantage over competing interests such as the labor unions and the public interest groups? Do the present rules guarantee equitable government, what the lawyers call due process?

Mr. Ruckelshaus went to the environmental agency as its first director on Dec. 2, 1970, and left on April 28, 1973. A bit more than a year later, on June 1, 1974, he established his law firm. Well over half the



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William D. Ruckelshaus

firm's initial partners were former E.P.A. officials, and, at least in the beginning, a substantial number of its clients were those who had problems with the agency.

On Aug. 1, Mr. Ruckelshaus left his firm to become senior vice president of the Weyerhaeuser Company, a major West Coast forest products company. Now on vacation, he could not be reached for comment on the activities of his firm while he headed it.

But Albert J. Beveridge 3d, now the senior partner of the firm, said in an interview that the activities of Mr. Ruckelshaus and other partners were "legal, ethical and met our personal standards of appropriateness."

A Partner Comments

Noting that he was speaking for himself and not for the firm, Mr. Beveridge said that he agreed with many of the critics who argued that changes were now required in the existing rules of behavior guiding the actions of lawyers and others when they left government.

He added, however, that when judging a person "he must be judged by the standards operating at the time, not the standards developed two or three years later."

In its information request to the environmental agency, The Times requested all letters, memorandums and other documents involving contacts between the members of the

Ruckelshaus firm and top officials of the agency in the period from the time when the firm began practicing in mid-1974 until the end of 1975.

Because of the great expense involved in asking a total search of every E.P.A. file, The Times agreed to rely on the memory of top agency officials and their staff to identify the requested documents. A second reason the material is not complete is that the agency withheld a handful of documents on the ground that publication would violate the proprietary rights of the companies involved.

Despite these limitations, the agency material is believed to provide an unusual and detailed profile of a major, if seldom chartered, aspect of the functions of the Federal Government: how a Washington law firm goes about assisting its clients.

Contacts for Clients

In the 18 months covered by the material, nine lawyers in the firm made at least 178 identifiable contacts with officials in the agency for 20 different clients, an average of more than two contacts every week. The largest number of these contacts, 98, involved telephone conversations; 38 involved meetings and meals; 30 involved letters and 12 were unclear.

Five of the nine lawyers making the contacts for the firm previously held various positions in the agency. One of the lawyers, Carl Eardley, in addition to having worked in the top ranks of the agency, worked on energy and environmental policy at the White House.

The records suggest that Mr. Ruckelshaus made 27 of the 178 contacts. The most active partner, with 90 contacts, was Gary H. Baise. During most of Mr. Ruckelshaus's time in the agency and in several other Government positions, Mr. Baise served as Mr. Ruckelshaus's right-hand man.

The 20 clients that the Ruckelshaus firm represented were highly varied. They included Government bodies such as Puerto Rico and the City of Philadelphia; trade associations such as the Society for the Plastics Industry; major manufacturers such as the Reynolds

Metal Company and Eli Lilly; engineering and construction concerns such as Rykman, Edgerly, Tomlinson & Associates and the Peterson Construction Company, and small concerns such as the Kinetic Energy Manufacturing Company of Fort Wayne, Ind.

Contacts for Society

The records indicate that the largest number of contacts—37 out of 178—were made by members of the Ruckelshaus firm for the Society of the Plastics Industry, a powerful trade association.

The subject, which has still not been finally resolved, involves the air pollution controls that the agency would impose to protect the public from polyvinyl chloride, a widely used plastic that at some stages of manufacture is a potential cause of cancer.

The final controls that the environmental agency imposes on the factories that handle polyvinyl chloride could cost industry millions of dollars, and the exact extent to which controls are needed is subject to considerable dispute.

The firm's second most active client, at least in connection with the agency, appeared to be the Commonwealth of Puerto Rico. The issues in the 23 contacts made by the firm for Puerto Rico involved several different disputes in which the Commonwealth was usually challenging the agency's pollution requirements, apparently in the hope of attracting more industry and development to the island.

The company that appeared to be the firm's third most active client was Rykman, Edgerly, Tomlinson & Associates, an engineering concern that sought to resist an agency audit of its books in a broad agency investigation of allegations that sewage treatment plants in several parts of the country had cost far more than was proper.

Agency officials said that the Ruckelshaus law firm was one of the four or five in Washington that for a time had attracted many clients with problems with the agency.

One knowledgeable official also said that, more than many other regulatory agencies that are granting specific licenses to specific companies, the E.P.A.

178 Contacts With Agency for Clients in 18 Months

relied on what is called informal rule-making procedures, where direct contact is encouraged, in the hope of reaching swift informed decisions on broad policy questions.

The informal contacts involved in this process, however, have been challenged in the United States Court of Appeals for the District of Columbia in connection with a decision by the Federal Communications Commission regarding the operating rules for cable television.

The challengers of the F.C.C. rule cited a 1974 Federal decision in which the court stressed the importance of public involvement and the impropriety of the agency in question hammering out a compromise between different industry groups while "glossing over the more fundamental public interest."

The contacts between members of the Ruckelshaus firm were widely varied. Sometimes they would involve a request for a government report, for infor-

mation on the date of a particular hearing or for the Government's list of the 2,800 facilities of major industrial polluters.

On several occasions, the contacts involved requests from client firms that the agency consider giving the clients Federal funds to develop and demonstrate new pollution control equipment.

Types of Requests

In one letter, Mr. Ruckelshaus discussed with his successor, Russell E. Train, the development of an international environmental trust fund.

But there were a number of instances where Mr. Ruckelshaus and other lawyers in his firm appeared to make informal attempts to sway the enforcement activities of the E.P.A.

On Oct. 8, 1974, according to a hand-written note of Frank Maye, an agency employee, Mr. Ruckelshaus called to say that his client, Eli Lilly, "seems concerned about expense of correction activity" that the agency

had decided was required for its plant in Lafayette, Ind.

In a follow-up memorandum the next day, another agency employee said, "Maye assured Ruckelshaus that Region V would meet with the company prior to permit issuance and suggested the company request such a meeting when they submit their comments on the proposed permit."

Several months later, Carl Eardley, a partner of the Ruckelshaus firm and former staff member of E.P.A., called Dale S. Bryson, an agency employee, about two other Eli Lilly facilities.

According to Mr. Bryson's memorandum of the conversation, Mr. Eardley said the company believed the environmental agency was going "well beyond what is necessary to meet water quality standards."

In a third memorandum, dated Feb. 6, 1975, Mr. Ruckelshaus was reported as calling an agency official whose name was obscured in the document

describing the conversation. The official, however, recorded that Mr. Ruckelshaus suggested moving ahead on the case in question "and use of administrative flexibility allowed under the regs."

Because the freedom of information request from The Times was directed at contacts between the Ruckelshaus firm and upper-level executives of the E.P.A., it is thought likely that the documents provided by the agency underestimate the total contacts.

According to several reports by technical experts in the agency, for example, Mr. Baise the long-time Ruckelshaus associate, became intimately involved in the process of writing the polyvinyl chloride regulation well before it was proposed.

Mr. Baise denied that he had actually written parts of the proposal, saying, "I am not going to do anything to jeopardize the reputation for integrity which I believe I have."