MIKE COOK

Former Director of EPA's Office of Superfund Remediation and Technology Innovation

Interview Date: August 5, 2005
Location: Arlington, VA

EPA Interviewer: This is August 5, 2005. We're interviewing Mike Cook, Office Director of Superfund, for the 25th anniversary oral history project. I want to start off. If you could, give us your educational background and what brought you to EPA.

Cook: Well, I was educated in political science, international affairs, and economics at Swarthmore College, Princeton University, and Oxford University. And then I went into the Foreign Service and served abroad for several years and decided that I really didn't want to have a career in the Foreign Service. So I resigned my commission and transferred to the civil service and went to work for EPA in 1973.

EPA Interviewer: Three years after the Agency started.

Cook: Yeah, shortly after.

EPA Interviewer: And which office did you come to work for?

Cook: I came to work for the office that was managing the construction grants program, which was a huge program at the time. It had most of the Agency's budget.

EPA Interviewer: So your early role was to perform—was helping to get the program started, right? You were the first Director.

Cook: That's right. I set up an office in 1980 that was designed to get ready to implement the Superfund law, hoping and assuming that it would be enacted by the Congress. We hired a staff and began work on what we felt would be the major components of the program to get it up and running smoothly and effectively. Then when it was enacted in December of 1980, we of course went to work with the implementation in even more energetic form. And the result was a rapidly growing office that was the predecessor of the office I'm in right now.

EPA Interviewer: So, you know that Love Canal was really the event that brought hazardous waste contamination into the public eye. But even before that, were there thoughts that we needed a program like Superfund?

Cook: Yes, there were quite a number of sites actually receiving national publicity—not just Love Canal, though that was the most prominent by far. But there were others, like the Valley of the Drums in Kentucky, and other sites, which were basically, for the most part,

sites where there were lots of corroding barrels, leaking stuff on the surface of the ground, or other quite visible problems. In contrast to Love Canal where the problem was buried and much less visible, but where you had a public that was extremely concerned.

EPA Interviewer: Early on before the law, how did we go and address some of those sites?

Cook: We had two authorities. The main one was an enforcement authority under the RCRA law [Resource Conservation and Recovery Act] where we could bring a suit for imminent and substantial endangerment where there were hazardous materials involved. And we actually set a goal of bringing 50 lawsuits by the end of 1980, partly to get ready for the Superfund enactment, which we hoped would occur, and partly because people wanted to show that we were aggressive in trying to deal with problems. The other authority that we had was the 311 program under the Clean Water Act, which allowed us to deal with oil spills and certain hazardous material spills. It gave us some authority to respond to emergencies even before the enactment of Superfund.

EPA Interviewer: So were you involved in the creation of the legislation at all, CERCLA [Comprehensive Environmental Response, Compensation, and Liability Act]?

Cook: I was not involved in the preparation of the bill that was sent to the Hill by President Carter. That basically was developed by the Office of Water under the leadership of the Assistant Administrator Tom Jorling with a staff of people working in his immediate office, plus lots of other people in EPA and other federal agencies. Tom squired that through the Administration with support from the President. They sent that to the Hill, and then there began quite an intensive period of interaction with three committees in the House and with the Senate Environment and Public Works Committee and the Senate Finance Committee. The House and Senate developed separate bills, and we worked on those and then the bills had to be reconciled in conference committee. So when I set up the office in 1980, I came in the midst of the legislative process on the Hill and did work some with the Hill—did more trying to answer questions that were being asked by various Members [of Congress] or by people in the Office of Water immediate office who were working the Hill on a daily basis.

EPA Interviewer: So when you first became Director of this office, even before the legislation passed, what were some of your goals and expectations for what it was going to become? What did you hope to see it become?

Cook: Well, we thought that it was going to be a very effective tool for responding quickly to serious situations and one that would help clean up sites like the Love Canals and the Valley of the Drums and so on. But I think we understood that it was going to take a good deal longer and be harder to clean up those sites than to carry out some of the simpler emergency responses that we had previously done under Section 311.

I think it's important to know that, to a substantial degree, the Superfund law was based on the old oil spill clean up program, which was a highly successful program. It really cleaned up the rivers and harbors from floating oil. And the basic approach where we had the authority and the money to go out and respond immediately to a problem, or to task a responsible party to respond and then oversee that response, was built into the Superfund law, with the hope and the expectation that it would facilitate response actions at all sites,

because there was always the possibility that the government could act if a responsible party did not act. And I think the law has worked that way. But there has always been some tension among the concepts of what you do first. Do you try to get responsible parties to respond first and take the time to find out who they are and go after them? Or do you go out and spend Fund money first, then look for responsible parties, try to recover the Fund money? The balance among those has always been an issue in the Superfund program. It's an issue today. And it's been addressed with national policy. It's also, though, I think, worked out on a region-specific, or even a state-specific, basis and adjusted over time.

EPA Interviewer: What were some of the most significant issues and questions you had to address early on?

Cook: Well, we had to put the whole program in place. One was budgeting: what kind of budget would we have in EPA? And that came in two parts; that is, how many people would we need? Where would they go in the Agency? And then how much money would we ask to be appropriated to support the various responsibilities of the program. So we had to invent our own workload models for the entire program without even having legislation passed. And estimate how much, what activities we'd be engaged in and how much those activities would cost. So we developed those models. So that was one side of things, the budgeting.

Beyond that, there was a whole set of issues kind of linked with "how clean is clean." We began work on those. The principle mechanism for initially thinking about them was development of the National Contingency Plan [NCP]. And keep in mind that what we were doing was amending the National Contingency Plan. They already had one under section 311, so this was an amendment to the NCP. And so we went to work on that in a very interactive process with all of the stakeholders to try to get those amendments put together and think about "How clean is clean."

And then we had the whole issue of how to structure what you might call the mechanics of the program. How delegated would it be? What was the balance of responsibility between Headquarters and the regions? What was the role for the states? What was the balance between the enforcement office that would have the enforcement side of the program versus the more active side? What was your balance between removal and remedial action in the program? We had to sort through those kinds of things.

And one of the more interesting parts of this whole effort to design a program was how much of the work would be done by EPA as opposed to outside parties, mainly contractors, or the Corps of Engineers doing work that they of course would do mostly with contractors. And there was, I think, a brief thought on the part of the then Assistant Administrator Chris Beck that somehow we were going to buy a bunch of our own bulldozers and do a lot of this work ourselves. But I never thought that had a chance of going anywhere. We quickly got signals from OMB that not only did they expect this program to be highly leveraged through outside support, but that they expected the Corps of Engineers to play a major role in the construction —the design and construction—side of the program. And so that's the way that we proceeded. The old construction grants program already had a relationship with the Corps of Engineers to support the construction grants business, and so we knew the people, we knew how to put together an agreement with them and how to operate. So it wasn't hard to pursue that approach.

EPA Interviewer: How did you go about answering those questions like “How clean is clean?” and “What’s acceptable risk?” Did you have something to base those things on?

Cook: Well, we had to depend on work that had been done by other programs. They had the IRIS [Integrated Risk Information System] system in place for action levels…

EPA Interviewer: What was the IRIS system?

Cook: It’s the system for trying to put in place risk parameters for various individual contaminants. We had the drinking water program, which had established approaches to determining risk for contaminants in drinking water, and we spent some time with those people. And then we had other programs, like pesticides and toxics and so on. So we tried to set it up based on some of the other programmatic experience.

What we did not have much experience with, really, was doing onsite investigations. We had done a limited amount of that to support our enforcement actions. But there was no well-developed set of methodologies or approaches that we could just plug in, and those had to develop over time. Obviously we have got quite a lot of guidance on that in the program now, but you can imagine how things were when we were just starting out. We had very little about anything.

EPA Interviewer: So how was it when you found a site, a site came up? Would people just go to a site and say, “OK, we have to start doing something?” What would you do? What were the community members like?

Cook: Well, the principal focus in our office was either emergency response—and we certainly took some of those actions—or identifying candidates for listing in the first list, for the National Priorities List. And so we had to come up with the criteria for listing. So we developed the HRS [Hazard Ranking System] system, which assigns scores to every site. Well, in order to assign the scores, you had to go out and do preliminary assessment as a minimum. And so the regions were sent out to do preliminary assessment, and of course the first thing they did was score sites that were fairly well known. Then they went beyond that and identified new sites that were brought to their attention by the states or other parties, and so gradually we put together the first priorities list and….

EPA Interviewer: That had about, what, 400 sites on it, correct?

Cook: It was a large number. I forget the exact number. It actually went final in 1983. It took quite a while to finalize it under the Administration for reasons that we will probably discuss here.

EPA Interviewer: Probably. So the legislation was obviously created in a lame duck session.

Cook: Right.

EPA Interviewer: What were your anticipations and concerns when President Reagan was sworn in? What kind of signals were you getting from them as to how this program was going to be implemented?

Cook: The sense was that the legislation proceeded and was enacted in the lame duck session, because the newly elected President's palace guard indicated that it was OK to go ahead—that they would prefer to have the job done. So there was at least that much support for the legislation. But no one, I don't think, had any clear idea what the attitude would be once the new Administration came in. It was my sense that it was far and away the highest profile interest of the Congress in the whole environmental area. It had tremendous visibility. Walt Barber, who was the Acting Administrator, a career person at the time, Acting Administrator until Gorsuch was sworn in some months later, would go up to the Hill and he told me that all he heard up there was, "You folks gotta go out and implement this new law, quickly," and I actually heard that, too, from some of the Members of Congress as well. So I think that was our guiding light. We just needed to continue to work as hard as we possibly could to figure out how to implement the law and get the decisions made to get the job done.

EPA Interviewer: We can talk more about the Gorsuch era in a little bit. I want to go back though, if we can, to what it was like as you're trying to figure out. Take what was known from the other programs and then creating the new things. What was the spirit like? People must have been pretty energetic about the whole idea and excited about it.

Cook: Well, it was—it was a very exciting time, of course. EPA had gone through a decade of implementing brand new environmental laws, so there was a unique atmosphere in the Agency that probably didn't exist anywhere else in the government at the time. We were excited about what we were doing. Congress was passing laws and supporting much faster implementation than we could possibly achieve, and we had a lot of public support for it. So it was a very, very dynamic time, generally, and the people working on the Superfund laws certainly were highly dedicated and very hard working people who put in long, long hours at the time.

EPA Interviewer: In Waterside Mall, right?

Cook: That's right. Waterside Mall. We were working in Waterside Mall at the time.

EPA Interviewer: Do you remember some unique stories or events that happened that you were like, this would only happen here?

Cook: Well, we were given space in what was called "blue lagoon," which is right next to the garage, the underground garage.

EPA Interviewer: And that's because of the blue carpeting, right?

Cook: Yes. When we moved in, there were no partitions, and so we moved our desks and arranged them in rows in this huge open space with the blue carpeting. We'd call each other on the phone and then you'd look down and 150 feet away, someone would answer the phone when you called. And you could look at them while you were talking, which is rare in bureaucratic formations of the government, that's for sure. So there was a certain spirit that developed in that environment that we were kind of putting things together on the fly, as it

were. It turned out that the air quality in the “blue lagoon” was pretty lousy, and they eventually evacuated everyone from the site. They moved them out when they started testing for carbon monoxide and whatnot. I think it became a lot worse down in the areas nearest to the garage after they put the partitions in. The air circulation was a lot worse down there, so some of the areas were much worse than others.

EPA Interviewer: What was the removal program like? The communities—were they really appreciative of it? Not just the removal program, but other parts. What was the role of the communities in there?

Cook: Well, certainly where we were responding quickly to major incidents—emergency-type incidents—people tended to be appreciative of that, and of course we worked with local government and first responders, fire, police, other folks as well. So that part of the program was fine.

What you might call the remedial part of the program, the slower part where a lot more work was needed, always has been slower and there’s always been local citizen concern that it’s not moving fast enough or not going far enough or both, with a few exceptions. We have had experience over the years with sites where the local population just don’t want us there. They don’t think they have a problem, and even where they have very serious problems, they sometimes don’t think they have a problem. And I need only mention the Coeur d’Alene valley—what they call the “Silver Valley” in Idaho—where the children’s blood-lead levels in a number of those areas are quite elevated, and there are clearly adverse developmental mental and physical problems associated with those high blood-lead levels. And yet the people did not want us there and only recently have begun to warm to our presence after many, many years of working in the Silver Valley. But generally, I think the population’s reaction is supportive, and if anything they want us to move faster and do more.

EPA Interviewer: So we’re going to move on a little bit with some of the political ramifications of implementing Superfund early on. What was your first interaction or meeting with Administrator Gorsuch and after that, I guess, it was Rita Lavelle. Do you remember?

Cook: Yes. Ann Gorsuch came in some months after President Reagan was inaugurated, and she closeted herself day after day after day with close advisors and seemed to have little interest in dealing with the career part of EPA’s bureaucracy.

In the case of our program, we had to have a lot of decisions quickly in order to continue with implementation. Most importantly, we had to get the changes to the NCP through the regulatory process. There were lots of decisions associated with that. We had to get delegations of authority in place, which had to be signed by the Administrator, and we had to get budget decisions made as well. She really just didn’t seem interested in making decisions on any of those things. The consequences in critical areas were that we were not able to act, and it was only when political pressure increased substantially that she would take an action. So for example, if we wanted to go out and spend money on an individual site to do a study or design work or something like that or actually spend money on clean up, it would just sit up there until all of a sudden, she’d sign off on an individual action. We never quite knew why she signed off on that one as opposed to others. But they often would sit up in her office for weeks. The NCP was up there for months before she gave it any attention.

And finally she personally and staff rewrote it, primarily by greatly cutting back on what we had prepared as well.

EPA Interviewer: What had you originally prepared? Do you remember?

Cook: It was several hundred pages, so that was a pretty comprehensive piece that we had vetted through a very large variety of interests inside the EPA, all the key offices. We met with environmental stakeholders, with industry stakeholders, with other federal, state, and local agencies, and so on. We produced a document that we thought covered the major issues, though in some areas we did not, because we had no experience to speak of, we didn't know how well it would work. I think Ann Gorsuch decided after reading it, and I think that she really did read it, that it was far too long and detailed. She wanted something that was simpler and more flexible, which was fine. So it was rewritten accordingly. It was not that bad a rewrite; it just took months before it got attention.

EPA Interviewer: And it was almost a year late from what Congress had set.

Cook: Right. We missed the deadline. And she took a lot of heat for how late it was.

And then we had the problem that emergency response to certain kinds of incidents was not delegated, and she refused to sign a delegation. So we had at least two high-profile events where the event occurred but I could not get the attention of Gorsuch or anyone on her floor, so we never got authorization to proceed. However, the on-scene coordinators in the field went ahead and responded and cleaned up anyway.

EPA Interviewer: There was something in Georgia, right?

Cook: There was one in Georgia and there was one out west, in California—serious events. And in the case of the one in Georgia, I was criticized by the then 12th floor [colloquial name for the Administrator's Office at Waterside Mall] for having told the folks to go ahead, even though they were not authorized. And in fact I didn't do that. I didn't give them any kind of positive signal, but they felt that they had to respond. And in the case of the California incident, the same thing happened. We couldn't get a green light. I gave them no encouragement, they went ahead anyway, and two weeks later, the Chief of Staff sent me a note saying that he thought that that was exactly the kind of thing that we should respond to.

EPA Interviewer: After being criticized a few weeks earlier for the same thing.

Cook: Yes. And so I think she did put a delegation in place to her Chief of Staff at some point in this process, and it wasn't until quite some time later that she actually delegated down the line so that you could respond quickly if required to.

EPA Interviewer: Did you get any indication why she wasn't signing the delegations so people could go and do their job and protect human health?

Cook: No. We never got any substantive feedback on why she was reluctant to do that. But keep in mind that she wasn't signing much of anything at that time apparently.

EPA Interviewer: Oh, OK. So what were your interactions with her and some of the Assistant Administrator's staff? You were trying to just get the program implemented, I assume?

Cook: Yes. I was in a few meetings with her quite early on, and my role was primarily to try and explain what we were doing and suggest some decisions that needed to be made, and some of the options. She then brought on to her immediate staff a special assistant, Whit Field, who came over from Coors Brewery in Colorado, where of course Ann Gorsuch came from. And Whit became the principal liaison with Ann Gorsuch. I don't think I ever really had a direct meeting with Ann Gorsuch again until after I was transferred to the RCRA program. Meanwhile, we also had an Acting Assistant Administrator, Chris Capper. He was a local politician from Montgomery County, Maryland. Had no experience in hazardous waste at all—knew nothing about it. And he was just a nice guy, but there quickly emerged a great deal of tension between Chris and Whit Field, and the consequence of that was that we in the staff positions really didn't know who it was best to be working with or how to work with them. Though I eventually concluded that neither one had much access to Gorsuch. They were both kind of winging it as best they could with very little guidance from the Administrator.

EPA Interviewer: So when was the Assistant Administrator for OSWER created?

Cook: It was created by legislation, and I can't remember exactly which piece of legislation it was created in.

EPA Interviewer: So it pretty much separated water and the hazardous waste substances?

Cook: Yeah.

EPA Interviewer: So when did Rita Lavelle come into the picture?

Cook: Rita Lavelle came in somewhat later. I think it was probably—it might have been very late '81 or early '82. And she came in as—was confirmed as—the first Assistant Administrator for the new Office of Solid Waste and Emergency Response.

EPA Interviewer: So she came in after you were moved to the RCRA program?

Cook: Yes, after I was moved to the RCRA program. So my dealings with her were entirely with the RCRA, on the RCRA side.

EPA Interviewer: OK, I hadn't realized that. So Administrator Gorsuch not signing things held things up quite a bit. Was that the biggest problem with implementing the program then? Or was it more, "you've got to figure out the technology and how to address these things?"

Cook: I think that all aspects of getting up the new program made it difficult, but the inability to get key decisions was clearly the most difficult aspect of implementing this new program, and it really just greatly slowed things down. I wouldn't say that we really got adverse decisions; we just didn't get decisions.

EPA Interviewer: So why eventually were you transferred to the RCRA program?

Cook: Well, it was clear that the Administrator, Ann Gorsuch, did not like having me in charge of the Superfund program, for whatever reason. And I would just be guessing if I were to talk about possible reasons. I will say though, that the level of criticism of program implementation was already at that point very shrill.

EPA Interviewer: From Congress?

Cook: From Congress, from other outside parties, environmental groups, and others. She may well have blamed me for exciting that concern outside the Agency. In fact, I didn't do a thing; I didn't need to. I mean the interest in implementing the program had been apparent, long apparent, to the outside parties. When things didn't move as fast as the outsiders thought they should, they started criticizing the Agency quite openly and heavily.

EPA Interviewer: I read you didn't even expect the transfer.

Cook: Well, it was sudden. It occurred actually on the, virtually on the first day that she legally was allowed to transfer me. So, yeah, it was something of a surprise. It came in an atmosphere where there was a lot of talk around the Agency about hit lists. There were a lot of people who were being shifted. A lot of people resigning because they were likely to be moved into jobs that they didn't like or that they just didn't want to work for the Administration. There were actually pockets of this. Some regions got hit very very hard. But there hadn't been much talk about me being on one of these hit lists, so I was surprised.

EPA Interviewer: What made you stay?

Cook: The first thing was that I had an interesting job. I was Deputy Director of the RCRA program, which at that point had just put in place a huge number of new regulatory requirements for hazardous waste, so the challenge was implementing a very demanding set of new regulations. Plus there were additional regulations that had to be put out. So I went into an office that had a very ambitious agenda for both developing the program and implementing it. So it was a good place to be in many ways. I was also working for a very, very able career person who was fine to work with. I enjoyed it.

EPA Interviewer: Over the next 20 or so years, did you have any more interaction with Superfund, because you went from RCRA to the Office of Water, right?

Cook: Yeah. No, not much. I mean obviously I had some while I was in the RCRA program. Less, but occasionally we had interaction in the water side, but it was pretty rare.

EPA Interviewer: So let me move ahead for about 22 years then. What brought you back to Superfund?

Cook: The new Administration.

EPA Interviewer: This was "Bush Two?"

Cook: This was "Bush Two." Primarily I think led by Linda Fisher, the Deputy Administrator, decided that it probably was appropriate to reinstate a program that previously had been in

place to rotate SES people. And so they set up a very demanding and elaborate process for asking those people who had been in place more than a year or two what other jobs might interest them, and we filled out forms and so on. And then there was an interview with some of the immediate staff in Linda Fisher's office. And I didn't put Superfund as any choice at all. It frankly never occurred to me to think about coming back to the program. So I wrote some other choices down and was interviewed and had a nice interview. And then I got a call from somebody who said, "We think you should go over to the Superfund program." So I talked to folks over here and said, "OK, yeah, I'll do it." I later heard that that was actually a suggestion from Linda Fisher who thought I would be good for this job. She told me that she did not know that I was previously involved with the program.

EPA Interviewer: Really? She had been around with Ruckleshaus, right?

Cook: She came in with Lee Thomas as part of the cleanup crew after Gorsuch left. And I was in the RCRA program, so I worked with her in there, but she apparently never knew my history.

EPA Interviewer: I unintentionally skipped over that whole part with Gorsuch, who was basically forced to resign, and Rita Lavelle. Can you give a summary of what happened there? And then we can come back to you coming here in 2003.

Cook: Gorsuch eventually was forced out and the issue, the immediate issue, was executive privilege, where she did not release certain documents requested by the Hill. When the Hill got more and more demanding, the White House decided not to back her up, and she basically had to resign. That was the immediate issue. I'm convinced that a number of the things that she did or didn't do at the Agency made her so unpopular that folks were willing to be quite aggressive in trying to oust her.

EPA Interviewer: There are a lot of people in my generation who don't understand the impact that this had on the Superfund program, and it seems to still have an effect. Can you summarize what those things were?

Cook: First, let me say a few things about Rita Lavelle. She was the first Assistant Administrator for OSWER, as I said, and she really was responsible for two programs, Superfund and RCRA. She never understood the RCRA program, so she focused most of her time and attention on the Superfund program and tried, I think, in a number of different ways to influence that program for what you might call political purposes as she saw them. She eventually was forced out because of criticism from the Hill of some of the decisions she had made or not made and some of the things that she said in sworn testimony on the Hill. Ultimately, she was prosecuted by the Federal Government and convicted of perjury counts, went to jail. Shortly thereafter, Gorsuch resigned so Ruckleshaus came back in to try to set things straight.

Now there are a number of things to be said about that period of time. First of all, I think it had an impact on the Agency as a whole from which the Agency has never recovered. The kind of idealism and willingness to work very, very hard and be aggressive no matter what the obstacles, try to get the job done, the general culture of the Agency prior to Gorsuch, was changed by Gorsuch to one where people forever after have, I think, been less

optimistic. They've been slightly more cynical about the work and the approach and probably not on the whole been as hard working in many ways.

To give you a sense for the atmosphere, after Gorsuch had been around for a while, the number of EPA softball teams greatly increased, so rather than staying late to work, which is what people were doing previously, they all went out and played softball. So there's definitely a cultural change even though Ruckleshaus came and Lee Thomas did a lot with their people to help out. I don't think we have ever really recovered fully as an Agency from that time.

Now the Superfund program, which of course in many ways was at the forefront of all of this, therefore was born in a controversial atmosphere, the highest kind of controversy. The front page articles in *The Washington Post* that day after day we associate with President Nixon's resignation were happening at EPA and were focused to a substantial degree on the Superfund program. And so there is this tremendous controversy. What was controversial? Well, the slow pace and inadequacy of implementation. So the conviction definitely got abroad on the Hill, particularly among those Members that wanted things to move fast—among environmental groups and other people—that there was a political interest in slowing the program and there's always this sense among those kinds of folks outside the Agency that this program is being run slowly and for political reasons. I think that aspect has probably continued in some ways to this day.

Also the consequence of the high profile and visibility is that you lose all subtlety. Things are reduced to sound bytes, and the accusations fly in sound bytes, and it's very hard to have a rational discussion of what you might call the truth. And there is a legacy of that kind of approach to talking about the program, which has continued to this day, and rather than having a more in-depth, rational discussion that is not a part of the headlines. So I think that's another component.

The program, though, I think was destined to be controversial, and the reason for that is strict, joint, and several liability. It's an incredibly rigorous and demanding standard that says that you are responsible for hazardous waste problems, for what you've done in the past, regardless of the circumstances under which that was undertaken, and that that liability could extend well beyond what somebody might call your just share of it. As long as you have a liability standard of that kind, you're going to have controversy in the program fueled by some of the folks who are subject to the standard.

I think that there was always that aspect and there also is always going to be the aspect that you can't move as fast as people want you to in cleaning up sites, regardless of whether you have a responsible party or are using Fund money or whatever. You have to do planning and people think it's too slow and that there are inadequacies and things of that kind. Despite the fact that there are inherent components in the program that would make it controversial, I think that if it had not had the kind of birth that it had, it would never have had this trail of controversy at the same high level.

EPA Interviewer: Now we can go back to 2003, if you don't mind, or is there something else you wanted to add?

Cook: No.

EPA Interviewer: I appreciated that, because I never understood how the early years affected now. So you didn't expect to come back, so when you did get back, what was familiar and what was different to you?

Cook: The basic structure of the program was the same. We had new Brownfields legislation, but that left the old Superfund program pretty much intact. It had not changed that much. A lot of the more recent controversy, after I had left the program, had been working through a whole host of issues on the enforcement side of things that I was talking about and coming up with so-called reforms on that side of the program. There were also reforms that impacted the cleanup and so on, but I think to a lesser degree. But the basic nature of the program had not changed that much.

Probably the single biggest new item was 9/11, where we played a significant role in the response at the World Trade Center and an even more central role in the response to anthrax on the Hill. And we did that utilizing the personnel and the programmatic authorities and approaches that had been developed in the Superfund program and thereby showing other parts of the government and reinforcing the notion that we would have a significant role in homeland security. In an effort to gear up to deal properly with homeland security, there has been a tremendous amount of work that has been done that really is only marginally related to response at the chemical incidents or cleaning up sites as we knew it in the old days. So that's been the very demanding and dynamic side of the program. And of course there's been a reorganization to take part of the removal program and put it together with the broader preventive side of things to create a larger critical mass that can respond to all of the homeland security issues as well.

EPA Interviewer: Why do you think the homeland security component of EPA was not put into the new Homeland Security Department?

Cook: Of course they put an awful lot in there, and you could probably point to lots of bits and pieces of programs that were left behind elsewhere in the government as just a question of where you draw the line. I think we had a very good argument that the homeland security aspect of what we do is very tightly tied to the removal program, and people get experience in the removal program. They get training through the removal program that all these kinds of skills that you need to respond to incidents that you might call homeland security incidents are honed and developed as part of the removal program, and to try to separate out the two just doesn't make sense.

EPA Interviewer: Do you remember what your first impressions were when you came back to Superfund, whether it be from a program point of view or from a managerial aspect?

Cook: From the programmatic point of view, the huge difference was that this was a big, ongoing construction program—billions of dollars a year, as opposed to 1980 and '81 when we had very, very little construction going on and we were just trying to figure out the program. So we had a big pipeline of site assessment and remedial investigation and design work, planning, construction, post construction taking off in a big way, and it was from that point of view a dramatically different place from when we were just starting it up.

Organizationally, the thing that struck me was the flat organization. I tried to interview everyone who, on paper, was supposed to be reporting to me, and it took over a month to do that. It just was, I felt, an organization that made no sense from the managerial point of view at all and so we quickly moved to have an interim reorganization and then a full reorganization as well.

EPA Interviewer: The budget issues, you say, were much bigger than it ever was. You came in when we had a lot more money than we did in 1980, but we still had a lot of sites that weren't getting funded, or able to take that next step in the clean up process. What was that like? How did you decide to go about addressing that?

Cook: There were already some steps underway to try to manage the fact that money was tight. As I understand it, 2001 is the watershed, so it came a little bit before I did. I think what happened in 2001 and 2002 was that we were going slow primarily on new starts one way or another. When I came in, it became apparent that just going slow on new starts would not be good enough. Money was much tighter than that. So we had to put in place a whole series of approaches to try and manage the money much more tightly. Those included a central role for the priority panel [National Risk Based Priority Panel] that first of all prioritized the new starts according to public health criteria primarily, but then also began looking at the very large projects, which could take our entire appropriation. They tried to figure out ways of metering out the money to the large projects so we'd have some money left over for other smaller projects as well, and they developed an approach for doing that. And we've also been taking a look at earlier parts of what you might call the pipeline, being quite rigorous in reviews of new listings and encouraging the regions to think about how they're funding projects that are moving through to construction given this overall funding tightness. We also were, of course, able to get a request by the Administration for a $150 million increase in funding two years in a row. Unfortunately, Congress gave us far less than that, but at least we got interest enough to get the request in.

EPA Interviewer: I've heard you talk about how there's less buying power today in the money we have. How do you try and address that?

Cook: It's an enormously significant fact that the buying power in the program in the last 10 years has gone down over 30 percent. So if we had just sustained the previous buying power, we would have enough money to deal with most of the shortfall of funding in the program, but that would have involved an increase in our appropriation every year to cover inflation and other cuts.

From one point of view, what happened in the program was that we were set up to run the program at one level, and then inflation and other impacts actually reduced the amount of money available so that you couldn't run the program at that level. You had to run it at a lower level.

EPA Interviewer: Why was it set up that way? Do you have any idea?

Cook: Well, I don't think it was, in fact, formally planned that way.

EPA Interviewer: It just happened.

Cook: Yes. If we had been able to sustain, in real dollars, the same level of funding, we would not have a problem right now in the program.

EPA Interviewer: When you first came in, didn't you do some sort of review of the "teenage" sites?

Cook: Yes. We had a number of sites that had been around for 20 or so years and sometimes less. Some of those teenagers did graduate out of the teenage category. The feeling was that we should be working through those as rapidly as possible. So we did a review and asked the regions to give special managerial attention to all these teenagers site by site, regularly reviewing where they are and what needs to be done to expedite them. A substantial portion of our construction completions each year are teenagers now. We're definitely working off the backlog.

EPA Interviewer: If memory serves me correctly, the deobligation policy we had changed so that the regions had to give more money back to the national "pot." How did you get the regions to buy into that and start doing that?

Cook: Yes. I guess at one point, when money was deobligated, it just went back to the regions. But the concern with that approach is that given ongoing projects, and especially the large projects, we had no money beyond our appropriation to do new starts. So we did this analysis and basically conveyed to the regions the idea that if Headquarters was not able to allocate monies to new starts, then these new starts would languish and we just wouldn't be able to move new work in the program. I think there was some regional sympathy for that, so we were able to eventually get to the point where 75 percent of the de-obs would come to Headquarters for distribution to national priorities back to the regions. We have administrated that approach with flexibility on the fringes, so that in those cases where there is a special consideration of some kind we've allowed the regions to keep more than their 25 percent share. I think as we've administered this program and the issues in remedial funding have become clearer, the regions have actually been taking more and more of their 25 percent share and putting it back into remedial construction themselves.

EPA Interviewer: What do you think are the biggest human health risks now that we are addressing?

Cook: Well, the front line on human health is the removal program, and they generally take care of immediate problems to the extent that they are not expensive, really expensive, problems. So they help find alternate water supplies where the water is contaminated, which is generally one of the most typical kinds of problems. Or they go out and cut off a pathway between people and a highly contaminated site of some kind, even by something as simple as putting up some fences or covering with material or something of that kind. So they are often able to take care of the non-expensive, immediate problems.

There are, though, some problems that are just too expensive and take too much time to reasonably do under the removal program. The best examples of that are where you have contaminated yards around people's houses, sometimes hundreds [or] even thousands of

contaminated yards. You just have to be more deliberate in the planning and cleanup activities and you have to fund them at a much higher level to complete the process of trying to give protection to immediately exposed people. Part of that deliberation is to set clear priorities, too, so that you try to take care of the children if you think exposure of the children is the highest priority problem. You take care of them first. You target daycare centers and places where children congregate, and then homes with young children and so on and work up a list of priorities that way.

EPA Interviewer: I'm always fascinated by the technology that is being developed and being used. Is that a lot different than what you saw 20 years ago? And what do you think of it now and where it is going to go?

Cook: Yes. Well, there wasn't much back in 1980. There were some ideas that were the gleam in people's mind. But most of the experience with handling waste at that time was by incineration, by burning, or by dumping the stuff in a landfill. The technology discussions were how to burn better and how to make landfills more protective. People were just beginning to get into more sophisticated discussions of pumping and treating to take care of groundwater problems.

But now we've moved into a whole host of different kinds of technologies for dealing with in-place contaminants, or for removing soils, treating them, and then putting them back in place, or for dealing with groundwater problems of one kind or another. In the incineration realm, we've gone to more sophisticated kinds of heat treatment than we were thinking about before.

I actually think we're going to have a revolution that will flow from nanotechnology in the next several years. I think nanotechnology in the remediation area is going to be very, very helpful, particularly underground. But also to the extent that we are treating wastewaters in the programs—and we do quite a bit of that—I think nano will bring down wastewater treatment costs and improve treatment quality as well.

EPA Interviewer: How do you see the role of states now? How do they interact with us?

Cook: Well, back in the beginning of our program, there were some state programs but not very many, and they weren't very sophisticated or advanced for the most part. The situation now is that we have a lot of states that run voluntary cleanup programs, that run the LUST program, that run the Brownfields and RCRA programs, are very actively involved with us and with federal facilities in Superfund cleanups. So in some ways there has been a dramatic growth in state capabilities and participation in this whole area. And in terms of the number of sites, they are responsible for orders of magnitude more sites than the Superfund program. Our program now is focused on the worst of the worst, as it were. For the most part, the rest are being handled by the states.

EPA Interviewer: How about the relationship with tribes? I imagine early on you were just trying to get the program implemented. How do you envision the relationship with tribes now?

Cook: We certainly have, I think, been sensitive to special concerns of the tribes. They have felt that the land out there, either on their reservations or in areas where they have rights, like

fishing rights, should be as pristine as possible, and they often have special cultural interests and considerations that might result in expected exposures that you wouldn't see in the non-tribal area. Those are all factors that I think we have to take into account as part of our cleanups, though it has always been, I think, difficult to take things back to a pristine environment in the current industrial age.

EPA Interviewer: We had been mentioning how states can do a lot more than they could before. But what about pump-and-treat and their 10 percent cost share as their own budgets have gone down? Do you foresee that as something we have to address?

Cook: You know, it's not clear that state funding for pump-and-treat is ever going to be a serious problem in this program. So far, it has not been a problem. Even the states with the worst problems seem to be able to come up with the money.

I think there's a more serious issue in institutional controls, which arguably are a state responsibility from the beginning.

EPA Interviewer: And the biggest issues with that are…

Cook: There are intergovernmental relations with local governments. There are issues about needing new laws, new regulations. There are issues about staffing with expertise, having data systems to follow up, and those kinds of things. I guess the latter are resource issues. And I think the states are going to have to build more of a capability, as we are building right now, to deal with the continuing increase in the number of sites subject to institutional controls.

EPA Interviewer: I have one more "then and now" question, then I'll get off of that topic. What about the community involvement activities, especially after the amendments. How did you see that change?

Cook: Well, early on I remember that there was a lot of consternation at the very thought of giving any money to a community organization or providing money to an outside party that would provide technical assistance to an organization. There was almost a philosophical bent on part of some people in the Gorsuch era that that was not appropriate. That was a thread probably running right through the program right up to the legislative changes that explicitly made it part of the program, and that settled the issue. We felt from the beginning that you had to have that local participation and outreach, but the way we approached it was not nearly as sophisticated or expert as we're capable of now. But we certainly thought it was a good thing.

EPA Interviewer: Superfund is one of the most studied programs, whether academically or with the GAO, or the IG, whatever, or our own internal studies. Do you think they help? Have there been downsides to all those studies?

Cook: Well, there are quite a number of studies that are clearly focused on peripheral issues of minimal significance, and you just have to ask yourself why there are resources being invested on doing these studies. Then why do we have to spend resources responding to them?

I think there are, though, a certain number of studies that have been very helpful and useful to look at one or another major aspect of the program. I was just looking at the 1998 GAO study of unlisted sites, the sites that might be potentially listed. That was a very sophisticated and detailed analysis. They went through site-by-site for 3000 some sites, and developed a whole database, analyzed and made recommendations, and that's actually formed the basis for our site assessment program ever since. So there are definitely some very good works that have been done.

There have been other things that have happened. We have worked with outside parties on so called "reforms" or "changes" to the program, and I think that interaction has resulted in substantial improvements as well. I think the program would have been stronger if it had fewer studies as a whole and not been subjected to those that were absolutely marginal.

EPA Interviewer: Do you think Superfund has had an impact on protecting the environment, and how?

Cook: Yes. If you go back to the original thinking about the Superfund program, it was clearly designed not just to clean up sites but to try to create an interest on the part of those that were generating waste and managing the waste to do so properly. Thus those who designed the program were interested in protecting the strict, joint and several liability side of the program as a way of making it clear that if you don't handle your waste right, you're going to be liable, and it doesn't matter when you handled the waste, and you could be liable for more than just your part of the mishandling. The feeling was, not only would that create an interest in getting the waste handled right as long as a party was touching them, but also if they passed them off to another party they would have an interest in the other party handling those wastes properly And I think the program has served that purpose.

We still have new Superfund sites being created out there, and unfortunately a lot of them now are associated with people who for one reason or another have gone bankrupt, so the liability side of the program doesn't work. Some of them, I think, have more or less planned to go bankrupt or disappear. So you need to have a strong regulatory oversight program to make sure that people are doing the right thing when they are supposed to be doing the right thing. But I think as a general matter the Superfund program has contributed to the increased general corporate interest in managing waste properly.

EPA Interviewer: We've talked a lot about budgeting already, but we skipped over the Trust Fund and the tax that we had until 1995. Some say the Trust Fund has been depleted. What is the real story with the Trust Fund?

Cook: Well, in the simplest terms, the Trust Fund has probably never made much difference to the level of our appropriations. You go back through time and there's no real demonstrable relationship between the amount of money in the Trust Fund and what is actually appropriated to the program. The appropriations are controlled much more by the overall ceilings that are assigned to the various appropriations subcommittees and their requirement to live within those ceilings and still fund all the programs subject to their committee appropriations. So that is my response, I guess, to the misconception that somehow if we reinstate the tax then more money will magically become available to the program. We

cannot, and never were able, to write checks on the Fund. We only could write checks on appropriations passed by Congress which, as I said, were not related to levels in the Fund.

Also, if you want another example, if you look at the underground storage tank program, they have over $1 billion in their fund right now, and their appropriation is only slightly more than $80 million a year. They can't get an increase even when requested by the President despite the huge balance in their Trust Fund.

But let's go back in history and ask, "What is the historical purpose of the tax and the Trust Fund?" First of all, the tax was designed, I think, to try to impose the cost of the program—not all the cost, there always was an appropriated share from the general tax revenues—but a large amount of the cost of the program on the so-called feedstocks that were used to manufacture the products with associated wastes that contaminated the environment and caused the need for cleanup. And it was one of the major controversies: how to design the tax. Not whether to have a tax, but how to design a tax and who to impose the tax on. And there were various compromises made in the process including, I think, reducing how much mining companies would have to pay.

But the idea was that we would have a stream of income into the Treasury that would come from these feedstocks and thereby increase the cost of products that were associated with wastes that were causing problems for the environment. Now, it's such a small amount of money, and the increase in costs is so trivial, that it really probably never had that effect, but that was the idea. Subsequently, Congress brought in this corporate environmental tax, which taxes lots of corporations that have never contributed to hazardous waste and that, I think, has armed the critics of the tax who say that the potential taxpayers there often don't have any role in creating the problem at all. The other thing about the tax is that it's such a small amount of money compared with the overall income of the government that relatively it costs a lot to administer. Any special dedicated tax has higher costs of administration than general corporate and individual taxes.

The other thing about the Trust Fund was that it would help get higher appropriations. By having a Trust Fund for the program, you could argue in the Appropriations Committee that we've got this money coming in, it's sitting in the Trust Fund, so we ought to be able to get a higher appropriation with that kind of special tax income. And so that was the thought. As I say, I'm skeptical that it has ever really served that purpose.

But it was a remarkable feat to come up with the idea for this tax and then get it through the Senate and the House. There was an effort to define it as a fee, and in very short order the House Ways and Means Committee and its equivalent on the Senate side said, "No, that is not a fee, that's a tax, and we have jurisdiction over that." So that brought in two more committees in the Congress that we had to deal with and negotiate. That was quite an experience. The level of expertise was amazing on those committees.

EPA Interviewer: Is there anything about the program that you haven't said yet, either programmatically or management-wise, that you think needs to be said?

Cook: Well, we haven't talked very much about the role of the program inside EPA. Not only is it a very large program in terms of numbers of FTE [Full Time Employee] and dollars, I

think one of the things that has struck me is how popular it is within the Agency. People like to work in this program. People stay a long time or they leave and then they come back, and they come back because they really like the program. I think there area lot of interesting things going on in the program that are attractive, but I also think it's rather unique in its role of dealing directly with cleanup activities rather than through the states or through municipal governments of one kind or another. So our role is not to work with another governmental entity so much as to actually go out and get sites cleaned up. And that direct implementation, I think, is part of the draw. It certainly is for me. It makes it a lot more fun and interesting.

EPA Interviewer: Do you think we still have some of that passion you talked about early on? I know you said it's changed and not to the same degree.

Cook: Well, this Agency still has more of that kind of thing than most of the rest of the Federal Government. It's just we don't have it to the same degree.

EPA Interviewer: What do you think the program's, or your, greatest accomplishment is so far?

Cook: Well, I think that what I've been trying to do—and I've certainly have made headway on this—is put in place a much tighter management structure so we cannot only deal with our current issue, which is the tightness of the money, but also manage the entire pipeline of activities in the program more tightly, so we know what the future holds and we can make adjustments in that future, if appropriate, given a reduction or increase in money available. And we're getting to that point; we're not there yet. When I came, the horizon for national planning seemed to be a few months. You could have a reasonable amount of confidence that what we were planning would be accurate for a few months. Now our horizons are pretty good for about a year, and we are beginning to work on even a two-year timeframe for the program. And we have developed a model that allows us to look many years beyond the two-year timeframe by assessing what's currently coming through the pipeline and projecting what that means for the future. So I think we are making good headway on what you might call the managerial aspect of the program.

As part of that, but also because of what I've seen, I've tried to give emphasis to prioritize more and seek out sites where there are public health problems and then give them a priority through the processes of the program. And I'm doing that because, almost to my surprise, at this point there seemed to be a lot of sites out there where we have serious public health problems that need attention, and so they clearly ought to have a priority. We have a lot of sites also where there are environmental problems and, coming from the water program, it would be nice to give a lot of attention to them. Of course, we are addressing environmental problems at those sites that we are working on, even if they got a priority because of public health. We are also addressing all listed sites with viable responsible parties. I'd like to get to the point where we have the resources to invest in new orphan sites with only environmental problems, as well as new sites with public health problems. At some point that may happen.

EPA Interviewer: Do you think that's where the program is going?

Cook: I think the program will continue to have to give emphasis to public health for sites cleaned up with Superfund monies. We will have that in our future for a long, long time, because we seem to have the candidates out there to bring into the program to keep it going, and they will drive the program. It's not clear to me if our budget will be increased to deal with the other kind of problems—the environmental problems where they do not coexist with health problems.

EPA Interviewer: We're at 25 years. What would you like to say to the staff?

Cook: The staff within the Superfund program?

EPA Interviewer: Sure.

Cook: Well, I think the staff can look back over the last 25 years and be very proud of the accomplishments of this program. When you think about it, this is a multi-media program that has operated frequently in an extremely difficult environment, either due to an emergency above ground or a hard-to-understand situation underground and had to try to understand emerging science and do all this in an atmosphere and environment of substantial controversy and high visibility. They've been able to carry the program to one where we have a tremendous amount of construction activity underway or completed—billions and billions of dollars underway and completed in the program—and in the process obviously made a major contribution to public health and the environment.

EPA Interviewer: Is there anything else you would like to add? We've been here a little while, but I might not have known to ask a question.

Cook: Oh. I don't know. We've talked about a lot of things.

EPA Interviewer. Well then, thank you very much. We appreciate it.

Cook: You're welcome.