If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on government.

James Madison—Federalist # 51

In our representative democracy, we delegate our sovereign authority to government officials, both elected and appointed, who are supposed to act on our behalf. Holding such officials accountable is no easy task: How do we know they are acting in our interest? How do we know that our interests are being protected?

Nowhere is this difficulty more apparent than regards the Superfund cleanup in Butte. Citizens see an agency impervious to public influence. Most recently, this callous disregard for meaningful public involvement in Superfund decision-making is seen in the development of a so-called "health study" which is supposed to evaluate Superfund's effectiveness in Butte. The public has a right to know if the Superfund cleanup is protecting public health. The public has a right to an independent, valid health study process.

Yet, what we have is another instance of the EPA evaluating the EPA's work or of one of the liable parties for the cleanup, ARCO, hiring a contractor to evaluate its work. Could bias be operating in such a situation? How likely is it that the EPA will find that its performance over the past several decades has been poor? Is there a proclivity on EPA's part toward finding its own work satisfactory? How can the public have any confidence in an agency evaluating its own work? Under such conditions, how can the public have any confidence in the results of this so called "health study"? Look at the hatchet job that EPA performed on Dr. Stacie Barry's health study. Her study came up with the wrong conclusions from EPA's perspective and the agency pulled out all the stops to discredit her and her report. (As an aside, no wonder citizens are loathe to get involved in the Superfund process. EPA officials have stormed out of presentations, yelling that

the speaker was a liar and, on other occasions, stating they would delete any communications from citizens that were critical before reading, or criticizing citizens simply for providing input.)

Brazenly, the EPA, in an exercise of wanton hubris, has been "informally" announcing the results of the Health Study before it is conducted. Surprise: the EPA finds that all is well—don't worry. It is bad science indeed to announce ahead of time the results of a supposedly independent study.

The EPA had promised when the health study process got started that the study would be subjected to independent, peer review by a qualified expert or experts prior to the study being completed. Now EPA is retreating from this promise and speaks only of submitting the study (obviously in a condensed form) for possible publication in a peer reviewed journal at some distant time in the future.

This recent retreat on EPA's part is unacceptable for the following reasons:

1. What at best will be reviewed by the journal is a condensed, article length version of the study. We were promised that the whole study would be peer reviewed by independent, qualified experts.
2. Contrary to EPA assurances, this journal article peer review will not impact the process. The study, according to EPA, is going forward no matter what the result of the peer review.
3. It may take a year or two for a journal article to be accepted. Again, we have further proof that EPA is reneging on its promise that the independent peer review would actually impact the process. The peer review journal article process will come out too late to impact the process.
4. We have no assurances what will be considered in the peer review journal article process. Will it be the questions that need to be asked? Will it be the questions that the public wants answered? How do we know that the journal to which the article is submitted will conduct a thorough, independent review?
5. In another instance of wanton hubris, the EPA, contrary to earlier promises, wants a local citizens group to pay for the peer review. EPA could design no better way of excluding the pubic than to say the public that it has to pay.

6. The whole process of the health study has ignored environmental justice concerns. The EPA has conducted no outreach to the poor. Although uptown Butte has a disparate number of low-income citizens, the EPA has included no representatives of low-income citizens to be involved in the process. This is contrary to the national EPA mandate to promote environmental justice in ALL of its actions.

In short, why is EPA afraid to have its work subjected to independent peer review? Is EPA hiding something?

In Libby, Montana, the EPA officials there, under public pressure, have created an independent scientific advisory board to oversee the cleanup. Why can't we have such a board in Butte? All of the so-called health study work should be subject to independent peer review by a group of distinguished scientists. If the EPA is so confident in its work, why not have such an independent peer review? We need an end to the situation of the EPA evaluating its own work. Other EPA regions subject their work to independent peer review. Why is the Montana office refusing to do so?

The EPA also needs to reevaluate its commitment to public involvement in Superfund decision-making. Democratic theory as well as the EPA's own policies demands meaningful public involvement whereby the public is a major player in agency decision-making. In Butte, the EPA confines its public involvement activities to PR by informing that public about the great job the agency is doing. Yet, time and again, the public's input, when it is contrary to what the agency wants to do, is ignored. This low regard for public input on the part of Montana's EPA office is demonstrated by that office largely eliminating site specific community relations officers and assigning community involvement tasks to their project engineers whose primary task is implementing cleanup technologies and who have no training, background or interest in community relations. Recently, one project engineer said that the only value of public input was to provide "emotional" data.

Maybe, the EPA needs to assign "fresh blood" to Butte. Some of the EPA officials here have been working on local sites for several decades. Perhaps, they have

become so “invested” in their work that they can’t see any difficulties in the cleanup. When Cromwell dismissed the “Long-Parliament” he said: “You have sat here too long for all the good you are doing. In the name of God, go.”

Local government needs to be more proactive in overseeing the cleanup. Promisingly, the new administration has a solid background in Superfund and is committed to public participation. The Council of Commissioners needs to be more involved. It cannot defer to staff the task of overseeing the cleanup. Remember, it was the staff that sold out Butte with the settlement agreement with ARCO.

EPA should keep its promise and fund an independent, blind, and qualified peer review of the health study prior to any final decisions being made.

EPA should adhere to its environmental justice mandate and reach out to the low-income community in Butte.

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