

EPA reform bill put forth

Ousted official to testify

United Press International
WASHINGTON — Ousted Environmental Protection Agency official Rita Lavelle, who dodged congressional subpoenas last week, met with Rep. Elliott Levitas, D-Ga., and his staff to prepare her testimony to be given before his subcommittee later in the week, sources said.

The meeting Monday marked the first time Lavelle has met with a congressman since she was fired two weeks ago as EPA's toxic waste chief. The sources said the 2½ hour meeting focused on the testimony she was expected to give to Levitas' Public Works subcommittee.

Lavelle twice last week refused to appear as scheduled at House subcommittee hearings.

Another House subcommittee chaired by Rep. John Dingell, D-Mich., planned Wednesday to start questioning the first of 36 past and present EPA officials, including Lavelle, who were subpoenaed to testify in executive session about allegations of agency abuses. Aides to Dingell's subcommittee declined to disclose which of those subpoenaed would be interviewed first.

It was Levitas' panel that initiated a contempt of Congress citation against EPA chief Anne Gorsuch Burford last year, that triggered the administration's mounting confrontation with Congress over secret agency documents. Levitas reached an agreement last week with the White House that will give congressmen access to the files.

The controversy over the EPA and its handling of money marked for toxic waste cleanup has prompted a group of congressmen to endorse legislation

that would make the agency independent and free from presidential control.

The reform legislation was to be introduced Tuesday in the House by Rep. James Scheuer, D-N.Y., and in the Senate by both Sens. Daniel Moynihan, D-N.Y., and George Mitchell, D-Maine.

The drive to create an Environmental Protection Commission is prompted by charges the administration mishandled the agency's toxic waste cleanup program for political purposes.

The bill, similar to a measure Scheuer introduced last year, would create an independent five-member body, appointed by the president to staggered seven-year terms of office. The president's nominees would have to be confirmed by the Senate, and all could not come from the same political party.

Mitchell said the commission's main responsibilities would be policy formation, with day-to-day management by an executive director.

Cosponsoring the bill are powerful House Interior Committee Chairman Morris Udall, D-Ariz., and Reps. Claudine Schneider, R-R.I., and Joe Moakly, D-Mass.

Levitas was to meet Tuesday with House leaders, including Speaker Thomas O'Neill, to brief them on the historic agreement he reached with the White House over access to EPA files.

The pact between Levitas' subcommittee and the administration ran into important opposition Monday from Dingell, who warned it sanctifies a president's ability to hold back information on government misconduct.

Democrats blocked his re-appointment to the influential budget panel because he had been a strong backer of President Reagan's policies and had consorted with the White House on budget strategy. Gramm said he merely was working effectively for the views of his constituents.

The only sour note of the day's proceedings came when Rep. Dan Lungren, R-Calif., charged in a brief speech that Gramm was refusing as a Republican because democracy had broken down among Democrats.

"Unfortunately, democracy is sometimes hard to find in the House of Representatives," he said. "The people of the 6th district of Texas have shown that democracy works."

Republican Gramm sworn in on Tuesday

United Press International
WASHINGTON — Rep. Phil Gramm of Bryan, College Station, who switched to the Republican party after Democrats removed him from the House Budget Committee, was sworn in Tuesday by House Speaker Thomas O'Neill amid good-natured banter that gave little hint of past bitterness.

Gramm became the 166th GOP member of the House, which is dominated by 267 Democrats. There still are two vacancies.

With O'Neill presiding, Republican leader Robert Michel of Illinois asked that Gramm be allowed to take his seat although his certificate of election had not arrived from Texas.

"Is the gentleman here?" asked O'Neill, drawing the

first of several rounds of laughter.

As O'Neill began to give the oath, he interrupted himself to say, "I think Mr. Michel ought to be in there close." Michel then joined the small group around Gramm as he took the standard oath of office.

"Congratulations," O'Neill said. "You're a member of the Congress of the United States."

The 20 or so Republicans on the House floor broke into cheers and began shaking hands with Gramm. The three Democrats sat silently.

Gramm resigned from Congress late in the last session after he had been elected to the new Congress as a Democrat, then won the election as a Republican in a special election.

Court agrees to review tax

United Press International
WASHINGTON — The Supreme Court Tuesday revived the government's chances of raking in another \$40 billion in oil windfall profits taxes by agreeing to review a ruling striking down the tax.

Last month the court, ignoring two justices' objections, refused to give speedy treatment to the government's appeal of a Wyoming judge's ruling overturning the tax. Tuesday, the court agreed to hear the case under usual procedures, with arguments next term and a ruling likely in 1984.

Although it continues to collect the tax, the government urged the high court to settle the dispute because returning billions in taxes could disrupt the federal budget.

The court's action closely follows President Reagan's introduction of his 1984 budget, which projects a deficit near \$189 billion. The Justice Department warned that unless the high court acted to block repayment of the taxes, the government stands to lose "sums of enormous magnitude."

The tax, passed to stop oil producers from reaping profits from decontrol of oil prices, was held unconstitutional by a federal judge in Cheyenne because it exempts oil produced in Alaska.

The Crude Oil Windfall Profit Tax Act, which President Carter signed into law in April 1980, exempted from taxation crude oil produced in Alaska,

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Court agrees to review tax

north of the Arctic Circle.

The Independent Petroleum Association of America and other oil producers sought to have the law overturned and recoup substantial refunds.

Texas and Louisiana joined the oil producers in urging the high court to strike down the tax because it does not operate with the same force in every place.

On Nov. 4, U.S. District Judge Ewing Kerr held the tax violated a clause of the Constitution which requires that taxes be uniform throughout the United States.

Kerr interpreted the "uniformity clause" as meaning that "distinctions based on geography are simply not allowed."

He stayed his ruling, allowing the Treasury to collect the tax until the Supreme Court resolves the issue.

Net revenues from the tax in 1981 and 1982 were about \$26 billion. The government estimates the tax will generate about \$40 billion for the government over the next five years.

The government, urging the high court to hear the case, said Congress gave Alaskan oil the tax break because it recognized "unique climatological difficulties in oil extraction in the North Slope areas."

Even if the justices find that Alaskan oil should be taxed, the government argued, the law is still valid because Congress intended the tax to apply to all states.

Right of trial denied in court

United Press International
WASHINGTON — The Supreme Court, spurning pleas from both liberal and conservative interest groups, refused Tuesday to examine what has been described as a dangerous setback for citizens wanting their day in federal court.

The justices left in place an Alabama ruling that observers' fear sets a precedent permitting state judges to restrict a citizen's constitutional right of access to the federal courts.

If the Alabama ruling is allowed to stand, Moody's lawyers warned, it will set off a "silent, growing encroachment on federal court's jurisdiction and citizens' liberty."

The worry is particularly great, they said, since at least 32 states now have insurance receivership statutes like Alabama's permitting state court injunctions against any related federal court suits. At least one state — Texas — is routinely issuing such injunctions, they argued.

Moody and the legal interest groups all complained that state courts should not be allowed to restrict citizens from federal court, except in very narrow instances. Certainly, private lawsuits seeking damages from government officials for illegal actions should not be blocked, they argued.

The only parties advising the high court not to hear Moody's appeal were the Alabama insurance officials who foreclosed on Moody and the company that took over its assets.

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