

CHEMICAL HERITAGE FOUNDATION

**THE TOXIC SUBSTANCES CONTROL ACT:
FROM THE PERSPECTIVE OF
LINDA J. FISHER**

Transcript of Interviews
Conducted by

Jody A. Roberts and Kavita D. Hardy

at

E. I. du Pont de Nemours and Company
Washington, D.C.

on

5 March 2010

(With Subsequent Corrections and Additions)

CHEMICAL HERITAGE FOUNDATION

Oral History Program
FINAL RELEASE FORM

This document contains my understanding and agreement with the Chemical Heritage Foundation with respect to my participation in the audio- and/or video-recorded interview conducted by Jody Roberts and Kavita Hardy on 5 March 2010. I have read the transcript supplied by the Chemical Heritage Foundation.

1. The recordings, transcripts, photographs, research materials, and memorabilia (collectively called the "Work") will be maintained by the Chemical Heritage Foundation and made available in accordance with general policies for research and other scholarly purposes.
2. I hereby grant, assign, and transfer to the Chemical Heritage Foundation all right, title, and interest in the Work, including the literary rights and the copyright, except that I shall retain the right to copy, use, and publish the Work in part or in full until my death.
3. The manuscript may be read and the recording(s) heard/viewed by scholars approved by the Chemical Heritage Foundation subject to the restrictions listed below. The scholar pledges not to quote from, cite, or reproduce by any means this material except with the written permission of the Chemical Heritage Foundation. Regardless of the restrictions placed on the transcript of the interview, the Chemical Heritage Foundation retains the rights to all materials generated about my oral history interview, including the title page, abstract, table of contents, chronology, index, et cetera (collectively called the "Front Matter and Index"), all of which will be made available on the Chemical Heritage Foundation's website. Should the Chemical Heritage Foundation wish to post to the internet the content of the oral history interview, that is, direct quotations, audio clips, video clips, or other material from the oral history recordings or the transcription of the recordings, the Chemical heritage Foundation will be bound by the restrictions for use placed on the Work as detailed below.
4. I wish to place the conditions that I have checked below upon the use of this interview. I understand that the Chemical Heritage Foundation will enforce my wishes until the time of my death, when any restrictions will be removed.

Please check one:

a. _____

No restrictions for access.

NOTE: Users citing this interview for purposes of publication are obliged under the terms of the Chemical Heritage Foundation Oral History Program to obtain permission from Chemical Heritage Foundation, Philadelphia, Pennsylvania.

b. _____

Semi-restricted access. (May view the Work. My permission required to quote, cite, or reproduce.)

c. _____

Restricted access. (My permission required to view the Work, quote, cite, or reproduce.)

This constitutes my entire and complete understanding.

(Signature) _____

Linda J. Fisher

(Date) _____

6/22/2010

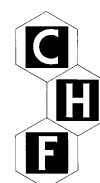
This interview has been designated as **Semi Restricted Access**.

One may view the oral history with the permission of CHF.
However, the permission of the interviewee is required to quote from, cite,
or reproduce the oral history.

Please contact CHF to request permission.



Chemical Heritage Foundation
Oral History Program
315 Chestnut Street
Philadelphia, Pennsylvania 19106



The Chemical Heritage Foundation (CHF) serves the community of the chemical and molecular sciences, and the wider public, by treasuring the past, educating the present, and inspiring the future. CHF maintains a world-class collection of materials that document the history and heritage of the chemical and molecular sciences, technologies, and industries; encourages research in CHF collections; and carries out a program of outreach and interpretation in order to advance an understanding of the role of the chemical and molecular sciences, technologies, and industries in shaping society.

LINDA J. FISHER

1952 Born in Saginaw, Michigan on 16 November

Education

1974 B.A., History, Miami University of Ohio
1978 M.B.A., George Washington University
1982 J.D., Ohio State University

Professional Experience

U.S. House of Representatives, Washington, D.C.
1974-1976 Legislative Assistant to Representative Clarence J. Brown
1976-1978 Legislative Assistant to Representative Ralph S. Regula

U.S. House of Representatives Committee on Appropriations,
Washington, D.C.
1979-1980 Associate Staff Member

U.S. Environmental Protection Agency, Washington, D.C.
1983-1984 Special Assistant to the Assistant Administrator for Solid Waste
and Emergency Response
1985-1988 Chief of Staff to the Administrator
1988-1989 Assistant Administrator, Office of Policy, Planning and
Evaluation
1989-1993 Assistant Administrator, Office of Prevention, Pesticides and
Toxic Substances
2001-2003 Deputy Administrator

Latham & Watkins LLP, Washington, D.C.
1993-1995 Attorney

The Monsanto Company, Washington, D.C.
1995-2000 Vice President, Government Affairs

E. I. du Pont de Nemours and Company, Washington, D.C.
2004-Present Vice President, Safety, Health and Environment
2004-Present Chief Sustainability Officer

ABSTRACT

Linda J. Fisher was the Assistant Administrator of the Office of Prevention, Pesticides and Toxic Substances; at the time when she became the Assistant Administrator, the Office was primarily focused on pesticides. But, as Fisher recounted, the Office was committed to making the toxics program succeed, often by working around the Toxic Substances Control Act's (TSCA) statutory obligations.

While there was some Congressional oversight, there was no public or Congressional force for a reauthorization of the act in the early 1990s. The Office was then given increased responsibilities with the Pollution Prevention Act. This did not replace TSCA's role in the toxics program, but the Office did reallocate its limited resources accordingly. After the *Corrosion Proof Fittings v. EPA* case, and the administration's decisions not to appeal, Fisher chose not to pursue a revised asbestos rule because, from her perspective, the industry was changing too quickly and, for the most part, moving out of asbestos. The failure of the asbestos rule was extremely demoralizing to the Office, and created an insurmountable barrier to using Section 6, but the Office continued to be productive in its pollution prevention activities, voluntary measures, and international cooperation.

Fisher believes that difficulties in implementing TSCA were rooted in the law's lack of direction, but that since TSCA was written, the way Congress writes laws has matured. She also believes that a reauthorized TSCA will address the issues of a base set of data and confidential business information and that a stronger TSCA is necessary to accompany the voluntary and pollution prevention measures currently in place. She emphasizes that regulation should address exposures where they occur, whether in the manufacturing process or in products.

INTERVIEWERS

Jody A. Roberts is the Associate Director for the Center for Contemporary History and Policy and the Manager of the Environmental History and Policy Program at the Chemical Heritage Foundation. Roberts received his Ph.D. and M.S. in Science and Technology Studies from Virginia Tech and holds a B.S. in Chemistry from Saint Vincent College. His research focuses on the intersections of regulation, innovation, environmental issues, and emerging technologies within the chemical sciences.

Kavita D. Hardy is a research assistant in the Environmental History and Policy Program at the Chemical Heritage Foundation. She received a B.A. in Chemistry and Economics from Swarthmore College.

TABLE OF CONTENTS

Implementing the Toxic Substances Control Act Congressional oversight. Reliance on voluntary measures. Lack of direction.	1
Growing Pollution Prevention Act. TRI. Limited resources. Changes in statute composition. Congressional oversight. Role of environmental community.	7
<i>Corrosion Proof Fittings v. EPA</i> and Beyond Office demoralization. Administrative inaction. Limited rulemaking options. Shifting Office focus.	10
Toxic Substances Control Act Reform Base set of data. CBI. Voluntary measures insufficient. Pressure for reform. Burden of proof. Addressing exposures. Need for command-and-control.	16
Index	27

INDEX

A

asbestos, 2, 11, 12, 13, 14, 15, 22

B

biotechnology, 2, 15
bisphenol A (BPA), 25
BPA. *See* bisphenol A
Bracken, Marilyn C., 3, 16

C

Canadian Environmental Protection Act, 17
CBI. *See* Toxic Substances Control Act:
 confidential business information
ChAMP. *See* Chemical Assessment and
 Management Program
Chemical Assessment and Management
 Program (ChAMP), 20
Clean Air Act, 6, 10, 21, 23, 24, 25
 Hazardous Air Pollutants, 23
 National Ambient Air Quality Standards,
 23
Clean Air Act Amendments, 6, 15
Clean Water Act, 21, 23, 24, 25
 National Pollutant Discharge Elimination
 System, 25
Comprehensive Emergency Response,
 Compensation and Liability Act. *See*
 Superfund
Congress, 1, 5, 6, 7, 8, 9, 20
 House Committee on Appropriations, 10
 House Committee on Government
 Operations, 2
Corrosion Proof Fittings v. EPA, 2, 10, 13

D

daminozide, 1
Davies, J. Clarence "Terry", 5, 11
Design for the Environment Program, 8, 15
Dingell, John D., 10

DuPont. *See* E. I. du Pont de Nemours and
 Company

E

E. I. du Pont de Nemours and Company
 (DuPont), 1, 22
EDF. *See* Environmental Defense Fund
Elliott, E. Donald, 11, 12, 13
Environmental Defense Fund (EDF), 16
Environmental Protection Agency (EPA), 1,
 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15,
 18, 19, 20, 22, 24
 Office of General Counsel, 11
 Office of Pesticides and Toxic
 Substances, 1
 Office of Pollution Prevention and
 Toxics, 7
 Office of Toxic Substances, 7
Environmental Working Group (EWG), 25
 Skin Deep, 25
EPA. *See* Environmental Protection Agency
EWG. *See* Environmental Working Group

F

Federal Insecticide, Fungicide, and
 Rodenticide Act (FIFRA), 2, 4, 7, 15
FIFRA. *See* Federal Insecticide, Fungicide,
 and Rodenticide Act
Food, Drug, and Cosmetic Act, 6

G

GAO. *See* U.S. Government Accounting
 Office
George Washington University, 1
Goldman, Lynn R., 3
Greenwood, Mark A., 10, 11, 12, 13

H

High Production Volume (HPV) Challenge
 Program, 3, 15, 20

HPV Challenge Program. *See* High Production Volume Challenge Program

K

Kid Safe Chemical Act, 26

L

Lautenberg, Frank R., 6

M

Miami University of Ohio, 1

Montreal Protocol on Substances that Deplete the Ozone Layer, 15

Moore, John A., 3, 16

Muir, Warren R., 14, 15

O

OECD. *See* Organisation for Economic Co-operation and Development

Office of Management and Budget, 10

Ohio State University, 1

OMB. *See* Office of Management and Budget

Organisation for Economic Co-operation and Development (OECD), 15

Screening Information Data Set, 15

P

perfluorooctanoic acid (PFOA), 22, 23, 24, 25

PFOA. *See* perfluorooctanoic acid

Pittsburgh, Pennsylvania, 24

PMN. *See* Toxic Substances Control Act: premanufacture notice

Pollution Prevention Act, 7, 8, 15, 22

R

RCRA. *See* Resource Conservation and Recovery Act

REACH. *See* Registration, Evaluation, Authorisation, and Restriction of Chemicals

Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH), 6, 16, 17, 21, 22, 23

Reid, Harry M., 2, 6, 8

Reilly, William K., 1

Resource Conservation and Recovery Act (RCRA), 6, 10

S

Safe Drinking Water Act, 6, 23

SARA. *See* Superfund Amendments and Reauthorization Act

SIDS. *See* Organisation for Economic Co-operation and Development: Screening Information Data Set

Silbergeld, Ellen K., 16

Superfund, 5, 6, 10

Superfund Amendments and Reauthorization Act (SARA), 6, 8

Title III. *See* Toxics Release Inventory

Synar, Michael L., 2, 6

T

Teflon, 25

Thomas, Lee M., 1

Toxic Substances Control Act (TSCA), 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25

base data set, 3, 16, 17

base set of data, 16

burden of proof, 21

confidential business information, 17, 18

cross-media orientation, 23, 24

existing chemicals, 3, 5, 7, 19

new chemicals, 12, 14, 15

premanufacture notice, 2, 12, 15

Section 4, 2, 3, 4, 7, 18, 19

Section 5, 2, 12

Section 6, 2, 3, 10, 14, 19, 24

testing rules, 2, 4, 7

Toxics Release Inventory (TRI), 6, 8, 15, 17

TRI. *See* Toxics Release Inventory

TSCA. *See* Toxic Substances Control Act

U

U.S. Government Accounting Office
(GAO), 2

W

Waxman, Henry A., 10