

**NOMINATIONS TO INDEPENDENT AGENCIES,
BOARDS AND COMMISSIONS**

HEARINGS
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

ON

THE NOMINATION OF **NIKKI L. TINSLEY** TO BE INSPECTOR GENERAL,
ENVIRONMENTAL PROTECTION AGENCY—**JULY 15, 1998**

THE NOMINATIONS OF **ROMULO L. DIAZ, JR.** AND **J. CHARLES FOX**
TO BE ASSISTANT ADMINISTRATORS, ENVIRONMENTAL PROTECTION
AGENCY—**JULY 30, 1998**

THE NOMINATIONS OF **TERRENCE L. BRACY** TO BE A MEMBER OF
THE BOARD OF TRUSTEES, MORRIS K. UDALL SCHOLARSHIP AND EX-
CELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION,
AND **NORINE E. NOONAN**, TO BE AN ASSISTANT ADMINISTRATOR,
ENVIRONMENTAL PROTECTION AGENCY—**SEPTEMBER 10, 1998**

THE NOMINATIONS OF **GRETA J. DICUS** AND **JEFFREY S.**
MERRIFIELD, TO BE COMMISSIONERS, NUCLEAR REGULATORY
COMMISSION—**OCTOBER 1, 1998**

THE NOMINATIONS OF **WILLIAM CLIFFORD SMITH**, TO BE A MEMBER
OF THE MISSISSIPPI RIVER COMMISSION; **ISADORE ROSENTHAL** AND
ANDREA KIDD TAYLOR, TO BE MEMBERS, CHEMICAL SAFETY AND
HAZARD INVESTIGATION BOARD—**OCTOBER 7, 1998**

THE NOMINATION OF **ROBERT W. PERCIASEPE**, TO BE AN ASSISTANT
ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY—**OCTOBER 8,
1998**



U.S. GOVERNMENT PRINTING OFFICE

52-238 cc

WASHINGTON : 1999

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington DC 20402

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C O N T E N T S

	Page
JULY 15, 1998	
NOMINATION OF NIKKI L. TINSLEY	
OPENING STATEMENTS	
Allard, Hon. Wayne, U.S. Senator from the State of Colorado	4
Baucus, Hon. Max, U.S. Senator from the State of Montana	2
Chafee, Hon. John H., U.S. Senator from the State of Rhode Island	1
Inhofe, Hon. James M., U.S. Senator from the State of Oklahoma	3
WITNESS	
Tinsley, Nikki L., nominated to be Inspector General, Environmental Protection Agency	4
Committee questionnaire	11
Letter from Office of Government Ethics	20
Prepared statement	10
Responses to additional questions from Senator Inhofe	20
 JULY 30, 1998	
NOMINATIONS OF ROMULO L. DIAZ, JR., AND J. CHARLES FOX	
OPENING STATEMENTS	
Allard, Hon. Wayne, U.S. Senator from the State of Colorado	30
Baucus, Hon. Max, U.S. Senator from the State of Montana	26
Chafee, Hon. John H., U.S. Senator from the State of Rhode Island	23
Kempthorne, Hon. Dirk, U.S. Senator from the State of Idaho	27
Lieberman, Hon. Joseph I., U.S. Senator from the State of Connecticut	27
WITNESSES	
Diaz, Romulo L., Jr., nominated to be Assistant Administrator, Environmental Protection Agency	28
Committee questionnaire	43
Letter from Office of Government Ethics	47
Prepared statement	41
Responses to additional questions from:	
Senator Inhofe	48
Senator Kempthorne	49
Fox, J. Charles, nominated to be an Assistant Administrator, Environmental Protection Agency	32
Committee questionnaire	52
Letter from Office of Government Ethics	57
Prepared statement	50
Responses to additional questions from:	
Senator Allard	60
Senator Inhofe	58
Senator Kempthorne	57
Sarbanes, Hon. Paul S., U.S. Senator from the State of Maryland	31
Prepared statement	41

IV

Page

SEPTEMBER 10, 1998

NOMINATIONS OF TERENCE L. BRACY AND NORINE E. NOONAN

OPENING STATEMENTS

Baucus, Hon. Max, U.S. Senator from the State of Montana	62
Chafee, Hon. John H., U.S. Senator from the State of Rhode Island	61
Graham, Hon. Bob, U.S. Senator from the State of Florida	63
Warner, Hon. John W., U.S. Senator from the Commonwealth of Virginia	66

WITNESSES

Bracy, Terrence L., nominated to be a Member of the Board of Trustees, Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation	65
Committee questionnaire	75
Letters:	
Bradley, Hon. Bill, former U.S. Senator from the State of New Jer- sey	78
Office of Government Ethics	77
Prepared statement	73
McCain, Hon. John, U.S. Senator from the State of Arizona	64
Noonan, Norine E., nominated to be an Assistant Administrator, Environ- mental Protection Agency	68
Committee questionnaire	81
Letter from Office of Government Ethics	83
Prepared statement	78
Responses to additional questions from Senator Baucus	83

OCTOBER 1, 1998

NOMINATIONS OF GRETA DICUS AND JEFFREY S. MERRIFIELD

OPENING STATEMENTS

Baucus, Hon. Max, U.S. Senator from the State of Montana	89
Chafee, Hon. John H., U.S. Senator from the State of Rhode Island	85
Lautenberg, Hon. Frank R., U.S. Senator from the State of New Jersey	90
Smith, Hon. Robert, U.S. Senator from the State of New Hampshire	87

WITNESSES

Bumpers, Hon. Dale, U.S. Senator from the State of Arkansas	86
Dicus, Greta Joy, nominated to be a Commissioner, Nuclear Regulatory Com- mission	91
Committee questionnaire	124
Letter from designated agency ethics official, Nuclear Regulatory Com- mission	123
Prepared statement	117
Responses to additional questions from Senator Inhofe	118
Merrifield, Jeffrey S., nominated to be a Commissioner, Nuclear Regulatory Commission	93
Committee questionnaire	106
Letters:	
From designated agency ethics official, Nuclear Regulatory Commis- sion	110
Ehmig, William A., chairman of the Board of Directors, Council on Radionuclides and Radiopharmaceuticals, Inc.	111
Prepared statement	104
Responses to additional questions from:	
Senator Inhofe	111
Senator Lautenberg	114

OCTOBER 7, 1998
NOMINATIONS OF ISADORE ROSENTHAL, ANDREA KIDD TAYLOR,
AND WILLIAM CLIFFORD SMITH

OPENING STATEMENTS

Chafee, Hon. John H., U.S. Senator from the State of Rhode Island	137
Lautenberg, Hon. Frank R., U.S. Senator from the State of New Jersey	139

WITNESSES

Breaux, Hon. John, U.S. Senator from the State of Louisiana	145
Hill, Paul, chairman, Chemical Safety and Hazard Investigation Board	141
Rosenthal, Isadore, nominated to be a member of the Chemical Safety and Hazard Investigation Board	147
Committee questionnaire	165
Prepared statement	163
Smith, William Clifford, nominated to be a member of the Mississippi River Commission	142
Committee questionnaire	155
Prepared statement	153
Taylor, Andrea Kidd, nominated to be a member of the Chemical Safety and Hazard Investigation Board	144, 146
Committee questionnaire	179
Prepared statement	177
Tauzin, Hon. W.J. (Billy), U.S. Representative from the State of Louisiana	140

OCTOBER 8, 1998
NOMINATION OF ROBERT PERCIASEPE

OPENING STATEMENTS

Baucus, Hon. Max, U.S. Senator from the State of Montana	194
Chafee, Hon. John H., U.S. Senator from the State of Rhode Island	193
Inhofe, Hon. James M., U.S. Senator from the State of Oklahoma	194

WITNESS

Perciasepe, Robert W., nominated to be an Assistant Administrator, Environ- mental Protection Agency	195
Committee questionnaire	201
Prepared statement	199
Responses to additional questions from Senator Inhofe	209

NOMINATION OF NIKKI L. TINSLEY

WEDNESDAY, JULY 15, 1998

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 11:02 a.m., in room 406, Senate Dirksen Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee and Baucus.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. The committee will come to order.

We'll get started today. This is a hearing on the nomination of Nikki L. Tinsley to be Inspector General for the Environmental Protection Agency who was nominated on April 23 by President Clinton to serve as Inspector General for the Environmental Protection Agency.

It's my intention that the committee act expeditiously on her nomination. In fact, we plan to include Ms. Tinsley's nomination at the committee's next business meeting scheduled for next week.

I want to start off by welcoming Ms. Tinsley. Do you have members of your family here?

Ms. TINSLEY. I do. My daughter is here, Sarah Tinsley.

Senator CHAFEE. Good. Well, we welcome you here, Sarah.

I want to note that the role of the Inspector General is an important one. Under the 1978 Inspector General Act, which outlines the missions of Inspectors General throughout the Federal Government, they are given the responsibility of conducting audits and investigations of an agency's programs and operations; they are to recommend changes to promote efficiency and prevent fraud; and to inform the agency and Congress of problems regarding administration of agency programs. The IGs, therefore, serve a key role in all agencies, including EPA.

As is true for every Government effort, the work that EPA does must carry credibility with the public, with the Congress, and, indeed, with its own personnel. The Office of Inspector General can help make sure that such credibility is not only built but maintained. Working with forward-looking agency staff, a good IG can contribute importantly to the quality of the work being carried out.

A quick glance at your resume, Ms. Tinsley, demonstrates a wealth of experience in the role of auditor and investigator. You have spent years in the field, with the General Accounting Office, the Minerals Management Service at the Department of the Inte-

rior, at the regional and now headquarters office of EPA. You've spent that time examining the work of various Federal agencies. With such experience, I'm confident you are capable of taking on the challenges that will face you as Inspector General of this important Federal agency.

I look forward to hearing what you have to say about your experience and what you hope to accomplish in the position of Inspector General, if confirmed.

Senator CHAFEE. Mr. Baucus.

**OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR
FROM THE STATE OF MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman.

Ms. Tinsley, there's no doubt that you're qualified for the job. We urge you to remember that as a public servant your primary goal is to show credibility, integrity, and to have the respect—not necessarily be liked or disliked—but the respect of people at EPA and the country. You should know that when you speak, you have the taxpayer's interest in mind in enforcing those statutes.

It's a tough job. It's a lonely job. In other agencies I know of IGs whom I respect. They take a lot of heat, from within the agency particularly, and some heat from without. But they have the highest integrity and credibility by doing what's right. This means reporting to the proper person when something is wrong. It may even mean resigning if something is wrong but not being properly addressed. You will be forever respected and admired when you follow those precepts. There are too many in this town who want to get along—who worry more about themselves and not enough about that responsibility of public service.

I know you'll do so, I certainly expect you to do so, and you have an opportunity at the beginning to do so. Knowing the importance of the halo effect, that is, the importance of the impressions you make when you begin, it's much easier to begin on the right step than it is to correct a misstep. The more you begin by taking the right steps then the smaller the missteps. I'm envious of you. It's a great job.

As an aside, I might also say there are many reasons for enforcing our environmental statutes; the main reason is that Americans want to have clean air, clean water, and no toxic waste. But there's another reason—many developing countries are struggling to cope with their environmental problems. I accompanied the President on his trip to China and can tell you that the Chinese desperately want to find the right way to clean up their air and water and toxic wastes. As you know, many EPA personnel have traveled to China, in many respects because the Chinese want to model their programs on the Clean Air Act, the Clean Water Act, other U.S. statutes.

We're setting standards not only for Americans, but for many other people in the world. It is a primary benefit to the people of the United States and the world, but it also enables us to on a trade basis to develop and market environmental technologies. I was speaking with the Mayor of Shanghai, a casual conversation on a boat going down the river, and I said, "You must be really proud of all that you've done here in Shanghai." I was struck with

his immediate response, which was, "Yes, but we've got problems, and one of the problems is right there, the river." The Yangtze River was very polluted. And he said, "We plan to have that cleaned up in 10 years." It's a herculean effort to clean up that river, but it can be done. It seems like the people are determined and very positive about the future.

So there's another reason for you to enforce our statutes here, because we are observed by other nations. America is still a leader in the world because of high moral standards, openness and honesty, and freedom, both personal or political. It is important that we keep those high standards. We wish you good luck.

Ms. TINSLEY. Thank you.

Senator CHAFEE. Senator Baucus, I think there's a lot of wisdom in what you said. I think first, Ms. Tinsley, reiterating what Senator Baucus said, you're not running in any popularity contest over there. You are there not to win friends but to do the job, and sometimes the message you convey won't be the most popular one.

The other point about the model we have for those overseas, I likewise have seen foreign countries admire what we do. One additional point I might add to what Senator Baucus said. It isn't just that we can increase markets for our technology, but also what they do in their countries in a long-distance way affects us, whether it's the air, whether they're dumping in the oceans, eventually affects the environment in the United States, too.

So with those heavy-weighted words, we will urge you to proceed with your statement. Also, I will place into the record at this point the statements of Senators Inhofe and Allard.

[The prepared statements of Senators Inhofe and Allard follow:]

STATEMENT OF HON. JIM INHOFE, U.S. SENATOR FROM OKLAHOMA

Thank you Mr. Chairman for calling today's confirmation hearing for Nikki Tinsley as Inspector General for the EPA.

This is a very important position, and if confirmed, Ms. Tinsley, will be the only internal check and balance for the EPA. I met with Ms. Tinsley last week and I was impressed with her credentials. I believe if she maintains her independence from Carol Browner and the other political appointees at the Agency and she is willing to pursue unpopular investigations and be critical of the EPA then she will make an excellent Inspector General.

There are many areas of the EPA which need a critical look. Some of those areas require vigorous Congressional Oversight, and I hope Mr. Chairman, as a committee, we will all become more active and aggressive in our oversight function. Other areas require a critical look from within the organization and I hope as the IG Ms. Tinsley will fulfill that need.

One particular area is the question of Science within the Agency and how it is used. Recently 20 very brave EPA employees went public accusing the EPA and Carol Browner of ignoring sound science, falsification of documents and illegal lobbying by government employees. While these individual claims have been referred to the Justice Department, the broader issues on how the Agency uses and misuses Science must be investigated. The IG should conduct a broad investigation across the Agency on the use and misuse of science in the EPA's decisionmaking and regulatory process. I believe for every employee who went public there are probably 10 more who agree with them and could offer further examples. I would like to hear from Ms. Tinsley on how her Office would conduct such an investigation.

In addition there are other issues which warrant the IG's attention.

An additional issue raised by the employees is lobbying activities both conducted by EPA employees and encouraged by Agency outreach materials. It is illegal and improper to use appropriated funds to support lobbying activities and the Agency has continued to cross over the line in recent years. This area deserves a hard look by the IG.

Another problem is in the enforcement arena and involves the use of the Agency to over file in State enforcement cases. What should be investigated is not only the use of over filing, but also the threat of over filing. Is this an appropriate use of enforcement resources?

Another area which is very important but also more difficult is the possible collusion between Environmentalist suing the Agency and Agency employees and the effect of the resulting consent decrees. We are now in a position of consent decrees negotiated between the Agency and environmentalist organizations driving public policy and ignoring the will of Congress. What needs to be answered is whether there is in fact collusion, the effect of circumventing the normal regulatory process, and whether any laws are being violated.

While there is a Congressional role for all of these investigations, and I intend to start pursuing them, there is also a very important role for the IG to play since the IG is better equipped to learn the facts from EPA employees.

I would like to follow up with a few questions to Ms. Tinsley today on how she intends to address the science issue and I would like to pursue the other issues with her Office over the next few months.

STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR FROM COLORADO

Thank you Mr. Chairman, I would like to welcome Ms. Tinsley to our committee and thank her for her commitment to public service. I believe Ms. Tinsley will do a good job as Inspector General at EPA and hope that she won't be shy about coming to this committee or to its individual members with her findings. Also, I think it will be helpful to EPA for a Coloradan to be overseeing their actions.

I met with Ms. Tinsley yesterday and discussed with her the areas where perhaps some work by the IG would be helpful, I would like to put them on the record:

(1) Environmental Justice—On February 11, 1994 President Clinton signed Executive Order 12898 that ordered Federal agencies to, "make achieving environmental justice part of [their] mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs policies, and activities on minority populations and low-income populations in the United States". Within this Order were certain quantifiable benchmarks that perhaps the IG should examine to see if they were met. Further, perhaps a look at whether the Order is being faithfully executed by Federal agencies would be appropriate.

(2) Federal Facilities—In general, perhaps further work on whether Federal facilities are complying with Federal and State laws should be examined. As Senator Wyden and I argued during Superfund markup, there appears to be two standards of enforcement in this country, one for those who live near private polluters and a lower standard for those who live near Federal polluters. I believe the Federal Government is the largest polluter in America. Our environmental laws should be enforced against them.

And finally;

(3) I was pleased to hear that Ms. Tinsley is interested in examining outcomes with respect to agency actions as well as examining procedure. In that vein, I think she should look at EPA's policy with respect to state audit laws. I believe EPA has decided they do not like audits because it runs against their enforcement culture, even though in Colorado audits have proven to be beneficial to the environment. If Ms. Tinsley wants to examine environmental outcomes and not merely procedure she should examine EPA's policy in this regard.

I finally want to encourage Ms. Tinsley to keep in mind that EPA is the self proclaimed "environmental cop on the beat" and that needs to be the standard they are held to when examining their actions. This is particularly true with respect to Federal facilities. This administration has a shameful record with respect to enforcement against Federal agencies. Ms. Browner's position against the Federal Facilities language Senator Wyden and I had attached to Superfund legislation earlier this year is nothing short of a double standard. I hope you use your position to point out where laws are not applied equally.

Thank you Mr. Chairman.

**STATEMENT OF NIKKI L. TINSLEY, ACTING INSPECTOR
GENERAL, ENVIRONMENTAL PROTECTION AGENCY**

Ms. TINSLEY. Thank you. Good morning, Mr. Chairman and Senator Baucus. It's a great honor for me to be here today as the Presi-

dent's nominee to be Inspector General of the Environmental Protection Agency. I would like to thank the committee for considering my nomination expeditiously as well as Administrator Browner for her expression of confidence. If confirmed, I would welcome the opportunity to serve the Administration, the Congress, and the American people to the best of my ability.

The Inspector General position in a large Federal agency such as the Environmental Protection Agency is a very important and challenging one. EPA has an annual budget of over \$7 billion, with more than one half devoted to environmental activities that are provided by entities outside the Federal Government, primarily State, local, and tribal governments. The American people expect their tax dollars committed to environmental programs to be wisely spent and produce results which protect the environment and health of our country.

EPA's Office of Inspector General has a very impressive track record which, if confirmed, I would seek to maintain and build upon. Over the past 25 years, the Office of Inspector General has reviewed more than \$55 billion in grants to communities to build waste water treatment plants, and has recovered more than a billion dollars for additional plant construction. Audit and investigative efforts directed at EPA contracts have improved the agency's oversight program and resulted in a number of administrative and judicial actions against individuals and companies that have defrauded the taxpayer.

With the implementation of the Government Performance and Results Act, EPA is developing accountability systems that link its activities to achieving environmental goals. In response, the Office of Inspector General has turned its focus to environmental results, evaluating the agency's air, water, superfund, hazardous waste, and enforcement programs to ensure that they are delivering the environmental and health protection that the Congress and the Administration intend. At the same time, Office of Inspector General staff continue to work closely with the agency to improve its fiscal accountability.

This year marks the 20-year anniversary of the legislation establishing Inspectors General. As you mentioned, Inspectors General play a unique role in Government, charged by Congress to independently and objectively audit and investigate their agency's activities, to promote economy, efficiency, and effectiveness, to prevent and detect fraud, waste, and abuse, and to keep the agency head and the Congress fully informed of problems and deficiencies in agency activities.

To be most successful, I believe that the Inspector General should operate as an agent of positive change. The Inspector General should work constructively with the agency and its partners and strive for a relationship built upon mutual respect and trust. At the same time, the Inspector General must be independent and objective, willing to make fair but tough calls on agency activities. Just as the Inspector General should maintain an open line of communication with the Administrator and the Deputy Administrator, the Inspector General must have that same open line of communication with the Congress. Finally, the Inspector General is under

an absolute obligation to report to the Congress when significant problems are not being corrected.

I believe Administrator Browner shares this view and I'm confident that, if confirmed, the Office of Inspector General staff and I would continue to have the good and open working relationship we've had in the past with both the Administrator and the Congress.

My career in public service has allowed me to gain a broad knowledge of Government programs and operations by having worked in several departments including the General Accounting Office, the Department of Interior's Minerals Management Service, and the Environmental Protection Agency. My background as a licensed Certified Public Accountant, experienced in auditing Government and industry along with my experience serving as EPA's Deputy Inspector General and Acting Inspector General will help me address the challenges I will face if I'm confirmed.

My experiences as an auditor and a senior manager in EPA's Office of Inspector General have strengthened my commitment to independence and objectivity. I have faced the challenges associated with reporting audit and investigative findings that were both unexpected and unpopular. I have obtained agreement from agency managers to address and correct problems, because the work that I've done and that of the organizations that I've represented has been factual and nonpartisan.

Should I be confirmed, I am committed to building on the impressive accomplishments of EPA's Office of Inspector General. I look forward to working with the Administrator, this committee and other Members of Congress, and to the broad constituencies and taxpayers served by EPA, to help ensure that the agency delivers the maximum in environmental and health benefits to the public.

Thank you. I would be happy to answer any questions that you might have for me.

Senator CHAFEE. Ms. Tinsley, are you willing at the request of any duly constituted committee of the Congress to appear in front of it as a witness?

Ms. TINSLEY. Yes.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you were confirmed?

Ms. TINSLEY. No.

Senator CHAFEE. Tell me a little bit about the Inspector General's staff over there. You've worked over there in that office for a while. How many people are there?

Ms. TINSLEY. We have 360 on our staff; about 70 criminal investigators, 30 people that are in support types of functions doing our budget and administrative work, and about 260 auditors.

Senator CHAFEE. So you are the people that will audit what takes place, for instance, in moneys that go out to the States under the Clean Water Act for waste treatment plant construction.

Ms. TINSLEY. That's correct.

Senator CHAFEE. And you audit the superfund moneys that go out, too.

Ms. TINSLEY. Yes, we do.

Senator CHAFEE. What area takes the most time would you say? I'm not pinning you down, I'm just curious from our experience.

Ms. TINSLEY. From an audit standpoint, we spend a great deal of time on the agency's financial statements because the agency is building an accountability system and making a lot of improvements to its financial statements. In addition to that, right now we have a concentrated effort on the agency's water programs. We've just completed a similar effort looking at the air program and whether or not it was bringing about environmental results. We're beginning a large effort on the agency's enforcement program. We receive an appropriation to audit the superfund, so we devote a great deal of effort to superfund activities. And we also spend a lot of time auditing the agency's contractors. In fact, we have staff that are devoted to large contractors, similar to the Defense Contract Audit Agency.

Senator CHAFEE. When we read that in Region I they've recovered \$2.5 million from some corporation for dumping of PCBs or whatever it might be, would that come from your organization? How would something like that come about? Where do you get involved?

Ms. TINSLEY. That depends. There are two separate investigative staffs. The agency has a staff of criminal investigators that investigate environmental crime. And our staff of criminal investigators investigates frauds against the Government. So the large recovery you're talking about may have come from a fine against someone who was committing an environmental crime.

We've had several large recoveries from contractors recently whose crimes involved falsification of laboratory data on our superfund sites. That kind of a falsification would be something that our office would investigate.

Senator CHAFEE. You have lawyers on your staff?

Ms. TINSLEY. We are just in the process of obtaining our own legal counsel. Up until recently, in fact, just the last month, our legal counsel has come from the agency's staff. And since I've been the Acting Inspector General, we've changed that and we're going to have our own independent staff that reports directly to the Inspector General.

Senator CHAFEE. Senator Baucus.

Senator BAUCUS. Thanks, Mr. Chairman.

I'm a little curious about how well EPA is addressing the so-called Y2K problem. Are you in a position to know that?

Ms. TINSLEY. We did some audits of the Y2K problem 2 years ago and reported on problems in the agency. We were about a year ahead of other IG organizations from that standpoint. We're working with the agency as it implements its fixes to the Y2K problem. In fact, Inspectors General across Government are working to oversee the testing of the agencies' systems to make sure that there is an independent look at whether or not the system fixes that agencies are implementing are in fact going to work.

Senator BAUCUS. Any assessment to date?

Ms. TINSLEY. We have concerns because of the amount of work that has to be done in EPA to make the systems compliant. But we're not alarmed at this point.

Senator BAUCUS. What do you make of the President's or the Vice President's call for, maybe it's in the legislation, getting a kind of community of companies that share their Y2K solutions with other companies and agencies. Did you see that in this morning's news or yesterday?

Ms. TINSLEY. I heard that on the radio going home yesterday. I guess I would think that would be good.

Senator BAUCUS. Yes. Should we be only concerned and not alarmed?

Ms. TINSLEY. About EPA or about—

Senator BAUCUS. EPA.

Ms. TINSLEY. I think at this point it's not an alarming situation. I think we need to be concerned because there's a lot to be done. I think the biggest challenge in Y2K is not always knowing everything that has to be fixed or perhaps something is missing, and so that's why it's so important for everyone to work together on it.

Senator BAUCUS. Is EPA considering the same experiment that the New York Stock Exchange is considering? As you may know, on December 29, 1998, they are going to do a mock conversion, trades, everything, to see if their setup works to find any bugs in the setup. I'm curious whether EPA is considering a similar experiment.

Ms. TINSLEY. That's the kind of testing that I think almost all agencies are doing of their own systems. There are a couple of kinds, but one test is to actually simulate those dates and just see what happens. So, yes.

Senator BAUCUS. Good. My concern, frankly, is that we're kind of dallying in lots of agencies, people, companies, let alone other foreign companies, other countries. We're in a global economy. The Thailand stock market, look at what it's done to the world. It affects the whole world. It's a chain reaction. I just urge you and your colleagues to be maybe even alarmed. Really make sure that alarm turns only to concern as we approach the date, not vice versa.

Senator CHAFEE. If you think EPA has got worries in this area, how would you like to be head of the Social Security Administration.

Senator BAUCUS. Yes, I know.

Senator CHAFEE. But I think that's a wise suggestion. I'm curious what's going to happen with the New York Stock Exchange.

Senator BAUCUS. It will be interesting, won't it?

Senator CHAFEE. Maybe our dividends will all be tripled or something.

[Laughter.]

Senator CHAFEE. How does the relationship work between the Administrator and the Inspector General? Are there weekly staff meetings where you sit in on matters, or how close contact do you have with the Administrator?

Ms. TINSLEY. I sit in on the Administrator's weekly staff meeting and I also sit in on the Deputy Administrator's weekly staff meeting.

Senator CHAFEE. I see. I just want to check to see if any other Senators might possibly be on the horizon and want to ask you a question or two. We'll just wait a few minutes.

During this brief pause here, Ms. Tinsley, I've got here a Selected Office of Inspector General Accomplishments, October to December 1997, here's one from January to March 1998, and here's one April to June 1998. I guess you put these things out quarterly, do you?

Ms. TINSLEY. Yes, we do.

Senator CHAFEE. It's rather interesting, the variation in your activities. You issued a report on Region 10's waste water permit programs, "Needs improvement to protect water quality in Alaska and Idaho." Next one, "National Rural Water Association used Federal funds to lobby and award contracts noncompetitively." Are you familiar with these?

Ms. TINSLEY. I am.

Senator CHAFEE. Why don't you just tell us about the second one, "National Rural Water Association used Federal funds to lobby. . . ." That sounds like something that is improper. Could you tell us a bit about that?

Ms. TINSLEY. It is improper. Briefly, we looked at the national office and found that they were using some of their funds for an extensive lobbying agenda, both EPA funds and actually Department of Agriculture funds. Another item of concern in that report is that there was an EPA employee detailed to National Rural Water Association and that person was actually engaged in lobbying activities as well, which is also inappropriate.

Senator CHAFEE. And then I guess you issued reports. "EPA Brownfields' Initiative Can Be Strengthened," and then you issued a report on that apparently.

Ms. TINSLEY. We found that some of the activities in Brownfields, at five selected sites, were not helping cities move along toward cleaning up their sites expeditiously and so we made some recommendations that the agency agreed to implement that would focus more on the cleanup side and getting the communities ready to clean up, as opposed to some of the other activities that they were doing with those funds.

Senator CHAFEE. I must confess I didn't know a great deal about this job. But it sounds like a job that a self-starter can find a lot to do. On the other hand, if you want to do nothing, I suppose no one is going to urge you to rush out and inspect them and audit them. So it requires, as I say, a self-starter to run the place. I presume you're anxious to be that self-starter?

Ms. TINSLEY. Yes, I am. Actually, we're having some successes in working with the agency on some of its environmental programs. With respect to the water audit effort that I spoke to you about, the Assistant Administrator that runs the water program has been very receptive to working with us to help him identify segments of the program that aren't working so that he can take action to correct them. That's an exciting thing for an auditor because, as you mentioned, most times people are not anxious to have your help.

Senator CHAFEE. No. I suspect they see you coming and it's like receiving a letter from the IRS; it makes people nervous.

Where do you get your tips from? This web site that you've got, the internet, does information come through that sometimes?

Ms. TINSLEY. Occasionally. We have our internet site set up primarily to provide the public with information about our activities.

But as part of our web site, people can report on our Hot Line just as they can report to us on the Hot Line by telephone.

Senator CHAFEE. Ms. Tinsley, I think the Senator who wanted to ask you some questions isn't available. He might submit a question in writing to you and we would ask you to respond.

That completes it. We'll try and move right along with this. As I mentioned earlier, we're going to have a committee meeting on a variety of things and hopefully we can bring this up next week. If all goes well, we can get this nomination to the floor before we go out for the August recess. Certainly, that's my objective barring some objections from members when we meet with the full committee.

Ms. TINSLEY. Thank you.

Senator CHAFEE. Thank you.

That completes our hearing.

[Whereupon, at 11:33 a.m., the committee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF NIKKI L. TINSLEY, NOMINATED AS INSPECTOR GENERAL,
ENVIRONMENTAL PROTECTION AGENCY

Good morning, Mr. Chairman and members of the committee.

It is a great honor to be here today as the President's nominee to be Inspector General of the Environmental Protection Agency. I would like to thank the committee for considering my nomination expeditiously as well as Administrator Browner for her expression of confidence. If confirmed, I would welcome this opportunity to serve the Administration, the Congress, and the American people to the best of my ability.

The Inspector General position in a large Federal agency such as the Environmental Protection Agency is a very important and challenging one. EPA has an annual budget of over \$7 billion, with more than one half devoted to environmental activities provided by entities outside the Federal Government; primarily State, local, and Tribal governments. The American people expect their tax dollars committed to environmental programs to be wisely spent and produce results which protect the environment and health of our country.

EPA's Office of Inspector General has an impressive track record which, if confirmed, I will seek to maintain and build upon. Over the past 25 years, it has reviewed \$55 billion in grants to communities to build waste water treatment plants, and recovered more than a billion dollars for additional plant construction. Audit and investigative efforts directed at EPA contracts have improved the Agency's oversight program and resulted in a number of administrative and judicial actions against individuals and companies which have defrauded the taxpayer. With the implementation of the Government Performance and Results Act, EPA is developing accountability systems that link its activities to achieving environmental goals. In response, the Office of Inspector General has turned its focus to environmental results, evaluating the Agency's air, water, superfund, hazardous waste, and enforcement programs to ensure that they are delivering the environmental and health protection that the Congress and the Administration intend. At the same time, Office of Inspector General staff continue to work closely with the Agency to improve its fiscal accountability.

This year marks the 20-year anniversary of the legislation establishing Inspectors General. Inspectors General play a unique role in government: charged by Congress to independently and objectively audit and investigate their agency's activities; to promote economy, efficiency, and effectiveness; to prevent and detect fraud, waste, and abuse; and to keep the Agency head and the Congress fully informed of problems and deficiencies in Agency activities.

To be most successful, I believe an Inspector General should serve as a force for positive change. The Inspector General should work constructively with the Agency and its partners and strive for a relationship built upon mutual respect and trust. At the same time, the Inspector General must be independent and objective, willing to make fair-but-tough, calls on Agency activities. Just as the Inspector General should maintain an open line of communication with the Administrator and Deputy Administrator; the Inspector General must have that same open line of communica-

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

January 1997 - Present Acting Inspector General	Environmental Protection Agency 401 M. Street SW (2410) Washington DC 20460
Leading a nationwide staff of auditors and investigators responsible for preventing and detecting fraud, waste and abuse in EPA programs and operations. Overseeing work of 360 employees and an annual budget of \$40 million. Successfully integrating Inspector General activities into Agency operations while maintaining independence required by law.	

August 1995-December 1996 Deputy Inspector General	Environmental Protection Agency 401 M. Street, SW (2410) Washington, DC 20460
Oversaw management of audit and investigative staff whose efforts resulted in \$850 million in recommended efficiencies and funds that could be better used, \$150 million in fines and recoveries, numerous indictments and convictions, and improvements to Agency management and program operations.	

August 1990 - July 1995 Divisional Inspector General	Environmental Protection Agency 726 Minnesota Avenue Kansas City, Kansas 66101
Headed Office of Inspector General audit operations in two EPA regional offices, which funded and/or managed environmental activities in ten states. Organized and managed audit programs including auditing regional operations, contractors, grantees, and laboratories located in the regions. Oversaw nationwide audits of EPA integrity program and budget execution.	

<p align="center">September 1982 - July 1990 Supervisory Auditor/Staff Auditor</p>	<p align="center">Department of Interior Minerals Management Service Building 85 Denver Federal Center Lakewood, Colorado 80225</p>
<p>Serving in senior staff position. established an audit program in Department of Interior's newly created Royalty Management Program to ensure that mining companies correctly reported and paid over \$4.7 billion in royalties annually. Established and implemented audit policy and procedures and assisted in creating a nationwide organizational structure that included placing staff in offices at major oil companies. Created audit strategy that guided daily activities of 250 auditors and ensured audit coverage to more than 3000 large and small payors. Led audit teams whose work resulted in additional royalty collections of over \$100 million.</p>	
<p align="center">March 1976 - August 1982 Auditor/Evaluator</p>	<p align="center">US General Accounting Office Denver, Colorado</p>
<p>Audited Federal, State, and Tribal government programs, operations, and administrative processes to ensure programs complied with legal and regulatory requirements. operated efficiently and effectively, and achieved maximum benefits or results. Prepared testimony and lines of inquiry for Congressional hearings.</p>	
<p align="center">September 1971 - February 1976 Bookstore Manager</p>	<p align="center">US Government Printing Office 1961 Stout Street Denver, Colorado 80202</p>
<p>Managed bookstore selling government publications. supervised the activities of three employees.</p>	
<p align="center">May 1971 - August 1971 Educational Program Assistant</p>	<p align="center">Office of Education 400 Maryland Avenue Washington DC 20202</p>
<p>Collected data from HEGIS surveys and compiled, analyzed data and adjusted it using statistical computations. Drafted responses to correspondence relating to surveys.</p>	

May 1971 - August 1971 Cashier	Giant Food Stores Springfield, Virginia
Part time work as cashier.	

Winter 1970 - Spring 1971 Cashier	Weinberg's Department Store Plymouth Meeting, Pennsylvania
Cashier in Children's department. Terminated involuntarily due to reduction in staff size.	

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

EPA Bronze Medal for Commendable Service - 1995

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
<u>President's Council on Integrity & Efficiency</u>	<u>Chair, Investigations Training Subcommittee</u>	<u>1997 - 1998</u>
<u>Colorado Society of CPAs</u>		<u>1989 - Present</u>
<u>Mid American Intergovernmental Audit Forum</u>	<u>Executive Committee Representative</u>	<u>1990 - 1995</u>
<u>Association of Government Accountants</u>		<u>1992 - Present</u>
<u>Institute of Internal Auditors</u>		<u>1995 - Present</u>
<u>U.S. Pony Clubs/ Platte Valley Pony Club</u>	<u>District Commissioner</u>	<u>1988 - 1990</u>

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

My background in auditing government and private industry activities, as well as my education, professional certification, and experience as Acting and Deputy Inspector General qualify me to serve as EPA Inspector General. I have a broad knowledge of government programs and operations, gained through over 20 years of audit experience in different departments and branches of government, including the Department of Interior, the Environmental Protection Agency, and the General Accounting Office. I am a licensed Certified Public Accountant. While at EPA, I have worked with Agency managers to develop national environmental goals, and through the efforts of Office of Inspector General (OIG) Staff have recommended improved strategies to achieve those goals. I have implemented an OIG Strategic Plan to guide organizational activities toward high risk environmental and financial activities. Under my leadership, OIG has identified and reported on fraud and waste in EPA programs and returned money to the Agency and the treasury through its audit and criminal investigations programs. I am an active participant in the President's Council on Integrity and Efficiency, serving on both the Investigations and Legislation Committees, and as such, contribute to enhancing the effectiveness of the Inspector General community.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I am acting in the position for which I have been nominated. _____

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

Not applicable.

3. Has anybody made a commitment to you for a job after you leave government?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

The Inspector General position does not have a fixed term.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

I am not aware of any limitations.

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

I have not held a Schedule C or other appointive position.

Financial Statement:

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should indicated by the categories established for reporting income on Form SF-278, Schedule A.

None

2. Are any assets pledged?

No

3. Are you currently a party to any legal action?

Danny Tipton v Nikki L. Tinsley, et al, 16CV97-026921

Jackson County, MO Division 17, Judge Kramer - Case stems from an automobile accident; State Farm Insurance represents my interest in the case.

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

I have filed all returns

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

I have not been audited

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

Not Applicable

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating that those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I am complying with conflict of interest laws and regulations.

Political affiliation and activities:

1. List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

None

Published writings:

List the titles, publications and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

I have not authored any reports entirely on my own; however, I have participated in writing audit reports that involve a wide range of government programs including environmental programs.

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes _____

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No _____

AFFIDAVIT

Timothy L. Swaley)ss. being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 27th day of May 19 98

James A. Lee
Notary Public

MY COMMISSION EXPIRES
SEPTEMBER 30, 1999



United States
Office of Government Ethics
 1201 New York Avenue, NW., Suite 500
 Washington, DC 20005-3917

April 29, 1998

The Honorable John H. Chafee
 Chairman
 Committee on Environment and
 Public Works
 United States Senate
 Washington, DC 20510-6175

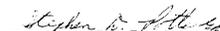
Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Nikki L. Tinsley, who has been nominated by President Clinton for the position of Inspector General of the Environmental Protection Agency.

We have reviewed the report and have obtained advice from the Environmental Protection Agency concerning any possible conflict in light of its functions and the nominee's proposed duties.

Based thereon, we believe that Ms. Tinsley is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,


 Stephen D. Fotts
 Director

Enclosure

RESPONSES BY NIKKI L. TINSLEY TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Recently 20 very brave EPA employees went public accusing the EPA and Carol Browner of ignoring sound science, falsifications of documents and illegal lobbying by government employees. While these individual claims have been referred to the Justice Department, the broader issues on how the Agency uses and misuses Science must be investigated. This would require a broad investigation across the Agency on the use and misuse of science in the EPA's decisionmaking and regulatory process. I believe for every employee who went public there are probably 10 more who agree with them and could offer further examples.

Question 1. Given that the Department of Justice is reviewing the individual employee issues raised regarding the misuse of science in the EPA, do you consider it important for the IG to determine how widespread the problem might be at the EPA?

Response. Sound scientific data and good science are critical for EPA to make correct environmental decisions. At EPA each employee is responsible for reporting any indication of fraud, waste, or mismanagement. To facilitate reporting problems, the Office of Inspector General (OIG) has established several lines of communication for EPA employees and persons and organizations outside EPA including: a 24-hour hotline, Internet electronic mail through the OIG Home Page, audit suggestions from EPA program and financial managers, regular correspondence and telephone conversations with the public, and referrals from other government organizations.

OIG staff take allegations seriously and evaluate them for investigations and/or audits. In addition, I personally receive suggestions for potential investigations from EPA employees and management, including Assistant Administrators and the Chief of Staff. OIG initiated work on issues raised by the EPA employees you refer to when it became aware of the issues through our existing communication channels.

Question 2. How would you go about investigating the problem? Would it be important to examine the issue from the following perspectives and are there any other groups who should be considered?

- Agency Lab employees, scientists, and researchers
- Program Office scientists and researchers
- Contractors who perform research or provide analysis
- Career managers who provide advice to political appointees (for example: Office Directors, Division Directors, and Branch Chiefs)

Response. The OIG has been actively involved in reviewing EPA science particularly as it relates to laboratory data quality. We reported in 1997 that nine Superfund sites located at Department of Defense and Department of Energy facilities did not have sufficient procedures in place to ensure that data was of known and acceptable quality. We will conduct a follow-up review in fiscal 1999 to verify that corrective actions have been taken. Another series of reviews found that even EPA did not have an adequate quality assurance program to confirm waste contamination at Superfund sites. Also, we are also evaluating the quality of science in our ongoing work dealing with water quality standards and monitoring.

Question 3. The following are additional issues regarding the management of the Agency that are of concern to me. Please comment on whether or not you find them appropriate to consider for an investigation. Also, please identify any additional issues of concern to you that you would concentrate on as the new Inspector General.

- An additional issue raised by the employees is lobbying activities both conducted by EPA employees and encouraged by Agency outreach materials. It is illegal and improper to use appropriated funds to support lobbying activities and the Agency has continued to cross over the line in recent years. This area deserves a hard look by the IG.

- Another problem is in the enforcement arena and involves the use of the Agency to overfile in State enforcement cases. What should be investigated is not only the use of overfiling but also the threat of overfiling. Is this an appropriate use of enforcement resources?

- Another area which is very important but also more difficult is the possible collusion between Environmentalist suing the Agency and Agency employees and the effect of the resulting consent decrees. We are now in a position of consent decrees negotiated between the Agency and environmentalist organizations driving public policy and ignoring the will of Congress. What needs to be answered is whether there is in fact collusion, the effect of circumventing the normal regulatory process, and whether any laws are being violated.

Response. The OIG reported in early 1998 that the National Rural Water Association (NRWA) improperly used Federal assistance agreements and contracts to support an aggressive lobbying agenda. We also reported that an EPA employee was improperly involved in NRWA's lobbying activities. We have expanded our lobbying audit work and are now evaluating whether this type of improper use of Federal funds occurred at six State Rural Water Associations.

As I testified before the House Commerce Subcommittee on Oversight and Investigations on June 23, 1998, I support the idea of partnership between EPA, the States, local agencies and industry to work together to solve environmental problems. Overfiling is an enforcement tool that can be used when other means have not been effective in bringing violators into compliance. My understanding is that overfiling is used infrequently. OIG Clean Air Act enforcement audits during the past 2 years have identified significant weaknesses in the reporting of timely and reliable information on violators. We will certainly be sensitive to your concerns in this area as we continue to conduct audits of EPA's enforcement activities.

One aspect of our enforcement issue area plan, which is a multi-year strategy for audits of EPA's enforcement activities, deals with compliance with consent decrees. As we further develop this area, we will be alert to any indications of improper involvement of environmental groups in the issuance of consent decrees.

I believe its critical that OIG work address environmental outcomes. If confirmed as Inspector General, I would continue to focus OIG work on the success of environmental programs and how they could be improved to provide the maximum benefit to the public.

NOMINATIONS OF ROMULO L. DIAZ, JR., AND J. CHARLES FOX

THURSDAY, JULY 30, 1998

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC

The committee met, pursuant to notice, at 4:10 p.m. in room 406, Senate Dirksen Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Allard, and Baucus.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. This is a meeting of the Senate Committee on Environment and Public Works to have a hearing on Romulo Diaz who has been nominated by the President to be the Assistant Administrator for Administration Resources Management at EPA and J. Charles Fox, nominated by the President to be Assistant Administrator for Water in EPA.

I know that Senator Sarbanes wishes to be here to introduce Mr. Fox and what we will do is we'll proceed first with Mr. Diaz and then when Senator Sarbanes appears, we will let him proceed with Mr. Fox.

The purpose of the hearing today is to consider two nominations: Mr. Romulo Diaz to be Assistant Administrator for Administration Resources Management and that of Mr. J. Charles Fox to be Assistant Administrator for Water.

It's my understanding that each of the nominees has members of their families here. Mr. Diaz, if you'd like to introduce your parents who are here?

Mr. DIAZ. Thank you, Mr. Chairman.

To my left are my mom and dad, Irene and Romulo Diaz from Nederland, TX.

Senator CHAFEE. We welcome you here. You're long distance travelers. Very glad you're here.

I'm not sure I know where Nederland, TX is.

Mr. DIAZ. It's the heart of the Golden Triangle, Mr. Chairman, between Beaumont, Port Arthur, and Orange, TX.

Senator CHAFEE. That locates us exactly, I'll rush to my atlas.

[Laughter.]

Senator CHAFEE. Mr. Fox, I understand your wife and parents are here?

Mr. FOX. Yes, Mr. Chairman. My wife, Ritu Fox; my father, Richard Fox; and my mother, Nancy Fox.

Senator CHAFEE. We welcome both of you here. It's nice to have parents here. We see wives and children frequently but not so often do we see parents and that's a very, very nice event when the parents are here.

The President nominated these two gentlemen on July 17; we received the paperwork. It's our intention to act quickly on these nominations and we'll complete the hearing today. If all goes well, we would get them to the floor as swiftly as possible and they would be considered as soon as we return from the August recess very early in September.

I'm pleased to report that both of the nominees have impressive and diverse backgrounds well suited to the positions for which they are nominated. Mr. Diaz has served as Director of the Office of Regulatory Coordination at the Department of Energy the last 3 years. In that position, he oversaw the Department's regulatory re-invention efforts.

Prior to that in 1995, he served in a number of positions within the Energy Department, including Deputy Chief of Staff and Counsel to the Secretary and Deputy Assistant Secretary of International Affairs. Mr. Diaz has represented the United States on a North Atlantic Treaty Organization committee dealing with energy security for the Alliance.

Mr. Fox has an impressive background also. Since 1997, he has served as Associate Administrator of EPA. In his current position, he directs the Office of Reinvention, overseeing a number of Government reform and reinvention activities.

From 1993 to 1995, he was Assistant Secretary at the Maryland Department of Environment. From 1993 to 1995, he was Chief of Staff in EPA's Office of Water, experience which will be invaluable if he is confirmed. Prior to that time, he served in a number of positions in EPA.

For the EPA to perform effectively, it needs to have talented decisionmakers, not only to carry out its core mission of protecting environmental resources, but also to ensure that the agency runs effectively in carrying out its mission.

If confirmed as Assistant Administrator for Water, Mr. Fox will be responsible for keeping the Nation's waters clean for fishing and swimming, and safe for drinking. The Assistant Administrator for Water oversees water and drinking water criteria and the national pollution discharge elimination system which has the permits for the programs under the Clean Water Act.

This position is a big one. Listen to these statistics. He will manage a work force of 2,680 employees and a budget of \$2.6 billion. Even for somebody from Washington, \$2.6 billion is a lot of money.

If confirmed as Assistant Administrator for Administration Resources Management, Mr. Fox will help manage the Agency as the liaison between EPA and the Office of Management and Budget, OMB, the Office of Personnel Management, the General Services Administration and the General Accounting Office. He would also be responsible for agencywide resource management facilities, services, human resources, audits, administrative services and procurement. In short, he is responsible for ensuring the bulk of EPA's budget which is spent to procure services from the private sector and to make sure that these are spent wisely.

I thought there was a mistake here. I was giving you all those duties, Mr. Fox, and you were sitting there wondering what's going on. Those are Mr. Diaz's duties.

Mr. FOX. I was starting to get nervous.

Senator CHAFEE. Yes, I thought you might. I was thinking as I read this over, this doesn't sound right. So everything I said about your duties apply to you, Mr. Diaz.

[Laughter.]

Senator CHAFEE. And I apologize.

Both positions have a lot of responsibility.

[Laughter.]

Senator CHAFEE. And we look forward to hearing what the witnesses have to say. After we hear the statements of Senator Baucus and other committee members, we'll start with Mr. Diaz. As I mentioned, should Senator Sarbanes come in, we'll go directly to him.

[The prepared statement of Senator Chafee follows:]

STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Good afternoon. The purpose of today's hearing is to consider two nominations within the Environmental Protection Agency. The first nomination is that of Mr. Romulo L. Diaz, Jr., to be the Assistant Administrator for Administration and Resources Management. The second nomination is that of Mr. J. Charles Fox to be the Assistant Administrator for Water.

I am delighted to welcome everyone, particularly our two nominees, Mr. Diaz and Mr. Fox, and I would like to acknowledge the members of their families who are here. Mr. Diaz is accompanied by his parents, Romulo Sr., and Irene Diaz, who have come all the way from Nederland, Texas. Mr. Fox is accompanied by his wife, Ritu Sharma and his parents, Richard and Nancy Fox.

The President nominated Mr. Diaz and Mr. Fox on July 17, and we have received their paperwork in the interim. It is the committee's intent to act on these nominations at the earliest opportunity after the Senate returns from the August recess.

I am pleased to report that both of the nominees have impressive and diverse backgrounds and are well-suited to the positions before them. Romulo (Romy) Diaz has served as the Director of the Office of Regulatory Coordination at the U.S. Department of Energy since 1995. In this position, Mr. Diaz has overseen the Department's regulatory reinvention efforts. Prior to 1995, he has served in a number of positions within the Energy Department, including Deputy Chief of Staff and Counselor to the Secretary and Deputy Assistant Secretary of International Affairs. He has represented the United States on a North Atlantic Treaty Organization committee dealing with energy security for the Alliance.

Charles (Chuck) Fox also has an impressive background. Since 1997, he has served the Associate Administrator of the Environmental Protection Agency. In his current position, he directs the Office of Reinvention, overseeing a number of government reform and reinvention activities. From 1993 to 1995, Mr. Fox was the Assistant Secretary at the Maryland Department of the Environment. From 1993 until 1995, he was the Chief of Staff in EPA's Office of Water, experience which will be invaluable if confirmed. Prior to that time, he served in a number of positions in EPA and in the non profit sector.

For the EPA to perform effectively, it needs to have talented decisionmakers not only to carry out its core mission of protecting environmental resources, but also to ensure that the agency runs efficiently in carrying out that mission. If confirmed as Assistant Administrator for Water, Mr. Fox will be responsible for keeping the Nation's waters clean for fishing and swimming, and safe for drinking. The Assistant Administrator for Water oversees water and drinking water criteria and the National Pollution Discharge Elimination System permits program under the Clean Water Act, and manages a workforce of 2,680 employees and a budget of 2.6 billion dollars.

If confirmed as Assistant Administrator for Administration and Resources Management, Mr. Diaz would help manage the Agency as the liaison between EPA and the Office of Management and Budget, the Office of Personnel Management, the General Services Administration, and the General Accounting Office. He also would

be responsible for agency-wide resources management, facilities services, human resources, audits, administrative services, and procurement. In short, he is responsible for ensuring that the bulk of EPA's budget, which is spent to procure services from the private sector, is spent wisely.

Both positions pose difficult challenges, but I am confident that both Mr. Diaz and Mr. Fox are prepared to face the tasks at hand. I look forward to hearing what today's witnesses have to say about their backgrounds and what they hope to accomplish, if confirmed.

After we hear the statements of Senator Baucus and other committee members, we will start with Mr. Diaz, and after members have an opportunity to question him, move on to Mr. Fox.

Senator Baucus.

**OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR
FROM THE STATE OF MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman.

Along with you, I welcome both the nominees and as you have, I've also spoken with them individually and I look forward to a very successful tenure with both of them.

I also am pleased, apparently Mr. Diaz, your parents, who are here from Texas, have already been introduced and I'd like to acknowledge them myself. I know how proud they are.

Senator CHAFEE. I've done everything but switch the parents here today.

[Laughter.]

Senator BAUCUS. Well, I know your parents, both sides, are very proud of you and have the highest expectations for you, and you are very proud of them as well. I wish you all well.

I met with Mr. Diaz about how to motivate agencies and empower people to work harder and to like their job and feel that their service and efforts are being rewarded for the country. We had a very good conversation. I very much expect Mr. Diaz to do a very good job along those lines.

Mr. Fox, too, and I had a similar conversation and I expect Mr. Fox to do just as well.

I'm reminded of our efforts in past years with the Clean Water Act, and more recently with the Safe Drinking Water Act. I remind you, Mr. Fox that we were able to pass I think quite good legislation because everybody cooperated—the municipalities, the environmental groups, the Republicans, Democrats, Administration. We just didn't grandstand, we rolled up our sleeves and got the job done without any fanfare. As a consequence, the Congress passed pretty good legislation attempting to kind of correct some of the mistakes, if you will, that we made in the 1988 Safe Drinking Water Act. I think the 1988 Act put an unnecessary burden on small communities—standards and monitoring requirements and so forth.

As you well know, we've made great strides to clean up our water in the last 25 years. You're a little younger than I, but I can remember when the Potomac just stank. I'm sure you can remember too, Mr. Chairman. While driving along the Potomac River, you noticed that it smelled at times, and you wouldn't dare get caught falling overboard a boat or swimming in the Potomac. It was just so bad. In those years too, we all know about the Cuyahoga River that caught on fire.

So we can be proud of ourselves. The statutes we have passed in the last 25–30 years have worked. Our air is much cleaner now; our water is much cleaner. But we also know that the loading into our waterways is also increasing. We're dumping a lot more stuff into the water, whether it's from factories or municipalities or particularly so-called nonpoint runoff. So even though we've done well, we can never rest on our laurels and we have to work very hard just to keep what we have, and also very hard to improve upon what we have.

You will find this committee ready, willing and able to join with you. Our chairman is very, very hardworking; he's very reasonable; he's very wise; and he's a good catalyst.

Again, I look forward to working with both of you and with your people at the agency.

Let me just finish by saying I invited you both to come to Montana, you both accepted and I look forward to your visit to our State.

Thank you.

Senator CHAFEE. Thank you, Senator. I have the statements of Senators Kempthorne and Lieberman to put into the record.

[The prepared statements of Senators Kempthorne and Lieberman follow:]

STATEMENT OF HON. DIRK KEMPTHORNE, U.S. SENATOR FROM THE STATE OF IDAHO

Mr. Chairman, I thank you for the opportunity to question the Administration's nominees for the positions of Assistant Administrator for Administration and Resources Management and Assistant Administrator for Water.

As a Senator from the great State of Idaho, I am very interested in Region 10 of the Environmental Protection Agency. I am pleased to have this opportunity to ask Mr. Diaz about the future priorities of Region 10, and how those priorities will be reflected in relative funding levels for environmental programs important to Idaho, such as water quality, air quality and Superfund.

As the Chairman of the Subcommittee on Drinking Water, Fisheries and Wildlife and sponsor of the Safe Drinking Water Act Amendments of 1996, I have a particular interest in the nomination of Mr. Fox. August 6 will mark 2 years since the Safe Drinking Water Act was signed into law by the President. At the second anniversary of this law, it is appropriate to ask those charged with its implementation about their vision and priorities. I would like to hear Mr. Fox's views on how the implementation of the Act is progressing, and how EPA, under his guidance, plans to carry out the statutory guidelines of the Act.

Water is such an important issue to Idaho. We are now engaged in the process of answering the challenge to establish total maximum daily loads for pollutants in water-quality impaired water bodies. The Environmental Protection Agency's Assistant Administrator for Water should expect to work very closely with those in Idaho who are engaged in the task of protecting Idaho's water through targeted, flexible, local and State-driven initiatives.

Again, thank you, Mr. Chairman. I look forward to hearing the testimony of both nominees.

STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM THE STATE OF CONNECTICUT

Thank you, Mr. Chairman, for holding this hearing to consider the nomination of Chuck Fox for Assistant Administrator in the Office of Water at EPA. Americans agree that clean water must be one of our highest environmental priorities. The next Assistant Administrator for Water at EPA will be responsible for ensuring that we have clean drinking water, for improving the water quality in our rivers and streams, and for protecting our critical wetland resources. Chuck Fox is highly qualified to hold this important job, and I strongly support his nomination.

Mr. Fox' current and past experience—both at EPA and outside the Agency—have prepared him well for new responsibilities as EPA's Assistant Administrator for

Water. Currently, Mr. Fox oversees EPA's Office of Reinvention. In this capacity, he directs a number of regulatory reinvention initiatives to protect our environment through the implementation of cleaner, cheaper and smarter strategies. Regulatory reinvention efforts such as Project XL and the Common Sense Initiative represent an important new way of doing business at EPA. They signal a commitment to innovative approaches to environmental protection that supplement more conventional regulatory methods.

Chuck Fox also brings with him valuable State experience. He was the Assistant Secretary and Chief Operating Officer of the Maryland Department of the Environment. Prior to joining Maryland State government, he served as the Chief of Staff at EPA's Office of Water and as Special Assistant to the EPA Administrator. In addition, he has worked with a number of non-profit environmental organizations on a wide range of environmental issues.

I have known Chuck Fox for many years, have worked with him, and have followed his accomplishments. His nomination to be EPA's new Assistant Administrator for Water deserves the support of this committee.

Senator CHAFEE. Mr. Diaz, why don't you proceed with your statement?

**STATEMENT OF ROMULO L. DIAZ, JR., NOMINATED BY THE
PRESIDENT TO BE ASSISTANT ADMINISTRATOR FOR ADMINISTRATION AND RESOURCES MANAGEMENT, ENVIRONMENTAL PROTECTION AGENCY**

Mr. DIAZ. Thank you, Mr. Chairman and Senator Baucus.

It is a great honor and privilege to be here today as the nominee of President Clinton and Administrator Browner to be the Environmental Protection Agency's Assistant Administrator for Administration and Resources Management. I'm very proud to have been asked to serve in the Clinton Administration with Administrator Carol Browner, both of whom are working to enhance the level of public health and environmental protection for all Americans. I look forward to working closely with you and the Congress to continue to improve management and performance at EPA.

I want to speak briefly about my background and discuss where I would hope to bring new ideas and leadership to the position if confirmed.

I come to you with over 25 years of experience and public service, both as an attorney and a manager of domestic and international strategic programs for the Department of Energy and related energy agencies. In my current position as Director of the Office of Regulatory Coordination, I have played a leadership role in the reinvention efforts that resulted in the elimination of streamlining of more than 75 percent of the Department of Energy regulations, more than 50 percent of its internal directives and 20 percent of its paperwork burden. These are efforts that are enabling the Department to realize savings in excess of \$100 million over 5 years.

Throughout my career, I have pursued public service with a passion and have dedicated myself to making the Federal Government work better and more efficiently to meet the needs of its customers and stakeholders. I believe I have done this while always being mindful of the expectations of the American public. This has required a dedication to measuring performance based on results rather than process and if given the opportunity, I'd like to bring forward these experiences and perspectives to the leadership team at EPA and to continue to sharpen EPA's focus on efficient management services.

I would like to summarize the values and principles that will guide me if confirmed as EPA's Assistant Administrator for Administration and Resources Management. They include integrity and fiscal responsibility, openness and willingness to listen, fairness and accountability, proactivity and the spirit of partnership.

EPA's Office of Administration and Resources Management provides leadership to ensure sound management of administrative services throughout that agency. The office has a broad range of functions including management of human resources, information technology, contracts and grants management, employee health safety and security and facilities construction.

In managing these functions, I would like to concentrate on three priority areas. My first priority is to manage information effectively. This includes ensuring that EPA's information systems are Year 2000 compliant and that the environmental data we provide to the public is of the highest quality.

I am aware that Congress has concerns about the Federal response to the Year 2000 computer date conversion issue. In addition, correcting this problem is one of Administrator Browner's top priorities. In my discussions with senior EPA staff, I have been assured that EPA's mission critical information systems and technology infrastructure will be Y2K compliant and verified through operational trials before the turn of the century.

EPA has placed an increased emphasis on using the tools of government to enhance information available to the public about our drinking water, our air, our homes and the environment in our communities. Improving access to and the quality of environmental information allows society at all levels to make better decisions.

My second priority is to ensure a high level of integrity and accountability in the management of our financial resources. About two-thirds of the EPA's budget is obligated each year as contracts or grants, so these are very important areas to manage and to manage well.

In this regard, I have been informed that the agency has made substantial progress, so much so that the Inspector General has removed or agreed to remove contracts management as a material weakness reported to the President and to the Congress. Furthermore, the grants closeout backlog has been reduced by 80 percent. However, more work needs to be done and if confirmed, I will focus my efforts on strengthening oversight and making sure that we get what we pay for when we enter into a contract or grant at the EPA.

Finally, my third priority reflects my firm belief that we need to invest in human resources to ensure that we have the science and technology skills needed for the future and that our work force reflects the talents and perspectives of a growing multicultural society.

Building on my previous experiences, I intend to ensure that EPA recognizes the richness and diversity of its work force so that future scientists and engineers see the agency as an employer of choice.

In summary, effectively discharging the responsibilities of the Office of Administration of Resources Management is critical to meeting EPA's mission. I believe that it is in the best interest of EPA

and the public to integrate our mission goals and effective management. If confirmed, I pledge to bring the full weight of my experience and abilities in order to further that integration.

Let me close by expressing my appreciation to the committee for your recognition of and support for the agency's vital mission and the opportunity to appear here today. I'm pleased that my parents are here from the heart of the Golden Triangle and would like to thank you for the courtesies extended to them.

I request that my prepared statement be entered in the record in its entirety and at this time, I would be pleased to take any questions the members of the committee might have.

Senator CHAFEE. Thank you, Mr. Diaz.

Senator Allard, a valuable member of this committee, has I understand a conflict and as frequently occurs, has to be two places at once. Senator, if you want to make a statement or even ask questions now, proceed.

**OPENING STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR
FROM THE STATE OF COLORADO**

Senator ALLARD. Thank you, Mr. Chairman.

I would like to have an opportunity to make a statement. I appreciate the indulgence of both you and the minority members in this particular situation.

In the past I've raised concerns with the EPA nominees because of that Agency's action with respect to Colorado's Environmental Self Evaluation law and both these gentlemen have been into my office and visited with me personally. I think that they are qualified.

I've had many conversations with the Assistant Administrator for Compliance at the EPA, Steve Herman, on this topic. Every time we speak, he emphasizes to me that EPA is attempting to work with the State of Colorado to resolve this issue. However, it always seems that I'm quickly disappointed with EPA's actions soon after these conversations.

Unfortunately, I am once again disappointed. It has come to my attention that EPA is referring to the Department of Justice for legal action a local government in Colorado that availed itself of Colorado's self-audit law. Further, they seem to have begun enforcement action on another local government in the State. To be honest, it appears to me that EPA has declared war on local governments in Colorado.

Further, I'm very distressed—I emphasize very distressed—by officials in EPA's Region 8 office who seem to feel that they are not policy implementers but policymakers. For example, Mr. Ron Rutherford, the Senior Enforcement Coordinator for Region 8, is quoted in the Colorado Springs Gazette Telegraph this past week as saying this about the recent actions taken against the two local governments. "It's a statement as to why we think these"—referring to immunity laws—"are often misguided."

Later in the same story, Mr. Rutherford claimed that "These decisions are made as a matter of fairness, that those who economically benefit from polluting should be fined." Further, another EPA official in Colorado stated his philosophical opposition to Colorado's audit laws.

It's my view that if these individuals are not in their current positions to enforce their philosophical views, they are there to implement the law. I have concerns about these remarks that indicate to me two bureaucrats who have become too wrapped up in the culture of enforcement, irrespective of whether it is productive or good for the environment.

Further, I have questions with respect to EPA's application of economic benefit as a determining factor in decisions to overfile, particularly as it applies to local governments. In that respect, I have a letter prepared for Mr. Herman. I will not yet state whether I intend to object to these two nominees once reported from the committee. That will depend on how EPA cooperates with my staff and me along with this reply to my letter.

Again, thank you, Mr. Chairman. I've talked about my concerns with both of the nominees and they do seem sensitive.

I appreciate the time.

Senator CHAFEE. Thank you, Senator.

We've been joined by Senator Sarbanes. Senator, I know you wish to introduce one of the nominees.

**OPENING STATEMENT OF HON. PAUL S. SARBANES,
U.S. SENATOR FROM THE STATE OF MARYLAND**

Senator SARBANES. Thank you very much, Mr. Chairman, Senator Baucus and Senator Allard.

I appreciate this opportunity to come before the committee and express my strong support for Chuck Fox, the President's and EPA Administrator's nominee for Assistant Administrator for Water.

I first came to know Chuck Fox in the early 1980's when he served as a Chesapeake Bay project director for the Environmental Policy Institute, a not-for-profit environmental organization. At that time, the Chesapeake Bay Agreement was just being crafted amongst the States and the Federal Government and we were working together with Senator Mathias and Senator Warner as well as with you, Mr. Chairman, to draft the original legislation authorizing EPA's participation in the Chesapeake Bay cleanup effort.

Chuck played an important role in helping to develop the inter-governmental partnership and watershed management approach which has become the hallmark of the Chesapeake Bay program and I think a standard for restoration in other impacted coastal environments.

Mr. Chairman, I want to thank you and Senator Baucus, and Senator Warner for recently approving several new measures relating to restoring and protecting the Bay including the Chesapeake Bay Restoration Act and the Gateways Act. We're very appreciative to the committee for that action.

Over the past 15 years, Chuck Fox has held increasingly important and responsible positions, first with other nonprofit organizations and in the public service. As Chief of Staff of the EPA Office of Water, Assistant Secretary of the Maryland Department of the Environment, and most recently, EPA Associate Administrator, he has gained a wealth of knowledge and experience managing people, managing budgets, working with Members of Congress, since no

one manages Members of Congress, and with public and private sector organizations.

In every instance, I think he's demonstrated exceptional talent, ingenuity, political skill, and leadership abilities that I think are going to be a very important asset to the Administration and this important position of Assistant Administrator for Water.

In my judgment, Chuck Fox will make a significant contribution addressing the challenges facing the EPA as we move into the next century. I'm absolutely confident that his long-time involvement in environmental issues combined with his experience and with his commitment to the public interest will make him a skillful and effective assistant administrator.

I strongly urge the committee to act favorably on this nomination. I very much hope we'll be able to move him through to confirmation in short order.

I thank the committee.

Senator CHAFEE. Thank you very much, Senator, for coming. I know that's a very powerful endorsement and we appreciate your taking the time.

What I'd like to do now is to hear from Mr. Fox and then if we have questions, we'll direct them to the respective nominee. Go ahead, Mr. Fox, with your statement.

STATEMENT OF J. CHARLES FOX, NOMINATED BY THE PRESIDENT TO BE ASSISTANT ADMINISTRATOR FOR WATER, ENVIRONMENTAL PROTECTION AGENCY

Mr. FOX. Thank you, Mr. Chairman and Senator Baucus. I'm honored to be here today as the President's nominee for Assistant Administrator for Water.

I'm pleased that Administrator Browner asked me to take on the challenge and responsibility of administering the Nation's clean water and safe drinking water programs. I look forward to the opportunity to work closely with this committee and Congress to improve the stewardship of our Nation's water resources.

My career in the environmental policy arena here in Washington and in the State of Maryland spans 15 years. As a Federal official, State official and representative of nonprofit environmental organizations, I have dedicated my professional career to working on water issues on behalf of the American public. I look forward to continuing this work with this committee on a bipartisan basis.

My experience with both Federal and State governments has focused on finding cleaner, cheaper, and smarter ways to achieve our Nation's environmental goals, and I will continue this work with the Office of Water.

As the Assistant Secretary for the Maryland Department of the Environment, I directed a comprehensive permit reform initiative that provided Maryland businesses with more timely and predictable results, while at the same time allowing State resources to be deployed more efficiently.

I also coordinated a multiagency environmental goalsetting effort to foster collaboration among State agencies and to enhance accountability to the public and the State legislature. This effort was very similar to the activities carried out by EPA pursuant to the Government Performance and Results Act.

As the Associate Administrator for Reinvention at the EPA, I worked to improve the management of environmental information, reduce paperwork burdens and to implement the agency's regulatory reform agenda. In the information area, for example, EPA is implementing a program that will improve data accuracy, enhance public access, and reduce burdens on State governments and the private sector. These types of common sense, cost effective reforms characterize much of the work I accomplished in the Office of Reinvention.

I would like to talk very briefly about the challenges confronting our Nation's water programs. Twenty-five years after passage of the Clean Water and Safe Drinking Water Acts, we stand at a critical threshold. We have made remarkable progress in ensuring safe drinking water and cleaning up the Nation's rivers, lakes, and streams. However, 40 percent of the water accessed by the States and tribes do not meet water quality goals and too many people are exposed to potentially harmful drinking water.

Under the bipartisan leadership of this committee, President Clinton and Congress have articulated a clear agenda for drinking water by strengthening the Safe Drinking Water Act. In February of this year, the President proposed a Clean Water Action Plan that describes 10 general principles for strengthening clean water programs with over 100 specific actions.

If confirmed as Assistant Administrator for Water, my top priority will be to support the effective implementation of the Safe Drinking Water Act amendments and the Clean Water Action Plan. I see five key themes that will most need attention.

No. 1, maintenance of core programs. We need to assure financial integrity of the State revolving fund, work with our State partners to improve implementation of discharge permitting programs, and implement the source water and nonpoint source pollution programs effectively.

No. 2, definition of environmental goals. We must support State and tribal efforts to expand and improve water quality standards and assure that we use sound science in developing new drinking water standards.

No. 3, promotion of the watershed approach. We need to expand policy tools and incentives that encourage Federal, State, tribal, and local governments to form partnerships dedicated to resolving water quality problems on a watershed basis.

No. 4, building intergovernmental partnerships. Implementation of the Clean Water Action Plan and Safe Drinking Water Act requires an unprecedented level of coordination at all levels of government. I hope to continue and expand these efforts if confirmed.

Finally, we need to improve public access to information. I will work with the States, tribes, and other stakeholders to improve the public's right to know about the condition of their surface water and drinking water.

The Office of Water has established a strong track record of reaching out to its State, tribal, and local government partners as well as to industry and environmental interest groups. I am committed to continuing this tradition and to achieving the broadest possible participation to develop effective, workable solutions for those most affected by our actions.

Let me close by expressing my appreciation to the committee, particularly the chairman and ranking minority member for the opportunity to appear before you today. I am eager to apply my energy and experience toward this new mission.

If confirmed, I will consider it a great honor and a privilege to work with the members of this committee toward achieving the Nation's goals for clean and safe water.

I would also like to express my appreciation for the support of my family, particularly my wife. As you know, Mr. Chairman, public service requires significant commitments and sacrifices. I'm grateful for their past support and I know it will continue in the future.

Thank you very much and I'd be pleased to answer any questions.

Senator CHAFEE. Thank you very much, Mr. Fox.

Now, I'd ask both of you the same question. Are you willing, at the request of any duly constituted committee of the Senate, to appear in front of it as a witness?

Mr. FOX. I am.

Mr. DIAZ. I am.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you're confirmed in this position?

Mr. FOX. I am not aware of any conflicts.

Mr. DIAZ. I am not, Senator.

Senator CHAFEE. Mr. Diaz, I was interested when you talked about the computer situation with regards to the year 2000. We spend a lot of time worrying about it up here but there's not much we can do. It really is those who are out on the firing line such as yourself. You think that EPA is going to be ready for that momentous day?

Mr. DIAZ. Mr. Chairman, it's clear to me the importance of the so-called Y2K issue being addressed effectively by the Environmental Protection Agency as well as the rest of the Federal Government, but in my briefings so far, I have a sense of confidence that yes, we will be ready.

There are 61 mission critical information systems at the EPA that require compliance with the Y2K standard before the turn of the century. Of those, two-thirds are already in compliance. The scheduled milestone for total compliance is the end of the first quarter of the next year which will allow the EPA 9 months of operational testing to verify the operational readiness of those systems prior to the turn of the century.

Clearly this is an area that requires close monitoring because of the importance to both the agency and to the American public as well as to the Congress. So it's one to which I would like to apply my management skills to ensure that milestone that has been set is met, but I do have the confidence that we're on the right course to accomplish that.

Senator CHAFEE. I wouldn't expect that EPA would be as dependent upon their computers as say the Social Security Agency or something like that, or the Treasury, but still each agency is terribly important.

I presume you've had considerable experience working with computers yourself, have you?

Mr. DIAZ. I've actually dealt with the computer issue at the Department of Energy in a couple of different areas, essentially with regard to the paperwork burden reduction which includes electronic reporting burden as well and to another extent with regard to local area networks that we use at the Energy Department, Internet access to information.

We have a responsibility in the Office of Administration Resources Management for the Chief Information Officer responsibility that was established by the Clinger-Cohen Act, so it's one where I believe we have the resources that are dedicated to ensuring that we are Y2K compliant, but I do believe it's necessary to continue to exercise oversight to make sure that we're meeting our responsibilities.

If I may add just one short addendum, that is that it's clear to me that this is an issue that needs to be addressed in concert with our partners outside of the agency upon whom we are dependent for information which is made available to the public through the EPA information systems.

We are working directly with stakeholders to make sure that they understand the importance of the Y2K issue, that they are taking advantage of the opportunities to correct their own systems to be compliant by the Year 2000 as well. So it's a major outreach effort on behalf of the agency.

Senator CHAFEE. We will look to you frequently, we deal with the Administrator but with you also in connection with say the expenditures under Superfund for example, and all of this will fall, I presume, under your umbrella as paying attention to the administrative aspects of these different programs.

Mr. Fox, obviously we're not going to do anything on the Clean Water Act this year but next year it would be my intention to get back with the Clean Water Act and under that, the wetlands is always the most contentious provision.

Have you dealt much with mitigation banking under wetlands?

Mr. FOX. Yes, I have, Mr. Chairman, particularly at the State level and some earlier work at the USEPA. I believe that mitigation banking offers tremendous promise to try and provide a little more predictability in the wetlands permitting process and at the same time to help the Nation achieve our no-net-loss of wetlands goals.

I think we need to always be conscious of places where mitigation banking might not be appropriate and we need to just remember and keep those safeguards incorporated in the program. There are, as you know, some types of wetlands, for example, that aren't real easy to replace in the context of a mitigation bank, but overall, the Administration has been a strong supporter of mitigation banking and I think it's an important part of the wetlands solution.

Senator CHAFEE. Have you ever seen one that works?

Mr. FOX. There are some examples of some. We had one in Maryland, in fact, that was showing itself to be quite successful. It depended a lot on the land area where, in fact, the wetlands were being created and could we have engineering solutions in those

areas that replaced the functions and values of the wetlands, but it can be done in some cases.

There are certainly many examples of it not succeeding as well.

Senator CHAFEE. We went down to see one south of Fredericksburg. I must confess I've forgotten the exact place we went but they had one of a couple hundred acres down there and it's working quite successfully, so it seemed.

Senator Baucus.

Senator BAUCUS. I'd like to ask each of you why do you want this job, your individual jobs? I'll start first with you, Mr. Diaz. Why do you want this?

Mr. DIAZ. First of all, I believe that this represents a tremendous opportunity to support a mission which is future-oriented and which is strongly supported by the American people, that is protecting our environment for ourselves, for our families and our communities.

In addition to that, I believe that in connection with my background, you will see a career of increasing levels of complexity and trust in government service. This is an opportunity for me to take those experiences and perspectives and share them with colleagues at the Environmental Protection Agency.

I'm very enthusiastic about the opportunity to use management skills in supporting the core mission of the agency that is environmental protection, and I do believe, as I said in my summary statement, that integrating the delivery of that core mission with efficient and flexible management services, I think is something that is desirable and one where I would like to help make a difference.

Senator BAUCUS. You have a passion for the job?

Mr. DIAZ. I think that's a fair summary, yes, sir.

Senator BAUCUS. How do you want to be remembered?

Mr. DIAZ. I've said there are three priorities I see for this job that I would like to accomplish. As I've also indicated, I've dedicated my career to achieving results and not focusing on process. As far as I'm concerned, I've essentially laid out a contract with this committee and I would like to be remembered in terms of a legacy as having achieved results on the three priorities that I indicated to this committee—efficient and effective information management, efficient and effective management of our financial resources contracts and grants, the lifeblood of the agency in many respects, and third, assuring that we are investing in the future in terms of the human infrastructure of the agency.

If I accomplish what I have indicated to this committee, what I see as my three priorities, I will indeed have a happy legacy.

Senator BAUCUS. You've measured those results to know whether you've accomplished them or not? By what standard?

Mr. DIAZ. You and I had an interesting conversation, Senator, when you talked about your sense of making sure that we know names, dates, and data. It strikes me that in connection with assuring that we know how to measure performance, which is always a difficult issue, one of the things I've been talking to my colleagues at the EPA about is essentially coming up with a game plan so that we know how to measure success over the next 30, 90, 180 days. I'd like to share that with this committee and as far as

I'm concerned, those are the performance measures that I would like to be measured against.

Senator BAUCUS. Do you have a sense of at the end of your term, do you want to find the agency 10 percent more efficient and effective, 20 percent? Do you know enough about the agency to know percentage of improvement that sounds reasonable?

Mr. DIAZ. That's an interesting question. Let me first say that as I think the committee members are aware, this is an agency which I have a general sense of understanding about. The President's nomination went forward to this committee on the 17th of this month. In less than 2 weeks, I have tried to become sufficiently briefed on the major priority issues of the agency so that I can reputationally respond to your questions.

I can't give you a quantifiable measure but it strikes me that what we're trying to do is to ensure that in an environment where I understand in connection with the balanced budget amendment, we will see essentially steady resource allocation to the Environmental Protection Agency, we see growing expectations on the part of the American public with regard to their environment.

We've got to learn how to do more with less, more stable resources and so I think the performance measure, and I can't quantify it anymore than that, Senator, but I would be happy to share further insights with you at a later date, it strikes me that we need to be able to deliver on those increasing expectations with the kind of resources that we have, always mindful of course of the fact that we need to work in collaboration with our customers and stakeholders upon whom we depend for so much delivery of those services.

Senator BAUCUS. Are there any breaking new concepts or technologies or something in your area that you're sort of intrigued with that might help you and the agency do a significantly better job in your area?

Mr. DIAZ. One of the areas in fact that I'm quite excited about and I would like to have an opportunity to get a firsthand observation of is the new facility being constructed at Research Triangle Park in North Carolina. It's been supported by this committee and the Senate and the Congress. It is going to be a state-of-the-art facility. It's going to enable us to realize a tremendous cost savings over the 30-year life of that facility. It's estimated to be \$100 million cost savings over 30 years.

We see increased productivity gains associated with that, consolidation and the state-of-the-art laboratory facility, we believe is going to support the research mission of the agency and delivery of sound science into the next century. That's the kind of thing that very much excites me and I'd like to get a firsthand observation of it.

Senator BAUCUS. Mr. Fox, same list of questions. Why do you want this job?

Mr. FOX. That's actually an easy answer for me, Senator. This is an incredibly exciting time in the water area. This committee, with passage of the Safe Drinking Water Act amendments has laid out what I think is a very ambitious job for the Assistant Administrator for Water.

You have given the agency a series of deadlines and a series of new drinking water standards that we have to develop so that we can meet the needs of small communities throughout the country, so that we can assure the public has high quality drinking water.

On the clean water side, the President's Clean Water Action Plan lays out a very ambitious agenda that needs to be implemented. Despite our best efforts, we haven't made great progress in the last 10–15 years in terms of tackling some of the nonpoint source pollution problems this Nation faces, particularly associated with urban runoff or suburban runoff, or agricultural runoff. I think those areas in particular pose significant challenges and opportunities at the same time to build partnerships with farmers, with State and local governments to try and solve these problems.

So I think we truly are at a threshold in the 25 years of history with both the Safe Drinking Water Act and the Clean Water Act.

Senator BAUCUS. How do you want to be remembered?

Mr. FOX. I've worked for many years on ocean and coastal issues and one of the areas I clearly want to be remembered for is helping to advance the cause of protecting our Nation's oceans and coasts. It's an area where as a Nation we've increased population growth and habitat deterioration and pollution inputs to our coastal waters. I want to be remembered as somebody who can hopefully have advanced that cause of protecting our coastal environments.

I also want to be remembered as somebody who has begun to tackle the problem of nonpoint source pollution in a real, effective, meaningful way. Many parts of the country, including your great State of Montana, have waters that are affected by nonpoint source pollution. So I would really like to see some success in that area as well.

Senator BAUCUS. We've had this discussion, as you know. Some agencies have a pretty good reputation, some Federal agencies, some not. Those that do are agencies like the USDA where there is a lot of personnel on the ground, where people get to know each other, people doing the work have lunch together and supper together and they get to know each other which means that the local folks have a little more confidence that the agency understands what their problems are. The fact is, that's true the agency does have a better understanding of what the problems are. Nonetheless, the agency personnel go ahead and do a good job.

That's not true of the EPA. The basic problem is the EPA doesn't have the personnel on the ground in the field, not near as many as say the USDA. So you've got a unique problem, how to develop public confidence when you don't have very many people.

A lot of people in western States think that the Denver office, Washington, DC., what do they know about us, they're thousands of miles away. With airline costs as high as it is and airline travel as difficult as it is, particularly from Denver, there's no way that very many PA personnel are going to get to Montana and back. It's a problem. You've got some good people there in Montana. There's John Wardell, for example, who does a pretty good job in the State.

I'd just urge you to bend over backwards to figure out some way to enable people to truly believe that you're truly listening to their problems. Set some systems in place or go out more frequently than I otherwise thought I would, the kind of walking around con-

cept, out from behind your desk and get a feel or a taste or spell of what's going on here. It will go a long, long way. I strongly urge you to do so.

I wish you both very, very good luck.

Mr. FOX. Thank you, Senator.

Senator BAUCUS. One final point. It's my view and my hope that when you have a problem and you think it's something this committee should know about, tell us, and the earlier the better. It just makes things a bit difficult and problems brew up. Some members of the committee hear about it through the back door or somehow and want to create a fuss or something. So just let us know in advance and we'll probably be able to work it out pretty well.

Thank you.

Mr. FOX. Thank you.

Senator CHAFEE. I want to echo what Senator Baucus said in that last point. Obviously this committee is not here in a confrontational mode with you, we're not out here to harass you. We're on this committee because the members care about the environment and some people forget that EPA stands for the Environmental Protection Agency. Therefore, we're here to attempt to be helpful when you've got challenges and through the Administrator, you can bring your difficulties here where we might be helpful and we're out to try and do that.

I would hope, Mr. Fox—and this would apply to you, Mr. Diaz, too—that you'd embrace what might be new techniques in trying to solve some of these problems. For example, we had some very interesting testimony not long ago on the effectiveness of spending money on watersheds as opposed to trying to clean up the rivers when they came down into say the New York City water supply system.

If we can put a modest amount of money into say some holding pond for manure generated on a farm upstream from the watershed that supplies New York City, it's far more effective than trying to clean up that water when it gets down with that cattle manure or whatever might be in it as it comes down into the immediate water supply system say for the city of New York.

It was fascinating to me to learn the modest expenditure that could take place upstream in prevention as opposed to downstream attempt at a cure.

Several times you've mentioned nonpoint source pollution and that's a tremendous problem. There is no question that we—we being the industry and the Federal Government with the support of local communities—have done a tremendous job in cleaning up these lakes and rivers. I don't know what the percentage is you're using now for the pollution in rivers coming from nonpoint source pollution. What percentage do you use?

Mr. FOX. As a general rule—obviously it varies around the country—I think it's fair to consider it's a little more than half. Certainly the nutrient pollution would be coming from nonpoint sources.

Senator CHAFEE. So we've come a long, long ways with the point source pollution. I want to tip my hat to industry. Obviously they've had to comply but they have complied and without squawking and with an honest effort to reduce the point source pollution.

Now, as you point out, it's the nonpoint source pollution that's a real problem. It's difficult and you get tangled up into land use planning, which are always fighting words as you know, from the Federal Government getting into that area, but there are interesting techniques.

I'm always impressed around here by the static situation as it exists as far as the development of waste treatment plants. It doesn't seem to me that much has happened. Am I missing something or is everything about the way it was 40 years ago?

Mr. FOX. The basic technology of most of them, Senator, is virtually identical to the way it was but there have been a number of new advancements in changing how the pollutants are retained in different holding ponds, adding different chemicals here and there, and you are getting much higher performance today out of sewage treatment plants than you were before, and there's new capacities to get nutrient pollution removal which you couldn't get before. So they're making some improvements.

Senator CHAFEE. I always have the feeling that it's such an expensive undertaking for a community that nobody wants to try anything new for fear if it doesn't work, they're stuck with it and the costs are substantial.

I don't see much that is adventuresome out there. Again, am I missing something?

Mr. FOX. No. I think the evidence we have right now shows not only is nonpoint source pollution a significant part of the problem, but that we can much more cost effectively control pollution from nonpoint sources. So if we can find ways of building partnerships with farmers and local governments on a watershed basis, we can end up not only cleaning up the waters, but saving money at the same time. So I'm real hopeful that we can do that.

Senator CHAFEE. I'll remember what you've said and a year or so from now, we might ask you to come back up here and see how you're doing.

Mr. FOX. Fair enough.

Senator CHAFEE. Senator Baucus, have you got anything else?

Senator BAUCUS. No more questions.

Senator CHAFEE. We thank both of you gentlemen for coming here. Again, I want to say that the earliest we'll be able to get these nominations to the floor would be in the first part of September, but it's my intention to move briskly along with this because I don't like to hold up these things.

Thank you very much, both of you, and thank your families.

What's that triangle I meant to look up, Mr. Diaz?

Mr. DIAZ. The Golden Triangle, sir, and Nederland, TX is the heart of the Golden Triangle.

Senator CHAFEE. What makes up the Triangle, again?

Mr. DIAZ. Belmont, Port Arthur and Orange, TX.

Senator CHAFEE. I got it. Thank you. Glad you're here, and your families.

[Whereupon, at 5 p.m., the committee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow.]

STATEMENT OF HON. PAUL S. SARBANES, U.S. SENATOR FROM THE STATE OF MARYLAND

Thank you, Mr. Chairman, for this opportunity to present and express my strong support for Charles Fox, the President's and the EPA Administrator's nominee for Assistant Administrator for Water.

I first came to know Chuck Fox in the early 1980's when he served as the Chesapeake Bay Project Director for the Environmental Policy Institute, a not-for-profit environmental organization. At that time, the Chesapeake Bay Agreement was just being crafted and we were working together with Senator Mathias and Senator Warner as well as the Committee Chairman, Senator Chafee, to draft the original legislation authorizing EPA's participation in the Chesapeake Bay cleanup effort. I want to thank the Chairman, Senator Baucus and Senator Warner for approving several new measures recently to restore and protect the Bay, including the Chesapeake Bay Restoration Act and the Gateways and Watertrails Act. Chuck played an important role in helping to develop the intergovernmental partnership and watershed management approach which have become the hallmark of the Chesapeake Bay Program and the standard for restoration in other degraded coastal environments.

Over the past 15 years, Chuck has held increasingly important and responsible positions with other non-profit organizations and in public service. As Chief of Staff of the EPA Office of Water, Assistant Secretary of the Maryland Department of the Environment and most recently, EPA Associate Administrator, he has accumulated a wealth of knowledge and experience managing people and budgets, working with Members of Congress and public and private sector organizations. In every instance, he has demonstrated exceptional talent, ingenuity, political acumen and leadership abilities that would be a tremendous asset for the Administration and for this important position.

In my judgment, Chuck would make a significant contribution in addressing the challenges facing the EPA as we move into the next century. I am confident that his longtime involvement in environmental issues, combined with his experience and commitment to the public interest, will make him an effective and skillful Assistant Administrator. I urge the committee to favorably and swiftly report this nomination to the full Senate.

STATEMENT OF ROMULO L. DIAZ, JR., NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR ADMINISTRATION AND MANAGEMENT, ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman and members of the committee, it is a great honor and privilege to be here today as the nominee of President Clinton and Administrator Browner to be the Environmental Protection Agency's Assistant Administrator for Administration and Resources Management.

I am very proud to have been asked to serve in the Clinton Administration and with Administrator Carol Browner, who are working to enhance the level of public health and environmental protection for all Americans. I look forward to working closely with you, the Congress, to continue to improve management and performance at EPA.

I want to speak briefly about my background and discuss where I would hope to bring new ideas and leadership to the position, if confirmed.

I come to you with over 25 years of experience in public service, both as an attorney and as a manager of domestic and international strategic programs for the Department of Energy (Department or DOE) and other Federal energy agencies. In my current position as Director of the Office of Regulatory Coordination, I have played a leadership role in reinvention efforts that resulted in the elimination or streamlining of more than 75 percent of the Department's regulations, 50 percent of its internal directives, and 20 percent of its paperwork burden. These efforts are enabling the Department to realize savings in excess of \$100 million over 5 years.

In previous posts, I was responsible for DOE management and operations policies, was twice unanimously elected by the nations of the North Atlantic Treaty Organization to chair an energy committee, successfully negotiated the international energy contingency response to the 1990-91 Gulf Crisis, represented the Federal Energy Regulatory Commission on important energy legislation, and led that agency's efforts to create a nationwide system for the emergency implementation of deregulatory pricing regimes under the Natural Gas Policy Act of 1978.

Throughout my career, I have pursued public service with a passion and have dedicated myself to making the Federal Government work better and more efficiently to meet the needs of its customers and stakeholders. I have done this while always being mindful of the expectations of the American public. This has required

a dedication to measuring performance based on results, rather than process. If given the opportunity, I look forward to bringing these experiences and perspectives to the leadership team at EPA and to continuing to sharpen EPA's focus on efficient management services.

I would like to summarize the values and principles that will guide me if this committee approves my nomination and the Senate chooses to confirm me as EPA's Assistant Administrator for Administration and Resources Management. They include: integrity and fiscal responsibility; openness and willingness to listen; fairness and accountability; proactivity; and a spirit of partnership.

EPA's Office of Administration and Resources Management provides leadership to ensure sound management of administrative services throughout the Agency. The Office has a broad range of functions, including: management of human resources; information technology; contracts; grants; employee health, safety and security; and facilities construction. In managing these programs, I pledge to ensure the highest quality standards of integrity and fiscal responsibility. I would like to focus on several high priority areas.

First, I am aware that the Congress has concerns about the Federal response to the Year 2000 computer date conversion issue (Y2K) and I know this is also one of Administrator Browner's top priorities. In my discussions with senior EPA staff, I have been assured that EPA's mission critical information systems and technology infrastructure will be Y2K compliant and verified through operational trials before the turn of the century. EPA is working with State, local, and tribal governments and regulated industries to ensure that systems will be compatible to allow for the exchange of data by the year 2000. In addition, the Agency is working with several sectors of American industry to build awareness and to encourage their action to address Y2K problems.

EPA has placed an increased emphasis on using the tools of government to enhance the way we get information to the public about our drinking water, our air, our homes, and the environment in our communities. Improving access to and the quality of environmental information allows society at all levels to make better decisions. The Office of Administration and Resources Management has the responsibility for the technology infrastructure that supports these efforts. If confirmed, I will dedicate myself to moving this important initiative forward.

I am aware that the Congress has been concerned in the past with the Agency's management of its contracts, grants and assistance agreements. About two-thirds of EPA's budget is obligated as contracts or grants every year, so these are very important areas to manage and to manage well. I have been informed that the Agency has made substantial progress, so much so that EPA's Inspector General agrees that contracts management should no longer be reported as a "material weakness" to the President and Congress. Furthermore, the grants close-out backlog has been reduced by 80 percent. If confirmed, I pledge my support to the Administrator and the Congress to strengthen the initiatives the Agency has established to promote more effective management and accountability for these important functions.

I firmly believe the Federal Government has a responsibility to attract a workforce that reflects the talents and perspectives of a growing multi-cultural society. This is an investment in the human infrastructure of the Agency to ensure that it has the science and technology skills needed for the future. Building on my previous experiences, I intend to ensure that EPA's work environment is grounded in fairness and recognizes the richness and diversity of its workforce.

I also believe it is essential that we provide a healthy, safe and secure environment for the Agency's employees. In that regard, I want to recognize your support, Mr. Chairman, and that of the members of the committee, in helping EPA to obtain the necessary space that will allow us to consolidate our employees in Washington, DC., as well as in Research Triangle Park, North Carolina. This effort will result in cost savings for the U.S. taxpayer and improved productivity for the EPA workforce.

In summary, effectively discharging the responsibilities of the Office of Administration and Resources Management is critical to meeting EPA's mission. I believe that it is in the best interest of EPA and the public to integrate mission goals and effective management. If confirmed, I pledge to bring the full weight of my experience and abilities in order to further that integration.

Let me close by expressing my appreciation to the committee for your recognition of and support for the Agency's vital mission. Thank you for the opportunity to appear here today. I'd like to thank my parents, who are here today, for their continued love and support. I'd also like to thank you, Mr. Chairman, and the members of the committee for the courtesies extended to them today. At this time, I would be pleased to take any questions that you may have.

UNITED STATES SENATE**COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS**

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

INFORMATION**REQUESTED OF PRESIDENTIAL
NOMINEES**

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

Name of Nominee: Romulo L. Diaz, Jr.

Business Address: U.S. Department of Energy, 1000 Independence Avenue, S.W.
Washington, DC 20585-0103

Business Phone: (202) 586-2902

Home Address: 1735 New Hampshire Avenue, N.W., Apartment 503
Washington, DC 20009-2560

Home Phone: (202) 234-3838

**UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

Name: Diaz, Romulo L., Jr.

Position to which nominated: Assistant Administrator for Administration and Resources Management, U.S. Environmental Protection Agency

Date of Nomination: July 17, 1998

Date of birth: June 3, 1946 **Place of birth:** Port Arthur, TX

Marital status: Single **Full name of spouse:** Not applicable

Name and ages of children: None

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	Nederland (TX) High School	9/61-5/64	HS Diploma	
	University of Texas at Austin	9/64-5/68	B.A.	5/72
	University of Texas Law School Kennedy School of Government, Harvard University	9/68-5/72	J.D.	5/72
	SES Candidate Development Program	8/91 4/90-7/92	Certificate of Exec. Qualifications	8/92

Employment record: *List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.*

Director of Regulatory Coordination DOE Washington, DC 6/95 - Present

Appointed first Director with responsibility for coordinating DOE's regulatory reform efforts that have resulted in the elimination or streamlining of more than 75 percent of the Department's regulations, 50 percent of its internal directives and 20 percent of paperwork burden.

**Deputy Assistant Secretary
for International Affairs** DOE Washington, DC 7/93 to 5/95

Responsible for implementing energy trade promotion policies, particularly with respect to Africa and Latin America. Planned first Hemispheric Energy Ministerial Symposium following 1994 Summit of the Americas. Chaired North Atlantic Treaty Organization's Petroleum Planning Committee since election in 1991.

**Deputy Chief of Staff and Counselor
to the Secretary** DOE Washington, DC 2/93 to 7/93

Coordinated broad range of Departmental management and operations issues. Provided independent counsel to the Secretary of Energy on legal and policy issues.

**Director for Domestic Operations, Office of
Emergency Planning and Operations** DOE Washington, DC 12/92-1/93

Worked with State emergency organizations in the development of local energy preparedness and disaster relief programs.

**Director/Program Manager
for International Operations, Office of
Emergency Planning and Operations** DOE Washington, DC 1/81 to 12/92

Developed U.S. strategies for responding to international energy emergencies and advocated their adoption in international multilateral organizations. Directed public/private sector cooperative program for meeting international obligations. Negotiated international energy contingency response to the 1990-91 Gulf Crisis, including the first emergency drawdown of the U.S. Strategic Petroleum Reserve.

**Advisor to the Administrator,
Economic Regulatory Administration** DOE Washington, DC 10/80 to 1/81

Advised Administrator on wide range of energy regulatory issues, including decontrol of crude oil and petroleum products. Developed comprehensive regulatory issues training programs for field personnel, and coordinated litigation and procurement compliance.

**Advisor to the Assistant Administrator
for Petroleum Operations,
Economic Regulatory Administration** DOE Washington, DC 12/79 to 6/80

Conducted legal review of petroleum operations and related regulatory programs, imports/exports of electricity and natural gas, and decontrolled petroleum products.

**Deputy Assistant General Counsel,
Federal Energy Regulatory Commission** FERC Washington, DC 2/79 to 12/79

Created nationwide system for emergency implementation of complex pricing regimes under the Natural Gas Policy Act of 1978.

**Deputy Assistant General Counsel,
FERC/Federal Power Commission** FERC/FPC Washington, DC 11/76 to 2/79

Advised Commission and General Counsel on legislative issues and strategies. Represented agency in White House initiatives to establish Department of Energy and FERC, and to prepare first comprehensive National Energy Plan.

Trial Attorney FPC Washington, DC 5/72 to 11/76?

Responsible for complex administrative litigation involving natural gas pipelines and hydroelectric licensing.

Honors and Awards: *List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.*

Secretary of Energy's Pride Award (June 1998)
 Engineer of the Year Award, Society of Hispanic Professional Engineers, New Jersey Institute of Technology (May 1998)
 National Hispanic Environmental Council Leadership Award (May 1997)
 Secretary of Energy's Gold Award (January 1997)
 Special Act Award for Regulatory Reinvention Initiative (September 1995)
 Distinguished Service Award, Federal Bar Association (October 1984)
 Special Act Award for Implementation of the Natural Gas Policy Act (August 1979)
 Joseph M. Curran Scholarship, National Maritime Union (1964-68)

Memberships: *List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.*

Organization	Office held (if any)	Dates
State Bar of Texas		1972-Present
Federal Bar Association	DC Chapter President; National Council; Chair, Continuing Education Board; Chair, Strategic Long Range Planning Committee	1972-Present
National Lawyers Club		1975-93
National Hispanic Bar Association		1975-Present
National Assoc. of Latino Elected and Appointed Officials		1993-Present
Hispanic Association of DOE	Vice President	1994-Present
Human Rights Campaign		1985-Present
Gay and Lesbian Victory Fund		1993-Present
Federal GLOBE		1993-Present
DOE-GLOBE		1994-Present
DNC Saxophone Club		1993-Present
St. Matthew's Cathedral		1986-Present

The Ex-Students' Association,
 University of Texas Life Member 1993-Present
 Portsmouth Condominium Assoc. President, Treasurer, Board of Directors 1987-Present

Qualifications: *State fully your qualifications to serve in the position to which you have been named.*

I have more than twenty-five years of public service experience as an attorney and manager of both domestic and international strategic programs for the Department of Energy and related energy agencies. Through service in positions of increasing complexity and sensitivity, I have gained the skills and the experience needed to manage agency-wide resources for which the Assistant Administrator for Administration and Resources Management has responsibility, including human resources, administrative services, procurement through contracts, and grants management. Throughout my career, I have been recognized as a leader with strong interpersonal skills coupled with the ability to work with people to build teams that achieve organizational goals and objectives. This has required a dedication to measuring performance based on results, and not process. Twice I have been elected unanimously by the nations of the North Atlantic Treaty Organization to chair an energy-related committee. During my tenure with DOE, my performance has merited numerous performance awards and bonuses, as well as the Secretary's Gold Award.



United States
Office of Government Ethics
 1201 New York Avenue, NW., Suite 500
 Washington, DC 20005-3917

July 27, 1998

The Honorable John H. Chafee
 Chairman
 Committee on Environment and Public Works
 United States Senate
 Washington, DC 20510-6175

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Romulo L. Diaz, Jr., who has been nominated by President Clinton for the position of Assistant Administrator for the Office of Administration and Resources Management of the Environmental Protection Agency.

We have reviewed the report and have also obtained advice from the Environmental Protection Agency concerning any possible conflict in light of its functions and the nominee's proposed duties.

Based thereon, we believe that Mr. Diaz is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,


 Stephen D. Fotts
 Director

Enclosure

RESPONSES BY ROMULO L. DIAZ, JR., TO ADDITIONAL QUESTIONS FROM SENATOR
INHOFE

The EPA's Environmental Justice program has come under increased scrutiny, particularly since the issuance of the February policy. That policy has been roundly criticized by groups including: U.S. Chamber of Commerce, National Black Chamber of Commerce, Western Governors Association, U.S. Conference of Mayors, National Association of Counties, National Association of Black County Officials, and the Environmental Commission of the States. The Agency has also been accused of withholding reports which are critical of the policy.

Question 1. If you were to be confirmed as the Official in charge of the Office of Environmental Justice, how would you plan on addressing the concerns raised by these groups?

Answer. Senator, if confirmed as Assistant Administrator for Administration and Resources Management, I would have responsibility for a broad range of functions including: management of human resources; information technology; contracts; grants; employee health, safety, and security; and facilities construction. These responsibilities do not encompass the Agency's Environmental Justice Program.

I have brought your concerns to the attention of the relevant officials at EPA, who informed me that environmental justice activities are the responsibility of EPA's Office of Civil Rights and the Office of Environmental Justice. The Office of Civil Rights addresses Title VI issues under the Civil Rights Act. Much work is underway to explore how EPA should implement the requirements of Title VI in addressing complaints from communities in which discrimination has been alleged in the issuance of environmental permits. The Office of Environmental Justice is responsible for coordinating efforts within the Agency to identify and address disproportionately high and adverse human health and environmental effects on minority and low income populations.

I have emphasized in my testimony the desirability of working collaboratively with the Agency's customers and stakeholders, which is a view that I believe is shared by the senior management of EPA. In particular, I am sensitive to the fact that you, other Members of Congress, and the stakeholders mentioned in your question should be a part of this collaborative process. It is a priority of the Administrator to see that children's issues also receive serious attention from the Agency and these stakeholders.

If you would like further information on the activities of these offices, I would be happy to work with my EPA counterparts to address your concerns.

Question 2. Recently an EPA employee, Beverly Baker, was quoted in the Washington Post (7/20/98) as saying "the best hope to improve minority involvement lies with educating children and getting them involved 'as young as possible.'" Considering the prohibition on encouraging lobbying activities, could you explain how the Agency plans on targeting such education efforts at children and to what extent the Agency plans "on getting them involved?"

Answer. I have been informed that the Agency has several financial assistance programs available to nonprofit organizations. The Environmental Education Office focuses on supporting schools in developing programs on environmental justice. In addition, the Office of Environmental Justice has a Small Grants Program to Communities for nonprofit organizations at the local level, such as schools, grassroots and community organizations, to introduce the concept of environmental justice to young people and others. Grants under this program contain a special condition prohibiting lobbying in accordance with Office of Management and Budget Circulars A-122 and A-21. Other approaches to getting young people motivated to educate themselves about environmental issues have included: (1) *sponsoring "shadowing program"* which expose students from local schools to basic environmental science, computer training, and job skills development in addition to an opportunity to work on specific EPA-sponsored projects; (2) *designing (in conjunction with the Urban League) an eight-week "Urban Wall" summer program* which provides experiences in water sampling, soil sampling and analysis; and (3) *providing guest speakers* who travel from school-to-school to discuss environmental justice issues with the students. These approaches are strictly educational in nature and do not involve any form of prohibited lobbying. Therefore, the Agency has been able to educate young people on environmental issues that affect them, their families, and their communities without engaging directly or indirectly in prohibited lobbying activities.

Question 3. Can you explain how your Office will coordinate environmental justice activities with other Agency programs such as the Brownfields initiative?

Answer. The Office of Administration and Resources Management does not have responsibility for coordinating environmental justice activities. Overarching responsibility lies with the Office of Environmental Justice. When issues specifically per-

tain to Brownfields, the Office of Environmental Justice will coordinate with the Office of Solid Waste and Emergency Response.

I understand that the Office of Environmental Justice coordinates its activities primarily in three ways. First, it has a formal process through Executive Order 12898, which requires EPA and other Federal agencies to develop environmental justice strategies that describe how they will meet their environmental justice goals, policies and strategies. The Office also monitors activities through internal Agency submissions that are received as part of the Agency's Environmental Justice and Annual Report. This report allows the Office of Environmental Justice to determine what additional Agency resources might be offered. The final form of official coordination is through the Environmental Justice Steering Committee which includes senior level managers from each office, who meet periodically to discuss pressing issues and exchange information.

Question 4. Considering the mounting pressure in opposition to the policy, including criticism from Detroit Mayor Dennis Archer, do you consider it prudent to rescind the policy and involve the affected stakeholders in the development of a new policy?

Answer. EPA is carefully evaluating all of the comments it has received on the *Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits* from the States, industry, and community organizations. In addition, EPA has established a Federal Advisory Committee to further advise the Agency on implementation of Title VI and the Interim Guidance. The Committee includes representation from industry, academia, the community, State and local governments, tribal governments, and environmental groups. This Committee is expected to make its recommendations by the end of this year. Until any guidance is finalized, the office of Civil Rights has informed me that EPA's intent is to continue to apply the Interim Guidance and EPA's Title VI regulations to investigate existing complaints. EPA will not finalize the Interim Guidance without fully considering all comments received as well as the recommendations from the Committee.

Should you desire, I would be glad to work with the Agency's Office of Civil Rights and Office of Environmental Justice to provide you with additional information on any of these issues.

RESPONSES BY ROMULO L. DIAZ, JR. TO FOLLOW-UP QUESTIONS FROM SENATOR DIRK KEMPTHORNE

Question 1. As Assistant Administrator for Administration and Resources, you will be in a position to account for the division of expenditures amongst various environmental programs in every EPA Region in the country. As a Senator from Idaho, I would like to be informed of how EPA Region 10 is currently allocating expenditures, and how it predicts it will allocate expenditures over the next 5 years. Would you be able to obtain this information for my reference?

Answer. Senator, if confirmed as Assistant Administrator for Administration and Resources Management, I would have responsibility for a broad range of functions including: management of human resources; information technology; contracts; grants; employee health, safety, and security; and facilities construction. These responsibilities do not encompass the allocation or accounting for financial resources among and within EPA's ten regional offices, which is the responsibility of the Agency's Chief Financial Officer.

With respect to Region 10, I have been informed by the Chief Financial Officer that the Balanced Budget Agreement provides stable funding for EPA's operating programs for the next several years. For example, the President's Budget request for FY 1999 reflects the Balanced Budget Agreement.

The attached chart displays State Grant funding for the State of Idaho for fiscal years 1997, and 1998, as well as proposed funding for 1999. These numbers are consistent with data contained in the Budget Information by States Report which is part of the President's Budget submission to Congress each year. Proposed funding for these State grants are formulated by the Agency's National Program Managers who have responsibility for the different categories of grants.

Once a final budget is enacted into law, the National Program Managers issue budget amounts to the EPA Regional offices for final allocation to the States. It is because of this process that a 5 year projection is not available for State funding.

State Grant flexibility is provided through the Use of Performance Partnership Grants which allow States to combine one or more of the grants listed below and spend the money on the highest priority areas for that State.

STATEMENT OF J. CHARLES FOX, NOMINATED TO BE ASSISTANT SECRETARY FOR
WATER, ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman and members of the committee, I am honored to be here today as the President's nominee for Assistant Administrator at the Environmental Protection Agency. I am pleased that Administrator Carol Browner asked me to take on the challenge and responsibility of administering the Nation's clean water and safe drinking water programs. I look forward to the opportunity to work closely with this committee and Congress to improve the stewardship of our Nation's water resources.

My career in the environmental policy arena in Washington and in the State of Maryland spans 15 years. As a Federal official, State official, and representative of nonprofit environmental organizations, I have dedicated my professional career to working on water issues on behalf of the American public. I look forward to continuing this work on a bipartisan basis with this committee.

My experience with both Federal and State governments has focused on finding cleaner, cheaper, and smarter ways to achieve our Nation's environmental goals, and I will continue this work with the Office of Water. As the Assistant Secretary for the Maryland Department of the Environment, I directed a comprehensive permit reform initiative that provided Maryland businesses with more timely and predictable results, while at the same time allowing State resources to be deployed more efficiently. I also coordinated a multi-agency environmental goal-setting effort to foster collaboration among State agencies and to enhance accountability to the public and the State legislature. This effort was very similar to the activities carried out by the EPA pursuant to the Government Performance and Results Act (GPRA).

As the Associate Administrator for Reinvention at the EPA, I worked to improve environmental information, reduce paperwork burdens, and implement the Agency's regulatory reform agenda. In the information area, for example, EPA is implementing a detailed program that will improve data accuracy, enhance public access, and reduce burdens on State government and the private sector. These types of common sense, cost-effective reforms characterize much of the work I accomplished in the Office of Reinvention.

I would like to talk briefly about the challenges confronting our Nation's water programs. Twenty-five years after the passage of the Clean Water Act and the Safe Drinking Water Act, we stand on a critical threshold. We have made remarkable progress in assuring safe drinking water and cleaning up the Nation's rivers, lakes, streams, and coasts. However, 40 percent of the waters assessed by States and tribes do not yet meet water quality goals. And, too many people are exposed to potentially harmful drinking water.

Under the bipartisan leadership of this committee, President Clinton and Congress have articulated a clear agenda for drinking water by strengthening the Safe Drinking Water Act. And, in February of this year, the President proposed a Clean Water Action Plan that describes 10 general principles for strengthening clean water programs with over 100 specific new actions. As Assistant Administrator for Water, my top priority will be to support the effective implementation of the Safe Drinking Water Act Amendments and the Clean Water Action Plan. I see five key themes that will most need attention.

(1) Maintain Core Programs—The additional responsibilities associated within the Safe Drinking Water Act Amendments and the Clean Water Action Plan are based on the premise that the core clean water and drinking water programs remain strong. We need to assure the financial integrity of clean water and drinking water State revolving loan funds. We must continue to work with our State partners to improve implementation of the discharge permitting and public water supply system programs. We must implement effective programs to prevent pollution, including the source water protection program and the nonpoint pollution control program.

(2) Define Environmental Goals—The Safe Drinking Water Act Amendments and the Clean Water Action Plan both stress the need to improve efforts to define goals and standards for clean and safe water. We need to make the new drinking water contaminant selection process a shining success and we need to assure that we use sound science in developing new drinking water standards under the guidelines established by Congress.

To achieve the Nation's clean water goals, we must support State and tribal efforts to expand and improve water quality standards by providing them with the best scientific information about pollutants. Special attention must be paid to the development of water quality standards for nutrients and biological water quality criteria.

(3) Restore Water Quality Using the Watershed Approach—Under the Clean Water Action Plan, States and tribes are now completing their unified watershed

assessments and new resources will be directed to those watersheds not meeting clean water goals. We are encouraging States and tribes to approach these restoration efforts on a watershed basis. We also need to expand policy tools and incentives to encourage Federal, State, tribal, and local governments to form partnerships dedicated to resolving water quality problems on a watershed basis.

(4) Build Inter-Governmental Partnerships—EPA, acting alone, cannot protect and restore clean water and drinking water quality. Under the Clean Water Act and Safe Drinking Water Act, EPA delegates major program responsibility to State agencies. The Safe Drinking Water Act Amendments created new State revolving loan funds for financing drinking water systems and the Clean Water Action Plan proposed significant new funding for State and tribal efforts. I am determined to provide the resources States and tribes need to succeed, so that we can achieve our environmental and public health goals by working together.

Implementation of the Clean Water Action Plan requires an unprecedented level of coordination at all levels of government, particularly among Federal agencies. EPA is working with USDA to coordinate efforts related to animal feeding operations and to foster stewardship of natural resources (including developing buffer strips). We are working with NOAA to expand joint coastal protection. We continue to work with the Army Corps of Engineers to protect wetlands. I hope to continue and expand these efforts.

(5) Improve Public Access to Information—Both the Safe Drinking Water Act Amendments and the Clean Water Action Plan include new initiatives to improve the public's right to know about the condition of surface water and drinking water. Informing the public about the health of rivers, lakes, and coastal waters where they live and the quality of the water they drink is extremely important and I will work with States, tribes, and other stakeholders to make these efforts a success.

In addition to this current focus on coordinating Federal water resource protection and restoration efforts, the Office of Water has established a strong track record of reaching out to its State, tribal, and local government partners, as well as to industry and environmental interest groups. I am committed to continuing this tradition and to achieving the broadest possible participation to develop effective, workable solutions with those most affected by our actions.

Let me close by expressing my appreciation to the committee, particularly the Chairman and Ranking Minority Member, for the opportunity to appear before you today. I am eager to apply my energy and experience toward this new mission and to work with Congress. If confirmed, I will consider it a great honor and a privilege to work with the members of this committee toward achieving the Nation's goals for clean and safe water. I would be pleased to respond to any questions from the committee at this time.

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: FOX JONATHAN CHARLES
(Last) (First) (Middle)

Position to which nominated: ASSISTANT ADMINISTRATOR - U.S. EPA

Date of Nomination: JULY 17, 1998

Date of birth: 02/08/60 Place of birth: OCEANSIDE, CA
(Day) (Month) (Year)

Marital status: MARRIED Full name of spouse: RITU RANI SHARMA

Name and ages of children: N/A

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	UNIVERSITY OF WISCONSIN (MADISON)	1/81 TO 5/83	B.S.	5/83
	NEW YORK UNIVERSITY	9/78 TO 5/80		

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

ASSOCIATE ADMINISTRATOR - U.S. EPA; WASHINGTON, DC; 2/97 TO PRESENT
 ASSISTANT SECRETARY - MD DEPT OF ENVIRONMENT; BALTIMORE, MD; 6/95 TO 2/97
 CHIEF OF STAFF POLICY DIRECTOR > OFFICE OF WATER, U.S. EPA; WASHINGTON, DC; 12/93 TO 6/95
 SPECIAL ASSISTANT TO ADMINISTRATOR - U.S. EPA; WASHINGTON, DC; 1/93 TO 12/93
 CAMPAIGN DIRECTOR - AMERICAN RIVERS, INC.; 11/92 TO 1/93

Employment record—continued

SELF EMPLOYED; WASHINGTON, DC; 1/92 TO 11/92 (NONPROFIT ENVIRONMENTAL CUE
 LEGISLATIVE DIRECTOR - FRIENDS OF THE EARTH; WASHINGTON, DC; 12/88 TO 12/91
 PROJECT DIRECTOR - ENVIRONMENTAL POLICY INSTITUTE; WASHINGTON, DC; 9/83 TO 11/88
 CHAIRMAN - MD LEAGUE OF CONSERVATION VOTERS; ANNAPOLIS, MD; 1/86 TO 3/86

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
EPPING FOREST COMMUNITY CLUBHOUSE	TREASURER	2/97 TO PRESENT
MARYLAND LEAGUE OF CONSERVATION VOTERS	CHAIRMAN OF BOARD BOARD MEMBER	1986 1986 TO 1992
AMERICANS FOR THE ENVIRONMENT	BOARD MEMBER	1989
CLEAN WATER ACTION	REGIONAL BOARD MEMBER	1985 TO 1987

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

SEE ATTACHED RESUME

EXPERIENCE

ASSOCIATE ADMINISTRATOR FEBRUARY 1997 TO PRESENT
 U.S. ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, DC

Serve on Agency's senior management team and direct the Office of Reinvention with a staff of approximately 50 individuals. Responsible for coordinating a range of reinvention activities including the Common Sense Initiative, Excellence in Leadership Project (XL), paperwork reduction, and the Clinton Administration's regulatory reform agenda. Represent the Agency before Congress, the media, state governments and major interest groups.

ASSISTANT SECRETARY 1995 TO 1997
 MARYLAND DEPARTMENT OF THE ENVIRONMENT BALTIMORE, MARYLAND

Served as the Chief Operating Officer for the Department, with a staff of about 1,000 and an operating budget of about \$65 million. Directly supervise 50 individuals responsible for budget, communications, permits, legislation, and internal audits. Coordinated all activities involving regulatory reinvention, the federal government and national trade associations, and communications with the media.

Testified regularly before the Maryland General Assembly. Directed the Department's permit streamlining activities, including establishment of specific permit review timeframes involving over 40 different permits and 18,000 individual actions each year. Initiated multi-agency project establishing statewide environmental indicators and goals. Supervised significant budgetary realignments and reductions among units of the Department. Reformed the Department's communications tools. Coordinated State activities for President Clinton's August 1995 environmental announcements in Baltimore.

CHIEF OF STAFF, OFFICE OF WATER 1993 to 1995
 U.S. ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, DC

Served on senior management team of National Water Program with 2,100 employees and \$2.5 billion annual budget. Responsible for coordinating all activities involving the White House, the Administrator, Congress, and the media. Directed scheduling operations for the Assistant Administrator. Coordinated Office actions on key issues including high-profile regulations, personnel changes, and various special projects. Served initially as Director of Policy Development for the Office.

Developed communications and legislative strategies for the Clean Water and Safe Drinking Water Act reauthorizations in the 103rd Congress. Developed 1994 Earth Day events for the

Administrator and Congressional environmental leaders. Served on the Vice President's regulatory reinvention task force. Coordinated Maryland activities for President Clinton's 1995 Earth Day address in Harve de Grace, Maryland.

SPECIAL ASSISTANT TO THE ADMINISTRATOR 1993
U.S. ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, DC

Served as a senior advisor to the Administrator for air, water, and international issues in early months of the Clinton Administration. Coordinated Administrator speeches, testimonies, events, and travel for select issues. Represented the Agency before Congress and the media. Served at the White House for three months to secure passage of the North American Free Trade Agreement. Represented the Administrator in other White House actions, including the President's wetlands policy, the Clean Water Act initiative, and the Safe Drinking Water Act principles. Conducted background press briefings for major print and broadcast media.

CAMPAIGN DIRECTOR 1992 to 1993
AMERICAN RIVERS, INCORPORATED WASHINGTON, DC

Directed national campaign with approximately \$300,000 budget to reform the operation of hydroelectric facilities licensed by the Federal Energy Regulatory Commission. Responsible for fundraising from private foundations and representing the organization before Congress, federal agencies, the media, and the general public. Left organization for appointment to the U.S. EPA.

ENVIRONMENTAL CONSULTANT 1992
WASHINGTON, DC

Provided policy development, writing, fundraising, and lobbying assistance to nonprofit environmental clients including: The Nature Conservancy, Clean Water Action, Human Environment Center, Sierra Club, American Rivers, and Maryland League of Conservation Voters. Served as lobbyist for automobile emission control legislation in Maryland General Assembly. Authored study on environmental and social justice issues in transportation. Secured Congressional passage of water quality protection legislation for the Florida Keys. Developed direct mail and large donor fundraising program for environmental political action committee.

DIRECTOR OF LEGISLATIVE AFFAIRS 1988 to 1991
FRIENDS OF THE EARTH WASHINGTON, DC

Directed legislative activities of international environmental group with \$3.0 million annual budget and affiliated organizations in 43 countries. Coordinated lobbying and other policy programs of fifteen professionals. Responsible for representing the organization before Congress, reviewing testimony and policy reports, and managing a political action committee. Drafted testimony and speeches; coordinated press conferences; conducted briefings for elected officials and foundations; and assisted with state outreach programs.

COASTAL PROTECTION PROJECT DIRECTOR 1986 to 1988
 ENVIRONMENTAL POLICY INSTITUTE WASHINGTON, DC

Directed national program on coastal water quality, land use, and habitat protection. Represented the organization before Congress, federal agencies, and select state governments. Performed extensive writing, lobbying, speaking, and coalition building with organizations throughout the country. Testified regularly before Congress. Co-founded the New England Coastal Campaign, a regional coalition of local environmental and community organizations. Gained thorough knowledge of federal Clean Water and Coastal Zone Management Acts.

CHAIRMAN OF THE BOARD 1986
 MARYLAND LEAGUE OF CONSERVATION VOTERS ANNAPOLIS, MARYLAND

Directed organization's electoral activities and fundraising while on leave from Environmental Policy Institute. Served as environmental advisor to gubernatorial candidate, drafted campaign position paper, produce radio advertisements, and coordinated press conferences. Managed volunteers working on behalf of General Assembly candidates throughout the state.

CHESAPEAKE BAY PROJECT DIRECTOR 1983 to 1986
 ENVIRONMENTAL POLICY INSTITUTE WASHINGTON, DC

Represented the organization in Maryland and Virginia legislatures and Congress on range of Bay issues. Drafted legislation; authored testimony, articles, and op-eds; conducted foundation and large donor fundraising. Served as chief lobbyist for phosphate detergent ban in Maryland and the District of Columbia. Helped initiate Chesapeake Bay Agreement, later developed and signed by three governors and the Administrator of the Environmental Protection Agency. Assisted local environmental groups with legislative priorities including land use controls, nutrient pollution reductions, and coal mining regulations.

EDUCATION

UNIVERSITY OF WISCONSIN (1981-1983) MADISON, WISCONSIN
 Bachelor of Science degree, Urban Geography, May 1983.

NEW YORK UNIVERSITY (1978-1980) NEW YORK, NEW YORK
 Geology and Metropolitan Studies.

PERSONAL

Married. Born: August 2, 1960; Oceanside, California. Interests include sailing, diving, fishing, and photography.



United States
Office of Government Ethics
 1201 New York Avenue, NW., Suite 500
 Washington, DC 20005-3917

July 27, 1998

The Honorable John H. Chafee
 Chairman
 Committee on Environment and Public Works
 United States Senate
 Washington, DC 20510-6175

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Jonathan C. Fox, who has been nominated by President Clinton for the position of Assistant Administrator for the Office of Water of the Environmental Protection Agency.

We have reviewed the report and have also obtained advice from the Environmental Protection Agency concerning any possible conflict in light of its functions and the nominee's proposed duties.

Based thereon, we believe that Mr. Fox is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,


 Stephen D. Potts
 Director

Enclosure

RESPONSES BY J. CHARLES FOX TO QUESTIONS FROM SENATOR KEMPTHORNE

Question 1. My home State of Idaho is currently engaged in the task of setting total maximum daily loads, or TMDLs, for more than 700 bodies of water in the State. How do you see the TMDL process proceeding over the next few years, particularly with regard to the implementation of the Administration's Clean Water Action Plan?

Answer. I am hopeful that the TMDL program will provide an important technical and analytical basis for improving the condition of the Nation's waters through watershed-based management approaches.

EPA has taken a number of steps in recent years to improve the TMDL program. For example, in November, 1996, EPA established a Federal Advisory Committee Act committee on the TMDL program to provide recommendations to EPA concerning needed changes to EPA's regulations and guidance. The Committee's final report was released on July 28, 1998, and I am reviewing the recommendations of this diverse group of talented people in considering changes to EPA's regulations.

In August 1997, EPA established two new policies related to the pace of TMDL development and implementation. Under these policies, EPA is calling for States to develop 8-13 year schedules for developing TMDLs for all listed waters and to implement TMDLs, particularly nonpoint source TMDLs. EPA has increased the technical assistance being provided to States and is developing computer applications and data bases to improve the efficiency of the analytical elements of the process.

The Clean Water Action Plan focuses on a watershed approach for restoring and protecting water resources. Because TMDLs specify the amount of a pollutant that needs to be reduced to meet State water quality standards, and allocates pollutant loads among pollution sources in a watershed. TMDLs are one of many important tools that States will use to improve water quality on a watershed-by-watershed basis. The Plan calls for States to develop Unified Watershed Assessments by October 1998. The assessments will, among other things, identify and prioritize watersheds needing restoration, to which increased resources, including Sec. 319 grants will be directed. In creating the assessments, States will use and coordinate a variety of existing information sources and processes, including State agricultural conservation priority areas, nonpoint source assessments, drinking water assessments, and section 303(d) lists and schedules for TMDL development. In addition, the TMDL process is important for carrying out several other action items in the Plan. The Action Plan, for example, calls for EPA to use the TMDL program to evaluate the links between air emissions and water quality impacts of nutrient overenrichment and help determine appropriate nutrient reduction actions.

Question 2. As you may be aware, States dealing with the TMDL process are enthusiastic about the possibilities of using effluent trading to achieve TMDL goals. Do you believe that effluent trading is a reasonable tool to help reach TMDL goals? Would this option be encouraged by the EPA Office of Water under your leadership?

Answer. I believe that effluent trading can be used to help achieve water quality goals. To be effective, effluent trading requires reliable analytical and management frameworks, including accountability mechanisms. The TMDL framework is one of many tools which can be used as a basis for successful trading.

The TMDL process establishes the baseline pollutant reduction necessary to achieve water quality standards. This provides a starting point for comparing the costs of the pollutant reductions associated with the TMDL to alternative pollutant allocation schemes that also meet water quality goals. In this way, TMDLs facilitate identification of the economic and water quality benefits of various pollutant reduction allocation schemes that can be used for an effective trading program.

The Office of Water is currently encouraging, and, under my leadership, will continue to encourage and support, pilot effluent trading projects throughout the United States, including those in Idaho. These pilot projects will help us understand the key opportunities and barriers to using effluent trading to meet our Nation's water quality goals.

Question 3. Over the last decade, the EPA has allocated funds to reduce pollution caused by point source discharges. In light of the current focus on water quality impairments associated with nonpoint source pollution, is the EPA prepared to concentrate similar resources to assist those working to improve water quality in accordance with the nonpoint source program?

Answer. Nonpoint source pollution is the largest remaining cause of water quality impairment in the United States. Consequently, EPA is focusing increasing resources on helping to solve this problem. For example, the President's FY 1999 budget request to Congress proposes increasing nonpoint source grants to States under Section 319 of the Clean Water Act from \$105 million in FY 1998 to \$200 million in FY 1999. EPA has also committed itself to working with States to increase their use of State Revolving Loan Funds to implement nonpoint source controls. We note as well that our partners in the U.S. Department of Agriculture also implement very important programs to control nonpoint source pollution. The President's FY 1999 budget request proposes increasing the Environmental Quality Incentives Program, implemented by USDA under the 1996 Farm bill, from \$200 million to \$300 million.

RESPONSES BY J. CHARLES FOX TO QUESTIONS FROM SENATOR INHOFE

Question 1. In the wake of the Wilson Wetlands Decision, how do you view the current Wetlands program which varies according to the Federal Circuit? Do you consider it important to develop a new national program? Do you consider legislation necessary to address the Wilson case? If not, please describe in detail how the Agency would obtain a new national program.

Answer. The *Wilson* decision (*United States v. Wilson*, 133 F. 3d 251 (4th Cir. 1997)) found that a Corps' regulation asserting Clean Water Act (CWA) jurisdiction over isolated waters on the basis that their degradation "could" affect interstate commerce was unauthorized by the CWA as limited by the Commerce clause, and therefore invalid. Although within the Fourth Circuit the agencies will no longer cite or rely upon the invalidated regulation, we will continue to assert jurisdiction *on the basis of the CWA itself* where; (1) an *actual* link between the isolated water

body in question and interstate or foreign commerce is established; and (2) individually and/or in the aggregate, the use, degradation or destruction of isolated waters with such a link has or would have a substantial effect on interstate or foreign commerce. This approach is consistent with the holding in the *Wilson* case and ensures that isolated waters with the requisite link to interstate commerce which are located within the Fourth Circuit continue to be subject to CWA jurisdiction.

While the *Wilson* decision is at odds with most other decisions on the scope of CWA jurisdiction, as noted above EPA and the Corps will continue to assert jurisdiction over isolated waters within the Fourth Circuit in a manner to ensure valuable waters are protected. Ultimately, jurisdiction over isolated waters is critically important as these waters provide a wide range of functions that are valuable and worthy of protection, including floodwater retention, sediment and nutrient retention, habitat for waterfowl and other species, and groundwater recharge. As one example on the national level, prairie potholes are capable of storing large volumes of snowmelt or runoff, and because they have no natural surface outlets, this stored water does not contribute to local flooding. As much as half the waterfowl of North America are believed to originate from the prairie pothole region, generating economic benefits related to hunting in the hundreds of millions of dollars.

Both the CWA's legislative history and court opinions recognize that the Federal Executive Branch was meant to assert broad CWA jurisdiction over waters of the United States subject to Federal constitutional authority (primarily the authority of the "Commerce Clause" of the U.S. Constitution). Although EPA and the Corps believe that the *Wilson* case was wrongly decided, our objective is to continue to maintain a strong program for protection of isolated waters across the country. We do not believe that any legislative changes are needed either to address the isolated waters aspects of the *Wilson* decision or to provide for development of a new national program for protection of isolated waters for us to continue achieving this objective.

Question 2. Please discuss the role of the EPA veto in the wetlands process. In terms of timing (in relation to a permit filing), when is it appropriate for the agency to first raise concerns that a veto may be necessary? When is it appropriate for the Agency to voice objections to a permit?

Answer. Under Section 404(c) of the Clean Water Act, the Administrator of EPA has the authority to prohibit or restrict the discharge of dredged or fill material into a defined area of waters of the United States, after public notice and opportunity for public hearing. This authority includes the ability to "veto" or otherwise restrict Corps issuance of a Section 404 permit based on a written determination that a proposed discharge will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas.

EPA has used its Section 404(c) authority sparingly; in fact, this Administration has not issued a single final determination under 404(c). Early, frequent and effective communication among Federal and State agencies and permit applicants is fundamental to appropriate resolution of environmental concerns. These communications should articulate clearly and consistently the concerns or objections of the Agency.

Question 3. Do you consider mitigation to be an appropriate vehicle for wetlands preservation?

Answer. Under the Section 404 program, compensatory mitigation is required to offset wetland losses after all appropriate and practicable steps have been taken to first avoid and minimize wetland impacts. Mitigation banking can be used as an effective form of compensatory mitigation to offset the remaining unavoidable impacts when use of a bank is environmentally preferable or when there is no practicable opportunity for on-site compensation. In addition, under exceptional circumstances, the Corps of engineers will accept wetlands preservation as mitigation; although, the acreage required by be higher than if wetlands creation, enhancement or restoration is proposed.

Question 4. The EPA's GPRA called for 100,000 new acres of wetlands per year; how does the Agency propose accomplishing this?

Answer. Consistent with the President's Clean Water Action Plan released earlier this year, the goal of achieving a net gain of 100,000 acres of wetlands per year by 2005 will be accomplished by ensuring that wetland losses continue to decline while encouraging the use of restoration initiatives in Federal programs in coordination with State and private partnerships. Under Section 404 of the Clean Water Act, appropriate and practicable compensatory mitigation is required for unavoidable adverse impacts which remain after all appropriate and practicable minimization has been required.

In addition to the EPA's efforts, some important programs in other Federal agencies will also help to achieve the goal of a net increase of wetlands acreage by 2005.

The Wetlands Reserve Program, for example, has set out to restore 975,000 acres by 2002, with additional gains expected from the Conservation Reserve Program and the Partners for Wildlife program. The restoration provisions contained in the North American Wetlands Conservation Act are also expected to leverage additional gains in wetlands acreage. Finally, public-private partnerships led by Ducks Unlimited and Partners in Flight will provide important wetland acreage gains as well.

RESPONSES BY J. CHARLES FOX TO QUESTIONS FROM SENATOR ALLARD

Question 1. What activities is the Office of Water undertaking to ensure full implementation of a Performance Based Measurement System (PBMS) in accordance with the directive issued by Deputy Administrator Fred Hansen? Can you inform the committee when the Office of Water expects to release its implementation plan?

Answer. The Office of Water, in cooperation with the Office of Enforcement and Compliance Assistance, is developing a Performance Based Measurement System (PBMS) Implementation plan that will allow use of any method that is validated to meet program- or project-specific performance criteria and which removes the requirement to use approved methods, except for method-defined analyses. The approach meets EPA's PBMS goals, and Deputy Administrator Fred Hansen approved it during an August 7, 1998 meeting.

The Office of Water will implement the PBMS plan through a final rulemaking package that will be published in the Federal Register by the end of the calendar year. A summary of the plan will soon be placed on the Internet on the home page of the Office of Science and Technology (OST) in the Office of Water.

**NOMINATIONS OF TERRENCE L. BRACY AND
NORINE E. NOONAN**

THURSDAY, SEPTEMBER 10, 1998

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 9:01 a.m. in room 406, Senate Dirksen Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Warner, Baucus, and Graham.

**OPENING STATEMENT OF HON. JOHN H. CHAFEE,
U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator CHAFEE. I want to welcome everyone here this morning. I like to start on time; somebody once told me that more people will catch the train if it always leaves on time than if it leaves a bit late.

The purpose of today's hearing is to consider two nominations.

The first nomination is that of Mr. Terrence L. Bracy, to be reappointed as a member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation. That's a long one, isn't it?

The second nomination is that of Dr. Norine Noonan, to be the Assistant Administrator for Research and Development at the Environmental Protection Agency.

I am pleased to welcome everyone, and in particular our two nominees, Mr. Bracy and Dr. Noonan. I also welcome Senators McCain and Warner, who will introduce Mr. Bracy, and they will be along shortly. Senator Graham, who is a member of the committee, will introduce Dr. Noonan.

It is my pleasure to report that both nominees have impressive backgrounds and are highly qualified for the positions before them. Terrence Bracy was initially appointed by President Clinton to the Board of Trustees of the Morris K. Udall Foundation in 1994, and has been nominated by the President to serve a second term on the Board. Mr. Bracy also was elected the first chair of the Foundation's Board. Mr. Bracy currently is chief executive officer of Bracy Williams & Co., a Washington-based consultancy with a clientele that includes Fortune 500 companies, major U.S. cities, Native American tribes, Asian and European concerns, and the U.S. Government. Prior to this position Mr. Bracy served in a number of capacities, including time as a legislative assistant to Congressman Udall from 1966 to 1976. In this position he played an important role in the passage of the Alaska Native Claims Act; the Campaign

Reform Acts of 1971 and 1974; and numerous other environmental bills.

In addition, Mr. Bracy holds an undergraduate degree from St. Louis University and a Master of Arts degree in Government from the University of Arizona, and has been published in many well-respected journals and has appeared as a guest lecturer at the Brookings Institute and at Harvard University.

The Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation was established by Congress in 1992 as a nonprofit organization committed to educating a new generation of Americans to preserve and protect their national heritage by the recruitment and preparation of individuals skilled in effective environmental public policy and conflict resolution. Thus far, 125 undergraduate students throughout the United States have been named Morris K. Udall Scholars and have been awarded scholarships of up to \$5,000 a piece. Just this year, the Foundation has been given a new mission by the Environmental Policy and Conflict Resolution Act of 1998. The Foundation will serve as an executive branch resource to solve important environmental disputes without resorting to litigation.

Dr. Noonan is nominated to be the EPA's Assistant Administrator for Research and Development. The Assistant Administrator for R&D serves as the principal science advisor to the Administrator of EPA, and is responsible for the development, direction, and conduct of national research development and demonstration programs in a series of areas, including pollution sources and health and welfare effects.

In addition, the person in this position advises the Administration on pollution prevention and control, waste management, utilization technology, environmental sciences, and monitoring systems.

Dr. Noonan has an impressive background. Since 1992 she has served as dean of the Graduate School and is currently vice president for Research at Florida Institute of Technology, Melbourne, FL. From 1987 to 1992 Dr. Noonan was Chief of the Science and Space Programs Branch of the Energy and Science Division, Office of Management and Budget, OMB. In addition, she served as American Chemical Society Congressional Service Fellow for the Senate Commerce Committee. She received her B.A. summa cum laude in zoology from the University of Vermont, and her M.A. and Ph.D. degrees in cell biology from Princeton. She is a member of the American Association for the Advancement of Science, American Society for Cell Biology, Sigma Xi, and Phi Beta Kappa.

Both of these positions pose challenges. I am confident that each is prepared to face what is required of each of them. I look forward to today's hearing.

After the statements of Senator Baucus and other committee members, we will hear from Senators McCain, Warner, and Graham, followed by Mr. Bracy and Dr. Noonan.

Senator CHAFEE. Senator Baucus.

**OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR
FROM THE STATE OF MONTANA**

Senator BAUCUS. Thank you very much, Mr. Chairman. I join you in welcoming Mr. Bracy this morning who has been nominated

to serve a second term on the Udall Foundation Board. I believe this demonstrates Mr. Bracy's commitment to the Foundation and, I presume, his admiration and his respect for his former boss, our former colleague, Mo Udall.

As the great champion for so many environmental issues, it is only fitting that the Foundation continue its work with the help of one of Mo's most trusted aides. The Foundation was established to educate a new generation of Americans to preserve and protect our national heritage, no small matter.

Based on the successful performance of the Foundation, last year this committee passed a bill creating the United States Institute for Environmental Conflict Resolution within the Foundation to help resolve environmental conflicts when the Federal Government is a participant in the conflict.

We look forward to your testimony, Mr. Bracy. We know you've done a good job already. Maybe you can give us a few thoughts about what's been working, what you're working on, and your assessment of the work of the Foundation to date. We're glad that you're here.

I also join in welcoming Dr. Noonan, the President's nominee to be Assistant Administrator for Research and Development at EPA.

Dr. Noonan has a very impressive resume, ranging from Assistant Professor of Veterinary Medicine to Budget Analyst for Science and Space Programs at OMB. I am anxious to hear how one goes from veterinary medicine to space.

[Laughter.]

Senator BAUCUS. Your experiences certainly give you a broad base of knowledge, which I view as critical in assuming the position for which you have been nominated.

The EPA is responsible for making so many decisions based on science, or what is now being referred to as "peer-reviewed," or "sound science," which makes your job a critical one. Determining the agency's research priorities for drinking water, for air, for hazardous waste, while complying with the law, will be a challenge. I am anxious to hear your testimony and your ideas, and I meant what I said about the importance of your position, particularly in research in science, which is probably the underpinning of almost everything that we do—not only in EPA, but in environmental law. Frankly, I admire your courage and admiration for taking on such a challenging job.

Thank you.

Senator CHAFEE. Thank you, Senator Baucus.

Senator Bob Graham.

**OPENING STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR
FROM THE STATE OF FLORIDA**

Senator GRAHAM. Thank you, Mr. Chairman.

I am particularly pleased today to have the opportunity to introduce a fellow Floridian, Dr. Norine Noonan, who the President has nominated to be the Assistant Administrator for Research and Development at the Environmental Protection Agency. Ms. Noonan is joined today by her godson, Alexander Kemnitzer, who is here, and I would like to recognize him; Alexander has taken the day off from school in order to join us here today, and I appreciate his doing so.

Mr. Chairman and Senator Baucus, you have already given a substantial amount of Dr. Noonan's biography. I will not be repetitive, other than to say how proud we are that she is a Floridian and has spent a considerable amount of her academic career at institutions in our State, currently serving as vice president for Research and dean of the Graduate School at Florida Institute of Technology in Melbourne, FL.

She does, as Senator Baucus has said, take on a very important position. There is no phrase that is more used in this committee than "good policy based on good science," and we will be depending in large part on Dr. Noonan and her colleagues to provide us with that good science.

I am very pleased the President has made this wise decision, and I hope that this committee will quickly confirm her nomination.

Senator CHAFEE. Thank you very much, Senator Graham.

Senator John McCain—we welcome you, Senator McCain. I believe you have a statement.

STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM THE STATE OF ARIZONA

Senator McCAIN. Thank you very much, Mr. Chairman, Senator Baucus, Senator Graham.

I am pleased this morning to introduce you and your colleagues to Mr. Terry Bracy, who is accompanied by his wife, Nancy, for the purpose of your approval of his nomination for reappointment to the Board of the Udall Foundation.

Mr. Chairman, I have known Terry since my election to the House in 1982. He was a key aide and advisor to my good friend and former colleague, Mo Udall, a man who was so respected and admired by the Congress that when he had to retire because of the ravages of Parkinson's Disease, we established an educational foundation in his name to carry on a legacy of wise environmental policy and opportunities for Native American leadership training and education.

Terry was elected chair of the Foundation's Board in 1994 and he has done such an exceptional job that when we developed the legislation creating the U.S. Institute for Environmental Conflict Resolution, we placed the Institute within the Udall Foundation because we knew it would succeed with Terry's leadership.

The Morris K. Udall Foundation is a success story. The Udall Foundation operates on a shoestring, with a staff of only three; but in the last 3 years they have awarded 200 college scholarships and 4 graduate scholarships; created the first ever Native American Congressional Internship Program which has served 32 Native Americans, some of whom are now in key leadership positions in their tribes; sponsored three major national hearings on the environment and Indian health issues; and helped create the U.S. Institute for Environmental Conflict Resolution from scratch. This could only have been done with a very active and dedicated Board of Trustees under keen leadership.

Mr. Chairman, Terry Bracy has put his heart into the Udall Foundation, offering his considerable expertise and resources—and, of course, at no cost to the taxpayers. I can't give a more meaningful tribute to Terry than to say that I am sure that if Mo Udall

were sitting here now, he would tell you that he is proud of the work Terry has done on his behalf and would urge you to make this reappointment, and I agree.

I thank you, Mr. Chairman.

Senator CHAFEE. Thank you, Senator McCain. Now, I know you have further appointments, as I believe Senator Graham has, so feel free to move on to those if you so choose.

Now, if each of the nominees will please come forward, Mr. Bracy and Dr. Noonan.

I believe, Mr. Bracy, you have your family with you, do you?

Mr. BRACY. Yes. I have my wife, Nancy.

Senator CHAFEE. All right. We welcome you, Mrs. Bracy.

Do you have a statement, Mr. Bracy?

STATEMENT OF TERRENCE L. BRACY, NOMINATED BY THE PRESIDENT TO BE REAPPOINTED AS A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Mr. BRACY. Senator Chafee, Senator Baucus, Senator Graham, I have a written statement which is available to you. Let me summarize it quickly, if I may.

Senator CHAFEE. Fine.

Mr. BRACY. First of all, I want to thank Senator McCain for that wonderful introduction—probably not as deserved as it could be, but I think we have been successful. It's been a wonderful experience. I love Mo Udall; he's very much like a father figure to me, and this has been a wonderful way to pay him back and at the same time contribute something to the next generation.

I also want to thank the members of this committee for their involvement in the Foundation. Several members of this committee, and particularly Senator Baucus, have taken a real interest in our Native American youngsters.

Senator Baucus, you will be interested to know that Margaret Flores, who I believe was the first Udall Native American scholar to be mentored in your office, came back to Washington State to represent the Pascua Yaqui tribe. Recently, she has since won a scholarship to law school.

So we are seeing a real pattern of development in all these Native American interns, and it's a wonderful thing.

Senator Chafee, thank you and your staff for the involvement with the U.S. Institute. We received a lot of guidance from your staff; we worked closely with them in developing this program.

Briefly, the Udall Foundation is both like the Goldwater and Truman Foundations, and unlike them. It is like them in that we're an educational institution. We have a series of programs, already described by Senator McCain. A few amendments to that; we have now awarded 220 scholarships. This program of juniors and seniors going into the environmental field has become one of the most popular scholarships in the Federal family. I'd like to think it's because of our brilliance, I really think it's attributable to the power of the environmental issue for the next generation.

An interesting statistic on that. Of our scholars—and I wouldn't have guessed this—about 70 percent are women, and of the women,

about 70 percent of the women are science majors. This demographic is indicative of the rich and profound change our society is undergoing.

The Native American Internship Program has been mentioned. It's been enormously successful. Half the interns serve in Democratic offices, half in Republican. We get three slots at the White House. It's been warmly received.

We are launching a new program this year called "Parks in Focus," where we will target younger children in the center cities. We have partnered with Canon and Kodak, and we're going to take them out—with the help of Boys and Girls Clubs, the National Park Service, and the National Parks—for long weekends, give them cameras, have photography contests back in their schools, and so on. It's a wonderful program.

Senator CHAFEE. Mr. Bracy, I wonder if—Senator Warner is here, and I just want to let him make his statement because he has to chair a Rules Committee hearing in just a few minutes.

So, Senator?

Senator WARNER. Thank you, Mr. Chairman. I can speak very quickly.

I have known the candidate for a long time.

I ask that my statement be placed in the record.

[The prepared statement of Senator Warner follows:]

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

The Morris K. Udall Scholarship and Excellence in National Environmental Policy foundation was established in Congress in 1992 to honor Morris Udall's 30 years of service in the House of Representatives. The Udall Foundation is a non-profit organization committed to educating a new generation of Americans to preserve and protect their national heritage by the recruitment and preparation of individuals skilled in effective environmental public policy conflict resolution, as well as issues related to Native Americans.

Before us today is Terrence L. Bracy renominated to be on the Board of Trustees for the Morris K. Udall Foundation Scholarship and Excellence in National Environmental Policy. As he has served for the last 4 years as Chair of the Morris K. Udall Foundation's Board of Trustees and had the privilege to serve under Morris K. Udall for 10 years, I find him unequally qualified for this reappointment.

Congressman Udall is known as a man whose career was marked by civility, integrity and consensus. Terry Bracy follows in the footsteps of his previous boss.

Terry Bracy will continue as a member of the board of trustees to focus on increasing recognition of environmental issues, granting undergraduate scholarships for majors in fields related to environmental public policy and to Native Americans and Alaskan natives in fields relating to public policy on Indian reservations. Terry is well acquainted with the issues facing the Alaskan natives, as he worked on the Alaska Native Claims Act, while serving as a legislative assistant for Morris Udall.

Under Terry Bracy's management, I believe that the Morris K. Udall's foundation will continue to identify students in need of college scholarships, fellowships and internships to further this most worthy foundation's goals.

- Terry Bracy is a resident of McLean, Virginia.
- Wife—Nancy Bracy—children—Michael, 30 years old and Timothy, 24 years old.
- CEO; Bracy Williams & Company; Washington, DC; 1982—present.
- Government Affairs Consultant; Alcalde, Henderson O'Bannon & Bracy; Washington, DC; 1977–1979.
- Legislative Assistant; Representative Morris K. Udall; Washington, DC; 1966–1976.

Senator WARNER. I had the privilege of sharing a bit of life with this distinguished person whom we honor today in this Foundation,

and listening to your report, I'm glad that it's become a viable and a constructive organization and contributes to the greater welfare.

My only urging is to reproduce that book, the humor that he had, and see if there's any scrap of it left that is unpublished and get that out. We need a little humor on the Hill.

[Laughter.]

Senator WARNER. Thank you, Mr. Chairman.

Senator CHAFEE. OK, fine. Thank you.

All right, Mr. Bracy. Thank you for letting him go. Why don't you continue? You were talking about giving these youngsters cameras.

Mr. BRACY. What we're trying to do with our educational programs is have sort of life-changing experiences for these kids. For the Native American kids, the juniors and seniors in college going on to environmental careers, and now the younger group, particularly the kids in the core cities. Mo always felt that if you could somehow reach in to the core cities and give these youngsters a feel for the environment at an early age, that it could have a life-influencing effect. So we're trying to do that.

We also do conferences. We have national conferences every year. For example, this October we will have probably the largest national conference ever assembled on Native American health care, looking toward the era of privatization.

All these things we do, but we also, as you know, are launching in October, Senator Chafee, based on S. 399 which this committee authored and sent to us, a new Mediation Center for Environmental Conflict within the Federal Government—a place inside the Federal family but outside the Beltway, actually located in Tucson, where we'll try to help settle some of these environmental disputes that are raging in the courts but have clogged things up and aren't moving.

I described our management process leading up to the opening of this to your staff yesterday. It's been quite a management exercise; I've never put together a Federal agency before, and hope I never will again. But in any event, it's an exciting possibility—

Senator CHAFEE. You mean this conflict resolution effort?

Mr. BRACY. Yes, sir. This will begin in October, assuming our funding comes through, which is expected. We are ready to go in October. It will take us about 3 months to gear up with our full-time staff, but we will be ready to go, and we will be in full operation by January of next year.

Can these conflicts be solved? What percentage of them can be solved? I don't know. I can only report to the committee that we are not yet open for business, but they are lined up at the door. Indian tribes, Federal agencies, State agencies, several big utilities, and so on, are all asking for our services before we can even provide them. So this may be an indication that the committee was correct in anticipating this need.

Let me stop there. You have another nominee. You have heard enough from me. I am here and happy to answer any questions.

I just want to say again that it is a real privilege and an honor to walk a little bit in Mo Udall's shadow and to work with this committee on matters of real national interest. It's a great time for me, and for my wife, to do this kind of thing. I am really enjoying

it. I hope that I've done a good job and that you'll give me a chance to continue.

Thank you.

Senator CHAFEE. Thank you.

All right. What I'd like to do now is have Dr. Noonan, and then if we get any questions, we will ask either or both of you.

Dr. Noonan, if you have a statement, go to it.

**STATEMENT OF NORINE E. NOONAN, NOMINATED BY THE
PRESIDENT TO BE ASSISTANT ADMINISTRATOR FOR RE-
SEARCH AND DEVELOPMENT, ENVIRONMENTAL PROTEC-
TION AGENCY**

Ms. NOONAN. I do, Senator, and I submitted it to the committee for the record. Let me summarize rather briefly.

Let me first thank you very much for this opportunity to present myself and my qualifications for this position of Assistant Administrator for Research and Development at EPA. I am very deeply honored to have been nominated by the President for this position, and I very much understand the importance of this position in assuring that sound science, and highest quality science, is done in the service of environmental protection. It is with great humility and a sense of great responsibility that I undertake this job.

I want to just expand a little bit on what you have already been so kind to say about my resume. Once I completed my doctorate in cell biology at Princeton, I accepted a position as a charter faculty member at the College of Veterinary Medicine at the University of Florida. I have to say at this point, "Go, Gators."

My research centered on the process that changed normal cells to malignant cells. I was a successful researcher and teacher at U.F., and I'm most proud to tell you that one of my very first students has become the first University of Florida graduate to be elected president of the Florida Veterinary Medical Association.

When I came to Washington because of family circumstances, and as a result of my lifelong interest in public policy, I sought and was offered an opportunity to work on Capitol Hill as an American Chemical Society Congressional Science Fellow. In fact, I worked in the Russell and Hart Senate Office Buildings for the Senate Commerce Committee, so this appearance brings me back to familiar territory.

After that year on the Hill, I moved to OMB. In 1987 I was promoted to Branch Chief for Science and Space. In this job I had budget responsibility for all of NSF, all of NASA, several smaller agencies, and the task of being the lead person for preparing all the analyses for the President's budget on Federal R&D.

My former branch continues to have those responsibilities, as well as the responsibility—which we started—of coordinating inter-agency R&D efforts in a wide variety of areas, including high performance computing and communications; science and math education; and the U.S. Global Change Research Program.

For the past 6 years I have been a university administrator and, once again, a faculty member at a research university. I have the responsibility in its entirety for research on my campus, including technology transfer, and I now have firsthand knowledge of how Federal agencies deal with universities as performers of R&D.

I also have “cradle to grave,” responsibility for nearly 1,000 graduate students on our main campus, about 30 percent of whom are doctoral students, and over 1,000 more at our off-campus graduate centers around the country, including one here in the Washington, D.C. area.

This position has allowed me to be intimately involved with the important process of fostering the linkage between research and graduate education, and in participating first-hand in a system that is the envy of the world. It is a system which produces not only our Nation’s future scholars and innovators, but a significant percentage of the world’s scholars and innovators.

And I would like to say here that the increased emphasis that ORD has placed on supporting this education process by starting a graduate fellowship program and by expanding the recruitment of postdoctoral researchers for its internal research enterprise is, in my view, of great importance to maintaining ORD’s long-term future as a leader in core and problem-driven environmental research.

I am proud to say that I played a small part in the early stages of the Graduate Fellowship Program, and from what I have observed, it is progressing in an extremely positive direction.

For the past 6 years I have also had the honor to serve on several study committees of the National Research Council. I want to mention just a couple of these.

On the Committee for Antarctic Science and Policy, we dealt with the appropriate balance between scientific research and environmental protection in the context of the Antarctic Environmental Protocol. Our committee’s work, I am pleased to say, played a role in supporting the implementing legislation that enabled the protocol to enter into force.

I also served on the Committee to Develop an Environmental Management Science Program. We assisted the Department of Energy in developing this basic research program to help the Department underpin its massive cleanup effort. The role of EMSP, is in some ways, like the role of ORD. EMSP was created to support high-quality basic research in the service not of regulation, but of remediation. It was and is essential that the highest-quality basic research be supported by EMSP, but it was also essential, especially in those early days, that the stakeholders, both inside and outside of DOE, be involved with the development of EMSP’s general strategies and priorities.

Mr. Chairman and members of the committee, if confirmed, I will inherit a very sound and healthy organization. I’ve had the opportunity over the past several weeks to meet with some of the ORD personnel, and I’d like to tell you how impressed I’ve been with their knowledge, their professionalism, and their dedication. Much of the credit for this goes to my predecessor, Dr. Robert Huggett. He not only did a lot of “heavy lifting” in instituting a formal strategic planning process, but in reorganizing the ORD laboratories under a risk assessment/risk management paradigm.

As I have observed, the ORD strategic planning process is closely linked to the overall EPA planning process, and to GPRA, the Government Performance and Results Act. In addition, ORD is working hard to enhance not only its own internal research capabilities,

but, through its supportive universities, to involve the Nation's best and brightest scientists and engineers in ORD's programs.

In my opinion, it is essential that we continue on this positive path. If confirmed, I would make it my goal to do so. ORD's own ecological niche is to advance knowledge with a purpose. We must include in that portfolio a strong base of long-term core research to develop broadly applicable tools and information. ORD must also have research programs to address shorter-term problem-driven issues, motivated in many cases by current or pending regulation.

This balanced portfolio strategy has been recommended by the National Research Council. One example of this balanced strategy in action is the issue of Children in the Environment. As one major element of that program, I understand that ORD is collaborating with the National Institutes of Health and has just funded eight Centers of Excellence in Children's Environmental Health at leading research institutions. These Centers will bring together the talents of some of the Nation's leading researchers in public health and environmental science, and will also actively involve communities and community groups.

Mr. Chairman and members of the committee, there are several themes I want to outline for you briefly that must continue to characterize ORD's mission:

No. 1, the highest quality science and a strong and stable long-term program of core research; No. 2, a problem-driven research program, with its priorities set in close cooperation with the regulatory offices; No. 3, development and maintenance of an outstanding cadre of scientists inside EPA; and No. 4, close collaboration with other agencies, universities, and the private sector.

For myself, if confirmed, I will only do what my late parents asked of me, my best. It is time, I believe, to cement the institutional and organizational changes that have been made, and to involve all of ORD's people, as well as as many of our external stakeholders as possible, in the next round of strategic planning.

In my opinion, ORD has vitally important work to do in helping to address and identify, through research, the environmental issues our Nation and the world face. If confirmed, I would be committed to making ORD an organization that bright young scientists want to work in, where intellectual excitement and commitment to important national goals are inextricably woven into the fabric of what we do every day.

If confirmed, I look forward to working with you and your colleagues and your staff to achieve these goals, and I would be pleased to answer any questions you might have.

Thank you.

Senator CHAFEE. Thank you, Dr. Noonan.

Are you willing, at the request of any duly constituted committee of Congress, to appear in front of it as a witness?

Ms. NOONAN. Absolutely, sir.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed?

Ms. NOONAN. No, sir, I do not.

Senator CHAFEE. I believe in this ORD, the position you have been nominated for, and just as others have said here, so often we

are asked, "Are the programs which we are talking about based on sound science?"

Does your work lead you into consideration of the global warming problems that I think are upon us, but many don't think can be justified, that any action, really, is required?

Ms. NOONAN. Senator, EPA is an active participant in the U.S. Global Change Research Program, which has a broad portfolio of research activities aimed at answering a lot of questions about the global environment, including the issue of global warming. The program involves about 12 agencies; EPA is an active player. Yes, sir, we do have a good portfolio of research and of very active scientists involved in those research programs.

Senator CHAFEE. Well, I hope you will give your personal attention to those matters.

Ms. NOONAN. I certainly shall.

Senator CHAFEE. I am deeply disturbed over the fact that many in the Congress believe that there's nothing there, that there's nothing to it, that all the CO₂ that's being spewed into the atmosphere doesn't really make any difference. I tend to believe it does. But there's nothing like having some scientific evidence to support the views that one has.

Mr. Bracy, you mentioned that you're getting geared up for this conflict resolution effort. Now, you hang your hat right here in Washington?

Mr. BRACY. I go back and forth. We have hired a director, Dr. Kirk Emerson, who is a mediation specialist. I live here, but I go back and forth to Tucson quite frequently.

Senator CHAFEE. It's hard for many people to realize that Mo Udall is still alive. He's bedridden, in effect, is he?

Mr. BRACY. It's very sad.

Senator CHAFEE. It's Parkinson's, is it?

Mr. BRACY. It's the last stages of Parkinson's Disease. It isn't pretty.

Senator CHAFEE. Well, most of us saw him in his prime. I can remember when he came, I believe, within one vote of being elected majority leader, didn't he?

Mr. BRACY. Yes, sir. Very close.

Senator CHAFEE. And he had some views on that result, too.

[Laughter.]

Senator CHAFEE. Well, I commend you for taking on this.

I have to ask you the same questions that I asked of Dr. Noonan, namely, are you willing, at the request of any duly constituted committee of Congress, to appear in front of it as a witness?

Mr. BRACY. Yes, sir.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed?

Mr. BRACY. I know of none.

Senator CHAFEE. And you, sir, you get no salary? All you get is your expenses, air transportation, so forth?

Mr. BRACY. Yes, sir. Middle seats, usually.

[Laughter.]

Senator CHAFEE. Middle seats?

Mr. BRACY. Middle seats.

Senator CHAFEE. Except if a Congressperson is occupying them.
[Laughter.]

Senator CHAFEE. Well, I want to thank you for what you're doing. I'm interested in this conflict resolution. There was a professor at Harvard Law School who has been rather active in this. It's encouraging to find out that there are a lot of people waiting for you to get started; in other words, you're going to have some business when you open your doors.

Mr. BRACY. I've been amazed, Senator, by the response to this. There have been a number of newspaper articles—we haven't rushed out to seek a lot of publicity because it's not necessary, but the New York Times and the Washington Post and other major news organizations have now caught on to this, so there have been a few big articles in the news media. The response has just been amazing from people who are interested in it, and organizations that might want to be involved. As I say, potential clients are lined up at the door.

So I can only conclude that the committee was correct in its assessment that the legal system needs help. I hope we can succeed. We will work closely with you and your staff. It's a new area. We're plowing new ground, but we hope we can make some progress.

Senator CHAFEE. I have only one suggestion in connection with your annual report. Maybe you publish another report that goes along with it, but I couldn't see any financial data in here—

Mr. BRACY. I think on the back page, Senator.

Senator CHAFEE. Well, have I got the right one?

Mr. BRACY. Yes, I believe there is financial data, perhaps on the last page, the cover page—I don't have it in front of me.

Senator CHAFEE. Oh, I've got a different one.

Mr. BRACY. Senator, perhaps I can give you a short summary. Our corpus was authorized at \$40 million, but Congress gave us \$19 million to start.

Senator CHAFEE. OK.

Mr. BRACY. We have had a 10 percent reinvestment program, and in addition, Congress liked our scholarship program and gave us an additional \$1.75 million for it last year, so we are at about \$24 million in our corpus right now. That's Account A, which is an education trust fund account. That's all invested in Treasuries.

The new bill which you approved, Senator, S. 399, created a second account for us, which is Environmental Conflict Resolution. You gave us an initial capital investment of \$3 million for staff, equipment, etc., plus \$1.25 million for 5 years. And you gave the other Federal agencies contract authority to hire us for services—EPA, for example, to pay for the services. Hopefully, it's somewhat like the concept that you created in other bills to replenish an existing fund.

Senator CHAFEE. Right.

Mr. BRACY. That's how we are managing it. That's how we expect it to operate. I may be back 2 years from now to tell you that it didn't work exactly as we thought, but hopefully it will.

Senator CHAFEE. How do your fellow Trustees get selected?

Mr. BRACY. The process is all Presidential appointments, but with the Senate having two appointees and the House having two appointees which they recommend to the President, and he then

appoints. I was recommended by the House of Representatives for my initial appointment; I was recommended initially by Speaker Foley, subsequently by Speaker Gingrich and Minority Leader Gephardt, to the President. The President renominated me.

Senator CHAFEE. I see.

OK. Well, thank you both very much. I would like to move these along as quickly as possible.

Ms. NOONAN. Thank you, Mr. Chairman.

Senator CHAFEE. I appreciate your both coming. Thank you very much.

Ms. NOONAN. Thank you, sir.

Mr. BRACY. Thank you.

[Whereupon, at 9:43 p.m., the committee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF TERRENCE L. BRACY, NOMINATED TO BE MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL FOUNDATION

Mr. Chairman and members of the committee, I am pleased and honored to be nominated for another term on the Board of Trustees of the Morris K. Udall Foundation. Since beginning its active life 4 years ago, I have had the privilege of chairing a Foundation which carries on the vision of one of the greatest public servants this century has known—Mo Udall. While awarding Mo the Medal of Freedom, President Clinton said:

“His landmark achievements such as reforming campaign finance, preserving our forests, safeguarding the Alaskan wilderness, and defending the rights of Native Americans were important, indeed. But he distinguished himself above all as a man to whom others—leaders—would turn for judgment, skill and wisdom. Mo Udall is truly a man for all seasons and a role model for what is best in American democracy.”

Unfortunately, Mo is immobilized by Parkinson’s disease and was unable to be present to hear such praise. Yet even though he has been out of the public eye since 1991, his reputation seems to grow. The Foundation receives communications and inquiries from all over the country seeking information about a man people obviously miss and whose core values of civility, integrity, and consensus they seek. He has charted a path the Foundation has tried faithfully to follow.

During 30 years in Congress, Mo Udall was a champion of better and more responsive government and of the environment, a man of honor and vision. He was also my mentor and friend. So it has been a singular honor and matter of great pride to chair the Foundation that bears his name.

Senators will recall that the Udall Foundation is both similar to and different from its predecessors in the Federal family: the Truman, Madison, and Goldwater Foundations.

We are similar in that we are educational entities that award college scholarships, fellowships and internships to further public goals. The Udall Foundation’s focuses are the environment and Native American affairs.

We differ in that our Foundation was given a broader mandate—but, unfortunately, less money—than the others. Congress also told us to do policy work in the areas of Native American health care and environmental conflict resolution, to hold annual conferences on important national issues and to work with the Udall Center at the University of Arizona to generate new research in our fields. Congress authorized \$40 million for these purposes, but appropriated only \$19 million for beginning activities. Four years later, our corpus has grown to almost \$24 million because of a 10 percent reinvestment program and an additional appropriation by Congress last year of \$1.75 million. Since our establishment, we have accomplished the following:

- The Foundation has awarded 220 scholarships to college juniors and seniors planning careers in the environment or Native American health care. Interest in Udall scholarships has grown rapidly, and today more than 1,200 colleges and universities participate. The demand is such that the Board would like to raise the annual number of awards from 75 to 100 and the stipend from \$5,000 to \$7,500.

- We have initiated the first Native American Congressional internship program. This year we graduated and sent back to their tribes the third class of Udall interns

with an enriched knowledge of Congress and the executive branch. Congressional interns, all of whom are college graduates, are split evenly between Republican and Democratic offices; three slots have been made available at the White House. Interns are lodged at George Washington University and are provided a per diem and, upon successful completion of the program, a stipend of \$1,200. The program also provides regular counseling, travel to historic sites and special meetings with national leaders. The evidence thus far suggests that our graduates are having a dramatic impact on their tribes.

- The Foundation has begun a program to support top doctoral candidates in their dissertation years. Last year, we began by authorizing the gift of \$24,000 each to two of the Nation's leading graduate students after a national competition. The first year was judged a success, yielding two potentially publishable theses covering new ground in environmental research. The Board has decided to continue the program this year and expand it over time as our financial resources grow.

- We have sponsored two widely reported national conferences on environmental issues, and another conference, this October, will focus on Native American health care.

- The Foundation has conducted extensive preliminary planning for a program that will begin this year called "Parks in Focus." In cooperation with the Boys and Girls Clubs, the National Park Service and two private concerns, Cannon and Kodak, we will take inner-city children into our national parks for long weekends. They will be given cameras and will engage in photography contests. Their photos then will be displayed in their schools. This effort with grade school children will supplement our educational programs which focus on college and graduate students.

- Finally, we have undertaken a searching analysis of the methods of environmental conflict resolution and its possible use by Federal agencies. The Foundation's efforts included convening a large national conference on the subject and conducting simulations to test negotiating methods. We concluded in a report to this committee that this approach holds great promise, particularly in the settlement of lands disputes in the West.

As the Chairman knows, our research led to a request by Senator John McCain that the Foundation undertake a formal role as the Federal mediator in environmental disputes. In consultation with the White House, Senator McCain introduced S. 399, which was subsequently approved by this committee and the full Senate and House and signed by President Clinton in January of this year. The law creates within the Udall Foundation a new Federal entity known as the U.S. Institute for Environmental Conflict Resolution.

The Institute will be located with the Foundation in Tucson, providing a neutral site within the Federal establishment but outside the "beltway" where public and private interests can seek common ground and settle environmental disputes.

The Institute is intended to give yet another boost to the growing environmental conflict resolution movement, to move away from a period of confrontation and litigation to a new area where we follow Mo Udall's lead and strive for consensus.

It is not just an idea whose time has come. It is one that is long overdue.

Environmental conflicts have escalated over the past decade, particularly over natural resources policy, public lands management and the regulation of public policy. Some 500 environmental lawsuits are filed in Federal courts each year, and an increasing number are being filed in State courts as the body of State environmental law grows. Federal agencies are increasingly involved as parties in these proceedings based on their role as public planners, managers, regulators and enforcers.

What we are doing is putting together a new and simpler way to work out our problems. It should not only streamline the process but save money, as well.

Pending funding, the Institute will be operational in October.

Mr. Chairman, to head a Foundation named for Mo Udall has been one of the great privileges of my life. It is a most pleasurable if sometimes awesome and intimidating task. I hope my performance has lived up to his expectations and to yours. I would very much appreciate the opportunity to continue to serve.

**UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

Name: Bracy, Terrence L.
(Last) (First) (Middle)

Position to which nominated: Board of Trustees, The Morris K. Udall Foundation

Date of Nomination: July 31, 1998

Date of birth: 17, December 1942 **Place of birth:** St. Louis, Missouri
(Day) (Month) (Year)

Marital status: Married **Full name of spouse:** Nancy Muhltner Bracy

Name and ages of children: Michael 30 years old
Timothy 24 years old

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	St. Louis University	1960-64	BS	1964
	University of Arizona	1964-66	MA	1966

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

- CEO; Bracy Williams & Company; Washington, D.C.; 1982- Present.
- Government Affairs Consultant; Alcalde, Henderson, O'Bannon & Bracy; Washington, D.C.; 1979-1982.
- Assistant Secretary of Transportation; Federal Government; Washington, D.C.; 1977-1979.
- Legislative Assistant; Representative Morris K. Udall; Washington, D.C.; 1966-1976.

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

- McCarthy Award for Best Undergraduate Writer, St. Louis University
- Deans List, St. Louis University
- Graduate Fellowship, University of Arizona

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
• Washington Economic Club	Member	1995-Present
• Greater Washington Board of Trade	Member	1992-Present
• Participation 2000 Board	Member	1992-Present
• Grand Canyon Trust Board	Member	1992-1995
• Arizona State Society Board	Member	1988-Present
• University of Arizona Alumni Association	Member	1966-Present
• St. Louis University Alumni Association	Member	1964-Present

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

I have had the pleasure for the last four years to serve as Chair of the Morris K. Udall Foundation's Board of Trustees. I have provided leadership to the Foundation and been the principle creator and manager of its programs. Because of my close relationship of thirty years with Morris K. Udall, I believe I am exceptionally qualified to carry out his vision.



United States
Office of Government Ethics
 1201 New York Avenue, NW., Suite 500
 Washington, DC 20005-3917

August 25, 1998

The Honorable John H. Chafee
 Chairman
 Committee on Environment and Public Works
 United States Senate
 Washington, DC 20510-6175

Dear Mr. Chairman:

Under the Ethics in Government Act of 1978, Presidential nominees requiring Senate confirmation who are not expected to serve in their Government positions for more than 60 days in a calendar year are not required to file public financial disclosure reports. The Act, however, contains a provision in Section 101(b) which allows the committee holding the confirmation hearing to request any financial information it deems appropriate from the nominee.

We understand that your committee desires to receive a financial disclosure report (SF 278) from any Presidential nominee for whom your committee holds a confirmation hearing, along with a written opinion from this Office regarding any possible conflicts of interest.

Therefore, I am forwarding a copy of the financial disclosure report of Terrence L. Bracy, who has been nominated by President Clinton for the position of member on the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation. Because Mr. Bracy is not expected to serve more than 60 days in any calendar year, the enclosed report and this letter are submitted to you in accordance with your committee's confirmation procedures and will be available for public inspection only to the extent provided by your practices. There is no authority under the Act for public release of this material by the executive branch.

We have reviewed the report and obtained advice from the Morris K. Udall Foundation concerning any possible conflict in light of its functions and the nominee's proposed duties.

The Honorable John F. Chafee
 Page 2

Based thereon, we believe that Mr. Bracy is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Stephen G. Feltz
 Stephen G. Feltz
 Director

Enclosure

**Office of Bill Bradley
The Legal Center
One Riverfront Plaza, 14th Floor
Newark, New Jersey 07102
Telephone: (973) 643-0800
Facsimile: (973) 643-0980
Internet Site: www.billbradley.com**

September 8, 1998

The Honorable John Chafee
United States Senate
Washington, DC 20510

Dear John:

This letter is to support Terry Bracy's reappointment to the Morris K. Udall Foundation Board of Trustees and Excellence in National Environmental Policy Foundation. I understand that the Senate is currently considering this matter.

As you know, the Udall Foundation was created by Congress to carry on the legacy of our former colleague, Mo Udall, through the awarding of scholarships, fellowships and internships and other programs related to the environment and Native Americans.

Terry worked for Mo for 10 years and remains one of his closest friends and advisors. This is one of many reasons that his fellow trustees elected Terry Chair of the Foundation Board after his initial four-year appointment.

Under Terry's leadership, the Foundation undergraduate scholarship program quickly became a highly prized federal scholarship program. The merit scholarships are awarded to juniors and seniors majoring in environmental public policy and to Native Americans majoring in public policy on Indian reservations or in health fields. The Foundation initiated a first-ever Native American Summer Congressional Internship Program, which has already begun to produce tribal leaders in three short years.

Because of its outstanding work with the Udall Center for Studies in Public Policy at the University of Arizona to create a program of environmental conflict resolution, your colleague John McCain gave the Foundation a new assignment to run the United States Institute for Environmental Conflict Resolution, a new entity which the Senate approved unanimously. With your help, the Institute will begin operations in October. The Udall Foundation Board will need the continued leadership to Terry to launch the Institute.

STATEMENT OF NORINE E. NOONAN, NOMINATED TO BE ASSISTANT ADMINISTRATOR
FOR RESEARCH AND DEVELOPMENT, ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman and members of the committee, thank you for this opportunity to present myself and my qualifications for the position of Assistant Administrator for Research and Development (ORD) of the United States Environmental Protection Agency. I am deeply honored that President Clinton has nominated me for this position.

The position of Assistant Administrator for Research and Development is one of the principal science positions in our government. It is critical to our national goal of understanding, preserving and protecting our country's environment for the citizens of today and for future generations. It is, therefore, with great humility and with a sense of great responsibility that I appear before you ready to accept this task.

Let me tell you a bit about myself. I am currently Vice President for Research and Dean of the Graduate School at Florida Institute of Technology. I am also a professor of Biological Sciences at that esteemed institution. My career has had three distinct phases. After completing my doctorate in cell biology at Princeton University, I accepted a position as a charter faculty member in the College of Veterinary Medicine of the University of Florida. My research centered on the process that turns mammalian cells from normal to malignant and how this process affects the membranes of the cell and nucleus. I was a successful researcher and teacher, receiving tenure and promotion. I am proud to say that several of my former veterinary students are themselves successful practitioners in the Melbourne area and one of my first students has just become the first University of Florida graduate to be elected president of the Florida Veterinary Medical Association.

Family circumstances then brought me to Washington, DC in the early 1980's. As a result of my lifelong interest in public policy, I sought and was offered an opportunity to work on Capitol Hill as an American Chemical Society Congressional Science Fellow. In fact, I worked in the Russell and then the Hart Office Buildings for the Senate Commerce Committee so this appearance brings me back to familiar territory. After that year on the Hill, I moved to the Office of Management and Budget as the budget analyst for the National Science Foundation. In 1987, I was promoted to Branch Chief for Science and Space. In this job I had budget responsibility for all of NSF, NASA, and several other smaller agencies, as well as the lead role in preparing the analyses of all Federal R&D for the President's Budget. In addition, my branch had (and continues to have) a central role in reviewing and coordinating interagency R&D efforts in such widely varying areas as High Performance Computing and Communications, Science and Mathematics Education, and the U.S. Global Change Research Program. I am very familiar with all aspects of the budget development and deliberation process and with the need to set priorities within constrained resources. I have also developed a deep understanding of the entire Federal R&D establishment, particularly non-defense R&D activities, including environmental and human health R&D.

For the past 6 years I have been a senior administrator and, once again, a faculty member at a research university. In this capacity, I have the responsibility for the entire research administration process on my campus, including technology transfer, and have first-hand knowledge of how Federal agencies deal with universities as performers of R&D. In addition to my responsibilities as Chief Research Officer, I have "cradle to grave" responsibility for nearly 1,000 graduate students on our main campus, about 30 percent of whom are doctoral students, and over 1,000 more at our off-campus graduate centers around the country. I have been intimately involved in fostering the linkage between university research and graduate education, and participating first hand in a national system that is the envy of the world, and one which produces not only our Nation's future scholars and innovators, but educates a significant percentage of the world's scholars and innovators. May I say here that the increased emphasis that ORD has placed on supporting this education process by starting a graduate fellowship program and by expanding the recruitment of post-doctoral students for its internal research enterprise is, in my view, of great importance to maintaining ORD's long-term future as a leader in core and in problem-driven environmental research. I am proud to say I played a small part in the early stages of the graduate fellowship program and, from what I have observed, it is progressing in a very positive direction.

Over the past 6 years, I have also served on several study committees of the National Research Council. The work of two of these committees is worth noting here. On the Committee for Antarctic Policy and Science we dealt with the appropriate balance between scientific research and environmental stewardship in the context of the Antarctic Environmental Protocol. I am proud that our committee's work played a role in the passage of the implementing legislation that has enabled the Protocol to enter into force. I also served on the Committee to Develop an Environmental Management Science Program (EMSP). We assisted the Department of Energy in developing this research program to provide solid scientific underpinnings for its massive clean-up efforts. The role of EMSP is, in some ways, much like the role of ORD. EMSP was created to support basic research in the service, not of regulation, but of remediation. It was, and is, essential that the highest quality basic research be supported by EMSP, but it was also essential, especially in those early

days, that the stakeholders both inside and outside of DOE be involved with the development of EMSP's general strategy and priorities. Like ORD, albeit on a smaller, more narrow scale, the EMSP represents science in the service of the agency's mission and has allowed DOE to approach many of its cleanup tasks on a firm scientific footing and move beyond what one of my committee colleagues termed, the "muck, suck and truck" cleanup philosophy.

members of the committee, if confirmed, I will "inherit" a sound and healthy organization. I have had the opportunity to meet with some of the ORD personnel and have been very impressed with their knowledge, professionalism and dedication. Much of the credit for this situation goes to my predecessor, Dr. Robert Huggett, who did a lot of "heavy lifting" to develop a strategic plan that focuses R&D activities to address the greatest risks, to reduce uncertainty in risk assessment and to develop cost-effective approaches to risk prevention and management. Dr. Huggett also realigned the laboratory structure of ORD based on this risk assessment/risk management paradigm. As I have observed, the ORD strategic planning process is closely linked to the overall agency process and to GPRA. In addition, ORD is working hard to enhance not only its internal research capabilities but, through its support of universities, to involve the Nation's best and brightest scientists and engineers in ORD's programs.

In my opinion, it is essential that we continue on this positive path and, if confirmed, I would make it my goal to do so. ORD's own "ecological niche" is to advance knowledge with a purpose. ORD must include in its research portfolio a strong base of long term, core research to develop broadly applicable research tools and information on a variety of physical, biological, sociological, and economic processes. ORD must also have research programs to address shorter-term, problem-driven issues motivated, in many cases, by current or pending regulatory activities. This balanced portfolio strategy has been recommended by the National Research Council. One example of this balanced strategy in action is the issue of children and the environment. A key research question that must be addressed is: to what extent are children a sensitive population? I understand that ORD has an extensive research program underway which will provide much needed information about the biological susceptibility and possible developmental effects of environmental hazards, such as pesticides, in children, as well as unique patterns of exposure of children to such hazards. As one major element of this program, I understand that ORD is collaborating with the National Institutes of Health to fund eight Centers of Excellence in Children's Environmental Health at leading research institutions. These centers will bring together the talents of some of the Nation's leading researchers in public health and environmental science, and will also actively involve communities and community groups. This is precisely the collaborative, coordinated approach that I believe has the greatest probability of yielding research that is both scientifically valid and useful to the regulatory process—no matter what the actual research results are.

Mr. Chairman and members of the committee, there are several themes that must continue to characterize ORD's mission: (1) the highest quality science and a strong and stable long-term core research program; (2) a problem-driven research program with its priorities set in close cooperation with the client regulatory offices; (3) development and maintenance of an outstanding cadre of scientists inside EPA; and (4) collaboration with other agencies, universities and the private sector. These are not new. But I believe we must continue to pursue them because they are the right. For myself, if confirmed, I will do in this job only what my late parents asked of me: my best. It's time to cement the institutional and organizational changes that have been made and to involve all of ORD's people as well as many of our external stakeholders in the next round of strategic planning. In my opinion, ORD has vitally important work to do in helping to identify and address, through research, the environmental issues our Nation and the world face. If confirmed, I would be committed to making ORD an organization that bright young scientists want to work in, where intellectual excitement and commitment to important national goals are inextricably woven into the fabric of what we do every day. I thank you for the opportunity to appear before you today. If confirmed, I look forward to working with all of you, your colleagues, and your staff to achieve these goals.

I'd be pleased to answer any questions you may have.

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Noonan Norine Elizabeth
(Last) (First) (Middle)

Position to which nominated: Assistant Administrator for Research and Development

Date of Nomination: July 27, 1998

Date of birth: 05 10 48 **Place of birth:** Philadelphia, Pennsylvania
(Day) (Month) (Year)

Marital status: Divorced **Full name of spouse:** N/A

Name and ages of children:
No Children

Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Vermont	9/66 - 5/70	B. A., summa cum laude	5/70
Princeton University	9/70 - 6/76	M.A. Ph. D.	6/72 6/76

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Assistant Professor	College of Veterinary Medicine University of Florida, Gainesville, FL	4/76 - 1/81
Associate Professor	College of Veterinary Medicine University of Florida, Gainesville, FL	1/81 - 6/81
Research Associate Professor	Georgetown University Schools of Medicine and Dentistry, Washington, DC	6/81 - 12/82
Congressional Science Fellow	American Chemical Society Washington, DC	9/82 - 7/83
Budget Analyst, Science and Space Programs	Office of Management and Budget Washington, DC	7/83 - 3/87
Branch Chief, Science and Space Programs	Office of Management and Budget Washington, DC	3/87 - 9/92
Vice President for Research and Dean of the Graduate School	Florida Institute of Technology Melbourne, FL	10/92 - present

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

- Phi Beta Kappa, University of Vermont, 1969
- Sigma Xi (scientific research honorary)
- OMB Special Performance Awards (1987, 1988)
- NASA special award for contribution to NASA mission (1992)
- NSF special award for contributions to basic research (1992)
- American Association for the Advancement of Science, Fellow, elected 1993

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Please see Attachment A.	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

Beginning in 1975, I have had over 12 years of experience, as a university faculty member and senior administrator, in the conduct, management, and evaluation of research and development activities. I have served as a proposal reviewer for the National Science Foundation (NSF), as a member of scientific advisory committees for NSF and the National Aeronautics and Space Administration, and as a member of committees convened by the National Research Council (the research arm of the National Academies of Science and Engineering and the Institute of Medicine) in areas ranging from balancing science and environmental stewardship in the Antarctic, to building an environmental management science program for the Department of Energy, to recommending ways to enhance information technology research and development.

Qualifications — (continued)

In addition, I have 10 years experience in public policy (beginning in 1982), first working in Congress as a Congressional Science Fellow and, subsequently, for over 9 years as a budget analyst and Branch Chief at the Office of Management and Budget. At OMB, I had direct responsibility for the development of the President's budget for a significant portion of all civilian R&D. My position at OMB required me to prepare annual analyses of all Federal R&D, including environmental R&D, and to oversee the interagency reviews of crosscutting topics in areas such as high performance computing and communications, science and mathematics education, and global change research.

I believe I possess a high level of understanding of and appreciation for the elements of quality in R&D activities; the roles of the various performers (industry, government, academia); the role that science can play in decisionmaking on public policy issues; and the part that R&D plays in support of the mission of the Environmental Protection Agency.



United States
Office of Government Ethics
 1201 New York Avenue, NW., Suite 500
 Washington, DC 20005-3917

August 5, 1998

The Honorable John H. Chafee
 Chairman
 Committee on Environment and
 Public Works
 United States Senate
 Washington, DC 20510-6175

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Norine E. Noonan, who has been nominated by President Clinton for the position of Assistant Administrator for the Office of Research and Development of the Environmental Protection Agency.

We have reviewed the report and have also obtained advice from the Environmental Protection Agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed are a letter from the Acting General Counsel and Designated Agency Ethics official, dated July 31, 1998, and a memorandum from Ms. Noonan dated July 15, 1998, both of which outline the steps which she will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of her confirmation date, with the actions she agreed to take in her ethics agreement.

Based thereon, we believe that Ms. Noonan is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Stephen D. Potts
 Stephen D. Potts
 Director

Enclosures

CX
 Aug 1

RESPONSES BY NORINE NOONAN TO ADDITIONAL QUESTIONS FROM SENATOR BAUCUS

Question 1. During this committee's consideration of the Safe Drinking Water Act in the 104th Congress, sound science was discussed extensively and the EPA was directed to use sound science when developing standards for regulating contaminants in drinking water. Can you tell the committee how you define "sound science" and how you will ensure that sound science is the basis for the standards set by EPA?

Response. In my view, "sound science" has three components: (1) quality, (2) relevance and (3) timeliness. First and foremost, the science that underpins any standards-setting process must be of the highest quality. If confirmed, I plan to ensure

that the science performed in ORD and throughout EPA meets this criterion. I plan to accomplish this through the rigorous application of the peer review process. Second, relevance of the science to proposed standards is key to ensuring that the correct scientific questions are being addressed so that uncertainties in the standards-setting process are resolved to the extent possible. Last (but certainly not least), the scientific research for standards setting must be timely. This means that the science informs the decisionmaking processes and enables those decisions to be made based on the best available, relevant science. My personal goal, if confirmed, is to make sure that EPA's science is the soundest science available and that ORD is a true and valued partner in EPA's policymaking process.

Question 2. Also in the Safe Drinking Water Act, the Congress directed the Agency to consider children and sensitive subpopulations when setting standards for drinking water contaminants, as opposed to the usual way of setting a standard based on the average adult male. As a scientist, can you explain for the committee the impact this provision has on protecting the health of those populations?

Response. There is an growing body of scientific evidence that suggests that individual differences in metabolism, behavior and activity patterns, genetic makeup, physical environment, age or other factors may increase the risk posed by exposure to environmental agents. Within ORD, there is ongoing research designed to provide the information needed to assess how risk from exposure to environmental agents varies from person to person. The research focused on sensitive subpopulations is adding an important dimension to our understanding of this variability and the data from this research program will allow us to evaluate and, as appropriate, modify our risk assessment methodologies to better protect the health of those persons at highest risk.

Question 3. In setting priorities within an agency with limited resources, often times it is the research and development budgets that are often at the bottom of the priority list because they are not of immediate concerns (sic). How do you intend to make research and development a priority within the agency?

Response. It has been said that "the future has no constituency." This statement might imply that "the future," as represented by funding for research and development (R&D) activities might, indeed, be viewed as deferrable in times of limited resources. However, in my view, this is not a strategy that serves the Nation well. We must maintain our commitment to environmental research, otherwise we will lack the high-quality, relevant and timely knowledge on which to base future environmental policy decisions. Sound science must inform policymaking processes in both the present and the future.

The ORD Strategic Plan identifies "twin towers" of core research and problem-driven research. If confirmed, I intend to maintain this approach since I believe that it is an excellent way of ensuring that the work that ORD does is of value to EPA's overall mission. ORD, in my view, already has a high "value-added" for the agency's mission. I will strive to maintain and increase the value of ORD's work—not only to the EPA, but to the Nation as a whole.

Question 4. As the science advisor to the Administrator, what is your advise (sic) on research priorities? What environmental threats concern you most?

Response. The environmental threat that concerns me the most is not paying enough attention to the many critical environmental issues that face us. The worst thing that we as a Nation could do would be to reduce our investment in or our emphasis on high-quality environmental research. Indeed, I believe that research is the key to understanding and managing many of our most pressing problems. The ORD portfolio of core and problem-driven research is constructed in a way that will not only advance the state of our knowledge (which enables us to be proactive) but also to address in a scientifically rigorous way many of our most pressing current problems. As the science advisor to the Administrator, I would advise her to continue on the path EPA has set for itself—support for science that is credible, relevant and timely, of highest quality as judged through a rigorous peer review process, and, thus, science which can effectively address a wide spectrum of critical health and environmental problems.

NOMINATIONS OF GRETA J. DICUS AND JEFFREY S. MERRIFIELD

THURSDAY, OCTOBER 1, 1998

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 11:02 a.m. in room 468, Dirksen Senate Office Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Smith, Baucus, and Lautenberg.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. I'd like to have everybody's attention, please.

This is the meeting of the Environment and Public Works Committee for hearings on the nominations of Mr. Jeffrey Merrifield and Ms. Greta Joy Dicus for positions on the Nuclear Regulatory Commission.

I'm delighted to welcome everyone here, especially our two nominees. I'll also welcome Senator Smith, who will be coming here very shortly to introduce Mr. Merrifield. Senator Smith is a very prominent member of this committee, chairman of our Superfund Subcommittee. And Senator Bumpers I understand will introduce Ms. Dicus.

It's my pleasure to report that both nominees have impressive backgrounds and are highly qualified for the positions before them.

The President has nominated Ms. Dicus for reappointment. She has been on the Nuclear Regulatory Commission previously from February 1996 to January 1998, when her term expired.

Pending her reappointment to the NRC, she is currently an outside expert at the Defense Nuclear Facility Safety Board. From 1994 to 1995, she served as a member of the board of directors for the U.S. Enrichment Corporation. From 1980 to 1994, she worked in progressively responsible positions in the Division of Radiation Control and Emergency Management at the Arkansas Department of Health, serving as chief of licensing from 1982 to 1984, and director of the division from 1985 to 1993.

Ms. Dicus received a B.A. in biological sciences from Texas Women's University in 1961, and a master's degree in radiation biology from the University of Texas Southwestern Medical School in 1967.

The President has nominated Mr. Jeffrey Merrifield to serve as commissioner of the NRC. Mr. Merrifield currently serves as counsel to the U.S. Senate Subcommittee on Superfund, Waste Control,

and Risk Assessment—in other words, a subcommittee of this very committee. He has held that position since 1995.

Serving in this position, Mr. Merrifield has worked diligently on Superfund reform for the past 3½ years. If there's anybody in this Senate side of the capital that knows about Superfund, it certainly is Mr. Merrifield.

He has worked on the Resource Conservation and Recovery Act and the Toxic Substance Control Act.

Prior to his current position, Mr. Merrifield served from 1925 [sic] to 1995 as an associate in the law firm of McKenna & Cuneo.

Before his private sector service, he served as legislative assistant to Senator Robert Smith, drafting legislation, testimony, and statements on energy, transportation, and environmental issues.

Before joining Senator Smith's office, Mr. Merrifield worked as a legislative assistant to former Senator Gordon Humphrey.

Mr. Merrifield received his B.A. magna cum laude in political science and history from Tufts University. He also holds a J.D. from Georgetown University Law Center.

He is accompanied here by his wife, Diana, and his oldest son, Graham.

The Nuclear Regulatory Commission is a bipartisan, independent regulatory commission responsible for ensuring adequate protection of the environment, public health and safety, and common defense and security with respect to the use of nuclear materials for civilian purposes in the United States.

The position of NRC commissioner offers challenges which I believe both Mr. Merrifield and Ms. Dicus are prepared to face.

I look forward to hearing today's nominees describe their backgrounds and what they hope to accomplish if confirmed.

Now I notice that both Senator Smith and Senator Bumpers are here. Perhaps if you would come forward, each of you gentlemen, and give your statements on behalf of the nominees, that would be fine.

Senator Bumpers, if you'd like to start, we welcome you here, Senator.

**STATEMENT OF HON. DALE BUMPERS, U.S. SENATOR FROM
THE STATE OF ARKANSAS**

Senator BUMPERS. Thank you very much, Mr. Chairman.

Mr. Chairman, is it a genuine pleasure to be here this morning and have this opportunity to introduce to the committee Greta Joy Dicus.

In 1993, the President had a great wisdom to nominate Greta as a member of the U.S. Enrichment Corporation's board of directors. A little more than 2 years later, she was nominated and subsequently confirmed as a commissioner of the Nuclear Regulatory Commission. Recently, she was nominated to serve a new term.

Greta has served the people of the United States in exemplary fashion, and she richly deserves a second term on the NRC as it enters a very important phase of its existence.

Greta is eminently qualified. One only has to look at her very impressive resume to know that.

In addition to serving as an original member of the board of directors of the Uranium Enrichment Corporation, she was the direc-

tor of the Division of Radiation Control and Emergency Management at the Arkansas Department of Public Health from 1985 to 1994.

She has also served as chairman of the Central States Low-Level Radiation Waste Commission, and was Arkansas' liaison with the U.S. Nuclear Regulatory Commission.

Mr. Chairman, as you know, while NRC's role in the licensing of new nuclear power plants has been greatly diminished, simply because there is a lack of demand for new plants, the NRC plays an extremely important role in ensuring that our existing reactors are operated safely. As the age of our reactors advance, this role becomes that much more pronounced.

Greta has been a role model to all of those who would consider public service as a career, and I therefore, for that reason and many more, strongly urge this committee to act on her nomination as expeditiously as possible to serve a full 5-year term.

I feel compelled, in the interest of candor, to say that she is not perfect. She made one classic mistake—she was born in Arkansas and chose to go to school in Texas for her education.

[Laughter.]

Senator BUMPERS. Where I come from, that is almost unforgivable.

[Laughter.]

Senator BUMPERS. Thank you very much, Mr. Chairman.

Senator CHAFEE. Thank you, Senator.

I don't know whether—can you wait just a few minutes?

Senator BUMPERS. How many minutes?

Senator CHAFEE. All right—

Senator BUMPERS. I'm not in a big rush, Mr. Chairman.

Senator CHAFEE. All right. I thought we'd have Senator Smith's comments, and then there may be questions from the panel.

Senator BUMPERS. Sure.

Senator SMITH. Mr. Chairman, if Senator Bumpers has to go, go ahead and proceed with the questions.

Senator CHAFEE. OK. Are there any questions?

Senator BAUCUS. I don't want him to leave. He's so entertaining, I always like to have him around.

[Laughter.]

Senator BUMPERS. You and I both have our work cut out for us.

Senator BAUCUS. We do, and that's why I'm not going to stay very long.

Senator CHAFEE. All right. Well, I guess there doesn't seem to be any questions, Senator. We appreciate you coming by to put in this strong endorsement for Ms. Dicus.

Senator BUMPERS. Thank you very much for allowing me to do this, Mr. Chairman.

**OPENING STATEMENT OF HON. ROBERT SMITH, U.S. SENATOR
FROM THE STATE OF NEW HAMPSHIRE**

Senator SMITH. Thank you, Mr. Chairman. It is a little unusual to sit on this side of the table, but it is a privilege for me today to speak on behalf of nominee Jeff Merrifield for the NRC.

Jeff was one of a handful of staffers that I guess you could say I inherited from Senator Humphrey in 1990. When you take over

an office from an—it's easy when you defeat somebody, but when you take over an office full of staff and you're asked to review them all carefully and select some of them, sometimes you want them, sometimes you don't. But in the case of Jeff Merrifield, it was a great find to have him stay with me throughout—with a brief interruption, but throughout my tenure in the Senate.

He was born in Westerly, RI, which didn't hurt him, I don't think, and then he spent most of his childhood in Antrim, NH, so I think he covered the bases with you and me.

As you said, in 1985 he graduated from Tufts University. In 1986, he joined the staff of Senator Humphrey, where he worked on energy and environmental issues for 4 years before Senator Humphrey left the Senate.

During the time that Jeff worked for both Senator Humphrey and for me, he put himself through Georgetown Law School at night. I think anyone who is a staffer here knows how difficult that is with the hours that the staff here has to put in, in addition to that, going to law school. Frequently, he had to return here back to the Senate after attending law school classes in the evening. Sometimes it was late at night.

After that, after graduating in 1992, Jeff left the Senate, left my office, to work for McKenna & Cuneo, a law firm here in town, where he was a litigator on environmental and government contracts cases.

After a while, though—I don't know whether it was the fact that the Republicans regained the Senate or what the main reason was, but in 1995 Jeff did return to act as my counsel for the Senate Subcommittee on Superfund, Waste Control, and Risk Assessment.

As you know, Mr. Chairman, he was the lead staffer for me in developing Superfund reauthorization legislation. You and I worked very closely with him and with Tom Gibson, as well, and you know his skills in that regard and his expertise.

He has been involved in a number of other major pieces of legislation, some before my time in the Senate and some after, but certainly the Price Anderson reauthorization, the Oil Pollution Control Act, clean air reauthorization efforts to reauthorize both Superfund and RCRA, and the Intermodal Surface Transportation Efficiency Act, ISTEA-I.

In addition to his duties on the committee, Jeff has been extensively involved in assisting me on Armed Services Committee matters, as well. I chair the Subcommittee on Strategic Forces, and there is a lot of oversight regarding environmental management, DoD, and DoE facilities. Jeff has been very helpful in that regard in that role.

In December, Jeff and his wife, Diana, will celebrate their 10th wedding anniversary. They have two sons, Graham and Trevor. Graham is here with us today, very quiet. Good kid—for now, anyway.

And, if confirmed—a matter of interest—Jeff will be the second-youngest commissioner in history at 34, so it is quite an honor for New Hampshire.

And I also would like at this time to thank Senator Baucus and Senator Lautenberg publicly and their staffs for their support and cooperation in this matter. There wasn't one shred of partisanship

here, and I think it says a lot about the capabilities of Jeff to have that kind of support, which I know Jeff appreciates, and I do, as well.

So I'm pleased to be here in support of the nomination of Jeff Merrifield for the Nuclear Regulatory Commission.

Senator CHAFEE. Well, thank you very much, Senator Smith. Obviously, I have, as have other members of the committee, gotten to know Mr. Merrifield well, particularly during the Superfund negotiations and hearings and other activities, and I share your high respect for the job he has done.

I must confess, I've never heard of Antrim, NH. Is that—

Senator SMITH. Antrim.

Senator CHAFEE. Antrim?

Mr. MERRIFIELD. Antrim. It's named for a town in Ireland.

Senator CHAFEE. Antrim?

Mr. MERRIFIELD. Antrim.

Senator CHAFEE. I take it it's a relatively small town?

[Laughter.]

Mr. MERRIFIELD. Population 2,300.

Senator CHAFEE. Population 2,300.

Well, thank you very much, Senator.

Senator Baucus, do you have any statement?

**OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR
FROM THE STATE OF MONTANA**

Senator BAUCUS. Yes. I just wish Jeff the best. We've all worked with him and we know that he's very competent. We wish not only him but his wife, Diana, and his eldest son, Graham, and the rest of his family the very best for the future.

Mr. Chairman, we're accustomed to seeing Jeff at the table as a very competent advisor on matters before the committee. We are not accustomed to him yet as a member of the Nuclear Regulatory Commission, and that will, of course, place him in a much different role, one where we will be asking different kinds of questions than we were asking before. I expect in the second capacity he'll do just as well as he has in the first.

Serious issues face the Nuclear Regulatory Commission—the role of nuclear power in reducing greenhouse gases, for example; disposal of nuclear waste. Those major problems won't go away, and it will take someone of Jeff's tenacity and perception and doggedness, frankly, to help resolve them, and I think we'll do well with his service, and I again wish him the very best.

Senator CHAFEE. Thank you, Senator.

Senator Lautenberg, do you have any questions of Senator Smith?

Senator LAUTENBERG. If I may be indulged, Mr. Chairman, I'd like to make a statement, not of Senator Smith—

Senator CHAFEE. Well, I'll tell you what we might do. If the questions aren't of Senator Smith, we might excuse him and then—

Senator LAUTENBERG. Sure.

Senator CHAFEE [continuing]. Perhaps then you can make your statement, or else we can have the two witnesses—the two nominees come forward and make their statement.

Senator LAUTENBERG. If I might, I'd welcome to the table, Mr. Chairman—

Senator CHAFEE. All right. Why don't the two nominees come forward, and then, Senator Lautenberg, why don't you make your statement.

**OPENING STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM THE STATE OF NEW JERSEY**

Senator LAUTENBERG. Thank you.

Mr. Chairman, I'm pleased that you're holding this meeting today, this hearing, and I want to welcome Ms. Dicus and Mr. Merrifield. There are two vacancies, one of which has been open for over a year, way too long. Because it is—we were out of here yesterday, and I didn't have a chance to do some of the things that I wanted to do before we got here, but I did want to talk about the NRC a little bit because of the critical nature of this regulatory agency.

For instance, we saw at Chernobyl what can happen with unsafe nuclear power plants and poor regulation. The world got a peek at what can happen when something goes wrong at a nuclear power plant.

On Monday past, I visited with a boy in New Jersey who was brought here with seven other young people to Paul Newman's camp up in Connecticut, and during that time they got some treatment and got pointed in the right direction.

Well, unfortunately, out of the eight boys who came, only one survived, and he's the young fellow living in New Jersey, now 14 years old. And he is thriving, but it is a living reminder of what can happen if there is an accident in a domestic nuclear plant.

The NRC commissioners stand between 105 operating power plants and America and the public to assure that we don't have a Chernobyl-like accident in America. It's a major responsibility, and I know that both of these candidates will be taking their responsibility seriously.

Ms. Dicus has had a chance to be there.

And nuclear power in New Jersey is an extremely important factor. Of our electricity, 60 percent is generated from nuclear power companies, compared to 20 percent nationally. And in the most densely populated State in the country—and I was listening to Antrim. I know that there's an Antrim county and 2,300 people. When we look at like statistics for the State of New Jersey for that same amount of geography—as the Senator from Montana knows, I always talk about how many people we have in just a little space. Heaven forbid any kind of an accident, whether rural or urban.

So there are a few States that have as big a stake in good, proactive safety-conscious NRC commissioners. And NRC has been active in overseeing compliance with its regulations in the nuclear industry in New Jersey, and when Salem Nuclear Power Plants One and Two were shut down in 1995, the NRC played a vigilant role in ensuring that the operator of the plant met vigorous health and safety standards before they were allowed to resume operations.

Due to that work with plant operators, both of these units were recently removed from NRC's watch list of problem plants, and that's reassuring to us.

I want to know that plants in New Jersey are operating safely, and a large part of the responsibility rests with NRC.

And so for me, obviously, Mr. Chairman, as it is for everybody, but it is particularly significant as to who it is that sits on our Nuclear Regulatory Commission, and these positions are extremely important. Nominees should have the expertise, experience, and independence necessary to effectively oversee the industry.

So I look forward to hearing from our candidates this morning, and, again, I, too, know Mr. Merrifield and know that he is diligent and fairly thorough about his work, and so I would like to hear the testimony, Mr. Chairman, and I'd like the opportunity thereafter to ask a couple of questions.

Senator CHAFEE. Fine. Senator Baucus, you have no statement?

Senator BAUCUS. No, thank you, Mr. Chairman. Thank you.

Senator CHAFEE. All right. We'll proceed with the statements. There is a statement for the record by Senator Inhofe.

[The prepared statement of Senator Inhofe follows:]

STATEMENT BY HON. JAMES INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Thank you Mr. Chairman for calling today's confirmation hearing for Greta Dicus and Jeff Merrifield to be Commissioners at the NRC. The NRC Commission has not been fully staffed for too long and I am glad the administration has nominated these individuals and we are moving them through the process quickly.

This is a very important time for the NRC, some long needed reforms are underway and the Commission is beginning to deal with the issue of license renewals. We need all five Commissioners on the job and I believe both of you will work diligently on the challenges ahead.

Ms. Dicus, I have only heard good things about your brief tenure on the Commission and I have confidence in your ability to meet the challenges facing the NRC.

Jeff, I have appreciated the work you have done on Superfund and I think your talents will be put to good use at the NRC.

We held our first NRC oversight hearing this past July and our next hearing is scheduled for January 28, I look forward to you both testifying at that hearing. Thank you.

Senator CHAFEE. Ms. Dicus, do you want to proceed with a statement?

**STATEMENT OF GRETA JOY DICUS, NOMINATED BY THE
PRESIDENT TO BE REAPPOINTED AS COMMISSIONER OF
THE NUCLEAR REGULATORY COMMISSION**

Ms. DICUS. Yes. Thank you.

Mr. Chairman and members of the committee, it is, indeed, a wonderful privilege and honor for me to appear before you as one of President Clinton's two nominees to be a member of the Nuclear Regulatory Commission.

Many of you are familiar with my professional background, and it has been repeated today, so I'm going to give an extremely abbreviated comment about that.

As Senator Bumpers mentioned, I did go to school in Texas, even though I'm a Native Arkansan, and that included a master of arts degree in radiation biology from the University of Texas Southwestern Medical School in Dallas. And also my undergraduate degree is in biological sciences from Texas Women's University, with

a double minor, one in chemistry and the other one in government history.

When I first appeared before this committee as my previous nomination to the NRC was under consideration, I explained that the NRC's mission was to ensure that the civilian uses of nuclear materials in the United States are carried out with adequate protection of the public health and safety, the environment, and national security.

My term as a commissioner has not changed my understanding of the NRC mission, and I will continue to work, if confirmed to a second term, to further the accomplishment of the NRC's mission.

During the previous hearing, Senator Chafee and Senator Smith expressed support for assuring NRC was positioned to effectively consider that nuclear power plant license renewal applications, if submitted, are efficiently and effectively considered.

I am pleased to say that, just prior to the end of my first term, all commissioners had unanimously approved a policy statement providing for improved management of adjudicatory hearings, including those for license renewal.

This policy statement was published in August of this year. The framework outlined in that policy statement has already been utilized in establishing a hearing schedule for the first license renewal application, which was filed by Baltimore Gas and Electric Company to renew the operating licenses for their Calvert Cliffs Power Plants.

These hearing improvements have great potential to provide an expeditious consideration of license renewal applications and concerns of members of the public related to those applications.

In addition, an application for renewal of Oconee Nuclear Station, units one, two, and three, was received by NRC from the Duke Energy Corporation, and the same policy statement would also be used by the Licensing Board if a hearing is granted in that proceeding.

During my first term, the Commission initiated a number of actions to improve the regulatory framework of the agency, particularly with respect to performance assessments of nuclear power plants. Much remains yet to be done to see these improved programs finalized and implemented, and during the second term on the Commission, if I am reconfirmed, I would continue to press to improve the effectiveness and efficiency of the Commission's activities in furtherance of NRC's regulatory mission.

During my first term on the Commission, it was clear to me that many challenges face the Agency, as the nature of the nuclear industry changes, involving both power plants and the use of radiological materials in other beneficial ways.

I stated during my first confirmation hearing that we should utilize a fair and open process in all decisions, while at the same time maintaining our regulatory independence.

I worked faithfully to make decisions with those principles in mind during my first term, and will continue to do so if confirmed for a second term.

It is clear that an efficient, fair, and open process regarding our regulatory decisions will assure that the industry understands and that the public accepts NRC's regulatory decisions.

I want to again express to you my appreciation for this opportunity to discuss my renomination to a second term as commissioner of the NRC. Obviously, I'm available to answer any questions that you may have.

Senator CHAFEE. Thank you very much, Ms. Dicus.

Now, Mr. Merrifield, if you'd like to give a statement. I know you have a statement here. Obviously, that will be, all of it, in the record. If you want to summarize that, that would be fine, too.

STATEMENT OF JEFFREY S. MERRIFIELD, NOMINATED BY THE PRESIDENT TO BE APPOINTED AS A COMMISSIONER OF THE NUCLEAR REGULATORY COMMISSION

Mr. MERRIFIELD. Thank you very much, Mr. Chairman.

Mr. Chairman, members of the committee, thank you for the honor of appearing before you today as one of President Clinton's two nominees to be a member of the Nuclear Regulatory Commission.

I also want to say thank you to all of the members here today for your very kind comments. It is very much appreciated.

Finally, Mr. Chairman, I want to thank you for scheduling this hearing so promptly. I know it is a very quick time line, and we have only a few days left in the session, and so the speed with which you were able to convene this is very much appreciated.

Senator CHAFEE. While you're saying that, I would announce that it would be my intention to—unless there are questions that are submitted that aren't answered in time—if there are written questions, I would ask you both to get them back quickly. It would be my intention to bring up these nominees tomorrow at a business meeting we're having at 9:30 unless something goes wrong, so I would make that announcement now and hope that we can get a good turnout to act in everything we have before our business committee, including the nominees.

All right, Mr. Merrifield, won't you continue, please?

Mr. MERRIFIELD. Thank you, Mr. Chairman.

When I first came to work in the Senate for former Senator Gordon Humphrey of New Hampshire in 1986, my first job was answering the mountain of constituent mail that he received regarding Seabrook Station Nuclear Power Plant. Of the thousands of letters that Senator Humphrey received, some of them were from individuals who disagreed with positions taken by the NRC.

Yet, even where those individuals disagreed with the NRC, very few, if any, of our constituents called into question the integrity and objectivity of the NRC or its commissioners. I believe that is very telling.

During the entire time I have spent in the Senate, I have consistently heard the message that the NRC is an agency that has earned the trust of the public, and it can be relied on for fair and scientifically-based decisionmaking.

To prepare for this hearing, I took the time to read the record of the nomination hearings of other commissioners over the last few years. In his nomination statement 7 years ago, former NRC Chairman Ivan Selin made the following statement:

In my view, when it comes to licensing a nuclear facility, the judgment on safety of the technical experts, both in-house and independent experts, deserves great

weight. So does the endorsement of the NRC's decisions by reviewing courts. But in the long run, none of these will matter if the American public does not have the confidence in the competence, the integrity, and the candor of the regulators who are making the decisions.

I would like to associate myself completely with former chairman Selin's statement. If I am fortunate enough to be confirmed by the Senate, I will use his statement as a guiding principle in fulfilling my duties as an NRC commissioner.

Despite the positive reputation that it has developed over the years, the NRC cannot take a solitary role in maintaining full public confidence in the safety of nuclear power. Indeed, the nuclear industry must also assume equal responsibility for taking the steps necessary to maintain the trust of the American public.

Following the March 28, 1979, incident at Three Mile Island, President Carter asked Admiral Hyman G. Rickover, the father of our nuclear Navy, to analyze the lessons to be learned from this incident.

I believe there is one passage in his report that is particularly instructive:

Safe design, construction, and operation of nuclear power plants owned and operated by utilities will not result from expanding the NRC, reorganizing the NRC, or passing more laws, nor will it be derived from establishing new, diverse, non-expert oversight groups. If commercial nuclear power plants are to be operated safely, the organizations that own and operate the plants, the utilities, must know what they are doing and commit themselves to take the steps necessary to achieve nuclear safety. If the utilities do not establish stringent standards, institute rigorous training programs, and police themselves, there is little hope for assured safety operation of commercial nuclear power.

Mr. Chairman, I believe that statement was correct then, and almost 20 years later it is still correct.

Since this statement was made, the NRC has evolved from a nuclear power plant and material licensing agency to the regulator of an operating nuclear industry. In the next few years, the NRC will be making a number of critical decisions regarding plants that may be relicensed, as well as others that will be decommissioned.

Irrespective of whether these facilities are relicensed or decommissioned, the NRC will need to ensure that these activities are accomplished in a manner that is fully protective of the health and safety of the individuals who live and work near these facilities.

Over the last few months, there has been a renewed congressional interest in conducting oversight of the NRC. While there are some who think that congressional scrutiny is to be greeted with fear and loathing, I believe that a frank and straightforward dialog between a regulated agency and its congressional oversight committee can be positive for both.

If I am given the privilege of being confirmed to this position, I will be pleased to come back here to testify at any time.

In summary, I believe we're entering a very dynamic and critical period for the NRC. I am eager to play a role in addressing these important issues, and am hopeful that my experience and background can contribute to the competence and integrity we have come to expect from the NRC.

Thank you very much, Mr. Chairman. I am pleased to answer any questions you may have.

Senator CHAFEE. Well, thank you very much.

I want to ask you both a standard question. Are each of you willing, at the request of any duly constituted committee of the Congress, to appear in front as a witness?

Ms. DICUS. Yes.

Mr. MERRIFIELD. Yes, Mr. Chairman.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed in this position?

Ms. DICUS. No, I do not, Mr. Chairman.

Mr. MERRIFIELD. No, Mr. Chairman.

Senator CHAFEE. Let me ask you this. Currently, as I understand it, about 20 to 25 percent of the power generated in the United States is nuclear power. Does that sound about right?

Ms. DICUS. That's correct. Yes.

Mr. MERRIFIELD. About 20 percent.

Senator CHAFEE. And obviously in other countries it is way greater than that, and I think in France and Germany, for example—I don't know about England, but certainly in those two countries a far higher percentage.

Are we drawing too many road blocks? Everybody is for safety, and I don't want anybody to say we're not for that, but, I mean, are we throwing too many road blocks in the way of nuclear plants being erected in this country or relicensed? What do you think? Why—is it just too expensive? We've got less-expensive gas than Germany does, so, therefore, economically it doesn't pay for the construction of nuclear plants? Why aren't we, in the United States—why don't we have as much power produced by nuclear power as the other nations do?

Did you want to take a crack at that, Mr. Merrifield?

Mr. MERRIFIELD. Well, I think you have touched on some of the reasons for it.

When we had—and this is the case we went through when Seabrook was being built. The cost of money was very high. There were over-runs. There were a lot of issues raised in terms of the safety of that particular facility.

Today, the price of gas-powered electricity is, frankly, lower than it would be if you had to go out and build a new nuclear power plant. We, nonetheless, have a number of new certified designs, so at some point down the road there may be a decision by utilities to move forward and build new facilities.

The NRC's role, as you know, Mr. Chairman, is different. It evolved from that of the earlier agency, the Atomic Energy Commission. The intention of the NRC is for oversight and to ensure that public health and safety and the environment are protected. It is not the role of the NRC to cheerlead for the nuclear industry, nor to maintain too close a relationship.

And so, while there may be many out there who are very enthusiastic about nuclear power, the role, if confirmed, of the commissioner is to make sure that the high confidence in the safety of that power is maintained.

Senator CHAFEE. Well, I agree with that, but I think, at the same time—and I'm not saying this is true, but I think, certainly in the Seabrook thing, it seemed like it was a moving target. And I don't want to replay the Seabrook thing, but what—it seems to me that

if the go-ahead is given to build a plant, then they're a go-ahead, but am I wrong in saying that the Nuclear Regulatory Commission seems to constantly impose more and more requirements so that the—and thus running up the cost? Is that an unfair—

Mr. MERRIFIELD. Well, one of the things that has changed, Mr. Chairman, since Seabrook was built is we now have a one-step licensing process, so once you go ahead and you obtain the license for your facility, they can move forward in the construction. That type of a change, which was made by Congress, would inevitably lead to a more streamlined process for building those plants.

I think the point, which I agree with you, that you're getting at—I think I agree with you—is the obligation of the Agency is to ensure that public health and safety are protected. That does not mean that the Agency needs to be dilatory, and I think the public has an expectation—and when I say “the public,” I mean both the folks who live and work near the plants, but as well as individuals who are investing in those plants—that the NRC make its decision as quickly as possible, yet at the same time maintaining that full public confidence.

Senator CHAFEE. What do you say, Ms. Dicus?

Ms. DICUS. I concur completely with everything Mr. Merrifield has said. I might add just a little bit, too.

Part of my understanding of some of the problems that the commercial nuclear power industry did get into was some prolonged licensing actions, and that obviously had a tremendous effect on cost.

Two things that have occurred—and I think he has alluded to both of them—is, of course, the one-step licensing process, which should and will shorten licensing, and therefore make the outcome much more probable if a utility decides that they want to go with a nuclear option.

And the second thing, as mentioned, are the certified standard designs—we have two of them already. A third one is almost ready—which makes a much more predictable outcome.

Senator CHAFEE. Senator Lautenberg.

Senator LAUTENBERG. Yes. Thanks, Mr. Chairman. And thanks to each of you for your statements.

I am concerned, Mr. Chairman, about being ready for action tomorrow. There are several questions that I have that we'll submit in writing, and I hope that the nominees will have a chance to get them done.

You brought up a good question, Mr. Chairman, and that is: why not more nuclear? I'd ask you, first, what's the impact, do you think, on, let's say, nuclear versus fossil fuel energy production? Is there more to worry about when you think about coal and other fuels, or when you think about nuclear and the waste disposal problem?

Mr. Merrifield, or whatever.

Ms. DICUS. OK. I'll go first on that one.

Senator LAUTENBERG. Please.

Ms. DICUS. It is clear that, with the fossil fuels, there are emissions to the atmosphere that are troublesome to us, and with the nuclear option you do not have those emissions.

I have been told that if we lost our commercial nuclear power plants, we will have to double our efforts on the greenhouse effect to meet the standards that we're trying to meet. So clearly, from that perspective, nuclear is a viable option for us.

The issue of waste disposal is a problem that has to be addressed for the nuclear industry. I think it is one of their challenges now to have that problem addressed. I'm convinced that nuclear waste, both high-level waste and low-level waste, can be effectively and safely disposed.

Senator LAUTENBERG. Do you know where?

[No response.]

Senator LAUTENBERG. Mr. Merrifield, do you want to—

Mr. MERRIFIELD. I don't have really much to add. I agree with Commissioner Dicus.

Senator LAUTENBERG. OK. Because we know—look what has happened. And I don't know whether we can blame the regulations for the problems. Seabrook, Shoreham, \$5 million, Mr. Chairman. Was it \$5 million or even more? Finished the plant and never opened. That makes producing nuclear energy fairly expensive—build them and close them.

So I, too, though, had the same nagging question that the chairman has. It is a much more renewable source of energy or fuel, but then how do you deal with the other problem? Ms. Dicus, when you have a chance, if you could whisper in my ear about where we'd put the stuff, I'd appreciate it.

And so we have a concern about safety that overrides almost everything else, because people are aware that's what caused the shutdown in Shoreham. That's what caused the shutdown at New Hampshire.

And can we ever totally ensure that we can operate nuclear plants without—with total safety, without fear of an accident?

Ms. DICUS. We can ensure, to the best of our ability, that we can do that, and I think—

Senator LAUTENBERG. Would you take that as a resident nearby, "best of our ability," do you think?

Ms. DICUS. Say again? I'm sorry.

Senator LAUTENBERG. Would you accept that, do you think, if you and your children lived next door, that to the best of your ability—

Ms. DICUS. I think—well, I'd like to address it in this way. The commercial nuclear power industry in this country has an extraordinary safety record. Even with the accident that occurred at Three Mile Island, where there was some release of radioactive material, no member of the public living next to or close to the reactor received radiation exposure anywhere near approaching our regulatory limits.

So I think with that sort of track record that we have, I think we can assure that our plants are operated safely, and the Nuclear Regulatory Commission is ensuring that by its stance in the way it tries to deal with its power plants.

Mr. MERRIFIELD. If I may, I think I agree with Commissioner Dicus. I mean, the statement "trying to maintain the highest standards" really, I think, goes to the effect of you can never be 100 percent certain that what you are doing is going to absolutely pro-

tect everyone, but you need to strive for that 100 percent and get there as close as you can and maintain that.

Now, the other comment you made was going to the whole issue of cost. Is this a power option that is going to be available?

Again, I think the one-step licensing program, where once you get your construction license you can move forward and build that plant, thereby eliminating the second license, the operating license, which is what hung up Shoreham and what hung up Seabrook, certainly is going to change the nature of how these plants are going to operate.

In addition, as you know, the economic climate is different now. When Seabrook was being built, when Shoreham was being built, those were the days when we were all faced with 14 and 15 percent interest rates, which were exorbitant amounts. The cost of money was a significant element in the excessive cost of those facilities.

Today, if a plant were being built, given the 30-year loan at prime rate, the nature of that would certainly be different.

In addition, with the new approved licenses that the NRC has given, we have two very brand new plant designs. The cost of building those presumably would be better. Weighed against that, again, is the very low price in the cost of natural gas right now. Those seem to be, from a cost basis, the most economically efficient means of doing power right now.

If there is a change in the price of gas, that may very well make nuclear energy more available as an option for future construction.

I am told that actually the current generating plants are the second-most efficient, second-least expensive—aside from New Hampshire and a few other States, where we have very exorbitant rates as a result of nuclear power—but overall, on a national average, nuclear power is, I believe, the second-lowest generating cost to coal-fired plants.

Senator LAUTENBERG. But I don't think it was the cost, because in each case these plants were practically finished. Certainly, Shoreham was finished, and so the cost had already been absorbed. And there were opportunities, as you know, under law—bankruptcy or creditor reorganization, and somebody takes a hit, but the facility is there.

The question I believe that arose, more than anything else, was safety in the nature of the way these plants were located, etc.

Mr. MERRIFIELD. When I mentioned cost, I meant in terms of current utilities making a decision to build a new plant, looking back at those lessons in the cost. That was the analogy I was attempting to make, that there is some leeringness of entering into that now, given the history of the more-recent history of building some of these plants and the excessive costs that were related to those.

Senator LAUTENBERG. Mr. Chairman, shall I submit the other questions in writing, then? Is that what you're suggesting?

Senator CHAFEE. I was just going to give Senator Smith a shot here.

Senator LAUTENBERG. I'm sorry.

Senator CHAFEE. OK. Senator Smith, have you got some questions?

Senator SMITH. Just a couple.

In listening to both of your remarks regarding the cost and the fact that we've gotten a better handle on the costs of construction now, for a lot of reasons—interest rates is certainly one. Another would be the fact that the approval process takes place before we start building, which why on earth we would do other wise in the earlier days I'll never know, but we learned the hard way about that, certainly, at Seabrook.

But, to me, the arrows are going in two different directions, and I don't think—we may never get a chance to find out whether the cost is going to be less or not, because at this point we're not building any more.

So let me ask you this question. I think where the stress is going to come and where your challenge is going to come as commissioners is in the recommissioning, the relicensing, if you will, of the older plants, because we're not getting any more. And so I'd like you to both comment on that in terms of, you know, we've got—obviously, you're not going to compromise safety, but I think there is going to be a lot of pressure if we see the declining number of plants.

There are going to be some that are going to be coming off-line, indeed, during both of your tenures, and so I think you are going to see there will be more pressure on you to relicense.

Just comment, if you would, both of you, on how you see that developing. Go ahead, Ms. Dicus.

Ms. DICUS. OK. On the relicensing, as I mentioned in my oral comments, there are two applications in now, and the Commission has set up a fairly robust renewal process. It's scheduled to take about 2½ years to renew the first license.

There has been debate as to whether it should take that long or whether it should be longer. Clearly, you don't want to—as you try to move quickly, you don't want to sacrifice safety.

Some of the reason it will take this long and some of the reasons that we're dealing with it are processes that have to be done by law—for example, the NEPA process—and the need to have a hearing when you amend a license of that sort.

I think in time, as we move through—as the NRC moves through the continued renewals—and I think the NRC can anticipate getting more renewals—the time might be able to be shortened somewhat.

Again, there are processes involved, and some of these do take some time, but I think this can be helpful.

When I was on the Commission, we were excited to get that first application for renewal in.

Mr. MERRIFIELD. Yes, Mr. Chairman, I think there are going to be a very large number of plants that appear to be coming up for relicensing. Of the 105 or so plants that we have now, there may be as many as 75 or 80 of those, maybe more, that may ultimately—the owners of those facilities may ultimately seek to renew those licenses. Others, for a variety of reasons, those owners will seek to decommission those.

I think it is about balancing public health and safety. I think it is the obligation of the Agency to act in as expedited a fashion as it can while, as Commissioner Dicus mentioned, meeting all applicable laws and requirements.

The fact is that decisions made by that Commission affect people. They affect people who live and work near those plants, who are very concerned about their safety. At the same time, they also affect the ratepayers, the people who are paying for the electricity.

If the Commission delays in dilatory fashion relicensing those plants, other owners may seek not to obtain relicensing, may choose not to go through it, and ultimately will shut down their plants. Others who have chosen to go through the relicensing process will have to live with a long record of uncertainty.

If that happens, ultimately the cost will be born by the ratepayers, who will either have to pay for more-expensive replacement plants or will have to pay for additional rates.

So, I mean, it is a balance, but I think the Agency needs to work quickly.

Senator SMITH. The point I was trying to develop a little bit is: if you were approving at whatever rate, one a year, or whatever, any rate, new state-of-the-art nuclear power plants and they were going on line, then the stress or the pressure on you to relicense the old ones would be less, I think, overall.

Now, it is the opposite. We're not putting any new state-of-the-art plants on line, and so you always—you hear the criticism anyway that the NRC is over-zealous in its regulation, it's not being fair, standards we can't meet.

So I don't know. Maybe I'm wrong, but I just see, down the road, this getting into a larger problem as these plants become necessary to go off-line, and we're not building new ones, and therefore, unless we make it up with oil and gas, oil and coal, or gas-fired plants, then where are we?

And so I guess I'm just trying to sense what your biggest challenge would be on that end. I know the waste end is always a challenge. But in terms of the construction end, whether you view that as your challenge.

I mean, you're going to get pressure as these plants begin to get older, and, you know, you try to extract as much life as you can out of them with nothing else coming down the pike, and we do need energy. And if, you know, the other atmospheric problems continue to stay on the front pages, it will even be more pressure.

So I guess I was just looking for a response in that regard, whether you view that as a big challenge, or do you just feel like you'll just take them off-line, period, if you have to and you will let somebody else worry about where the energy is made up.

Ms. DICUS. I wouldn't foresee the NRC renewing the license of a plant that it honestly believed had aging problems that would affect the safety. There might be some pressure because we need the energy or because of concerns on meeting the emission standards that we're trying to meet, but it is clear, as I said—you know, not only should we not go forward quickly at the expense of safety, but we've got to ensure that the relicensing of a plant can be relicensed because it is safe to operate. We can't compromise that.

Mr. MERRIFIELD. With 20 percent of the Nation's energy base-load, the role of those existing plants is very important and will continue to be, and there will be many, many of these plants that will come up for relicensing and presumably could very well be relicensed.

The role of the Commission is to act as an adjudicatory body, to receive the information from the licensee demonstrating that that plant is safe, to look over that evidence, and to decide.

And, as Commissioner Dicus has said, if the facts indicate that the stresses on that plant—on the concrete and steel that make up the important elements of that containment vessel—if those are not up to snuff, then that plant should not be relicensed, irrespective of the percentage of power it has for a State.

On the other hand, if it is safe and the Commission can be satisfied that that is the case, then the Commission should move forward quickly to give the assurances so that the owners of that facility and the ratepayers know that they will have that plant operating for a long period of time.

Senator SMITH. Last question. Is electricity deregulation a good or a bad thing for nuclear energy?

Ms. DICUS. I think it is one of the challenges that our commercial nuclear utilities are going to have to deal with in order to ensure that the nuclear plant can be competitive in that market.

Mr. MERRIFIELD. I think it depends on where you are. I think different plants have different circumstances. Some plants have very low operating costs and will be extremely competitive in a deregulated environment. There are other plants which have very high base costs, very high—you know, Seabrook is—not to keep going back to Seabrook, but Seabrook Station Nuclear Power Plant, the users in New Hampshire do pay pretty high rates for their power. In a deregulated environment, obviously, that will have to be looked at. Some plants will be more competitive than others.

I think if you talk to the folks in the industry, they will say, “We believe that we can be out there competing against a whole lot of those plants,” and I think they are. I think generally they are supportive of a deregulated environment.

Senator CHAFEE. Senator Lautenberg.

Senator LAUTENBERG. Yes. A couple of things, Mr. Chairman, and then I'll submit the rest for written response.

I think Senator Smith raised an important question about, you know, where we go on license renewal and so forth.

The fact of the matter is that I believe that we're seeing more electricity generated by co-generators and people who are finding ways to produce energy at cheaper levels, and the fact that this distributes through a network makes the whole game quite a bit more competitive.

Would you know, or venture a view, on whether or not an old plant, an aging plant, can be brought up to current standards, or are some of them, if the aging process is so significant that they would not be able to continue to operate?

I look at the things we've found ways to reinvent, and work quite well—I mean, airplane engines and all kinds of things. Would you venture a view on whether or not these plants can be salvaged, or do they arrive at a point where there is just no possibility of giving them the later techniques and the later equipment, etc., etc.?

Ms. DICUS. Some of the—basically, that's a decision that the utility makes when it looks at renewal as to any items that have to do with aging that need to be upgraded, and they look at that as

to whether or not economically—and they make an economic decision that it's worth doing or they feel that they can do it.

For example, I think Calvert Cliffs, they are going to replace their steam generators, and they made that decision to do that to be able to relicense those plants and have them operate safely.

So it is an economic decision the utility makes.

Senator LAUTENBERG. I think that's right. You don't even have to bother, Mr. Merrifield.

The important issues in the next century between NRC and the nuclear industry, could you give me a summary of what you think those might be?

Ms. DICUS. Waste, license renewal, and new applications for new plants.

Senator LAUTENBERG. Do you have anything to add, Mr. Merrifield?

Mr. MERRIFIELD. Yes. I think the other major issue for the industry is they are currently required to pay the cost of the operation of the NRC, and there is some dispute about whether those costs that are being imposed are appropriate or fair, and that will be an ongoing debate.

Senator LAUTENBERG. Do you get the feeling that the NRC staff or organization could be reduced without impairing its operations?

Mr. MERRIFIELD. I don't know. I mean, that's one of the issues that I certainly will be looking into if I am confirmed.

One of the things that I would say is there has been a significant look throughout the Government—the Vice President's initiative to right-size the Government to make sure we're fulfilling our mission to the American public in the most efficient manner. That has been done in a variety of different agencies.

I don't know the degree to which that has occurred at the NRC, and would certainly work—if confirmed, would work with Commissioner Dicus and others to see if that happens.

I know Chairman Jackson and others have hired outside consultants, Arthur Andersen and others, to assist them, and I think that probably is a positive move.

Senator LAUTENBERG. Do you, Ms. Dicus, know whether the Y2K problem is one that the nuclear industry faces, and how serious it might be for them?

Ms. DICUS. My understanding—and I don't have the latest information on this, but the NRC has been dealing with particularly the nuclear power plants, but other licensees, as well, on the problem.

My understanding is—and I may have to get back to you on this to clarify. My understanding is that everything is pretty well under control and should not be a problem. The plant should be ready to deal with the issue, and the NRC's own plans to deal with the issue are right on track.

But I do want to double check that for you.

Senator LAUTENBERG. Are you familiar with that?

Mr. MERRIFIELD. Nationally, the Y2K problem is something that everyone has to face, and when—if I am confirmed, certainly would want to look into that when I get over the NRC.

Senator LAUTENBERG. I'll ask one last question, Mr. Chairman.

There are ongoing disputes between NRC and EPA. Mr. Merrifield, you've had experience with EPA working here. You're aware of the disputations that have arisen?

Mr. MERRIFIELD. I'm aware of the dispute between the two agencies.

Senator LAUTENBERG. How do you think we resolve these matters?

Mr. MERRIFIELD. Well, I think there was some talk, although it was not offered in the context of our Superfund markup, there was some talk that there needs to be a Congressional resolution to that issue to make a determination about how that should move forward.

I think both of the agencies feel that they have a significant role to make in that determination, and it may very well be up to Congress to finally set clear who, indeed, should be the decisionmaking there.

Senator LAUTENBERG. Mr. Chairman, I thank you very much, and I thank the witnesses.

Senator CHAFEE. Senator, do you have further questions? As I mentioned before—now that there is a vote going off—as I mentioned before, it would be my intention to bring up these nominations tomorrow. We're all conscious of getting out of here, and I just don't want these to hang over if I possibly can avoid it for all those months.

Under the Nuclear Regulatory Commission—and Ms. Dicus has experienced this—if you're not confirmed, reconfirmed, you go off. In other words, you can't hold on. So, in other words, her re-appointment—her term expired, and—

Senator LAUTENBERG. Are you off now?

Senator CHAFEE. And so she's off now.

Senator SMITH. Her term expired June 30, didn't it?

Ms. DICUS. Yes, it did.

Senator SMITH. I remember talking about that, that we could reasonably work this out in a few days.

Senator CHAFEE. So, therefore, I'm anxious to proceed if at all possible with these nominees. If members have questions, I would ask that those questions be submitted by 2 p.m.

Senator LAUTENBERG. Fair enough.

Senator CHAFEE. That's a tight deadline, but then they can get their answers out very quickly. I know they will be anxious. They're just as anxious as I am, obviously, and I think we all are to get these nominees confirmed, if that's the will of the committee and of the Senate.

Senator LAUTENBERG. Mr. Chairman, I indicated earlier that I had a little concern about the pace at which we're moving here. That is somewhat mitigated by the fact that we'd like to go back to our States and do our work there.

But this is a fairly narrow timeframe. These are such important appointments, and the operation of the Commission is an important thing, and I want to be cooperative, Mr. Chairman, and we will get our material in by 2 p.m., but I want to take a look at things, I want to review the statements that have been delivered here.

Senator CHAFEE. That's certainly fair enough.

Senator LAUTENBERG. Thank you.

Senator CHAFEE. All right. That concludes the hearing, unless you—does anybody have further questions?

[No response.]

Senator CHAFEE. All right. I want to thank everybody, thank the witnesses and the nominees.

[Whereupon, at 12:04 p.m., the committee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF JEFFREY S. MERRIFIELD, NOMINATED TO BE A COMMISSIONER,
NUCLEAR REGULATORY COMMISSION

Mr. Chairman, members of the committee, thank you for the opportunity to appear before you today as one of President Clinton's two nominees to be a member of the Nuclear Regulatory Commission. I want to thank you, Mr. Chairman, for scheduling this hearing so promptly on our nominations. It is a privilege to be here today.

Coming, as I do, from New Hampshire, I am well aware of the role played by the Nuclear Regulatory Commission in protecting the health and safety of the public in the licensed use of nuclear materials. As you know, Seabrook Station Nuclear Power Plant, which received its operating license in 1990 (the 3rd most recently licensed plant), was the subject of significant public debate in my State.

When I came to work in the Senate for former Senator Gordon Humphrey of New Hampshire in 1986, my first job was answering the mountain of constituent mail regarding Seabrook. Although I was a correspondent for only a brief period of time, the memory of all of those letters is still quite clear to me. As you can imagine, the opinion of our constituents ranged from vocal opponents to strong supporters of nuclear power. Frequently, their letters urged the NRC to act on one side or another of a particular regulatory decision.

Of the thousands of letters we received, some of them were from individuals who disagreed with positions taken by the NRC. However, I remember very few, if any, that called into question the integrity and objectivity of the NRC or its Commissioners. I believe that is very telling. In the time I have worked in the Senate, both on and off the Environment Committee, as well as the time I spent as a litigator in the private sector, I have consistently heard the message that the NRC is an agency that has earned the trust of the public. Indeed, the NRC has developed a well deserved reputation that it can be relied upon for fair and scientifically based decisionmaking.

To prepare for this hearing, I took the time to read the record of the nomination hearings of the other Commissioners over the last few years. In his nomination statement 7 years ago, former NRC Chairman Ivan Selin made the following statement:

In my view, when it comes to licensing a nuclear facility, the judgment on safety of the technical experts—both in-house and independent experts—deserves great weight. So does the endorsement of the NRC's decisions by reviewing courts. But in the long run, none of these will matter if the American public does not have confidence in the competence, the integrity, and the candor of the regulators who are making the decisions.

I would like to associate myself completely with former Chairman Selin's statement. If I am fortunate enough to be confirmed by the Senate, I will use his statement as a guiding principal in fulfilling my duties as an NRC Commissioner.

Despite the positive reputation that it has developed over the years, the NRC cannot take a solitary role in maintaining full public confidence in the safety of nuclear power. Indeed, the nuclear industry must also assume equal responsibility for taking the steps necessary to maintain the trust of the American public.

Following the March 28, 1979 incident at Three Mile Island, President Carter asked Admiral Hyman G. Rickover, the father of our nuclear Navy, to review this matter and provide his analysis of the lessons learned from this incident. I believe that there is one passage in his report that is particularly instructive:

Safe design, construction, and operation of nuclear power plants owned and operated by the utilities will not result from expanding the NRC, reorganizing the NRC, or passing more laws. Nor will it be derived from establishing new diverse, non-expert oversight groups. If commercial nuclear power plants are to be operated safely, the organizations that own and operate the plants—the utilities—must know what they are doing and commit themselves to take the steps necessary to achieve nu-

clear safety. If the utilities do not establish stringent standards, institute rigorous training programs, and police themselves, there is little hope for assured safe operation of commercial nuclear power.

Mr. Chairman, I believe that statement was correct then, and almost 20 years later, it is still correct.

Much has changed at the NRC over these last 20 years. Most importantly, the scope of the NRC's work has evolved from a nuclear power plant and material licensing agency to the regulator of an operating nuclear industry. Within the next few years, the NRC will be faced with a significant number of new challenges. As you know, there are a number of plant owners that have filed for renewal of their licenses and others who have decided to decommission their facilities. The NRC will have to take an active role in determining whether or not plant relicensing can be accomplished in a manner that is fully protective of the health and safety of the individuals who live and work near these facilities. Similarly, the interest of the public will continue to be preeminent in making decisions associated with facilities undergoing decommissioning.

Another potential challenge for the NRC in the next few years is a proposal to have the NRC become an external regulator for a number of Department of Energy facilities. While there are some who believe that this will provide greater public confidence in DOE's cleanup program, I am not predisposed either way on whether the NRC should assume such a role. Like others, I am interested in reviewing the results of the external regulation pilot projects that will be made available by DOE over the course of the next year. It is certainly possible that these pilot projects will result in a recommendation to increase the interaction between the NRC and DOE. If this is indeed the case, this will be a significant issue that the NRC will need to grapple with over the next few years.

Since the breakup of the former Soviet Union, the NRC has taken a greater role in the international arena to assist both Russia as well as former members of the Eastern Bloc to modernize their safety procedures, fuel handling practices and training. While there are some who question this role, we should be proud that the United States has an agency that the world looks to for leadership on these important safety and health issues. Given the significant cross-boundary impact that nuclear incidents can have, I believe that it is vital that the NRC continue to be looked at as a leader in this area.

Over the last few months, there has been a renewed Congressional interest in conducting oversight of the NRC. While there are some who think that Congressional scrutiny is to be greeted with fear and loathing, I believe that a frank and straightforward dialog between a regulated agency and its Congressional oversight committee can be good for both Congress as well as the agency. If I am given the privilege of being confirmed for this position, I would be pleased to come back here to testify at any time you so desire.

In summary, I believe we are entering a very dynamic and critical time period at the NRC. I would be excited and eager to play a role in addressing these important issues. If I have the privilege to be confirmed for this position, I am hopeful that my experience and background will contribute to the confidence and integrity that we have come to expect from the NRC.

Thank you very much Mr. Chairman. I am pleased to answer any questions you may have.

UNITED STATES SENATE
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Merrifield Jeffrey Schuyler
(Last) (First) (Middle)

Position to which nominated: Commissioner - Nuclear Regulatory Commission

Date of Nomination: 9/29/98

Date of birth: 10/28/63 Place of birth: Westerly, Rhode Island
(Day) (Month) (Year)

Marital status: Married Full name of spouse: Diana Milhona Merrifield

Name and ages of children: Graham Schuyler Merrifield Age 3 1/2
Trevor Hilton Merrifield Age 1 1/2

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>Tufts University</u>	<u>9/81 - 5/85</u>	<u>B.A.</u>	<u>1985</u>
	<u>Georgetown University</u>	<u>9/88 - 5/92</u>	<u>J.D.</u>	<u>1992</u>
	_____	_____	_____	_____
	_____	_____	_____	_____

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

See Attached Resume

WORK EXPERIENCE**Counsel/Staff Director, United States Senate Subcommittee on Superfund, Waste Control and Risk Assessment**, (January 1995 - Present).

Responsible for all Subcommittee operations including hearings, legislative markups and floor debates. Develop and implement strategy for Subcommittee Chairman on legislation amending Superfund, the Resource Conservation and Recovery Act, and the Toxic Substances Control Act. Drafted the Superfund Cleanup Acceleration Act, S.8, selected as a "top-ten" legislative item for the 105th Congress. Knowledgeable in the legislative process and all aspects of solid and hazardous waste regulation.

- ◆ Drafted the Mercury-Containing and Rechargeable Battery Management Act of 1996, (Public Law 104-142) to establish recycling and disposal requirements for rechargeable batteries.
- ◆ Serve as chief spokesperson for Chairman on Subcommittee issues.
- ◆ Investigate Department of Energy and Department of Defense hazardous and radiological waste programs.
- ◆ Appear on radio and television programs and speak before trade and industry groups.
- ◆ Prepare statements and op-ed articles on solid and hazardous waste issues.

Associate, McKenna & Cuneo, Washington, D.C., (September 1992 - January 1995).

Represented broad range of environmental, government contracting and trade association clients on general corporate, regulatory and litigation matters. Provided counsel on government relations issues and pending federal legislation. Selected as co-chair of associate/partner coordinating committee.

- ◆ Prepared motions and pleadings for appellate and district court proceedings.
- ◆ Conducted and supervised subpoena response effort for a Fortune 200 corporation.

Legislative Assistant, Senator Robert C. Smith (R-NH), (December 1990 - July 1992).

Drafted legislation, testimony, statements and speeches on energy, transportation and environmental issues. Prepared written comments for administrative rulemakings and environmental impact statements. Negotiated agreements between state and federal agencies. Served as the Senator's personal staff to the Environment and Public Works Committee. Trained and supervised several legislative correspondents.

Legislative Assistant, Senator Gordon Humphrey (R-NH), (January 1987 - Dec. 1990).
Wrote memoranda and briefing materials on pending energy, environmental, transportation and agriculture issues. Drafted legislation, statements, and testimony.

Director of Phone/Mail Operations, Tufts University, (May 1985 - July 1986).
Organized and supervised a direct mail and telemarketing campaign. Selected and trained a staff of 3 full-time and 100 part-time employees. Developed and implemented a budget of \$350,000. Responsible for raising over \$4 million in alumni and parent donations for graduate and undergraduate programs.

EDUCATION

Georgetown University Law Center, Washington, D.C., Juris Doctor, May 1992.
Grade Point Average: 9.7/12.0

Tufts University, Medford, Massachusetts, Bachelor of Arts, *Magna Cum Laude*, May 1985.
Majors: Political Science and History
Grade Point Average: 3.49/4.0

ACTIVITIES

Panelist, Management Review of the Department of Defense Environmental Restoration Program/Blue Ribbon Committee, (1996/97).
Participated in review of hazardous waste cleanup efforts at the Department of Defense.

Judge, 1996 and 1997 Secretary of Defense Environmental Security Awards.
Judged environmental award nominations from military installations, teams and individuals.

Member, New Hampshire Bar Association and District of Columbia Bar Association, (1992-Present).

Member, Federalist Society, Environmental Law and Administrative Law Sections, (1992-Present).

ARTICLES

California Leads on Environmental Claims, Chemical Times & Trends, (July 1993).

Tax Treatment of Environmental Costs, Bureau of National Affairs, Toxics Law Reporter, (November 2, 1994).



OFFICE OF THE
GENERAL COUNSEL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 29, 1998

The Honorable John H. Chafee, Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is regarding question 5 from the Committee to Mr. Jeffrey S. Merrifield which requests a statement from the appropriate agency official on laws and regulations on conflicts of interest.

If Mr. Merrifield becomes a Commissioner of the United States Nuclear Regulatory Commission (NRC), he is prohibited from engaging in any outside business, vocation, or employment under section 201(e) of the Energy Reorganization Act of 1974 or from receiving any earned income from any outside employment or activities under Executive Order 12731.

Mr. Merrifield would be subject to all the government-wide ethics regulations for Executive Branch employees issued by the United States Office of Government Ethics (OGE) (5 C.F.R. Parts 2634-2640), such as the standards of employee conduct, which prohibit receiving gifts from prohibited sources and misuse of his position and title. Mr. Merrifield would be required to file annually a public financial disclosure report and receive annual ethics training. Mr. Merrifield would also be subject to the criminal conflict of interest laws (18 U.S.C. 201-209), the Hatch Act restrictions on political activities, and the NRC supplemental conduct regulations on security ownership (5 C.F.R. Part 5801).

We have already reviewed Mr. Merrifield's recently-filed financial disclosure report. We also informed Mr. Merrifield that the Office of the General Counsel will always be available to advise him on any conflict of interest questions or matters, during his service as an NRC Commissioner.

Please contact me if you have any further questions or I can be of any service.

Sincerely,

A handwritten signature in cursive script that reads "Karen D. Cyr".

Karen D. Cyr
General Counsel and
Designated Agency Ethics Official



Council on Radionuclides and Radiopharmaceuticals, Inc.

3911 Campolindo Drive
Moraga, CA 94556-1351
510/283-1850
Fax: 510/283-1850

Henry H. Kramer, Ph.D., FACNP
Executive Director

August 28, 1998

Hon. John H. Chafee
United States Senate
506 Dirksen Senate Office Building
Washington, D.C. 20510

AUG 31 1998

Dear Mr. Chairman:

We are writing to ask that you support the nomination of Jeff Merrifield to be a Commissioner of the Nuclear Regulatory Commission (NRC). The Council of Radionuclides and Radiopharmaceuticals (CORAR) is an association that represents the interests of the radiopharmaceutical manufacturing industry. Our membership companies include Nycomed/Amersham, DuPont Pharmaceuticals Company, and Mallinckrodt Inc. As representatives of an industry that has a sincere interest in making the NRC responsive to the concerns of industry and the public health, we highly recommend this nomination.

We recognize your familiarity with Mr. Merrifield, who has served as a counsel to your committee, for the past four years. As a counsel on the Senate Committee on Environment and Public Works (EPW) Mr. Merrifield has been very helpful and to our industry on numerous issues including: seeking a solution to duplicative regulation of mixed waste, clean air and other environmental and nuclear regulatory issues. Mr. Merrifield has played an extremely important and helpful role in ensuring that the Nuclear Medicine community's views are taken into consideration as the Nuclear Regulatory Commission (NRC) revises its regulations governing the medical use of byproduct material in 10 CFR part 35. This is an issue of great importance to the industry. We have found Mr. Merrifield to be open-minded and effective in his role as Counsel to the EPW Committee.

It is because of Mr. Merrifield's expertise, fairness and integrity that we strongly believe that he would be an extremely positive addition to the NRC. We would ask that you favorably consider Mr. Merrifield's nomination when this issue comes before you.

Thank you in advance for your consideration of this matter. Please feel free to call any one of us should you have questions regarding this nomination.

Sincerely,

William A. Ehmg
Chairman of the Board of Directors

RESPONSES BY JEFFREY S. MERRIFIELD TO ADDITIONAL QUESTIONS FROM SENATOR
INHOFE

Question 1. You are aware of the many reform efforts undertaken by the Commission over the past few months. Many of these efforts, of course, came about as the result of interest and activity by this committee. Are you, generally speaking, in favor of these efforts?

Response. While I am aware that there are changes being considered by the NRC, I am not familiar with the details of these reform efforts. Nonetheless, if I am confirmed, I intend to come up to speed on these efforts very quickly. As a general matter, I believe the Commission should continually strive to ensure that it operates in an efficient and cost effective manner, fully consistent with its mandate to protect human health and safety.

Question 2. You are also aware that this committee has already announced plans for a series of hearings to oversee the NRC and its efforts toward reform. Can we

count on the two of you being available to the committee as we move forward with our oversight responsibilities?

Response. I am aware of your intention to hold an NRC oversight hearing sometime after the first of the year. As I stated in my statement, I believe that a frank and straightforward dialog between a regulated agency and its Congressional oversight Committee is positive for both. If I am given the privilege of being confirmed for this position, I would be pleased to come back here to testify at any time.

Question 3. I'd like both of you to briefly comment on each of the following reform efforts currently ongoing at the agency and tell us what you will do to ensure that these changes are fully carried out during your tenure.

Response. As a general matter, I do not have all of the details of these programs, but I generally support the concept of constant review and reform to improve the effectiveness of the regulatory system. Notwithstanding these efforts, nuclear safety must remain the focus of NRC activities.

Question 3a. Efforts by the Commission to exercise its management oversight responsibilities by providing clear direction and expectations to Atomic Safety and Licensing Boards?

Response. This is not an area I have studied, but I intend to do so if I am confirmed.

Question 3b. Efforts by the Commission to establish a license renewal timetable of 30 months, including time for hearings if necessary?

Response. Generally, I believe that it is positive for the Commission to establish clear time tables for its decisions and strive to meet them. As I am not a member of the Commission, I do not know whether 30 months is an appropriate period of time for a decision on a license renewal.

Question 3c. The Commission's acceptance that the regulator's role is not to demand perfection, but to achieve "adequate protection of public health and safety" as called for in the Atomic Energy Act?

Response. Although I am not familiar with the interpretation of this particular provision of the Atomic Energy Act, I would be pleased to look into this matter if I am confirmed by the Senate.

Question 3d. Efforts to integrate and overhaul the agency's processes for assessment, inspection and enforcement?

Response. It is my understanding that the integration of the assessment, inspection and enforcement processes is taking place. I further understand that the NRC and the nuclear industry are meeting soon to discuss this issue. If I am confirmed, I look forward to reviewing the results of this meeting to see if further regulatory improvements may be made.

Question 3e. The Commission's recent announcement that it would suspend the SALP process indefinitely?

Response. It appears to me that the NRC decision to suspend the SALP process has been done in concert with its effort to integrate the assessment, inspection and enforcement processes. If an effort is underway to streamline this process, a suspension of the SALP process would seem to make sense as part of its efforts to test the newer processes.

Question 3f. The agency's new found commitment to dealing with a petition for rulemaking that would allow more flexibility for plants in making changes to their quality assurance plans?

Response. I am not familiar with the details of the petition for rulemaking in the quality assurance area. Generally, the nuclear programs in the United States are known for their extensive quality programs. If confirmed, I would undertake an effort to review how the NRC deals with these programs.

Question 4. As you know, the NRC's budget is completely paid for by a direct assessment on agency licensees. As public servants, it is your duty to ensure that any moneys collected by the Federal Government are used effectively and cost-efficiently. This committee and others in the Congress have expressed particular concern in the last year regarding long-standing criticisms of internal agency management practices. What will you do to initiate and/or support efforts to streamline the NRC's staff and processes?

Response. I agree that as a public servant, it is my duty to ensure that any moneys collected by the Federal Government are used effectively and cost-efficiently. It is my understanding that the NRC has sought the assistance of an outside accounting firm to review agency management practices. I believe outside review of these practices can be helpful and useful. If confirmed, I look forward to reviewing the external analysis. As I stated previously, I believe the agency should continually

strive to operate in an efficient and cost effective manner, consistent with its mandate to protect human health and safety.

Question 5. Since 1994, the Commission has been aware that agency licensees are charged more than \$50 million annually for activities unrelated to the NRC's regulation of them. To date, the Commission has made little effort to rectify this inequity. What are the two of you willing to do to ensure that licensees pay only for activities related to their own regulation?

Response. I am aware that there have been concerns raised by agency licensees regarding charges that they believe are unrelated to the NRC regulation of their operations. While I have not had an opportunity to review these concerns in detail, I will certainly do so if I am confirmed.

Question 6. There has been some indication that the Commission will suspend the agency's Watch List beginning next year. Would you be in favor of such a move?

Response. As I am not a member of the Commission, I am not privy to its internal deliberations regarding a suspension of the Watch List. If I am confirmed as a member of the Commission, I would certainly review the Watch List process in concert with efforts regarding the integration of the assessment, inspection and enforcement functions.

Question 7. In fiscal year 1999 Energy and Water Development Appropriations Conference Report the Congress provided buy out authority for the NRC to speed work force downsizing and restructuring the agency. We expect that these funds will be used to reduce duplication in the agency, improve the supervisor to employee ratio, and begin to consolidate functions within divisions.

Question 7a. Are you prepared to use this authority granted to you as a new member of the Commission?

Response. I believe that buy out authority can be a useful tool for managers of all Federal programs in efforts to right-size Federal agencies. As I am not currently on the NRC, I cannot comment whether or not this authority is appropriate at the NRC. If I am confirmed, and if I come to the conclusion that this should be utilized at the NRC, I am prepared to use that authority.

Question 7b. In what way do you think the buy out authority will benefit the NRC?

Response. I refer to my answer to the previous question.

Question 8. NASA has just announced a new program with George Mason University which will provide a transition for senior managers and others who can afford to retire but do not want to give up the challenges of having a job. Those selected will become advisors to the commercial space and satellite industry. NASA is trying this program in the hope that senior employees will retire sooner without forced reductions or buyouts.

Question 8a. Do you think that the NRC may want to begin a similar program?

Response. I am aware of the NASA program. It certainly looks interesting, and if confirmed, I would be pleased to review it to see if it has applicability at the NRC.

Question 8b. What steps do you foresee needed to develop such a program?

Response. I refer to my answer to the previous question.

Nuclear Waste Questions

Radiation Protection Standard

Question 1. An area of significant concern to the committee is the establishment of an appropriate radiation protection standard for the permanent repository for nuclear waste. On April 29, 1997, members of the NRC testified before the House Subcommittee on Energy and Power of the House Commerce Committee.

At that hearing Chairman Jackson was asked a question relative to the public health and safety afforded by the radiation standard. She stated,

"The [Nuclear Regulatory] Commission notes the standard in H.R. 1270 of an annual effective dose of 100 mrem to the average member of the general population in the vicinity of Yucca Mountain and views that standard as consistent with the protection of the public health and safety."

Do you support the point of view enumerated by Chairman Jackson relative to the radiation protection standard as it was included in H.R. 1270?

Response. I have not had the opportunity to review the language included in H.R. 1270, nor have I had an opportunity to review the testimony made by Chairman Jackson relative to that legislation. I would be pleased to look into this matter if I am confirmed by the Senate.

Question 2. When the Senate considered this issue in the context of S. 104, it included a standard which was more stringent than the one included in H.R. 1270.

Is it your view that, if enacted, the standard in S. 104 also adequately protects health and safety of the public as well as the standard in H.R. 1270?

Response. I have not had the opportunity to review the language in S. 104, nor have I had the opportunity to determine how it compares to the language included in H.R. 1270. I would be pleased to look into this matter if I am confirmed by the Senate.

Question 3. As you know, EPA has the initial responsibility for promulgating and establishing such a standard; however, other agencies (DOE and NRC) also have a serious interest in assuring that the radiation standard is appropriately set. But as the process has unfolded, we understand that there has been a significant disagreement between the agencies as to the appropriate standard to apply. NRC and DOE have taken the position that the standard currently contemplated by EPA is not appropriate.

Question 3a. Would you not agree that the EPA standard as currently favored by EPA is not workable? Please explain your rationale.

Response. I am not fully familiar with the difference in approach between the NRC, DOE and the EPA in establishing a radiation standard for a permanent repository. However, if confirmed, there are two principles I believe are important:

First, whatever standard is ultimately adopted, it must be protective of public health and safety.

Second, while it would be beneficial for the agencies come to a mutual agreement on setting a standard, if they cannot do so, there may be a justification for Congressional action to settle these differences.

Question 3b. Do you agree that a ground water standard as part of the overall standard is not appropriate in this circumstance?

Response. I refer to my answer to the previous question.

Question 3c. Do you agree that it is appropriate for the NRC in developing Part 63 to not include subsystem performance standards as a separate ground water standard?

Response. I refer to my answer to question 3(a).

Question 3d. In your view, is the standard currently proposed by the EPA consistent with the recommendations of the National Academy of Sciences, as required by Section 801 (a)(1) of the Energy Policy Act of 1992?

Response. I refer to my answer to question 3(a).

Viability Assessment Analysis

Question 1. The Senate remains concerned over the timeframe required before a repository is operational at Yucca Mountain. As an important step, DOE is now currently conducting a viability assessment. That assessment is anticipated to be completed this Fall and delivered to the NRC. Following receipt of the viability assessment by NRC, the Commission will have a 3-month period to review the "Licensing Application Plan," included in the assessment.

Will you provide the committee with a commitment to expeditiously review the assessment and complete this specific task within 3 months? At the end of the 3-months, will you be able to inform DOE of any improvements in the "Licensing Application Plan"? If not, for either questions please describe why that will not be possible.

Response. Although I am not completely familiar with any constraints the Commission may face on this issue, I am fully committed to an expeditious review of these issues, consistent with protection of public safety. I would expect that the Commission would be accountable to inform DOE of any improvements required in their Licensing Application Plan.

RESPONSES BY JEFFREY S. MERRIFIELD TO ADDITIONAL QUESTIONS FROM SENATOR LAUTENBERG

Question 1. Please discuss your professional background, and how this will be an asset to the Commission, and to the regulation of the nuclear industry.

Response. I began my professional career in the U.S. Senate in 1986, working as a legislative assistant for Senator Gordon J. Humphrey (R-NH). In that role, I served as the Senator's legislative assistant for issues that related to his assignment on the Senate Environment and Public Works Committee, as well as energy issues in general. In this role, I acted as the Senator's advisor on issues associated with the oversight of the Nuclear Regulatory Commission. From 1986 until the time Senator Humphrey retired in 1990, I assisted Senator Humphrey in his efforts to ensure that safety requirements were not waived by the NRC during the construction

of Seabrook Station Nuclear Power Plant. During this time period, Senator Humphrey led the fight to ensure that the 10-mile emergency evacuation zone at Seabrook was not reduced. In addition, I also staffed Senator Humphrey on the Reauthorization of the Price-Anderson Act, issues related to the Waste Isolation Pilot Project and the High Level Waste Repository.

From 1990 through 1992, I was employed by Senator Bob Smith (R-NH) and played a similar role in advising him on nuclear issues that came before the Senate Environment Committee and before the U.S. Senate.

From 1992 through 1994, I was an attorney in private practice with the Washington, D.C. based law firm of McKenna and Cuneo. At McKenna, I represented a broad range of clients on regulatory, corporate and litigation matters. In this role, I was involved with a number of activities pursuant to the Administrative Procedures Act, as well as compliance with a number of environmental laws including the Resource Conservation and Recovery Act (RCRA), the Toxics Substances Control Act, the Comprehensive Environmental Response, Compensation and Recovery Act (CERCLA) and the Clean Water Act (CWA).

From 1995 through the present, I have acted as Senator Smith's counsel for the Subcommittee on Superfund, Waste Control and Risk Assessment. In this role, I crafted legislation regarding the reauthorization of CERCLA as well as amendments to RCRA.

Senator Smith is also the Chairman of the Senate Armed Services Subcommittee on Strategic Forces. I have acted as one of Senator Smith's principal advisors on issues associated with the cleanup of Department of Defense and Department of Energy facilities that are contaminated by hazardous or radioactive waste. I have described these activities more specifically in my responses to questions 2 and 3. In addition to these activities, Senator Smith also directed me to track the series of pilot projects between the Department of Energy and the Nuclear Regulatory Commission regarding the possibility of external regulation by the NRC of DOE activities. The results of these pilot projects will be made available by the DOE over the course of the next 1-2 years, and may involve additional oversight responsibilities by the NRC.

I believe that if I am confirmed, my legislative and legal experience in the Senate will be an asset to the Commission. Having been the primary staffer on nuclear issues for two members of the NRC's oversight committee, I believe that I can share with the other Commission members a greater insight into the expectations that Congress has for the NRC. Having also served Senator Smith on a number of issues associated with the cleanup, safe transportation and storage of low level, transuranic, high level and mixed wastes under control of the Department of Defense and the Department of Energy, I believe that my background will serve me well if I am confirmed.

In addition, since there are currently no attorneys on the Nuclear Regulatory Commission, and considering the fact that it acts essentially as an adjudicatory body, I believe that my experience would add to the diversity of the NRC, and hopefully provide a fresh insight into many of the issues currently under consideration by the Commission.

Question 2. I understand that you have investigated Department of Energy and Department of Defense hazardous and radiological waste programs. Please identify the particular programs investigated, the reasons for the investigations, and the nature of your involvement in the investigations. Please identify any steps taken by the Department of Energy or the Department of Defense as a result of such investigations.

Response. The investigations were focused on activities of the Department of Energy's Office of Environmental Management and the Department of Defense's Environmental Restoration program. Specific areas investigated included the degree to which DOE and DOD comply with requirements of Federal statutes such as RCRA, CERCLA and the Federal Facilities Compliance Act. Investigations also included the review of Federal policies and budgets. My role was not to direct the Departments' management of these programs but to support the Chairman of the Superfund, Waste Control and Risk Assessment Subcommittee by gathering information to support his decisions and actions in crafting environmental legislation.

My specific involvement included meetings with Federal installation managers, site cleanup contractors, U.S. Environmental Protection Agency officials, State and local officials, and stakeholder and community groups; organizing and participating in Congressional oversight hearings; and drafting proposed legislation.

As a result, several important legislative initiatives were successfully passed into law. For example, the Land Disposal Program Flexibility Act which eliminated duplicative and overlapping layers of regulation in the Resource Conservation and Recovery Act was passed in 1996. In addition, Senator Smith included a series of CERCLA amendments in the National Defense Authorization Acts of 1995 and 1996

that streamlined the reutilization of facilities closed under the Base Closure and Reutilization Act. The amendments were intended to promote rapid reutilization of these facilities while at the same time meeting existing cleanup standards and requirements. Finally, as a direct result of hearings held by the Senate Armed Services Committee, Secretary Richardson recently announced plans to reexamine the Department of Energy's policy on offsite disposal of low level radioactive waste. This new policy will ensure that DOE low level and mixed low level radioactive wastes are disposed of only at licensed facilities. It is anticipated that the new policy will promote greater competition for such disposal among existing licensed contractors, resulting in savings to the taxpayers.

Question 3. I understand that you have participated in the review of hazardous waste cleanup efforts at the Department of Defense. Please identify the particular cleanup efforts you reviewed, the reasons for your review, and the nature of your involvement in the investigations. Please identify whether any of these cleanups involved mixed waste, or radioactive waste. Please identify any steps taken by the Department of Defense as a result of the review.

Response. As stated in my answer to question 2, the investigations were focused on activities of the Department of Defense's Environmental Restoration program. The cleanup efforts reviewed, the reasons for the reviews, and my role in the investigations are the same as indicated in my answer to question 2.

Several of the programs investigated have responsibility for cleanup of low level radioactive and mixed wastes. For example, I reviewed the radioactive waste management programs of the Department of the Navy through numerous meetings with Navy personnel and discussing Naval fuel loading, transportation, storage, and processing activities. During my visits to Puget Sound Naval Shipyard and the Portsmouth Naval Shipyard, I encountered sites where the Navy was managing mixed waste and radioactive waste.

I have participated in the review of programs carried out by the Office of Naval Reactors, which includes the decommissioning of surplus reactor training facilities. The Office of Naval Reactors has established an aggressive decommissioning program to decontaminate and close its surplus nuclear facilities. My reviews focused on the cleanup and decontamination standards adhered to at Navy closure sites and the processes utilized to maximize protection of worker safety and health and protection of public health and the environment.

Again, as I stated in my answer to question 2, my role was not to direct the Departments' management of these programs but to support the Chairman of the Superfund, Waste Control and Risk Assessment Subcommittee by gathering information to support his decisions and actions in crafting environmental legislation.

Question 4. What are your views about the adequacy of NRC regulations? Do you think they are too burdensome? Too lax? Please identify specific regulations you believe should be modified, and explain your reasons for believing that they require modification.

Response. I do not have a specific opinion regarding whether the existing NRC regulations are too burdensome or too lax. If I am confirmed as an NRC Commissioner, I intend to quickly become more familiar with these regulations and how they may be improved.

I am aware that many stakeholders have raised a number of concerns about the NRC regulations. Many of the concerns appear to be focused on the reactor oversight program, specifically on the inspection and performance assessment processes; the enforcement program; license renewal; license transfers; the transition to a risk informed and performance based framework; and other areas requiring timely decisions. I understand that the NRC has a number of improvements underway to reduce the burden on licensees and make more timely decisions while still ensuring adequate protection of public health and safety. If confirmed, I plan to evaluate the adequacy of NRC's regulations and the ongoing efforts to improve them in order to better understand what further modifications may be necessary.

Question 5. I understand that you are a member of the Federalist Society. Please describe this Society's mission, and whether the Society has adopted any positions that pertain to regulating the nuclear industry. Please also describe the activities you have performed as a member of the Society.

Response. The Federalist Society is a social and educational organization of lawyers that is similar to the American Bar Association. To quote the Federalist Society "purpose" statement: "The Federalist Society for Law and Public Policy Studies is a group of conservatives and libertarians interested in the current state of the legal order. It is founded on the principles that the state exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that is emphatically the province and duty of the judiciary to say what the law is, not what

it should be. The Society seeks both to promote an awareness of these principles and to further their application through its activities.”

Since I have been a member of the Federalist Society I have attended a number of social functions including lunches and dinners. I do not hold a membership in any office of the Federalist Society.

According to the staff at the Federalist Society, the Society has never taken a position, either formal or informal, pertaining to the regulation of the nuclear industry.

STATEMENT OF GRETA JOY DICUS, NOMINATED TO BE A COMMISSIONER, NUCLEAR REGULATORY COMMISSION

Mr. Chairman, members of the committee, it is indeed a great privilege and honor for me to appear before you as one of President Clinton's two nominees to be a Member of the Nuclear Regulatory Commission (NRC). Many of you are familiar with my professional credentials and qualifications from previous appearances before you, so I will give an abbreviated version of my background.

My educational background includes a Master of Arts degree in Radiation Biology from the University of Texas, Southwestern Medical School in Dallas Texas and my undergraduate degree was in Biological Sciences, with minors in Chemistry and Government History, from Texas Woman's University in Denton, Texas. After a career in research and as a State official in the State of Arkansas, eventually serving as Director of the Division of Radiation Control and Emergency Management for the Arkansas Department of Health, I was nominated and confirmed by the U.S. Senate as an original member of the Board of Directors of the United States Enrichment Corporation. I served on the U.S. Enrichment Corporation Board until my term ended in March 1995. I was subsequently nominated and confirmed as a member of the U.S. Nuclear Regulatory Commission, commencing a term in February 1996 which was completed on June 30 of this year.

When I last appeared before this committee as my previous nomination to the NRC was under consideration, I explained that NRC's mission was to ensure that civilian uses of nuclear materials in the United States are carried out with adequate protection of the public health and safety, the environment, and national security. My term as a Commissioner has not changed my understanding of the NRC mission and I will continue to work if confirmed to a second term to further the accomplishment of NRC's mission.

During the previous hearing Senators Chafee and Smith expressed support for assuring NRC was positioned to effectively consider that nuclear power plant license renewal applications, if submitted, are efficiently and effectively considered. I am pleased to say that just prior to the end of my first term, all Commissioners had unanimously approved a policy statement providing for improved management of adjudicatory hearings including those for license renewal. This Policy Statement was published on August 5, 1998. The framework outlined in that policy statement has already been utilized in establishing a hearing schedule for the first license renewal application, filed by Baltimore Electric and Gas Company to renew the operating license for their Calvert Cliffs power plant. These hearing improvements have great potential to provide an expeditious consideration of license renewal applications and any concerns of members of the public related to the applications. In addition, an application for renewal of the Oconee Nuclear Station, Units 1, 2, and 3 was received by NRC from Duke Energy Corporation on July 6, 1998, and this policy statement would also be used by the Licensing Board if a hearing is granted in that proceeding. During my first term, the Commission initiated a number of actions to improve the regulatory framework of the agency, particularly with respect to performance assessments of nuclear power plants. Much remains to be done to see these improved programs finalized and implemented and during a second term on the Commission I would continue to press to improve the effectiveness and efficiency of the Commission's activities in furtherance of NRC's regulatory mission.

During my first term on the Commission, it was clear to me that many challenges face the agency as the nature of the nuclear industry changes, involving both power plants and the use of radiological materials in other beneficial ways. I stated during my first confirmation hearing that we should utilize a fair and open process in all decisions, while at the same time maintaining our regulatory independence. I worked faithfully to make decisions with those principles in mind during my first term and will continue to do so if confirmed for a second term. It is clear that an efficient, fair, and open process to reaching regulatory decisions will assure that the industry understands, and that the public accepts, NRC's regulatory decisions.

I want to express to you my appreciation for this opportunity to discuss my re-nomination to a second term as a Commissioner on the NRC. I would be pleased to answer any questions at this time.

RESPONSES BY GRETA DICUS TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. You are aware of the many reform efforts undertaken by the Commission over the past few months. Many of these efforts, of course, came about as the result of interest and activity by this committee. Are you, generally speaking, in favor of these efforts?

Response. I supported those efforts that were initiated while I was on the Commission, and in general, I am in favor of efforts that improve the effectiveness and efficiency of the agency. Many of the efforts are not complete and will be continuing. Such improvements as the recently issued Policy Statement on the Conduct of Hearings will require continued Commission attention to assure proper implementation. Additionally, the Government Performance and Results Act has provided a framework for the agency to begin improving our ability to institute and monitor reforms. I believe we owe it to both the Nation and our stakeholders (licensees, public interest groups, ratepayers) to assure we reform as necessary to maintain an organization that can protect the public health and safety without undue costs or delays. I, therefore, do support reforms that would assist the agency in achieving these goals.

Question 2. You are also aware that this committee has already announced plans for a series of hearings to oversee the NRC and its efforts toward reform. Can we count on the two of you being available to the committee as we move forward with our oversight responsibilities?

Response. I assure the committee that if I am confirmed by the Senate I will be available to individual members or the entire committee as necessary to allow the committee to conduct its oversight responsibilities.

Question 3. I'd like both of you to briefly comment on each of the following reform efforts currently ongoing at the agency and tell us what you will do to ensure that these changes are fully carried out during your tenure:

Question 3(A). Efforts by the Commission to exercise its management oversight responsibilities by providing clear direction and expectations to Atomic Safety and Licensing Boards?

Response. (A) Particularly during the later part of my first term I was concerned with the performance of our Licensing Boards. Throughout my first term I reviewed adjudicatory matters and increasing found distressing the length of time some proceedings were taking to reach finality. As I mentioned in my prepared remarks for the committee, one outgrowth of the concern of myself and my fellow Commissioners was a recently issued policy statement providing additional guidance on the conduct of hearings. I believe the members of the Commission are committed to looking for improvements and improved performance in terms of the efficiency with which we reach adjudicatory decisions. If confirmed, I intend to continue to monitor these issues as the Licensing Boards implement the new Commission hearing policy.

Question 3(B) Efforts by the Commission to establish a license renewal timetable of 30 months, including time for hearings if necessary?

Response. (B) I believe the Commission can meet the 30 month schedule for license renewal. In fact, I have some hope that as we gain experience with the renewal process we will find future renewals can be issued in shorter timeframes. It must be recognized that some components of this 30 month cycle arise from statutorily mandated opportunity for hearings and NEPA reviews. Adequate time must be allowed for these reviews and for the staff to conduct sufficient technical reviews to reach an informed decision on the acceptability of the proposed renewal application. Nevertheless, it is not unreasonable to expect NRC to be able to meet a 30 month schedule for this process.

Question 3(C) The Commission's acceptance that the regulator's role is not to demand perfection, but to achieve "adequate protection of public health and safety" as called for in the Atomic Energy Act?

Response. (C) The Commission recognizes its role to assure adequate protection of public health and safety, and has performed this responsibility exceedingly well. Because of this responsibility as well as the complexities of the technology and the potential ramifications of a nuclear accident, the reviews that NRC performs are necessarily thorough. I do not believe "perfection" is the standard by which licensees should be regulated. I and my fellow Commissioners have always remained sensitive to the need to conduct regulatory reviews in a timely manner and have exercised

increased oversight of staff activities to ensure continued timeliness and efficiency in review processes. If confirmed, I will continue to exercise such oversight to ensure that proper protection of public health and safety is maintained.

Question 3(D) Efforts to integrate and overhaul the agency's processes for assessment, inspection and enforcement?

Response. (D) The Commission has undertaken a significant effort to integrate its various processes for assessing the performance of licensees, inspection and enforcement. This integrated review effort should result in a more efficient and objective assessment process by incorporating the desirable attributes of existing processes while eliminating duplicative and nonvalue-added components of the process. Public comments will be sought on the revised assessment process, which includes inspection and enforcement aspects. While it is expected that this new process will be a significant improvement over those used in the past, I will continue to strive to ensure that assessment processes are adequately serving the public need, and make appropriate changes when necessary.

Question 3(E) The Commission's recent announcement that it would suspend the SALP Process indefinitely?

Response. (E) The Commission suspended the SALP process indefinitely in order to utilize the resources that would have been directed toward SALP reviews, for the completion of the integrated review of assessment processes. In the interim, results obtained via other NRC assessment processes will be made publicly available to ensure that the public is kept adequately informed of licensee performance. I am very supportive of the integrated review, the development of which began during my first term on the Commission. By early 1999, progress on the integrated review should be sufficient for my fellow Commissioners and me to make final determinations on the format for future evaluations and monitoring of licensee performance.

Question 3(F) The agency's new found commitment to dealing with a petition for rulemaking that would allow more flexibility for plants in making changes to their quality assurance plans?

Response. (F) The NRC is committed to promptly consider all petitions for rulemaking. In the area of Quality Assurance the staff, several years ago, implemented a "graded quality assurance" pilot program intended to allow licensees flexibility in making changes to their quality assurance plans without first receiving NRC approval. This program is ongoing. The staff is also continuing its review of a recent petition for rulemaking regarding changes to quality assurance programs. I am supportive of all initiatives that are technically sound, prudent, and worthwhile, and continue to encourage frank dialog, and timely and efficient reviews of such initiatives. As a general matter, I am always willing to listen to new and innovative suggestions for ways to reach the agency's goal of protection of the public health and safety without unnecessary costs to licensee, ratepayers and taxpayers.

Question 4. As you know, the NRC's budget is completely paid for by a direct assessment on agency licensees. As public servants, it is your duty to ensure that any moneys collected by the Federal Government are used effectively and cost-efficiently. This committee and others in the Congress have expressed particular concern in the last year regarding long-standing criticisms of internal agency management practices. What will you do to initiate and/or support efforts to streamline the NRC's staff and processes?

Response. I am strongly committed to ensuring that moneys collected by the Federal Government will be used by the USNRC effectively and cost-efficiently. During my first term, the Commission completed a strategic assessment and rebaselining that provided the groundwork for re-aligning and streamlining operation of the NRC. Realignment of agency management functions will significantly aid in meeting these goals. The creation of an Executive Council consisting of the Directors for Operations, Finance and Information will provide clear lines of responsibilities for these key areas. The Chief Financial Officer will provide a central management point for assuring cost effectiveness of USNRC operations. The creation of the Office of the Deputy Executive Director for Regulatory Effectiveness will provide a meaningful way for monitoring the Commission's success in meeting our goal of increasing effectiveness and to identify new avenues to further increase our effectiveness. Steps have been successfully taken increasing the span of responsibility of supervisors and managers including increasing the employee-supervisory ratio.

It is important to note that changes are relatively new and time will be required to realize the full potential of these changes.

Question 5. Since 1994, the Commission has been aware that agency licensees are charged more than \$50 million annually for activities unrelated to the NRC's regulation of them. To date, the Commission has made little effort to rectify this in-

equity. What are the two of you willing to do to ensure that licensees pay only for activities related to their own regulation?

Response. I believe the Commission has been making efforts in this area. The Commission is on record supporting an amendment to the Atomic Energy Act to remove that portion of NRC operations not directly related to regulation of NRC licensees from the license fee base and fund it through general appropriation. I concurred in this and continue to support this amendment as a matter of fairness and equity to NRC licensees. As a fundamental matter, there are activities undertaken by the NRC that are necessary and benefit the Nation generally, rather than specific licensees. Such activities might be more fairly funded through a mechanism other than user fees. At the same time the Commission has taken steps to streamline and prioritize its functions in these areas, for example, through the strategic assessment and rebaselining reviews of the Agreement State program and the Office of International Programs. While many of the NRC functions in these areas are statutorily required, I believe that the Commission actions to make these programs more effective and cost efficient together with Commission support for amending the Act to remove these activities from the licensee fee base represent significant steps to address licensees' concerns. These efforts will assure those activities fairly assessed to the licensees are conducted in the most efficient, cost effective manner.

Question 6. There has been some indication that the Commission will suspend the agency's Watch List beginning next year. Would you be in favor of such a move?

Response. Each of the Commission's assessment processes that have been implemented have served the agency and the industry well to assure adequate public health and safety. All were very effective in achieving their purposes at the time they were instituted and each of those processes continue to contain elements that are relevant today. It is the responsibility of the Commission to ensure that these assessment processes are maintained current and relevant with respect to the industry's operational performance and circumstances. My response to question 3(d) and (e) more fully describes agency efforts to assure that any duplicative, unnecessary or inefficient plant evaluation efforts are adjusted to create an efficient integrated system to monitor plant performance. If confirmed, I will continue to assess the usefulness of the watch list in the broader context of the overall integrated review of assessment processes.

Question 7. In fiscal year 1999 Energy and Water Development Appropriations Conference Report the Congress provided buyout authority for the NRC to speed work force downsizing and restructuring the agency. We expect that these funds will be used to reduce duplication in the agency, improve the supervisor to employee ration, and begin to consolidate functions within divisions.

(A) Are you prepared to use this authority granted to you as a new member of the Commission?

Response (A). I would be fully prepared to use buyout authority to reduce supervisor to employee ratios and to improve the efficiency of the agency operations.

(B) In what way do you think the buyout authority will benefit the NRC?

Response (B). Obviously, having established a goal of reducing the management to employee ration, it would be of benefit to the NRC if buyout authority can be used to reach this goal without the disruption that forced reductions in force could introduce. I do, however, have concerns about processes that inevitably result in our losing some of our most experienced managers. On the other hand, to rely on attrition alone may not meet our restructuring goals and forced reductions also have negative implications, particularly if they have the unintended effect of depriving the agency of its future leaders. I, therefore, do believe that buyout authority is a valuable tool that, if used judiciously, can help make for a smooth transition to a leaner agency.

Question 8. NASA has just announced a new program with George Mason University which will provide a transition for senior managers and others who can afford to retire but do not want to give up the challenges of having a job. Those selected will become advisors to the commercial space and satellite industry. NASA is trying this program in the hope that senior employees will retire sooner without forced reductions and buyouts.

(A) Do you think that the NRC may want to begin a similar program?

Response (A). Although I am not familiar with NASA's new program with George Mason University, based on the information provided in the question, I would not object to evaluating the merits of implementing such a program at the NRC if current efforts to streamline are unsuccessful. As you know, like NASA, the NRC is in the process of reducing the number of managers in its organization. As part of this effort, an agency goal is to substantially reduce the number of Senior Executive Service (SES) managers by January 1999. This will be accomplished, in large part,

by reorganization efforts currently underway. I am firmly committed to streamlining the agency to the extent that it does not decrease public health and safety. If NRC's current efforts are unsuccessful, I would be willing to consider alternate methods of streamlining the agency, such as implementing a program similar to NASA's new program.

(B) What steps do you foresee needed to develop such a program?

Response (B). Specific steps needed to develop such a program would be developed and considered during the course of evaluating the merits of the program.

Nuclear Waste Question

Radiation Protection Standard

Question 1. An area of significant concern to the committee is the establishment of an appropriate radiation protection standard for the permanent repository for nuclear waste. On April 29, 1997, members of the NRC testified before the House Subcommittee on Energy and Power of the House Commerce Committee.

At that hearing Chairman Jackson was asked a question relative to the public health and safety afforded by the radiation standard. She stated,

"The [Nuclear Regulatory] Commission notes the standard in H.R. 1270 of an annual effective dose of 100 mrem to the average member of the general population in the vicinity of Yucca Mountain and views that standard as consistent with the protection of the public health and safety."

Do you support the point of view enumerated by Chairman Jackson relative to the radiation standard as it was included in H.R. 1270?

Response. I concur in the Chairman's statement that the standard in H.R. 1270 is consistent with the protection of the public health and safety, but would add my expectation that this standard, if enacted, would be implemented together with NRC's existing requirement that licensees make every reasonable effort to maintain exposures to radiation as far below the dose limits as is reasonably achievable (ALARA). In practice, the implementation of the ALARA requirement by NRC licensees has resulted in worker and public doses resulting from licensed operations that are well below applicable regulatory limits. It should be noted that, as a general practice in radiation protection, the basic radiation protection limit of 100 mrem/y is apportioned when there is a possibility of exposure to multiple licensed sources of radiation ("constraints"). In the case of the Yucca Mountain site, however, its extreme remoteness makes it unlikely that members of the public in its vicinity will be exposed to other licensed activities. Therefore, application of the standard in H.R. 1270 when combined with the existing requirement for ALARA is acceptable in this case. With these understandings, the standard is consistent with the recommendation of the International Commission on Radiological Protection (ICRP) and the National Council for Radiation Protection and Measurements (NCRP) for members of the general public. The ICRP and NCRP are independent scientific organizations which provide scientifically based recommendations for radiation protection which are generally followed worldwide.

Question 2. When the Senate considered this issue in the context of S. 104, it included a standard which was more stringent than the one included in H.R. 1270. Is it your view that, if enacted, the standard in S. 104 also adequately protects health and safety of the public as well as the standard in H.R. 1270?

Response. The standard in S. 104 is expressed in terms of the maximum lifetime risk of fatal cancer to an average member of the critical group that is not to exceed 1 in 1000. This is equivalent to an average annual dose of about 30 mrem/y. I would note the difference between the specified exposed populations in H.R. 1270 & S. 104, i.e., an average member of the general population in the general vicinity of the site is specified in H.R. 1270 vs. the specification of an average member of the critical group in S. 104. Notwithstanding the differences in the specifications of the exposed populations, the standard in S. 104, is also protective of the public health and safety.

Question 3. As you know, EPA has the initial responsibility for promulgating and establishing such a standard; however, other agencies (DOE and NRC) also have a serious interest in assuring that the radiation standard is appropriately set. But as the process has unfolded, we understand that there has been a significant disagreement between the agencies as to the appropriate standard to apply. NRC and DOE have taken the position that the standard currently contemplated by EPA is not appropriate.

(A) Would you not agree that the EPA standard as currently favored by EPA is not workable? Please explain your rationale.

Response (A). I would agree that EPA standards go beyond those necessary to protect the public health and safety and have the potential to introduce prohibitive and

unnecessary expense for those responsible for meeting those standards. To this extent those standards may be unworkable.

(B) Do you agree that a ground water standard as part of the overall standard is not appropriate in this circumstance?

Response (B). Briefly stated, my view is that NRC's proposed radiation protection standards for radioactive waste disposal are consistent with ICRP and NCRP recommendations for radiation protection, are scientifically defensible and are protective of the public health and safety. There is nothing in the ICRP and NCRP recommendations that would support creation of a separate standard for ground water because their recommended standards for limiting radiation exposure are not dependent upon the route of exposure. Therefore, there is no scientific radiation protection justification for a separate standard for ground water. In my judgment, EPA's proposed standards go beyond those recommended by the National Academy of Sciences especially with respect to establishing a separate standard for ground water.

(C) Do you agree that it is appropriate for the NRC in developing Part 63 to not include subsystem performance standards as a separate ground water standard?

Response (C). See response to Radiation Protection Standard Question 3(B) above.

(D) In your view, is the standard currently proposed by the EPA consistent with the recommendations of the National Academy of Sciences, as required by Section 801 (a)(1) of the Energy Policy Act of 1992?

Response (D). See response to Radiation Protection Standard Question 3(B) above.

Viability Assessment Analysis

The Senate remains concerned over the timeframe required before a repository is operational at Yucca Mountain. As an important step, DOE is now currently conducting a viability assessment. That assessment is anticipated to be completed this Fall and delivered to the NRC. Following receipt of the viability assessment by NRC, the Commission will have a 3-month period to review the "Licensing Application Plan," included in the assessment.

Question 1. Will you provide the committee with a commitment to expeditiously review the assessment and complete this specific task within 3 months? At the end of the 3-months, will you be able to inform DOE of any improvements in the "Licensing Application Plan"? If not, for either question please describe why that will not be possible.

Response. I share the Senate's concern regarding the timeframe required to open a repository at Yucca Mountain. As you know, the Department of Energy (DOE) is currently scheduled to complete the Viability Assessment (VA) this fall. There is no plan by DOE to issue it in draft for comment, and NRC's review of DOE's VA is not an explicit statutory requirement. However, NRC expects to be asked by Congress to comment on DOE's VA. NRC's independent licensing view may be useful input to potential Congressional decisions about the future of the national program.

I strongly support an expeditious review of the VA by the NRC. Early feedback to DOE resulting from reviews of draft and/or final VA documents will be a continuation of NRC's ongoing issue resolution activities during the pre-licensing phase. Early feedback has already been given to DOE in fiscal year 1996-1998. In my view, the final objectives of the VA review, as outlined below, should be completed within 3 months after receipt of the VA. These objectives are threefold: (1) to identify progress in the development of information necessary for a complete license application; (2) to identify potential licensing vulnerabilities that could either preclude or pose a major risk to licensing; and (3) to identify major concerns with DOE's test plans, design concepts and Total System Performance Assessment, that if not resolved by DOE, might result in an incomplete or unacceptable license application. Following the completion of the objectives, the NRC would promptly forward its results to the DOE for its consideration.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 25, 1998

The Honorable John H. Chafee, Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is regarding question 5 from the Committee to Ms. Greta J. Dicus which requests a statement from the appropriate agency official on laws and regulations on conflicts of interest.

If Ms. Dicus is reconfirmed as a Commissioner of the United States Nuclear Regulatory Commission (NRC), she is prohibited from engaging in any outside business, vocation, or employment under section 201(e) of the Energy Reorganization Act of 1974 or from receiving any earned income from any outside employment or activities under Executive Order 12731.

Ms. Dicus would be subject to all the government-wide ethics regulations for Executive Branch employees issued by the United States Office of Government Ethics (OGE) (5 C.F.R. Parts 2634-2640), such as the standards of employee conduct, which prohibit receiving gifts from prohibited sources and misuse of her position and title. Ms. Dicus would be required to file annually a public financial disclosure report and receive annual ethics training. Ms. Dicus would also be subject to the criminal conflict of interest laws (18 U.S.C. 201-209), the Hatch Act restrictions on political activities, and the NRC supplemental conduct regulations on security ownership (5 C.F.R. Part 5801).

We have already reviewed Ms. Dicus's most recent financial disclosure report and advised her that the Office of the General Counsel will always be available to advise her on any conflict of interest questions or matters, during her service as an NRC Commissioner.

Please contact me if you have any further questions or I can be of any service.

Sincerely,

A handwritten signature in black ink that reads "Stephen G. Burns". The signature is fluid and cursive.

Stephen G. Burns
Acting General Counsel and Acting
Designated Agency Ethics Official

UNITED STATES SENATE
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Dicus Greta Joy
(Last) (First) (Middle)

Position to which nominated: Commissioner, U.S. NRC

Date of Nomination: 05/22/98

Date of birth: 23/11/39 Place of birth: Hot Springs, AR
(Day) (Month) (Year)

Marital status: Divorced Full name of spouse: NA

Name and ages of children: NA

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	Texas Woman's University	1957-1961	B.A.	May 1961
	University of Texas Southwest Medical School	1964-1966	M.A.	May 1967

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

See C.V. (attached)

Employment record—continued

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement

- ° U.S. Health Service Trainee in Radiation Biology
- ° Conference of Radiation Control Program Directors Executive Board's Award for Outstanding Achievement in the Field of Radiation Protection
- ° Ed Blanche Memorial Award in Special Recognition of Significant Contribution to the Radiological Emergency Preparedness Program, Presented by FEMA Region VI

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations

Organization	Office held (if any)	Dates
See Attached C.V.		

Qualifications:

State fully your qualifications to serve in the position to which you have been named. More than 30 years experience in nuclear regulatory and radiation related work as described in the attached C.V.

The Honorable Greta Joy Dicus is a radiation biologist. She was sworn in as a Commissioner of the U.S. Nuclear Regulatory Commission on February 15, 1996. Prior to the end of her term as Commissioner, on June 30, 1998, President Clinton nominated her to a second term. She is awaiting Senate confirmation and is serving as an outside expert to the U.S. Defense Nuclear Facilities Safety Board.

Ms. Dicus was also confirmed by the U.S. Senate in February 1994, as a member of the Board of Directors of the United States Enrichment Corporation. She served on the USEC's Board from March 1994 to February 1995.

An Arkansas native, Ms. Dicus was educated in Texas. She graduated with a Bachelor of Arts degree in biological sciences from Texas Woman's University in 1961 and earned a Master's Degree in radiation biology from the University of Texas Southwestern Medical School in 1967.

From 1980 to 1995, Ms. Dicus worked in progressively responsible positions in the Division of Radiation Control and Emergency Management at the Arkansas Department of Health. She was Chief of Licensing from 1982 to 1984 and was Director of the Division for nine years thereafter.

Concurrently, from 1991 to 1993, she served as Chairman of the Central Interstate Low-Level Radioactive Waste Commission. She also served on the Southern States Energy Board's (SSEB) Advisory Committee on Transportation of Radioactive Materials and the SSEB's TRU Waste Working Group.

For 16 years, from 1961 to 1977, Ms. Dicus conducted research in radiation health effects at Harvard Medical School, Rice University, the University of Texas, and Southwestern Medical School.

Among her appointments, Ms. Dicus served as Arkansas' Liaison with the NRC, Commissioner of the Central States Low-Level Waste Compact Commission, and member of the Governor's Low-Level Radioactive Waste Advisory Group.

Ms. Dicus is a member of the Health Physics Society, Sigma Xi, and the Conference of Radiation Control Program Directors.

September 1998

EDUCATION

M.A. Degree Radiation Biology - 1967
The University of Texas Southwestern Medical School at Dallas, Texas

B.A. Degree Biological Science, Minor - Chemistry - 1961
Texas Woman's University, Denton, Texas

APPOINTMENTS AND DESIGNATIONS

Outside Expert, Defense Nuclear Facilities Safety Board
(1998 - present)

Commissioner, U.S. Nuclear Regulatory Commission
(1996 - 1998)

Director, Board of Directors, U.S. Enrichment Corporation
(1994-1995)

Commissioner, Central States Low-Level Radioactive Waste Commission
(Chair 1991 - 1993)

Arkansas Liaison with the U.S. Nuclear Regulatory Commission

Southern States Energy Board's Committee on Transportation of Radioactive Material

Southern States Energy Board's TRU Waste Working Group

Arkansas Department of Health Representative to the NCEH/CDC Working Group on
Medical Training Issues Relating to Chemical Stockpile

Arkansas Department of Health Emergency Services Liaison to the Arkansas Office of
Emergency Services

Arkansas' Representative, Southern States Energy Board's Committee on the
Transportation of Radioactive Material

Greta Joy Dicus
Curriculum Vitae

2

Arkansas' Representative, Southern States Energy Board's TRU Waste Working Group
Emergency Preparedness Program (CSEPP).

Arkansas' Representative to the CSEPP Reentry/Restoration Subcommittee

Member, Organization of Agreement States' Task Force on Comparability

Chairman, CRCPD Committee on Bonding and Surety Requirements for Nuclear Facilities

Chairman, CRCPD Task Force on the Investigation of the RSI Incident

1990-1991, Chair, Organization of Agreement States

1993 President Elect, Arkansas Chapter, Health Physics Society

AFFILIATIONS

Health Physics Society

Sigma Xi

Conference of Radiation Control Program Directors (CRCPD)

AWARDS

1992 Ed Blanche Memorial Award In Special Recognition of Significant Contribution to the
Radiological Emergency Preparedness Program, Presented by FEMA Region VI

1991 Conference of Radiation Control Program Directors Executive Board's Award for
Outstanding Achievement in the Field of Radiation Protection

TRAINING

1988 Advanced Radiological Accident Assessment
Emmitsburg, MD - Sponsored by FEMA

1988 Transportation of Radioactive Materials
Albuquerque, NM - Sponsored by DOE

1986 Radiation Protection Engineering
Oak Ridge, TN - Sponsored by NRC

1986 Radiological Accident Assessment
Emmitsburg, MD - Sponsored by FEMA

Greta Joy Dicus
Curriculum Vitae

3

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- 1986 Radiological Emergency Response
Las Vegas and Mercury, NV
- 1985 Gas and Oil Well Logging for Regulatory Personnel
Houston, TX - Sponsored by NRC
- 1984 Radiation Measurements Workshop
Russellville, AR - Sponsored by CRCPD
- 1984 Cobalt Teletherapy Calibration for State Regulatory Personnel
Houston, TX - Sponsored by NRC
- 1983 Biological Effects of Ionizing Radiation
Harvard School of Public Health - Boston, MA
- 1982 Medical Uses of Radionuclides for State Regulatory Personnel
Oklahoma City, OK - Sponsored by NRC
- 1982 Safety Aspects of Industrial Radiography for State
Regulatory Personnel, Baton Rouge, LA - Sponsored by NRC
- 1982 Sealed Source and Device System Training Session
Arlington, TX - Sponsored by NRC
- 1981 Orientation Course in Licensing Practices and Procedures
Silver Spring, MD

PROFESSIONAL POSITIONS AND EXPERIENCE

July 1998 - present

Outside Expert
Defense Nuclear Facilities Safety Board
625 Indiana Avenue, N.W.
Washington, D. C. 20004-2901

Responsibilities To assess and identify and characterize the strengths and weaknesses of DOE's occupational radiation protection standards relative to those in commercial nuclear activities. Also to work with staff members of DNFSB on prioritization efforts for ranking high risk facilities and to provide information to the DNFSB staff on risk informed regulation.

February 1996 - June 1998

Commissioner
U.S. Nuclear Regulatory Commission (NRC)
11555 Rockville Pike
Rockville, Maryland 20852

Responsibilities As a member of the Commission, collegially formulate and make policy decisions regarding nuclear materials and facilities under the authority of the Atomic Energy Act, as amended. Represent the Agency as appropriate at National meetings and activities. Coordinate with other Government agencies in areas having cross-cutting policy implications. Participate with International organizations, and foreign governments, as appropriate, regarding international nuclear safety issues. Review and approve Agency budget submittals to OMB and Congress.

March 1994 - February 1995

Director
Board of Directors, U.S. Enrichment Corporation

Responsibilities Make decisions on policy, administrative and economic issues as necessary as a member of the Board of Directors of a Federal Corporation. I also served as Chairman of the Board's Subcommittee on Nuclear Regulatory Affairs.

June 1986 - February 1996

Director, Division of Radiation Control and Emergency Management
(June - October 1986- Acting Director)
Arkansas Department of Health

Responsibilities Administrative director of X-Ray, Radioactive Materials Environmental Surveillance, Health and Medical and Chemical Emergency Preparedness and Nuclear Planning and Response Programs for the Arkansas Department of Health. Direct technical operations for radiological emergency responses. Represent the State of Arkansas in National and Regional meetings and conferences, and a compact, on Technical Issues and/or natural and technical disasters. Formulate and implement policy for Interstate Compact Commission.

June 1984 - June 1986

Deputy Director - Division of Radiation Control and Emergency Management
Chief - Compliance and Emergency Preparedness
Arkansas Department of Health

Greta Joy Dicus
Curriculum Vitae

5

Responsibilities Supervise the radioactive material license inspection staff by determining inspection schedules, reviewing inspection reports and making final judgment on the compliance status of the licensee. Coordinate all Health Physics training in routine and emergency procedures. Member of State's Radiological Emergency Response Team as Accident Assessment Officer. Various administrative responsibilities as Deputy Director of the Division.

June 1982 - June 1984

Chief of Licensing - Division of Radiation Control and Emergency Management
Arkansas Department of Health

Responsibilities Supervise and assist in the licensing of facilities using radioactive materials including hospitals, industrial installations, industrial radiography operations and well logging operations. The above involves review of radiopharmaceutical protocols with special reference to Investigational New Drug (IND) procedures; review of quality assurance test procedures for nuclear medicine instruments; review of calibration procedures and calculations including those for teletherapy units and accelerators; and, review of procedures relative to general radiation safety practices in the use of transport of radioactive materials. Member of State's Radiological Emergency Response Team as part of the Accident Assessment Section.

June 1980 - June 1982

Health Physicist - Division of Radiation Control and Emergency Management
Arkansas Department of Health

Responsibilities Conduct inspections of X-Ray machines in medical facilities to determine that the units were in compliance with manufacturer's specifications and the Department's regulations. Conduct inspections of facilities having radioactive material licenses to determine that the activities of the licensee are being conducted in accordance with the conditions of the license and the Department's regulations. Assist in performing survey meter calibrations and in leak-testing sealed sources. Member of the Radiological Emergency Response Team as a field team leader.

1974 - 1977

Instructor (Part-Time)
Department of Math and Science
Garland County Community College
Hot Springs, AR

Responsibilities Teach courses in General Biology; Health and Safety; and Anatomy and

Greta Joy Dicus
Curriculum Vitae

6

Physiology for nursing students.

Greta Joy Dicus
Curriculum Vitae

7

1971 - 1973

Research Associate
Department of Experimental Radiotherapy
Harvard Medical School
Boston, MA

Responsibilities Participated in the development and performance of research projects designed to investigate the effects of radiation relative to radiosensitivity and radiotherapy.

1970 - 1971

Research Associate
Department of Biology
Rice University
Houston, TX

Responsibilities Participated in a research project concerning the regeneration of embryonic organs.

1968 - 1970

Research Associate
The University of Texas at Dallas
(Formerly the Southwest Center for Advanced Studies)
Dallas, TX

Responsibilities Participated in a research project concerning radiation repair of ultraviolet light induced damage to mammalian cells.

1966 - 1968

Instructor
Radiation Biology Section
Department of Radiology
Southwestern Medical School
Dallas, TX

Responsibilities participated in the development of performance of research projects planned to investigate the effects of radiation relative to radiotherapy using both *in vitro* and *in vivo* systems; instructed graduate students in laboratory procedures used in radiobiological research; and supervised tissue culture laboratories and personnel in these labs.

Greta Joy Dicus
Curriculum Vitae

9

1964 - 1966

U.S. Health Service Trainee in Radiation Biology
Department of Radiology
The University of Texas Southwestern Medical School
Dallas, TX

1961 - 1964

Research Assistant
Department of Radiology
The University of Texas Southwestern Medical School
Dallas, TX

Responsibilities Assisted in research projects designed to investigate the effects of radiation on mammalian cells in vitro and tumor cells in vivo.

MASTER'S THESIS

"A Study of the Radiation Response of Hypoxic Mammalian Cells In Vivo" - June 1967.

PRESENTATIONS

1998

- *2/11 Low Level Waste Forum, San Diego, CA
- *4/14 NRC Regulatory Information Conference, Washington, DC
- *4/24 Women in Nuclear Global Annual Meeting, Taipei, Taiwan

1997

- *1/16 HPS/ANS Baltimore/Washington Chapter, Bethesda, MD
- 2/11 Low Level Waste Forum, San Diego, CA
- 4/2 NRC Regulatory Information Conference, Washington DC
- 4/15 1997 Annual Regional Radiological Emergency Preparedness Workshop, Eureka Springs, Arkansas
- *4/22 7th Annual National Radiological Emergency Preparedness Conference, Kansas City, Missouri

-
- 7/21 NARUC Subcommittee on Nuclear Issues/Waste Disposal, San Francisco, CA
1997 Presentations (Continued)
- 8/1 Policy Maker's Conference on Regulating LLW, Creating a Strategy for Science-Based National Policy Addressing Conflicting Scientific Views on the Health Risks of Low Level Ionizing Radiation, Racine, Wisconsin
- 8/20 Harvard School of Public Health Nuclear Emergency Planning, Radiological Emergency Preparedness: Issues, Policies and Activities, Boston, Massachusetts
- 11/10 1997 Forbes Magazine and Pasha Publications, The Future of the U.S. and International Environmental Industry Conference, Washington, D.C.
- * 11/21 IAEA/WHO/UNSCEAR International Conference Low Doses of Ionizing Radiation: Biological Effects and Regulatory Control, Seville, Spain
- 11/24 Spanish Nuclear Safety Council, Madrid, Spain
- 1996
- 3/25 National Women's History Month Observance, USNRC
- 4/25 29th Annual Meeting of the ASLBP, Atlanta, GA
- 4/29 INPO Senior Nuclear Plant Management Course, USNRC
- 5/5 Conference of Radiation Control Program Directors, Inc., Albuquerque, NM
- 5/9 NEI Emergency Planning Information Forum, Bethesda, MD
- 5/21 OGC Seminar, USNRC
- 6/24 Science and Technology Workshop for Teachers, USNRC
- 9/16 Address Entergy Board of Directors, Willard Hotel, D.C.
- *9/17 All Agreement State Meeting, USNRC
- 9/19 NRC and Its Environment, Rayburn HOB, Washington, DC
- 9/25 Delaware Valley Society for Radiation Safety, New Jersey Health Physics Society and Delaware Valley Section of the ANS, Trevese, PA

- 10/9 National State Liaison Officers' Meeting, USNRC
- * 10/14 1996 TLG Decommissioning Conference, Captiva, Florida

1996 Presentations (Continued)

- 11/1 Bluegrass Chapter of the HPS, Louisville, Kentucky
- 11/6 New England Radiological Health Committee and the New England Chapter of the HPS, Newport, Rhode Island and Providence Plantation
- 12/5 Region II Resident Inspector Seminar, Atlanta, GA

* Published speeches on the Internet/NRC Home Page

PUBLICATIONS

- Dicus, G.J., Frazee, T.C., Garcia, B.J., Jacobi, W.E., and Wood, R.S.: Guidance on Bonding and Surety Requirements. CRCPD Publication 90-2, July 1990.
- Belli, J.A., Dicus, G.J. and Nagle, W.A.: *Repair of Radiation Damage as a Factor in Preoperative Radiation Therapy*. Frontiers of Radiation Therapy and Oncology, Ed. J.N. Vaeth, Vol. 5, 44-57, S. Karger, Basel, Switzerland, 1970.
- Belli, J.A., Dicus, G.J. and Bonte, F.J.: *Radiation Response of Mammalian Tumor Cells. 1. Repair of Sublethal; Damage in Vivo*. National Cancer Institute. 38: 673-682, 1967

ABSTRACTS

- Nagle, G.J.D and Belli, J.A.: *Radiosensitization of Mammalian Cells by BUDR: Effect of Growth Phase on Hypoxic, Aerobic and N2O Responses*. Radiation Response, 55:583, 1973.
- Dicus, G.J. and Nagle, W.A.: *Fractionation Response and Radiation Recovery in Mammalian Tumor Cells In Vitro*. Radiation Response, 35:514, 1968.
- Belli, J.A. and Dicus, G.J.: *Additional Studies on the Recovery Response of Mammalian Tumor Cells (P-388) In Vitro*. Radiation Response, 35:579, 1967.

VIDEO TELECONFERENCE

"Agriculture and the Food Ingestion Pathway: Effective Radiological Emergency Planning" - Department of Agriculture - November 1991.

**NOMINATIONS OF WILLIAM CLIFFORD SMITH,
ISADORE ROSENTHAL, AND ANDREA KIDD
TAYLOR**

WEDNESDAY, OCTOBER 7, 1998

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m. in room 406, Senate Dirksen Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Baucus, and Lautenberg.

**OPENING STATEMENT OF HON. JOHN H. CHAFEE,
U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator CHAFEE. Good morning.

The purpose of this hearing is to review the nomination of Dr. Isadore Rosenthal to be appointed a member of the Chemical Safety and Hazard Investigation Board. The second nomination is for Dr. Andrea Kidd Taylor also to be appointed a member of the Chemical Safety Board. The third nomination is that of Mr. William Clifford Smith to be appointed as a member of the Mississippi River Commission.

I'm pleased to welcome those who are here today, in particular, our three nominees. Also, we expect some Senators here who will introduce, I believe we're expecting Senator Specter, who is going to introduce Dr. Rosenthal. Senator Levin will introduce Dr. Taylor. And Senator Breaux and Congressman Tauzin, I believe, will introduce Mr. Smith.

It's my pleasure to report that all three nominees have impressive backgrounds and are well suited for the positions for them. The President has nominated Dr. Rosenthal as a member of the Chemical Safety Board, a position he's highly qualified to assume.

Since 1990, Dr. Rosenthal has been a senior member of the Wharton Risk Management and Decision Process Center at the University of Pennsylvania, where he teaches a course in the MBA program. He's also a member of the board of the University of Pennsylvania's Environmental Research Institute.

Prior to that, from 1953 to his retirement in 1990, he served on a number of research, development and new business ventures in corporate staff positions at Rohm and Haas Company. Dr. Rosenthal received his B.A. from New York University, an M.S. from Pursue, and a Ph.D. from the University of Pennsylvania.

The President has also nominated Dr. Andrea Kidd Taylor to be a member of the Chemical Safety Board. Dr. Taylor has been an Occupational Health Policy Consultant and Industrial Hygienist for the United Automobile Workers since 1989. Prior to that, she was with the Maryland Committee on Occupational Safety and Health. And prior to 1984, was a Coordinator/Industrial Hygienist at the Workplace Safety and Health Program at Coppin State College in Baltimore.

In addition to her professional achievements, Dr. Taylor has been a member of the President's Advisory Committee on Gulf War Veterans Illnesses. She's a member of both the American Industrial Hygiene Association and the American Public Health Association. Dr. Taylor received a B.S. from Howard University, an M.S. in public health from the University of Alabama in Birmingham, Doctor of Public Health degree from Johns Hopkins School of Hygiene and Public Health.

Mr. William Clifford Smith has been nominated by the President to be a member of the Mississippi River Commission. Mr. Smith is president and CEO of T. Baker Smith and Son, a private company that provides civil engineering, land surveying, and environmental services. He's worked in this position since 1962 and has been directly responsible for the general management, direction and supervision of all professional services.

He's served as a member of the Board of Commerce and Industry for the State of Louisiana. Prior to that, a member of the Coastal Zone Commission for the State. He is a member of the board of directors of Louisiana Intercoastal Seaway Association, and a member of the Gulf Intracoastal Canal Association. He received his Bachelor of Science degree in Civil Engineering from Louisiana State University.

The Chemical Board is completing its first year of operation. It was authorized by the Clean Air Act Amendments of 1990, but fiscal year 1998 was the first year for which it received appropriated funds. The Board was modeled after the National Transportation Safety Board and given the mission of investigating industrial chemical accidents to identify the causes and, more importantly than that, to recommend steps to enhance the safety of chemical operations. Members serve 5-year terms.

The Mississippi River Commission's duty is to implement construction and operate the Mississippi River and Tributaries Project. Doing this involves the development and execution of the flood protection program comprised of levee construction, river dredging and river distribution.

The three positions at hand offer challenges which I believe all of our nominees are prepared to face. It's my hope that we can work it out to report the nominees tomorrow, if they pass muster here. And we'll have an opportunity to meet off the floor on Thursday morning.

I would ask all Senators with questions to please submit them to the staff by noon today.

Senator Lautenberg, do you have a comment?

**OPENING STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM THE STATE OF NEW JERSEY**

Senator LAUTENBERG. Mr. Chairman, first, to commend you for starting early. I'm glad I wasn't taking your airplane this morning, because I would have been left standing at the station.

I'm so pleased to see that we're trying to fill the posts on the Chemical Safety Board, since I was the principal author there. Unfortunately, my State, not unlike yours, Mr. Chairman, is a State that has a proud industrial past that's left it with the problems of today as a result of that. And so I think we're making progress.

As you noted, Mr. Chairman, the authorization was done a number of years ago. This is the first time we've gotten funding for it. It's a very important task. And I don't think, Mr. Chairman, we don't have anybody from New Jersey for the Mississippi River Commission, so I would say that we're content with, pleased, more than that, to support these nominees.

[The prepared statement of Senator Lautenberg follows:]

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF
NEW JERSEY

I would like to start by thanking the Chairman for holding this markup on such short notice. His great effort on behalf of these nominations is a sign of the wide support for the Chemical Safety and Hazard Investigation Board.

I welcome all three of you, but I am especially glad to see Dr. Taylor and Dr. Rosenthal here. Your presence is a sign that the Board is becoming a well-established entity. That is a good sign for workers, for industry, and for the environment. It's a good sign for the country.

Congress created the Chemical Safety Board in the 1990 Clean Air Act, modeling it after the National Transportation Safety Board. I became especially interested in the Board after a tragic explosion that took the lives of five men just a few miles from my house in 1995. At the time of the explosion at Napp Technologies, adequate funds had never been appropriated to the Board, nor had members been appointed.

Our one response to such tragedies in those days was enforcement. Don't get me wrong—tough and fair enforcement is essential to deterrence. But it doesn't always get to the root of the problem. Enforcement alone can not prevent future tragedies.

Identifying root causes to chemical accidents, and recommending measures to prevent them are an essential part of the equation as well. That's what the Board is for.

I am very proud to have offered the amendment that provided the Board its first appropriations in Fiscal Year 1998. I am proud, as well, to have negotiated an increase in the Board's appropriations to \$6.5 million—an increase which was included in the VA-HUD conference report. The Board is a very new organization. But for a new organization it's off to a great start.

The Board opened its doors for business on Monday, January 5, 1998. On Wednesday of that week, an explosion at an explosives plant near Reno claimed the lives of four workers and injured six others. On Friday of that week, the Board was at the site of the accident, starting its investigation. The Board published its report of that accident last month.

The report has been widely acclaimed and makes recommendations that should make the manufacture of explosives much safer.

In all, the Board has initiated investigations of six accidents and is currently reviewing 13 other incidents. These are accidents that tragically resulted in 30 deaths in 16 States. Among them are two in New Jersey.

One occurred last April in Patterson, my home town, when an explosion ripped through the Morton Specialty Chemical Company, injuring nine workers, two seriously. I understand the Board has completed the first phase of that investigation.

The second New Jersey accident occurred in August at RBH Dispersions in Middlesex, mortally injuring one worker. Unfortunately, because the Board is just starting up—it isn't yet fully staffed, it isn't yet fully funded—it was unable to launch a full investigation and will only be able to review OSHA's investigation.

But all in all, I would say the Board is off to a great start. I only wish that start had been 8 years ago, instead of 8 months ago.

Finally, I think it's significant that we find before us today both Dr. Taylor, with her years of experience in the labor movement, and Dr. Rosenthal, with his decades of experience in the chemical industry.

I think it's significant that they have both been endorsed by the chemical industry and labor. It shows what many of us believe—whether Democrat or Republican, industry or labor—a fully functioning Chemical Safety Board will be as good for the chemical industry as it will be for the employees and neighbors of the industry.

Senator CHAFEE. Fine. I see Congressman Tauzin's here, and Mr. Congressman, if you'd like to come forward and make a statement. I suspect you're here on behalf of Mr. Smith. And if you'd like to make a statement, there may be others, Senator Specter is expected. And others perhaps.

But we welcome you, Congressman, and if you'd like to proceed, we look forward to hearing your comments.

**STATEMENT OF HON. W.J. (BILLY) TAUZIN,
U.S. REPRESENTATIVE FROM THE STATE OF LOUISIANA**

Mr. TAUZIN. Thank you very much, Senator. I understand Senator Breaux may also be here, and I want to thank you for allowing us to say a few good words for our dear friend. And Mr. Smith is not only a dear friend of mine, but also Senator Breaux's, long-standing.

I was once introduced to the Supreme Court as a practitioner before the Supreme Court by a young man named Randy Pero, who's now a judge in Louisiana, who was an L.A. for a former Congressman from my district, Pat Caffrey. He was a dear friend, brought me to Washington, introduced me to the Burger Court. It was the first time the Chief Justice, sitting as the Chief Justice in the full court, was there. He was so overtaken by the majesty of the moment that he forgot the card that he was supposed to use to introduce me.

And all these other young attorneys were there with their fathers and grandfathers in tuxedos and we two country boys were standing there, he having lost his card, overtaken completely by this incredible array of the entire Supreme Court. He said, Mr. Chief Justice, I'm a member of the Supreme Court. I want to introduce you to my friend, Billy Tauzin. He was supposed to talk about all my credentials, but couldn't remember any of them.

He said, "He's a good guy."

[Laughter.]

Mr. TAUZIN. I think it's recorded as the only moment that the Chief Justice ever laughed openly in court. And I think I stand as the only person ever confirmed to practice before the Supreme Court on the basis of that qualification.

But it's a qualification I think that most defines our friend Clifford Smith. He is truly a good guy. He's one of the best. He has not only, as I said, been a personal friend, but he has been a fixture in our State in its commitment to its many opportunities and problems associated with the Mississippi River and the delta.

Just last weekend, he participated, his son was on a panel at a huge national conference we had at Nicholls State, my Harvard on the bayou, in Louisiana, where we discussed the future of the incredible land loss in Louisiana along our coast, 35 square miles a year, that America witnesses every year. And it literally goes on in too many cases unnoticed.

And his commitment to the river and to solving many of these problems associated with the drainage system and the river corridor and all its ports and transportation opportunities is one of long standing. He is eminently qualified. He has bipartisan support of Louisiana. As you know, Louisiana is now led by Republican Governor Mike Foster, who is, I think, the most popular Governor in America.

Senator LAUTENBERG. Representative Tauzin, you bring both sides of the aisle with you.

Mr. TAUZIN. In fact, I do. I've been called a lot of labels—somebody called me a “transvesticrat” at one point. I'm not sure that's—

[Laughter.]

Senator LAUTENBERG. We don't use that kind of language around here. That's reserved for the House.

[Laughter.]

Mr. TAUZIN. I do bring a bipartisan recommendation to you, and without taking any more of your time, I simply wanted to urge you, on behalf of this Nation, to confirm this good man for this very important duty as Commissioner on the Mississippi River Commission.

Senator CHAFEE. Well, thank you very much, Representative Tauzin. You're nice to come over and we appreciate it. I know you have a busy schedule, so if you want to be excused, feel free to do so.

Mr. TAUZIN. Thank you, Senator.

By the way, Mr. Chairman, I also know that you roughnecked out of Lafayette, LA. So I know you have sort of a bond with us.

Senator CHAFEE. I do. It was a great experience, it was the end of my freshman year at college. And I went down there and worked in Barataria, which Dr. Smith and I talked about yesterday.

Thank you very much for coming over.

Mr. TAUZIN. Thank you, Senator.

Senator CHAFEE. Now, if the nominees would please come forward and take a seat at the table.

Senator LAUTENBERG. Mr. Chairman, if I might, the record will reflect any statements, and I have no questions, except to say that I know in the case of Dr. Rosenthal and Dr. Taylor, these are very well qualified people, a lot of experience. I look forward to working with them over the years ahead and if I may, Mr. Chairman, I'll be excused.

Senator CHAFEE. Thank you very much for coming. And it's my understanding Senator Baucus will be here shortly.

Now, it's my understanding that Dr. Paul Hill, chairman of the Chemical Safety Board, is here. Is that correct? Did you want to step up? Did you want to introduce any of the members or make a comment?

**STATEMENT OF PAUL HILL, CHAIRMAN, CHEMICAL SAFETY
AND HAZARD INVESTIGATION BOARD**

Dr. HILL. Yes, thank you, Senator. Because of the schedules in this hectic time period, Senator Levin and Senator Specter we understand may not be able to be here. On behalf of the board, I would like to present both Dr. Taylor and Dr. Rosenthal, with the

full support of the other board members. We truly think they would be great additions to this board, and help us do the work that lies ahead.

So I just briefly wanted to offer our support and ask your support as well.

Senator CHAFEE. Fine. Thank you very much. And you're free to be excused, if that's what you'd wish.

Now, why don't we start with Mr. Smith. Why don't you proceed. If you've got a statement, now's the time.

STATEMENT OF WILLIAM CLIFFORD SMITH, NOMINATED TO BE A COMMISSIONER OF THE MISSISSIPPI RIVER COMMISSION

Mr. SMITH. Mr. Chairman, thank you very much. It's an honor to be here before your committee as a nominee for the Mississippi River Commission.

I would like to make a brief statement about the Mississippi River Commission and the Mississippi River and Tributary project and my qualification for the position which I have been nominated.

The Mississippi River Commission, established by an act of Congress on June 28, 1879, consists of seven members, all of whom are appointed by the President of the United States, subject to the confirmation by the Senate. Three members are Corps of Engineers officers, one of whom serves as the president. One member is from the National Oceanic and Atmospheric Association. And three members are from the civilian sector, two of whom must be civil engineers.

From its inception in 1879, the Commission has been charged with the vital task of planning and implementing a program of flood damage reduction projects and navigation improvements on the Mississippi River. More recently, project purposes have been expanded to include environmental restoration.

This task continues to be conducted in connection with the many political institutions, individuals and public entities which have major interest in seeing that the water resource needs and opportunities of the Mississippi Valley are evaluated, planned, designed, constructed, and maintained.

As established in 1879, the commissioners were to serve as advisors in planning and implementing water resource projects and programs on the Mississippi River between the Head of Passes below New Orleans, to its headwaters. Since 1928, the Commission has focused on the Mississippi River and Tributary Project authorized by the Flood Control Act of May 15, 1928, to be implemented under oversight of the Commission.

The Mississippi River and Tributary Project extends generally from the confluence of the Ohio River to the Head of Passes below New Orleans, and covers portions of seven States. It receives water from all or parts of 31 States and parts of two Canadian provinces, or roughly 41 percent of the contiguous United States.

Effective planning, design, construction and operation of the widespread and complex Mississippi River and Tributary Projects have been assigned greatly by the Commission's active consultation with the public, particularly on its semiannual lower Mississippi

River inspection trips, and by the high degree of professionalism that has been developed in its staff.

The Mississippi River and Tributary Project is truly of national significance. For example, a major flood on the lower Mississippi River would have catastrophic effects on the inhabitants of the Mississippi Valley and the economy of the Nation, were it not for the protection provided by the levees and other flood control works throughout the project area.

Many have noted that the comprehensive project on the lower river provided for passage of major floods in 1973, 1983, 1997 and other years without the extensive damage that was suffered in the upper river areas during the 1993 and 1995 flood events.

In addition, the navigation improvements of the project are essential to the maintenance of the river for shipping import and export commodities between the inland ports and the world markets. In short, the navigation features of the Mississippi River and Tributary Projects are essential in peace time and vital to our national defense in times of emergency.

The reorganization of the Corps of Engineers in April 1997 has placed the entire length of the Mississippi River within one Division of the Corps of Engineers. The Commander of this Mississippi Valley Division of the Corps also serves as the president of the Mississippi River Commission. By the way, Major General Philip Anderson, who is the designee-president of the Mississippi River Commission, is here with me this morning.

Senator CHAFEE. General, we welcome you, and appreciate your coming. As I was telling Mr. Smith yesterday, I have great admiration for the Corps, having seen your works extending from Dhahran in Saudi Arabia to the Mississippi River and elsewhere. And obviously also in my section of the country, where your folks have done a wonderful job.

So we're very glad to see you. Thank you for coming.

Mr. SMITH. The reorganization of the Corps allows the management of the Mississippi River as a single and unified system and allows the Commissioners to more effectively serve as advisors to the division commander and the chief of engineers as authorized in the enabling legislation in 1879.

The Commission has been active as advisor to the Corps on the Upper Mississippi River since the reorganization. The Commission conducted inspection trips on the Upper Mississippi River in August 1997 and August 1998, holding a series of public meetings in the St. Paul, Rock Island, and St. Louis Districts each year, in addition to the semiannual inspection trips and public meetings in the Memphis, Vicksburg, and New Orleans Districts.

In regard to my personal qualifications, I am a 1958 graduate of Louisiana State University with a Bachelor's Degree in civil engineering. I have been a partner in my father's firm since 1962, and operated and been directly responsible for the general management of the firm, and overall supervision and administration of all my employees.

During my 40 years of professional experience, I have been involved with numerous significant public works and private industrial projects requiring civil engineering, land surveying and environmental services. I have been a registered civil engineer and land

surveyor in Louisiana since 1958 and a registered civil engineer in Mississippi since 1985, and am involved in several professional organizations in the engineering field.

I feel that with my diversified experience in my company's engineering field, I have the expertise to serve as a civil engineer member of the Mississippi River Commission.

If confirmed to the position, Mr. Chairman, I would look forward to playing a key role in the continual improvement of the Mississippi River system and the Mississippi River and Tributary Project and applying the best of modern practices in water resources engineering. I would also look forward to being a member of a Commission that focuses not only on the traditional roles of safely passing the Mississippi River Basin floodwaters to the Gulf of Mexico, plus providing a safe and dependable navigable waterway, but also recognizing the Nation's environmental awareness and incorporate environmental restoration.

Mr. Chairman, for your information, I have attached a complete biography on myself and a current list of the members of the Mississippi River Commission.

This completes my prepared statement, and I will be more than happy to respond to any questions.

Senator CHAFEE. I think what we'll do is we'll have the statements from each of the nominees, and then I have some questions for the individuals.

Ms. Taylor, if you'd like to go next, please do.

STATEMENT OF ANDREA KIDD TAYLOR, NOMINATED TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Ms. TAYLOR. Good morning, Mr. Chairman.

I would first like to thank you and the members of the committee for allowing me the opportunity to speak to you regarding my nomination by President Clinton to fill a position on the Chemical Safety and Hazard Investigation Board.

I currently work as an industrial hygienist and occupational health policy consultant for the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America. The shorter term for that is the UAW. I've held this position in the UAW's Health and Safety Department for almost 10 years.

In this capacity, I conduct workplace health and safety inspections and evaluate industrial hygiene data from various UAW-represented facilities around the country. Requests for these inspections are usually made by workers who are experiencing illnesses and health symptoms from possible exposures to various chemical and/or environmental hazards on their jobs.

Working with the union local and its company's health and safety staff, I attempt to identify the source of employee exposures, review the appropriate industrial hygiene data if available, and make recommendations on the steps that need to be taken to control or reduce employee exposures, thereby reducing employee risks, health symptoms and complaints.

Another aspect of my job involves educating employees and employers regarding the health hazards associated with their jobs and many of the industrial processes. Training is generally conducted

through many of our jointly funded labor management health and safety programs. In addition, I edit the health and safety newsletter which is distributed nationally and internationally to subscribers.

I am very excited about the possibility of becoming a member of the U.S. Chemical Safety and Hazard Investigation Board. The board's mission of investigating chemical accidents to independently identify the causes and make recommendations on how to improve chemical operations is basically a continuation of my current job responsibilities at the UAW. However, the impact and scope of the board is much broader.

My hope is that the board's presence will add a new dimension to how chemical accidents are investigated and how recommendations are made to prevent such accidents from occurring in the future.

I would like to share with you a recent incident that occurred at one of our UAW-represented facilities. On February 2, 1998, an explosion occurred at York International in York, PA.

Senator CHAFEE. I'll tell you, Dr. Taylor, just take a little gap right there before you get into this particular incident.

We've been joined by Senator Breaux who I'm confident is here to say a word about Mr. Smith. He has a busy schedule, so Senator, if you'd like to make your comments.

STATEMENT OF HON. JOHN BREAU, U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator BREAU. I apologize, Mr. Chairman, thank you, and Dr. Taylor, I'm sorry. The chairman has been very generous letting me make a comment or two, and I appreciate it. I won't take much time.

Mr. Clifford Smith who is at the table at the President's recommendation to serve on the Mississippi River Commission. I wholeheartedly and enthusiastically support him. I've known him for far too many years, we go back personally as well as professionally, in helping the people of south Louisiana.

He is a professional engineer, and I take that to his credit, the type of people that will be very helpful to serve on the Mississippi River Commission. He has a wonderful insight as to the problems of the river system and the environment, the loss of wetlands. We've had many, many discussions and meetings, and his leadership in this area, in trying to bring around the business community to understanding the need for protection and flood control, and protecting the environment, that it all goes hand in hand.

Too many people have thought it should be all navigation, all dams around the river, and no concern for the environment. I think what Clifford Smith has brought to the table is an understanding of all the things that have to go into good public policy.

The other day, in the hurricane, Mr. Chairman, the Mississippi River actually was flowing north because of the strong winds from the Gulf of Mexico. Sort of an unusual engineering feat to have the Mississippi River flowing north. So I asked Clifford what caused that. He gave me a great engineering answer by just saying, what goes down must come up.

[Laughter.]

Senator BREAUX. And I didn't challenge that engineering example from Clifford, but I think it just shows you how qualified he is to serve on this commission, and I enthusiastically look forward to working with him and thank you very much for letting me make a comment, Dr. Taylor.

Senator CHAFEE. Thank you, Senator, very much for coming. We know you have a very busy schedule.

So Dr. Taylor, if you'd like to proceed, because this was an interesting example you were just starting into.

STATEMENT OF ANDREA KIDD TAYLOR—CONTINUED

Ms. TAYLOR. Yes. Regarding the explosion at York International in York, PA, 1 worker was killed and 15 workers and 5 rescuers were injured. The tank, one of four that were clustered together, was not in use at the time of the explosion. When it ruptured, the tank ripped holes in two of the other tanks, causing more explosions and sent the fourth tank soaring into the air. It was found later on out in the community. Part of one tank blasted through the wall of a building.

Fortunately, or unfortunately, the accident occurred at 11:35 p.m. As bad as the accident was, it would have been a lot worse had it happened during the day. Most of the employees at this facility work on the day shift. Neighboring workplaces would have been up and running and people would have been walking or driving on nearby streets. The exact cause of this accident has still not yet been determined.

Although I was not directly involved with investigating this particular incident, another member from the UAW Health and Safety staff was involved. I have, however, been involved with investigating other UAW facility fatalities. Mr. Chairman and members of the committee, I want you to know that losing even one life to a chemical accident or any other job hazard can be devastating to family members, co-workers, and the community at-large. Identifying the root cause of such accidents is not always easy.

That is why prevention is important, and a key component of the board's mission, performing a vital function never before addressed in the Federal Government.

I envision the board continuing to act as an independent agency in developing recommendations for preventing chemical accidents from the investigations that it conducts. I also believe the agency can, for the first time, produce a comprehensive accounting of the actual number of chemical incidents occurring in the United States today, so that safety efforts may be focused where the greatest problems exist.

I also envision the board as partnering with Government, labor, industry, and the community at-large in identifying ways for preventing future incidents from occurring. As a non-regulatory agency, it is essential that the board establishes and keeps open lines of communication with all of the aforementioned organizations.

Filling the void that currently exists between Government agencies, industry, labor, and the community is a tremendous challenge for the board. The board's role, however, in assuring that commercial and industrial chemical processes are as safe as possible provides workers and the surrounding community with a sense of se-

curity and confidence that the Government cares and is responsive to their needs for a healthy and safe environment.

Again, thank you for the opportunity to appear today before you. I would be pleased to address any questions.

Senator CHAFEE. Thank you very much, Dr. Taylor.

And now Dr. Rosenthal, if you'd like to proceed with your statement.

STATEMENT OF ISADORE ROSENTHAL, NOMINATED TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Mr. ROSENTHAL. Thank you, Mr. Chairman.

You already summarized a good part of my career, and I have submitted a written statement that has some elaboration on your introduction. I would just like to briefly touch on one or two points in that statement.

I believe my background in industry, the last 13 years of which dealt directly with safety, health and environment, and a good part of which was concerned with post-Bhopal and preparing my company and working within the industry to deal with this new awareness that the potential for chemical accidents was enormous. I've worked in that area both as a manager, I've contributed individually and published articles.

Since my retirement from Rohm and Haas, I've had the opportunity to look at the management of major accidents and the perspective from insurance companies and other public agencies.

I believe the board can fill a good part of the void that exists in our overall country's effort on prevention of major accidents. As I said in my prepared statement, I believe it's important for us to recognize that the key to prevention of accidents lies with industry itself, labor unions and public interest organizations, and that the role of the board will be to catalyze, synergize and fill any voids that exist within this concerted country effort.

I applaud the excellent beginnings that Chairman Hill has started with the agency, and look forward to having the opportunity to contribute whatever I can to achieving its mission, which is the prevention of chemical accidents.

Thank you, Mr. Chairman.

Senator CHAFEE. Thank you very much, Dr. Rosenthal.

We've been joined by the ranking member of this committee. Senator Baucus, do you have a statement?

Senator BAUCUS. No statement, Mr. Chairman. I apologize for the delay. The subject, though, which you'll appreciate, is the environmental group. We're trying to find a way to encourage better environmental ties between the United States and China. I apologize for the delay.

Senator CHAFEE. Great. Did you get it solved?

Senator BAUCUS. Well, we inched forward. Thank you.

I do look forward to finally having some members of the board, the Chemical Safety and Hazard Investigation Board. It's needed, and I'm pleased. This is a big day, Mr. Chairman. We're taking major steps toward getting people on the board. That's a very good step.

Thank you.

Senator CHAFEE. Senator, what I'd like to do is to move forward with these nominees, and if possible get them reported out, and if there's no objection, have them confirmed before we leave. And that's a tight schedule.

I would ask if anybody has, if any members have questions, that they get them in before noon, so that we can get the answers to them. I don't know of any questions.

Then Senator if it's agreeable, what I'd do is assemble our members on the floor after a vote, and there we'd have a quorum and try to move forward.

Senator BAUCUS. I think that will work. I'm unaware of any problems on our side, or any questions on our side.

Senator CHAFEE. I'd like to ask just a couple of questions. First, Mr. Smith, I really applaud the environmental approach that you're taking. I've long been concerned, and obviously you and as voiced by Representative Tausin, have been greatly concerned about what's happening in the Delta there with the erosion and loss of those wetlands. I think Representative Tausin, did he say 35 acres?

Mr. SMITH. Thirty-five-square miles a year, it's estimated, Senator.

Senator CHAFEE. That's devastating.

Mr. SMITH. I believe it's about a Rhode Island a year.

[Laughter.]

Senator CHAFEE. I would urge you not to use that approach.

It is very, very distressing. There are so many factors contributing to it, including things that I suspect even the nutria, which you and I discussed yesterday—is that the correct pronunciation?

Mr. SMITH. Yes, sir, nutria.

Senator CHAFEE. You don't pronounce the i, do you?

Mr. SMITH. Right, sir, it's nutria.

Senator CHAFEE. I don't know whether you've ever heard of them.

Senator BAUCUS. I never have, Senator.

Senator CHAFEE. They're a small—

Senator BAUCUS. That's why you're the chairman.

Senator CHAFEE. Well, I hope it's based on something firmer than that.

[Laughter.]

Senator CHAFEE. Nutria are these little animals that have escaped, they're not indigenous to Louisiana or the south. And they just have, they're sort of like a muskrat, I suppose you'd say.

Mr. SMITH. A big muskrat.

Senator CHAFEE. I've been down there and seen them, and they're all over the place.

Senator BAUCUS. What do they do?

Senator CHAFEE. They apparently gnaw at the grasses that hold the soil together. And by consuming these grasses, then the essential ingredient to hold the soil together in the wetlands disappears, and thus the soil disappears. It's a contributor, I don't know whether it's a major factor.

Mr. SMITH. It is one of the many contributing factors. One of the huge problems, and again, I've lived there all of my life, and of

course we're concerned, you're concerned. It's a survival concern to us, because we're losing so much land to the Gulf of Mexico.

But I live between the Mississippi and the Atchafalaya, which is the worst deteriorating coastline in America. Yet on my western boundary is the mouth of the Atchafalaya, which is the only building delta in America. So the rivers, the controlling of the rivers has cutoff the natural flow of fresh water and silt throughout our area, and the rebuilding of the wetlands, as it used to do centuries ago.

The leveeing of the rivers were important to keep us from flooding every spring. That was a very important thing to do. We wouldn't be there today if we were flooding every spring. But in doing that, it allowed this other deterioration problem to be created.

Again, as an engineer, it's very frustrating that we've solved one problem but we've created another problem. However, that's an example of, by the way, the whole Mississippi River system, in my opinion. It's a dynamic system. It's changing all the time. And although we've spent many billions of dollars to control it and improve it, there are probably many things we will have to do in the future, because it's a living, dynamic system.

But in our area, the problem is that we've cutoff the flow of the rivers. I think the rivers, with using the flows, using the silt, using the fresh water under controlled conditions, can reverse some of the things that are happening to it. We simply have to refine our projects and refine our designs and refine our thinking to use that resource.

I really believe the rivers, which are the resources that we can use to solve some of our problems, frankly. And that's the challenge. That's kind of the new challenge, as I see it, for the entire country. And really for the Mississippi River Division of the Corps of Engineers and the Mississippi River Commission.

Senator CHAFEE. I'm going to ask all three of you a question.

Senator BAUCUS. Mr. Chairman, if I might, just following up a little bit. So you're not going to bring down the levees?

Mr. SMITH. No, sir. You're going to have to protect where people live. You're going to have to protect where the major physical improvements are. We live on what we call little ridges, 5, 6 feet above sea level. We're going to have to protect those and build flood control projects and pumping systems. And we're doing that as we speak.

And then we're going to have to divert the rivers in specific areas under controlled conditions, but disperse the water and the silt as naturally as possible, once we've protected where people live and operate and so forth.

Senator BAUCUS. So what percent of the delta would be restored to its natural state?

Mr. SMITH. I would hope that we could, well, first, we need to stop the deterioration. We need to minimize the deterioration. Whether we can actually build additional deltas, although right at the mouth of the Atchafalaya, we're building 400 to 500 acres a year right now. But we could use those silts and what have you and reverse some of the activity that has happened to it.

We probably can't, frankly, totally eliminate some of the deterioration. But we can certainly curtail the speed that we're losing land.

Senator BAUCUS. So instead of 35-square miles a year, what's the goal?

Mr. SMITH. We would hope to get it to zero, frankly.

Senator BAUCUS. By when?

Mr. SMITH. Well, depending on what kind of resources we could use, but it could take us 20 years, frankly, to get to that point. It's taken us 60 years to get to the point we are now.

Senator BAUCUS. What's going to happen to the nutria?

Mr. SMITH. Well, the nutria, that again is a very unusual problem. The only predator, the natural predator of the nutria today in South Louisiana is the alligators. And we've got a lot of alligators. So we hopefully will proceed to develop the alligator population which will eat some of the nutrias.

But the nutria is something that you can see, you can ride down the highways and go through some of the wetlands and see where there used to be a little pond 2 or 3 years ago, and now it's a big pond. And you can see the nutrias out there eating the grass. They're vegetarians, and they eat everything in sight.

And again, marshlands, wetlands in particular, marshlands are 99 percent organic material. Whatever changes, salt water, fresh water, too much water, nutrias, whatever changes it, it deteriorates.

Senator BAUCUS. Can't find some kudzu, can you?

[Laughter.]

Mr. SMITH. We're also trying to teach Cajuns how to eat them.

Senator BAUCUS. Are they tasty?

Mr. SMITH. In fact, Louisiana Wildlife has developed a program on how to cook nutrias and I've eaten it. Frankly, I can't hardly eat just the nutria meat, period. It's got to be mixed with something else. But when you do mix it, it's hard to tell that you're eating it.

Senator BAUCUS. Thank you.

Senator CHAFEE. Is the alligator population coming back strong?

Mr. SMITH. Yes, sir. As a matter of fact, that's a great example, in my opinion, of the endangered species, alligators 20 years ago were endangered species in South Louisiana. And the trapping and hunting of alligators was outlawed. It was outlawed for about 10 years. Gradually, the population began to come back, and now we really have a tremendous amount of alligators in South Louisiana.

Also, they've begun to farm alligators. They actually raise them in controlled conditions, too. But again, that's a big product.

Nutrias were originally brought into the State because they are a fur-bearing animals. Fur for centuries has been a big activity in South Louisiana, catching and processing fur primarily for human wear. Of course, that market has deteriorated drastically, most of that market is now in foreign countries.

That's why nutria were originally brought into the country.

Senator BAUCUS. Where did they come from?

Mr. SMITH. South America. And they were brought in as an experiment that you could develop as a bigger fur-bearing animal, the mink or muskrat or what have you. And they are bigger, and they

eat everything in sight. Again, it's something we never should have brought into our area. As the Senator explained, it's not a native to the country.

We've also tried to use them in other areas for other purposes. They can't survive much north of Louisiana. Like a lot of our fur-bearing animals and a lot of our wildlife, we can actually export around the country, but we can't export the nutria.

The alligator, though, has made a tremendous recovery. Really has.

Senator CHAFEE. Eating the nutrias?

Mr. SMITH. Eating the nutria and the conservation efforts that have been put forward, and the limiting on hunting and trapping the alligators.

Senator BAUCUS. I saw a bunch of alligators swimming around during Hurricane George, in the rivers.

Senator CHAFEE. Let me just say that there are two questions that I have to ask each of you, and if you could answer in unison. Are each of you willing to, at the request of any duly constituted committee of the Congress, to appear in front of it as a witness.

Mr. SMITH. Certainly.

Mr. ROSENTHAL. Yes.

Ms. TAYLOR. Yes.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which may place you in any conflict of interest if you are confirmed in the position you've been nominated for?

Mr. SMITH. No.

Mr. ROSENTHAL. No.

Ms. TAYLOR. No, sir.

Senator CHAFEE. Now, I have a couple of questions for Dr. Taylor and Dr. Rosenthal. I just want to say that I certainly agree that prevention is the key. Both of you stressed that, particularly Dr. Taylor, from the previous work you've done. This isn't an organization that you're being appointed to, to just collect data and make reports. It's to prevent these accidents.

So I would urge you to be vigorous in seeking prevention activities. We just don't want any of these horrible accidents. As you pointed out, Dr. Rosenthal, you mentioned Bhopal and these haven't been in the United States, but they've been horrible accidents that we've heard about here, and we want to do everything we can to avoid them occurring in our country.

Senator do you have any questions?

Senator BAUCUS. Just wondering, preliminary, are we at a point in America where, some of our plants are starting to get old, and with increased maintenance costs, and greater probabilities of something going wrong, and I mention that, because I think that's happening to our airlines. We have old fleets that require more maintenance, that are getting a little bit worrisome, frankly.

I wonder if the same is true in the chemical industry, or in any of the industries you're going to be looking into. Is that a concern or is that not a concern, aging?

Mr. ROSENTHAL. I believe it's a concern, but I think that by and large, while we have no definitive answers, as we look at what has happened in most chemical accidents, it has not been the failure

of equipment because of aging, but rather failures due to absence of proper maintenance or training or system faults, that there's a set of problems that have existed with old and new plants. While they are made more sensitive by aging equipment, I think our emphasis has to be on trying to find a way through which we pay greater attention to prevention, training and the maintenance of systems that we're engineered in.

I might say that by and large, I would make a statement, I think it's not too controversial, that in most cases, the systems were maintained with the original design basis, if we did what we knew we had to do when we designed the plants in training, maintenance, relatively few of the accidents would occur.

Senator BAUCUS. So what goes wrong? We don't stick with what we started with?

Mr. ROSENTHAL. I think that over a period of time, these are low probability events, they're kind of like we as individuals saying, well, if I don't get my weight down, something's liable to happen, but more immediately, we're faced with surviving, with going through our ordinary activities. We have to just achieve a better balance in paying attention to these low probability things, these things that don't, the first time you do something, it doesn't happen.

Like all significant problems, there's no easy solution. But I believe the board can play a role in getting the labor industry to be more sensitive to the need to pay attention to the maintenance of the design bases of our systems.

Ms. TAYLOR. I agree with Dr. Rosenthal. A lot of it depends on how equipment is designed and how it is maintained. And in addition to that, how well the workers or employees are trained on what to do, how to handle situations and how involved they are in the actual process, in the working of the systems.

Senator BAUCUS. So you're saying basically more disciplined maintenance?

Ms. TAYLOR. Not necessarily disciplined maintenance. But—

Senator BAUCUS. Discipline to the systems?

Ms. TAYLOR. The systems, right.

Mr. ROSENTHAL. I think you can look at the process that has severe consequences. Generally, there are three or four barriers that have to go down before the accident occurs. We design it that way. We don't design the system so it's going to explode the first time someone makes a slight mistake.

What happens, we get confident, and one barrier goes down, so we work with two barriers. And the system works fine for 10 years, so we say, OK, we've just got to go on. It's a problem not only with just the people who manage the system, but also with labor.

It's a heck of a job to shut a system down, not only because of lost production, but because if you're a worker in there, and working, it's hard to get it started up. So we tend to be heroes and just keep going a little past the point at which we ought to.

Senator BAUCUS. Roughly analogous to the world financial crisis.

Mr. ROSENTHAL. Yes.

Ms. TAYLOR. I guess so.

Senator CHAFEE. All right, thank you all very much. As I indicated previously, I want to move these along as rapidly as possible.

If any questions—I would say this to each of you. If any questions are submitted, you should get the answers as rapidly as possible to us. I don't know whether any questions will be submitted, but they have to come in within the next 2 hours, namely by noon, and we'd get them to you and ask you to get the answers back very rapidly. Because if there are unanswered questions hanging out there, then we can't go forward with the nomination.

Thank you very much. That concludes the hearing.

[Whereupon, at 10:15 a.m., the subcommittee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF WILLIAM CLIFFORD SMITH, NOMINATED TO BE A MEMBER OF THE
MISSISSIPPI RIVER COMMISSION

Mr. Chairman and members of the committee: I am honored to appear before you as the nominee for member of the Mississippi River Commission.

Mr. Chairman, I would like to make a brief statement about the Mississippi River Commission, the Mississippi River and Tributaries (MR&T) project, and my qualifications for the position for which I have been nominated.

The Mississippi River Commission, established by Act of Congress on June 28, 1879, consists of seven members, all of whom are appointed by the President of the United States subject to confirmation by the Senate. Three members are Corps of Engineers officers, one of whom serves as president; one member is from the National Oceanic and Atmospheric Administration; and three members are from the civilian sector, two of whom must be civil engineers.

From its inception in 1879, the Commission has been charged with the vital task of planning and implementing a program of flood damage reduction projects and navigation improvements on the Mississippi River. More recently, project purposes have been expanded to include environmental restoration. This task continues to be conducted in concert with the myriad of political institutions, individuals, and public entities which have major interests in seeing that the water resources needs and opportunities of the Mississippi Valley are evaluated, planned, designed, constructed, and maintained.

As established in 1879, the commissioners were to serve as advisors in planning and implementing water resource projects and programs on the Mississippi River between the Head of Passes below New Orleans to its headwaters. Since 1928, the Commission has focused on the Mississippi River and Tributaries project, authorized by the Flood Control Act of May 15, 1928, to be implemented under oversight of the Commission. The MR&T project extends generally from the confluence of the Ohio River to the Head of Passes below New Orleans and covers portions of seven States. It receives water from all of part of 31 States and part of two Canadian provinces, or roughly 41 percent of the contiguous United States. Effective planning, design, construction, and operation of the widespread and complex MR&T project have been assisted greatly by the Commission's active consultation with the public, particularly on its semiannual lower Mississippi River inspection trips, and by the high degree of professionalism that has been developed in its staff.

The MR&T project is truly of national significance. For example, a major flood on the lower Mississippi River would have catastrophic effects on the inhabitants of the Mississippi Valley and the economy of the Nation were it not for the protection provided by the levees and other flood control works throughout the project area. Many have noted that the comprehensive project on the lower river provided for passage of major floods in 1973, 1983, 1997, and other years without the extensive damage suffered in the upper river area during the 1993 and 1995 flood events.

In addition, the navigation features of the project are essential to maintaining the river for shipping import and export commodities between inland ports and world markets. In short, the navigation features of the MR&T project are essential in peace time and vital to our national defense in times of emergency.

Reorganization of the Corps of Engineers in April 1997 has placed the entire length of the Mississippi River within one Division of the Corps of Engineers. The Commander of this Mississippi Valley Division of the Corps also serves as President of the Mississippi River Commission. The reorganization of the Corps will allow management of the Mississippi River as a single and unified system and will allow the Commissioners to more effectively serve as advisors to the Division Commander and the Chief of Engineers as authorized in the enabling legislation in 1879.

The Commission has been active as advisor to the Corps on the Upper Mississippi River since the reorganization. The Commission conducted inspection trips on the Upper Mississippi River in August 1997 and August 1998, holding a series of public meetings in the St. Paul, Rock Island, and St. Louis Districts each year, in addition to the semiannual inspection trips and public meetings in the Memphis, Vicksburg, and New Orleans Districts.

In regards to my personal qualifications, I am a 1958 graduate of Louisiana State University with a Bachelor's Degree in civil engineering. I then became a partner in my father's firm, and the name of the firm was changed to T. Baker Smith & Son. Following my father's death in 1962, I have operated the company as president and sole owner and am directly responsible for the general management of the firm and overall supervision and administration of all company affairs.

During my 40 years of professional experience, I have been involved with numerous significant public works and private industry projects requiring civil engineering, land surveying, and environmental services.

I have been a registered civil engineer and land surveyor in Louisiana since 1958 and a registered civil engineer in Mississippi since 1985 and am involved in several professional organizations in the engineering field.

I feel that with my diversified experience in my company's engineering field, I have the expertise to serve as a civil engineer member of the Mississippi River Commission.

If confirmed to the position, Mr. Chairman, I would look forward to playing a key role in the continual improvement of the Mississippi River system and the MR&T project and applying the best of modern practices in water resources engineering. I would also look forward to being a member of a Commission that focuses not only on the traditional roles of safely passing the Mississippi River Basin floodwaters to the Gulf of Mexico, plus providing a safe and dependable navigable waterway, but also recognizes the Nation's environmental awareness and incorporates environmental restoration.

Mr. Chairman, for your information, I have attached a complete biography on myself and a current list of members of the Mississippi River Commission.

Mr. Chairman, that completes my prepared statement, and I would be pleased to respond to any questions.



US Army Corps
of Engineers
Mississippi River
Commission

BIOGRAPHY

WILLIAM CLIFFORD SMITH

(Member Designee)

Mr. William Clifford Smith is President and Chief Operating Officer of T. Baker Smith & Son, Inc., in Houma, Louisiana. T. Baker Smith & Son, Inc., is a totally integrated professional consulting civil engineering, land surveying, and environmental service firm. It was established by T. Baker Smith Sr. in 1913 and has been successfully providing professional services to a diverse clientele of public and private industry since that date. It presently has a staff of 95 qualified professionals and support personnel.

During Mr. Smith's 39 years of professional experience, he has been involved with numerous significant public works and private industry projects requiring civil engineering, land surveying, and environmental services.

Mr. Smith attended the public school system in Terrebonne Parish and received his bachelor of science degree in civil engineering from Louisiana State University in 1958. Since he had grown up in his father's footsteps in the civil engineering field, he immediately became a partner in his father's firm, and the name was changed to T. Baker Smith & Son, to illustrate his formal entrance into the profession.

Following his father's death in 1962, he reorganized and operated the company as president and sole owner. Today, he is directly responsible for the general management of the firm and overall supervision and administration of all company affairs.

He has been a registered civil engineer and land surveyor in Louisiana since 1958 and a registered civil engineer in Mississippi since 1985. His professional organizations in the engineering field are the American Congress on Surveying and Mapping, American Society of Civil Engineers, National Society of Professional Engineers, Louisiana Engineering Society, Louisiana Society of Professional Surveyors, and National Society of Military Engineers.

The social, civic, and business organizations of which he is a member include the Houma-Terrebonne Chamber of Commerce, Terrebonne Historical and Cultural Society, and Board of Directors of Entergy Corporation.

A native of New Orleans, Louisiana, Mr. Smith is married to the former Jo-Anne Toups from Schriever, Louisiana. They have seven children.

September 1998

MISSISSIPPI RIVER COMMISSION MEMBERS

*MG Phillip R. Anderson, President
Mississippi River Commission
P. O. Box 80
Vicksburg, MS 39181-0080
(601) 634-5750/FAX 634-5666

*Mr. Sam E. Angel
Epstein Gin
P. O. Box 748
Lake Village, AR 71653
(870) 265-5382/5383/FAX 265-5690

Date of Appointment: 25 Sep 79
Date of Reappointment: 28 Oct 88
Term Expired: 28 Oct 97
(Reappointment pending)

Mr. R. D. James
Riley Cotton Company
810 Maple Street
New Madrid, MO 63869
(573) 748-5574/5345/FAX 748-2041

Date of Appointment: 1 Dec 81
Date of Reappointment: 18 Apr 91
Term Expires: 18 Apr 00

MG Albert J. Genetti, Jr.
Deputy Commander
U.S. Army Corps of Engineers
20 Massachusetts Avenue, NW
Washington, DC 20314-1000
(202) 761-0002/FAX 761-1683

Date of Appointment: 9 Oct 92

RADM John C. Albright, Director
Atlantic and Pacific Marine Centers
National Oceanic and Atmospheric
Administration
1801 Fairview Avenue East
Seattle, WA 98102-3767
(206) 553-7656/FAX 553-2246

Date of Appointment: 26 Dec 95

*Mr. William Clifford Smith
T. Baker Smith & Son, Inc.
P. O. Box 2266
Houma, LA 70361
(504) 868-1050/FAX 868-5843

*BG Robert H. Griffin, Commander
U. S. Army Engineer Division, Northwestern
P. O. Box 2870
Portland, OR 97208-2870
(503) 808-3701/FAX 808-3706

(NON-VOTING POSITION)
COL Wm. David Brown, Secretary
Mississippi River Commission
P. O. Box 80
Vicksburg, MS 39181-0080
(601) 634-5752/FAX 634-5666

(This position of Secretary
is an additional assignment
for the Deputy Commander of
the Mississippi Valley Division
and is not Presidentially
appointed.)

* Designated members (not yet confirmed).
Note: MG Genetti is scheduled to be replaced by BG Hans A. Van Winkle,
Commander, Great Lakes and Ohio River Division, in near future.

**UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

Name: Smith William Clifford
(Last) (First) (Middle)

Position to which nominated: Mississippi River Commission

Date of Nomination: _____

Date of birth: 4/21/35 **Place of birth:** New Orleans, Louisiana
(Day) (Month) (Year)

Marital status: Married **Full name of spouse:** Jo-Anne Toups Smith

Name and ages of children:

<u>Celeste S. Heath</u>	<u>39</u>	<u>Stephen C. Smith</u>	<u>32</u>
<u>Annette S. Huber</u>	<u>37</u>	<u>Julie S. Lary</u>	<u>29</u>
<u>Kenneth Wm. Smith</u>	<u>36</u>		
<u>Suzanne S. Reeves</u>	<u>35</u>		
<u>Thomas B. Smith III</u>	<u>33</u>		

Education:

Institution	Dates attended	Degrees received	Dates of degrees
<u>Louisiana State University</u>	<u>9/53-1/58</u>	<u>B.S. Civil Engineering</u>	<u>Jan. 1958</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

President - T. Baker Smith & Son, Inc.
412 South Van Avenue, Houma, LA 70363

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Louisiana Engineering Society A. O. Patterson Award for Engineer in Management

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
<u>Am. Society of Civil Engineers</u>		<u>1958-1998</u>
<u>La. Engineering Society</u>		<u>1958-1998</u>
<u>La. Society of Professional Surveyors</u>		<u>1958-1998</u>
<u>Consulting Engineers Council of La., Inc.</u>		<u>1958-1998</u>
<u>Lower Miss. Valley Flood Control Assoc.</u>		<u>1958-1998</u>
<u>Gulf Intracoastal Canal Assoc.</u>		<u>1958-1998</u>

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

I am a life-long resident of South Louisiana. I have lived my whole life between the mouth of the Mississippi River and the Atchafalaya River. I am

Qualifications—continued

educated as a Civil Engineer and Land Surveyor and have practiced my
profession in South Louisiana all my life. My father before me also was a
Civil Engineer and Land Surveyor and native of this area and lived and practiced
his profession before me. I also have a son who is following in the footsteps
of both my father and myself. I truly believe that I know this valuable,
productive estuary area which is extremely affected by the Mississippi River
System. My experiences of a lifetime of being in this area will be an
asset to the Mississippi River Commission, the Corps of Engineers, and
the nation.

**Future
employment
relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

No

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

Yes

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

No

Financial Statement:

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

Travelers Life and Annuity (IRA interest bearing account) \$2,501-\$5,000
 Travelers Life and Annuity (mutual fund):
 Fidelity's Equity Income Portfolio (\$201-\$1,000) (All Dates are
 Growth & Income Stock (\$1,001-\$2,500) after year 2000)
 Dreyfus Stock Index Fund (\$1,001-\$2,500)
 Fidelity's Growth Portfolio (\$201-\$1,000)
 Travelers Life and Annuity (Pension/Profit Sharing 401K):
 Variable Employer Match (ER) Growth & Income Stock Group (\$201-\$1,000)
 Variable Salary Deferral (ER) Growth & Income Stock Group (\$1,001-\$2,500)
 Entergy Service Recognition Program (Retirement)(Phantom Stock) (\$15,001-\$50,000)

2. Are any assets pledged?

Yes

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?

Yes Refund or approval of return

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

I would refrain from any action.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I would refrain from any action of the Commission that would in any way have an appearance of any conflict of interest on my part.

**Political affiliation
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

None

**Published
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written.
(Please list first any publications and/or speeches that involve environmental or related matters.)

None

**Additional
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

None

AFFIDAVIT

William Clifford Smith) ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 2nd day of October, 1998.

Gregory D. Bourg
Notary Public

Parish of Terrebonne, State of Louisiana
My commission is for life

STATEMENT OF ISADORE ROSENTHAL, NOMINATED TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Mr. Chairman, members of the committee, thank you for the opportunity and privilege to appear before you today as President Clinton's nominee to fill one of the remaining three positions on the Chemical Safety and Hazard Investigation Board. I want to thank you, Mr. Chairman, for scheduling this hearing on my nomination so very promptly.

I have spent 38 years in the chemical industry with Rohm and Haas, a multi-national chemical company, before I retired in 1990 and joined the Wharton Risk management and Decision Processes Center to do research on low probability—high consequence chemical process accidents. Both of these experiences have made me very aware of the risks associated with the chemical processes used by industry to produce the varied products that are vital to our citizens well being and our country's economy.

Mr. Chairman, as you know, our fellow citizen's present serious concerns about potential chemical process accidents developed rather slowly. The catastrophic accidents at Foxborough (1974) and Seveso (1976), which led the European Union to enact a major process safety law (Seveso Directive), and even the terrible disaster in Mexico City (1984) did not generate widespread U.S. public concerns about major chemical accidents.

This situation changed completely after the December 1984 disaster at Bhopal. Not only was the public's confidence in the chemical industry shaken; the chemical industry itself questioned whether its provisions for protection against major accidental releases were adequate. Bhopal and the subsequent disaster at the Phillips installation in Houston (1989) led to a series of initiatives by industry, labor, public interest organizations and State and Federal Governments. At the Federal level, these initiatives culminated in section 112(r) of the 1990 Clean Air act amendments which established the Chemical Safety and Hazard Investigation Board on which I hope to serve and laid the basis for the present process safety activities by OSHA and EPA.

I was very aware of these developments since they all occurred over the last part of my career in industry, when I served as the Corporate Director of Safety, Health and Environmental Affairs of Rohm and Haas. During this period, I helped establish improved process safety programs within my company and worked within the

Chemical Manufacturers Association (CMA) on industry wide initiatives such as the Community Awareness and Emergency Response and the Responsible Care programs.

My activities within the company prior to 1990 and my subsequent research activities on major chemical accidents at Wharton also brought me into close contact with the excellent process safety initiatives carried out by labor unions such as OCAW and USWA, public interest groups such as the National Institute for Chemical Studies and the National Environmental Law Center, professional groups such as the Center for Chemical Process Safety of the American Institute of Chemical Engineers and academic institutions such as Texas A&M and MIT.

I have had the occasion to hear the Board's Chairman, Dr. Paul Hill, informally discuss his vision for the Chemical Safety and Hazard Investigation Board. I fully agree with his emphasis on organizational excellence and Board actions that contribute to accident prevention. The Board should be judged on its contributions to measurable reductions in chemical process accidents, rather than the number of accident investigations it conducts.

I also agree with Dr. Hill's observation that accident investigations per se will not lead to accident prevention unless the findings from an investigation are integrated with previous findings, translated into practical recommendations and effectively transmitted to the organizations and people who run our plants.

The Board faces a great challenge in discharging even its narrow legally mandated responsibilities with necessarily limited resources. However in the course of meeting this challenge, the Board will have the opportunity to carry out other initiatives that do not require significant resources but will significantly contribute to the prevention of chemical process accidents.

For example, consider the fact that the activities of the Board and other government agencies are only a small part of our country's overall efforts on chemical accident prevention. Industry, labor unions, public interest groups, academia, and professional societies must, and do play the major roles in this effort. However, I believe there are important voids in this overall effort. Many of these voids will be filled by the Board; most cannot.

I think that the Board has the legal and moral authority to provide leadership for a joint effort to define these voids by all organizations and agencies working on any aspect of chemical process safety. In the process of doing this, it could also be ascertained whether the participating organizations have plans for filling these voids. Where this is not the case, and as appropriate, the Board could either issue recommendations on how these needs can be best be addressed or undertake to do some of the work itself.

In summary, I believe that the Chemical Safety and Hazard Investigation Board, under Dr. Hill's leadership, has made a good start toward discharging its mandate. If I am confirmed, I think that my past experience would allow me to make a significant contribution to the Board's future accomplishments. I know that I would enjoy having the opportunity to try to do so.

Thank you very much Mr. Chairman. I would be pleased to answer any questions you may have.

**UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

Name: Rosenthal Isadore -
(Last) (First) (Middle)

Position to which nominated: Board Member, Chemical Safety and Hazard Investigation Board

Date of Nomination: September 29, 1998

Date of birth: 06/10/25 Place of birth: New York City, NY
(Day) (Month) (Year)

Marital status: WIDOWER Full name of spouse: Janice Rosenthal (deceased)

Name and ages of children: Cynthia J. Rosenthal - 49 Robert Nathan - 40
Richard P. Rosenthal - 47 John D. Nathan - 39
Leslie E. Rosenthal - 44 Seth A. Rosenthal - 37
Alison (Nathan) Sawyer - 44 Joseph M. Nathan - 35
James C. Nathan - 43

Education:	Institution	Dates attended	Degree received Diploma	Dates of degree
	<u>Franklin K. Lane</u>	<u>1938 - 1942</u>	<u>High School</u>	<u>1942</u>
	<u>New York University</u>	<u>1942 - 1943</u> <u>1946 - 1947</u>	<u>BA</u>	<u>1947</u>
	<u>Purdue University</u>	<u>1947 - 1949</u>	<u>Masters</u>	<u>1949</u>
	<u>Penn State University</u>	<u>1949 - 1952</u>	<u>PhD</u>	<u>1952</u>

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

(1) Rohm & Haas Co. 1953 - 1990 - Worked at a variety of positions at Bridesburg, Bristol, Springhouse at Center City Locations of Rohm&Haas in Greater Philadelphia Area. Positions were Research Scientist Research Lab; Head Research Supervisor; Technical Director, Fibers Div; and Director, Corp. Health & Safety. (2) Senior Fellow - Wharton Risk Mgmt & Decision Processes Center of University of PA - 1990 to Present

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

N.Y. State Regents Scholarship - Phi Beta Kappa - Sigma Xi

Asia Pacific Campaign Medal; World War II Victory Medal

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
<u>American Chemical Society</u>		<u>1947 - Present</u>
<u>American Industrial Hygiene Association</u>		<u>1980 - Present</u>
<u>Society for Risk Analysis</u>		<u>1985 - Present</u>
<u>CMA Health & Safety Committee</u>		<u>1978 - 1990</u>
<u>Philadelphia Solid Waste Advisory Committee</u>		<u>1988 - Present</u>
<u>Environmental Health & Safety Advisory Committee Los Alamos Nat. Lab.</u>		<u>1993 - Present</u>

Qualifications:

State fully your qualifications to serve in the position to which you have been named.
I spent 13 years as Corp. Dir. of Health & Safety at the Rohm & Haas Co. during which time I supervised & participated in the Company's

Qualifications—continued

Process Safety & Accident Investigation efforts. Over the same period of time I was an active member of CMA's Industry wide safety efforts. During this period I wrote a number of papers on the prevention of major accidents & community involvement in such efforts. After retirement from Rohms & Haas I joined Wharton and have been doing research on Major Chemical Accidents. I have also participated in Major Chemical Accidents on behalf of EPA, Univ. of CA & private clients.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I plan to sever all formal connections with the Univ. of PA, but hope to continue a college relationship on Academic Research that I contributed to if the Ethics Office finds this to be in order.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No plans

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) if you have been appointed for a fixed term, do you expect to serve the full term?

Yes

(b) if you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Financial Statement:

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

Rohm & Haas - Pension - \$17,931/year

2. Are any assets pledged?

No

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

~~Yes - Accepted return as filed.~~

**Potential conflicts
of interest:**

1. Describe any financial or deferred compensation agreements or other continuing of interest dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

Have pension from Rohm & Haas of \$17,931/yr & my wife's estate owns 1500 shares of Rohm & Haas stock. I have had an Association with the University of CA National Labs at Berkeley, Livermore & Los Alamos.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

My wife's estate owns 1500 shares of Rohm & Haas stock. I have been

advised that my investments in Vanguard PA Insured Fund, Vanguard USP

Utilities Fund, Lucent Tech. & Peco might also be affected.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

I have participated in research projects on chemical accidents funded

by EPA.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

I will recuse myself on matters that have a direct & predictable effect on any matter dealing directly with Rohm & Haas and will also do so with regard to any other investments that exceed limits of CFR § 2640.202.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See item 4 & attached ethics statement addressed to Mr. Christopher

Warner, General Counsel of the Chemical Safety Board.

**Political affiliation
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

None

Made telephone call on behalf of Bucks County Democratic Party to get voters to polls.

**Published
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

See attached list.

**Additional
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

AFFIDAVIT

Isadore Rosenthal) ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Isadore Rosenthal
Subscribed and sworn before me this 6th day of October, 1998.

Janice M. Rosner
Notary Public

My Commission Expires November 14, 1999

Isadore (Irv) Rosenthal
(Summary of CV)

Dr. Rosenthal was employed at Rohm and Haas for 38 years in a variety of research, development, new business ventures and corporate staff positions. For the last 13 years of his career at Rohm and Haas, Dr. Rosenthal served as Corporate Director of Safety, Health, Environmental Affairs and Product Integrity. In this position, he was involved in the company's program to control hazards and risks in both the products the company sold and in its facilities around the world and served on a number of industry association groups such as CMA's Health and Safety committee and its Liability and Compensation, and Regulatory Advocacy Task Forces. Dr. Rosenthal also served as the official USA industry delegate to the International Labor Organization(ILO) Convention that developed the ILO Guidelines for the prevention of Major Chemical Accidents.

After his retirement from Rohm and Haas, Dr. Rosenthal joined the Wharton Risk Management and Decisions Processes Center as a Senior Research Fellow. His present areas of research are focused on the management of risks associated with low probability -high consequence industrial accidents, market based alternatives to government regulation of industrial risks and the methodology of risk assessment. Dr. Rosenthal is on the Board of the University of Pennsylvania's Environmental Research Institute, teaches a course on "The Environment and the Firm" in the Wharton MBA program and consults for a number of companies and institutions.

Among other activities, Dr. Rosenthal is currently a member of the Philadelphia Solid Waste Advisory committee, the OSHA Reform committee of the American Industrial Hygiene Association, the Philadelphia Emergency Response Committee, the Technical Advisory Committee of the Environmental Management Division of the Los Alamos National Laboratory, the OECD Risk Terminology Project Steering Group, and a member of the University of California Presidents Council Environment, Safety & Health Panel.

Dr. Rosenthal was also nominated by President Clinton in 1995 as the industry member of the five person National Chemical Safety and Hazards Investigation Board mandated under the 1990 Clean Air Act Amendments and was appointed to the EPA Accident Prevention Subcommittee of the Clean Air Act Advisory Committee on September 1996.

Irv holds a B.A. degree from New York University, an M.S. from Purdue and a Ph.D. from Penn State (physical chemistry) where he also held a postdoctoral fellowship.

7/24/98

ISADORE (IRV) ROSENTHAL

Personal Background.

Born : June 10, 1925, New York City, N. Y.

Military Service : United States Army, 3 years. Served abroad in China-Burma-India Theater.

Marital Status : Married to Janice Rosenthal ; 9 Children.

Education.

BA, New York University (1947). Magna Cum Laude, Phi Beta Kappa.

MS, Physical Chem. Purdue (1949). MS Thesis - Jet flame Temperatures.

PhD Physical Chemistry, Penn State (1951). Analytical Chem. and physics Minors. PhD Thesis - Mechanism of Reduction of Carbon Halogen Bonds.

Post Doctoral fellowship, Penn State (1951-52).

Organizations and Professional Activities:

- Phi Beta Kappa.
- Sigma Xi.
- American Chemical Society.
- American Industrial Hygiene Association.
- Society for Risk Analysis.
- CMA Health and Safety Committee (1982-1989).
- CMA Liability and Compensation Task Force (1985-1988).
- CMA Regulatory Advocacy Task Force (1989).
- Philadelphia Solid Waste Advisory Committee (1988- ongoing).
- Advisory Committee of the Division of Environmental Medicine and Toxicology, Thomas Jefferson University.
- Advisory Committee of the Risk and Decision Processes The Wharton School of the University of PA.
- Official United States Industry Expert - ILO Conference on the Prevention of Major Accidents, Geneva, Switzerland - 1990.

- Technical Advisory Committee, Los Alamos National Lab. EM -Division (1993).
- OSHA Reform committee of the American Industrial Hygiene Association (1994 - ongoing)
- OECD Risk Terminology Project Steering Group, Major Accident Expert ommittee, OECD, Paris, France, (1995 -Ongoing)
- University of California Presidents Council on Environment, Safety & Health Panel (1995 - ongoing).
- EPA Accident Prevention Subcommittee of the Clean Air Act Advisory Committee (1997 - ongoing).

Work Experience:

- 1990 - University of Pennsylvania. Senior Fellow in the Wharton Risk Management and Decision Processes Center. Engaged in research dealing with low probability -high consequence events. Particular focus on management of risks associated with industrial accidents, market based alternatives to government regulation of industrial risks and the methodology of risk assessment. Also teach MBA course on "The environment and the Firm".
- 1953 -1990 Rohm and Haas Company.
- 1953 -1959 - Research Division - Senior Chemist and then Laboratory Supervisor in the Physical Analytical Laboratory.
- 1959 -1963 - Research Division - Lab Supervisor, Ion exchange Applications.
- 1963 -1968 - Research Division - Technical Manager, Fibers Research.
- 1968 -1976 - Fibers Division - Research Director and Technical Development manager. Also supervised strategic business planning and process licensing functions and served as business manager of the Kemos Carpet subsidiary.
- 1977 -1990. Corporate Director of Safety, Health, Environmental Affairs and Product Integrity. This position involved technical supervision of a staff of over 70 professionals covering world wide policy and program implementation in areas such as:
- Control of Environmental Emissions.
 - Corporate Safety, Health and Environmental Policy.
 - Audit Systems.
 - Environmental Liability aspects of acquisitions and divestitures.
 - Integration of Medical, Nursing and Ind. Hygiene groups into an Occupational Health team.
 - Process and Plant Safety.
 - Product Stewardship.
 - Relationship with Government Regulatory Agencies.
 - Risk Communication.

ATTACHMENT I

Isadore Rosenthal

Publications and Presentations in the Areas of Safety, Health and Environmental Affairs.

Business Initiatives in Regard to Regulation of Occupational Health and Safety.
ORC Quarterly Meeting, Nov. 3, 1979.

Determining Acceptable Risk.
Conference; American Enterprise Institute and Cornell University at Bellagio, Italy, 1983

The Influence of Regulation on the Management of Health and Safety the Workplace
Guest Lecturer in Prof. Karstadt's Graduate Course at Columbia University 1984, 1985 and Harvard 1986, 1988 and Prof. Baram's Course, Boston University, 1987.

New Approaches to Setting Health Standards.
Symposium at the University of North Carolina, 1985.

An Overview of the Business Uses of Risk Analysis.
Society of Risk Analysis meeting, Boston, November 1986.

Alternatives to Regulation and Legislation - Voluntary Standards.
American Association of Occupational Medicine Meeting, Houston, TX, 1986.

Bhopal and Its Aftermath.
Rohm and Haas Chem Club, March, 1986.

Reproductive Health Hazards in the Workplace - Corporate and Social Issues
Am. Soc. of Occupational Medicine Meeting, Philadelphia, PA, 1987.

Proposed Revisions of OSHA Z Tables.
Invited Testimony on behalf of OSHA, Washington, DC, 1988

The OSH Act - Where Do We Go From Here?
I. Rosenthal, Am. Ind. Hyg. Assoc. J. (49) 1988

Integrated Waste Management strategy.
Association International, pour L'Etude de L'Economie de'Assurance, Symposium, UK, 1988

The Integration of Safety, Health and Environmental Programs With a Total Quality Effort
Joint meeting of the Australian Society for Quality, Australian Chemical Commerce and the Geelong Safety Institute, held in Melbourne, Australia area, March 1988

Managing Industrial Hygiene in an Imperfect World.
Am. Ind. Hyg. Assoc. J. (50) 1989.

Societal Risk and Ethics.
Wharton International Forum, Philadelphia, 1989.

Toxics and Future Generations.
Tenneco Lecture in Ethics and the Professions, University of Houston, 1989

Our Environment and Corporate Responsibility.

St. Thomas Church, Whitmarsh, 1989.

Establishing Legitimacy in the Community. Rosenthal, I. Communicating Title III, Chemical Manufacturers Association, Vol 1, Number 12, Sept. 1989.

An Industrial Perspective on an Integrated Waste Management strategy. Rosenthal, I and Johnson, L., in Integrating Insurance and Risk Management for Hazardous Wastes, Kunreuther, H. and Gowda, R. Eds. (Kluwer, Boston Mass, 1990) pp. 245- 270.

Communicating With the Public About Major Accident Hazards:

Legitimacy, Credibility and Risk. Rosenthal, I. in Communicating with the Public About Major Accident Hazards, Ed. Gow, H. and Otway, H. Elsevier Applied Science, London and New York, 1990, pp. 173 -187.

Regulating the Introduction of New Chemicals Under Section 5 of TSCA. Rosenthal, I., Jaycock, M., Keener, R., and Plamondon, J., Quality Assurance, Good Practice, Regulation and Law, Vol. 1, Oct. 1991, pp. 10-30.

Regulation of Existing Chemicals Under TSCA: Information Disclosure as the route to Reducing Risk and Increasing Available Data. Rosenthal, I., Weiler, E., Keener, R., and Cumberland, P., Quality Assurance, Good Practice, Regulation and Law, Vol. 1, Feb. 1991, pp - 8.

The Corporation and the Community: Credibility, Legitimacy and Imposed Risk. Rosenthal, I. Los Alamos -12204-MS, UC-900, Oct. 1991.

An Environmental Review of the Chemical Firm Lucobne Zavody (SLZ) in Hnusta, Czechoslovakia. Rosenthal, I., World Environment Center, New York City, Dec. 1991.

Comments on the Public Perception of Hazardous Wastes. Rosenthal, I., Risk Analysis, Vol. 11, 1991, pp. 61-62.

Implementing the Montreal Protocol in Less Developed Countries: Country Plans and Global Efficiency. Allen, F., Fernando, C., Kleindorfer, P. and Rosenthal, I., Center for Risk Management and Decision Processes, The Wharton School, Univ. of PA, June 10, 1992.

Management of Major Health and Safety Risks: Some Principles and One Firm's Practices. Rosenthal, I., Proceedings of the First Czecho-Slovak and American Workshop, R & D Print, Bratislava, 1992, pp. 61-81.

Book reviews-Harnessing Science for Environmental Regulation, J.D. Graham & Governmental Management of Chemical Risk, Regulatory Processes for Environmental Health, R Zimmerman Isadore Rosenthal, Journal of Policy Analysis & Management, Vol. 11, 1992, pp. 521-525.

Developing an Effective Environmental Organization., Isadore Rosenthal, Seminar at The Institute for Corporate Environmental Management, University of Houston April 27, 1993.

Performance Contracts: Their use in the Effective Implementation of an Environmental Strategy. Isadore Rosenthal, Seminar at the University of Houston Seminar on Strategic Environmental Planning II: Oct. 14, 1993.

The Operational Material Data Sheet - Key to the Effectiveness of a Generic Approach to the Control of Health and Safety Risks - II - The Operational Material Data Sheet. I. Rosenthal and A. J. Ignatowski, Appl. Occup. Environ. Hyg. Vol.8, Aug. 1993, pp.714-713.

The Operational Material Data Sheet - Key to the Effectiveness of a Generic Approach to the Control of Health and Safety Risks - I. An Approach to Managing Risks for Non-Specifically Regulated Substances A. J. Ignatowski and I. Rosenthal, Appl. Occup. Environ. Hyg. Vol.8, Aug. 1993, pp.714-720..

The Corporation and the Community: Credibility, Legitimacy and Imposed Risk. I. Rosenthal, Process Safety Progress, Vol. 12, No. 4, Oct. 1993, pp. 209-215

Seminar on Developing an Effective Environmental Organization. Isadore Rosenthal, Enviromatics course on Re-Engineering Environmental Compliance, Cherry Hill,NJ, 10/19/94.

Major Event Analysis in the United States Chemical Industry: Organizational learning vs. Liability. Isadore Rosenthal, Presented at the 13th International Workshop "New Technologies and Work", Bad Homburg Germany, May 1995, Working Paper, Risk Management and Decision Processes Center, The Wharton School, Univ. of PA.

The Epidemiology of Major Accidents. Isadore Rosenthal, Presented at the 13th International Workshop "New Technologies and Work", Bad Homburg Germany, May 1995, Working Paper, Risk Management and Decision Processes Center, The Wharton School, Univ. of PA.

The Use of Third Parties in Implementing EPA's Proposed Rule on Risk Management Programs for Chemical Accidental Risk Prevention. Rosenthal, I., Er, J. & Kunreuther, H., presented at the Wharton Impact Conference on Inovative Market-Based Approaches to Environmental Policy, October 13 - 14 1995, Working Paper, Risk Management and Decision Processes Center, The Wharton School, Univ. of PA.,

The Role of the Community and Risk Communication in the Implementation of EPA's Proposed Rule on Risk Management Programs for Chemical Accidental Release Prevention. Rosenthal, I., McNulty, P., & Helsing, L., presented at the Wharton Impact Conference on Inovative Market-Based Approaches to Environmental Policy, October 13 - 14 1995, Working Paper, Risk Management and Decision Processes Center, The Wharton School, Univ. of PA.,

An Outline of the approach being used in developing the OECD Thesaurus-Dictionary of "Risk Assessment" terminology. Isadore Rosenthal, Ben Ale and Lyse Helsing, Presented at Warsaw Conference on Trans-Boundary Risks, October 1996.

ISO 14000 Option in Implementing EPA's Rule on Risk Management Programs for Chemical Accidental Release Prevention. Isadore Rosenthal and Donald F. Theller presented at the 10/15/96 Roundtable sponsored by The Wharton School, The La Follette Institute of the U of WI, the PA Dept. of Environ.Prot and the WI Dept. Of Natural Resources with the support of EPA's Chemical Emergency Preparedness and Prevention Office and EPA Regions III and V.

1/12/98

¹Director, Bureau of Air Management, Wisconsin Department of Natural Resources, 101 South Webster Street, P.O. Box 7921, Madison, WI 53707.

STATEMENT OF ANDREA KIDD TAYLOR, NOMINATED TO BE A MEMBER OF THE
CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Good morning. My name is Andrea Taylor. I would like to first thank you, Mr. Chairman and the members of the committee for allowing me the opportunity to speak to you regarding my nomination by President Clinton to fill a position on the Chemical Safety and Hazard Investigation Board.

I currently work as an industrial hygienist and occupational health policy consultant for the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW). I have held this position in the UAW's Health and Safety Department for almost 10 years. In this capacity, I conduct workplace health and safety inspections and evaluate industrial hygiene data from various UAW-represented facilities all over the country. Requests for these inspections are usually made by workers who are experiencing illnesses and health symptoms from possible exposures to various chemical and/or environmental hazards on their jobs. Working with the union local and its company's health and safety staff, I attempt to identify the source of employee exposures, review the appropriate indus-

trial hygiene data if available, and make recommendations on the steps that need to be taken to control or reduce employee exposures, thereby reducing employee risks, health symptoms and complaints.

Another aspect of my job involves educating employees and employers regarding the health hazards associated with their jobs and many of the industrial processes. Training is generally conducted through many of our jointly funded labor-management health and safety programs. In addition, I edit a health and safety newsletter, which is distributed annually and internationally to subscribers.

I am very excited about the possibility of becoming a member of the U.S. Chemical Safety and Hazard Investigation Board. The board's mission of investigating chemical accidents to independently identify the causes and make recommendations on how to improve chemical operations is basically a continuation of my current job responsibilities at the UAW. However, the impact and scope of the board is much broader. My hope is that the board's presence will add a new dimension to how chemical accidents are investigated and how recommendations are made to prevent such accidents from occurring in the future.

I would like to share with you a recent incident that occurred at one of our UAW-represented facilities. On February 2, 1998, an explosion occurred at York International in York, Pennsylvania. One worker was killed and 15 workers and five rescuers were injured. The tank, one of four that were clustered together, was not in use at the time of the explosion. When it ruptured, the tank ripped holes in two of the other tanks, causing more explosions and sent the fourth tank soaring into the air. Part of one tank blasted through the wall of a building.

Fortunately or unfortunately, the accident occurred at 11:35 p.m. As bad as the accident was, it would have been a lot worse had it happened during the day. Most of the employees at this facility work on the day shift. Neighboring workplaces would have been up and running and people would have been walking or driving on nearby streets. The exact cause of this accident has still not yet been determined.

Although I was not directly involved with investigating this particular incident, another member from the UAW Health and Safety staff was involved. I have, however, been involved with investigating other UAW fatalities. Mr. Chairman and the committee, I want you to know that losing even one life to a chemical accident or any other job hazard can be devastating to family members, coworkers, and the community at-large. Identifying the root cause of such accidents is not always easy. That is why prevention is important and a key component of the board's mission, performing a vital function never before addressed in the Federal Government.

I envision the board continuing to act as an independent agency in developing recommendations for preventing chemical accidents from the investigations that it conducts. I also believe the agency can, for the first time, produce a comprehensive accounting of the actual number of chemical incidents occurring in the United States today, so that safety efforts may be focused where the greatest problems exist. I also envision the board as partnering with government, labor, industry, and the community at-large in identifying ways for preventing future incidents from occurring. As a non-regulatory agency, it is essential that the board establishes and keeps open lines of communication with all of the aforementioned organizations.

Filling the void that currently exists between government agencies, industry, labor and the community is a tremendous challenge for the board. The board's role, however, in ensuring that commercial and industrial chemical processes are as safe as possible provides workers and the surrounding community with a sense of security and confidence that the government cares and is responsive to their needs for a healthy and safe environment.

Again, thank you for the opportunity to appear today before this committee. I would be pleased to address any questions.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

INFORMATION

REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

Name of Nominee:	<u>Andrea Kidd Taylor</u>
Business Address:	<u>International Union, UAW</u> <u>8000 E. Jefferson Ave., Detroit, MI 48214</u>
Business Phone:	<u>(313) 926-5563</u>
Home Address:	<u>4262 Kensington Rd.</u> <u>Detroit, MI 48224</u>
Home Phone:	<u>(313) 881-4121</u>

**UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

Name: Taylor Andrea Kidd
(Last) (First) (Middle)

Position to which nominated: Board Member, Chemical Safety & Hazard Investigation Board

Date of Nomination: _____

Date of birth: 11 Jan 55 Place of birth: Sylacauga, Alabama
(Day) (Month) (Year)

Marital status: Married Full name of spouse: Jimmy Dean Taylor

Name and ages of children: Shomari Akil Taylor - 13
Tahira Sabree Taylor - 11

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>The John Hopkins Univ. SHPH</u>	<u>1984 - 89</u>	<u>Dr. P.H</u>	<u>5/25/89</u>
	<u>Univ of AL in B'ham SPH</u>	<u>1980 - 82</u>	<u>M.S.P.H.</u>	<u>6/6/82</u>
	<u>Howard University</u>	<u>1972 - 76</u>	<u>B.S.</u>	<u>12/15/75</u>

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

3/89 - present - Occ Hlth Policy Consultant/Industrial Hygienist, UAW Health & Safety Dept., Detroit, MI. Conduct plant surveys & evaluate industrial hygiene data; edit UAW health & safety newsletter; participate in developing policy, legislation & collective bargaining language in health and safety. 7/84 - 10/87 - Industrial Hygienist; The Maryland Committee

Employment record—continued

on Occupational Safety & Health, Baltimore, MD. Conducted asbestos
training workshops, Worker "Right to Know" training and other kinds of
safety and health training to private institutions and local unions.
Contractual & part-time employment. ** See resume attached for additional
employment record.

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

- 1983 - Outstanding Young Women of America
- 1976 - Beta Kappa Chi Nat'l Scientific Honor Society; Who's Who Among
Colleges and Universities; cum laude graduate (GPA: 3.4)
- 1972 - One of Top Ten in High School Graduating Class; Inducted into Senior
Scholastic Honor Society

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
American Public Health Assoc	Chairperson, COWR	1996 - present
	Chairperson Nominating Comm.	1997
	Chairperson, Occ Hlth & Safety Section	1993-94
American Industrial Hygiene Association	Chair, Social Concerns Comm	1992-93
Presidential Advisory Comm. on Gulf War Veterans' illnesses	Member	1995 - 97
National Advisory Comm on Occupational Safety & Health	Health Representative	1994-98
GoLightly School Comm.	*President, 2nd Vice President**	*1995-97
Organization	***Secretary	**1993-95 ***1991-93

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

My current job responsibilities at the UAW include conducting in-plant health

Qualifications—continued

and safety investigations of UAW represented facilities around the country. These investigations are usually conducted as a result of employee reports and complaints of illnesses and other health symptoms related to possible exposures to chemical hazards on the job. My technical expertise and experience in this arena, particularly in the field of industrial hygiene and occupational health policy will be beneficial to the board in aiding its understanding how to identify, evaluate and control chemical exposures in an industrial setting and the surrounding environment. I have knowledge of various industrial processes and how they work, and also how employees and the external community around these processes are directly affected and impacted.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I will sever all of my professional connections with my current employer.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I currently have no plans to affiliate or practice with my current employer or any previous employer.

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Presidential Advisory Committee for Gulf War Veterans' Illnesses, served
the duration of the appointment 1995 - 1997.

Financial Statement:

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

UAW 401K Staff Plan - I will not be eligible to participate in this plan
when I am no longer employed by the UAW. Funds will be maintained until
retirement. UAW Retirement Plan - I am a deferred vested participant once
unemployed with the UAW.

2. Are any assets pledged?
No

3. Are you currently a party to any legal action?
No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.
Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?
Yes, with the assistance of an attorney, an audit of our 1990 joint tax
returns was completed and settled in December, 1993. Payment arrangements
were made for the additional taxes assessed and paid in full.

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

National Advisory Committee for Occupational Safety and Health (NACOSH)

reimbursements for travel & hotel only. Presidential Advisory Committee

for Gulf War Veterans Illnesses - reimbursements for travel & hotel only.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

None

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

None

Political affiliation and activities:

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

None

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

Taylor, A.K. (Book Review) (1997). Workers at Risk: The Failed Promise of the Occupational Safety and Health Administration by Thomas O. McGarity and Sidney A. Shapiro. Journal of Public Health Policy, 18(1), 110-111.

Davis, M.E., Rowland, A.S., Walker, B. and Taylor, A.K. (1995). Minority Workers. Occupational Health: Recognizing and Preventing Work - Related Disease (3rd Ed.), 639-649. **See resume attached for additional information

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No

AFFIDAVIT

Andrea Kidd Taylor) ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Andrea Kidd Taylor
Subscribed and sworn before me this 6th day of October, 1998.

Jamie M. Rosnick
Notary Public

My Commission Expires November 14, 1999

ANDREA KIDD TAYLOR, Dr.P.H.

UAW Health and Safety Department Home: 4262 Kensington Road
8000 E. Jefferson Avenue Detroit, MI 48224
Detroit, MI 48214 (313) 881-4121
(313) 926-5563 FAX: (313) 824-4473 FAX: (313) 881-8225

EDUCATION:

1984-1989. The Johns Hopkins University School of Hygiene and Public Health. Doctor of Public Health received May 25, 1989. Primary focus: Occupational safety and health policy. Thesis Topic: "Psychosocial Job Characteristics and Hypertension: A Study of Black Women in the Maryland Labor Force".

1980-1982. University of Alabama in Birmingham School of Public Health. Master of Science in Public Health received June 6, 1982. Major: Industrial Hygiene.

1977-1980. University of Alabama School of Medicine, Birmingham, Alabama. Completed two years of medical school; no degree received.

Fall quarter, 1976. Post Graduate: University of Alabama in Birmingham.

1972-1976. College: Howard University, Washington, D.C. Bachelor of Science degree, zoology major, chemistry minor; 3.4 average, cum laude graduate.

EXPERIENCE:

March, 1989 - present. **Occupational Health Policy Consultant/Industrial Hygienist;** The United Automobile, Aerospace and Agricultural Implement Workers of America (UAW); Health and Safety Department; Detroit, Michigan.

Duties: Conduct plant surveys and evaluate industrial hygiene data; educate union members and staff on occupational safety and health matters and preparation of written materials; edit health and safety newsletter; participate in developing policy, legislation and collective bargaining language on various health and safety issues affecting union membership.

July, 1984 - October, 1987. **Industrial Hygienist;** The Maryland Committee on Occupational Safety and Health; Baltimore, Maryland.

Duties: Conducted asbestos training workshops, Worker "Right to Know" Training, and other kinds of safety and health training for private contractors and institutions and local unions. Provided technical assistance through consultations and dissemination of safety and health information to labor unions, workers, and other interested community groups upon request. Contractual and part-time employment only.

June, 1986 - November, 1986. **Industrial Hygienist**; Workers' Institute for Safety and Health (WISH); Mr. Matthew Gillen (CIH), Executive Director; Washington, D.C.

Duties: Worked on part-time contractual basis as an occupational safety and health consultant usually in the form of developing educational materials and writing fact sheets on various workplace hazards as requested by WISH's nationally affiliated union membership.

June, 1986 - August, 1986. **Patient Telephone Interviewer**; The Johns Hopkins University Hospital Preventive Cardiology Division, Department of Internal Medicine; Dr. Richard Moore, Immediate Supervisor; Baltimore, Maryland.

Duties: Interviewed patients participating in the Alcohol Prevention Study. Part-time and temporary employment.

June, 1985 - August, 1985. **Industrial Hygienist**; Carnow, Conibear & Associates; Washington, D.C.

Duties: Conducted asbestos training workshops. Contractual employment only.

December, 1982 - July, 1984. **Coordinator/Industrial Hygienist**; Workplace Safety and Health Program, Coppin State College; Dr. Grace Ziem, Director; Baltimore, Maryland.

Duties: Planned, implemented, coordinated, and directed OSH-awareness program consortium activities such as conferences, workshops, seminars, and short-term non-credit courses as well as attended safety meetings, disseminated occupational safety and health information. Conducted asbestos training workshops for 450 state employed automotive mechanics for the Maryland Department of Health and Mental Hygiene. In conjunction with the Maryland Committee on Occupational Safety and Health, conducted asbestos training workshops for private contractors.

October, 1982 - December, 1982. **Cardiovascular Technician**; Baltimore City Hospital; Sheldon Gottlieb, Chairman - Cardiology Department; Baltimore, Maryland.

Duties: Assisted in cardiac catheterization laboratory. Also assisted with implantation of permanent cardiac pacemakers, the performance of exercise stress tests, and the analysis of holter tapes. Monitored EKG rhythms.

February, 1982 - June, 1982. **Substitute Teacher in Biology**; Mr. Bennie Storie, Principal; Banks High School, Birmingham, Alabama.

Duties: Taught Biology and Earth Science to 9th, 10th, and 11th grade students.

June, 1981 - August, 1981. **CO-STEP Industrial Hygiene Trainee**; Summer Field Experience; U.S. Department of Public Health, NIOSH Region IV: Mr. Paul Roper, Regional Director; Atlanta, Georgia.

Duties: Assisted in conducting and writing health hazard evaluations. Provided technical assistance through consultations by phone. Worked with various kinds of sampling equipment and calibrators.

July, 1980 - September, 1980. **Physician's Assistant**; Dr. Robert C. Cain, Private Physician; Birmingham, Alabama.

Duties: Assisted the physician in conducting physical examinations. Took blood pressures, urinalysis tests, and performed venipuncture tests. Also performed EKG tests and assisted with fundoscopic examinations.

June, 1979 - August, 1979. **Drug Abuse Program Director**; Cheaha Mental Health Center; Mr. Clarence Tucker, Supervisor; Sylacauga, Alabama. Summer Job.

December, 1976 - June, 1977. **Research Assistant**; Southern Research Institute; Dr. Gordan Chopra, Supervisor; Birmingham, Alabama.

Duties: Conducted lab experiments on possible chemotherapeutic agents for bladder and prostate cancers.

RECOGNITION AND AWARDS:

- 1983 - Outstanding Young Women of America
- 1976 - Beta Kappa Chi National Scientific Honor Society; Who's Who Among Colleges and Universities; cum laude graduate (GPA: 3.4).
- 1972 - One of the Top Ten in High School Graduating Class; Inducted into the Senior Scholastic Honor Society.

PROFESSIONAL AFFILIATIONS AND ACTIVITIES:

American Public Health Association (APHA), Member-at-Large, 1996 Program Planning Committee; Nominating Committee, 1995 - 1997, Chairperson, 1997; Committee on Women's Rights, Chairperson, 1996 - Present, member, 1995 - Present; Joint Policy Committee, 1995; Occupational Health Section, Governing Councilor, 1994 - 1996, Chairperson, 1993 - 1994, Section Councilor, 1990-92; Project Director (APHA Mini-grant) - "Occupational Health and Safety and Environmental Health: Educational and Career Opportunities for You"; member, 1988 - present.

American Industrial Hygiene Association (AIHA), Social Concerns Committee, Chairperson, 1992-93, member, 1990 - present.

American Conference of Governmental Industrial Hygienists (ACGIH), member, 1982 - 1988.

National Association for Public Health Policy, member, 1997 - present.

Presidential Advisory Committee on Gulf War Veterans' Illnesses, U.S. Presidential Appointment, Member (1995 - 1997).

National Advisory Committee on Occupational Safety and Health (NACOSH), U.S. Dept. of Labor/OSHA, Health Representative (1994 - present).

U.S. Presidential Nominee, Chemical Safety and Hazard Investigation Board (established under the Clean Air Act of 1990), 1994.

Environmental and Occupational Health Policy Advisory Committee, Michigan Dept. of Public Health, Labor Representative (1994 - 1996).

Advisory Board Member, The Public Health Trust (1996 - present).

Advisory Board Member, Journal of Occupational Health Psychology (1994 - present).

Advisory Board Member, New Solutions - A Journal of Environmental and Occupational Health Policy (1990 - present).

Southeast Michigan Coalition on Occupational Safety and Health (SEMCOOSH), member, 1990 - present.

Coalition of Labor Union Women (CLUW), member, 1991 - present.

National Association For The Advancement of Colored People (NAACP), member, 1989 - present.

National Black Women's Health Project, member, 1985 - present.

Alpha Kappa Alpha Sorority, Inc., Boule member.

Howard University Alumni Association, Scholarship Committee Chairperson (Detroit Chapter), 1990 - present, Regional Representative and President of Local Baltimore Club, 1988 - 1989.

Golightly School Community Organization (School PTA), Parent Involvement Committee Chairperson, 1997 - Present, President, 1995 - 1997, 2nd Vice President, 1993 - 1995, Secretary, 1991 - 1993.

The African American Women's Caucus (Baltimore, MD.), Vice President, 1988 - 1989, Treasurer, 1984 - 1986, member, 1983 - 1989.

The Johns Hopkins University School of Hygiene and Public Health Student Assembly,
Vice President, 1985 - 1986.

The Johns Hopkins University School of Hygiene and Public Health Affirmative Action
Committee, - Student Representative, 1986 - 1988.

PUBLICATIONS:

Taylor, A.K. (Book Review) (1997). *Workers at Risk: The Failed Promise of the Occupational Safety and Health Administration* by Thomas O. McGarity and Sidney A. Shapiro. Journal of Public Health Policy, 18 (1), 110-111.

Davis, M.E., Rowland, A.S., Walker, B. and Taylor, A.K. (1995). Minority Workers. Occupational Health: Recognizing and Preventing Work-Related Disease (3rd Ed.), 639-649.

Lillie-Blanton, M., Martinez, R.M., Taylor, A.K., and Robinson, B.G. (1993). Latina and African American Women: Continuing Disparities in Health. International Journal of Health Services, 23 (3), 555-584.

TRAVEL EXPERIENCE:

Have traveled extensively throughout the United States; Canada; Jamaica, West Indies; Ghana, Senegal, and Liberia, West Africa; Nicaragua; India; South Africa; Mexico.

PERSONAL INFORMATION:

Date of Birth: January 11, 1955
Marital Status: Married

NOMINATION OF ROBERT W. PERCIASEPE

THURSDAY, OCTOBER 8, 1998

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 2 p.m. in room 406, Senate Dirksen Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Warner, Inhofe, and Baucus.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. This is a meeting of the Senate Committee on Environment and Public Works. It's a nomination hearing on Mr. Robert Perciasepe, who has been nominated by the President to be Assistant Administrator for Air and Radiation in the EPA.

Welcome. Do you have members of your family here, Mr. Perciasepe?

Mr. PERCIASEPE. No, Mr. Chairman, I do not.

Senator CHAFEE. OK. We welcome you.

I briefly want to discuss the process that we're going through here. We want to move a slate of last-minute nominations that have come up from the White House as quickly as possible. Obviously, time is running out. If all goes well with the hearing on Mr. Perciasepe, it would be my intention to have a markup after the first recorded vote following this hearing; in other words, I think there's going to be a recorded vote at about 2:30 today. If there are written questions submitted to you, Mr. Perciasepe, I would ask that you get them back immediately.

Mr. Perciasepe has been at EPA since October 1993, when he assumed the position of Assistant Administrator for Water, as we know. Prior to serving with EPA, he was Maryland's Secretary of Environment. In that position he directed all aspects of pollution control and environmental protection in Maryland: air, water, management of hazardous and solid waste, control of sediment, erosion, storm water, and other activities such as that.

He received his B.S. degree in Environmental Sciences from Cornell and a Master's degree in planning from the Maxwell School of Syracuse University. He has lectured at Johns Hopkins, Morgan State, and the University of Maryland.

So, Mr. Perciasepe—I see we have been joined by the distinguished chairman of the subcommittee that deals with these matters.

Senator Inhofe, if you have a statement, we would be delighted to hear it.

**OPENING STATEMENT OF HON. JAMES M. INHOFE,
U.S. SENATOR FROM THE STATE OF OKLAHOMA**

Senator INHOFE. I have a short statement, Mr. Chairman. I thank you, and I thank you for scheduling this on such short notice. It is my hope that we will be able to get this finished in this session, which is rapidly coming to a close.

The process for this nomination has been somewhat contentious and confusing for everyone involved; however, this has not been any reflection on the man being nominated. I am glad that we have finally resolved the issue and suggest that we put all this behind us.

I am pleased with the renomination of Robert Perciasepe to be the Assistant Administrator for Air. He did a great job as Assistant Administrator for Water, and I was very much pleased with his work. I had the opportunity to talk to Mr. Perciasepe last July on a lot of air issues; there are some areas where we're going to be together and some where we're going to be opposed, but we certainly have our dialog open, and I'm sure I'll be supporting his nomination.

I appreciate your calling this hearing, Mr. Chairman.

Senator CHAFEE. Thank you, Senator.

Senator Baucus.

**OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR
FROM THE STATE OF MONTANA**

Senator BAUCUS. Mr. Chairman, I appreciate your efforts and those of Senator Inhofe. Finally, we are going to get Mr. Perciasepe up and running at full steam, and I appreciate that and I know that he does. It's good for the country.

I welcome you, Bob, to a new challenge. I know you'll do very well.

I think it's important, Mr. Chairman, that we move this nomination very quickly in the remaining days of this Congress, and also that we move the other EPA nominees that this committee has favorably reported. Many of the nominees are currently in the role of Acting Assistant Administrators, and I believe they need to have the full advice and consent of the Senate in order to do their work.

Bob Perciasepe is no stranger to this committee. I've had the pleasure of working with Bob over the last 5 years in his role as Assistant Administrator for the Office of Water at EPA. I will never forget the moment I first saw Bob before this committee, when he was working in another capacity—I think it was on the Chesapeake Bay in Maryland, and so forth—and I must say, Mr. Chairman, that I am hard pressed to name anybody else who has ever appeared before this committee who has been as impressive and knows his stuff as much as Bob did then, and still does now. I think he's one of the best public servants this country has been honored to have working for it.

He has worked very effectively to develop some very important reforms in the Safe Drinking Water Act in the last Congress, and I think that bill is one of this committee's better accomplishments.

Bob is a key part of our success. Furthermore, he has been instrumental in crafting the Administration's Clean Water Action Plan.

As I said parenthetically, before coming to EPA, Bob served as Secretary of Environment for the State of Maryland. He was responsible for directing all aspects of pollution control and environmental protection, including water and air pollution control. So he certainly has the experience. As I said earlier, in addition to his experience, he has the competence and the creativity and the initiative, and that extra-special quality of effectiveness. He just knows how to get things done.

On top of that, he has earned the respect not only of myself, not only for his integrity, but again, his commitment to public service. He was as determined as any of us to protect public health while making the process less burdensome for State and local governments and water suppliers. As a former State official, he certainly knows how important it is to get the job done without making it unnecessarily burdensome on the States.

Really, this is a high moment for me to see Bob finally get the job that he deserves.

Senator CHAFEE. Thank you.

Now, Mr. Perciasepe, just before you start, before you gentlemen arrived I indicated that it was my intention to bring up this and a series of other nominations following the first vote, which might well be at 2:30. It would be in the President's Room, S-216, just off the Senate floor.

So, Mr. Perciasepe, if you want to proceed. If you have a statement, go ahead. Don't make it too long, if you would, please, because there is this vote coming up at 2:30 which will require us to attend

STATEMENT OF ROBERT W. PERCIASEPE, NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR THE OFFICE OF AIR AND RADIATION, ENVIRONMENTAL PROTECTION AGENCY

Mr. PERCIASEPE. Thank you, Mr. Chairman. I would like to say a very few words.

First, I appreciate the introductions, and I am happy to be here today, talking with all of you. And I plan to do much more of it than just today, and I want to make sure that you all know that.

I do want to emphasize at the onset a little bit about my career. I know that you mentioned a couple of points on that already, and I just want to emphasize a few other ones.

First and foremost is my personal commitment to public service. This has been my career. In the past, I have had 12 years of experience at city government with the city of Baltimore, including being responsible for capital budgets and many other local government activities. You also mentioned my State service for Maryland and, obviously, my EPA service to date. The emphasis in my career has been on public service, and the emphasis has been on working with other people and that is something that is very important to me and I will continue with that in this job if you approve.

You all know that my style is to recognize the importance of inclusive processes, bringing people together to resolve differences, both in the legislative arena as well as the regulatory arena. I am very anxious to continue that process in this new role.

Senator Baucus, you mentioned the Safe Drinking Water Act. I, too, view that as very successful work that we have done together in this committee, and everybody here worked on that. That's the kind of successful problem solving and work that I hope we can continue to do. I view building bridges and working together as an important part of the process.

When I look at the Air and Radiation job, I have just a couple of quick opening thoughts about areas of emphasis, and then perhaps we can have some time for questions and answers.

I view one of the most important things that I can bring to this job over the next several years is to help set the country up for success with implementation of Clean Air programs. There are many implementation issues in the Clean Air Act and for our new public health clean air goals that require constant diligence in working with the States, developing sound science, developing the technical tools that we need to get the work done, working with environmental, public interest, and business groups and working with Congress. One of my highest priorities is going to be assuring that we're setting a course for the country that will assure continued success in air quality and pollution control for its citizens.

Another thing that has been a hallmark of my efforts has been promoting common-sense regulation, and I intend to bring that kind of experience and orientation to the clean air program. These efforts are likely to include things such as flexibility in rules, market-based approaches, and working with State and local governments to enhance successful local decisionmaking.

I know that climate change will be an issue, and I want to make sure that you all know that I am not, in any way, shape, or form, going to be implementing the Kyoto Protocol before it is ratified by the Senate. I will continue common-sense discussions with industry and others about making sure that our regulations do not go in the wrong direction, and that we continue energy and cost saving actions that we've been working on to achieve broader climate protection objectives.

I want you also to know that I take very seriously the Government Performance and Results Act. I view management as one of my strengths. This is something that I have enjoyed doing for many, many years, going back to my city experience in budgeting, and I plan to bring that expertise to this job, including working on the Government Performance and Results Act and setting up measurable objectives.

Radiation and Indoor Air is also part of my portfolio, and whether it be asthma or radon or working on protective standards for Yucca Mountain, I plan to put energy into these efforts to keep them moving forward.

Let me just say in closing—and I'm trying to be very brief, I am sure you know there is a long list of issues for us to discuss and not enough time to cover them all. But I do have a few thoughts on the Clean Air Act. I have spoken to Senator Inhofe about his interest in looking at the Clean Air Act over the next year or beginning in the next Congress, and I want to say that we're ready and willing to work with the committee to discuss how we can make improvements to and strengthen of the Clean Air Act. We will be

ready and prepared, and I will personally work with the committee and the subcommittee on those issues as they come up.

So I think I'll just stop there and we'll do some questions and answers.

Senator CHAFEE. All right, Mr. Perciasepe.

Now, are you willing, at the request of any duly-constituted committee of the Congress, to appear in front of it as a witness?

Mr. PERCIASEPE. Yes, Mr. Chairman.

Senator CHAFEE. And do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed in this position?

Mr. PERCIASEPE. No, I do not.

Senator CHAFEE. I just want to say this, Mr. Perciasepe. We've worked with you on the clean water matters and on the safe drinking water, and that's been a cooperative and successful undertaking. It seems to me that—I would hope that, working in the clean air area, that you would come to this committee when you believe you are working with laws that are inflexible and should be modified. In other words, we're not in an adversarial position here; we're here to help you and help make these programs succeed. One of the things that comes to mind are these so-called problems that come up with nonattainment areas that fail to meet the 1-hour ozone standard, whether they should be bumped up to the 8-hour standard. Those are matters where, if the law doesn't make sense, then I would hope you would come and tell us about them.

Senator BAUCUS.

Senator BAUCUS. Mr. Chairman, I think that's a very good point.

I urge you to work diligently in that area. When you see something is not working—I know that you have to clear matters through the executive process, but I would urge you to work through that process vigorously. Address problems sooner rather than later because it's going to be a lot worse than it is now. So I urge you to work very hard at that.

Second, I agree with your statement that you will not do anything to implement the Climate Change Treaty because, after all, the Senate hasn't endorsed it. But on the other hand, I do think it makes sense to take common-sense actions, as you indicated. For example, as you may know, there's an organization—I think it's called the "Pew Group," a group of U.S. companies, Enron—

Senator CHAFEE. BP?

Senator BAUCUS [continuing]. BP might be in there too, I guess that it is, who by and large recognize that the climate is changing; they say this publicly; and recognizing that human beings are causing a part of the climate change, and they themselves are taking it upon themselves to do what they can reasonably, together, to reduce emissions of greenhouse gasses. On their own, they're already doing some things. I think that's very constructive and I take my hat off to them for that.

The treaty has not been agreed to. There is a huge problem that developing countries aren't pulling their fair share; that's something that we'll have to work out in some other forum, some other way, but in the meantime I do think it does make sense to use common sense, but without going ahead and implementing provisions.

Mr. PERCIASEPE. Again, I would concur, and I have already, in the short time I have been working on air issues at EPA, been having discussions with business and industry groups, and particularly utilities, about what their plans are and how we can work together on common-sense measures to meet broad climate protection objectives. So I would assure you, Senator, that I'm going to pay attention to it; climate concerns come into our discussions quite often and I won't deter from thinking about those common-sense measures that we as a Nation should be doing.

Senator CHAFEE. Senator Inhofe.

Senator INHOFE. This is going to be going down as the quickest hearing we've had, I guess, on confirmations.

Mr. Perciasepe, in Tuesday's hearing on acid rain we announced that we're going to be asking the GAO to do a study on the cumulative effect of the various air issues, where you have the PM, the ozone, the NO_x, and all the rest of them, and I would ask you if you would be cooperative and do all that you can to supply them with the data to try to assist them in this effort.

Mr. PERCIASEPE. Yes, we certainly would want to work with the General Accounting Office. Actually, the Clean Air Act Amendments of 1990 also asked EPA to look retrospectively at costs and benefits, back to 1970, which we have done, and we are now in the process of looking prospectively from 1990 out into the future. So there would be a dovetailing—

Senator INHOFE. It could be a cooperative—

Mr. PERCIASEPE. We're working on the cumulative impacts of the Clean Air Act, and if GAO, at the request of Congress, starts to look at that as well, we would definitely work with them.

Senator INHOFE. Now, in the area of international pollution—you and I have talked about this, in Texas and Oklahoma in particular because of last May and the fires that were coming up—I know that the EPA received information from the State of Oklahoma, Department of Environmental Quality, back in June, and they're still waiting for a response. I would like to ask if you could participate in trying to get these responses out a little quicker than they have been in the past.

Mr. PERCIASEPE. Yes. As you mentioned, we did talk about this before. I have shared with your staff the general policy that we have developed, and we are going to provide the appropriate discounting of those events.

We have been working with NASA also to get the satellite imagery for that time period. We are just about done with that analysis, and we plan to share it with the States and start working with the individual States on specific issues. So I will continue to stay on top of that and work with Oklahoma.

Senator INHOFE. That would be really helpful. I'm not saying it in a critical way, except that it seems to me that it could have been done a little quicker.

And last, when I talked at the Annapolis Center you were the speaker right after me, and I announced on the clean air reauthorization that I was going to try to do this over a relatively short period of time compared to what it was before. But there are certain reasons why it should be a shorter period of time. Even though it would be the next Administration when we actually drafted the

legislation, I would ask you, do you think our timeline is realistic? And could you work in cooperation with us in meeting that timeline?

Mr. PERCIASEPE. Well, if you have hearings in the next Congress, as I said in my opening statement, we are anxious to work with the Congress.

I remember—and I did catch your discussion that day; if I remember, you were talking about 4 years?

Senator INHOFE. Yes.

Mr. PERCIASEPE. If you can build a consensus about how the act needs to be improved and strengthened in the appropriate areas, with all the different stakeholders, and have an inclusive process—and we are out there working with you on it—it's conceivable that two Congresses from now, something could be done. But it will require a lot of work, and we're prepared to work with you in the next Congress as you start looking into the specific issues.

Senator INHOFE. I thank you very much. Just to restate what I said in my opening statement, the problem we had with your nomination had nothing to do with you; it was a process and a precedent that I felt needed to be changed. I appreciate your help and the attitude you had during the course of that time. I look forward to supporting you.

Mr. PERCIASEPE. Thank you.

Senator WARNER. Mr. Chairman.

Senator CHAFEE. Yes.

Senator WARNER. If I may just briefly add my indication of strong support for the nominee in the position to which the President has nominated him. I first gained knowledge of the nominee way back when Senator Mathias and I did the landmark legislation on Chesapeake Bay, and you've been an instrumental part of making that program achieve, I think, a modest success thus far, although much remains to be done. You bring to this position credentials which reflect a lot of experience in the areas over which you will hopefully soon be confirmed and have the responsibility. I wish you luck.

Mr. PERCIASEPE. Thank you, Senator.

Senator CHAFEE. Well, this has been a lovefest, and a swift one at that.

Senator BAUCUS. Mr. Chairman, I move that we favorably report the nominee.

Senator INHOFE. I'll second that.

Senator WARNER. I'll second.

Senator CHAFEE. Well, that's splendid. I'll tell you what, we really don't have enough members here, and we're going to be meeting at 2:30—Senator Warner, would you note this, please, that there's going to be a vote somewhere in the neighborhood of 2:30, but whenever the Senate vote is, following that, we shall meet in the President's Room. There is a series of nominations—not just this one of Mr. Perciasepe, but others. Certainly, I would like a good, swift attendance, and then we can get our work done.

Senator BAUCUS. Mr. Chairman, this could well be our last hearing this year, this session, this Congress. I know I speak for all—

Senator CHAFEE. Is that right? Well, I guess you're right. We don't have anything else scheduled.

Senator BAUCUS. Well, I just want to say to you, speaking on behalf of all the members of this committee, that we appreciate the job you have done as Chairman.

Senator CHAFEE. Aren't you nice? Thank you. Likewise, I appreciate the job you've done, as well.

Senator BAUCUS. I only regret that Senator Kempthorne is not here on this final day, because it would otherwise be his last day.

Senator CHAFEE. Well, I had a chance to say farewell to Senator Kempthorne. He presided earlier this morning, at 9:30, on a hearing dealing with the Snake and Columbia Rivers, and I was able to thank him for his work. We're going to miss him. He's done yeoman work.

And indeed, Mr. Perciasepe, when you were talking about working on the Safe Drinking Water Act, I immediately was reminded of the work that Senator Kempthorne did there.

So thank you, Senator Baucus, for your kind comments, and the meeting is adjourned.

[Whereupon, at 2:25 p.m., the committee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

UNITED STATES SENATE
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Perciasepe Robert
 (Last) (First) (Middle)

Position to which nominated: Assistant Administrator - U.S. EPA

Date of Nomination: _____

Date of birth: 02/19/51 Place of birth: New Rochelle, N.Y.
 (Day) (Month) (Year)

Marital status: Married Full name of spouse: Lee Susan Palmer

Name and ages of children: Julia Perciasepe (14)
Laura Perciasepe (17)

Institution	Dates attended	Degrees received	Dates of degrees
<u>Cornell University</u>	<u>9/72 to 6/74</u>	<u>B.S.</u>	<u>6/74</u>
<u>Syracuse University</u>	<u>9/74 to 6/76</u>	<u>Masters Public Admin Planning</u>	<u>6/76</u>
_____	_____	_____	_____
_____	_____	_____	_____

Employment record:

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

- Assistant Administrator - U.S. EPA, Wash, DC; 1993 to Present
- Secretary of the Environment - Maryland Dept of Environment; 1990 - 1993
- Deputy Secretary - Maryland Dept of Environment; 1989 - 1990
- Assistant Secretary - Maryland Dept. of Environment; 1987 - 1989
- Assistant Director of Planning - Baltimore City; 1986 - 1987

Employment record—continued

Chief of Capital Budget - City of Baltimore; 1979 - 1986

Principal Planner - City of Baltimore; 1976 - 1979

Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Association of Metropolitan Sewage Agencies, 1996 Public Service Award

American Lung Association, Public Service Award 1992

Walter G. Wells, Conservation Award, 1992

United Way Leadership Award, 1990

Maryland Governor's Award of Excellence, 1989 & 1991

Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

See Attached Biography

**Future
employment
relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Not Applicable - EPA current employer

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

Not planning to resume employment with any previous employer.

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Served as Assistant Administrator for Water at EPA switched to Air and
Radiation responsibilities.

Financial Statement:

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

I am vested in the State of Maryland retirement system.

2. Are any assets pledged?

No

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See my attached SF 278. It has been reviewed by the Designated Agency Ethics Official. I do not perceive any problem that would call for any Ethics Agreements.

Political affiliation and activities:

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

No Memberships

No Contributions in excess of \$1,000

No Services rendered

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

Over the last 5 years, I have been responsible for preparation of reports while Assistant Administrator at EPA. I have testified to Congress on Environmental Issues

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

I value my relationships with the United States Congress.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes _____

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

AFFIDAVIT

Robt Perciasepe

Robert Perciasepe) ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 8th day of OCTOBER, 1998.

Francis P. Bonds

Notary Public
FRANCIS P. BONDS
NOTARY PUBLIC, DISTRICT OF COLUMBIA
My Commission Expires 31 August 2001



Robert Perciasepe
Assistant Administrator - United States Environmental Protection Agency

Robert Perciasepe was confirmed by the Senate as an Assistant Administrator for the United States Environmental Protection Agency (EPA) on October 15, 1993.

Mr. Perciasepe currently administers EPA's air and radiation program. In this program, Mr. Perciasepe oversees the development of guidelines and standards for the implementation of the Clean Air Act Amendments of 1990 and the Atomic Energy Act of 1954. The air program assists state and local agencies with monitoring and controlling air pollution, develops regulations to limit and reduce air pollution, establishes standards for disposal of high-level radioactive waste and makes information on these topics available to industry, stakeholders, and the general public.

Previously, Mr. Perciasepe administered EPA's water program. In this role, Mr. Perciasepe was responsible for managing the development of criteria and standards for water quality and drinking water as well as water pollution point source permits. The water program also is actively involved in the State Revolving Fund Program for constructing municipal wastewater treatment plants, and shares responsibility with the U.S. Army Corps of Engineers for regulating wetlands and the disposal of dredged materials.

From January 1991 to August 1993, Mr. Perciasepe was Maryland's Secretary of Environment. In that position, Mr. Perciasepe directed all aspects of pollution control and environmental protection in Maryland, including: air and water pollution control, management of hazardous and solid wastes, control of sediment, erosion and stormwater, as well as activities to protect environmental health and provide financial assistance for environmental restoration. Mr. Perciasepe served as Chairman of Maryland's Asbestos Oversight Committee, Chairman of the Chesapeake Bay Agreement States Nutrient Reduction Workgroup, Vice-Chairman of the Appalachian Low-Level Radioactive Waste Commission, and as First Chairman of the Northeast Ozone Transport Commission. Mr. Perciasepe served on the Board of the Chesapeake Bay Trust and as a member of the Governor's International Cabinet and the Governor's Commission on Lead Paint Poisoning.

Prior to becoming the Maryland Department of Environment's (MDE) Secretary, Mr. Perciasepe served as MDE's Deputy Secretary and Assistant Secretary for Planning and Capital Programs. Before joining MDE, Mr. Perciasepe worked for Baltimore City as the Assistant Director of Planning, where he was responsible for capital programs, data systems and environmental planning. Mr. Perciasepe also held positions with county and regional planning agencies in New York and at the State University of New York.

Outside of government, Mr. Perciasepe participates in a variety of neighborhood activities near his home in Baltimore City. He enjoys biking, hiking and softball.

Mr. Perciasepe holds a bachelor of science degree in environmental sciences from Cornell University and a master's degree in planning from the Maxwell School of Syracuse University. He has lectured at the John Hopkins University, Morgan State University, and the University of Maryland and has published a number of articles and reports.

STATEMENT OF ROBERT W. PERCIASEPE, NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR THE OFFICE OF AIR AND RADIATION, ENVIRONMENTAL PROTECTION AGENCY

Thank you, Mr. Chairman. I would like to say a very few words.

First, I appreciate the introductions, and I am happy to be here today, talking with all of you. And I plan to do much more of it than just today, and I want to make sure that you all know that.

I do want to emphasize at the onset a little bit about my career. I know that you mentioned a couple of points on that already, and I just want to emphasize a few other ones.

First and foremost is my personal commitment to public service. This has been my career. I have worked at city government, which is going a little bit further back, but I have 12 years' experience at city government, including doing capital budgets and many other local government activities. And then you mentioned my State service and, obviously, my EPA service to date. The emphasis on public service, the emphasis on working with other people is something that is very important to me and I will continue that in this job if you approve.

Recently, you all know that my style is to understand the importance of inclusive processes, bringing people together to resolve differences, both in the legislative arena as well as the regulatory arena. I am very anxious to continue that process in this new role.

Senator Baucus, you mentioned the Safe Drinking Water Act.

I, too, view that as a very successful work that we have done together in this committee, and everybody here worked on that. That's the kind of work that I hope we can continue to do.

I very much view building bridges and working together as part of the process.

As far as the Air and Radiation job, I'd like to say just a couple of quick opening thoughts about areas of emphasis, and then perhaps we can do some questions and answers.

I view one of the most important things that I can bring to this job over the next several years as to set up success for implementation. There are many implementation issues in the Clean Air Act and for our clean air goals that require constant diligence in working with States, developing sound science, developing the technical tools that we need to get the work done, working with stakeholders and working with Congress. One of my highest priorities is going to be assuring that we're setting the country up for continued success in air quality and pollution control.

Another thing that has been a hallmark of my efforts has been promoting common-sense regulation, and I intend to bring that kind of experience and objective to the clean air program, or my time at the clean air program, including things like flexibility in rules, market-based approaches, and working with State and local governments to develop local decisionmaking.

I know that climate change will be an issue, and I want to make sure that you all know that I am not, in any way, shape, or form, going to be implementing the Kyoto Protocol before it is ratified by the Congress and by the Senate, and I want to make sure you know that. I will continue common-sense discussions with industry and others about making sure that we don't make regulations that go in the wrong direction, or that we continue cost savings and appropriate actions that we've been working on in terms of energy.

I want you also to know that I take very seriously the Government Performance and Results Act. I view management as one of my strong suits. This is something that I have been doing for many, many years, going back to my city experience in budgeting, and I plan to bring that attitude to this job, including working on the Government Performance and Results Act and setting up measurable objectives.

There is also Radiation and Indoor Air as part of the portfolio, and whether it be asthma or radon or working on Yucca Mountain, I plan to put a lot of energy into these things to keep them moving forward as the country needs them to move forward.

Let me just say in closing—and I'm trying to be very quick here, because you know it's a long list—Senator Inhofe and I have talked about this. I want to look at the Clean Air Act over the next year or beginning in the next Congress, and I want to say that we're ready and willing to work with you on looking at how we can make improvements and strengthenings of the Clean Air Act. We will be ready and prepared, and I will personally work with the committee and the subcommittee on those issues as they come up.

RESPONSES BY ROBERT PERCIASEPE TO ADDITIONAL QUESTIONS FROM SENATOR
INHOFE

Question 1. What are the top three priority areas under the Clean Air Act that you plan to work on in the next year?

Answer. As the Assistant Administrator for the Office of Air and Radiation (OAR), my priority goals for the next few years can be described in the following four broad categories:

(A) To pave the way for successful implementation of the new NAAQS. In order to realize the expected health benefits from these standards, they need to be implemented efficiently and effectively. This process must seek input from industry, governors, mayors, and the public health and environmental community. This means improving processes such as Title V and new source review (NSR) so they can work as expected and it means providing guidance and technical assistance and support to States so everyone is working together to the same end. It also means providing certainty to industry so they can plan and prepare for compliance. We are also continuing to use flexibility and cost-effective measures so that these new standards can provide public health benefits at the least cost. This task will require a great deal of communication and coordination between all levels of government, industry, and other stakeholders.

(B) To set new Tier II mobile source emission standards that will continue progress. We reported in the Tier II Report to Congress that we submitted in July, 1998 that new Tier II emission standards are both necessary and feasible. Because vehicle miles traveled and light duty truck sales are going up and the price of gasoline is at an all-time low, the progress we've made in the last 70 years in reducing tail-pipe emissions will erode unless we set standards that can take us into the next two decades. In this way, we can work to ensure that mobile sources continue to provide some of the technological solutions to our air pollution problems. We also need to reduce the sulfur levels in gasoline so that catalytic converters and new engine technologies can perform optimally.

(C) To set in motion a program to reduce air toxics in urban areas. Since the 1990 CAAA, we have made tremendous progress reducing toxic air pollutants under the MACT program. As required by the Act, now it is time to assess the residual risks that may still remain. Also as required by the Act, we are to assess urban air toxics because it is in urban areas where many sources of toxic air pollution are located and where many people live. Under the urban air toxics program we are planning to assess the type and amount of toxic pollutants people are being exposed to and to prepare the appropriate response, which might include a national maximum achievable control technology (MACT) standard, local controls, or exposure reduction, depending on the findings.

(D) To continue progress both nationally and internationally on making the Kyoto Protocol acceptable for ratification. We have had tremendous success bringing energy-efficient technologies to the market under our Energy Star and Greenlights partnership programs. However, we also realize that energy-efficient technologies will not be sufficient on their own. Therefore, we have been advocating and discussing with developing nations and others the concept of an emissions trading program to achieve the emission reductions in a cost-effective manner. This will require working closely with Congress on concepts such as early credits for action.

Question 2. As you know, we plan to move forward with Clean Air Act Reauthorization in the next Congress. Which aspects of the current law do you believe need to be addressed legislatively?

Answer. I understand that you are interested in holding hearings next year to examine the Clean Air Act. I believe it would be useful for the hearings to examine the current implementation of the Act to determine whether the various programs are working well and to explore whether programs could be improved. As you know, the Office of Air and Radiation has worked very hard within the bounds of the current statute to craft creative regulatory solutions to the inevitable problems that surface during the course of implementation. I believe that we should continue to explore regulatory solutions as much as possible before deciding whether or which statutory changes are necessary. I think the coming hearings will be one excellent forum for airing these issues, and I look forward to working on them with you and your staff.

Question 3. In your brief tenure, how would you describe the interactions and relations between the Regional Offices and the Air program in Headquarters and Research Triangle Park? What areas need improvement and how do they compare to the Water Office in general?

Answer. In general, I believe that the relations between headquarters and the Regional Offices in the air program are good. There is, of course, an inherent tension

in our relations with the Regions. This is the tension between the need for national consistency on the one hand and the need for flexibility and local solution, on the other. I believe that the Air programs have a strong Regional management process which deals well with this inherent tension. Each year the Air Office provides the Regional Offices with guidance on national priorities. Each Region then develops a Memorandum of Agreement with us that represents a balancing of those national priorities with specific Regional needs. Out of this process we have been able to develop creative solutions to problems across the Nation.

I would also like to note that the Air Office has made a strong commitment to the Government Performance and Results Act (GPRA) process. For some two years now this office has been negotiating outputs and measures with the Regions and States. As result of the investment of time we've made the State Commissioners are comfortable with the measures we're adopting.

I recently met with all of the Regional Air Division Directors and believe that they are strong team. From my experience in the Water Office, I have instituted weekly conference calls with the Directors to ensure that they understand national priorities and needs, and that I, in turn, understand local concerns and priorities. I am also considering establishing a "coordinating committee" between the national, regional, tribal, and State programs that would meet regularly to improve coordination on program management.

Question 4. In your brief tenure, how would you describe the interactions and coordinations between the Air Office and OECA?. What areas need improvement and how do they compare to your experience as the Assistant Administrator for Water? How do you see OECA working with your department to ensure greater compliance by moving the emphasis to compliance as opposed to enforcement?

Answer. During my tenures in both the Office of Air and Radiation (OAR) and the Office of Water (OW), I have found that it is important to develop effective teamwork between the program office and the Office of Enforcement and Compliance Assurance (OECA). The teamwork is necessary as regulations me developed to ensure that they are enforceable. Teamwork is also important to ensure that enforcement and compliance activities are consistent with the policies of OAR.

During my tenure as Assistant Administrator for Water, I tried to build an effective working relationships with OECA on a number of projects. For example, we worked to ensure that the release of OECA's animal feeding operations (ASO) guidance was coordinated with the release of the USDA's/EPA's ASO Strategy. I also established a mechanism that required regular meetings and discussions to ensure better communication and coordination.

During my brief tenure as Assistant Administrator for Air and Radiation, I have already seen that OAR and OECA can have a very close and effective working relationship, as shown by their excellent work in the heavy duty diesel engine enforcement action. In addition to levying a fine appropriate to the seriousness of this violation the team's efforts resulted in a settlement that is fair to all parties and keeps the focus on protecting the environment, rather then strictly on the penalty.

I am committed to become personally involved in fostering teamwork between OECA and OAR, particularly on permitting and new source review matters. Achieving our air quality goals requires effective enforcement and implementation, but it is important that we also provide sufficient flexibility to enable industry to compete in a global setting. Making rules enforceable and flexible is one of our most important challenges.

I am particularly concerned that we design our rules to minimize impacts on small businesses, and that we do everything we can to assist small businesses in understanding and complying with our rules. OECA has made great strides in these areas, and my goal is to see that kind of progress continues. I am convinced that as we are move in this direction, compliance will be the norm and the need for enforcement action will be greatly reduced.

Question 5. Since 1992, the air permits rule to define minimum requirements for approval of State Title V programs has been the subject of much controversy, including lawsuits. Specifically the provisions governing the procedures sources and States had to follow when revising a Title V permit. I understand that EPA has been meeting with the stakeholders to debate issues surrounding the permit revision process in an attempt to meet the needs of all parties. It is my understanding that when the States, industry, and EPA's Air Office find common ground, the Office of Enforcement and OGC insist on placing additional procedural requirements, with limited environmental benefit, to the rule. Having the background in the water permit program, how do you plan to resolve the air permitting issues so that all stakeholders can maintain common ground and the Agency can move toward implementing a reasonable program without wasting additional valuable resources?

Answer. Recently, I received my first detailed briefings on the Title V air permitting program, and believe that I need several more intensive briefings before we reach the point of having regulatory improvements I am comfortable putting forward. These additional briefings are necessary for me to understand the issues more thoroughly, as well as the history behind decisions that have been made to date. States, industry officials, and environmental groups have expressed a number of concerns which EPA needs to explore further before finalizing the Title V permit revisions regulation. The Title V issues are very challenging and warrant further consideration since a viable permit program is critical to implementing and ensuring compliance of the requirements of the Clean Air Act and protecting human health and the environment. Balanced against these benefits is the potential burden to industries that require operating flexibility and a streamlined process to compete in a global economy. EPA is striving to design a permit program that strikes the balance between these objectives and which avoids saddling industries with unnecessary red tape when making a change or addition at a facility. I intend to spend a lot of time over the next few months in order to give the Title V issue the time and effort that it demands.

Question 6. Regarding NAAQS, EPA should coordinate the effort to regulate emissions contributing to regional haze with the ongoing implementation of the Clean Air Act and the NAAQS implementation schedule set forth by President Clinton. How do you intend to assure this coordinated implementation in a cost-effective and flexible manner for both the State regulators and the regulated community?

Answer. We agree that every effort should be made to ensure that regional haze requirements are well coordinated with efforts to implement the new PM-fine and ozone national ambient air quality standards (NAAQS). The final rule for regional haze will incorporate the revised deadlines contained in the Transportation Equity Act for the 21st Century (TEA-21). By clearly establishing schedules for submission of State implementation plans (SIP) for regional haze which are dependent on the schedules for attainment and nonattainment designations for the PM-fine NAAQS, TEA-21 supports EPA's goal of ensuring the programs are well coordinated. In addition, we intend to implement the regional haze rule and PM-fine standards in ways that foster and encourage coordinated regional planning efforts. We believe that any control strategy decisions arising from these efforts need to be responsive to both sets of requirements, thereby avoiding redundancy and conflicts. The Grand Canyon Commission's efforts, and the follow-on work by the Western Regional Air Partnerships are good examples of State regulators and stakeholders working together to seek flexible, cost-effective solutions. We intend to continue to encourage these efforts to provide guidance and assistance as these regional efforts proceed.

Question 7. Considering that the court action on ETS was highly critical of the EPA for forcing science to fit the justification for regulatory action, how do you plan to ensure that good science is used and the results of good science are used to prevent unjustified regulations from being promulgated?

Answer. I believe EPA regulations and non-regulatory activities need to be based on sound science, and I am committed to continue to make sure the best research is behind our problematic decisions and policies. The Agency recently reinforced its policy that "all major scientifically and technically based work products related to Agency decisions normally should be peer-reviewed" by publishing the Science Policy Council Peer Review Handbook in January 1998. Regarding the court action on environmental tobacco smoke (ETS), I stand behind the science we used in developing our risk assessment—a report which was endorsed by the independent Science Advisory Board of the EPA.

It should be noted that EPA has no regulatory authority over ETS. Restricting smoking in public places is primarily a State and local issue, and is typically addressed in clean indoor air laws enacted by States, counties and municipalities. Our ETS-related work involves the dissemination of information to the public regarding the risks from ETS and we have published recommendations to help people take actions to prevent involuntary exposure to secondhand smoke.

I also refer you to the statement regarding this matter issued by Administrator Browner on September 15, when she said, "It is a widely accepted scientific fact that second-hand tobacco smoke poses significant risks to public health. The court's decision was based on procedural concerns regarding technical aspects of EPA's study. In the appeal, EPA will defend its scientific review process, which is widely recognized as thorough, factual and fair. The 1993 risk study was reviewed and approved by 18 independent, leading scientists in the field."

Additionally, it is important to note that Americans concerned about their health and the health of their children should continue to avoid exposure to second-hand smoke. The court's decision last July did not challenge EPA's findings that the ad-

verse health effects are real and significant for children. Since EPA's 1993 risk study, several health studies have confirmed the serious risks posed by second-hand smoke, including a study conducted by the California Environmental Protection Agency released last year.

We look forward to the appellate court's review of this matter and to a decision that is in the best interest of protecting public health and the environment.

Question 8. Since 1970, the Clean Air Act has been the exclusive Federal statutory and regulatory framework for controlling and managing air emissions. Recent development in the Clean Water Act's program on total maximum daily loads raises the prospect that those authorities may be used to leverage additional controls on air emissions to deal with air deposition. Do you believe there is any basis under the Clean Water Act to control pollutants released into the air as opposed to directly into the water?

Answer. There is growing evidence that air deposition is a significant source of water pollution to some waterbodies. Recent reports by States indicate that atmospheric deposition is the leading source of pollutants to impaired Great Lakes waters and the third leading source of pollutants to impaired lakes. In response to this evidence, EPA is working to better understand the relationship between air and water pollution and is evaluating approaches to better defining linkages between impaired waters and emissions of air pollutants.

EPA recently formed an advisory committee under the Federal Advisory Committee Act to review the efforts by EPA and States to implement the Total Maximum Daily Load (TMDL) program under section 303(d) of the Clean Water Act. The Committee was made up of over 20 members representing diverse groups and organizations including States, industry, municipalities, local government, environmental organizations and others. The Committee recently released a major, consensus report making recommendations for improvements to the (TMDL) program. The Committee recommended that EPA continue research into the causes and impairment of waters due to atmospheric deposition. EPA is developing revisions to existing TMDL relations based on the FACA report and expects to publish proposed regulations in May of 1999.

Under EPA'S current TMDL policies, States develop TMDLs for impaired waters that define pollutant reductions needed to meet water quantity standards and allocate load reduction responsibility among pollution sources. Often these sources discharge to water and load reductions for these sources are enforceable under conditions of Clean Water Act permits. Other sources that do not have Clean Water Act permits may be allocated pollutant reduction responsibility where there is a "reasonable assurance" that the reduction will be accomplished. These allocations to other sources reduce the pollution reduction burden on point sources. If the connection between an emission of pollutants to the air and the impairment of a waterbody were established and there was a "reasonable assurance," that a reduction would be implemented (e.g., under authority of a law other than the Clean Water Act such as the Clean Air Act, a State air law, or other air related authority), a State TMDL would have the option of allocating load reduction responsibility to an air source.

Question 9. If this committee undertakes reauthorization of the Clean Water Act in the 106th Congress, can you assure this committee that EPA will not be seeking Clean Water Act authorities to address air deposition and in turn air releases from given sources?

Answer. The Agency continues to study the phenomenon of air deposition, and it is too early even to speculate on what measures might eventually prove fruitful in addressing it. I can, however, state that we intend to work closely with the Congress in thinking about this issue, and that any measures we might propose would be based solidly on sound science, cost-effectiveness, and demonstrated concerns about public health and the environment.

Question 10. I know you will be coming out with the new Tier II Auto standards soon and it will include a decision on sulfur in gasoline. We have already discussed this and I am reiterating my concerns about the effects this will have on the refinery industry, particularly the smaller refiners. I am raising this now because this Administration and previous ones as well, have not had a well thought-out energy policy. While this has typically been a Department of Energy issue, regulations from the EPA, and in particular the Air Office, have been increasing in recent years and have been having a greater impact on our energy sources. What do you think your role, and the role of your Office is, regarding our nations energy policy? Have you had any discussions ninth the Department of Energy on your role and the impact of the Clean Air Act on a national policy?

Answer. I believe first and foremost that the role of the Office of Air and Radiation, and my role as Assistant Administrator, is to fulfill the statutory direction

of Congress and the executive direction of the President. Given that the Clean Air Act is our main statutory mandate, we need to ensure that we solicit DOE comment on the energy policy implications of our proposed regulations and to reflect those comments in a manner consistent with the strategic direction set by the Administration and the Congress. I strongly believe that our goal should be to carry out our environmental statutory responsibilities in a way that will allow our country to simultaneously promote our environmental, energy, and economic goals. I have not yet had the opportunity to specifically discuss this issue personally with my colleagues at the Department of Energy but I plan to do that soon. I believe that coordination between agencies is important and I will work hard to foster that coordination.

