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HILL, RISPOLI AND SIGAL NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF JILL L. SIGAL TO BE AN ASSISTANT SECRETARY OF ENERGY FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS; DAVID R. HILL TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY; AND JAMES A. RISPOLI TO BE ASSISTANT SECRETARY OF ENERGY FOR ENVIRONMENTAL MANAGEMENT

JULY 12, 2005

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HILL, RISPOLI AND SIGAL NOMINATIONS

TUESDAY, JULY 12, 2005

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m. in room SD–366, Dirksen Senate Office Building, Hon. Pete V. Domenici, chairman, presiding.

OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. The hearing will please come to order. We're a couple of minutes late and for that I apologize.

We're here this morning to consider the following nominations for positions within the Department of Energy: David R. Hill to be General Counsel, James A. Rispoli to be Assistant Secretary for Environment and Management, and Jill Sigal to be Assistant Secretary for Congressional and Intergovernmental Affairs.

Before we begin, our colleague, Senator Crapo, has asked to say a few words. Welcome to the committee, Senator, and we'd be glad to hear from you.

STATEMENT OF HON. MIKE CRAPO, U.S. SENATOR FROM IDAHO

Senator CRAPO. Thank you very much, Mr. Chairman, and Ranking Member Bingaman and other members of the committee.

It's my pleasure to be here today to introduce Jill Sigal to the committee as the nominee for Assistant Secretary of Energy for Congressional and Intergovernmental Affairs. I've known Jill since my first day in Congress, as a new member of the House of Representatives in 1993. I've come to know her both professionally and personally, and I can tell you that she is a gifted attorney, a devoted mother, and a dedicated public servant. She's an upstanding woman of high character, who I'm honored to call my friend.

Jill has been a respected authority on energy policy and environmental management issues for over 20 years, and has extensive experience as a liaison to Congress for the Department of Energy. Throughout her time at the Department, Jill has been an indispensable partner in highlighting and championing the important work of the Idaho National Laboratory in my home State. As president of her own firm, Jill served as a successful advocate and counsel to several private company clients, and specialized in developing and implementing legislative strategies on environmental issues.

I had the opportunity to work with her on many issues before Congress of direct import to Idaho's natural resource community. In this role, Jill consistently demonstrated herself to be a thoughtful and impassioned supporter of reasonable environmental policies. Upon her return to public service, I have once again found her to be a committed and knowledgeable promoter of our Nation's energy priorities.

I know many of you have worked with Jill as this committee has developed the energy bill, and I'm confident that you've found her to be an articulate advocate for the administration. Jill knows that her role is to be responsive to Members of Congress, and on this point, I hope that you would all agree that Jill has been aggressive in bringing our concerns to the leadership at DOE.

As a successful businesswoman, lawyer and public servant who will now work, following confirmation, to promote the administration's policies and legislative initiatives to Congress and other Federal agencies, Jill will need to call on all her skills as we proceed toward completion of the comprehensive energy bill this month.

Mr. Chairman, I wholeheartedly support Jill Sigal's nomination as Assistant Secretary of Energy for Congressional and Intergovernmental Affairs. I believe she is a committed individual who will do her very best to serve the United States and further our commitment to a thoughtful national energy policy and a cleaner environment. She's a take-charge, decisive and effective advocate for the Department on Capitol Hill. I urge you and the committee to swiftly and favorably report her nomination to the Senate for full confirmation.

And on a personal note, I'd like to say—this is a little bit of a tender note—Jill lost her mother just recently. And her mother was also a special friend to me. She provided tremendous support to me when I faced a battle with prostate cancer—as I indicated, we have strong family ties and friendships. And I know that she wanted to be here today, and Jill wanted her to be here today, and I'm confident that she is. And I just wanted to let Jill and her family know of my deep support and thoughts about her mother as we go forward with this very important hearing.

Mr. Chairman, I thank you again for providing me the opportunity to speak on behalf of Jill Sigal's nomination, I look forward to working with you, Jill, and others in Congress to resolve the pressing energy and environmental issues facing our Nation today. Thank you.

The CHAIRMAN. Thank you.

Ms. Sigal, we will proceed. We won't start with you, but we do want to share this time of grief with you. And you could have asked us to delay, but I understand it was your choice to proceed today, so——

Ms. SIGAL. Thank you, Mr. Chairman.

The CHAIRMAN. Now, I'm going to ask—there are a lot of people present. That must mean that you have some family in attendance. Before I ask you to present to us your families, I want to note the presence of Secretary Bodman. Mr. Secretary, we thank you for coming. It shows that you care, and that you stand behind and support your nominees, and we're very hopeful that we can proceed

with dispatch with the job we have to do. Much of it's already been done, but we will do that in due course.

Having said that, we would like now to start with Mr. Hill, and ask you if you would please introduce any relatives that you would like us to know are here. And then, Mr. Rispoli, and then, Jill, we will ask you to do the same.

Mr. HILL. Thank you, Mr. Chairman.

I'd like to introduce my wife, Kristina Hill, and our three beautiful daughters, Anna, Margaret and Julia. I also would like to introduce other family members that are here today: my sister, Carolyn J. Hill, and her husband, Andreas Lehnert; my sister-in-law, Laura J. Hagg; and my niece, Katherine Hagg. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Did one of them disappear?

Mr. HILL. I think maybe the baby had to make a quick exit to the hallway, yes.

The CHAIRMAN. We don't mind the noise if you want to bring the baby back.

Mr. HILL. Thanks, Mr. Chairman.

The CHAIRMAN. Mr. Rispoli.

Mr. RISPOLI. Mr. Chairman, Senator Bingaman, members of the committee, I would like to introduce my wife, Carol, who is here today, and also my daughter Christina, and her husband, Kevin Thomasson, who drove up from North Carolina to meet with us, from Raleigh, North Carolina to be with us today. They have, within the last year, delivered to us our first grandchild, who is not here with us today. Our son Joseph would be here, except in 4 days in Austin, Texas, he will be marrying Mandy Jenkins, so the family will be heading out shortly for that event later this week. Thank you for the opportunity.

The CHAIRMAN. Thank you very much.

Jill, would you now, if you care to, introduce any of your relatives who are here?

Ms. SIGAL. Yes, sir. Mr. Chairman, I'm here with my husband, Bob Muth, and our wonderful 4 year old son, Harrison. And sitting behind them is my sister, Pam, and her husband Paul Kraszewski. And I think I have other relatives who are listening in on the live webcast.

The CHAIRMAN. Okay. Thank you very much, thank you very much. Welcome to all of you. And now I might ask if there are any Senators who would like to make a comment or two before we proceed?

STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

Thank you, Mr. Chairman. I just want to welcome the nominees. I think they're all well-qualified. I compliment the President on his nominations, and also Secretary Bodman, and appreciate him being here to lend moral support to them this morning. Thank you.

The CHAIRMAN. I also would note the presence of Deputy Secretary Clay Sell. Thank you very much for coming, it's always a pleasure to have you here.

Senator from Wyoming.

STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Senator THOMAS. Thank you, Mr. Chairman. I have to go to another meeting, but I did want to welcome all of you here, and thank you for your willingness to serve. And just generally, because I won't be able to be here, I just want to make the comment for all of you that in order to have the kind of energy development that we need and certainly want to continue to have over the country, I urge you all to take a hard look at the ways in which we must do this to protect the environment, and we must continue to do that. On the other hand, if we could go through those processes in a little more efficient way, it just seems to me that often that's what's holding us up, that's what's being so expensive, that we can do that job efficiently, but we could do it much better than we do it, by working with other agencies and other parts of government to go through this task without reducing the efficiency or the effectiveness of it and make it more efficient, and all you could do in that area, I would appreciate it. Thank you, sir.

The CHAIRMAN. Senator Bunning.

STATEMENT OF HON. JIM BUNNING, U.S. SENATOR FROM KENTUCKY

Senator BUNNING. Thank you, Mr. Chairman. I'm pleased to welcome our nominees here before us today. Their nominations are very important, given the issues—particularly that Kentucky has in Paducah. As you know, my legislation moved the Energy Employees Compensation Program to the Department of Labor. Although the program is already operating, I expect each of you to take responsibility to continue a smooth transition of this program. The DOE has taken over 2 years to award the small business cleanup contract at the Paducah Plant. As a result of inadequate procurement procedures and protests, members of my community continue to be in the state of uncertainty. I expect you all to ensure a timely and accurate resolution of this contract, and ensure future procurement is handled expeditiously and correctly. If the Senate confirms you, I expect you to work hard to make sure that the DOE effectively manages a Paducah Plant. Thank you very much for being here.

The CHAIRMAN. Thank you. Senators, anything further?

I would just make a general observation to all three of you. I note with some degree of past involvement that you've all taken tough jobs—we'll go through that as we inquire of you individually—and I want to say that it's particularly pleasing to me to see people take these jobs who seem to be excited about them. I mean, one evidence of being excited is to bring your family to a hearing. Some people seem to get kind of staid in their way and sort of seem like they're being shoved into these jobs, but you seem to have some smiling faces. We hope that will be the case a year from now when we call you up here and you try to implement some of the jobs you have to do.

Now, let's move on. The rules of the committee, which apply to all nominees, require that they be sworn in, in connection with their testimony, so would all of you please rise and raise your right hands?

Do you solemnly swear that the testimony you are about to give to the Senate Committee on Energy and Natural Resources shall be the truth, the whole truth and nothing but the truth?

Mr. RISPOLI. I do.

Mr. HILL. I do.

Ms. SIGAL. I do.

The CHAIRMAN. Please be seated.

Now, before you begin your statements, I'll ask three questions that are addressed to each nominee before this committee. Each of you will please respond separately to each question. We'll start on this side with you, Mr. Rispoli.

Would you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Mr. RISPOLI. I will, Mr. Chairman.

Mr. HILL. I will.

Ms. SIGAL. I will.

The CHAIRMAN. All right. Each of you, are you aware of any personal holdings, investments or interests that could constitute a conflict, or create the appearance of such a conflict, should you be confirmed and assume the office for which you have been nominated by the President?

Mr. RISPOLI. Mr. Chairman, my investments, personal holdings and other interests have been reviewed both by myself and the appropriate ethics counselors within the Federal Government. I have taken appropriate action to avoid any conflicts of interest. There are no conflicts of interest, or appearances thereof, to my knowledge.

The CHAIRMAN. Mr. Hill.

Mr. HILL. Mr. Chairman, my investments, personal holdings and other interests have been reviewed both by myself and the appropriate ethics counselors within the Federal Government. I have taken appropriate action to avoid any conflicts of interest. There are no conflicts of interest, or appearances thereof, to my knowledge.

Ms. SIGAL. Mr. Chairman, my investments, personal holdings and other interests have been reviewed both by myself and the appropriate ethics counselors within the Federal Government. I have taken appropriate action to avoid any conflicts of interest. There are no conflicts of interest, or appearances thereof, to my knowledge.

The CHAIRMAN. Thank you very much. Now, each of you have to answer one additional question. Are you involved with, or do you have any assets held in blind trust?

Mr. RISPOLI. Mr. Chairman, no, I do not.

The CHAIRMAN. Mr. Hill?

Mr. HILL. No, sir.

The CHAIRMAN. Ms. Sigal?

Ms. SIGAL. No, sir.

The CHAIRMAN. All right. Now, we're going to proceed in the following manner. Each of you are now going to make brief statements. I encourage you to summarize your statements that you've presented for filing in the record so that we'll have plenty of time for Senators to ask questions. We're going to start with Mr. Hill,

followed by Mr. Rispoli, and then by Ms. Sigal. Would you proceed in that order with your statements, following the admonition about being brief, not just because of us, it's better for you if you're brief.

TESTIMONY OF DAVID R. HILL, NOMINEE TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY

Mr. HILL. Thank you, Mr. Chairman.

Mr. Chairman, Senator Bingaman, and members of the committee, it's a great honor for me to appear before you today as the President's nominee to be General Counsel at the U.S. Department of Energy. I appreciate the committee holding this hearing and for considering my nomination. I also want to thank Secretary Bodman and Deputy Secretary Sell for being here this morning, and for recommending me to the President for this position.

If confirmed and appointed as the Department's next General Counsel, it would be my privilege to work with this committee, as well as my colleagues within the Bush administration, to carry out the Department of Energy's many important responsibilities in the energy, defense, science and environmental areas.

If confirmed, I commit that I will do everything I can to help the Department accomplish its missions, which are so critical to the Nation's safety and security. Thank you, again, for holding this hearing and for considering my nomination. It would be an honor and a privilege for me to serve the American people as General Counsel of the U.S. Department of Energy. Thank you, sir.

The CHAIRMAN. Thank you very much. So far, David's ahead.

[Laughter.]

[The prepared statement of Mr. Hill follows:]

PREPARED STATEMENT OF DAVID R. HILL, NOMINEE TO BE GENERAL COUNSEL OF THE U.S. DEPARTMENT OF ENERGY

Mr. Chairman, Senator Bingaman, and members of the Committee, I am deeply honored to appear before you today as the President's nominee to be General Counsel of the United States Department of Energy.

I want to express my thanks to President Bush for nominating me to serve in this position, and to Secretary Bodman for recommending me to the President. If I am confirmed, it would indeed be a privilege to serve as the Department's General Counsel under the leadership of President Bush, Secretary Bodman and Deputy Secretary Clay Sell.

I would like to introduce my wife Kristina Hill, who is here with me today, along with our three beautiful daughters, Anna, Margaret and Julia. I want to publicly thank Kristina for her constant support and encouragement, which have allowed me to serve in my present position at the Department of Energy, and will allow me to continue to serve.

I also would like to introduce my sister Carolyn J. Hill. My parents Ronald and Shirley Hill, who still live in Smithville, Missouri where I grew up, and my brother Roger W. Hill, could not be here today. I do want to express my thanks to my parents, to whom I am forever grateful for everything they have done for me.

I currently serve as Deputy General Counsel for Energy Policy at the Department of Energy. In that position, which I have held since March 2002, I have had the opportunity to work with many of the Department's programs and with senior officials at the Department and throughout the Administration. I also have worked with the staff of this Committee and of some of the Committee's Members on a variety of matters. I look forward to continuing to work with the Committee, in my present position and in the position of General Counsel should I be confirmed, toward the goal of completing work on the pending comprehensive energy bill, and then in carrying out its many important provisions.

In my current position at DOE, I have provided legal advice and analysis on a variety of statutory, legislative, regulatory, administrative and policy issues. In performing those duties, I have worked with many of the career lawyers at the Depart-

ment. If confirmed as DOE's General Counsel, I would have the honor of leading an organization with very high professional standards and a strong commitment to public service.

Most of my legal career prior to joining DOE was spent in private practice. I was a partner at the law firm of Wiley, Rein & Fielding here in Washington, D.C., and subsequently was a partner at Blackwell Sanders Peper Martin in Kansas City, Missouri. Early in my career I was an associate at Wilmer, Cutler & Pickering in Washington, DC. My work in private practice spanned a broad range of regulatory, litigation and corporate work.

I also served as associate counsel on the staff of the U.S. House of Representatives Committee on Agriculture from 1991 to 1993, and began my legal career as a clerk for Judge James K. Logan of the U.S. Court of Appeals for the Tenth Circuit. I received my law degree from the Northwestern University School of Law in Chicago, Illinois, and my bachelor's degree from the College of Agriculture at the University of Missouri at Columbia.

I have a deep respect for both the importance and the difficulty of the missions that Congress and the American people have entrusted to the Department of Energy. Each of the Department's four strategic goals—which focus on defense, energy, science and the environment—involve activities and responsibilities that present difficult and interesting legal challenges. While the solutions to these challenges are rarely easy or uncomplicated, I believe that our success in addressing them is critical not only to the safety and security of the American people, but indeed to the safety and security of people throughout the world. If confirmed and appointed as DOE's General Counsel, I am committed to doing everything I can to work both within the Administration, with this Committee and with the Congress to help the Department succeed in carrying out its missions.

In closing, I want to again thank President Bush and Secretary Bodman for the trust they have placed in me. I also want to thank the Committee for holding this hearing and considering my nomination to be the Department of Energy's next General Counsel. It would be an honor and a privilege for me to serve the American people in this position.

Mr. Chairman, that concludes my prepared statement. I would be glad to answer the Committee's questions at this time.

TESTIMONY OF JAMES A. RISPOLI, NOMINEE TO BE ASSISTANT SECRETARY FOR ENVIRONMENTAL MANAGEMENT OF THE DEPARTMENT OF ENERGY

Mr. RISPOLI. Mr. Chairman, Senator Bingaman, members of the committee, it is a privilege for me to appear before you today as the President's nominee to be Assistant Secretary for Environmental Management in the Department of Energy. I thank the President and Secretary Bodman for their support, and I am honored to have been asked by them to serve in this position. I especially thank the Secretary and Deputy Secretary Sell for being here to support us today.

I pledge to you, Mr. Chairman, and to the members of this committee that if confirmed, I will work closely with you and all of the Congress in addressing the many issues that we face in the environmental management program.

I do have just a few highlights from my statement for the record to underscore. I understand that the environmental management challenges of the Department of Energy are great, and I welcome the opportunity to begin working to address them, if I am confirmed. It's my view that the proper leadership and management of the professionals who work in this program can deliver success. I want you to know that I'm committed to safety, and I believe that safety and environmental cleanup are inextricably joined because the whole purpose of the cleanup is for the safety and security of our citizens, our communities and our Nation.

I commit to you, the members of the committee and other congressional committees, that if I am confirmed, I will communicate openly with you, with the States, and with other stakeholders. I fully expect to bring an open and forthright approach to my dealings with my constituents and stakeholders of the program. I will devote my full energies and my leadership and management experience to deliver results to the American people, if I am confirmed.

Mr. Chairman, members of the committee, thank you. I'm willing to take your questions.

The CHAIRMAN. Thank you very much.

[The prepared statement of Mr. Rispoli follows:]

PREPARED STATEMENT OF JAMES A. RISPOLI, NOMINEE TO BE ASSISTANT SECRETARY FOR ENVIRONMENTAL MANAGEMENT OF THE DEPARTMENT OF ENERGY

Good morning, Mr. Chairman, Senator Bingaman, Members of the Committee.

It is a privilege for me to appear before you today as the President's nominee to be the Assistant Secretary for Environmental Management at the U.S. Department of Energy. I would like to introduce my wife, Carol, who is here with me today. Since our marriage some 36 years ago, she and our two children have supported me in my service to our country, as I was for 26 years a career military officer, mostly as a Civil Engineer Corps officer in the United States Navy. Without the support of Carol and our two children throughout those years, I am convinced I would not be here before you today. I thank the President and Secretary Bodman for their support, and I am honored to have been asked by them to serve in this position. I pledge to you, Mr. Chairman, and to the members of this Committee, that if confirmed to this position, I will work closely with you and all of the Congress in addressing the many issues that we face in the environmental management program.

My formal education is as a civil engineer, educated as such to the Master's degree level. I also earned an advanced degree in business, and from my earliest days of practice I have had a special interest in environmental issues as related to engineering and construction. I have managed facilities as the public works officer and environmental officer at naval installations. Additionally, I have served as the Navy's manager of environmental cleanup for all its ashore installations, a position similar to the one for which I have been nominated at the Department of Energy. I have first hand experience in the Federal sector as an engineer in leadership positions , a manager of environmental programs, and as a contracting officer. Complementing that Governmental experience, I have served as a senior officer in two engineering firms that specialized in environmental cleanup.

I understand that the environmental management challenges of the Department of Energy are formidable, as I have been involved over the past several years with the capital projects in the Environmental Management portfolio. I welcome the opportunity to begin working to address these challenges if I am confirmed. With that said, it is my view that with proper leadership and management, the professionals who work in this program, both Federal and contractor, can deliver success. We can do this with the use of industry standard practices for project management such as defining projects, with achievable targeted schedules, milestones and costs. I believe that by reinforcing the application of industry standard practices for these projects, we can manage them with better effectiveness and reliability. For example, we will be able to project future resource needs across the planning horizon with greater credibility. And we will be able to better manage to improve success in delivering on our commitments. I look forward, if confirmed, to leading this organization I hope the Committee will find that my background qualifies me for this position, and has given me the leadership and management tools for the task at hand.

I am committed to safety, and in my view, safety and environmental cleanup are inexorably joined. I believe that the cleanup of our sites can not be accomplished without superior safety performance in our daily work. Only by operating safely can we achieve the goals and schedules we have set. This is paramount, because the whole purpose of the cleanup of these sites is for the safety and security of our citizens, communities and nation. At the same time, I know that I need to learn and understand the strengths and weaknesses of this environmental cleanup program. I know that we have had successes and we have had setbacks, and that the setbacks have resulted in public disappointment and disappointment in the Congress. If confirmed to the position of Assistant Secretary, I will take this mantle of responsibility; I will do so with a clear motivation to improve our performance, to succeed,

to deliver, and to be honest with you and all the stakeholders in the development of expectations and the execution of plans for this program.

I know a number of people throughout the Environmental Management organization. I have great respect for them and the challenges they face, and overcome, every day. I look forward, if confirmed, to meeting the many more Federal and contractor employees who are engaged in these efforts, to understand fully how they have set their targets, and how they are managing their projects so that they will meet these targets.

I commit to you, the Members of this Committee, and the other Congressional Committees, that if I am confirmed I will communicate openly with you, the States, and other stakeholders. My entire career has been built on honesty and integrity, and I fully expect to bring an open and forthright approach to all my dealings with the constituents and stakeholders of this program. I intend to devote my full energies and my leadership and management experience to deliver results for the American people.

Mr. Chairman and Members of the Committee, I will be pleased to answer any questions you may have. Thank you.

The CHAIRMAN. Ms. Sigal.

TESTIMONY OF JILL LEA SIGAL, NOMINEE TO BE ASSISTANT SECRETARY, CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS, DEPARTMENT OF ENERGY

Ms. SIGAL. Mr. Chairman, Senator Bingaman, members of the committee, I am honored to appear before you today as President George W. Bush's nominee to be the Assistant Secretary of Energy for Congressional and Intergovernmental Affairs. I'd like to thank the President for nominating me, and the committee for holding this hearing.

I've already introduced my family, but I would like to thank them for their tremendous love and support which I have depended upon while serving at the Department. As Senator Crapo mentioned, there's one member of my family who is not present today, and that's my mother, Nancy Sigal. She passed away last week. My mother taught me many things—excuse me, Mr. Chairman—including compassion, inner strength, and to never give up in the face of adversity. She embodied these qualities throughout her life, and I will strive to maintain her high level of integrity and compassion in my life's endeavors.

I'd like to give a special thanks and appreciation to Secretary Samuel Bodman for his support and his confidence in me. It is a tremendous privilege for me to work on a daily basis with someone of Secretary Bodman's character, integrity and intellect, and I thank him and Deputy Secretary Sell for being here today.

In my work and in my life, I am guided by several principles. Among them are honesty, integrity and loyalty. If I am confirmed, these are the principles by which the Office of Congressional and Intergovernmental Affairs will be guided. If confirmed, I commit to you to always provide information in a frank and timely manner, to always be responsive to Members of Congress and their staff, and to always be willing to meet with this committee, other Members of Congress and congressional staff.

During my tenure at the Department of Energy, and in my previous experience in the private sector, I have worked with members of this committee, as well as other members of the House and Senate, on a wide array of energy and environmental issues. Should I be confirmed, I look forward to continuing the working relationship with this committee, and Congress. If I am confirmed, I will

draw upon the experiences both in my 20 year career, as well as in life, to do my very best to meet your highest expectations. It is indeed an honor and a privilege to testify before you today. I am happy to answer any questions that you may have.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very much.

[The prepared statement of Ms. Sigal follows:]

PREPARED STATEMENT OF JILL LEA SIGAL, NOMINEE TO BE ASSISTANT SECRETARY, CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS, DEPARTMENT OF ENERGY

Mr. Chairman, Senator Bingaman, and members of the Committee, I am honored to appear before you today as President George W. Bush's nominee to serve as the Assistant Secretary of Energy for Congressional and Intergovernmental Affairs. I would like to thank the President for nominating me and the Committee for considering my nomination.

I am here today with several members of my family—my husband Bob Muth, our wonderful four-year old son Harrison, my sister Pam and my brother-in-law Paul Kraszewski. I would like to thank them for their tremendous love and support which I have depended upon while serving at the Department of Energy.

There is one member of my family who is not here today—my mother, Nancy Sigal. She passed away last week. My mother taught me many things including compassion, inner strength and to never give up in the face of adversity. She embodied these qualities throughout her life. I will strive to maintain her high level of integrity and compassion in my life's endeavors.

I would like to express my deep appreciation to Secretary Samuel Bodman for his support and his confidence in me. I have worked closely with the Secretary since mid-December through his nomination process and for the last five months at the Department. It is a tremendous privilege for me to work on a daily basis with someone of Secretary Bodman's character, integrity and intellect.

I have had the privilege of serving in the Department of Energy's Office of Congressional and Intergovernmental Affairs since July 2003. I started in the office as the Deputy Assistant Secretary for Environment and Science, then became the Principal Deputy Assistant Secretary and I was named Acting Assistant Secretary in January of this year.

In my work, and in my life, I am guided by several principles. Among them are: honesty, integrity and loyalty. If I am confirmed, these are the principles by which the Office of Congressional and Intergovernmental Affairs will be guided.

If confirmed, I commit to you to——

- always provide information in a frank and timely manner;
- always be responsive to Members of Congress and their staff; and
- always be willing to meet with this Committee, other Members of Congress and Congressional staff.

During my tenure at the Department of Energy, and in my previous experience in the private sector, I have worked with members of this Committee, as well as other members in both the Senate and the House, on a wide array of energy and environmental issues. Should I be confirmed, I look forward to continuing the working relationship with this committee and Congress

In addition to our work with members of Congress and congressional committees, the Office of Congressional and Intergovernmental Affairs works on a daily basis with Governors, state legislatures, tribal governments and other stakeholders. With major facilities in many States across the nation, employing thousands of federal and contractor employees, it is also critically important that our office maintain open communications with these stakeholders.

If confirmed, I will draw upon my experiences, both in my 20-year career, as well as well as in life, to do my very best to meet your highest expectations. It is indeed an honor and a privilege to testify before you today. This concludes my statement and I would be happy to answer any questions you may have. Thank you.

The CHAIRMAN. Thank you very much.

Now, we're going to proceed. From my standpoint, I want all of you to know that I'm on a very short timeframe in terms of how much I can spend here, because I have another meeting in the House. But if we have to go beyond the time that I can be here, Senator Craig will stay a few extra minutes. Is that correct?

So let me just move to Senator Bingaman to see if he has any observations or questions.

Senator Bingaman.

Senator BINGAMAN. Mr. Chairman, I have some questions for Mr. Rispoli, solely, which I will just submit for the record. I think that, rather than getting into some of the details of his various responsibilities, which are enormous, I'll just follow up with him after he's had a chance to review these questions in more detail. But thank you very much. And as I said before, I support each of these nominees. I think they're good choices, and they're well-qualified for the positions that they will hold.

The CHAIRMAN. Thank you very much, Senator Bingaman.

Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman. I'll try to be short. I will also submit some questions, but I have a couple of things that I'd like to ask about the Paducah plant.

The Workers' Compensation bill was recently put into law—this is a question for all three—will you all work to ensure a smooth transition of the program from DOE to DOL?

Mr. HILL. Yes I will, Mr. Chairman—I mean, Senator Bunning.

Senator BUNNING. That's all right. I like the promotion.

[Laughter.]

Mr. RISPOLI. Yes, I will, Senator Bunning.

Ms. SIGAL. Yes, sir, if confirmed, I would be happy to do so.

Senator BUNNING. The DUF-6 project in Paducah broke ground in July of last year. Earlier this year, there were problems with DOE not timely approving phases of construction of the facility. It is my understanding that DOE must sign off on the final design plan called Critical Decision 3 in about a month. Will DOE timely evaluate and approve critical phases of this construction?

Mr. RISPOLI. Senator Bunning, I am familiar with the issues with that particular project. I can tell you that the Department has been working with the contractor and with the site manager to resolve those issues so that we can, in fact, approve that Critical Decision in a timely fashion to go forward with the work.

Senator BUNNING. Can you give me a timeline of any sort?

Mr. RISPOLI. Senator, at this point, I do not know. But if I'm confirmed, I will explore that schedule in more detail. As I indicate, however, I am familiar with the issue. I know that the Department is working the issue with the site and with the contractor.

Senator BUNNING. In December—this is for anyone—in December 2002, Congress required the DOE to convert its industrial and construction workers' health and safety orders into enforceable regulations by December 2003, and begin enforcing these by December 2004. Since this was my legislation that became law, as of July 2005, DOE has yet to finalize these rules, and is currently working on a third draft. Previously drafts of rules did not follow Congressional intent.

When do you expect DOE to begin implementing a workers' safety rule that follows Congressional intent?

Mr. HILL. As I understand it, Senator Bunning, the Department is working on that rule right now, and considering comments and working on a final rule. And we'll have that approved as soon as possible, although I don't know a particular timeframe for that.

Senator BUNNING. Well, my biggest problem is it's been over 3 years. And I know there's been changes in the Department, but 3 years is long enough to get a rule done. And I would think the sooner the better, because it's holding up the process of those claims.

Last, the Paducah diffusion plant remediation contract continues to be delayed by protests over DOE's handling of the procurement procedures. As a result, the current contract had to be extended until January 2006, leaving the community in a state of uncertainty. Will you work to ensure DOE moves forward in a diligent and thorough manner in its decision on the remediation contract?

Mr. RISPOLI. Senator, it is my understanding that that re-procurement, as a result of the issues that arose from the first procurement, is being accomplished right now, that the proposals will be due in, and that the Department will be evaluating those proposals. I also understand that the existing contract has been extended to provide the continuity that you are concerned about. And if I am confirmed, I will certainly look into that, because as you know, the timing for resolution is between now and the end of the year.

Senator BUNNING. We don't want Bechtel Jacobs to continue to be extended when their contract has expired and been extended. We want the local contractors, the small contractors—those are your rules, not mine—to have the changes made. And I'm looking forward to talking with you, in case we have a problem.

Mr. RISPOLI. Yes, I understand the issue, and I do look forward to working with you going forward, if I'm confirmed. Thank you.

Senator BUNNING. Thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Bunning, might I just, on your behalf, with your permission, say I think it's important on the questions that the Senator asked that when you're confirmed and take the job that you try to get him and the committee some answers as soon as possible. Show that whether you can meet what he's talking about in terms of the expectations. I think that we should get the problem on the table in writing by giving the Senator some information. That's really a sore spot for him on both of those issues, and I think some of us share his concern.

Senators Thomas, Burr, Craig, White and Salazar, in that order.

Senator THOMAS. Thank you, Mr. Chairman.

Mr. Hill, one of the difficulties, time-wise at least, it seems is an overabundance of legislation litigation with regard to moving forward. Do you have any thoughts about that? What could be done to efficiently move along with that?

Mr. HILL. You're referring to the contractual matters, or permitting matters, or both?

Senator THOMAS. Permitting matters, primarily.

Mr. HILL. Yes, I understand, Senator. Oftentimes, permitting of both energy projects as well as departmental projects can be quite time-consuming and complicated. I think in terms of trying to expedite those in a way that does protect the taxpayers, protect the environment is a difficult thing. I think it does benefit from working on the front end as much as possible with affected interests, to try to identify those interests and try to work with them on the front

end, rather than just proceed without understanding what all of the interests are, and then litigating once a decision has already been made. So we certainly are going to, within the General Counsel's office, do everything we can and work as hard as we can to make sure that the interests are understood and the problems are identified as early as possible.

Senator THOMAS. I hope so. It seems like litigation, regardless of the merits legally, is sort of the land management technique that's getting overbalanced a bit.

With regard to the environmental questions, I met yesterday with the uranium folks, and obviously nuclear power and electricity is one of our potentials for service. What can we do to move along with the waste storage in Nevada? How long are we going to go along on that before we move forward and get that thing completed?

Mr. HILL. Senator, as you know, the Department and the administration are fully committed to the completion of the development of the repository at Nevada, at Yucca Mountain. As you also know, many of the plans for the disposition of waste at the sites throughout the Department are dependent upon the development of a geologic repository. I can tell you that that commitment remains strong.

Senator THOMAS. Why is it taking so long?

Mr. RISPOLI. Senator, I am unfortunately not in a position to answer that. I have not been involved with that program, but I do know that there's a strong interrelationship between the job for which I've been nominated, which is environmental management, and where those wastes go. So I would commit to you that if I'm confirmed, I'll work with the people in that program to ensure that all of those interrelationships are understood and progress forward.

Senator THOMAS. Good. Well, congratulations. I hope you succeed, because you know, the issues are really resolved, and we need to just move forward. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Burr.

STATEMENT OF HON. RICHARD M. BURR, U.S. SENATOR FROM NORTH CAROLINA

Senator BURR. Thank you, Mr. Chairman. I have no questions, I just want to make two general comments. One, it's refreshing to see a group of nominees with the qualifications that these three have. It is refreshing to see a Secretary who takes enough interest to come up and see his team as they go through the confirmation process.

Mr. Chairman, if there's one criticism that I have and that I constantly hear of the Department of Energy—and this is not reflective of the individuals that are here, necessarily, or of the Secretary, but it's very much a broad-based criticism of the Agency—it's the speed with which the Agency acts. And I've listened to the questions of Senator Bunning and Senator Thomas, and both of them dealt with either lack of responsiveness or the timeline of responsiveness. And I would only say to these nominees—and it's good that I'm within shouting distance of the Secretary at the same time—we don't expect everything to always be right, but we do ex-

pect the Agency to act. And I think the frustration that I bring from the House side, now to the Senate side, and that I hear expressed on the Senate side, is of an Agency that doesn't act. And I would only encourage the three nominees and the Department of Energy—let's act. Let's be an Agency that gets things done. We can all look back and figure out if we need to tweak it because we didn't do everything exactly right, but there's no substitute for action, and I would encourage you to come into these jobs with the intent of action.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Craig.

Senator CRAIG. Thank you, Mr. Chairman.

Jim, David and Jill, welcome to the committee and congratulations to the three of you, and I mean that most sincerely. I've had the privilege of getting to know some of you a bit, and of course, I've worked with Jill a good many years in a variety of capacities. And, Jill, you're certainly well-qualified for the position the President has nominated you to.

Ms. SIGAL. Thank you, Senator.

Senator CRAIG. This morning on NBC news, the "Pump Patrol" was letting our country know where they could buy gas the cheapest. On the average, regular unleaded is $2.33 a gallon as of this morning, crude is falling in the world market, slightly, today. But there is a general perception out there that something's wrong. These costs are going ever higher, and the American public grows restless.

We all know that the Department of Energy is not in the business of producing oil, or energy for that matter, but perceptually, you have become the bull's eye of a very important target in the minds, I think, of the American people.

This Senate acted responsibly in the production of a National Energy Policy a few weeks ago. The reason the chairman is rushing off is to sit down with the chairman in the House to begin a conference that we hope will produce a policy that will get it to the President's desk sooner rather than later. We've been waiting a long time for this. We've sorted out our differences, but we think we've got something that's workable. And from that, a great deal of it will be turned over to your Department for a variety of reasons, but largely because a certain amount of it will be under your jurisdiction. And we would hope—and I think Senator Burr said it well—that you would act expeditiously in a variety of areas to move initiatives forward, to think out of the box, to suggest to OMB that they're 10 years behind the times, they've got to think differently, to do a lot of things inside the institution of government that, at best, moves slowly, and sometimes poorly.

Now, the reason I'm on this committee—and it isn't by accident that the Senator, who's my colleague from Idaho, introduced Jill Sigal this morning, and is very much interested—is the same reason Senator Bunning's on the committee or Senator Bingaman, or Senator Domenici. We have national energy laboratories within our States that we have, over the years, protected, pushed, judged, but believe them to be incredibly valuable national assets, from which a great deal of the policy we're talking about can be implemented,

or should be implemented, at least as relates to the research side and the development side, not necessarily the market side.

Jim, one of the decisions that Senator Crapo and I made several years ago in working with DOE was to divide the contracts at our national lab for a future. You happen to be involved in an area of our national lab and that is terminal, we hope. Successfully terminal—by that, I mean, it's cleanup, to be done efficiently, responsibly and as quickly as possible. You're watched very closely. The State and a lot of interests watch you. And I hope that your commitment, as Assistant Secretary for Environmental Management, is the same as the past Assistant Secretary, and that is the cleanup will move on on a timely schedule, and that as the cleanup goes, the agreement of this administration to that laboratory is, as those resources ramp down, those resources move across, to sustain and to move up the area of the laboratory's nuclear science and engineering missions. Do you hold the same commitment?

Mr. RISPOLI. Senator, I do, yes. As you know, if I am confirmed, as we discussed, I am fully committed to the efficient and effective cleanup. And obviously, as we progress with that, and the needs of the cleanup become less and less over time, what you are speaking of is certainly attainable. I would certainly cooperate with my colleagues at the Department going forward in that process, if confirmed.

Senator BURR. David, one of the things that I think DOE has to become involved in that we tend not to is budget. It is a consequence of where we need to get with energy and research and development versus the budget realities we face here. There are a great many energy interests all over the world who want to be partners and participants in the work that goes on in our national labs. We've looked, in the past, at certain kinds of legal relationships called CREDA's. I think we need to think way out of the box once again, of how we bring national and world partners—not governments—some might be—to work cooperatively and collectively with us in certain projects and missions that serve, not only the national interest, but the world interest as it relates to energy production. Have you given that any thought, and are there examples that you might bring to us over time as to how we might get there? And I'm talking, specifically of, in this new policy that we're working on a final conference report on, Generation 4 nuclear. There are a host of countries and a host of multinational companies that want to be players, with billions of dollars worth of investment money into a government program. How do we do that? To sustain the national interest and the national security, but have a world-class research and development center?

Mr. HILL. What you say, Senator, is certainly true. The technologies that are being developed in the laboratories, there's nothing specific to the United States, or the United States' interests, about a lot of those technologies and developments. Gen-4 is an example. The clean coal work that's being done, a lot of the nanotechnology work that's being done at the laboratories, a lot of the work at the national labs can benefit the entire world, not just the United States.

I certainly think that we should work as hard as we can to explore what the opportunities are to make use of international in-

volvement and interest in pushing those forward. Certainly with the Carbon Sequestration Leadership Forum, for example, we're working with a number of other countries that are interested in the ideas behind carbon sequestration, and the regional partnerships that are working as a part of that are working on strides with respect to carbon sequestration with a number of countries around the world, and I'll certainly commit to doing what I can to work on that and to work with your staff on those issues.

Senator CRAIG. Well, I thank you for that. I really believe that the needs are so demanding and the resources so limited that we've got to get beyond the normal configuration of how we approach these things. There seems to be a good deal of resources, both governmental and private, out there in the world that would be a player and a participant.

Mr. HILL. Yes, sir.

Senator CRAIG. Jill, in your capacity—governmental relations, congressional relations, is a key of importance to us—you're, without question, a bit of a touchstone for us to the Department and to our laboratories. At the same time, I think it's important for you to understand that sometimes we develop close working relationships with our laboratories and the people within our laboratories, and it is an interesting relationship, because our laboratories are managed—responsibly and rightfully so—by the executive branch of government, that which you are a part of. What I'm suggesting to you, and I think you clearly understand this, is that as you work on our behalf, whether it's legislative issues or being the connectivity or the conduit to our laboratories, that we do have those relationships. And it's a bit of a—I don't want to call it convoluted, I think it is a relationship that works well. There's no question the New Mexican Senators are advocates of their laboratories, Mike Crapo and I are advocates of our laboratory, here is an advocate of a critical laboratory here, on and on and on. They are valuable employers, they are valuable community members, and we develop those kinds of working relationships, and I would hope that in your capacity, you work to keep those doors open and those lines of communications always at hand.

Ms. SIGAL. Yes, Senator, I clearly understand the importance of the INL to you, and the various labs in New Mexico to the chairman, and Paducah to Senator Bunning, and Hanford to Senator Wyden, and NREL and the other labs and DOE facilities to most of the Senators on this committee. And I do think it is very important to have open lines of communication, not only between DOE headquarters and the Congress, but also between the field offices and the Congress, and if confirmed, I would be delighted to facilitate that in any way possible.

Senator CRAIG. Great. Thank you. Congratulations to all of you.

Ms. SIGAL. Thank you, sir.

The CHAIRMAN. Thank you, Senator. Senator Wyden is going to go next, but I'm going to step in now and take 2 minutes, and then yield to you.

I'm just going to ask three questions. First, Ms. Sigal, over the past several years there's been a very significant amount of staff turnover within the Congressional Affairs Office of the Department. I think you know that. Consequently, long-term working re-

lationships with the staff and members have been difficult for the Department to establish. I would hope that you have a vision of an Intergovernmental Affairs Office for being a consistent, a long-term relationship so that everybody understands precisely what your role is and that you assume a more significant role in the exchange between the members of the Senate and the committee and the Department. Could you just comment on that? I don't expect you to know all of the ins and outs, but what I've just said is a reality.

Ms. SIGAL. Yes, sir. If confirmed, it would definitely be my objective to play an important role in the Office of Congressional Affairs, and to lead the office, and to have open lines of communications with this committee and Members of Congress, because our purpose for existing is to—as Senator Craig stated—to be the conduit between the Department, between the Secretary and the Deputy Secretary and Congress. And if I am confirmed, that would be my highest priority.

The CHAIRMAN. I have two other things that are kind of bothering me. And I don't know, but if I had the Secretary there, the ones I'm going to ask you about, Mr. Hill, two of them would be more appropriate for him. The *Unical* v. *China* situation is very bothersome. One thing that I noted is that there is a committee that's been formed to work on this issue, and I looked down the list and it has a number of prominent individuals in prominent positions, like the Secretary of the Treasury, the Office of Science and Technology, but I note the absence of the Secretary of Energy. I don't know what that means. I was going to ask you if you had any thoughts about how we might rectify that, but that's more appropriate to be asked of the Secretary in private. I may be wrong in my assessment——

Mr. HILL. Mr. Chairman, are you referring to the committee on Foreign Investment in the United States?

The CHAIRMAN. Yes.

Mr. HILL. I understand that the Secretary of Energy is not an official member of that, although I would anticipate the Department of Energy would be, and the Secretary would be involved in the processes of any work by the committee in connection with the proposed transaction.

The CHAIRMAN. Well, Mr. Hill, the office that you have is not so defined that it is limiting on you, it's defined in such a way that you ought to use your talents to the maximum extent possible. We have had people in your position—it's not difficult for this Senator to say—that have been less than adroit at what the office ought to do. And in that regard, I would hope that you would become totally familiar with the issues involved, energy-wise, in terms of such a situation as I've described. Am I fair and safe in assuming that that's your vision of the office?

Mr. HILL. Mr. Chairman, I would certainly anticipate being involved with the Secretary and the other principal officers of the Department in all manner of important decisions. Prior to coming to the Department in March 2002, in my current position, I had been in private practice for a number of years, and had worked in connection, particularly with electricity and natural gas matters, so I came to the Department with a fair amount of knowledge in connection with energy matters. So I would look forward to working

both with the committee and of course closely with my administration colleagues and would hope to improve the office's performance in these areas.

The CHAIRMAN. Thank you very much. Now, my last one, I'm going to kind of put two together and both of you—Mr. Rispoli, let me say that the job you have undertaken is so difficult that I've frequently asked, each time that we have had an excited nominee to take the job, I ask "why?" But I'm not going to ask you that, because I think you've already explained it. But let me tell you, I think in the last 4 years, there has been more success in many, many years, and I would hope that you would look back on how the success has occurred. Rocky Flats is a great success. It might be that it's unique, but I firmly believe that in this cleanup matter, we are just wasting time and money. And I don't mean the problem isn't big, but sooner or later, we have to understand why, instead of just continuing to write checks. We have become a check-writing mill for these communities. We are the big-time employer, and I understand. So the lobbying is almost equivalent to having an air base there, a permanent laboratory. But that's not the case, and that's not what it should be. And I would hope that you would expand the horizon, continue down the path of getting the job done, but also address basic issues of are we just being—just continuing down the path of doing what we've been doing to no end. That's just my own thought and observation, and I would just ask you if you would give me your own quick thought on that subject.

Mr. RISPOLI. Yes, Mr. Chairman, thank you. The Department very recently—as you know, and as you've stated—did in fact, restructure the entire Environmental Management Program. I believe that the program is organized in a much better way that gives greater visibility to the individual components. I fully support going forward with that incentivized method of getting these sites cleaned up properly, effectively and safely. So, yes, Mr. Chairman, I give you my commitment. If confirmed, I will go forward from this point.

The CHAIRMAN. Mr. Hill, there's one giant matter that's pending over there in that Department that you're going to be involved in and that's the—what we're going to do about the bid with reference to Los Alamos National Laboratory's new management contract. Now, you're aware that that's pending, are you not?

Mr. HILL. Yes, Mr. Chairman, I am.

The CHAIRMAN. Are you aware that that's a very major issue for the United States of America, to get that thing resolved?

Mr. HILL. Yes, sir, I do.

The CHAIRMAN. And I want to say to you and ask you, in your capacity as legal counsel, will you see to it that that proceeds as expeditiously as possible? I'm not asking that we interject ourselves in that process, but delay is not in the interest of the thousands of scientists who are there, and it's not in the interest in maintaining what has heretofore been one of the greatest scientific laboratories in the world. And I would ask if you have any observations along those lines, and do you concur, and would you commit to us that as far as your role is concerned, you do not have in mind anything but getting this job done as soon as possible?

Mr. HILL. Mr. Chairman, I can commit to you that I will do everything I can to see that the process moves as expeditiously as possible. Yes, sir.

The CHAIRMAN. And frankly, I just want to close this by saying that there will be a lot of excuses that people give for studying this, studying that, look at this, but you know, this thing has been going on a long time. No blame on the Secretary, but the longer we delay, the worse the morale and more difficult it is to get the great scientists to stay, and to get the great young talent to come there. And this is of great concern in the labs in my State. But I tell you, if it was not, and I were looking at it, I'd be very worried, and I would hope—I know the Secretary is, but you have a big responsibility there.

Mr. HILL. Thank you, Mr. Chairman. I understand, from both your comments and the comments of other members of the committee, and we certainly understand at the Department, as well, the importance of resolving uncertainty, making a decision. And I can say I know the Secretary has expressed that many times, internally, so we certainly understand the importance of making a decision.

The CHAIRMAN. I'm going to yield the panel to the distinguished Senator Craig. And I wonder if, Secretary, you could meet me for a few moments as I leave, and then you can return. I'd just like to ask you a couple of questions that are not appropriate in public. Thank you, Senator Craig.

Senator CRAIG [presiding]. Senator Wyden.

Senator WYDEN. Senator Craig, Senator Salazar has to leave. I have a number of questions, but I'd like to yield to him.

Senator CRAIG. Great.

Senator Salazar.

Senator SALAZAR. Thank you, Senator Craig.

Let me just, first of all, say congratulations to all of you. Jill, I know that your mother's legacy lives on with you, and we very much sympathize. You have our condolences.

Ms. SIGAL. Thank you, Senator.

Senator SALAZAR. I have a number of questions that I'm going to submit for the record, and I look forward to your responses. Let me just say three things here, very quickly.

One is, for me, it's important that all three of you work with this Senate in bipartisan fashion. You saw this committee pull out a bill in a bipartisan fashion that was accepted by the Senate on an 85 to 12 vote. That's the kind of spirit that we need to see in Washington, DC. and I look at you working with a Republican administration, and I'm a Democrat, but I want to work with you in a way that we're working for the benefit of our Nation, and the bipartisanship is very secondary. So I want to have a parity of equality and a parity of treatment for both Democrats and Republicans in our working relationship on whatever those issues might be, whether it's laboratories or the energy issues. We won't always agree, but I want to have that kind of relationship of equality.

Second, Rocky Flats is truly a model for what we can do when we think out of the box in terms of the cleanup challenges that face the Department of Energy. I want to work with all three of you as we move forward in the completion of that cleanup. I also want us

to fight to resolve these natural resource damage claims, because that's a big issue that's out there. And I don't want us to get into the same kind of legal conflict that we're in with Shell, which has taken 20 years of litigation and multi-millions of dollars to try to resolve it. I'm working closely with Senator Allard to try to see whether we can get that done. And, David, we're going to need your help to try to get that wrapped up in a package so we can get that done.

Finally, on long-term stewardship issues and institutional controls, we have legislation that we've passed in Colorado that allows for those long-term stewardship, institutional control issues to take place at Rocky Flats. I want you to work with us to explore how we might be able to take that concept and explore it here and perhaps in other places as well.

And finally, to say congratulations to all of you, and I very much look forward to working with you as well as Secretary Bodman.

Ms. SIGAL. Thank you, Senator.

Mr. HILL. Thank you, Senator.

Mr. RISPOLI. Thank you.

Senator CRAIG. Thank you, Senator Salazar.

Senator SALAZAR. Thank you.

Senator CRAIG. Well, now that we've given you Ron's time, that means Ron has less time.

Senator Wyden.

Senator WYDEN. The story of my life. Chairman Craig, I was really struck with your comment to begin with about the shellacking that our citizens are taking at the gas pump, and you're absolutely right, there really isn't an explanation for this. The Federal Trade Commission put out yet another report that looks to me like a whitewash of all of the major issues. Certainly, the Congress and the administration ought to want to know why gasoline prices at the pump are going up much faster than crude oil prices. This has been an issue that the administration has been unwilling to take on. Certainly the country ought to have an answer to why refinery margins and refinery profits are going up so dramatically, and the administration has been unwilling to look at that issue. So I guess I'm an army of one at this point. My colleague is telling me to move on, but I just want the administration to know that I intend to pursue these issues very vigorously, and I think the administration's persistent ducking of those issues in particular, including a report the Federal Trade Commission put out last week that also didn't respond to even what the General Accounting Office said with respect to oil company mergers being not in the public interest—the American people deserve better. The fact of the matter is, when people pull up at a gas pump today, because of our dependence on foreign oil, in effect, our citizens pay a terror tax. They go up to those pumps at those stations, pay $2.40 a gallon, or thereabouts, and then a big chunk of that money is handed over to foreign governments. Foreign governments back-door it to these terrorist groups that perpetuate hate and terrorism. I just hope the administration will get into those issues.

Let me begin with you, Mr. Rispoli, on the question of cleanup. My sense is that the country has moved backward in terms of cleanup just over the last few months. And I would cite, on Sec-

retary Bodman's watch, my concern about the cutbacks to the budget for cleanup. I'm concerned about the questionable contract management practices. I'm concerned that the Department is not listening to what defense experts are saying with regard to the cleanup of these facilities, particularly the Defense Nuclear Facilities Safety Board. And what's going on at Hanford, out in our part of the world, is pretty much a case study of how I see what's going on at the Department. So let me, if I might, begin with some questions involving the problems at the Hanford Vitrification Facility, which will be one of your big concerns.

Now, in your current capacity, as Director of the Energy Department's Office of Engineering and Construction Management, your office has the responsibility for the management of large capital projects including the Hanford Vitrification Plant. Given your office's oversight role over that plant, shouldn't the seismic and other problems that the Secretary has indicated are of concern be addressed through better contract management, and to some extent have been anticipated by your office?

Mr. RISPOLI. Senator, let me begin on your question by noting that the Secretary is personally extremely concerned about the ongoing situation with the Hanford Vitrification Plant, and has been very much engaged in a path to go forward with this project. As you know, it's a very essential ingredient of several facets of work at the Hanford site. What I can tell you is that the Secretary has directed that there be an after-action review to determine how we've gotten to this point, and that we are going to focus on the seismic issues to which you've referred. I might mention that we've been in dialog with the Corps of Engineers since March. They have already been to the site and they have agreed to do a review for the Government of all of the seismic issues going forward. Because obviously we want to get it right, we want to build a plant that is built right and safe for the people in the community. So I can give you my assurance that the Environmental Management Group is taking another look at the path forward, under the Secretary's direction, to resolve these issues and be sure that the path forward is correct.

Senator WYDEN. I knew that you had been talking with the Army Corps, but my understanding is that the Defense Nuclear Facility Safety Board, which directly oversees the safety issues at Hanford, raised concerns about the seismic activity at the site of the vitrification plant, and as far as I can tell, those concerns were not taken into consideration in the site selection or the design of the plant. Why was that the case?

Mr. RISPOLI. Senator, to answer your question, it is my understanding that back in the late 1990's, the seismic criteria that were given to the contractor to use were, in fact, used and endorsed by both the Army Corps of Engineers and the Los Alamos National Laboratory. At that time, they were believed to be correct and current seismic criteria. As you point out, the Defense Nuclear Facility Safety Board expressed further concerns. As a result of that, the Department more recently did further seismic investigation and found that, in fact, the conditions at the site were not what had been presumed in the prior studies. So you are correct that the Defense Board did raise their concerns. The Department did consider

those concerns, and is going forward with the re-design to accommodate those concerns.

What I mentioned to you about the Army Corps today is that we're now going to turn to them again to ensure that we don't have a repeat of the types of problems that you raised, that happened between the late 1990's and today.

Senator WYDEN. Now, why was construction of the vitrification plant put in motion even before it was fully designed? That just strikes me as bizarre, even by Beltway standards. It seems to me to be an unusual method of building facilities. What's your take on that?

Mr. RISPOLI. Well, Senator, as you know, this contract was awarded late in the year 2000. It was awarded in an effort to keep forward momentum. You may recall that there were literally thousands of workers on the site when the last contract was terminated, and the prior administration made the decision to keep that forward momentum going. The contract was restructured, but as you point out correctly, it was restructured as what is commonly called a "design/build/operate" contract. The advantage to that type of a contract is that the same entity that designs it does the technical work, then constructs it and then operates it so that the Government has one entity to turn to for accountability throughout the life of the project. I have seen no reason to question the decision to use design/build. However, there have been problems in that the contractor was doing the construction before the design was finished in many cases, and I believe you know those stories as well. It is my understanding that the site office has corrected those problems going forward, and now we are focusing on getting the seismic issues straight, as you mentioned earlier.

Senator WYDEN. I want to see if I can put this into something resembling English. I think it's got to be designed first, before it's built. What you all have shown with respect to the vitrification facility is that you're willing to build it first, and then design it. Are you telling me now that you have made at least a constructive step to get back on track, you're not going to allow this approach—build it first, then design it—to happen again on your watch?

Mr. RISPOLI. Senator, if I understand your question correctly——

Senator WYDEN. The question is very straightforward.

Mr. RISPOLI. Yes, sir.

Senator WYDEN. What you're doing now is building it before you design it. I want to make sure that that's not going to happen again on your watch. Very straightforward question.

Mr. RISPOLI. Yes, sir. And the answer to that is that that is not going to happen, if I'm confirmed. The path forward is that the design on each component will be complete before construction is undertaken on that component. Part of the Secretary's path forward is to concentrate and focus on the correct seismic design to ensure we have that right, and that we will construct the components of that plant as design is finished, and there's enough time to do a review of that design and be sure that it's done correctly.

Senator WYDEN. Now, the largest and most complicated and most expensive problem in DOE complex is, of course, at Hanford, and the 53 million gallons of high-level radioactive waste stored in almost 180 aging underground tanks. Now, construction of the

treatment facility has been underway for the past several years, but the project is still slowed while the implications, again, of some of these issues that we have been talking about are considered. The State of Oregon wants to know what commitment can you give now, in terms of date specific, to get the project back on track?

Mr. RISPOLI. Senator, the Department is committed to maintaining its commitment to have the waste treated by the 2035 date. The Department is committed to complying with its regulatory agreements everywhere that we do business. Obviously these technical issues that we're dealing with today are under consideration, and I'm not—nor is the Department—in a position to answer your question on the various interim milestones until we complete this technical review, but we are committed to complying with the provisions of the Tri-Party Agreement. We know what dates are required for the completion of the work and the treatment of the waste, and we're committed to meeting those dates.

Senator WYDEN. So the bottom line here is, you're doing this new review of the problems at the vitrification facility, a number of which occurred on your watch, and when the new review is done, then you're going to announce some timetables for various stages of the plan?

Mr. RISPOLI. Yes, Senator. There is a path going forward that includes both the review to see how we got to the point we're at, but also some very specific steps going forward. Again, we intend—we talked to the Corps of Engineers back in March about doing an independent cost estimate for us, to verify the cost and schedule, because what we don't want are more surprises going forward. We want to make sure that we're doing it right going forward.

Senator WYDEN. One other question on this for you, Mr. Rispoli, a related question. The Energy & Water Appropriations bill provides funding to look at shipping commercial nuclear waste to Hanford. The Senate bill does not allow Hanford to be considered a storage site for waste. The legislation is now in conference. I'd be interested in knowing your view whether allowing more nuclear waste to be sent to Hanford would undercut efforts to clean up the waste and contamination that's already there.

Mr. RISPOLI. Senator, I understand your question, but unfortunately I have not been in a position to work with that issue. If I am confirmed, obviously I need to understand that issue, and will work with you and your staff, if confirmed, to understand it and resolve it.

Senator WYDEN. Well, I'll give you the basics. The President's budget cut funding for the Department's cleanup, the largest cut targeted for Hanford. In our part of the world, we do not see how Hanford can handle more waste with less money, when we have the problems, a number of which occurred on your watch, with the vitrification facility. So I hope that you'll keep that in mind as you go forward with this situation.

Just one question for you, Ms. Sigal. My condolences to you for your loss. You've always been very responsive to us and a pleasure to work with, and I know you will be as well.

Ms. SIGAL. Thank you, Senator.

Senator WYDEN. At the Department—just a quick question on a matter we talked about at the office that I told you I would ask

about, and that's my inability to get from the administration the information with respect to one million barrels of petroleum products that are exported every day in this country. Now, the history of this, as we discussed, is Guy Caruso, with the Energy Information Administration, pledged back on February 3 that I would be able to get this information. Now, I think it's fairly obvious why a member of the Energy Bill Conference Committee for the Senate would want to have this information. We have this huge dependence on foreign oil and imported products, and yet I think the American people are pretty amazed to hear that one million barrels of petroleum products are exported out of the country every single year. And we ought to know what kind of products they are, and who's doing it, and be able to get that information. And Guy Caruso pledged to me back on February 3 that I would have that information. I still haven't been able to get it. And I wonder if you have any additional information—we talked about it in the office—as to when that would be forthcoming, and if not, why not?

Ms. SIGAL. As we discussed in your office, we did look into that. We talked to Mr. Caruso, who informed us that he misspoke when he talked to you, because he thought he had the data, but the data was not in EIA, the data was at the Census Bureau. And it is our understanding that the Census Bureau will not release that information, not even to us. That's what we have been able to determine thus far.

Senator WYDEN. The only other question I'd ask is, just from a policy standpoint, do you think that information ought to be made available to the public?

Ms. SIGAL. I think, as a general rule, when a committee or a Member of Congress asks for information that that information should be provided. In this specific case, I don't know enough about the specific data and whether it's proprietary information to make a judgment in this case. But as a general rule, I think Congress should be provided the data and the information that they request.

Senator WYDEN. The companies, I think we both know, are going to consider it proprietary, there's no question about it. But I think if we're serious about a policy that shakes us free of this addiction on foreign oil—there's no other way to characterize it—we've got to have that kind of information, and I'm going to continue to follow up with you on it. I think you're going to do an outstanding job, and I congratulate you and both of your colleagues.

Mr. Rispoli, I think you get the drift that I have strong views on this issue of cleanup and I'm not at all satisfied with where we are. I'm going to look forward to talking to my good friend and Chairman, Senator Craig, about issues like why the gasoline prices at the pump are going up so much faster than crude oil prices, because I think, Mr. Chairman, you put your finger on the fact that there are a lot of aspects of what's happening with the consumer at the pump that have certainly not been adequately explained at this point, and I look forward to working with you on it. If you want to schedule some hearings to look at just those issues, as to why prices are going up so much, you can count on my desire to be there, and as always to work with you. And I thank you for the patience in giving me this opportunity to ask these questions. I congratulate all of you on your confirmations.

Ms. SIGAL. Thank you.

Mr. HILL. Thank you.

Mr. RISPOLI. Thank you.

Senator CRAIG. Well, I thank you all very much. We will move as expeditiously as we can to get you out and confirmed so that you can move ahead in your important capacities that you've been nominated to fill. Let me also say, with Clay in the audience this morning, that we appreciate you working with us as we've worked our way through, we think, an important piece of policy that now is in conference. I'll continue to work closely with the Department, as we have on other nuclear issues, so that we have a complete package in this Conference Report that gets to the President's desk. I think that will be tremendously important for the future of that industry and technology.

With that, let me say that normally I would ask that additional questions be filed with the committee's staff by close of business today. However, given that we have three nominees, coupled with the fact that we've just returned from recess, I will extend that time to 5 p.m. tomorrow, Wednesday, July 13, for any other members of the committee who would wish to send written questions forth to the nominees.

With that, the committee will stand adjourned.

[Whereupon, at 11:20 a.m., the hearing was adjourned.]

APPENDIX

RESPONSES TO ADDITIONAL QUESTIONS

RESPONSES OF DAVID R. HILL TO QUESTIONS FROM SENATOR SALAZAR

Question 1. Institutional Control Laws. The Department will soon complete the environmental cleanup of its Rocky Flats plant west of Denver. In general, the cleanup has progressed well. But, as at many contaminated sites being cleaned up across the country, some contamination will remain in the ground. A part of the site will be designated a National Wildlife Refuge. It will be necessary, therefore, to impose certain restrictions on land use to ensure that the remedy remains protective of human health.

Because existing legal mechanisms to restrict land use are not adequate for this purpose, many states have adopted or are adopting legislation to create enforceable use restrictions, or "institutional controls." In 2001, the Colorado Attorney General's office drafted and sponsored such legislation, and, with the support of the Colorado Department of Public Health and Environment, the General Assembly passed the legislation unanimously. Governor Owens signed it into law.

Colorado's institutional control legislation enjoyed strong support from both industry and the environmental community, because it reduces cleanup costs and it makes cleanups safer and more reliable. Colorado's legislation served as the model for the Uniform Environmental Covenants Act, which is now being considered in a number of states across the country.

Federal agencies were among the most outspoken supporters of the legislation, urging EPA and the states to rely on institutional controls to reduce cleanup costs. Yet, now that states are moving to create enforceable, effective institutional control laws, federal agencies, including DOE, have refused to comply with these laws. At Rocky Flats, for example, DOE, the State of Colorado, and EPA are in general agreement on the use restrictions that should apply to the site. But DOE has refused to put those restrictions in an environmental covenant, as required under state law. DOE has refused to comply with other states' institutional control laws as well. This refusal has raised serious questions about the long-term reliability of the cleanup now underway at DOE facilities across the country.

As General Counsel for the Department of Energy, will you assure me and the people of Colorado that DOE will fully comply with state institutional control laws?

Answer. The Department and other federal agencies support States adopting enforceable institutional control laws. These laws can save the taxpayers money and promote transfers of property. The Department and other federal agencies are actively working with States to assure that we can, to the extent legally permissible, comply with applicable state institutional control statutes. With regard to the Colorado statute, we have every intention of establishing institutional controls on the Rocky Flats site that are legally enforceable, run with the land, and are consistent with the requirements of the statute. We are coordinating our efforts with other affected federal agencies.

Question 2. Transition from Environmental Management to Legacy Management. The completion of the cleanup and regulatory transition at Rocky Flats from the jurisdiction of the Department of Energy's Office of Environmental Management to the Office of Legacy Management will mark the first such transition in the nation at a major cleanup site. Over the course of the cleanup, and especially as we near the completion of the cleanup, Environmental Management has made many promises and commitments to the State of Colorado and to the local communities surrounding Rocky Flats. These commitments include the procedures and standards for monitoring programs, the management of surface water impoundments, and other long term management activities.

As General Counsel for the Department of Energy, will you assure me and the people of Colorado that Legacy Management will fully honor all of the commitments made by the Office of Environmental Management at Rocky Flats?

Answer. DOE and all of its component offices, including the Office of Legacy Management, are committed to fully honoring all of the Department's commitments at Rocky Flats.

Question 3a. Role of State Departments of Health. The Colorado Department of Public Health and Environment has played a key role in the successful cleanup at Rocky Flats. In past years, when prior Department of Energy contractors at Rocky Flats created an atmosphere of public skepticism or hostility, the Colorado Department of Public Health and Environment challenged DOE to do better. As a result, the people of Colorado relied on their state department of health to tell them the truth and to assure them that the cleanup would be performed properly.

The Colorado Department of Public Health and Environment will continue to play a key role at Rocky Flats, with significant regulatory responsibilities, in coordination with EPA.

What is your view of the role of state health agencies in the complex cleanups of nuclear sites?

Answer. The oversight and support of the Colorado Department of Public Health and the Environment have been critical in DOE completing the cleanup of Rocky Flats ahead of schedule and well under budget. The Rocky Flats Cleanup Agreement, signed by DOE, EPA, and the State of Colorado put in place a winning combination of close regulatory oversight at both the policy and project level and an interagency project coordination team that allowed the agencies to constantly focus on the ultimate goal of the project and the three agencies—the safe cleanup and closure of the site. The expert day to day interaction between the interagency project managers can allow DOE and other site owners to effectively comply with the myriad of laws and regulations governing site cleanup and closure.

Question 3b. Will you ensure that the Colorado Department of Public Health and Environment has full and timely access to all public health and environmental data regarding Rocky Flats during and after the transition to Legacy Management?

Answer. Yes. The Department is committed to providing the Colorado Department of Public Health and Environment with full and timely access to public health and environmental data regarding Rocky Flats both during and after the transition.

RESPONSES OF DAVID R. HILL TO QUESTIONS FROM SENATOR CANTWELL

Question 1. As you probably know, the Federal District Court in Eastern Washington recently found in favor of some of the plaintiffs in the "Hanford Downwinders" civil lawsuit. It is my understanding that the Federal Government has been paying the legal expenses relating to defending the two indemnified DOE contractors in the case, General Electric and Dupont.

Can you provide me with the total cost that the Federal Government has incurred in defending the indemnified contractors (General Electric and Dupont) in relation to the ongoing civil litigation of the "Downwinders" lawsuit?

Answer. DOE has reimbursed $49,757,263 from commencement of the litigation in 1991 to date in costs associated with this litigation.

Question 2. I understand that there are another 300 Thyroid Cancer cases and 1500 other Thyroid Illness cases to be tried. A settlement would bring quick justice to the "Downwinders" and could potentially save the taxpayers tens of millions of dollars.

Can you provide your analysis as to why it would not be in the interest of basic fairness to the plaintiffs, and in the wise use of taxpayer and federal court resources to try and devise a settlement strategy in this case?

Answer. At the direction of the U.S. District Court for the Eastern District of Washington, the parties to this litigation selected 12 "bellwether" plaintiffs, the disposition of whose claims it was hoped would set a template for the disposition of the claims of the other plaintiffs. Five of the "bellwether" plaintiffs' claims were dismissed by the court on the ground that there was insufficient evidence to even submit them to a jury, and one "bellwether" plaintiff voluntarily dismissed her claim. Of the six "bellwether" plaintiffs whose claims ultimately were tried, the jury rejected three, deadlocked (ten-to-two in favor of the defense) on one, and returned verdicts for relatively modest amounts in favor of two plaintiffs. Only about three dozen of the approximately 1800 plaintiffs whose claims have yet to be addressed have claims comparable to the claims of the two successful "bellwether" plaintiffs.

Prior to the "bellwether" trial, the Department authorized the defendants to make two offers to settle this litigation, one for a lump sum payment and one modeled on the Energy Employees Occupational Illness Compensation Program. Either of those offers, which were not accepted by the plaintiffs, would have provided more to the plaintiffs than what an extrapolation from the "bellwether" process suggests they are likely to receive through litigation. The Department continues to support

the possibility of reasonable settlements, instead of litigation. Of course, any future settlement offers will be considered in light of the results of the "bellwether" process.

Question 3. How much money has been reimbursed to contractors at Hanford for costs related to litigation since the year 2001? Please break those costs down by category, specifically, the amount the Department has reimbursed contractors and/or their law firms for downwinder litigation at Hanford, for whistleblower reprisal cases, and for worker compensation cases.

Answer. Since the beginning of FY 2001 to date, contractor litigation costs of $19,037,408 has been incurred and reimbursed. By categories requested in the question, the costs are: DuPont-Hanford Downwinder ($7,758,488), whistleblower ($2,412,555), worker compensation ($28,811) and other litigation categories ($8,837,554).

Question 4. How much money has the Department required contractors to repay after the contractors have lost whistleblower cases, complex-wide? Please submit a site-by-site breakdown of those recovered costs over the past 10 years.

Answer. The DOE complex is reviewing applicable cases for this answer. However, most of the whistleblower cases over the past ten years already have been reviewed and no instance of repayment by the contractor to DOE, after the loss of a whistleblower case, has yet been identified.

Notably, there is no requirement that contractors "repay" the Department after an adverse judgment in whistleblower cases. Beginning in the mid-1990s, the Department included in many of its M&O contracts clauses governing the allowability of whistleblower defense costs which limited the reimbursement of legal fees to contractors once a contractor had been ruled against. In 1998, (63 FR 386, January 5, 1998) the Department proposed to codify a contract clause that would make litigation, settlement, and judgment costs in whistleblower actions unallowable if an adverse determination was issued in the case. As the result of a number of factors, including a review of the practices of other government agencies with respect to whistleblower litigation costs and comments received in response to the initial proposal, the Department, a year later (64 FR 14206, March 24, 1999) issued an alternate proposal to adopt a cost principle that would provide contracting officers the flexibility to make allowability determinations on a case-by-case basis, after considering certain specified factors. One of the main dilemmas the Department confronted in assessing the merits of these two approaches was determining how to minimize contractor (and, therefore, DOE) litigation costs without sending the message that all whistleblower lawsuits, regardless of merit, should be settled short of litigation. In October, 2000, (65 FR 62299) the Department published a final rule adopting the cost principle approach for whistleblower cases which is consistent with the approach used in evaluating the reimbursement of other contractor litigation.

In January 2001, the Department also finalized a set of regulations entitled "Contractor Legal Management Requirements" at 10 CFR Part 719, which was intended to facilitate control of Department and contractor legal costs, including litigation costs. The Department's approach enables weighing the costs of litigation against the costs and public policy impacts of compensating nonmeritorious claims. Under the Government-wide Federal Acquisition Regulation, reasonable and allocable legal costs incurred by a contractor in performance of contract work are allowable contract costs and are reimbursed by the Government, whether as direct costs or as part of general and administrative costs.

RESPONSES OF JAMES A. RISPOLI TO QUESTIONS FROM SENATOR BINGAMAN

Question 1. Hanford Vitrification Plant. It is my understanding that the Hanford Vitrification Plant's total cost could now exceed $10 billion and take an extra four years longer to complete. Can you please tell me what management actions you plan to implement to ensure that the plant is reviewed in a timely manner and its costs, schedule and baseline are regularly reported to Congress?

Answer. The Department is taking a number of steps to provide appropriate reviews and oversight for this project. First, an independent review will be done to better determine how we got to this point with this contract since the time when the baseline was approved at $5.8 billion. The Department has already conducted four reviews of the project since this contract was awarded in 2000, including two by the Corps of Engineers. Secondly, going forward, the Department has arranged with the Corps to provide reviews of the seismic criteria, of the contractor's engineering design using the seismic criteria, and of the cost to complete the project once the engineering design to accommodate the seismic issues is completed. Addi-

tionally a dedicated headquarters team comprised of about six professionals in various disciplines will provide independent oversight and assessment of performance data from the contractor and the site. If I am confirmed, I would intend to personally conduct quarterly performance reviews, and review the monthly performance data and the independent assessment of it, consistent with Departmental requirements. The Department commits to formally advising the Congress of the new baseline once it has been independently reviewed and validated. Additionally, if I am confirmed, I would be willing to meet with the Committee and its members to keep you appraised of any issues that could impact the to-be-developed baseline.

Question 2a. Waste Incidental to Reprocessing. Will the Department work cooperatively with the states that are not part of section 3116 of the National Defense Authorization Act for Fiscal Year 2005 regardless of the outcome of prior or other studies currently underway by the National Academies of Sciences on this subject, especially pertaining to fractions of residual high level waste contamination that may prove infeasible to remove from the tanks?

Answer. If confirmed I am committed to working cooperatively with the States on all issues.

Question 2b. Under section 3116 what actions has the Department taken to ensuring the Nuclear Regulatory Commission reviews the reclassification of high level waste?

Answer. In response to your request the following information has been provided to me by the Environmental Management program. I have been informed that the draft 3116 Waste Determination for Salt Waste Disposal at the Savannah River Site (SRS) was completed and provided to the U.S. Nuclear Regulatory Commission for consultation on February 28, 2005. The Department received requests for additional information in May and responded to those requests on July 1st and July 15th. Although not required by section 3116, DOE made this Determination available for public review and comment on April 1, 2005. DOE is currently preparing draft 3116 Determinations for waste residuals for two tanks at SRS and for the tank complex at the Idaho National Laboratory. These draft determinations will also be provided to the NRC for consultation when completed. Parenthetically, it should be noted that the Department has managed tank waste as high-level waste for operational purposes; the Department has never classified the waste in tanks as high level.

Question 2c. Under section 3116, does the Department intend to ship to the Waste Isolation Pilot Plant any reclassified waste from the INL sodium bonded fuel tanks?

Answer. I understand that the Department's preferred disposal path for this waste is disposal at WIPP. If confirmed I will ensure that all appropriate regulatory approvals are sought and received.

Question 2d. A recent National Academies report recommended independent certification, not just review, of future high level waste reclassifications by agencies such as the Nuclear Regulatory Commission. Does the Department agree with the National Academies on this recommendation?

Answer. At this time I am not personally familiar with the specific roles of each regulatory body involved. I am informed that the Department agrees with the approach to independent oversight of cleanup and disposal decisions for transuranic (TRU) and high-level waste (HLW) provided by the U.S. Environmental Protection Agency (EPA) and the State for TRU, and the U.S. Nuclear Regulatory Commission (NRC), EPA, the States, the Defense Nuclear Facilities Safety Board and the U.S. Department of Transportation in connection with HLW.

Question 3a. Review of Waste Isolation Pilot Plant, New Mexico, Pursuant to Competitive Contract. What is the status of section 3145 of the National Defense Authorization Act for Fiscal Year 2005?

Answer. I have been informed that the procurement is ongoing to establish an independent oversight group to replace the Environmental Evaluation Group. A presolicitation synopsis announcement regarding the upcoming procurement was posted in FedBizOps on June 24, 2005. The Department is currently working to develop a Request for Proposals.

Question 3b. What has the Department done to preserve the records of the former Environmental Evaluation Group before their contract was terminated in fiscal year 2004?

Answer. I have been informed that in May 2004, records kept at both the Albuquerque and Carlsbad offices of EEG were dispositioned and placed in storage.

Question 4. Waste Isolation Pilot Plant, WIPP. What is the Department's opinion on disposing of non-defense related transuranic waste or Greater Than Class C Waste at WIPP?

Answer. I understand that the Compliance Recertification Application submitted by the Department to the Environmental Protection Agency in March 2004 includes the inventory of TRU that the Department is proposing for disposal at WIPP. That

inventory does not include non-defense generated transuranic waste or Greater Than Class C Waste.

I further understand that the Department issued a Request for Information which seeks industry input to identify commercial capability for the disposal of Greater-Than-Class C low-level radioactive waste.

Question 5. TRUPAC III TRU Containers. What is the status of the TRUPAC III container license before the Nuclear Regulatory Commission?

Answer. I understand that the Department has contracted to build two test units, with planned completion and testing by summer of 2006. After successful completion of the tests and subsequent analyses, the Department will submit an application to the Nuclear Regulatory Commission.

Question 6. ARROW PAK TRU Containers. What is the status of the Department's determination on the use of the Arrow Pak container to ship TRU waste?

Answer. I understand that the ARROW-PAK Safety Analysis Review application addendum was submitted to the Nuclear Regulatory Commission for review on January 31, 2005. I am also informed that a permit modification will be needed to WIPP's Hazardous Waste Permit before the ARROW-PAK can be utilized.

RESPONSES OF JAMES A. RISPOLI TO QUESTIONS FROM SENATOR CANTWELL

Question 1. Are you committed to working collaboratively with Washington State regulators, the affected communities' and worker's representatives, and the Washington State Congressional delegation to ensure that the cleanup is fully funded and completed as soon as possible in a manner that ensures the protection of the workers, the public, and the environment?

Answer. Senator Cantwell, I am absolutely committed to working collaboratively with the regulators and the other stakeholders you mention to complete this important work as soon as possible to protect the workers, the public and the environment. If I am confirmed, I will certainly be fully engaged in the budget process going forward to address the part of your question related to funding, and I will look forward to the opportunity to work with you, the committee, and the Congress in this regard.

Question 2. Since the mid 1960s, Hanford has had more contractor changes than all of the other DOE sites combined. Is there a way to bring more stability to Hanford contracts and stop, or at least slow, Hanford contractor changeover?

Answer. In my present position in the Department, I have been engaged in acquisition strategies for large and critical projects. There are many factors in the evaluation of these strategies, and certainly stability provided by contractors whose performance is noteworthy is an important factor. If I am confirmed, I will take a personal interest in the development of the acquisition strategy for all the activities at this site, and I would be happy to discuss this issue with you and your staff at that point.

Question 3. At Hanford there is an excellent world-class facility called The Volpentest HAMMER Training and Education Center at Hanford, built by DOE to ensure the health and safety of Hanford cleanup workers and emergency responders. HAMMER's unique hands-on "Training as Real as It Gets" is essential to the safe, cost effective and successful completion of Hanford cleanup. Further, as the cleanup workforce decreases, more of HAMMER's capabilities will become available for other DOE missions, such as energy assurance and hydrogen safety, and for training law enforcement, security, emergency response, and other homeland security-related personnel. Can EM maximize its utilization of HAMMER, and help build the base for HAMMER's future use in other necessary government programs?

Answer. I understand that DOE uses the Volpentest Hazardous Materials Management and Emergency Response Training Center (HAMMER) facility to provide hands-on safety training for workers involved in the Hanford cleanup mission and considers HAMMER's role in Hanford's safe operation to be vital. I also understand that HAMMER is already involved in the training of fire, law enforcement, Customs and Border Protection, security, emergency medical, and other emergency response personnel for a wide-spectrum of regional and Federal agencies on a full cost recovery basis. I also think it makes sense to cooperate with the Department of Homeland Security (DHS) to develop a strategy to ensure that HAMMER remains available to meet its growing training needs.

Question 4. Another major concern on the part of many of my constituents is whether DOE is implementing the President's directive to increase government procurements with small business. What will you do to improve and expand DOE procurements that benefit small businesses, particularly those based in the local communities most affected by contamination and which will suffer severe economic impacts when cleanup is done if local, sustainable businesses are not developed?

Answer. As you know, the Environmental Management sites have a strong program with regard to small business. I have long supported the advancement and development of small businesses both in my prior Governmental positions, and in the private sector where my firm teamed with small businesses. I would intend to bring my support of advancement for small businesses to this position, if I am confirmed.

Question 5. I am sure we can all agree that Environmental Management's primary responsibility is to clean up our nation's nuclear defense legacy sites. Do you believe that DOE has any responsibility beyond cleanup to the communities where the sites are located? In other words, to what extent do you believe DOE should share in the responsibility to restore the economies of the areas affected once cleanup is finished?

Answer. The Department has a history of working with community based redevelopment authorities. The Hanford community reuse organization (Tri-City Industrial Development Council) has received over $22.9 million in economic development funds. In addition, they have a very strong personal property transfer program that utilizes Hanford's excess property. In my present position in the Department I have been involved with certain real estate transactions that are designed to assist communities in this transition progress. If I am confirmed, I would continue my strong advocacy of real and personal property transfer programs with the managers of all EM sites, as part of the Department's commitment to ease the transitions in the local economies affected by site closures.

Question 6. What specific parts of the Waste Treatment Plant project will need to be altered, reconstructed, or redesigned due to the seismic and the other safety-related upgrades?

Answer. It is my understanding from my reviews of documents in my present capacity that the primary impacts attributed to the seismic issues will be in the High Level Waste plant (i.e. the vitrification plant for High Level Waste) and in the Pre-Treatment Facility. I should also mention that the Department has made arrangements with the Corps of Engineers to review the seismic criteria, as well as the engineering related to the seismic design in these facilities, to be sure that the design and construction will provide appropriate safety for the workers and the community.

Question 7. I understand that the Defense Nuclear Facilities Safety Board may have corresponded with the Department of Energy about their concerns related to the seismic stability of the Waste Treatment Plant at the Hanford site in 2002 or earlier. Please inform me if this is true and provide me with a copy of any correspondence to or from the Department of Energy to the DNFSB, the Nuclear Regulatory Commission, or other executive branch agencies on this matter.

Answer. I understand there is ongoing correspondence with the Defense Nuclear Facilities Safety Board (DNFSB) regarding Waste Treatment Plant seismic design basis concerns. I will ensure that the Department provides you with copies of correspondence with the DNFSB concerning the seismic issue. This will be provided to you under separate cover.

Question 8. It is my understanding that DOE regulates the design and construction of the Waste Treatment Plant primarily through its system of Orders. DOE orders are not legally binding, except as contract clauses. What Orders or contract clauses regarding safety has DOE changed since 2001 for the Waste Treatment Plant?

Answer. I am informed that Section J, Attachment E of the Waste Treatment Plant contract lists the applicable DOE Standards, Directives and Orders for Environmental, Safety and Health (ES&H) with the latest revised dates. In most cases, DOE documents as reflected in the contract related to ES&H have been revised since 2001 and are reviewed and updated as needed on an ongoing basis.

Question 9. In response to questions from members of the Committee, you said that you were committed to meeting long term milestones of the Tri-Party Agreement. Can you please specify if you are also committed to meeting interim milestones and working within the framework of the Tri-Party Agreement?

Answer. I am committed to meeting legally applicable milestones the Department has agreed to, including those in the Tri-Party Agreement. If I am confirmed, I would be in a position to look more closely at the specifics of the interim milestones.

Question 10. Given your previous position within the Department, I hope you can provide me some insight on the developments with the Hanford Waste Treatment Plant. When will the Department of Energy release its revised cost estimate and schedule to complete the Hanford Waste Treatment Plant?

Answer. At the present time, the contractor has been asked to develop an estimate to complete all the work at the Hanford Waste Treatment Plant. There are several steps the Department must undertake to review the contractor's effort and establish a revised cost estimate and schedule, including a U.S. Army Corps of Engi-

neers' review of seismic criteria, the contractor's design, and cost to complete the facility. As the Corps conducts its review, the Department will be able to provide you with a release date.

RESPONSES OF JAMES A. RISPOLI TO QUESTIONS FROM SENATOR SALAZAR

Question 1. Institutional Control Laws. The Department will soon complete the environmental cleanup of its Rocky Flats plant west of Denver. In general, the cleanup has progressed well. But, as at many contaminated sites being cleaned up across the country, some contamination will remain in the ground. A part of the site will be designated a National Wildlife Refuge. It will be necessary, therefore, to impose certain restrictions on land use to ensure that the remedy remains protective of human health.

Because existing legal mechanisms to restrict land use are not adequate for this purpose, many states have adopted or are adopting legislation to create enforceable use restrictions, or "institutional controls." In 2001, the Colorado Attorney General's office drafted and sponsored such legislation, and, with the support of the Colorado Department of Public Health and Environment, the General Assembly passed the legislation unanimously. Governor Owens signed it into law.

Colorado's institutional control legislation enjoyed strong support from both industry and the environmental community, because it reduces cleanup costs and it makes cleanups safer and more reliable. Colorado's legislation served as the model for the Uniform Environmental Covenants Act, which is now being considered in a number of states across the country.

Federal agencies were among the most outspoken supporters of the legislation, urging EPA and the states to rely on institutional controls to reduce cleanup costs. Yet, now that states are moving to create enforceable, effective institutional control laws, federal agencies, including DOE, have refused to comply with these laws. At Rocky Flats, for example, DOE, the State of Colorado, and EPA are in general agreement on the use restrictions that should apply to the site. But DOE has refused to put those restrictions in an environmental covenant, as required under state law. DOE has refused to comply with other states' institutional control laws as well. This refusal has raised serious questions about the long-term reliability of the cleanup now underway at DOE facilities across the country.

What steps will you take to ensure that the Department of Energy will comply with state institutional control laws?

Answer. If confirmed, I will ensure that the Department complies with applicable legal commitments. While I am not familiar with these specific laws, if confirmed, I will look into their applications by DOE.

Question 2. Acquisition of Mineral Interests at Rocky Flats. Implementation of the statutory requirement for creation of a National Wildlife Refuge at Rocky Flats is being complicated by privately owned mineral interests in sand and gravel deposits at the Rocky Flats site. The U.S. Fish and Wildlife Service is reluctant to take responsibility for managing lands subject to such mineral interests because current or future mining activities would be inconsistent with the management of a National Wildlife Refuge.

I am working with the Senior Senator from Colorado, Senator Allard, on legislation to authorize the Department of Energy to spend up to $10 million to acquire these mineral interests, in exchange for a release of all Natural Resource Damage claims by the NRD Trustees at Rocky Flats.

As Assistant Secretary for Environmental Management, will you formally express your official support for this legislation?

Answer. Neither I, if confirmed, nor the Department are able at this time to take an official position on Senator Allard's legislation. Because the legislation would affect several other agencies, in addition to the Department of Energy, the Department is unable to take an official position until an inter-agency review is complete. The inter-agency review process is currently underway. That said, the Department recognizes the importance of resolving the issue of privately owned mineral rights at the Rocky Flats site. If confirmed, I am committed to working with other affected agencies, OMB, you and Senator Allard to achieve a prompt and effective resolution.

Question 3. Rocky Flats Worker Retirement Benefits. The early completion of the cleanup at Rocky Flats is producing substantial savings, but also may result in the loss of retirement benefits for many long term workers. Many workers who would have qualified for retirement benefits if the cleanup continued until the expected completion date of December, 2006, will not reach the necessary combination of age and years of service due to the early completion. These include Cold War Veterans who produced the nuclear weapons that brought the Soviet Union to its knees, who risked their own health and safety to close down and clean up Rocky Flats, and who

worked long hours to save American taxpayers hundreds of millions of dollars. These dedicated and patriotic workers are now at risk of losing their own financial and medical security.

I am working with Senator Allard on legislation to authorize DOE to expend $15 million to provide retirement benefits to those Rocky Flats workers who would have earned these benefits had the cleanup been completed on December 15, 2006.

Fair treatment of the Rocky Flats workers is not only the right thing to do, but it will send an important message to other nuclear workers who provide essential assistance in the cleanup of other nuclear sites around the country: We will be telling these workers, "If you continue your dedicated service and if you work to save American taxpayers' dollars through your expertise and hard work, then we will take care of you." I urge you and the Department of Energy to get behind this legislation. It is good policy and it will produce long term savings many times more than the expense.

Will you, as Assistant Secretary for Environmental Management, support this legislation to provide retirement benefits for Rocky Flats workers?

Answer. I would like to begin by thanking, on behalf of the Department, the employees at Rocky Flats and in particular the members of the United Steelworkers of America who have worked diligently for many decades to assure the nation's success with our effort during the Cold War. Without their efforts, the Department would not have succeeded in its important contribution to protect our country during that important period of our history.

I understand that early closure of the site was anticipated during the negotiation of the Steelworkers' collective bargaining agreement (CBA) in 2000 and was a key subject of those negotiations. Because of concerns of possible lost income, I understand the Department negotiated an agreement with the contractor to provide very substantial benefits in lieu of providing early retirement pension and retiree medical benefits to employees.

If the legislation passes, my understanding is that it would require changes to the present collective bargaining agreement which could impact how closure activities are completed and their associated costs. If confirmed, I will evaluate this legislation and study the CBA from 2000 since I am personally not familiar with either at this time. In addition, this legislation also must undergo an OMB-led review before the Administration can take an official position.

Question 4a. Current Financial Projections for Rocky Flats Cleanup. Please provide an analysis of the savings to the United States Treasury as a result of the expedited cleanup of Rocky Flats.

Answer. I have requested this information from the Environmental Management program and have addressed both (a) and (b) under (b) below.

Question 4b. Please be sure that this analysis includes a detailed statement of the original projected cost of the Rocky Flats cleanup as well as the current projected cost through completion of the cleanup.

Answer. The following are projections of savings to the government at different times over the life of the Rocky Flats cleanup as to the cost of the site cleanup and the difference between those estimates and the current projection.

- Current projection: Approximately $7 billion (1995-2005)
- 1995 estimate: $36 billion (1995-2065), as cited in the 1995 Baseline Environmental Management Report
- Projected difference: $29 billion; 60 years earlier
- Estimate at the signing of the Rocky Flats Closure Contract (2000-2006): Approximately $4.3 billion.
- Current projection for the Rocky Flats Closure Contract (2000-2005): Approximately $3.95 billion
- Projected difference: $0.350 billion; 1 year earlier

Question 4c. Please also provide me with a report on the total amount appropriated for the cleanup of Rocky Flats for FY 2005 and the current projection for actual expenditures (obligations) through the end of FY 2005.

Answer. Total amount appropriated for FY2005: $662 million (this includes safeguards and security, program direction, community and regulatory support, rescission and other general reductions). The Environmental Management program also expects to carry over more than $41 million of prior year money at Rocky Flats. This results in $703 million total available funds to be costed.

REPONSE OF JAMES A. RISPOLI TO QUESTION FROM SENATOR CRAIG

Question 1. I understand that the Department recently completed a congressionally requested analysis of the Army's experience with a promising and innovative contract management concept, guaranteed fixed price remediation (GFPR).

As you likely know, GFPR contracting involves a performance based contract approach which reduces cost risk, expedited environmental cleanup projects, and more importantly, transfers performance risk from the government to contractors and their insurers.

The recently completed DOE analysis cited the U.S. Army's experience with this form of contracting, noting significant cost and time savings to the government. While the DOE appropriately concluded that the use of GFPR would not work on all DOE sites, it did cite that the use of GFPR may be appropriate in certain circumstances and offer cost and remediation benefits.

My question is: Are you familiar with this analysis and/or the Army's experience? Additionally, would you be willing to consider implementing a pilot program similar to the one used by the Army for DOE sites where this type of remediation contracting would be appropriate?

Answer. I have been briefed on the Department's report on guaranteed fixed price remediation (GFPR) contracts and the analysis of the U.S. Army's experience with GFPR. This fits well with my own belief in the importance of having an acquisition strategy for major projects. To develop an acquisition strategy, approaches such as the Army's GFPR contracts would be included as part of the evaluation of alternatives. If confirmed, I would consider initiating a pilot program to determine if GFPR could be cost effectively implemented.

RESPONSES OF JILL LEA SIGAL TO QUESTIONS FROM SENATOR CANTWELL

Question 1. I am aware that you called my office and spoke to my staff after the regular close of business on June 28th to outline a new plan from the Energy Secretary regarding future steps in the construction of the Hanford Waste Treatment Plant. My staff has asked you for more specificity on the plan, including a full explanation of the structure of the workforce and a better understanding of the Department's commitment to the construction of the facility.

Can you provide me as many specifics as possible on the plan and would you be prepared to brief me or my staff on those specifics before your nomination is voted out of the Committee? When can I expect answers to my office's inquiry?

Answer. On June 28 I discussed with your staff and other interested parties Secretary Bodman's path forward concerning the Waste Treatment Plant (WTP). I have scheduled a briefing for your staff on the WTP for July 18, 2005. We will continue to provide updated information on the construction of the Waste Treatment Plant as it is available. On July 13 the Environmental Management program followed-up with written direction to the Office of River Protection (ORP) to implement the path forward on the WTP. This memorandum has been sent to your office and is also enclosed herein.

Question 2a. Last year, it was reported that the Department of Energy played a role in drafting legislation that was included in the Fiscal Year 2005 Department of Defense Authorization Bill, related to the issue of Waste Incidental to Reprocessing. As originally drafted, this legislation, would have included Washington state, potentially influenced then on-going litigation, and would have had potentially dramatic impacts on the implementation of the Nuclear Waste Policy Act at sites throughout the DOE complex. All of this would have occurred without a legislative hearing on the substance of the DOE proposal.

Are you aware that when the WIR-related provision included in last year's Defense Authorization bill was introduced as a stand-alone piece of legislation (S. 2457), the Senate parliamentarian referred it to the Energy and Natural Resources Committee?

Answer. Yes, my recollection is that your legislation was referred to the Energy and Natural Resources Committee.

Question 2b. Based on this referral, what Committee do you believe is the proper body to consider similar legislation in the future?

Answer. It is my understanding that the Senate Parliamentarian has sole responsibility to determine committee referrals of proposed legislation. I believe it is important for me to respect that process.

Question 2c. In the future, do you pledge to work cooperatively with this Committee to consider any and all legislative proposals related to the issue of Waste Incidental to Reprocessing?

Answer. Yes, I pledge to work cooperatively with this Committee and any other Committee which may be determined to have jurisdiction over this issue.

Question 3a. At a June 15, 2005 annual "State of the Site" meeting at Hanford, some Hanford workers criticized the Department's handling of worker compensation claims at Hanford, particularly singling out the CCSI, the Department's claims processing contractor, for delays in handling their claims, or denying state workers' compensation despite the diagnosis of a qualified medical practitioner. Some find themselves too ill or too injured to work, and have to fight their claims in contested hearings at great personal cost.

Will the Department of Energy investigate these claims?

Answer. I am not personally familiar with this issue, however I have been informed that the Department of Energy is planning to assemble an investigative team of Independent Oversight and Performance Assurance (OA) and Environment, Safety and Health (EH) personnel to examine these claims. The team will travel to Hanford to review written records and conduct interviews with a sample of Hanford worker compensation claimants to assess whether CCSI carries out its contract obligations in an appropriate manner.

Question 3b. If problems with CCSI are found, what will the Department due to address these issues?

Answer. It is my understanding that if the investigation finds evidence that CCSI has been in violation of their contractual agreement, infractions will be reported to the contracting officer in the DOE field office at Hanford, who will take appropriate action.

Question 3c. Are you open to including other federal agencies to sending experts to participate in your investigation, such as the Washington State Department of Labor and Industries or the U.S. Department of Labor?

Answer. The DOE is open to including other federal agencies such as the U.S. Department of Labor in the investigation.

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